

FIRST DIVISION

[G.R. No. 124354, December 29, 1999]

ROGELIO E. RAMOS AND ERLINDA RAMOS, IN THEIR OWN BEHALF AND AS NATURAL GUARDIANS OF THE MINORS, ROMMEL RAMOS, ROY RODERICK RAMOS AND RON RAYMOND RAMOS, PETITIONERS, VS. COURT OF APPEALS, DELOS SANTOS MEDICAL CENTER, DR. ORLINO HOSAKA AND DRA. PERFECTA GUTIERREZ, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

The Hippocratic Oath mandates physicians to give primordial consideration to the health and welfare of their patients. If a doctor fails to live up to this precept, he is made accountable for his acts. A mistake, through gross negligence or incompetence or plain human error, may spell the difference between life and death. In this sense, the doctor plays God on his patient's fate.^[1]

In the case at bar, the Court is called upon to rule whether a surgeon, an anesthesiologist and a hospital should be made liable for the unfortunate comatose condition of a patient scheduled for *cholecystectomy*.^[2]

Petitioners seek the reversal of the decision^[3] of the Court of Appeals, dated 29 May 1995, which overturned the decision^[4] of the Regional Trial Court, dated 30 January 1992, finding private respondents liable for damages arising from negligence in the performance of their professional duties towards petitioner Erlinda Ramos resulting in her comatose condition.

The antecedent facts as summarized by the trial court are reproduced hereunder:

Plaintiff Erlinda Ramos was, until the afternoon of June 17, 1985, a 47-year old (Exh. "A") robust woman (TSN, October 19, 1989, p. 10). Except for occasional complaints of discomfort due to pains allegedly caused by the presence of a stone in her gall bladder (TSN, January 13, 1988, pp. 4-5), she was as normal as any other woman. Married to Rogelio E. Ramos, an executive of Philippine Long Distance Telephone Company, she has three children whose names are Rommel Ramos, Roy Roderick Ramos and Ron Raymond Ramos (TSN, October 19, 1989, pp. 5-6).

Because the discomforts somehow interfered with her normal ways, she sought professional advice. She was advised to undergo an operation for the removal of a stone in her gall bladder (TSN, January 13, 1988, p. 5). She underwent a series of examinations which included blood and urine tests (Exhs. "A" and "C") which indicated she was fit for surgery.

Through the intercession of a mutual friend, Dr. Buenviaje (TSN, January 13, 1988, p. 7), she and her husband Rogelio met for the first time Dr. Orlino Hozaka (should be Hosaka; see TSN, February 20, 1990, p. 3), one of the defendants in this case, on June 10, 1985. They agreed that their date at the operating table at the DLSMC (another defendant), would be on June 17, 1985 at 9:00 A.M.. Dr. Hosaka decided that she should undergo a "cholecystectomy" operation after examining the documents (findings from the Capitol Medical Center, FEU Hospital and DLSMC) presented to him. Rogelio E. Ramos, however, asked Dr. Hosaka to look for a good anesthesiologist. Dr. Hosaka, in turn, assured Rogelio that he will get a good anesthesiologist. Dr. Hosaka charged a fee of P16,000.00, which was to include the anesthesiologist's fee and which was to be paid after the operation (TSN, October 19, 1989, pp. 14-15, 22-23, 31-33; TSN, February 27, 1990, p. 13; and TSN, November 9, 1989, pp. 3-4, 10, 17).

A day before the scheduled date of operation, she was admitted at one of the rooms of the DLSMC, located along E. Rodriguez Avenue, Quezon City (TSN, October 19, 1989, p. 11).

At around 7:30 A.M. of June 17, 1985 and while still in her room, she was prepared for the operation by the hospital staff. Her sister-in-law, Herminda Cruz, who was the Dean of the College of Nursing at the Capitol Medical Center, was also there for moral support. She reiterated her previous request for Herminda to be with her even during the operation. After praying, she was given injections. Her hands were held by Herminda as they went down from her room to the operating room (TSN, January 13, 1988, pp. 9-11). Her husband, Rogelio, was also with her (TSN, October 19, 1989, p. 18). At the operating room, Herminda saw about two or three nurses and Dr. Perfecta Gutierrez, the other defendant, who was to administer anesthesia. Although not a member of the hospital staff, Herminda introduced herself as Dean of the College of Nursing at the Capitol Medical Center who was to provide moral support to the patient, to them. Herminda was allowed to stay inside the operating room.

At around 9:30 A.M., Dr. Gutierrez reached a nearby phone to look for Dr. Hosaka who was not yet in (TSN, January 13, 1988, pp. 11-12). Dr. Gutierrez thereafter informed Herminda Cruz about the prospect of a delay in the arrival of Dr. Hosaka. Herminda then went back to the patient who asked, "Mindy, wala pa ba ang Doctor"? The former replied, "Huwag kang mag-alaala, darating na iyon" (ibid.).

Thereafter, Herminda went out of the operating room and informed the patient's husband, Rogelio, that the doctor was not yet around (id., p. 13). When she returned to the operating room, the patient told her, "Mindy, inip na inip na ako, ikuha mo ako ng ibang Doctor." So, she went out again and told Rogelio about what the patient said (id., p. 15). Thereafter, she returned to the operating room.

At around 10:00 A.M., Rogelio E. Ramos was "already dying [and] waiting for the arrival of the doctor" even as he did his best to find somebody

who will allow him to pull out his wife from the operating room (TSN, October 19, 1989, pp. 19-20). He also thought of the feeling of his wife, who was inside the operating room waiting for the doctor to arrive (ibid.). At almost 12:00 noon, he met Dr. Garcia who remarked that he (Dr. Garcia) was also tired of waiting for Dr. Hosaka to arrive (id., p. 21). While talking to Dr. Garcia at around 12:10 P.M., he came to know that Dr. Hosaka arrived as a nurse remarked, "Nandiyan na si Dr. Hosaka, dumating na raw." Upon hearing those words, he went down to the lobby and waited for the operation to be completed (id., pp. 16, 29-30).

At about 12:15 P.M., Herminda Cruz, who was inside the operating room with the patient, heard somebody say that "Dr. Hosaka is already here." She then saw people inside the operating room "moving, doing this and that, [and] preparing the patient for the operation" (TSN, January 13, 1988, p. 16). As she held the hand of Erlinda Ramos, she then saw Dr. Gutierrez intubating the hapless patient. She thereafter heard Dr. Gutierrez say, "ang hirap ma-intubate nito, mali yata ang pagkakapasok. O lumalaki ang tiyan" (id., p. 17). Because of the remarks of Dra. Gutierrez, she focused her attention on what Dr. Gutierrez was doing. She thereafter noticed bluish discoloration of the nailbeds of the left hand of the hapless Erlinda even as Dr. Hosaka approached her. She then heard Dr. Hosaka issue an order for someone to call Dr. Calderon, another anesthesiologist (id., p. 19). After Dr. Calderon arrived at the operating room, she saw this anesthesiologist trying to intubate the patient. The patient's nailbed became bluish and the patient was placed in a trendelenburg position - a position where the head of the patient is placed in a position lower than her feet which is an indication that there is a decrease of blood supply to the patient's brain (Id., pp. 19-20). Immediately thereafter, she went out of the operating room, and she told Rogelio E. Ramos "that something wrong was x x x happening" (Ibid.). Dr. Calderon was then able to intubate the patient (TSN, July 25, 1991, p. 9).

Meanwhile, Rogelio, who was outside the operating room, saw a respiratory machine being rushed towards the door of the operating room. He also saw several doctors rushing towards the operating room. When informed by Herminda Cruz that something wrong was happening, he told her (Herminda) to be back with the patient inside the operating room (TSN, October 19, 1989, pp. 25-28).

Herminda Cruz immediately rushed back, and saw that the patient was still in trendelenburg position (TSN, January 13, 1988, p. 20). At almost 3:00 P.M. of that fateful day, she saw the patient taken to the Intensive Care Unit (ICU).

About two days thereafter, Rogelio E. Ramos was able to talk to Dr. Hosaka. The latter informed the former that something went wrong during the intubation. Reacting to what was told to him, Rogelio reminded the doctor that the condition of his wife would not have happened, had he (Dr. Hosaka) looked for a good anesthesiologist (TSN, October 19, 1989, p. 31).

Doctors Gutierrez and Hosaka were also asked by the hospital to explain what happened to the patient. The doctors explained that the patient had bronchospasm (TSN, November 15, 1990, pp. 26-27).

Erlinda Ramos stayed at the ICU for a month. About four months thereafter or on November 15, 1985, the patient was released from the hospital.

During the whole period of her confinement, she incurred hospital bills amounting to P93,542.25 which is the subject of a promissory note and affidavit of undertaking executed by Rogelio E. Ramos in favor of DLSCMC. Since that fateful afternoon of June 17, 1985, she has been in a comatose condition. She cannot do anything. She cannot move any part of her body. She cannot see or hear. She is living on mechanical means. She suffered brain damage as a result of the absence of oxygen in her brain for four to five minutes (TSN, November 9, 1989, pp. 21-22). After being discharged from the hospital, she has been staying in their residence, still needing constant medical attention, with her husband Rogelio incurring a monthly expense ranging from P8,000.00 to P10,000.00 (TSN, October 19, 1989, pp. 32-34). She was also diagnosed to be suffering from "diffuse cerebral parenchymal damage" (Exh. "G"; see also TSN, December 21, 1989, p. 6).^[5]

Thus, on 8 January 1986, petitioners filed a civil case^[6] for damages with the Regional Trial Court of Quezon City against herein private respondents alleging negligence in the management and care of Erlinda Ramos.

During the trial, both parties presented evidence as to the possible cause of Erlinda's injury. Plaintiff presented the testimonies of Dean Herminda Cruz and Dr. Mariano Gavino to prove that the damage sustained by Erlinda was due to lack of oxygen in her brain caused by the faulty management of her airway by private respondents during the anesthesia phase. On the other hand, private respondents primarily relied on the expert testimony of Dr. Eduardo Jamora, a pulmonologist, to the effect that the cause of brain damage was Erlinda's allergic reaction to the anesthetic agent, Thiopental Sodium (Pentothal).

After considering the evidence from both sides, the Regional Trial Court rendered judgment in favor of petitioners, to wit:

After evaluating the evidence as shown in the finding of facts set forth earlier, and applying the aforecited provisions of law and jurisprudence to the case at bar, this Court finds and so holds that defendants are liable to plaintiffs for damages. The defendants were guilty of, at the very least, negligence in the performance of their duty to plaintiff-patient Erlinda Ramos.

On the part of Dr. Perfecta Gutierrez, this Court finds that she omitted to exercise reasonable care in not only intubating the patient, but also in not repeating the administration of atropine (TSN, August 20, 1991, pp. 5-10), without due regard to the fact that the patient was inside the operating room for almost three (3) hours. For after she committed a mistake in intubating [the] patient, the patient's nailbed became bluish

and the patient, thereafter, was placed in trendelenburg position, because of the decrease of blood supply to the patient's brain. The evidence further shows that the hapless patient suffered brain damage because of the absence of oxygen in her (patient's) brain for approximately four to five minutes which, in turn, caused the patient to become comatose.

On the part of Dr. Orlino Hosaka, this Court finds that he is liable for the acts of Dr. Perfecta Gutierrez whom he had chosen to administer anesthesia on the patient as part of his obligation to provide the patient a 'good anesthesiologist', and for arriving for the scheduled operation almost three (3) hours late.

On the part of DLSMC (the hospital), this Court finds that it is liable for the acts of negligence of the doctors in their 'practice of medicine' in the operating room. Moreover, the hospital is liable for failing through its responsible officials, to cancel the scheduled operation after Dr. Hosaka inexcusably failed to arrive on time.

In having held thus, this Court rejects the defense raised by defendants that they have acted with due care and prudence in rendering medical services to plaintiff-patient. For if the patient was properly intubated as claimed by them, the patient would not have become comatose. And, the fact that another anesthesiologist was called to try to intubate the patient after her (the patient's) nailbed turned bluish, belie their claim. Furthermore, the defendants should have rescheduled the operation to a later date. This, they should have done, if defendants acted with due care and prudence as the patient's case was an elective, not an emergency case.

x x x

WHEREFORE, and in view of the foregoing, judgment is rendered in favor of the plaintiffs and against the defendants. Accordingly, the latter are ordered to pay, jointly and severally, the former the following sums of money, to wit:

- 1) the sum of P8,000.00 as actual monthly expenses for the plaintiff Erlinda Ramos reckoned from November 15, 1985 or in the total sum of P632,000.00 as of April 15, 1992, subject to its being updated;
- 2) the sum of P100,000.00 as reasonable attorney's fees;
- 3) the sum of P800,000.00 by way of moral damages and the further sum of P200,000.00 by way of exemplary damages; and,
- 4) the costs of the suit.

SO ORDERED. [7]

Private respondents seasonably interposed an appeal to the Court of Appeals. The appellate court rendered a Decision, dated 29 May 1995, reversing the findings of