395 Phil. 463

THIRD DIVISION

[G.R. No. 138054, September 28, 2000]

ROSENDO C. CARTICIANO AND ZACARIAS A. CARTICIANO, PETITIONERS, VS. MARIO NUVAL, RESPONDENT.

DECISION

PANGANIBAN, J.:

To hold an employer liable for the negligent acts of the employee, it is enough to prove that the latter was hired to drive the former's motor vehicle. It is not necessary to show, in addition, that the employer's children were aboard the jeep when the accident happened. Once the driver is shown to be negligent, the burden of proof to free the employer from liability shifts to the latter.

Statement of the Case

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, assailing the November 10, 1999 Decision[2] of the Court of Appeals (CA) [3] in CA-GR CV No. 52316, which disposed as follows:

> "WHEREFORE, [the] foregoing considered, the appealed decision is hereby AFFIRMED insofar as defendant Darwin is concerned and REVERSED and SET-ASIDE as it pertains to defendant-appellant Nuval. Defendant-appellant Nuval is hereby absolved of any civil liability and the complaint against him is hereby DISMISSED."[4]

On the other hand, the trial court[5] ruled in this wise:

> "ACCORDINGLY, judgment is hereby rendered in favor of plaintiffs and against defendants, ordering the latter to pay the former jointly and severally the following:
>
> 1) The amount of P160,715.19 as actual damage for the medical treatment so far of plaintiff Zacarias Carticiano;
>
> 2) The amount of P100,000.00 to compensate the income and opportunities plaintiff Zacarias lost as a result of the incident;
>
> 3) The amount of P173,788.00 for the damages sustained by the Ford Laser;
>
> 4) The amount of P200,000.00 as moral damages;
>
> 5) The amount of P100,000.00 as exemplary damages;

6) The amount of P100,000.00 as attorney's fees and expenses of litigation.

With costs.

SO ORDERED."

The Facts

The facts are summarized succinctly by the Court of Appeals as follows:

"On September 3, 1992 at about 9:30 in the evening, plaintiff Zacarias Carticiano was on his way home to Imus, Cavite. Plaintiff Zacarias was driving his father's (plaintiff Rosendo Carticiano) Ford Laser car, traversing the coastal roads of Longos, Bacoor, Cavite.

"On the same date and time, defendant Nuval's owner-type Jeep, then driven by defendant Darwin was traveling on the opposite direction going to Parañaque.

"When the two cars were about to pass one another, defendant Darwin veered his vehicle to his left going to the center island of the highway and occupied the lane which plaintiff Zacarias was traversing.

"As a result thereof, plaintiff Zacarias' Ford Laser collided head-on with defendant Nuval's Jeep. Defendant Darwin immediately fled from the scene.

"Plaintiff Zacarias was taken out [of] the car by residents of the area and was brought to the hospital by Eduard Tangan, a Narcom agent who happened to pass by the place. Plaintiff Zacarias suffered multiple fracture on his left leg and other injuries in his body. Plaintiff Zacarias underwent a leg operation and physical therapy to repair the damaged leg.

"Defendant Nuval offered P100,000.00 as compensation for the injuries caused. Plaintiffs refused to accept the amount.

"On this account, plaintiffs filed a criminal suit against defendant Darwin. Plaintiffs also filed this present civil suit against defendants for damages.

"Plaintiffs alleged that the proximate cause of the accident is defendant's Darwin recklessness in driving defendant Nuval's jeep; that on account of said recklessness of defendant Darwin, plaintiff suffered damages; that defendant Darwin was an employee of defendant Nuval at the time of accident; that defendant Nuval did not exercise due diligence in the supervision of his employee; that defendants should he held liable for damages.

"Defendant Nuval on the other hand insisted that he cannot be held answerable for the acts of defendant Darwin; that defendant Darwin was not an employee of defendant Nuval at the time of the accident; that

defendant Darwin was hired only as casual and has worked with defendant Nuval's company only for five days; that at the time of the accident, defendant Darwin was no longer connected with defendant Nuval's company; that defendant Darwin was not authorized to drive the vehicle of defendant Nuval; that defendant Nuval tried to locate defendant Darwin but the latter could no longer be found; that defendant Nuval cannot be held liable for damages.

"Defendant Darwin [h]as failed to file his answer within the reglementary period. Consequently, he was declared in default. Trial of the case proceeded."[6]

Ruling of the Court of Appeals

The Court of Appeals explained that in order to hold an employer liable for the negligent acts of an employee under Article 2180 of the Civil Code, it must be shown that the employee was "acting within the scope of his assigned task when the tort complained of was committed."[7]

The employer in this case, Respondent Mario Nuval, cannot be held liable for the tort committed by Darwin. First, appellants did not present evidence showing that the driver was indeed an employee of respondent at the time the accident occurred. And second, even assuming arguendo that Darwin was in fact an employee of Nuval, it was not shown that the former was acting within the scope of his assigned task when the incident happened. Thus, the requisites for holding an employer liable for the tort committed by an employee were not satisfied.

Hence, this appeal.[8]

Issues

Petitioners present the following issues:

"A. Whether or not Defendant Darwin was in fact an employee of Defendant Nuval;

"B. Whether or not Defendant Nuval was negligent in the selection and supervision of his employees;

"C. Whether or not Defendant Nuval was grossly negligent in the safekeeping of the key to his owner-type jeep and of said vehicle itself;

"D. Whether or not respondent must be held liable for the damages and injuries suffered by appellees; [and]

"E. Whether or not findings of facts of the Court of Appeals are subject to exceptions."[9]

For brevity, Item A will be taken up as the first issue; while B, C, D and E will be discussed together as the second issue, since they all directly pertain to respondent's vicarious liability.

The Court's Ruling

The Petition is meritorious.

First Issue: *No Proof That Employment Was Terminated*

Respondent maintains that on the date[10] the accident happened, Darwin was no longer his employee because the latter's services had already been terminated. Nuval adds that Darwin was hired for a period of only four to six days. To substantiate this claim, the former presented payroll and employment records showing that the latter was no longer his employee.

We disagree. The only proof proferred by Respondent Nuval to show that Darwin was no longer his employee was the payroll in which the latter's name was not included. However, as revealed by the testimonies of the witnesses presented during trial, respondent had other employees working for him who were not listed in the payroll either. The trial court explained as follows:

> "It surfaced that the payroll and daily time records presented by defendant Nuval [were] not reliable proofs of the names and number of employees that defendant Nuval had at the time of the incident in view of the testimonies of witnesses for defendant Nuval tending to show that there were more employees of defendant Nuval who were not in the payroll."[11]

The rather easy access which Darwin had to the keys to the vehicle of Nuval further weakened the latter's cause. *First*, nobody questioned the fact that the former had freely entered respondent's house where the keys to the vehicle were kept. The theory of Nuval that Darwin must have stolen the keys as well as the vehicle is rather farfetched and not supported by any proof whatsoever. It is obviously an afterthought concocted to present some semblance of a defense. *Second*, both respondent and his employees who testified did not act as if the vehicle had been stolen. He had not reported the alleged theft of his vehicle. Neither did he search nor ask his employees to search for the supposedly stolen vehicle. In fact, he testified that his employees had told him that the keys and the vehicle had merely "probably" been stolen by Darwin.

> "Atty. Bobadilia: Did you ask among your employees who gave the key to Darwin?
> Mario Nuval: I asked them, sir.
>
> Atty. Bobadilla: What was the reply of your employees?
> M. Nuval: According to my employees he stole the key of the jeepney at home.
>
> Atty. Abas: I disagree with the interpretation of the interpreter because the answer of the witness is 'ninanak yata."
> Interpreter: I agree, your Honor.
>
> Court: So, what is the correct interpretation?

A: According to my employees perhaps the key was stolen, or perhaps Darwin stole the key to the jeep." [12]

From the totality of the evidence, we are convinced that Darwin was Nuval's driver at the time of the accident.

Second to Fourth Issues:
Employer's Liability

The CA agreed with the theory of respondent that he could not be held liable for the negligent acts of his employee because Darwin was not acting within the scope of his assigned tasks when the damage occurred. Respondent adds that he observed the diligence of a good father of a family and was not negligent in safeguarding the keys to the said vehicle.

Article 2180 of the Civil Code provides that employers shall be liable for damages caused by their employees acting within the scope of their assigned tasks. The said provision is reproduced below:

> "ART. 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.
>
> "The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live [in] their company.
>
> "Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.
>
> "The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.
>
> *"Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.*
>
> "The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in article 2176 shall be applicable.
>
> "Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.
>
> "The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage."[13] (Italics supplied)