

## SECOND DIVISION

[ G.R. No. 157707, October 29, 2008 ]

**MARCIAL FAJARDO, PETITIONER, VS. HON. COURT OF APPEALS, RUBY GAMBOA VDA. DE DIZON, ET AL., MYRNA ILAGAN VDA. DE MANGUNE, ET AL., CAPT. GENER MANGUNE, AND OLIVIA PAYAD VDA. DE GUTIERREZ, ET AL., RESPONDENTS.**

### DECISION

#### QUISUMBING, ACTING C.J.:

This is a petition for certiorari under Rule 65 of the Rules of Court, assailing the Decision<sup>[1]</sup> dated January 31, 2003 of the Court of Appeals in CA-G.R. CV No. 48419.

It stemmed from four civil cases involving damages filed by the heirs of Alexander T. Dizon, Eduardo and Elizabeth P. Mangune, and Mario C. Gutierrez (the four victims), who died in a vehicular accident along the North Expressway in Angeles City. These cases, docketed at the Regional Trial Court (RTC) of Angeles City, Branch 57 as Civil Cases Nos. 5215,<sup>[2]</sup> 5216,<sup>[3]</sup> 5217<sup>[4]</sup> and 5218,<sup>[5]</sup> were filed against Perfecto Dacasin and petitioner Marcial Fajardo, being the driver and owner, respectively, of the truck which allegedly sideswiped the jeep carrying the victims.

A criminal complaint for reckless imprudence resulting in homicide and damage to property was also filed against Dacasin as a result of the incident. The criminal case and the above-mentioned civil cases were consolidated and tried jointly, but the trial court nevertheless resolved the criminal case separately, finding Dacasin guilty beyond reasonable doubt of the crime charged.<sup>[6]</sup> The conviction was affirmed by the Court of Appeals in CA-G.R. CR No. 17302.<sup>[7]</sup>

As regards the civil aspect, SPO2 Romulo M. Bagsic testified that at around 6:15 p.m. of October 12, 1987, he received a phone call regarding a vehicular accident that took place 500 meters away from Magalang/Angeles City along the North Expressway. Bagsic went to the scene of the incident and saw the four victims sprawled on the right outer lane of the expressway, on the lane bound for Manila. The owner-type jeep of the four victims had fallen into the canal by the side of the road, and a six-wheeler truck rested on its side facing northeast. A portion of the jeep was still attached to the body of the said truck.<sup>[8]</sup>

Bagsic prepared his investigation report based on the location of the two vehicles and the dead bodies, the debris, and the skid marks of the vehicle for the possible point of impact. Afterwards, Bagsic concluded that the jeep was sideswiped by the truck.<sup>[9]</sup>

Upon further investigation, Bagsic found at the truck's compartment a gasoline

receipt indicating its owner to be a certain M. Fajardo. The lady attendant at the Caltex Gas Station of Balagtas, Bulacan confirmed to Bagsic that the said M. Fajardo is their customer.<sup>[10]</sup> Petitioner, during trial, acknowledged ownership of the subject truck, an Isuzu six-wheeler truck with license Plate No. CCF-330.

Bagsic further testified that he had the vehicles and dead bodies photographed by a certain Rolledo Sanchez, a member of the Pampanga Press Club. The jeep was then towed to Angeles City, while the towing of the truck was left to the CDCP, the authority in charge at the North Expressway. However, when Bagsic returned to the scene of the incident, the truck was nowhere to be found. The CDCP disclaimed any knowledge as to the whereabouts of the truck.<sup>[11]</sup>

In defense, both petitioner and Dacasin denied that it was their six-wheeler truck which figured in the said incident involving the deaths of the four victims, but they admit that at around the same time and place, their truck met an accident when it fell on its side after allegedly running over a hole on the expressway. This alleged accident, as narrated by Dacasin, happened at around 4:00 o'clock in the afternoon of October 12, 1987. After the accident, he left at 5:00 o'clock in the afternoon and proceeded to Nepo, Angeles City. Then, at around 9:00 o'clock in the evening, he proceeded to Bulacan. He left Bulacan at 11:30 o'clock in the evening, and reported to his employer (petitioner) around 12:00 o'clock midnight. Afterwards, he left for Pangasinan.<sup>[12]</sup>

Dacasin admitted not responding to the subpoena sent by the prosecutor's office asking for his counter affidavit, and added that he was arrested on June 5, 1991, after four years of hiding. Dacasin claimed that he executed a *Sinumpaang Salaysay* in the presence of his wife at the Mabalacat Police Station, but averred that he was forced to sign the same.<sup>[13]</sup>

On June 30, 1994, the trial court rendered its decision<sup>[14]</sup> finding petitioner and Dacasin liable for damages. Upon review, the Court of Appeals affirmed the trial court's decision and adjudged double costs against petitioner and Dacasin.

Claiming to have no other plain, speedy, or adequate remedy, petitioner now comes before us, contending:

THAT THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT AFFIRMED THE SUBJECT DECISION OF THE REGIONAL TRIAL COURT OF ANGELES CITY, BRANCH 57.<sup>[15]</sup>

Simply put, the issue is: Did the Court of Appeals commit grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the trial court's decision?

Petitioner contends that the findings of the Court of Appeals were based on conjectures as there was no eyewitness when the incident happened. Petitioner imputes grave abuse of discretion on the part of the Court of Appeals in giving credence to the testimony of police investigator Bagsic, the sole witness for the respondents. Also, petitioner claims that the award of damages against them is unwarranted and excessive. Petitioner likewise maintains that it was not his truck that was involved in the incident. However, assuming that it was indeed his truck