FIRST DIVISION

[G.R. No. 223178, December 09, 2020]

VICENTE T. GUERRERO, PETITIONER, VS. PHIL. PHOENIX SURETY & INSURANCE, INC., RESPONDENT.

D E C I S I O N

CARANDANG, J.:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated June 23, 2015 and the Resolution[3] dated January 20, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 101902. The Decision and the Resolution denied petitioner's appeal and affirmed the Decision[4] dated May 6, 2013 of the Regional Trial Court (RTC) of Manila, Branch 11 ordering petitioner Vicente T. Guerrero (Guerrero) and his co-defendant, Rogelio Cordero (Cordero), to pay respondent Phil. Phoenix Surety & Insurance, Inc. (Phoenix) P425,100.00 representing the losses incurred by Phoenix, the amount of P9,180.00 as reimbursement for the participation fee paid by a certain Atty. Joseph Agustin Gaticales (Gaticales), attorney's fees, and cost of suit.

Facts of the Case

On December 31, 2008 at 6:30 p.m., an Isuzu Sportivo vehicle (Isuzu) owned by Gaticales figured in a vehicular accident along the National Highway, Barangay Gines, Zarraga, Iloilo, with Guerrero's Chevrolet pick-up truck (Chevrolet). At the time, the Chevrolet was driven by Cordero.[5] The left front bumper, headlight, signal light, front fender, front door, rear door, rear fender, rear tire, rear bumper, and other parts of the Isuzu were damaged by the incident. When the incident was reported to the nearest police station, *i.e.*, Zarraga Municipal Police Station, a certain PO2 Jose Diestro (PO2 Diestro) was sent to the place of the accident to investigate and make a police report on his findings. It was found that Guerrero's Chevrolet overlapped the center line of the highway, encroaching the lane occupied by the Isuzu (which was moving in the opposite direction) and resulting in a head-on collision between the two vehicles. It was also noted that Cordero fled after the incident. The incident was recorded in the police blotter under entry no. 1327 dated December 31, 2008 and entered at 7:30 p.m.[6]

Gaticales then filed an own damage claim with Phoenix — a corporation engaged in non-life insurance where Gaticales had the Isuzu insured - for the amount of P810,000.00 and declared his Isuzu as a constructive total loss. After Phoenix paid the amount of P810,000.00 to Gaticales, Gaticales executed a Release of Claim in favor of Phoenix subrogating the latter to all his rights to recover on all claims as a consequence of the accident.[7] Since Phoenix sold the Isuzu in a public auction for P399,050.00, it filed a Complaint[8] for damages against Guerrero and Cordero for the following amounts: (1) the balance of P425,100.00 (equivalent to the

P810,000.00 Phoenix paid Cordero and P14,150.00 it paid its handling insurance adjuster less P399,050.00 the Isuzu was sold for in the public auction); (2) P9,180.00 paid by Gaticales as his participation fee; (3) P42,500.00 attorney's fees plus P2,500.00 as appearance fee for its counsel; and (4) cost of suit.[9]

In the Complaint, Phoenix averred that the accident could have been avoided if Cordero exercised due care in driving the Chevrolet and if Guerrero exercised the required diligence in supervising Cordero as Cordero's employer. Phoenix thus sought to have Guerrero solidarily liable with Cordero for the abovementioned amounts.[10]

To prove its claim, Phoenix attached to the Complaint the following documents: (1) Gaticales' Insurance Policy with Phoenix;[11] (2) the Zarraga Municipal Police Station's Certification[12] dated January 5, 2009 and issued by Police Inspector/Chief of Police Romar V. Peregil (PI Peregil); (3) two pictures of the Isuzu showing the damages sustained by it;[13] (4) Disbursement Voucher for the amount of P824,150.00;[14] (5) Release of Claim (Loss and Subrogation Receipt) signed by Gaticales in favor of Phoenix;[15] (6) Demand Letter dated August 1, 2009 with its registry receipts;[16] and (7) engagement letter with Phoenix's counsel.[17] The police certificate, certifying the contents of the police blotter issued by PO2 Diestro, states:

CERTIFICATION

> Quoted hereunder is the record of event from the Police Blotter of Zarraga Municipal Police Station, Zarraga, Iloilo, in blotter entry No. 1327 dated 31 December 2008.
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> Entry No. 1327
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> 31 December 2008, 7:30 P.M. - INFO - VEHICULAR ACCIDENT - A concerned citizen informed this Police Station thru telephone call informing that there was a vehicular accident that transpired at Brgy. Gines, Zarraga, Iloilo. Immediately thereafter PNP team of this Police station led by PO2 Jose Diestro proceeded at the scene of [the] incident. Investigation conducted disclosed that on or about 6:30 P.M. of this date, Joseph Agustin Gaticales y Capawan, 41 years old, married, resident of San Mateo, St., Ledesco Village, Lapaz, Iloilo City, holder of Professional Driver's License no. F03-09-049829 with expiry date 08-22-2009 while driving his Isuzu Sportivo with plate no. ZCZ-326 under OR No. 369927967 dated 06/15/2006 and CR No. 2502057-5 dated 06/15/2006 with registration valid for three (3) years, en route from north to south direction heading towards Iloilo City was accidentally bumped by Chevrolet pick up with plate no. FAJ-877 under OR no. 652801166 dated 09/15/2008 and CR [n]o. 481593-5 dated 07/05/2005, owned by Vicente Guerrero, resident of 20 Lacson St., Bacolod City, Neg. Occ., upon reaching along the national highway of Brgy. Gines, Zarraga Iloilo a collision appeared. The driver of the Chevrolet pick up fled away to unknown direction after the incident. Investigation conducted disclosed that the Chevrolet pickup overlapped to the center line which resulted

[in] the accident. That the Isuzu Sportive incurred damaged (sic) on its left portion of bumper, head light, signal light, front fender, hood. Front door, rear door, rear fender, rear tire, rear bumper and other parts of its body. While the Chevrolet pick up incurred also damages on its left portion of bumper, hood, headlight, signal light, front fender, front wheel and broken windshield. That all the damaged (*sic*) of both vehicles could only be determined by an expert mechanic.

Entry No. 01

31 January 2009, 8:00 A.M. - INFO - ADDENDUM RE VEHICULAR ACCIDENT TRANSPIRED 6:30 PM OF DECMEBER 31, 2008 - Follow up investigation conducted by this Police office, the driver of Chevrolet pick up late no. FAJ-877 was identified as Rogelio Cordero Jr. y Zurita, of legal age, married, temporarily resides at Melliza St., Poblacion Ilaud, Zarraga Iloilo, a native of Bonifacio Ext., Silay City Neg. Occ. holder of professional driver's license no. F01-05-000862 with expiry date 03-02-2010.

This certification is being issued upon the request of Atty. Joseph Gaticales for whatever legal purpose it may serve best.

(sgd)
ROMAR V. PEREGIL
Police Inspector
Chief of Police[18]

In his Answer with Compulsory Counterclaim,[19] Guerrero denied any vicarious liability from the vehicular accident because he exercised due diligence in the selection and supervisions of his employees. According to him, Cordero was not authorized to operate the Chevrolet because the car was assigned to another employee. The business owned by Guerrero enforced a strict policy against the unauthorized use or possession of company property. Despite this, Cordero opted to use Guerrero's Chevrolet on December 31, 2008 because of strong rains. Cordero, coming from a marketplace near the construction site where the Chevrolet was parked, was soaking wet from riding a motorcycle. Thus, he took shelter in the said construction site and drove the Chevrolet home without Guerrero's knowledge and consent. Cordero even picked up a friend along the way. Nevertheless, Guerrero alleged that Cordero drove slowly along the national highway due to the rain while Gaticales was the one driving fast with his Isuzu's headlights at high beam. Disoriented and confused, Cordero and his companion just fled the scene. Thus, Guerrero accused Gaticales of negligently hitting the Chevrolet.[20]

Guerrero also questioned Phoenix's prayer that Guerrero reimburse Gaticales the latter's participation fee of P9,180.00 because Gaticales is not a party to the suit. [21]

During trial, Phoenix presented as its lone witness its claims manager, Roberto Salaver (Salaver). Aside from identifying his judicial affidavit, Salaver also identified the police certificate, which he also referred to as the police investigation report. Guerrero, on the other hand, testified on his behalf and presented his legal staff,

Salvador M. Acsay (Ascay), as his second witness. Acsay testified that (1) Guerrero's company issued a Memorandum dated December 18, 2006 allowing only authorized or registered drivers of company vehicles to operate the same and only for the company's transactions and operations; (2) Acsay made known and implemented the policy covered by the said memorandum; and (3) Cordero was suspended for violating the said policy, as evidenced by a Memorandum dated January 6, 2009.[22]

Ruling of the Regional Trial Court

In a Decision[23] dated May 6, 2013, the RTC granted Phoenix's complaint and declared Guerrero and Cordero solidarily liable to Phoenix, as follows:

> WHEREFORE, foregoing premises considered, judgment is hereby rendered in favor of the plaintiff and against defendants as follows:
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> 1. Defendants are directed, jointly and severally, to pay plaintiff the amount of P425,100.00 representing the subrogated loss incurred by the plaintiff in settling the damages insured vehicle on a constructive total loss basis;
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> 2. Defendants are directed jointly and severally, to pay plaintiffs assured, Atty. Joseph Agustin Gaticales, the sum of P9,180.00 as his reimbursement of his participation in the settlement of his own damaged claim on a constructive total loss basis;
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> 3. Defendants are directed, jointly and severally, to pay plaintiff attorney's fees in the amount of P42,500.00 plus an additional amount of P2,500.00 per appearance every time plaintiffs counsel or his assistant appears in court to attend to the legal needs of the plaintiff; and
>
> 4. To pay the cost of the suit.
>
> SO ORDERED.[24]

Using the principle of *res ipsa loquitur*, the trial court concluded that Cordero and Guerrero were solidarily liable because the accident was due to Cordero's negligent driving of Guerrero's Chevrolet. The RTC declared that: (1) Guerrero's Chevrolet hit the front left portion of Gaticales' Isuzu because of Cordero's negligence (as shown by the police report that the Chevrolet overlapped to the center line of the highway and that Cordero immediately fled the scene after the accident); (2) the Chevrolet was under the exclusive control of Cordero; and (3) Gaticales is not guilty of contributory negligence.[25]

In his Motion for Reconsideration,[26] Guerrero alleged that the RTC improperly applied the doctrine of *res ipsa loquitur* because none of the requisites for the doctrine's application are present. According to Guerrero: (1) it was never established that the accident does not ordinarily occur in the absence of negligence; (2) Phoenix's sole witness never testified that Guerrero's Chevrolet was under Cordero's exclusive control since the witness's knowledge is based only on the police report; and (3) it was never proven that Gaticales was not guilty of

contributory negligence. Guerrero pointed out that Phoenix failed to prove an additional requirement - *i.e.*, Gaticales had no knowledge of or means of knowing the cause of the accident because he was never presented as a witness. Furthermore, Guerrero claimed that *res ipsa loquitur* applies only when evidence establishing negligence is absent or not readily available and that Phoenix could have obtained readily available evidence in the form of Gaticales' testimony.[27]

Guerrero also averred that the trial court should not.have given the police certificate any probative value because it was merely copied from a police blotter, thus, falling short of the requirements set forth in Section 44 (now Section 46),[28] Rule 130 of the Rules of Court. In particular, Phoenix did not prove that the police report was prepared by a public officer who had sufficient knowledge of the facts, which he acquired personally or through official information.[29]

However, the trial court denied Guerrero's motion for reconsideration in an Order[30] dated September 12, 2013. This prompted Guerrero to file an appeal with the CA.

Ruling of the Court of Appeals

In its Decision[31] dated June 23, 2015, the appellate court affirmed the findings of the RTC, thus denying Guerrero's appeal.

The CA ruled that the police certificate is admissible and is an exception to the hearsay rule because it is an official record. Under Section 46 of the Rules of Court, an official record is defined as:

> Section 46. *Entries in official records*. — Entries in official records made in the performance of his or her duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

Citing *Malayan Insurance Co., Inc. v. Alberto*,[32] the appellate court found that the requisites for the admissibility of the police certificate were complied with, namely: (1) the entry was made by a public officer specially enjoined by law to do so; (2) it was made by the public officer in the performance of his duties; (3) the public officer had sufficient knowledge of the facts stated by him, which was acquired through official information based on the investigation conducted by a police investigator (*i.e.*, PO2 Diestro). The CA thus concluded that the police certificate, as well as the pictures of the insured vehicle, established a rebuttable presumption of negligence on the part of Cordero.[33]

Even if the police certificate and blotter were declared inadmissible, the CA maintained that Cordero and Guerrero would still be found liable under the doctrine of *res ipsa loquitur*. The appellate court held that the requirements for the operation of the said doctrine were met, *i.e.*, (1) the accident is of a kind which ordinarily does not occur in the absence of someone's negligence; (2) it is caused by an instrumentality within the exclusive control of Cordero - the negligent party as pointed out by Phoenix; and (3) there is no possibility of contributory negligence on the part of Gaticales. Coupled with Cordero's act of fleeing the scene of the accident, Cordero and Guerrero (as Cordero's employer) were found liable to Phoenix and