Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JESSICA P. MAITIM a.k.a. "JEAN GARCIA,"
Petitioner,

- *versus* -

MARIA THERESA P. AGUILA,
Respondent.

G.R. No. 218344

Present:

PERLAS-BERNABE, *S.A.J.,**
HERNANDO,
*Acting Chairperson,***
ZALAMEDA,
ROSARIO, and
MARQUEZ, *JJ.*

Promulgated:
MAR 21 2022

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DECISION

HERNANDO, *J.*:

Before this Court is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court, seeking to set aside the June 30, 2014 Decision[2] and May 19, 2015 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 100354.

The facts of the case are as follows:

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* On official leave.
** Per Special Order No. 2882 dated March 17, 2022.
1 *Rollo*, pp. 8-19.
2 Id. at 20-26. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Rebecca De Guia-Salvador and Ramon R. Garcia.
3 Id. at 27.

Petitioner Jessica Maitim (Maitim) and respondent Maria Theresa P. Aguila (Aguila) were residents of Grand Pacific Manor Townhouse.[4] Their respective townhouse units are approximately nine meters apart, separated only by a driveway jointly used by the townhouse unit owners.[5]

On April 25, 2006, Maitim was on board her vehicle, a Ford W-150 Chateau Wagon registered under her name, which was being driven by Restituto Santos (Santos), her driver for 12 years.[6] While they were driving along the common driveway, Angela Aserehet P. Aguila (Angela), the six-year old daughter of Aguila, was sideswiped by Maitim's vehicle.[7] Angela was dragged for about three meters resulting to her right leg being fractured.[8]

Maitim and Santos did not immediately take Angela to the hospital after the incident; she was only brought to St. Luke's Medical Center after the insistence of Angela's grandmother, Lirio Aguila.[9] Angela was diagnosed to have suffered swelling, hematoma, multiple abrasions, and displaced, complete fracture on the right leg.[10] Thus, she underwent operation at Asian Hospital and was in a wheelchair from April 25, 2006 to July 18, 2006.[11]

The incident was referred to the barangay for conciliation but only Aguila appeared. At this point, Aguila's actual expenses amounted to ₱169,187.32.[12] Aguila then sent demand letters to Maitim and Santos to no avail.[13] Thus, Aguila filed the instant action for damages based on quasi-delict before the Regional Trial Court (RTC).[14]

In her defense, Maitim denied Aguila's accusations and claimed that on April 25, 2006, while she was in her vehicle being driven slowly by Santos, Angela suddenly came running and due to this, the latter's right leg was sideswiped and got fractured.[15] Maitim alleged that her vehicle was covered by a comprehensive insurance that included third-party liability, but she was not able to file for insurance claim due to Aguila's refusal to submit the necessary documents, *i.e.,* police report, medical report, and receipts of actual expenses.[16] Furthermore, Maitim maintained that Santos, who was her driver for 12 years,

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4 Id. at 23.
5 Id.
6 Id. at 21.
7 Id.
8 Id.
9 Id.
10 Id.
11 Id.
12 Id.
13 Id.
14 Id.
15 Id. at 23.
16 Id.

was driving with care at the time of the incident, and thus, Maitim should not be made liable for vicarious liability because she exercised due diligence in the selection and supervision of her employee.[17]

Ruling of the Regional Trial Court:

In its Decision dated July 27, 2012, the RTC rendered judgment in favor of Aguila.[18] The RTC held that Santos was presumed to be negligent, applying the doctrine of *res ipsa loquitur*, and that Maitim was vicariously liable for her failure to prove that she exercised due diligence in the selection and supervision of her employee, Santos.[19] The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff.
>
> Accordingly, defendants Jessica P. Maitim and Restituto A. Santos are ordered to solidarily pay the plaintiff the following:
>
> 1. the amount of One Hundred Sixty-Nine Thousand One Hundred Eighty-Seven Pesos and 32/100 (P169,187.32) as and for actual damages;
>
> 2. the amount of Twenty Thousand Pesos (P20,000.00) as and for moral damages; and
>
> 3. the amount of Twenty-Five Thousand Pesos (P25,000.00) as and for attorney's fees.
>
> SO ORDERED.[20]

Aggrieved, Maitim appealed with the CA.

Ruling of the Court of Appeals:

On June 30, 2014, the CA denied Maitim's appeal and affirmed the RTC decision *in toto*.[21] The dispositive portion of the CA Decision reads:

> WHEREFORE, the Decision of the Regional Trial Court, Branch 100, of Quezon City dated July 27, 2012 is AFFIRMED *in toto*.
>
> SO ORDERED.[22]

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17 Id.
18 Id. at 29-37. Penned by Presiding Judge Marie Christine A. Jacob.
19 Id. at 34-36.
20 Id. at 37.
21 Id. at 20-26
22 Id. at 25.

In its Decision, the CA ruled that Maitim and Santos are solidarily liable for damages, and that there was no contributory negligence on the part of Aguila and her daughter.[23] Aguila did not commit any negligence in allowing Angela to exit their door towards the car garage since they were still within the premises of their residence, and not on the street where vehicles ordinarily drive by.[24] Moreover, the CA cited the case of *Jarco Marketing Corporation v. Court of Appeals*,[25] which established that children under nine years of age are conclusively presumed in our jurisdiction to be incapable of contributory negligence.[26] This supported its conclusion that Angela, being merely six-years old at the time of the incident, cannot be liable for contributory negligence as she is conclusively presumed to be incapable of contributory negligence.[27]

Maitim moved for reconsideration but it was denied in a Resolution dated May 19, 2015 by the CA.[28]

Hence, the instant petition.

Our Ruling

The petition has no merit.

Preliminarily, it must be reiterated that the factual findings of the trial court, especially those which revolve around matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.[29] The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grueling examination.[30] Such findings of the trial court are even more convincing when affirmed by the CA, as in this case.

With this in mind, this Court shall now discuss the merits of the present petition.

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[23] Id. at 23.
[24] Id. at 23-24.
[25] 378 Phil. 991, 1007 (1999).
[26] *Rollo*, pp. 23-24.
[27] Id.
[28] Id. at 27.
[29] *People v. Bayan*, 741 Phil. 716, 727 (2014).
[30] Id.

The CA committed no reversible error in affirming the RTC Decision.

The petition raises the lone issue of whether or not the CA committed a reversible error when it affirmed the RTC Decision finding Maitim solidarily liable under the doctrine of vicarious liability.[31]

This Court rules in the negative.

First, it must be noted that the RTC correctly applied the doctrine of *res ipsa loquitur* when it ruled that Santos should be presumed negligent, and thus, had the burden of proving such presumption otherwise.

The doctrine of *res ipsa loquitur* was eruditely expounded upon in the case of *Solidum vs. People*[32] as follows:

> *Res ipsa loquitur* is literally translated as "*the thing or the transaction speaks for itself.*" The doctrine *res ipsa loquitur* means that "where the thing which causes injury is shown to be under the management of the defendant, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of an explanation by the defendant, that the accident arose from want of care." It is simply "a recognition of the postulate that, as a matter of common knowledge and experience, the very nature of certain types of occurrences may justify an inference of negligence on the part of the person who controls the instrumentality causing the injury in the absence of some explanation by the defendant who is charged with negligence. It is grounded in the superior logic of ordinary human experience and on the basis of such experience or common knowledge, negligence may be deduced from the mere occurrence of the accident itself.xxx" (Underscoring supplied)

In *UPCB General Insurance Co. v. Pascual Liner, Inc.*,[33] this Court reiterated the applicability of *res ipsa loquitur* in vehicular accidents, wherein it is sufficient that the accident itself be established, and once established through the admission of evidence, whether hearsay or not, the rule on *res ipsa loquitur* already starts to apply.[34]

As applied in the instant case, the fact that Angela was hit by a moving vehicle owned by Maitim and driven by Santos is undisputed, and the same is supported by the Traffic Accident Investigation Report dated April 25, 2006.[35]

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[31] *Rollo*, p. 13.
[32] 728 Phil. 578, 589 (2014).
[33] *UPCB General Insurance Co. v. Pascual Liner, Inc.*, G.R. No. 242328, April 26, 2021.
[34] Id.
[35] Records, p. 9.

The fact that Angela sustained injuries in her collision with Maitim's vehicle is also not in question.[36] Thus, since it is clearly established that there was a vehicular accident that caused injuries, then the rule on *res ipsa loquitur* shall apply. An inference of negligence on the part of Santos, the person who controls the instrumentality (vehicle) causing the injury, arises, and he has the burden of presenting proof to the contrary.

As will be discussed below, this Court finds that the lower courts justly held that Santos failed to discharge this burden and consequently, the presumption of negligence lodged towards him shall stand.

Ordinarily, driving inside a relatively narrow driveway shared by two houses would not result to children being hit and their bones fractured. This is because a reasonably prudent man, especially an alleged experienced driver, would have foreseen that the residents of the houses may exit towards the common driveway anytime, including young and playful children who may suddenly run across or along said driveway. Thus, a reasonably prudent man is expected to drive with utmost caution when traversing the said driveway, even if given a "clear" signal by a guard.

In fact, Maitim herself admits that there is a natural tendency to drive at a slow speed when in a narrow driveway.[37] However, her allegation that Santos was driving at a slow speed, which is admittedly "natural," contradicts the circumstances surrounding Angela's injury. If Santos truly drove slowly and with care, he should have been able to have ample opportunity to brake or otherwise steer the vehicle out of trouble, both of which did not happen in this case.

Moreover, even if a running child were to get hit by a slow-moving vehicle, it is highly unlikely that the same would result to injuries so severe that it required surgery and afterwards being confined to a wheelchair for more than two months.[38]

In sum, there is nothing natural about a child getting dragged for three meters and her leg being completely fractured by a slow-moving vehicle, especially if a reasonably prudent man was driving the vehicle with care. Thus, both the RTC and CA were right in finding negligence on the part of Santos.

Furthermore, the presumption of negligence on the part of Santos was not overcome by Maitim, who presented no rebuttal evidence and instead merely alleged that Santos was driving with due care and was not speeding. This Court

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[36] Id. at 10.
[37] *Rollo*, p. 15.
[38] Id. at 23.

has repeatedly emphasized that allegations, on their own, have no probative value and cannot be considered as proof.[39] Therefore, since Maitim failed to present any evidence to the contrary, the presumption of negligence on the part of Santos stands and is deemed conclusive.

Maitim failed to prove that she was not vicariously liable in this case.

Article 2176 of the Civil Code provides:

> Article 2176. Whoever 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 called a quasi-delict and is governed by the provisions of this Chapter.

In relation to the provision above, Article 2180 of the Civil Code provides the basis for the concept of vicarious liability in our jurisdiction, to wit:

> Article 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.

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[39] *De Jesus v. Guerrero III,* 614 Phil. 520, 529 (2009).

> 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. (Underscoring supplied)

Jurisprudence has established that under Article 2180, "when an injury is caused by the negligence of the employee, there instantly arises a presumption of law that there was negligence on the part of the master or employer either in the selection of the servant or employee, or in supervision over him after selection or both."[40] "The liability of the employer under Article 2180 is direct and immediate; it is not conditioned upon prior recourse against the negligent employee and a prior showing of the insolvency of such employee."[41]

Applying these concepts to the present case, the finding of negligence against Santos gave rise to the presumption of negligence on the part of Maitim in the latter's selection and/or supervision of the former. Therefore, it is incumbent upon Maitim to prove that she exercised the diligence of a good father of a family in the selection and supervision of her employee, Santos.

In her petition, Maitim stubbornly insists that she cannot be held vicariously liable because she alleges that Santos has an unblemished 12-year driving record, and that before Santos was hired, he was required to submit a police clearance and an NBI clearance.[42] However, she presented no evidence to corroborate or support her bare, self-serving allegations. This Court has constantly held that bare allegations cannot be considered as proof,[43] especially when, such as in this case, the records are barren of any evidence that would support such allegations.

In *Filipinas Synthetic Fiber Corporation v. De Los Santos,*[44] this Court outlined the quantum of proof established by jurisprudence in cases involving vicarious liability, to wit:

> Petitioner asserts that it had submitted and presented during trial, numerous documents in support of its claim that it had exercised the proper diligence in both the selection and supervision of its employees. Among those proofs are documents showing Mejia's proficiency and physical examinations, as well as his NBI clearances. The Employee Staff Head of the Human Resource Division of the petitioner also testified that Mejia was constantly under supervision and was given daily operational briefings. Nevertheless, the RTC and the CA were correct in finding those pieces of evidence presented by the petitioner insufficient.
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> In *Manliclic v. Calaunan*, this Court ruled that:

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40 *Filipinas Synthetic Fiber Corporation v. De Los Santos,* 661 Phil. 99, 109-110 (2011).
41 Id. at 10.
42 *Rollo*, p. 24.
43 Supra note 39.
44 Supra note 40 at 110-111.

> In the selection of prospective employees, employers are required to examine them as to their qualifications, experience and service records. In the supervision of employees, the employer must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for the breach thereof. To fend off vicarious liability, employers must submit concrete proof, including documentary evidence, that they complied with everything that was incumbent on them.

In *Metro Manila Transit Corporation v. Court of Appeals*, it was explained that:

> Due diligence in the supervision of employees on the other hand, includes the formulation of suitable rules and regulations for the guidance of employees and the issuance of proper instructions intended for the protection of the public and persons with whom the employer has relations through his or its employees and the imposition of necessary disciplinary measures upon employees in case of breach or as may be warranted to ensure the performance of acts indispensable to the business of and beneficial to their employer. To this, we add that actual implementation and monitoring of consistent compliance with said rules should be the constant concern of the employer, acting through dependable supervisors who should regularly report on their supervisory functions.
>
> In order that the defense of due diligence in the selection and supervision of employees may be deemed sufficient and plausible, it is not enough to emptily invoke the existence of said company guidelines and policies on hiring and supervision. As the negligence of the employee gives rise to the presumption of negligence on the part of the employer, the latter has the burden of proving that it has been diligent not only in the selection of employees but also in the actual supervision of their work. The mere allegation of the existence of hiring procedures and supervisory policies, without anything more, is decidedly not sufficient to overcome such presumption.
>
> We emphatically reiterate our holding, as a warning to all employers, that "the formulation of various company policies on safety without showing that they were being complied with is not sufficient to exempt petitioner from liability arising from negligence of its employees. It is incumbent upon petitioner to show that in recruiting and employing the erring driver the recruitment procedures and company policies on efficiency and safety were followed." x x x. (Emphasis supplied; citations omitted)

Given the above, Maitim's attempt to deflect liability clearly falls short as she was not able to present concrete proof that she exercised the care and diligence of a good father of a family in the selection and supervision of her employee, Santos. Therefore, the presumption of negligence against her stands, and she must be held solidarily liable with Santos.

There was no contributory negligence on the part of Aguila.

In her petition, Maitim imputes contributory negligence on Aguila for not properly taking care or attending to her daughter, which allegedly enabled the latter to exit their house towards the driveway.[45] This position is untenable.

The evidence on record shows that the driveway was a common area to both parties' townhouse units, which meant that the driveway is as much a part of Aguila's residence as it is of Maitim's. It was also found that Angela was not just running or loitering around but was actually on her way to board their car.[46] Given these circumstances, this Court sees no negligence on the part of Aguila when she allowed Angela to exit their door and walk towards their garage. There is a reasonable expectation of safety, considering that the driveway is still within the premises of their residence and not on the street where vehicles ordinarily drive by. Moreover, given the location and relatively narrow profile of the driveway, it can be reasonably expected that anyone who traverses such driveway with a motor vehicle would drive slowly and with utmost caution.

Therefore, there being no contributory negligence on the part of Angela and Aguila, and with Maitim and Santos being unable to rebut the presumption of negligence lodged towards them in their respective capacities, this Court sees no reason to depart from the findings of the lower courts finding Maitim solidarily liable with Santos.

Finally, all monetary awards shall earn interest at the rate of six percent (6%) per *annum* from date of finality of this Decision until fully paid.

WHEREFORE, the instant petition is **DENIED**. The assailed Decision dated June 30, 2014, and Resolution dated May 19, 2015 of the Court of Appeals, in CA-G.R. CV No. 100354 are **AFFIRMED** with **MODIFICATION** in that all monetary awards shall earn interest at the rate of six percent (6%) per *annum* from date of finality of this Decision until fully paid.

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[45] *Rollo*, pp. 14-15.
[46] Id. at p. 23.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official leave.
ESTELA M. PERLAS-BERNABE
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
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.

RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.

ALEXANDER G. GESMUNDO
Chief Justice