

## SECOND DIVISION

**[ G.R. NO. 163186, February 28, 2007 ]**

**EMERLITO F. AGUILA AND DANILO D. REYES, PETITIONERS, VS.  
CARMEN R. BALDOVIZO, EDGAR R. BALDOVIZO, AND CARMELO  
R. BALDOVIZO, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This petition for review seeks to reverse the Decision<sup>[1]</sup> dated June 30, 2003 of the Court of Appeals in CA-G.R. CV No. 73321, and its Resolution<sup>[2]</sup> dated April 1, 2004. The Court of Appeals affirmed the Amended Decision<sup>[3]</sup> dated August 13, 2001 of the Regional Trial Court (RTC) of Quezon City, Branch 225, which found petitioners jointly and severally liable for damages as a consequence of the death of Fausto T. Baldovizo, spouse of respondent Carmen R. Baldovizo, and father of respondents Edgar and Carmelo Baldovizo.

The facts are as follows:

On April 19, 1993, at about 11:30 a.m., Marlun Lisbos was driving, along the Epifanio de los Santos Avenue (EDSA) in Caloocan City, a van with Plate No. TER-883, registered under the name of petitioner Danilo D. Reyes. The van sideswiped Fausto who was walking along the pedestrian lane in front of the Monumento Market in Caloocan City. He was crossing EDSA. Fausto fell on the pavement and suffered injuries, and was brought to the Manila Central University Hospital for treatment. Subsequently, Fausto died on July 6, 1993.

On May 20, 1994, Marlun Lisbos was charged with reckless imprudence resulting in homicide at the Metropolitan Trial Court of Caloocan City, Branch 52.

On September 24, 1994, Fausto's wife, Carmen R. Baldovizo, and children, Edgar and Carmelo, filed before the RTC of Quezon City, Branch 225, a separate complaint for damages against Marlun Lisbos, Danilo D. Reyes, petitioner Emerlito F. Aguila, the actual operator and possessor of the van, and Times Surety and Insurance Company, the insurer of the van under a third-party liability insurance contract.

Summons were served on the defendants except Marlun Lisbos whose whereabouts were unknown according to the Sheriff's Report.

In his Answer, Aguila claimed that Fausto disregarded traffic rules when he crossed EDSA; that Aguila exercised due diligence in the selection of Lisbos as driver; and that Aguila provided assistance and support during the hospitalization of Fausto.

On the other hand, Reyes denied ownership of the van. Although the van was registered in his name, Reyes claimed that Aguila was its actual possessor and

operator. Hence, Reyes claimed he could not be liable for damages.

Meanwhile, Times Surety and Insurance Company was declared in default for failure to file an Answer.

After the parties failed to arrive at a settlement, trial ensued. Petitioners were considered to have waived their right to present their evidence due to their failure to appear on the December 1, 1999 hearing.

On March 7, 2000, the trial court rendered a decision. Its decretal portion reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiffs Carmen, Edgar and Carmelo R. Baldovizo and against the defendants Emerlito F. Aguila, Danilo Reyes, Marlun G. Lisbos and Times Surety [a]nd Insurance Co., Inc., ordering the latter to jointly and severally pay the following amounts:

1. P43,800.00 for loss of earning capacity
2. P110,700.00 for medical expenses and hospital bills; and P15,800.07 for medicine expenses incurred after confinement
3. P50,000.00 as death indemnity for the victim
4. P50,000.00 as moral damages
5. P20,000.00 as exemplary damages
6. COSTS OF SUIT.

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

On May 4, 2000, petitioners Aguila and Reyes filed a petition for relief from judgment before the RTC of Quezon City, Branch 225. The trial court denied the petition in a Resolution dated November 20, 2000.

Meanwhile, the Baldovizos moved for the issuance of a writ of execution after the judgment in their favor attained finality. However, petitioners filed (1) a motion for reconsideration of the November 20, 2000 Resolution and (2) a motion to dismiss for lack of jurisdiction on the ground that the certification against forum shopping was defective.

On May 21, 2001, the trial court granted the motion for the issuance of a writ of execution and denied petitioners' motions.

On June 26, 2001, petitioners filed a motion for reconsideration of the order for the issuance of the writ of execution and informed the trial court of their intention to appeal the November 20, 2000 Resolution denying their petition for relief from judgment.<sup>[5]</sup> Simultaneously, petitioners filed a second motion for reconsideration of the November 20, 2000 Resolution.<sup>[6]</sup>

On August 13, 2001, the trial court denied the second motion for reconsideration as well as the reconsideration of the order for the issuance of the writ of execution. In addition, the trial court resolved to strike off the name of Marlun Lisbos in the dispositive portion of its March 7, 2000 Decision for having been inadvertently included therein. The decretal portion reads:

WHEREFORE, premises considered, the Second Motion For Reconsideration on the Resolutions/Orders denying the petition for relief from judgment is hereby DENIED and the Motion For Reconsideration To The Resolution Granting The Issuance Of A Writ of Execution is likewise DENIED for lack of merit.

Further, the name of defendant Marlun Lisbos is ordered stricken off in the dispositive portion of the Decision dated March 7, 2000 and the Court hereby issues an Amended Decision.

SO ORDERED.<sup>[7]</sup>

Accordingly, the trial court issued an Amended Decision<sup>[8]</sup> dated August 13, 2001, which deleted the name of Marlun Lisbos as a party liable for damages.

Petitioners Aguila and Reyes appealed the Amended Decision before the Court of Appeals. In denying the appeal for being improper, the appellate court ruled that Aguila and Reyes had lost their right to appeal. Since no appeal of the March 7, 2000 Decision was made within the reglementary period, the decision became final and executory. The Amended Decision did not give the parties a fresh period within which to file an appeal. The appellate court also held that petitioners' attempt to revive their rights in the case failed after their petition for relief from judgment was denied for lack of merit.

In any event, the appellate court sustained the Amended Decision which deleted the name of Marlun Lisbos among the parties held liable. The appellate court also denied petitioners' motion for reconsideration.

Hence, this petition for review.

The lone issue to be resolved in this case is: Do the petitioners have the right to appeal the amended decision after the original decision had become final and executory?

Petitioners contend that while their right to appeal the March 7, 2000 Decision of the trial court had been lost, their right to appeal the August 13, 2001 Amended Decision remained. They claim that the Amended Decision superseded the original decision because the amount of their liabilities increased as a result of the exclusion of Marlun Lisbos. They add that the Court of Appeals should have taken cognizance of their appeal since their notice of appeal was approved by the trial court.

Petitioners invoke substantial justice for this Court to consider the merits of the case which the appellate court failed to address. They pray that they be absolved from liability.

We find petitioners' contentions devoid of merit.

Under Section 2,<sup>[9]</sup> Rule 36 of the Rules of Court, a judgment or final order becomes final and executory if no appeal or motion for new trial or reconsideration was filed within the period provided by the Rules.