



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**CAGAYAN II ELECTRIC
COOPERATIVE, INC.,**
represented by its General
Manager and Chief Executive
Officer, **GABRIEL A.
TORDESILLAS,**
Petitioner,

G.R. No. 199886

Present:

VELASCO, JR., J., *Chairperson,*
PERALTA,
VILLARAMA, JR.,
MENDOZA,* and
REYES, JJ.

- versus -

**ALLAN RAPANAN and MARY
GINE TANGONAN,**
Respondents.

Promulgated:

December 3, 2014

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DECISION

VILLARAMA, JR., J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the December 8, 2011 Decision¹ of the Court of Appeals (CA) in C.A. G.R. CV No. 77659. The appellate court granted the appeal of respondents Allan Rapanan and Mary Gine Tangonan and held petitioner Cagayan II Electric Cooperative, Inc. liable for quasi-delict resulting in the death of Camilo Tangonan and physical injuries of Rapanan, and ordering it to pay respondents damages and attorney's fees.

The antecedents of the case follow:

On October 31, 1998, around 9:00 p.m., a motorcycle with three passengers figured in a mishap along the National Highway of Maddalero, Buguey, Cagayan. It was driven by its owner Camilo Tangonan who died

* Designated additional member per Special Order No. 1896 dated November 28, 2014.
¹ *Rollo*, pp. 19-43. Penned by Associate Justice Amelita G. Tolentino with Associate Justices Ramon R. Garcia and Samuel H. Gaerlan concurring.

from the accident, while his companions respondent Rapanan and one Erwin Coloma suffered injuries.

On March 29, 2000, Rapanan and Camilo's common law wife, respondent Mary Gine Tangonan, filed before the Regional Trial Court (RTC) of Aparri, Cagayan a complaint² for damages against petitioner. They alleged that while the victims were traversing the national highway, they were struck and electrocuted by a live tension wire from one of the electric posts owned by petitioner. They contended that the mishap was due to petitioner's negligence when it failed to fix and change said live tension wire despite being immediately informed by residents in the area that it might pose an immediate danger to persons, animals and vehicles passing along the national highway.

Mary Gine prayed that she be awarded ₱50,000 civil indemnity, ₱25,000 burial expenses, ₱1,584,000 indemnity for loss of earning capacity and ₱100,000 moral and exemplary damages. Rapanan, on the other hand, prayed for ₱10,000 for his medical treatment and ₱50,000 moral and exemplary damages. Both Mary Gine and Rapanan prayed for 30% of the total award representing attorney's fees.

In its Answer,³ petitioner alleged that the typhoons that struck its areas of responsibility caused some of its electric poles to fall and high tension wires to snap or cut-off which caused brownouts in said areas. It claimed that they cannot be faulted for negligence if there were electric wires dangling along the national road since they were caused by typhoons which are fortuitous events. It also alleged that it was able to clear the said areas of fallen electric poles and dangling or hanging high tension wires immediately after the typhoons, to secure the safety of persons and vehicles traveling in said areas. It likewise contended that the proximate cause of the mishap was the victims' negligence and imprudence in operating and driving the motorcycle they were riding on.

During the trial, respondents testified and also presented Dr. Triffany C. Hasim as witness.

Mary Gine testified⁴ that she is not married to Camilo but they are living together and that they have one child. She also testified that she spent ₱20,776 for the funeral expenses of Camilo. She herself prepared an itemized list and computation of said expenses. She also claimed that Camilo worked as a jeepney driver earning ₱150 per day and that as a result of Camilo's death, she suffered sleepless nights and lost weight.

Rapanan testified⁵ that he, Camilo and one Erwin Coloma were riding a motorcycle along the National Highway of Maddalero, Buguey, Cagayan

² Records, pp. 3-7.

³ Id. at 16-18.

⁴ TSN, May 16, 2001, pp. 3-14; TSN, June 21, 2001, pp. 4-11; TSN, June 26, 2001, pp. 4-17.

⁵ TSN, June 26, 2001, pp. 18-42.

on October 31, 1998, around 9:00 in the evening. He claimed that they saw a wire dangling from an electric post and because of a strong wind that blew, they got wound by said dangling wire. He suffered physical injuries and electric burns and was hospitalized for seven days. He claimed to have spent around ₱10,000 for his medicines, and also complained of sleepless nights because of the mishap.

Dr. Triffany C. Hasim, the physician who attended to the victims when they were rushed to the Alfonso Ponce Enrile Memorial District Hospital, also testified⁶ for the respondents. According to Dr. Hasim, the abrasions of Rapanan were caused by pressure when the body was hit by a hard object or by friction but she is uncertain as to whether a live electric wire could have caused them. She further said that she did not find any electrical burns on Rapanan. As with Camilo, she found abrasions and hematoma on his body and that the cause of death was due to “cardio respiratory arrest secondary to strangulation.” She also opined that the strangulation could have been caused by an electric wire entangled around Camilo’s neck.

Petitioner, for its part, presented four witnesses among whom were SPO2 Pedro Tactac, Tranquilino Rasos and Rodolfo Adviento.

SPO2 Tactac, who investigated the incident, testified⁷ that there was a skid mark on the cemented portion of the road caused by the motorcycle’s foot rest which was about 30 meters long. According to him, it appears that the motorcycle was overspeeding because of said skid mark.

Rasos and Adviento, employees of petitioner, both testified⁸ that as a result of the onslaught of typhoons Iliang and Loleng in Buguey and Sta. Ana, Cagayan, the power lines were cut off because the electric wires snapped and the electric poles were destroyed. After the said typhoons, petitioner’s employees inspected the affected areas. The dangling wires were then removed from the electric poles and were placed at the foot of the poles which were located four to five meters from the road.

On December 9, 2002, the RTC rendered a decision⁹ in favor of petitioner and dismissed the complaint for damages of respondents. It held that the proximate cause of the incident is the negligence and imprudence of Camilo in driving the motorcycle. It further held that respondent Mary Gine has no legal personality to institute the action since such right is only given to the legal heir of the deceased. Mary Gine is not a legal heir of Camilo since she is only his common law wife.

On appeal, the CA reversed the RTC and held petitioner liable for quasi-delict. The *fallo* reads:

⁶ TSN, September 20, 2001, pp. 2-33.

⁷ TSN, December 11, 2001, pp. 2-13.

⁸ Id. at 14-37; TSN, January 24, 2002, pp. 2-42; TSN, May 16, 2002, pp. 3-16.

⁹ Records, pp. 175-185. Penned by Presiding Judge Antonio N. Laggui.

WHEREFORE, premises considered, the present appeal is **GRANTED**. The assailed decision dated December 9, 2002 of the Regional Trial Court of Appari, Cagayan, Branch 10 in *Civil Case No. 10-305* is hereby **REVERSED** and **SET ASIDE** and a **NEW ONE ENTERED** holding the defendant-appellee CAGEL[C]O II liable for quasi-delict which resulted in the death of Camilo Tangonan and the physical injuries of Allan Rapanan, and ordering the payment of 50% of the following damages, except the attorney's fees which should be borne by the defendant-appellant:

To the plaintiff-appellant Allan Rapanan:

1. temperate damages in the amount of ₱10,000.00; and
2. moral damages in the amount of ₱50,000.00;

To the legal heirs of the deceased Camilo Tangonan:

1. indemnity for death in the amount of ₱50,000.00;
2. indemnity for loss of earning capacity in the amount of ₱1,062,000.00;
3. temperate damages in the amount of ₱20,000.00; and
- [4.] moral damages in the amount of ₱50,000.00.

To both the plaintiff-appellant Allan Rapanan and the legal heirs of the deceased Camilo Tangonan:

1. exemplary damages in the amount [of] ₱50,000.00; and
2. attorney's fees amounting to 20% of the total amount adjudged.

SO ORDERED.¹⁰

In ruling against petitioner, the CA found that despite the different versions of how the incident occurred, one fact was consistent – the protruding or dangling CAGELCO wire to which the victims were strangled or trapped. It likewise ruled that the police blotter and medical certificates together with the testimony of one of the passengers of the motorcycle, respondent Rapanan, was able to establish the truth of the allegations of respondents – all of which were not controverted by petitioner. The appellate court held that clearly, the cause of the mishap which claimed the life of Camilo and injured Rapanan was the dangling wire which struck them. Without the dangling wire which struck the victims, the CA held that they would not have fallen down and sustained injuries. The CA found that if petitioner had not been negligent in maintaining its facilities, and making sure that every facility needing repairs had been repaired, the mishap could have been prevented.

The appellate court nevertheless ruled that the victims were partly responsible for the injuries they sustained. At the time of the mishap, they were over-speeding and were not wearing protective helmets. Moreover, the single motorcycle being driven carried three persons. While said circumstances were not the proximate cause of Camilo's death and Rapanan's injuries, they contributed to the occurrence of the unfortunate event.

¹⁰ *Rollo*, pp. 41-42.

Hence this petition raising the following arguments for this Court's consideration:

1. THE CONCLUSION OF THE COURT OF APPEALS THAT PETITIONER WAS NEGLIGENT IN THE MAINTENANCE OF ITS POWER LINES IS MANIFESTLY ABSURD AND PREMISED ON A SERIOUS MISAPPREHENSION OF FACTS.
2. THE COURT OF APPEALS DISREGARDED THE EVIDENCE ON RECORD AND COMMITTED SERIOUS MISAPPREHENSION OF FACTS AND GRAVE ABUSE OF DISCRETION WHEN IT CONCLUDED THAT THE CAUSE OF THE MISHAP WAS A DANGLING ELECTRIC WIRE THAT STRUCK AND WOUND UPON THE VICTIMS.
3. THE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING DAMAGES TO THE HEIRS OF CAMILO TANGONAN NOTWITHSTANDING THE FACT THAT THEY WERE NEVER IMPEADED AS PARTIES TO THE ACTION.
4. ASSUMING, FOR ARGUMENT'S SAKE, THAT THE PETITIONER CAN BE HELD LIABLE FOR THE MISHAP, DAMAGES AND ATTORNEY'S FEES COULD NOT BE AWARDED TO THE HEIRS OF CAMILO TANGONAN; AND THE AWARD OF MORAL, TEMPERATE AND EXEMPLARY DAMAGES, AS WELL AS ATTORNEY'S FEES, TO ALLAN RAPANAN IS WITHOUT BASIS.¹¹

Thus, there are two main issues that need to be resolved by this Court: (1) Was petitioner's negligence in maintenance of its facilities the proximate cause of the death of Camilo and the injuries of Rapanan? and (2) In the event that petitioner's negligence is found to be the proximate cause of the accident, should damages be awarded in favor of Camilo's heirs even if they were not impleaded?

Petitioner contends that it cannot be accused of negligence as its crew cleared the roads of fallen electric poles and snapped wires to ensure the safety of motorists and pedestrians. They rolled the snapped wires and placed them behind nearby electric poles away from the roads as temporary remedy considering that the snapped wires could not be collected all at once. It cites the report of SPO2 Pedro Tactac and testimony of Tranquilino Rasos stating that the electric wire was placed at the shoulder of the road. The photograph of the wire also shows that it was placed among banana plants which petitioner submits to be a clear indication that it was safely tucked away from the road. Petitioner contends that the trial court correctly observed that Camilo drove the motorcycle at a high speed causing it to careen to the shoulder of the road where the electric wire was and had Camilo driven the motorcycle at an average speed, that would not have happened. Thus, petitioner submits, as found by the trial court, the

¹¹ Id. at 62.

proximate cause of the mishap was due to recklessness and imprudence of Camilo and not of petitioner.

Respondents, for their part, insist that the appellate court erred in ruling that it was petitioner's negligence that caused the mishap resulting to the death of Camilo and injuries of Rapanan. They argued that had petitioner properly maintained its facilities by making sure that every facility needing restoration is repaired, the mishap could have been prevented.

The petition is meritorious.

Negligence is defined as the failure to observe for the protection of the interest of another person that degree of care, precaution, and vigilance which the circumstances justly demand, whereby such other person suffers injury.¹² Article 2176 of the Civil Code provides that "[w]hoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is a quasi-delict." Under this provision, the elements necessary to establish a quasi-delict case are: (1) damages to the plaintiff; (2) negligence, by act or omission, of the defendant or by some person for whose acts the defendant must respond, was guilty; and (3) the connection of cause and effect between such negligence and the damages.¹³

The presence of the first element is undisputed because the unfortunate incident brought about the death of Camilo and physical injuries to Rapanan. This Court, however, finds that the second and third elements are lacking thus precluding the award of damages in favor of respondents.

Adviento, petitioner's employee testified that their electric poles along the highways, including the one where the mishap took place, were erected about four to five meters from the shoulder of the road. Another employee of petitioner, Rasos, testified that after the typhoons hit Cagayan, he together with his co-employees, after checking the damage to the electric lines, rolled the fallen electric wires and placed them at the foot of the electric poles so as to prevent mishaps to pedestrians and vehicles passing by. Their testimonies were corroborated by what was recorded in the Police Blotter of the Buguey Police Station, Buguey, Cagayan after SPO2 Tactac investigated on the incident. The pertinent excerpt from the blotter is quoted verbatim:

X X X X

TEAM LED BY SPO2 PEDRO R TACTAC JUMPED OFF AND PROCEEDED TO BRGY MADDALERO, BUGUEY, CAGAYAN TO CONDUCT INVEST AT THE SAID VEHICULAR ACCIDENT AT THE SAME PLACE AND RET STN WITH THE REPT THAT ON OR ABOUT 8:45 PM 31 OCTOBER 98 ONE MOTORCYCLE SUZUKI X4 WITH TEMPORARY PLATE NUMBER 14592 DRIVEN BY ONE

¹² *Guillang v. Bedania*, 606 Phil. 57, 69 (2009).

¹³ *Dela Llana v. Biong*, G.R. No. 182356, December 4, 2013, p. 7.

CAMILO TANGONAN y ROSETE 21 years old, MARRIED, DRIVER AND A RESIDENT OF BRGY MASI, STA TERESITA, CAGAYAN (DEAD ON THE SPOT) AND TWO COMPANIONS EDWIN COLOMA y MABANAG, 23 YEARS OLD, MARRIED, DRIVER AND A RESIDENT OF MASI AND ALLAN RAFANAN y GUILLERMO, 19 YEARS OLD, SINGLE, CONDUCTOR AND A RESIDENT OF BRGY BUYUN STA TERESITA CAGAYAN WAS **ACCIDENTALLY TRAPPED BY A PROTRUDING CAGELCO WIRE AT THE SHOULDER OF THE ROAD WHILE THEY WERE BOUND TO STA TERESITA FROM APARRI** THIS PROVINCE DUE TO THE OVER SPEED OF MOTOR VEHICLE THE WIRE STRANGLED THE NECK OF THE VICTIMS WHICH CAUSED THE INSTANTANEOUS DEATH OF THE DRIVER, CAMILO TANGONAN AND ABRASIONS ON DIFFERENT PARTS OF THE BODY OF THE TWO OTHER VICTIMS THE SAID TWO OTHER VICTIMS WERE BROUGHT TO ALFONSO ENRILE HOSPITAL, GONZAGA, CAGAYAN FOR MEDICAL TREATMENT.¹⁴ (Emphasis and underscoring supplied)

Thus, there is no negligence on the part of petitioner that was allegedly the proximate cause of Camilo's death and Rapanan's injuries. From the testimonies of petitioner's employees and the excerpt from the police blotter, this Court can reasonably conclude that, at the time of that fatal mishap, said wires were quietly sitting on the shoulder of the road, far enough from the concrete portion so as not to pose any threat to passing motor vehicles and even pedestrians. Hence, if the victims of the mishap were strangled by said wires, it can only mean that either the motorcycle careened towards the shoulder or even more likely, since the police found the motorcycle not on the shoulder but still on the road, that the three passengers were thrown off from the motorcycle to the shoulder of the road and caught up with the wires. As to how that happened cannot be blamed on petitioner but should be attributed to Camilo's over speeding as concluded by the police after it investigated the mishap. SPO2 Tactac, in his testimony, explained how they made such conclusion:

ATTY. TUMARU:

Q: x x x My question is, you said that the motor vehicle was overspeeding, when you went to the place, what made you conclude that the motor vehicle where the three rode which caused the death of Camilo Tangonan, was overspeeding? Please explain that before this court[.]

ATTY. RAPANAN:

Incompetent, you honor.

COURT:

Answer.

A: I stated in the police blotter over speeding when we went to investigate. We reflected in the report/police blotter that there was over speeding because of the skid mark that lasted up to 30 meters from the start to the place where the motorcycle fell, sir.

¹⁴ Records, p. 153.

Q: In this skid mark that you have seen, at the point of the start of the skid mark to the place where you found the motor vehicle, where was the motor vehicle that time?

A: It was at the road, sir.

Q: What road?

A: At the edge of the cemented pavement, sir.

Q: Where was the victim found?

ATTY. RAPANAN:

Immaterial, your honor.

COURT:

Sustained.

ATTY. TUMARU:

Q: And did you try to investigate what was the cause [of death] of the victim?

ATTY. RAPANAN:

Incompetent, your honor.

ATTY. TUMARU:

Q: Per your investigation, did you find out the cause of death of the victim and the others (sic)?

A: There was abrasion at the neck of the victim, sir.

COURT:

Q: Who among the victims?

A: The driver Camilo Tangonan, sir.

Q: What about the two others?

A: When we arrived at the scene, the two companions of the victim were brought to the Gonzaga Alfonso Ponce Enrile hospital by the PNP of Sta. Teresita police station, sir.

x x x x

ATTY. RAPANAN:

Q: Do you know that a motorcycle is provided with the speedometer?

A: Yes, sir.

Q: When you arrived at the scene, you no longer bother yourself to see the speedometer of the motorcycle, is that correct?

ATTY. TUMARU:

Incompetent, your honor.

COURT:

Answer.

A: I did not bother to see the speedometer, sir.

Q: You only conclude in saying that the driver of the motorcycle was running his motorcycle in a very speed[y] manner because of the skid mark measuring 30 meters, you did not include that in your report?

ATTY. TUMARU:

The document is the best evidence, your honor.

ATTY. RAPANAN:

This is a new matter, your honor.

COURT:

Answer.

A: We saw the skid mark so we concluded that there was an over speeding due to the skid mark, sir.

Q: Do you know that a skid on the surface of a cemented road shows that something happened to the motorcycle o[r] its [d]river?

ATTY. TUMARU:

That calls for an opinion, your honor.

COURT:

Answer.

A: There was an accident, sir.

Q: Do you know that when a vehicle even if running with slow speed if a driver suddenly applied a break, there was always a skid mark on the road?

A: It is the footrest of the motorcycle that caused the skid mark, sir.

COURT:

Q: Which is which now, you found a skid mark of the tire and footrest or only the skid mark of the footrest?

A: The footrest, sir.

Q: How do you know that the skid mark was caused by the footrest?

A: Because the skid mark was caused by the footrest because the place where the motorcycle fell (sic), the footrest was still pointing [to] the skid mark [on] the cemented road, sir.¹⁵

The foregoing shows that the motorcycle was probably running too fast that it lost control and started tilting and sliding eventually which made its foot

¹⁵ TSN, December 11, 2001, pp. 5-12.

rest cause the skid mark on the road. Therefore, the mishap already occurred even while they were on the road and away from petitioner's electric wires and was not caused by the latter as alleged by respondents. It just so happened that after the motorcycle tilted and slid, the passengers were thrown off to the shoulder where the electric wires were. This Court hence agrees with the trial court that the proximate cause of the mishap was the negligence of Camilo. Had Camilo driven the motorcycle at an average speed, the three passengers would not have been thrown off from the vehicle towards the shoulder and eventually strangled by the electric wires sitting thereon. Moreover, it was also negligent of Camilo to have allowed two persons to ride with him and for Rapanan to ride with them when the maximum number of passengers of a motorcycle is two including the driver. This most likely even aggravated the situation because the motorcycle was overloaded which made it harder to drive and control. When the plaintiff's own negligence was the immediate and proximate cause of his injury, he cannot recover damages.¹⁶

As to the second issue, assuming *arguendo* that petitioner was indeed negligent, the appellate court erred in awarding damages in favor of Camilo's legal heirs since they were not impleaded in the case. It should be noted that it was Mary Gine, the common law wife of Camilo, who is the complainant in the case. As a mere common law wife of Camilo, she is not considered a legal heir of the latter, and hence, has no legal personality to institute the action for damages due to Camilo's death.

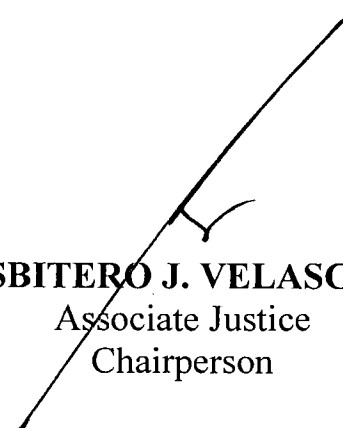
WHEREFORE, the petition is hereby **GRANTED**. The December 8, 2011 Decision of the Court of Appeals in C.A. G.R. CV No. 77659 is hereby **REVERSED and SET ASIDE**. The December 9, 2002 Decision of the Regional Trial Court of Aparri, Cagayan, Branch 10 in Civil Case No. 10-305 dismissing the complaint for damages of respondents Allan Rapanan and Mary Gine Tangonan is **REINSTATED**.

No pronouncement as to costs.

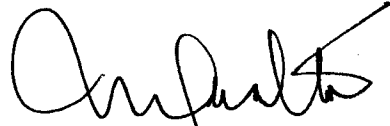
SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

¹⁶ CIVIL CODE, Art. 2179.



DIOSDADO M. PERALTA
Associate Justice



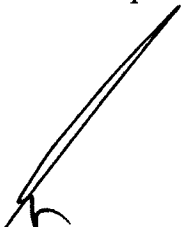
JOSE C. MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

