

THIRD DIVISION

[G.R. No. 199886, December 03, 2014]

**CAGAYAN II ELECTRIC COOPERATIVE, INC., REPRESENTED BY
ITS MANAGER AND CHIEF EXECUTIVE OFFICER, GABRIEL A.
TORDESILLAS, PETITIONER, VS. ALLAN RAPANAN AND MARY
GINE TANGONAN, RESPONDENTS.**

DECISION

VILLARAMA, JR., J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the December 8, 2011 Decision^[1] of the Court of Appeals (CA) in C.A. G.R. CV No. 77659. The appellate court granted the appeal of respondents Allan Rapanan and Mary Gine Tangonan and held petitioner Cagayan II Electric Cooperative, Inc. liable for quasi-delict resulting in the death of Camilo Tangonan and physical injuries of Rapanan, and ordering it to pay respondents damages and attorney's fees.

The antecedents of the case follow:

On October 31, 1998, around 9:00 p.m., a motorcycle with three passengers figured in a mishap along the National Highway of Maddalero, Buguey, Cagayan. It was driven by its owner Camilo Tangonan who died from the accident, while his companions respondent Rapanan and one Erwin Coloma suffered injuries.

On March 29, 2000, Rapanan and Camilo's common law wife, respondent Mary Gine Tangonan, filed before the Regional Trial Court (RTC) of Aparri, Cagayan a complaint^[2] for damages against petitioner. They alleged that while the victims were traversing the national highway, they were struck and electrocuted by a live tension wire from one of the electric posts owned by petitioner. They contended that the mishap was due to petitioner's negligence when it failed to fix and change said live tension wire despite being immediately informed by residents in the area that it might pose an immediate danger to persons, animals and vehicles passing along the national highway.

Mary Gine prayed that she be awarded P50,000 civil indemnity, P25,000 burial expenses, P1,584,000 indemnity for loss of earning capacity and P100,000 moral and exemplary damages. Rapanan, on the other hand, prayed for P10,000 for his medical treatment and P50,000 moral and exemplary damages. Both Mary Gine and Rapanan prayed for 30% of the total award representing attorney's fees.

In its Answer,^[3] petitioner alleged that the typhoons that struck its areas of responsibility caused some of its electric poles to fall and high tension wires to snap or cut-off which caused brownouts in said areas. It claimed that they cannot be faulted for negligence if there were electric wires dangling along the national road

since they were caused by typhoons which are fortuitous events. It also alleged that it was able to clear the said areas of fallen electric poles and dangling or hanging high tension wires immediately after the typhoons, to secure the safety of persons and vehicles traveling in said areas. It likewise contended that the proximate cause of the mishap was the victims' negligence and imprudence in operating and driving the motorcycle they were riding on.

During the trial, respondents testified and also presented Dr. Triffany C. Hasim as witness.

Mary Gine testified^[4] that she is not married to Camilo but they are living together and that they have one child. She also testified that she spent P20,776 for the funeral expenses of Camilo. She herself prepared an itemized list and computation of said expenses. She also claimed that Camilo worked as a jeepney driver earning P150 per day and that as a result of Camilo's death, she suffered sleepless nights and lost weight.

Rapanan testified^[5] that he, Camilo and one Erwin Coloma were riding a motorcycle along the National Highway of Maddalero, Buguey, Cagayan on October 31, 1998, around 9:00 in the evening. He claimed that they saw a wire dangling from an electric post and because of a strong wind that blew, they got wound by said dangling wire. He suffered physical injuries and electric burns and was hospitalized for seven days. He claimed to have spent around P10,000 for his medicines, and also complained of sleepless nights because of the mishap.

Dr. Triffany C. Hasim, the physician who attended to the victims when they were rushed to the Alfonso Ponce Enrile Memorial District Hospital, also testified^[6] for the respondents. According to Dr. Hasim, the abrasions of Rapanan were caused by pressure when the body was hit by a hard object or by friction but she is uncertain as to whether a live electric wire could have caused them. She further said that she did not find any electrical burns on Rapanan. As with Camilo, she found abrasions and hematoma on his body and that the cause of death was due to "cardio respiratory arrest secondary to strangulation." She also opined that the strangulation could have been caused by an electric wire entangled around Camilo's neck.

Petitioner, for its part, presented four witnesses among whom were SPO2 Pedro Tactac, Tranquilino Rasos and Rodolfo Adviento.

SPO2 Tactac, who investigated the incident, testified^[7] that there was a skid mark on the cemented portion of the road caused by the motorcycle's foot rest which was about 30 meters long. According to him, it appears that the motorcycle was overspeeding because of said skid mark.

Rasos and Adviento, employees of petitioner, both testified^[8] that as a result of the onslaught of typhoons Iliang and Loleng in Buguey and Sta. Ana, Cagayan, the power lines were cut off because the electric wires snapped and the electric poles were destroyed. After the said typhoons, petitioner's employees inspected the affected areas. The dangling wires were then removed from the electric poles and were placed at the foot of the poles which were located four to five meters from the road.

On December 9, 2002, the RTC rendered a decision^[9] in favor of petitioner and dismissed the complaint for damages of respondents. It held that the proximate cause of the incident is the negligence and imprudence of Camilo in driving the motorcycle. It further held that respondent Mary Gine has no legal personality to institute the action since such right is only given to the legal heir of the deceased. Mary Gine is not a legal heir of Camilo since she is only his common law wife.

On appeal, the CA reversed the RTC and held petitioner liable for quasi-delict. The *fallo* reads:

WHEREFORE, premises considered, the present appeal is **GRANTED**. The assailed decision dated December 9, 2002 of the Regional Trial Court of Appari, Cagayan, Branch 10 in *Civil Case No. 10-305* is hereby **REVERSED** and **SET ASIDE** and a **NEW ONE ENTERED** holding the defendant-appellee CAGEL[C]O II liable for quasi-delict which resulted in the death of Camilo Tangonan and the physical injuries of Allan Rapanan, and ordering the payment of 50% of the following damages, except the attorney's fees which should be borne by the defendant-appellant:

To the plaintiff-appellant Allan Rapanan:

1. temperate damages in the amount of P10,000.00; and
2. moral damages in the amount of P50,000.00;

To the legal heirs of the deceased Camilo Tangonan:

1. indemnity for death in the amount of P50,000.00;
2. indemnity for loss of earning capacity in the amount of P1,062,000.00;
3. temperate damages in the amount of P20,000.00; and
- [4.] moral damages in the amount of P50,000.00.

To both the plaintiff-appellant Allan Rapanan and the legal heirs of the deceased Camilo Tangonan:

1. exemplary damages in the amount [of] P50,000.00; and
2. attorney's fees amounting to 20% of the total amount adjudged.

SO ORDERED.^[10]

In ruling against petitioner, the CA found that despite the different versions of how the incident occurred, one fact was consistent – the protruding or dangling CAGELCO wire to which the victims were strangled or trapped. It likewise ruled that the police blotter and medical certificates together with the testimony of one of the passengers of the motorcycle, respondent Rapanan, was able to establish the truth of the allegations of respondents – all of which were not controverted by petitioner. The appellate court held that clearly, the cause of the mishap which claimed the life

of Camilo and injured Rapanan was the dangling wire which struck them. Without the dangling wire which struck the victims, the CA held that they would not have fallen down and sustained injuries. The CA found that if petitioner had not been negligent in maintaining its facilities, and making sure that every facility needing repairs had been repaired, the mishap could have been prevented.

The appellate court nevertheless ruled that the victims were partly responsible for the injuries they sustained. At the time of the mishap, they were over-speeding and were not wearing protective helmets. Moreover, the single motorcycle being driven carried three persons. While said circumstances were not the proximate cause of Camilo's death and Rapanan's injuries, they contributed to the occurrence of the unfortunate event.

Hence this petition raising the following arguments for this Court's consideration:

1. THE CONCLUSION OF THE COURT OF APPEALS THAT PETITIONER WAS NEGLIGENT IN THE MAINTENANCE OF ITS POWER LINES IS MANIFESTLY ABSURD AND PREMISED ON A SERIOUS MISAPPREHENSION OF FACTS.
2. THE COURT OF APPEALS DISREGARDED THE EVIDENCE ON RECORD AND COMMITTED SERIOUS MISAPPREHENSION OF FACTS AND GRAVE ABUSE OF DISCRETION WHEN IT CONCLUDED THAT THE CAUSE OF THE MISHAP WAS A DANGLING ELECTRIC WIRE THAT STRUCK AND WOUND UPON THE VICTIMS.
3. THE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING DAMAGES TO THE HEIRS OF CAMILO TANGONAN NOTWITHSTANDING THE FACT THAT THEY WERE NEVER IMPLEADED AS PARTIES TO THE ACTION.
4. ASSUMING, FOR ARGUMENT'S SAKE, THAT THE PETITIONER CAN BE HELD LIABLE FOR THE MISHAP, DAMAGES AND ATTORNEY'S FEES COULD NOT BE AWARDED TO THE HEIRS OF CAMILO TANGONAN; AND THE AWARD OF MORAL, TEMPERATE AND EXEMPLARY DAMAGES, AS WELL AS ATTORNEY'S FEES, TO ALLAN RAPANAN IS WITHOUT BASIS.^[11]

Thus, there are two main issues that need to be resolved by this Court: (1) Was petitioner's negligence in maintenance of its facilities the proximate cause of the death of Camilo and the injuries of Rapanan? and (2) In the event that petitioner's negligence is found to be the proximate cause of the accident, should damages be awarded in favor of Camilo's heirs even if they were not impleaded?

Petitioner contends that it cannot be accused of negligence as its crew cleared the roads of fallen electric poles and snapped wires to ensure the safety of motorists and pedestrians. They rolled the snapped wires and placed them behind nearby electric poles away from the roads as temporary remedy considering that the snapped wires could not be collected all at once. It cites the report of SPO2 Pedro Tactac and testimony of Tranquilino Rasos stating that the electric wire was placed at the shoulder of the road. The photograph of the wire also shows that it was placed among banana plants which petitioner submits to be a clear indication that it