

## SECOND DIVISION

[ G.R. No. 170631, February 10, 2016 ]

**CARAVAN TRAVEL AND TOURS INTERNATIONAL, INC.,  
PETITIONER, VS. ERMILINDA R. ABEJAR, RESPONDENT.**

### DECISION

**LEONEN, J.:**

The plaintiff may first prove the employer's ownership of the vehicle involved in a mishap by presenting the vehicle's registration in evidence. Thereafter, a disputable presumption that the requirements for an employer's liability under Article 2180<sup>[1]</sup> of the Civil Code have been satisfied will arise. The burden of evidence then shifts to the defendant to show that no liability under Article 2180 has ensued. This case, thus, harmonizes the requirements of Article 2180, in relation to Article 2176<sup>[2]</sup> of the Civil Code, and the so-called registered-owner rule as established in this court's rulings in *Aguilar, Sr. v. Commercial Savings Bank*,<sup>[3]</sup> *Del Carmen, Jr. v. Bacoy*,<sup>[4]</sup> *Filcar Transport Services v. Espinas*,<sup>[5]</sup> and *Mendoza v. Spouses Gomez*.<sup>[6]</sup>

Through this Petition for Review on Certiorari,<sup>[7]</sup> Caravel Travel and Tours International, Inc. (Caravan) prays that the Decision<sup>[8]</sup> dated October 3, 2005 and the Resolution<sup>[9]</sup> dated November 29, 2005 of the Court of Appeals Twelfth Division be reversed and set aside.<sup>[10]</sup>

On July 13, 2000, Jesmariane R. Reyes (Reyes) was walking along the west-bound lane of Sampaguita Street, United Parañaque Subdivision IV, Parañaque City.<sup>[11]</sup> A Mitsubishi L-300 van with plate number PKM 195<sup>[12]</sup> was travelling along the east-bound lane, opposite Reyes.<sup>[13]</sup> To avoid an incoming vehicle, the van swerved to its left and hit Reyes.<sup>[14]</sup> Alex Espinosa (Espinosa), a witness to the accident, went to her aid and loaded her in the back of the van.<sup>[15]</sup> Espinosa told the driver of the van, Jimmy Bautista (Bautista), to bring Reyes to the hospital.<sup>[16]</sup> Instead of doing so, Bautista appeared to have left the van parked inside a nearby subdivision with Reyes still in the van.<sup>[17]</sup> Fortunately for Reyes, an unidentified civilian came to help and drove Reyes to the hospital.<sup>[18]</sup>

Upon investigation, it was found that the registered owner of the van was Caravan.<sup>[19]</sup> Caravan is a corporation engaged in the business of organizing travels and tours.<sup>[20]</sup> Bautista was Caravan's employee assigned to drive the van as its service driver.<sup>[21]</sup>

Caravan shouldered the hospitalization expenses of Reyes.<sup>[22]</sup> Despite medical attendance, Reyes died two (2) days after the accident.<sup>[23]</sup>

Respondent Ermilinda R. Abejar (Abejar), Reyes' paternal aunt and the person who raised her since she was nine (9) years old,<sup>[24]</sup> filed before the Regional Trial Court of Parañaque a Complaint<sup>[25]</sup> for damages against Bautista and Caravan. In her Complaint, Abejar alleged that Bautista was an employee of Caravan and that Caravan is the registered owner of the van that hit Reyes.<sup>[26]</sup>

Summons could not be served on Bautista.<sup>[27]</sup> Thus, Abejar moved to drop Bautista as a defendant.<sup>[28]</sup> The Regional Trial Court granted her Motion.<sup>[29]</sup>

After trial, the Regional Trial Court found that Bautista was grossly negligent in driving the vehicle.<sup>[30]</sup> It awarded damages in favor of Abejar, as follows:

WHEREFORE, considering that the [respondent] was able to provide by preponderance of evidence her cause of action against the defendants, judgment is hereby rendered ordering defendants JIMMY BAUTISTA and CARAVAN TRAVEL and TOURS[,] INC., to jointly and solidarity pay the plaintiff, the following, to wit:

1. The amount of P35,000.00 representing actual damages;
2. The amount of P300,000.00 as moral damages;
3. The amount of P30,000.00 as exemplary damages;
4. The amount of P50,000.00 as and by way of attorney's fees; and
5. The cost of suit.

SO ORDERED.<sup>[31]</sup>

Caravan's Motion for Reconsideration<sup>[32]</sup> was denied through the October 20, 2003 Order<sup>[33]</sup> of the Regional Trial Court.

The Court of Appeals affirmed with modification the Regional Trial Court's July 31, 2003 Decision and October 20, 2003 Order, as follows:

**WHEREFORE**, premises considered, the instant appeal is **DENIED** for lack of merit. The assailed Decision dated 31 July 2003 and Order dated 20 October 2003 of the Regional Trial Court, City of Parañaque, Branch 258, in Civil Case No. 00-0447 are **AFFIRMED** with the following **MODIFICATIONS**:

1. Moral Damages is **REDUCED** to Php 200,000.00;
2. Death Indemnity of Php 50,000.00 is awarded;
3. The Php 35,000.00 actual damages, Php 200,000.00 moral damages, Php 30,000.00 exemplary damages and Php 50,000.00 attorney's fees shall earn interest at the rate of 6% *per annum* computed from 31 July 2003, the date of the [Regional Trial

Court's] decision; and upon finality of this Decision, all the amounts due shall earn interest at the rate of 12% *per annum*, in lieu of 6% *per annum*, until full payment; and

4. The Php 50,000.00 death indemnity shall earn interest at the rate of 6% *per annum* computed from the date of promulgation of this Decision; and upon finality of this Decision, the amount due shall earn interest at the rate of 12% *per annum*, in lieu of 6% *per annum*, until full payment.

Costs against [Caravan].

**SO ORDERED.**<sup>[34]</sup>

Caravan filed a Motion for Reconsideration, but it was denied in the Court of Appeals' assailed November 29, 2005 Resolution.<sup>[35]</sup>

Hence, this Petition was filed.

Caravan argues that Abejar has no personality to bring this suit because she is not a real party in interest. According to Caravan, Abejar does not exercise legal or substitute parental authority. She is also not the judicially appointed guardian or the only living relative of the deceased.<sup>[36]</sup> She is also not "the executor or administrator of the estate of the deceased."<sup>[37]</sup> According to Caravan, only the victim herself or her heirs can enforce an action based on *culpa aquiliana* such as Abejar's action for damages.<sup>[38]</sup>

Caravan adds that Abejar offered no documentary or testimonial evidence to prove that Bautista, the driver, acted "within the scope of his assigned tasks"<sup>[39]</sup> when the accident occurred.<sup>[40]</sup> According to Caravan, Bautista's tasks only pertained to the transport of company personnel or products, and when the accident occurred, he had not been transporting personnel or delivering products of and for the company.<sup>[41]</sup>

Caravan also argues that "it exercised the diligence of a good father of a family in the selection and supervision of its employees."<sup>[42]</sup>

Caravan further claims that Abejar should not have been awarded moral damages, actual damages, death indemnity, exemplary damages, and attorney's fees.<sup>[43]</sup> It questions the Certificate provided by Abejar as proof of expenses since its signatory, a certain Julian Peñaloza (Peñaloza), was not presented in court, and Caravan was denied the right to cross-examine him.<sup>[44]</sup> Caravan argues that the statements in the Certification constitute hearsay.<sup>[45]</sup> It also contends that based on Article 2206(3)<sup>[46]</sup> of the Civil Code, Abejar is not entitled to moral damages.<sup>[47]</sup> It insists that moral and exemplary damages should not have been awarded to Abejar because Caravan acted in good faith.<sup>[48]</sup> Considering that moral and exemplary damages are unwarranted, Caravan claims that the award of attorney's fees should have also been removed.<sup>[49]</sup>

Lastly, Caravan argues that it should not be held solidarily liable with Bautista since

Bautista was already dropped as a party.<sup>[50]</sup>

Abejar counters that Caravan failed to provide proof that it exercised the requisite diligence in the selection and supervision of Bautista.<sup>[51]</sup> She adds that the Court of Appeals' ruling that Caravan is solidarily liable with Bautista for moral damages, exemplary damages, civil indemnity *ex delicto*, and attorney's fees should be upheld.<sup>[52]</sup> Abejar argues that since Caravan is the registered owner of the van, it is directly, primarily, and solidarity liable for the tortious acts of its driver.<sup>[53]</sup>

For resolution are the following issues:

First, whether respondent Ermilinda R. Abejar is a real party in interest who may bring an action for damages against petitioner Caravan Travel and Tours International, Inc. on account of Jesmariane R. Reyes' death; and

Second, whether petitioner should be held liable as an employer, pursuant to Article 2180 of the Civil Code.

We deny the Petition.

## I

Having exercised substitute parental authority, respondent suffered actual loss and is, thus, a real party in interest in this case.

In her Complaint, respondent made allegations that would sustain her action for damages: that she exercised substitute parental authority over Reyes; that Reyes' death was caused by the negligence of petitioner and its driver; and that Reyes' death caused her damage.<sup>[54]</sup> Respondent properly filed an action based on quasi-delict. She is a real party in interest.

Rule 3, Section 2 of the 1997 Rules of Civil Procedure defines a real party in interest:

### RULE 3. Parties to Civil Actions

. . . .

SECTION 2. Parties in Interest. — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

"To qualify a person to be a real party in interest in whose name an action must be prosecuted, he [or she] must appear to be the present real owner of the right sought to be enforced."<sup>[55]</sup> Respondent's capacity to file a complaint against petitioner stems from her having exercised substitute parental authority over Reyes.

Article 216 of the Family Code identifies the persons who exercise substitute parental authority:

Art. 216. In default of parents or a judicially appointed guardian, the following persons shall exercise substitute parental authority over the child in the order indicated:

- (1) The surviving grandparent, as provided in Art. 214;<sup>[56]</sup>
- (2) The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and
- (3) *The child's actual custodian, over twenty-one years of age, unless unfit or disqualified.*

Whenever the appointment of a judicial guardian over the property of the child becomes necessary, the same order of preference shall be observed. (Emphasis supplied)

Article 233 of the Family Code provides for the extent of authority of persons exercising substitute parental authority, that is, the same as those of actual parents:

Art. 233. The person exercising substitute parental authority shall have the *same* authority over the person of the child as the parents. (Emphasis supplied)

Both of Reyes' parents are already deceased.<sup>[57]</sup> Reyes' paternal grandparents are also both deceased.<sup>[58]</sup> The whereabouts of Reyes' maternal grandparents are unknown.<sup>[59]</sup> There is also no record that Reyes has brothers or sisters. It was under these circumstances that respondent took custody of Reyes when she was a child, assumed the role of Reyes' parents, and thus, exercised substitute parental authority over her.<sup>[60]</sup> As Reyes' custodian, respondent exercised the full extent of the statutorily recognized rights and duties of a parent. Consistent with Article 220<sup>[61]</sup> of the Family Code, respondent supported Reyes' education<sup>[62]</sup> and provided for her personal needs.<sup>[63]</sup> To echo respondent's words in her Complaint, she treated Reyes as if she were her own daughter.<sup>[64]</sup>

Respondent's right to proceed against petitioner, therefore, is based on two grounds.

First, respondent suffered actual personal loss. With her affinity for Reyes, it stands to reason that when Reyes died, respondent suffered the same anguish that a natural parent would have felt upon the loss of one's child. It is for this injury—as authentic and personal as that of a natural parent—that respondent seeks to be indemnified.

Second, respondent is capacitated to do what Reyes' actual parents would have been capacitated to do.

In *Metro Manila Transit Corporation v. Court of Appeals*,<sup>[65]</sup> *Tapdasan, Jr. v. People*,<sup>[66]</sup> and *Aguilar, Sr. v. Commercial Savings Bank*,<sup>[67]</sup> this court allowed natural parents of victims to recover damages for the death of their children. Inasmuch as persons exercising substitute parental authority have the full range of competencies of a child's actual parents, nothing prevents persons exercising substitute parental authority from similarly possessing the right to be indemnified for their ward's