

ARSENIA CHAVES AND SIMEON GARCIA, PLAINTIFFS AND APPELLANTS, VS. THE MANILA ELECTRIC RAILROAD AND LIGHT COMPANY, DEFENDANT AND APPELLANT.

G.R. No. 9786. March 31, 1915

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9786/>

JOHNSON, J.:

On the 14th day of March, 1913, the plaintiff, Arsenia Chaves, commenced an action in the Court of First Instance of the city of Manila against the defendant to recover the sum of P15,000 as damages for causing the death of her son, Juan Garcia.

On the 19th day of April, 1913, the plaintiff asked permission to amend her complaint, making her husband, Simeon Garcia, a coplaintiff. Said petition was granted by the lower court. The complaint contained the following allegations and prayer:

"I. That the plaintiff is 19 years old, and therefore it is prayed that the undersigned attorney be made curator ad litem for her.

"II. That the defendant, The Manila Electric Railroad and Light Company, is a company duly organized under the laws in force in the Philippines, with a personality of its own, to engage in the street railway business.

"III. That the central office of the defendant company is located in the city of Manila, Calle San Marcelino, and the manager thereof at the present time is Mr. Stone.

"IV. That the plaintiff is the lawful mother of the child Juan Garcia, had in legitimate wedlock with Simeon Garcia, now deceased.

"V. That on or about June 17, 1912, the street car numbered 111 of the Pasay-Cervantes line of the defendant company struck on Calle Dakota, Manila, the plaintiff's son, Juan Garcia, who died instantly; that said street car was driven and controlled by Enrique Clemente, a motorman employed by the defendant, without due care and diligence and with negligence and violation of the regulations of the city of Manila.

"VI. That a complaint was filed in the Court of First Instance of the city of Manila, which, was docketed with the number 8899, against the said Enrique Clemente for the crime of homicide by reckless negligence, by virtue whereof he was finally sentenced to one year and one day of prison correccional, with the accessories of the law and the costs, by the Supreme Court of the Philippines in case No. 8142. (Official Gazette of Feb. 19, 1913.)

"VII. That said sentence is now final and the said Enrique Clemente is at the present time serving time in Bilibid Prison, Manila.

"VIII. That the death of the child Juan Garcia has deprived the plaintiff of a son upon whom she had built hopes of a better future, or at least that he would be the support and necessary staff of her old age.

"IX. That the boy Juan Garcia was 3 years old, was strong, robust, and happy before the accident that caused

his death, and did not suffer nor had he ever suffered from any illness, and he had, therefore, well-founded hopes of attaining old age.

"X. That the plaintiff has suffered damages calculated at fifteen thousand pesos (P15,000), through the fault, negligence, or recklessness of Enrique Clemente, for whose acts the defendant is responsible because he is one of its motormen employees in the enterprise or business in which the defendant is engaged.

"By reason of all the foregoing the plaintiff prays the court:

"(a) That the undersigned be appointed curator ad litem for the plaintiff because she is still a minor;

"(b) That judgment be rendered in the present suit sentencing the defendant to pay to the plaintiff as damages the sum of fifteen thousand pesos (P15,000); and the costs of the trial; and

"(c) That the plaintiff be granted any other remedy that is just and equitable and proper in law."

On the 25th day of April, 1913, the defendant demurred to said complaint. The demurrer alleged:

"Now comes defendant, by its undersigned attorneys, and demurs to the complaint herein on the ground that said complaint does not state facts sufficient to constitute a cause of action against this defendant; and in support of this ground of demurrer, defendant specifies that the said complaint shows that the subject of action set out in said complaint constitutes a criminal offense, which has been prosecuted to a final judgment without, so far as appears from the aforesaid complaint, the reservation to plaintiff herein of any right to maintain a separate civil action."

Upon the issue thus presented by the complaint and the demurrer, the Honorable C. S. Lobingier, judge, rendered the following decision:

"These are both actions to recover damages for personal injuries alleged to have been caused by an employee of defendant, and the complaint in each case alleges that said employee has been convicted of a crime in causing said injuries. The point raised by the demurrers in each case is really that of res judicata, although that in cause No. 10423 specifies the failure to reserve to plaintiff 'any right to maintain a separate civil action.' In view, however, of the language used in the principal authority (*Chantangco vs. Abaroa*, 218 U. S., 476; 54 Law Ed., 1116) cited by the demurrant, there would seem to be little need of considering this specification. The court there says:

" 'It is true that one of the plaintiffs in the present case reserved whatever right he may have had to bring a civil action. This was obviously of no avail, inasmuch as there resulted a judgment for the defendant, and the plain inference from the foregoing is that a verdict of acquittal must carry with it exemption from civil responsibility.'

"If, now, the actual reservation of the right to bring a civil action was of no avail, it would seem to follow that their failure to obtain such reservation resulted in no loss to the plaintiffs.

"The real question presented by the demurrers, therefore, is whether the sentence of conviction alleged in each complaint constitutes in and of itself a bar to this action. Had the latter been instituted against the convicted parties alone, or even had they been made parties defendant hereto, we are inclined to believe that such bar might have arisen, under the doctrine of the case last cited, although the situation there presented was the reverse of this, the accused having there been acquitted. But it will be observed that each of these actions is against the employer only and under our law a clear distinction is made in such cases between the liability of the employer and that of the employee (*Johnson vs. David*, 5 Phil. Rep., 663). The latter might be liable and the former not, and vice versa. Clearly, then, if the sentence imposed upon the employee had included an award of damages against him, it would not necessarily have determined the civil liability of this defendant. In another case (*Ocampo vs. Jenkins*, 14 Phil. Rep., 681) cited by the demurrant, great stress is laid upon the fact

that the civil and criminal causes there involved were instituted by two separate entities and that the rule of res judicata could not therefore operate. The cases are much stronger, for here the defendant is a distinct party from the one prosecuted in the criminal action. In the remaining case (U. S. vs. Heery, 10 Off. Gaz., 2102) cited by the demurrant, not only was the same party involved, but he actually made application to be allowed to prove his damages in the criminal prosecution, and this was denied him. The opinion of the Supreme Court is merely to the effect that such denial was error, and the case does not even hold that had such application not been made, And had the prosecuting witness afterward sought recovery of damages, his action would have been barred.

"Finding that the civil action against the defendant is not barred by a previous conviction of its employee, we overrule the demurrers in both cases."

To the foregoing ruling upon said demurrer, the defendant duly excepted.

On the 26th day of May, 1913, the defendant answered said petition. The answer is as follows:

"Now comes defendant, by its undersigned attorneys, and for answer to plaintiff's complaint:

"I. Admits each and every allegation of paragraphs 2, 3, 6, and 7 thereof.

"II. Admits that on or about the 17th day of June, 1912, a street car of defendant struck and killed on Calle Dakota, Manila, a child called Juan Garcia and that said street car was then and there driven by Enrique Clemente, a motorman employed by defendant; but defendant denies that the said Enrique Clemente acted without due care or diligence, or imprudently, or in a violation of the ordinances of the city of Manila or any of them.

"III. Denies each and every allegation of paragraphs 1, 4, 8, 9, and 10 of the complaint, and denies each and every allegation of paragraph 5 thereof not hereinbefore specifically admitted.

"For a special defense defendant alleges that plaintiff failed to reserve the right to prosecute a separate civil action for damages arising from the acts and omissions of the said Enrique Clemente set out in the complaint, and that the said acts and omissions of Enrique Clemente as set out in the complaint are the same for which the said Enrique Clemente was tried and convicted, as set out in the complaint and admitted by this answer.

"For a second special defense defendant alleges that defendant, prior to and at the time of the death of the aforesaid Juan Garcia, had employed and was employing all the diligence of a good father of a family to avoid the damage."

The issue presented by said petition and answer was finally brought to trial, and the Honorable A. S. Crossfield, after hearing the evidence adduced during the trial of the cause and the arguments of the respective parties, rendered the following decision:

"This case is before the court for trial upon a complaint by plaintiff to recover from defendant the sum of P15,000 alleged to be the damages suffered by plaintiff, arising from the killing of her child by one of defendant's employees while operating one of the defendant's street cars in Manila about June 17, 1912.

"The defendant answered admitting the killing of the child on Calle Dakota as alleged in the complaint, but denying that the motorman in its employ acted carelessly or without diligence, and denied the balance of the complaint and set up a special defense alleging that the motorman operating the car had been prosecuted criminally for the acts set out in the complaint herein, and that the plaintiff did not reserve the right to prosecute a separate civil action for damages, and that at the time the child was killed defendant was employing all the diligence of a good father of a family.

"Silvestre Apacible, as guardian ad litem for the plaintiff, appeared in person; W. H. Lawrence appeared for the defendant.

"From the evidence presented at the trial I find that the plaintiff, Arsenia Chaves, was only 19 years of age at the time of the commencement of this action, was then a widow, and that Silvestre Apacible was appointed as her guardian ad litem.

"That on the 17th day of June, 1912, the plaintiff resided on Calle Dakota in the city of Manila, left her house and crossed the street to a tienda, leaving her child, Juan Garcia nearly 3 years old, in the house. Shortly afterward the child left the house and started across the street to its mother when one of the defendant's street cars came along on the street-car tracks at a high rate of speed and struck the child, which was then on the track and tore it in pieces and scattered the pieces along the track for some distance, finally- stopping about 100 feet from where the child was struck. No effort appears to have been made to stop the car until about the moment it struck the child.

"The car was being run by the motorman at a higher rate of speed than permitted by the city ordinances, which limit the speed within the city limits to 12 miles per hour. The motorman was negligent and careless, otherwise he would have seen the child and stopped the car before running over it.

"The motorman was prosecuted criminally and at that trial I found that he was not recklessly negligent as charged in the complaint and contemplated by the Penal Code, but that he was careless and negligent and was running the car in violation of regulations, and so found him not guilty of the former charge but guilty of the latter and sentenced him accordingly.

"An appeal was taken by the defendant to the Supreme Court, which revoked the findings of this court and found him guilty of reckless negligence and increased the penalty accordingly.

"The evidence at this trial was not so conclusive as at the criminal trial, though in making the findings now nothing of the evidence presented at the criminal trial is considered and reference is only made to that trial because that trial was plead as a bar.

"The special defense of waiver of damages by plaintiff on account of not having claimed them at the criminal trial is without force in my opinion and is really disposed of in the order overruling the demurrer herein.

"The conclusions are that the plaintiff is entitled to recover from defendant the damages caused by the death of her child.

"No evidence of actual damage has been presented and but little of consequential damage, and that which is assessed must be in the nature of a penalty for the killing of the child thereby causing suffering and loss to the plaintiff, its mother, and I find the loss of the plaintiff as the mother of the child to be the sum of P1,000.

"Let judgment be entered in favor of the plaintiff, Arsenia Chaves, and against the defendant Manila Electric Railroad and Light Company, for the sum of P1,000, with interest thereon at 6 per cent per annum from the date of the commencement of this action, which was by filing the complaint herein on March 27, 1913, and for the costs of the action."

From that conclusion of the lower court, the plaintiffs and defendant each appealed and by agreement presented the same bill of exceptions in this court.

The only assignment of error made by the plaintiffs in this court is that, the lower court committed an error in rendering a judgment in favor of the plaintiffs and against the defendant for P1,000, and not for P15,000.

The defendant made the following assignments of error:

"I. That said court overruled defendant's demurrer to the complaint.

"II. That in its order for judgment the said court found as a fact that defendant's car was being run by the motorman at a higher rate of speed than 12 miles per hour.

"III. That in its order for judgment the said court found as a fact that defendant's motorman was negligent and careless in not having seen the child and stopped the car before running over him.

"IV. That in its order for judgment the said court found as a conclusion that plaintiff Arsenia Chaves suffered damage in the sum of P1,000.

"V. That the said court failed to sustain the first special defense set up in the answer.

"VI. That the said court failed to sustain the second special defense set up in the answer.

"VII. That the said court ordered judgment in favor of the plaintiff Arsenia Chaves and against the defendant.

"VIII. That the said court overruled defendant's motion for a new trial."

From an examination of said assignments of error we find that the questions presented by the appellant are in fact but two, or at least may be discussed under two heads, as follows:

- Whether or not it was necessary in said criminal action to expressly reserve the right to bring and to maintain the present civil action for damages against the present defendant; and
- Whether or not, under all of the facts, the defendant company is liable in civil damages.

Upon the first question a majority of the court held that said reservation was not necessary.

Upon the second question a majority of the court held that the record shows that the defendant had exercised or employed all the diligence of a good father of a family and was not therefore liable in damages for the injury caused.

Therefore the judgment of the lower court is hereby revoked and it is hereby ordered and declared that a judgment be entered relieving the defendant of all liability under the complaint. Without prejudice to the writing of a decision in which the questions of fact and law involved shall be more fully discussed, and, without any finding as to costs, it is so ordered.

Arellano, C. J., Carson and Trent, JJ., concur.

MORELAND, J., concurring:

I agree to the reversal on the ground that the defendant has clearly shown itself free from negligence; that it exercised the care and diligence of a good father of a family.

Torres, J., dissents.

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.