

## THIRD DIVISION

[ G.R. No. 175540, April 14, 2014 ]

**DR. FILOTEO A. ALANO, PETITIONER, VS. ZENAIDA MAGUD-LOGMAO, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision<sup>[1]</sup> of the Court of Appeals (CA), dated March 31, 2006, adjudging petitioner liable for damages, and the Resolution<sup>[2]</sup> dated November 22, 2006, denying petitioner's motion for reconsideration thereof, be reversed and set aside.

The CA's narration of facts is accurate, to wit:

Plaintiff-appellee Zenaida Magud-Logmao is the mother of deceased Arnelito Logmao. Defendant-appellant Dr. Filoteo Alano is the Executive Director of the National Kidney Institute (NKI).

At around 9:50 in the evening of March 1, 1988, Arnelito Logmao, then eighteen (18) years old, was brought to the East Avenue Medical Center (EAMC) in Quezon City by two sidewalk vendors, who allegedly saw the former fall from the overpass near the Farmers' Market in Cubao, Quezon City. The patient's data sheet identified the patient as Angelito Lugmoso of Boni Avenue, Mandaluyong. However, the clinical abstract prepared by Dr. Paterno F. Cabrera, the surgical resident on-duty at the Emergency Room of EAMC, stated that the patient is Angelito [Logmao]. Dr. Cabrera reported that [Logmao] was drowsy with alcoholic breath, was conscious and coherent; that the skull x-ray showed no fracture; that at around 4:00 o'clock in the morning of March 2, 1988, [Logmao] developed generalized seizures and was managed by the neuro-surgery resident on-duty; that the condition of [Logmao] progressively deteriorated and he was intubated and ambu-bagging support was provided; that admission to the Intensive Care Unit (ICU) and mechanical ventilator support became necessary, but there was no vacancy at the ICU and all the ventilator units were being used by other patients; that a resident physician of NKI, who was rotating at EAMC, suggested that [Logmao] be transferred to NKI; and that after arrangements were made, [Logmao] was transferred to NKI at 10:10 in the morning.

At the NKI, the name Angelito [Logmao] was recorded as Angelito Lugmoso. Lugmoso was immediately attended to and given the necessary medical treatment. As Lugmoso had no relatives around,

Jennifer B. Misa, Transplant Coordinator, was asked to locate his family by enlisting police and media assistance. Dr. Enrique T. Ona, Chairman of the Department of Surgery, observed that the severity of the brain injury of Lugmoso manifested symptoms of brain death. He requested the Laboratory Section to conduct a tissue typing and tissue cross-matching examination, so that should Lugmoso expire despite the necessary medical care and management and he would be found to be a suitable organ donor and his family would consent to organ donation, the organs thus donated could be detached and transplanted promptly to any compatible beneficiary.

Jennifer Misa verified on the same day, March 2, 1988, from EAMC the identity of Lugmoso and, upon her request, she was furnished by EAMC a copy of the patient's date sheet which bears the name Angelito Lugmoso, with address at Boni Avenue, Mandaluyong. She then contacted several radio and television stations to request for air time for the purpose of locating the family of Angelito Lugmoso of Boni Avenue, Mandaluyong, who was confined at NKI for severe head injury after allegedly falling from the Cubao overpass, as well as Police Station No. 5, Eastern Police District, whose area of jurisdiction includes Boni Avenue, Mandaluyong, for assistance in locating the relatives of Angelito Lugmoso. Certifications were issued by Channel 4, ABS-CBN and GMA attesting that the request made by the NKI on March 2, 1988 to air its appeal to locate the family and relatives of Angelito Lugmoso of Boni Avenue, Mandaluyong was accommodated. A Certification was likewise issued by Police Station No. 5, Eastern Police District, Mandaluyong attesting to the fact that on March 2, 1988, at about 6:00 p.m., Jennifer Misa requested for assistance to immediately locate the family and relatives of Angelito Lugmoso and that she followed up her request until March 9, 1988.

On March 3, 1988, at about 7:00 o'clock in the morning, Dr. Ona was informed that Lugmoso had been pronounced brain dead by Dr. Abdias V. Aquino, a neurologist, and by Dr. Antonio Rafael, a neurosurgeon and attending physician of Lugmoso, and that a repeat electroencephalogram (EEG) was in progress to confirm the diagnosis of brain death. Two hours later, Dr. Ona was informed that the EEG recording exhibited a flat tracing, thereby confirming that Lugmoso was brain dead. Upon learning that Lugmoso was a suitable organ donor and that some NKI patients awaiting organ donation had blood and tissue types compatible with Lugmoso, Dr. Ona inquired from Jennifer Misa whether the relatives of Lugmoso had been located so that the necessary consent for organ donation could be obtained. As the extensive search for the relatives of Lugmoso yielded no positive result and time being of the essence in the success of organ transplantation, Dr. Ona requested Dr. Filoteo A. Alano, Executive Director of NKI, to authorize the removal of specific organs from the body of Lugmoso for transplantation purposes. Dr. Ona likewise instructed Dr. Rose Marie Rosete-Liquete to secure permission for the planned organ retrieval and transplantation from the Medico-Legal Office of the National Bureau of Investigation (NBI), on the assumption that the incident which lead to the brain injury and death of Lugmoso was a medico legal case.

On March 3, 1988, Dr. Alano issued to Dr. Ona a Memorandum, which reads as follows:

This is in connection with the use of the human organs or any portion or portions of the human body of the deceased patient, identified as a certain Mr. Angelito Lugmoso who was brought to the National Kidney Institute on March 2, 1988 from the East Avenue Medical Center.

As shown by the medical records, the said patient died on March 3, 1988 at 9:10 in the morning due to craniocerebral injury. Please make certain that your Department has exerted all reasonable efforts to locate the relatives or next of kin of the said deceased patient such as appeal through the radios and television as well as through police and other government agencies and that the NBI [Medico-Legal] Section has been notified and is aware of the case.

If all the above has been complied with, in accordance with the provisions of Republic Act No. 349 as amended and P.D. 856, permission and/or authority is hereby given to the Department of Surgery to retrieve and remove the kidneys, pancreas, liver and heart of the said deceased patient and to transplant the said organs to any compatible patient who maybe in need of said organs to live and survive.

A Certification dated March 10, 1988 was issued by Dr. Maximo Reyes, Medico-Legal Officer of the NBI, stating that he received a telephone call from Dr. Liqueste on March 3, 1988 at 9:15 a.m. regarding the case of Lugmoso, who was declared brain dead; that despite efforts to locate the latter's relatives, no one responded; that Dr. Liqueste sought from him a second opinion for organ retrieval for donation purposes even in the absence of consent from the family of the deceased; and that he verbally agreed to organ retrieval.

At 3:45 in the afternoon of March 3, 1988, a medical team, composed of Dr. Enrique Ona, as principal surgeon, Drs. Manuel Chua-Chiaco, Jr., Rose Marie Rosete-Liqueste, Aurea Ambrosio, Ludivino de Guzman, Mary Litonjua, Jaime Velasquez, Ricardo Fernando, and Myrna Mendoza, removed the heart, kidneys, pancreas, liver and spleen of Lugmoso. The medical team then transplanted a kidney and the pancreas of Lugmoso to Lee Tan Hoc and the other kidney of Lugmoso to Alexis Ambustan. The transplant operation was completed at around 11:00 o'clock in the evening of March 3, 1988.

On March 4, 1988, Dr. Antonio R. Paraiso, Head of the Cadaver Organ Retrieval Effort (CORE) program of NKI, made arrangements with La Funeraria Oro for the embalmment of the cadaver of Lugmoso good for a period of fifteen (15) days to afford NKI more time to continue searching for the relatives of the latter. On the same day, Roberto Ortega, Funeral Consultant of La Funeraria Oro, sent a request for autopsy to the NBI. The Autopsy Report and Certification of Post-Mortem Examination issued

by the NBI stated that the cause of death of Lugmoso was intracranial hemorrhage secondary to skull fracture.

On March 11, 1988, the NKI issued a press release announcing its successful double organ transplantation. Aida Doromal, a cousin of plaintiff, heard the news aired on television that the donor was an eighteen (18) year old boy whose remains were at La Funeraria Oro in Quezon City. As the name of the donor sounded like Arnelito Logmao, Aida informed plaintiff of the news report.

It appears that on March 3, 1988, Arlen Logmao, a brother of Arnelito, who was then a resident of 17-C San Pedro Street, Mandaluyong, reported to Police Station No. 5, Eastern Police District, Mandaluyong that the latter did not return home after seeing a movie in Cubao, Quezon City, as evidenced by a Certification issued by said Station; and that the relatives of Arnelito were likewise informed that the latter was missing. Upon receiving the news from Aida, plaintiff and her other children went to La Funeraria Oro, where they saw Arnelito inside a cheap casket.

On April 29, 1988, plaintiff filed with the court *a quo* a complaint for damages against Dr. Emmanuel Lenon, Taurean Protectors Agency, represented by its Proprietor, Celso Santiago, National Kidney Institute, represented by its Director, Dr. Filoteo A. Alano, Jennifer Misa, Dr. Maximo Reyes, Dr. Enrique T. Ona, Dr. Manuel Chua-Chiaco, Jr., Dr. Rose Marie O. Rosete-Liquete, Dr. Aurea Z. Ambrosio, Dr. Ludivino de Guzman, Dr. Mary Litonjua, Dr. Jaime Velasquez, Dr. Ricardo Fernando, Dr. Myrna Mendoza, Lee Tan Koc, Alexis Ambustan, Dr. Antonio R. Paraiso, La Funeraria Oro, Inc., represented by its President, German E. Ortega, Roberto Ortega alias Bobby Ortega, Dr. Mariano B. Cueva, Jr., John Doe, Peter Doe, and Alex Doe in connection with the death of her son Arnelito. Plaintiff alleged that defendants conspired to remove the

organs of Arnelito while the latter was still alive and that they concealed his true identity.

On January 17, 2000, the court *a quo* rendered judgment finding only Dr. Filoteo Alano liable for damages to plaintiff and dismissing the complaint against the other defendants for lack of legal basis.<sup>[3]</sup>

After finding petitioner liable for a *quasi-delict*, the Regional Trial Court of Quezon City (RTC) ordered petitioner to pay respondent P188,740.90 as actual damages; P500,000.00 as moral damages; P500,000.00 as exemplary damages; P300,000.00 as attorney's fees; and costs of suit. Petitioner appealed to the CA.

On March 31, 2006, the CA issued its Decision, the dispositive portion of which reads as follows:

**WHEREFORE**, the Decision appealed from is **AFFIRMED**, with **MODIFICATION** by **DELETING** the award of P188,740.90 as actual damages and **REDUCING** the award of moral damages to P250,000.00,

the award of exemplary damages to P200,000.00 and the award of attorney's fees to P100,000.00.

SO ORDERED.<sup>[4]</sup>

Petitioner then elevated the matter to this Court *via* a petition for review on *certiorari*, where the following issues are presented for resolution:

A. WHETHER THE COURT OF APPEALS DISREGARDED EXISTING JURISPRUDENCE PRONOUNCED BY THIS HONORABLE SUPREME COURT IN HOLDING PETITIONER DR. FILOTEO ALANO LIABLE FOR MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES DESPITE THE FACT THAT THE ACT OF THE PETITIONER IS NOT THE PROXIMATE CAUSE NOR IS THERE ANY FINDING THAT THE ACT OF THE PETITIONER WAS THE PROXIMATE CAUSE OF THE INJURY OR DAMAGE ALLEGEDLY SUSTAINED BY RESPONDENT ZENAIDA MAGUD-LOGMAO.

B. WHETHER THE COURT OF APPEALS GRAVELY ERRED IN REFUSING AND/OR FAILING TO DECLARE THAT PETITIONER DR. ALANO ACTED IN GOOD FAITH AND PURSUANT TO LAW WHEN HE ISSUED THE AUTHORIZATION TO REMOVE AND RETRIEVE THE ORGANS OF ANGELITO LUGMOSO (LATER IDENTIFIED TO BE IN FACT ARNELITO LOGMAO) CONSIDERING THAT NO NEGLIGENCE CAN BE ATTRIBUTED OR IMPUTED ON HIM IN HIS PERFORMANCE OF AN ACT MANDATED BY LAW.

C. WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AWARDING RESPONDENT ZENAIDA MAGUD-LOGMAO MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES THAT ARE NOT IN ACCORDANCE WITH AND ARE CONTRARY TO ESTABLISHED JURISPRUDENCE.<sup>[5]</sup>

The first two issues boil down to the question of whether respondent's sufferings were brought about by petitioner's alleged negligence in granting authorization for the removal or retrieval of the internal organs of respondent's son who had been declared brain dead.

Petitioner maintains that when he gave authorization for the removal of some of the internal organs to be transplanted to other patients, he did so in accordance with the letter of the law, Republic Act (R.A.) No. 349, as amended by Presidential Decree (P.D.) 856, *i.e.*, giving his subordinates instructions to exert all reasonable efforts to locate the relatives or next of kin of respondent's son. In fact, announcements were made through radio and television, the assistance of police authorities was sought, and the NBI Medico-Legal Section was notified. Thus, petitioner insists that he should not be held responsible for any damage allegedly suffered by respondent due to the death of her son and the removal of her son's internal organs for transplant purposes.

The appellate court affirmed the trial court's finding that there was negligence on petitioner's part when he failed to ensure that reasonable time had elapsed to locate the relatives of the deceased before giving the authorization to remove said