

## **OCCIDENTAL LAND TRANSPORTATION COMPANY, INC. AND EDGARDO ENERIO, PETITIONERS, VS. HONORABLE COURT OF APPEALS, HEIRS OF TRENCIO ALMEDILLA, ALBERTO PINGKI-AN AND HEIRS OF PACIFICO...**

*G.R. No. 96721. March 19, 1993*

Ponente: NOCON, J.

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### **NOCON, J.:**

The legal question raised in this petition for review on certiorari of the decision of the Court of Appeals,[1] affirming in toto the decision of the Regional Trial Court of Zamboanga del Norte (Branch VI Dipolog City), presided by the Hon. Daniel B. Bernaldez,[2] is whether or not the trial court can take judicial notice of the decision of another case involving a similar issue. The appellate and lower courts ruled in the affirmative.

The case began with the collision of a Ford Fiera and a Carina Express No. C-24 passenger bus in Bunawan, Calamba, Misamis Occidental on November 25, 1975 at about six o'clock a.m. As a result of this, the Ford Fiera was thrown into the canal on the right side of the road. Its driver, Pacifico Carbajosa, Sr. was pinned under the steering wheel, while the engine was burning, causing him to be seriously burned and later die of such injuries. Trencio Almedilla, the owner of the Fiera which was registered under Sevilla Line, and Alberto Pingkian were likewise in the Fiera and suffered various injuries as a result of the incident. Neither the driver nor the passengers of the Carina Express No. C-24 stopped to assist the victims, but rather the bus proceeded towards Sapang Dalaga.[3]

The owner of the Carina passenger bus, Occidental Land Transportation Company filed a case for damages against Sevilla Line and/or William Sevilla, the registered owner of the Ford Fiera, which case was docketed as Civil Case No. 3156 before the Court of First Instance, Branch III, Oroquieta City. Trencio Almedilla and Alberto Pingkian also filed a civil suit for damages against Occidental Land Transportation Company, Inc. and the driver of the Carina bus, Edgardo Enerio. Later the heirs of Pacifico Carbajosa filed a complaint-in-intervention. This case was docketed as Civil Case No. 2728 before the Regional Trial Court of Zamboanga del Norte, Branch VI, Dipolog City.

On July 30, 1977, Judge Rodolfo A. Ortiz of the Oroquieta court rendered a decision in Civil Case No. 3156 finding the driver of the Carina passenger bus and not the driver of the Ford Fiera, as negligent.[4]

On March 11, 1986, more than ten years after the inception of the case, Judge Daniel B. Bernaldez rendered the decision in Civil Case No. 2728 against Occidental Land Transportation Company, Inc. and Edgardo Enerio.[5] The dispositive portion reads:

"ACCORDINGLY, and in view of all the foregoing, the Court hereby renders judgment as follows:

1. Ordering the defendants, Occidental Land Transportation Company and Edgardo Enerio, to pay to the plaintiffs, Trencio Almedilla and Alberto Pingkian, the following:

For Plaintiff Almedilla:

- (a) P 9,473.80 for the repair of the damaged Ford Fiera;
- (b) P400.00 for hospitalization;
- (c) P100.00 daily for the income of the Ford Fiera starting from November 25, 1975 to March 10, 1986;
- (d) P5,000.00 for moral damages

For Plaintiff Pingkian:

- (e) P5,000.00 for moral damages;
- (f) P100.00 for loss of income;
- (g) P100.00 for incidental expenses; and
- (h) P1,000.00 for attorney's fees.

2. Ordering the defendants aforementioned to pay to the intervenors Carbajos the following:

- (a) P6,000.00 for hospitalization;
- (b) P3,000.00 for embalming, funeral services and last prayers;
- (c) P5,000.00 for moral damages;
- (d) P5,000.00 for attorney's fees; and
- (e) P500.00 for actual and incidental expenses.

3. Dismissing the complaint-in-intervention insofar as it concerns plaintiffs Trencio Almedilla and Alberto Pingkian.

4. Denying the reliefs prayed for in the answer to the complaint-in-intervention of plaintiffs Trencio Almedilla and Alberto Pingkian;

5. Denying the reliefs prayed for in the answer to the complaint-in-intervention of the aforementioned defendants;

6. Dismissing the counterclaim of the defendants aforementioned for lack of merit; and

7. Ordering the defendants aforementioned to pay the costs.

### **SO ORDERED."**[6]

The facts of the case were "adopted by reference" from the decision of the then Court of First Instance, Branch III of Oroquieta City in Civil Case No. 3156.[7]

It reads as follows:

"That at about 4:50 o'clock in the morning of November 25, 1975, Trencio Almedilla, who was the real owner of the Ford Fiera, but attached to the Sevilla Lines of defendant William Sevilla, left for Ozamis City, on board his Ford Fiera, to buy textiles, together with Alberto Pingkian who wanted to visit his aunt at Ozamis City. Reaching Dipolog City, Trencio Almedilla, came upon Pacifico Carbajosa who wants (sic) to load fish in the Ford Fiera for Ozamis City. As it was an opportune occasion, Trencio agreed to load the fish of Pacifico for a freight of P130.00. So they loaded the fish of Pacifico at Miputak, then got gasoline at a Caltex Station and proceeded towards Ozamis City. Trencio, was driving his Ford Fiera, was running slowly as Pacifico alias "Balodoy" told him not to go fast so that his fish will not get destroyed. After passing Sapang Dalaga, at Misamis occidental, Trencio developed stomach ache. At this, "Balodoy" requested that Trencio allow him to drive the Ford Fiera as he was an experienced driver. Trencio agreed. And so, with "Balodoy" on the wheels of the Ford Fiera, they proceeded slowly for fear that the fish will get damaged. Reaching Bunawan, at Calamba, and while negotiating a curb at the descending portion of the asphalted national highway, which was wet, as it was raining, a Carina passenger bus was running fast in an ascent, zigzagging towards them. Because of this,

the Ford Fiera went towards the extreme right of the road with its right front and rear tires already running at (sic) the ground shoulder, but even as the Ford Fiera tried to avoid the zigzagging Carina Express No. C-24, the said Carina bus jerked towards the left, hitting, as a result, the Ford Fiera at the left fender and hood, throwing it to the canal at the right side, with engine burning. The Carina passenger bus continued to swerve towards the left until it turn about, facing towards the direction of Ozamis City. Balodoy was pinned by the steering wheel to his driver's seat and was seriously injured, Pingkian and Trencio were also injured, but they were well enough to try to help to extricate Balodoy, not until Genito Compania got a piece of wood from his house nearby, which he used as a lever to pry out Balodoy. The driver of the Carina passenger bus, which had three (3) passengers, at that time, did not help Balodoy. Instead it proceeded towards Sapang Dalaga.

The accident was reported to the police authorities of Calamba, as a result of which Acting Station Commander Arceno of Calamba Police Station, Police District No. II, made a Police Report dated November 25, 1975 as follows:

'POLICE REPORT

At about 0645 Hrs More or less 25, Nov. Sevilla Line bearing plate No. 8-B940 which was driven by Pacifico Carbajosa y Gemillan, 40 years old, married and a resident of 398 Martines St., Dipolog City, said driver was burned and injured seriously when on the way at Bunawan this Municipality, due to a bumping incident.

Bus line marked Carina bearing Plate No. 939 driven by Edgardo Enerio y Paglinawan of Sapang Dalaga, Misamis Occidental. Hit and run and surrendered to Sapang Dalaga office of the Station Commander.

The driver of Sevilla Line with his two companions were rushed to the Calamba Community Hospital for treatment. The scene of the incident was investigated by F/Sgt. Pagalaran, Sr."[8]

Petitioners Occidental Land Transportation Company Inc. and Edgardo Enerio appealed from the above-quoted decision to the Court of Appeals.[9] They assigned the following errors:

"I

THAT THE TRIAL COURT ERRED IN DECIDING THE CASE BASED ON A DECISION RENDERED IN ANOTHER CASE.

II

THAT THE TRIAL COURT ERRED IN NOT HOLDING THAT THE FORD FIERA WAS EXCLUSIVELY RESPONSIBLE FOR THE ACCIDENT.

III

THAT THE TRIAL COURT ERRED IN NOT HOLDING THAT THE FORD FIERA DID NOT BELONG TO THE PLAINTIFF TRENCIO ALMEDILLA."[10]

The Court of Appeals affirmed the decision in toto and disposed of the errors assigned in the following manner:

"Anent the first assigned error, such step of the trial court in taking judicial notice of Civil Case No. 315(6) is sanctioned under Rule 129, Sec. 1 of the Revised Rules of Court. Thus, as aptly put by Chief Justice Moran "Courts have also taken judicial notice of previous cases to determine whether or not the case pending is a moot one or whether or not a previous ruling is applicable in the case under consideration (5 Moran, Comments on the Rules of Court, 1970, ed., p. 50).

Hence, considering the previous decision in Civil Case No. 315(6) involving the same vehicular accident had already put to rest the issue as to the negligence of defendants, the court properly took cognizance of said decision as a matter of convenience, as these facts are capable of unquestionable demonstration (Baguio vs. De Jalagat 42 SCRA 337).

As to the liability of the defendants in the vehicular mishap, We concur with the finding of the trial court in

Civil Case No. 315(6) which held inter alia:

'Moreover, it does not seem possible, as claimed by plaintiff's own witness, Crisanto Andus, that while negotiating the curb, and while starting to descend, the Ford Fiera slid towards the Carina Express No. C-24, hitting its left rear as a consequence. For the Ford Fiera was admittedly loaded with fish and that consequently, because of the weight of its cargo, in relation to its capacity, it will have more traction even in a slippery wet asphalted road; and, as such, the probability of its sliding towards the extreme left side of the road is improbable, if not remote. Not so in the case of Carina Express No. C-24, which had only three (3) passengers at that time, or even fifteen (15) passengers, as claimed by the plaintiff. For with this load, the said bus was undoubtedly travelling without much traction, since its passenger load was not enough to give it stability while running, considering its size and body weight; and that, therefore, it must have been, as described by defendant's witnesses, that Carina Express No. C-24, was running fast in a zigzagging manner along the slippery wet asphalted national highway causing its left rear to jerk towards the left, with the driver losing control, sideswiping the Ford Fiera in the process, and then continuing its swerving towards the left until it turned about facing Ozamis City.'

Correlatively, it is well-settled that the conclusions of facts of the trial court are entitled to great respect and shall not be generally disturbed on appeal, because it is in a better position than the appellate tribunal to examine the evidence directly and to observe the demeanor of the witness while testifying (*Hermo vs. Court of Appeals*, 155 SCRA 24)." [11]

Hence this petition.

The errors assigned by the petitioners are almost identical to those raised before the appellate court. They claim that it was error for the respondent court to "uphold the decision of the trial court based on the judgement rendered in another case," and "uphold the grant of damages for the Ford Fiera when the same did not belong to Trencio Almedilla." [12]

The petition is devoid of merit.

No error was committed by the respondent court when it upheld the findings of the trial court in Civil Case No. 2728.

The reasons advanced by the respondent court in taking judicial notice of Civil Case No. 3156 are valid and not contrary to law. As a general rule, "courts are not authorized to take judicial notice, in the adjudication of cases pending before them, of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge." The general rule admits of exceptions as enumerated in *Tabuena v. Court of Appeals*, [13] the Court, citing *U.S. v. Claveria*, [14] which We quote:

"xxx in the absence of objection, and as a matter of convenience to all parties, a court may properly treat all or any part of the original record of a case filed in its archives as read into the record of a case pending before it, when, with the knowledge of the opposing party, reference is made to it for that purpose, by name and number or in some other manner by which it is sufficiently designated; or when the original record of the former case or any part of it, is actually withdrawn from the archives by the court's direction, at the request or with the consent of the parties, and admitted as a part of the record of the case then pending.'

It is clear, though, that this exception is applicable only when, 'in the absence of objection,' 'with the knowledge of the opposing party,' or 'at the request or with the consent of the parties,' the case is clearly referred to or 'the original or part of the records of the case are actually withdrawn from the archives' and 'admitted as part of the record of the case then pending.' (Italics supplied)

The Court in *Tabuena* ruled that the conditions necessary for the exception to be applicable were not established,

such as that "xxx, (t)he petitioner was completely unaware that his testimony in Civil Case No. 1327 was being considered by the trial court in the case then pending before it. As the petitioner puts it, the matter was never taken up at the trial and was 'unfairly sprung' upon him, leaving him no opportunity to counteract." [15]

The same is not true in the instant case. Civil Case No. 3156, which the lower court in Civil Case No. 2728 took judicial notice of, decided the issue of negligence between the driver of the two vehicles involved in the subject collision. It was therefore a matter of convenience, to consider the decision rendered in that case.

And unlike the factual situation in *Tabuena v. CA*, the decision in Civil Case No. 3156 formed part of the records of the instant case (Civil Case No. 2728) with the knowledge of the parties and in the absence of their objection. This fact was pointed out by the lower court, to wit:

"The xxx findings of the Oroquieta Court became as conclusive upon the company and its driver by their acquiescence and silence. xxx. (Decision of lower court, p. 12; records p. 239)

xxx.

Returning to Exhibit "O," supra (Decision, Civil Case No. 3156, CFI, Branch III, Oroquieta City), the Court hastens to add: Said exhibit has not been objected to nor commented upon by the defendants Company and Enerio, through their counsel, xxx." [16]

This being the case, petitioners were aware that Exhibit "O" (Decision in Civil Case No. 3156) had formed part of the records of the case and would thereby be considered by the trial court in its decision.

Furthermore, upon perusal of Exhibit "O," and the decision of the lower court in the instant case, there is no showing of any irregularity but rather a logical discussion of the case and the evidence presented before the court. The lower court did not merely "adopt by reference" the findings of fact of the Oroquieta court, but used it in its discourse to obtain the conclusions pronounced in its decision.

Petitioner alleges that the Ford Fiera did not belong to Trencio Almedilla, but to its registered owner -- Sevilla Lines, and therefore the grant of damages for, its repair was improperly awarded to private respondent Almedilla. This factual matter has already been decided upon in the trial court.

The fact that the Fiera was owned by Almedilla though registered with Sevilla Line, will not alter the conclusion arrived at by the lower court. The party who stands to benefit or suffer from the decision is admittedly private respondent Almedilla and not Sevilla Lines. William Sevilla admitted that the real owner of the vehicle was Trencio Almedilla, in the case for damages by Occidental Land Transportation against Sevilla Lines and/or William Sevilla. [17] Having thus been settled in the lower court, petitioner is now no longer in any position to question the ownership of the Fiera or the award of damages to private respondent Almedilla.

WHEREFORE, finding no error in the decision of the Court of Appeals dated September 28, 1990 (CA-G.R. CV No. 10176) affirming the decision of the trial court dated March 11, 1986, the petition for review is denied for lack of merit with costs against the petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

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[1] Trencio Almedilla, Pacifico Carbajosa and Alberto Pingkian, represented by his natural guardian Domingo Pingkian, vs. Occidental Land Transportation Company, Inc. and Edgardo Enerio; Heirs of Pacifico Carbajosa, Sr. and Accredited Underwriters Agencies, Inc., Intervenors; C.A.-G.R. CV No. 10176; September 28, 1990; Rollo, p. 15. Penned by Justice Manuel C. Herrera with the concurrence of Justice Eduardo R. Bengzon and Justice

Jainal D. Rasul.

[2] Civil Case No. 2728, March 11, 1986; Records, p. 228.

[3] Petition, pp. 1-3; Rollo, 7-9. Comment, pp. 3-5; Rollo, pp. 33-36.

[4] Exhibit "O," Records, p. 269.

[5] Records, p. 228.

[6] Id., pp. 17-19; Records, pp. 244-247.

[7] Occidental Land Transportation Company, Inc. v. Sevilla Lines and/or William Sevilla; Exhibit "O" for Intervenors-Heirs of Carbajosa; Decision of the lower court, p. 7; Records, p. 234.

[8] Id., pp. 5-7; Records, pp. 273-275.

[9] Supra, note 1.

[10] Decision of the Court of Appeals, pp. 5-6; Rollo, pp. 19-20.

[11] Id., pp. 6-7; Rollo, pp. 20-21.

[12] Petition, p. 4; Rollo, p. 10.

**[13] 196 SCRA 656 (1991).**

**[14] 29 PHIL 527 (1915).**

**[15] 196 SCRA 656.**

[16] Decision of the Lower Court, pp. 15-16; Records, pp. 242-243.

[17] Decision in Civil Case No. 3156, p. 7; Exhibit "O," Records, p.. 275.

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