

HEIRS OF JUAN DACASIN, REPRESENTED BY PERLA DACASIN--FERRER, OF EUSEBIO VIGILIA, REPRESENTED BY ANTONIO VIGILIA, AND OF FORTUNATO ALANO, REPRESENTED BY CARMEN ALANO, PETITIONER...

G.R. No. 84308. July 02, 1990

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

In this petition for review on certiorari, petitioners seek to reverse and set aside the decision dated June 23, 1988 of the Court of Appeals dismissing the complaint for damages, and revive the judgment for the plaintiffs, now the petitioners, which was rendered by the Regional Trial Court of Dagupan City in Civil Case No. D-4784.

On July 24, 1978, Juan Dacasin, Rev. Fr. Eusebio Vigilia and Fortunato Alano, together with Maria Garcia Vda. de Alacar, were riding in a Valiant car owned by Juan Dacasin and driven by Danilo Garcia, on Nam Kwang Road bound for Manila. Upon reaching the intersection of the Nam Kwang Road and the MacArthur Highway, in Paniqui, Tarlac, a Dagupan Bus, driven by Marcelino Supan, collided with the car which had come from the North and was proceeding Southward. The bus, on the other hand, was on the MacArthur Highway coming from the West and travelling toward the East. Nam Kwang Road is a through highway. Vehicles on this road have the right of way. MacArthur Highway, on the other hand, is a secondary road. There is a "Full Stop" sign on the side of MacArthur Highway some 16 meters from the intersection of said highway and Nam Kwang Road and a hump runs across said highway to force vehicles to slow down or stop before they cross the intersection.

As a result of the collision, the car was badly damaged, and its passengers, including the driver, sustained injuries. Maria Alacar died. The front bumper of the Dagupan Bus was only slightly scratched.

A criminal complaint for homicide, multiple physical injuries, and damage to property thru reckless imprudence, was filed in the Municipal Court of Paniqui, Tarlac, by the INP Station Commander against the Dagupan Bus driver, Marcelino Supan. The petitioners filed a civil action for damages against the bus company (Civil Case No. D-4784). After trial on the merits, the Regional Trial Court of Dagupan City rendered judgment in favor of the plaintiffs as follows:

"WHEREFORE, in the light of the foregoing consideration, this court hereby renders judgment in favor of the plaintiffs and against the defendants as follows, to wit:

"(1) Ordering the defendants to pay jointly and severally the Heirs of Juan Dacasin the sum of P25,652.97 for actual damages arising from Medical expenses, and P30,000.00 as reasonable value of the valiant car;

"(2) Ordering the defendants to pay jointly and severally the plaintiff Fr. Eusebio Vigilia the sum of P818.00 as actual damages for Medical treatment;

"(3) Ordering the defendants to pay jointly and severally the plaintiff Fortunato Alano the sum of P373.40 for his Medical treatment;

“(4) Ordering the defendants to pay jointly and severally each of the plaintiffs the sum of P50,000.00 as moral damages and P10,000.00 for Attorney's fees; and to pay the costs.” (pp. 49-50, Rollo.)

The bus company appealed to the Court of Appeals which reversed the trial court's decision, hence, this appeal by certiorari in which the petitioners allege that the Court of Appeals erred -

1. in reversing the findings of the trial court, which are entitled to great weight on appeal, especially since they are supported by convincing and credible evidence;
2. in finding the testimony of policeman Rodrigo Jimenez as favorable to the case of private respondents despite the fact that Rodrigo Jimenez admitted in open court that private respondent Marcelino Supan was violating a traffic rule or regulation at the time of the accident;
3. in not giving credence to the uncontroverted physical evidence adduced in the case; and
4. in applying the provisions of the Land Transportation Code despite the existence of a traffic sign or regulation at the place of the accident.

The issues boil down to the question of who was at fault.

The trial court and the Court of Appeals had contradictory findings as to how the accident happened.

The trial court found:

"Conclusively, the Valiant car was travelling along the Nam Kwang Road at Paniqui, Tarlac, while the Dagupan Bus was coming from the poblacion at Paniqui, Tarlac along the MacArthur Highway.

"The driver of the Dagupan Bus, Marcelino Supan, admitted that along the MacArthur Highway, a road sign "FULL STOP" was about fifty meters away from the intersection of Nam Kwang Road and MacArthur Highway. Supan also had admitted that humps were constructed on the MacArthur Highway before reaching the intersection of the Nam Kwang Road and the MacArthur Highway. Also along the Nam Kwang Road is a sign "SLOW DOWN" located more than fifty meters from the intersection where the accident occurred. Supan admitted that the vehicles running along the Nam Kwang Road were given preference to pass before those coming from the poblacion along the MacArthur Highway.

"Under these circumstances, the obligation and duty to be very careful and to obey traffic signs and regulations is on the part of driver Supan. Although incredible is his claim that he was following two tricycles which were able to cross the intersection of the Nam Kwang Road, driver Supan could not presume and assume that it was clear and safe for him to cross the intersection because the tricycles were able to pass thru. Driver Supan should have made a full stop several meters away from the intersection. And, it is impossible that the tricycles were a few meters ahead of him before he could be at the center of the Nam Kwang Road. The Court believes that driver Supan did not stop at anytime but continued to run until the bus has bumped the right side of the body of the car. Again, the story of Supan that the policeman made a "stop" sign only when the bus was at the middle of the intersection is incredible. What actually happened is while the car was cruising along the right lane of the Nam Kwang Road, the Dagupan Bus continued to run along the MacArthur Highway and bumped the right side of the body of the Valiant car. This is clearly established by the picture, Exhibit 'D'-Juan Dacasin, and the only damage to the Dagupan Bus is its front bumper. The Valiant car has no damage on its right fender, indicating that the point of impact (which was bumped by the Dagupan Bus) is at the right side of the body of the car. This Exhibit 'D' negates and belies the claim of driver Supan that the car bumped his bus." (pp. 32-33, Rollo.)

The Court of Appeals, on the other hand, observed:

"After a painstaking examination of the record, this Court believes that the defendants'appellants are correct.

"In reaching this conclusion, we took into account not only the physical evidence of the damage to the car as relied upon by the lower court but also the testimony of Patrolman Jimenez who was an eyewitness as the traffic policeman on duty at that time and whose testimony was shown to be unbiased, clear-cut and therefore reliable.

"As can be noted, the lower court upon examining Exhibit 'D', a picture of the damaged car, showing an indentation on its right side facing the bus, precipitately concluded that the bus rammed the car by going into the intersection despite the fact that the car had the right of way as indicated by a stop sign in its way some six meters before reaching the intersection. The lower court failed to appreciate the evidence gathered from Patrolman Jimenez's un rebutted testimony that as there was no traffic along Nam Kwang Road which had the right of way, he signalled the drivers of two tricycles along the MacArthur Highway to cross the intersection (t.s.n., pp. 17-18, June 16, 1980). As the Dagupan bus was directly behind the two tricycles, the bus naturally followed. This signal by a traffic policeman to proceed sufficiently negates the assumption of neglect on the part of the bus driver in proceeding despite the stop sign.

"Patrolman Jimenez also testified, as reinforced by his sketch, of the relative positions of the two vehicles at the point of impact (Exh. G) that the bus was nearing the centerline of the intersection when he saw the car along the Nam Kwang Road going at a fast clip. Since its headlights were on despite the clear day, he thought that it was on an emergency run and he opted to signal the bus to stop instead, which did stop, and he expected the car to pass on the eastern lane of the highway since there was no other traffic at the time (t.s.n., pp. 19-28, June 16, 1988).

"The evidence showed that while the bus was running slowly as shown by the fact that the two tricycles which if closely followed at the intersection were able to cross the same without incident and that it was able to stop immediately when signalled to do so, the car was unrefutedly going at a fast clip with its headlights on despite the presence of the bus near the centerline of the intersection and causing it to swerve and hit the traffic policeman, controller and one bystander when it ran into the bus. Under these circumstances, there is no doubt as to who was at fault for the resulting injuries to the victims and the damage to the car." (pp. 21-22, Rollo.)

While, ordinarily, the factual findings of the appellate court are binding on the Supreme Court, the exception to this rule is when it conflicts with the findings of the trial court (Reynolds Phil. Corp. vs. Court of Appeals, 169 SCRA 220).

After a careful perusal of the testimony of Patrolman Rodrigo Jimenez, the traffic cop on duty at the intersection of Nam Kwang Road and the MacArthur Highway, whose credibility both the trial court and the Court of Appeals relied upon, we are impelled to reverse the Court of Appeals and reinstate the decision of the trial court.

Jimenez testified as follows:

"Q At what particular place in the municipality of Paniqui, Tarlac were you assigned as traffic policeman on July 24, 1978?

"A At the intersection of Nam Kuang Road and MacArthur Highway.

"Q What time was that when you first reported to work at the intersection of the Nam Kuang Expressway and the MacArthur Highway in Paniqui, Tarlac?

"A At 7:00 in the morning.

"Q Now, as a traffic policeman, are you aware of the traffic rule sign along the MacArthur Highway before you reach the intersection of the Nam Kuang Expressway and MacArthur Highway?

"A Yes, sir.

"Q If you come from the poblacion proceeding to the east along the MacArthur Highway, before reaching the intersection, do you have a road sign there?

"A Yes, sir.

"Q What is the road sign?

"A STOP.

"Q Now, if you pass thru the Nam Kuang Expressway coming from the south before you reach the intersection of the Nam Kuang Expressway and the MacArthur highway, is there no road sign?

"A None, sir.

"Q Before July 24, 1978?

"A None, sir.

"Q But now there is a road sign there before reaching the intersection?

"A I think there is at present

"Q What is the road sign?

"A Curve sign.

"Q But is there no road sign of STOP?

"A None, sir.

"Q Now, while you were on duty as traffic policeman, where were you then staying at that time?

"A I was on the eastern side of the road.

"Q What road is that, the MacArthur highway or the Nam Kuang Expressway?

"A Nam Kuang.

"Q The place where you were staying, is that on the shoulder or on the lane of the Nam Kuang Expressway?

"A Shoulder.

"Q How far was that place where you were staying from the land of the expressway?

"A More or less, two feet away.

"Q Now, while you were serving as traffic policeman on July 24, 1978, was there any motor vehicle accident that happened?

"A There was, sir.

"Q What vehicles were involved?

"A A car and a Dagupan Bus.

"Q Did you come to know who is the owner of the car that was involved in that vehicular accident?

"A No, sir.

"Q Now, what time, more or less, was that when the accident happened?

"A About 11:00, more or less.

"Q As a traffic policeman, did you give any sign to any of the vehicles at the time?

"A Yes, sir.

"Q What was that sign that you gave?

"A I gave the sign of Stop.

"Q To what vehicle did you give that sign of stop?

"A The Dagupan Bus, sir.

"Q How far was the Dagupan Bus from the intersection which is the actual place of the accident at the time when you gave the signal to stop?

"ATTY CORPUZ

Leading.

"xxx xxx xxx

"Q When was that when you gave the sign? Was that before reaching the intersection or after?

"A Before reaching the intersection.

"Q How far then was the Dagupan Bus at the time, from the intersection of the Nam Kuang Expressway and the MacArthur highway at the time that you gave the sign of stop?

"A About six meters.

"Q From the intersection?

"A About six meters at the edge of the intersection.

"Q Did the driver of the Dagupan Bus obey your sign?

"A No, sir.

"Q How about the car which was involved in that vehicular accident, did you give any sign to the car while it was passing thru the Nam Kuang Expressway?

"A I did not.

"Q Where was that particular place where the vehicular accident happened?

"A Right at the intersection, sir.

"Q When you gave the sign to the Dagupan Bus to stop, did you notice the car already passing thru along the Nam Kuang Expressway at the time?

"A Not yet, sir.

"Q When did you notice the car passing after you have given the signal to Stop to the Dagupan Bus?

"A When I gave the Stop signal to the Dagupan Bus, that was exactly the time the car arrived." (pp. 4-9, t.s.n., June 16, 1980.)

Because the bus did not stop when the policeman signalled it to stop, being in a hurry to cross Nam Kwang

Highway as the tricycles had done, it rammed into the side of the car causing the side of the car to cave in.

A photograph speaks more than a thousand words. The picture of the damaged car (Exh. D) shows that it was hit in the middle of the body by a huge moving object such as a bus. The theory that the side of the car caved in because it sideswiped the bus is absurd because it is impossible for any motor vehicle to travel sideways. Motor vehicles travel forward or backward, never sideways. If the car sideswiped the front of the bus, as the Court of Appeals theorized, its right side would have been scratched, from front to rear, but it would not have been deeply dented inward in midsection. The fact that, as testified by Patrolman Jimenez, the car was thrown or pushed toward the shoulder of Nam Kwang Highway hitting him where he stood, conclusively proves that the car was hit by the bus, not vice-versa.

The bus hit the car, which had the right of way, because the bus driver, Marcelino Supan, did not obey the "STOP" sign posted on the side of MacArthur Highway, sixteen meters from the intersection, nor the policeman's signal to stop. As observed by the trial court:

"x x x The Court believes that driver Supan did not stop at any time but continued to run until the bus has bumped the right side of the body of the car. Again, the story of Supan that the policeman made a 'stop' sign only when the bus was at the middle of the intersection is incredible. What actually happened is while the car was cruising along the right lane of the Nam Kuang Road, the Dagupan Bus continued to run along the MacArthur Highway and bumped the right side of the body of the Valiant car. This is clearly established by the picture, Exhibit 'D'-Juan Dacasin, and the only damage to the Dagupan Bus is its front bumper. The Valiant car has no damage on its right fender, indicating that the point of impact (which was bumped by the Dagupan Bus) is at the right side of the body of the car. This Exhibit 'D' negates and belies the claim of driver Supan that the car bumped his bus." (pp. 32-33, Rollo.)

The bus driver failed to observe Sections 42(d) and 43(c) of the Land Transportation Code which provide:

"Section 42(d). The driver of a vehicle upon a highway shall bring to a full stop such vehicle before traversing any 'through highway' or railroad crossing: Provided, That when it is apparent that no hazard exists, the vehicle may be slowed down to five miles per hour instead of bringing it to full stop.

"xxx xxx xxx

"Sec. 43(c). The driver of a vehicle entering a 'through highway' or a 'stop intersection' shall yield the right of way to all vehicles approaching in either direction on such 'through highway': Provided, That nothing in this subsection shall be construed as relieving the driver of any vehicle being operated on a 'through highway' from the duty of driving with due regard for the safety of vehicles entering such 'through highway' nor as protecting the said driver from the consequence of an arbitrary exercise of such right of way."

Since the damages suffered by the petitioners were caused by the reckless negligence of the bus driver, Marcelino Supan, his employer, the respondent Dagupan Bus Company, is solidarily liable with him for the said damages (Art. 2180, Civil Code), it having been established, as the trial court adverted to, "that the Dagupan Bus management did not exercise due diligence to avoid accident, there being no rules and regulations issued to its employees governing their conduct and discipline, and it is very clear that the management failed to exercise the proper supervision and selection of its employees" (p. 33, Rollo).

WHEREFORE, the petition for certiorari is granted. The decision of the Court of Appeals in CA-G.R. CV No. 04917 is set aside and that of the trial court in Civil Case No. D-4784 is affirmed. Considering how long this case (which began in 1978) has been pending in the courts, the judgment is immediately executory. Costs against the private respondents.

SO ORDERED.

Narvasa, Acting C.J., Cruz, Gancayco, and Medialdea, JJ., concur.

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