424 Phil. 457

SECOND DIVISION

[G.R. No. 125817, January 16, 2002]

ABELARDO LIM AND ESMADITO GUNNABAN, PETITIONERS, VS. COURT OF APPEALS AND DONATO H. GONZALES, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

When a passenger jeepney covered by a certificate of public convenience is sold to another who continues to operate it under the same certificate of public convenience under the so-called *kabit* system, and in the course thereof the vehicle meets an accident through the fault of another vehicle, may the new owner sue for damages against the erring vehicle? Otherwise stated, does the new owner have any legal personality to bring the action, or is he the real party in interest in the suit, despite the fact that he is not the registered owner under the certificate of public convenience?

Sometime in 1982 private respondent Donato Gonzales purchased an Isuzu passenger jeepney from Gomercino Vallarta, holder of a certificate of public convenience for the operation of public utility vehicles plying the Monumento-Bulacan route. While private respondent Gonzales continued offering the jeepney for public transport services he did not have the registration of the vehicle transferred in his name nor did he secure for himself a certificate of public convenience for its operation. Thus Vallarta remained on record as its registered owner and operator.

On 22 July 1990, while the jeepney was running northbound along the North Diversion Road somewhere in Meycauayan, Bulacan, it collided with a ten-wheeler-truck owned by petitioner Abelardo Lim and driven by his co-petitioner Esmadito Gunnaban. Gunnaban owned responsibility for the accident, explaining that while he was traveling towards Manila the truck suddenly lost its brakes. To avoid colliding with another vehicle, he swerved to the left until he reached the center island. However, as the center island eventually came to an end, he veered farther to the left until he smashed into a Ferroza automobile, and later, into private respondent's passenger jeepney driven by one Virgilio Gonzales. The impact caused severe damage to both the Ferroza and the passenger jeepney and left one (1) passenger dead and many others wounded.

Petitioner Lim shouldered the costs for hospitalization of the wounded, compensated the heirs of the deceased passenger, and had the Ferroza restored to good condition. He also negotiated with private respondent and offered to have the passenger jeepney repaired at his shop. Private respondent however did not accept the offer so Lim offered him P20,000.00, the assessment of the damage as estimated by his chief mechanic. Again, petitioner Lim's proposition was rejected; instead, private respondent demanded a brand-new jeep or the amount of

P236,000.00. Lim increased his bid to P40,000.00 but private respondent was unyielding. Under the circumstances, negotiations had to be abandoned; hence, the filing of the complaint for damages by private respondent against petitioners.

In his answer Lim denied liability by contending that he exercised due diligence in the selection and supervision of his employees. He further asserted that as the jeepney was registered in Vallarta's name, it was Vallarta and not private respondent who was the real party in interest.[1] For his part, petitioner Gunnaban averred that the accident was a fortuitous event which was beyond his control.[2]

Meanwhile, the damaged passenger jeepney was left by the roadside to corrode and decay. Private respondent explained that although he wanted to take his jeepney home he had no capability, financial or otherwise, to tow the damaged vehicle.[3]

The main point of contention between the parties related to the amount of damages due private respondent. Private respondent Gonzales averred that per estimate made by an automobile repair shop he would have to spend P236,000.00 to restore his jeepney to its original condition.[4] On the other hand, petitioners insisted that they could have the vehicle repaired for P20,000.00.[5]

On 1 October 1993 the trial court upheld private respondent's claim and awarded him P236,000.00 with legal interest from 22 July 1990 as compensatory damages and P30,000.00 as attorney's fees. In support of its decision, the trial court ratiocinated that as vendee and current owner of the passenger jeepney private respondent stood for all intents and purposes as the real party in interest. Even Vallarta himself supported private respondent's assertion of interest over the jeepney for, when he was called to testify, he dispossessed himself of any claim or pretension on the property. Gunnaban was found by the trial court to have caused the accident since he panicked in the face of an emergency which was rather palpable from his act of directing his vehicle to a perilous streak down the fast lane of the superhighway then across the island and ultimately to the opposite lane where it collided with the jeepney.

On the other hand, petitioner Lim's liability for Gunnaban's negligence was premised on his want of diligence in supervising his employees. It was admitted during trial that Gunnaban doubled as mechanic of the ill-fated truck despite the fact that he was neither tutored nor trained to handle such task.[6]

Forthwith, petitioners appealed to the Court of Appeals which, on 17 July 1996, affirmed the decision of the trial court. In upholding the decision of the court *a quo* the appeals court concluded that while an operator under the *kabit* system could not sue without joining the registered owner of the vehicle as his principal, equity demanded that the present case be made an exception.[7] Hence this petition.

It is petitioners' contention that the Court of Appeals erred in sustaining the decision of the trial court despite their opposition to the well-established doctrine that an operator of a vehicle continues to be its operator as long as he remains the operator of record. According to petitioners, to recognize an operator under the *kabit* system as the real party in interest and to countenance his claim for damages is utterly subversive of public policy. Petitioners further contend that inasmuch as the

passenger jeepney was purchased by private respondent for only P30,000.00, an award of P236,000.00 is inconceivably large and would amount to unjust enrichment.[8]

Petitioners' attempt to illustrate that an affirmance of the appealed decision could be supportive of the pernicious *kabit* system does not persuade. Their labored efforts to demonstrate how the questioned rulings of the courts *a quo* are diametrically opposed to the policy of the law requiring operators of public utility vehicles to secure a certificate of public convenience for their operation is quite unavailing.

The *kabit* system is an arrangement whereby a person who has been granted a certificate of public convenience allows other persons who own motor vehicles to operate them under his license, sometimes for a fee or percentage of the earnings. [9] Although the parties to such an agreement are not outrightly penalized by law, the *kabit* system is invariably recognized as being contrary to public policy and therefore void and inexistent under Art. 1409 of the Civil Code.

In the early case of *Dizon v. Octavio*[10] the Court explained that one of the primary factors considered in the granting of a certificate of public convenience for the business of public transportation is the financial capacity of the holder of the license, so that liabilities arising from accidents may be duly compensated. The *kabit* system renders illusory such purpose and, worse, may still be availed of by the grantee to escape civil liability caused by a negligent use of a vehicle owned by another and operated under his license. If a registered owner is allowed to escape liability by proving who the supposed owner of the vehicle is, it would be easy for him to transfer the subject vehicle to another who possesses no property with which to respond financially for the damage done. Thus, for the safety of passengers and the public who may have been wronged and deceived through the baneful *kabit* system, the registered owner of the vehicle is not allowed to prove that another person has become the owner so that he may be thereby relieved of responsibility. Subsequent cases affirm such basic doctrine.[11]

It would seem then that the thrust of the law in enjoining the *kabit* system is not so much as to penalize the parties but to identify the person upon whom responsibility may be fixed in case of an accident with the end view of protecting the riding public. The policy therefore loses its force if the public at large is not deceived, much less involved.

In the present case it is at once apparent that the evil sought to be prevented in enjoining the *kabit* system does not exist. *First,* neither of the parties to the pernicious *kabit* system is being held liable for damages. *Second,* the case arose from the negligence of another vehicle in using the public road to whom no representation, or misrepresentation, as regards the ownership and operation of the passenger jeepney was made and to whom no such representation, or misrepresentation, was necessary. Thus it cannot be said that private respondent Gonzales and the registered owner of the jeepney were in estoppel for leading the public to believe that the jeepney belonged to the registered owner. *Third,* the riding public was not bothered nor inconvenienced at the very least by the illegal arrangement. On the contrary, it was private respondent himself who had been wronged and was seeking compensation for the damage done to him. Certainly, it would be the height of inequity to deny him his right.