

PURITA MIRANDA VESTIL AND AGUSTIN VESTIL, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, DAVID UY AND TERESITA UY, RESPONDENTS.*G.R. No. 74431. November 06, 1989*

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-74431/>**CRUZ, J.:**

Little Theness Tan Uy was dead at the age of three. Her parents said she died because she was bitten by a dog of the petitioners, but the latter denied this, claiming they had nothing to do with the dog. The Uys sued the Vestils, who were sustained by the trial court. On appeal, the decision of the court a quo was reversed in favor of the Uys. The Vestils are now before us. They ask us to set aside the judgment of the respondent court and to reinstate that of the trial court.

On July 29, 1975, Theness was bitten by a dog while she was playing with a child of the petitioners in the house of the late Vicente Miranda, the father of Purita Vestil, at F. Ramos Street in Cebu City. She was rushed to the Cebu General Hospital, where she was treated for "multiple lacerated wounds on the forehead"[1] and administered an anti-rabies vaccine by Dr. Antonio

Tautjo. She was discharged after nine days but was re-admitted one week later due to "vomiting of saliva." [2] The following day, on August 15, 1975, the child died. The cause of death was certified as broncho-pneumonia. [3]

Seven months later, the Uys sued for damages, alleging that the Vestils were liable to them as the possessors of "Andoy," the dog that bit and eventually killed their daughter. The Vestils rejected the charge, insisting that the dog belonged to the deceased Vicente Miranda, that it was a tame animal, and that in any case no one had witnessed it bite Theness. After trial, Judge Jose R. Ramolete of the Court of First Instance of Cebu sustained the defendants and dismissed the complaint. [4]

The respondent court arrived at a different conclusion when the case was appealed. [5] It found that the Vestils were in possession of the house and the dog and so should be responsible under Article 2183 of the Civil Code for the injuries caused by the dog. It also held that the child had died as a result of the dog bites and not for causes independent thereof as submitted by the appellees. Accordingly, the Vestils were ordered to pay the Uys damages in the amount of P30,000.00 for the death of Theness, P12,000.00 for medical and hospitalization expenses, and P2,000.00 as attorney's fees.

In the proceedings now before us, Purita Vestil insists that she is not the owner of the house or of the dog left by her father as his estate has not yet been partitioned and there are other heirs to the property. Pursuing the logic of the Uys, she claims, even her sister living in Canada would be held responsible for the acts of the dog simply because she is one of Miranda's heirs. However, that is hardly the point. What must be determined is the possession of the dog that admittedly was staying in the house in question, regardless of the ownership of the dog or of the house.

Article 2183 reads as follows:

The possessor of an animal or whoever may make use of the same is responsible for the damage which it may cause, although it may escape or be lost. This responsibility shall cease only in case the damage should come from force majeure or from the fault of the person who has suffered damage.

Thus, in *Afialda v. Hisole*,^[6] a person hired as caretaker of a carabao gored him to death and his heirs thereupon sued the owner of the animal for damages. The complaint was dismissed on the ground that it was the caretaker's duty to prevent the carabao from causing injury to any one, including himself.

Purita Vestil's testimony that she was not in possession of Miranda's house is hardly credible. She said that the occupants of the house left by her father were related to him ("one way or the other") and maintained themselves out of a common fund or by some kind of arrangement (on which, however, she did not elaborate).^[7] She mentioned as many as ten of such relatives who had stayed in the house at one time or another although they did not appear to be close kin.^[8] She at least implied that they did not pay any rent, presumably because of their relation with Vicente Miranda notwithstanding that she herself did not seem to know them very well.

There is contrary evidence that the occupants of the house were boarders (or more of boarders than relatives) who paid the petitioners for providing them with meals and accommodations. It also appears that Purita Vestil had hired a maid, Dolores Jumao-as, who did the cooking and cleaning in the said house for its occupants.^[9] Her mother, Pacita, who was a nursemaid of Purita herself, categorically declared that the petitioners were maintaining boarders in the house where Theness was bitten by a dog.^[10] Another witness, Marcial Lao, testified that he was indeed a boarder and that the Vestils were maintaining the house for business purposes.^[11] And although Purita denied paying the water bills for the house, the private respondents submitted documentary evidence of her application for water connection with the Cebu Water District, which strongly suggested that she was administering the house in question.^[12]

While it is true that she is not really the owner of the house, which was still part of Vicente Miranda's estate, there is no doubt that she and her husband were its possessors at the time of the incident in question. She was the only heir residing in Cebu City and the most logical person to take care of the property, which was only six kilometers from her own house.^[13] Moreover, there is evidence showing that she and her family regularly went to the house, once or twice weekly, according to at least one witness,^[14] and used it virtually as a second house. Interestingly, her own daughter was playing in the house with Theness when the little girl was bitten by the dog.^[15] The dog itself remained in the house even after the death of Vicente Miranda in 1973 and until 1975, when the incident in question occurred. It is also noteworthy that the petitioners offered to assist the Uys with their hospitalization expenses although Purita said she knew them only casually.^[16]

The petitioners also argue that even assuming that they were the possessors of the dog that bit Theness, there was no clear showing that she died as a result thereof. On the contrary, the death certificate^[17] declared that she died of broncho-pneumonia, which had nothing to do with the dog bites for which she had been previously hospitalized.

The Court need not involve itself in an extended scientific discussion of the causal connection between the dog bites and the certified cause of death except to note that, first, Theness developed hydrophobia, a symptom of rabies, as a result of the dog bites, and second, that asphyxia broncho-pneumonia, which ultimately caused her death, was a complication of rabies.

That Theness became afraid of water after she was bitten by the dog is established by the following testimony of Dr. Tautjo:

COURT: I think there was mention of rabies in the report in the second admission?

A:

Now, the child was continuously vomiting just before I referred to Dr. Co earlier in the morning and then the father, because the child was asking for water, the father tried to ' give the child water and this child went under the bed, she did not like to drink the water and there was fright in her eyeballs. For this reason, because I was in danger there was rabies, I called Dr. Co.

Q:

In other words, the child had hydrophobia?

A:

Yes, sir.[18]

As for the link between rabies and broncho-pneumonia, the doctor had the following to say under oath:

A: Now, as I said before, broncho-pneumonia can result from physical, chemical and bacterial means, x x x It can be the result of infection, now, so if you have any other disease which can lower your resistance you can also get pneumonia.

x x x

x x x

x x x

Q:

Would you say that a person who has rabies may die of complication which is broncho-pneumonia?

A:

Yes.

Q:

For the record, I am manifesting that this book shown the witness is known as CURRENT DIAGNOSIS & TREATMENT, 1968 by Henry Brainerd, Sheldon Margen and Milton Chaton. Now, I invite your attention,

doctor, to page 751 of this book under the title "Rabies." There is on this page, "Prognosis" as a result of rabies and it says:

Once the symptoms have appeared death inevitably occurs after 2-3 days as a result of cardiac or respiratory failure or generalized paralysis.

After a positive diagnosis of rabies or after a bite by a suspected animal if the animal cannot be observed or if the bite is on the head, give rabies vaccine (duck embryo). Do you believe in this statement?

A:

Yes.

Q: Would you say therefore that persons who have rabies may die of respiratory failure which leave in the form of broncho-pneumonia?

A: Broncho-pneumonia can be a complication of rabies.[19]

On the strength of the foregoing testimony, the Court finds that the link between the dog bites and the certified cause of death has been satisfactorily established. We also reiterate our ruling in *Sison v. Sun Life Assurance Company of Canada*,[20] that the death certificate is not conclusive proof of the cause of death but only of the fact of death. Indeed, the evidence of the child's hydrophobia is sufficient to convince us that she died because she was bitten by the dog even if the death certificate stated a different cause of death.

The petitioners' contention that they could not be expected to exercise remote control of the dog is not acceptable. In fact, Article 2183 of the Civil Code holds the possessor liable even if the animal should "escape or be lost" and so be removed from his control. And it does not matter either that, as the petitioners also contend, the dog was tame and was merely provoked by the child into biting her. The law does not speak only of vicious animals but covers even tame ones as long as they cause injury. As for the alleged provocation, the petitioners forget that Theness was only three years old at the time she was attacked and can hardly be faulted for whatever she might have done to the animal.

It is worth observing that the above defenses of the petitioners are an implied rejection of their original posture that there was no proof that it was the dog in their father's house that bit Theness.

According to *Manresa*, the obligation imposed by Article 2183 of the Civil Code is not based on the negligence or on the presumed lack of vigilance of the possessor or user of the animal causing the damage. It is based on natural equity and on the principle of social interest that he who possesses animals for his utility, pleasure or service must answer for the damage which such animal may cause.[21]

We sustain the findings of the Court of Appeals and approve the monetary awards except only as to the medical and hospitalization expenses, which are reduced to P2,026.69, as prayed for in the complaint. While there is no recompense that can bring back to the private respondents the child they have lost, their pain should at least be assuaged by the civil damages to which they are entitled.

WHEREFORE, the challenged decision is **AFFIRMED** as above modified. The petition is **DENIED**, with costs against the petitioners.

IT IS SO ORDERED.

Narvasa (Chairman), Gancayco, Grino-Aquino, and Medialdea, JJ., concur.

[1] Exhibit "2".

[2] Exhibit "7", p. 3.

[3] Exhibit "7-A".

[4] Decision, rollo, p. 32.

[5] Campos, Jr., J., with Pascual, Camilon and Jurado, JJ., concurring.

[6] 85 Phil. 67.

[7] TSN. October 28, 1978, pp. 17-18.

[8] Ibid., pp. 16-17.

[9] TSN, October 14, 1975, pp. 58-59.

[10] Ibid., pp. 66.

[11] TSN, January 19, 1976, pp.,30-31.

[12] Exhibit "J".

[13] Rollo, p. 18.

[14] TSN, January 19, 1976, p. 53.

[15] TSN, October 3, 1978, p. 17.

[16] TSN, October 28, 1976, pp. 14-15.

[17] Exhibit "7".

[18] TSN, January 19. 1976, pp. 11-12.

[19] TSN, November 10, 1977, pp. 34-37.

[20] 47 O.G. 1954.

[21] Sangco, Torts and Damages, 1978 Ed., p. 227.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.