REPUBLIC OF THE PHILIPPINES
Supreme Court
Manila

SECOND DIVISION

G.R. No. 130003 October 20, 2004

JONAS AÑONUEVO, Petitioner.
vs.
HON. COURT OF APPEALS and JEROME VILLAGRACIA, Respondent.

D E C I S I O N

TINGA, *J.:*

The bicycle provides considerable speed and freedom of movement to the rider. It derives a certain charm from being unencumbered by any enclosure, affording the cyclist the perception of relative liberty. It also carries some obvious risks on the part of the user and has become the subject of regulation, if not by the government, then by parental proscription.

The present petition seeks to bar recovery by an injured cyclist of damages from the driver of the car which had struck him. The argument is hinged on the cyclist's failure to install safety devices on his bicycle. However, the lower courts agreed that the motorist himself caused the collision with his own negligence. The facts are deceptively simple, but the resolution entails thorough consideration of fundamental precepts on negligence.

The present petition raises little issue with the factual findings of the Regional Trial Court (RTC), Branch 160, of Pasig City, as affirmed by the Court of Appeals. Both courts adjudged petitioner, Jonas Añonuevo (Añonuevo), liable for the damages for the injuries sustained by the cyclist, Jerome Villagracia (Villagracia). Instead, the petition hinges on a sole legal question, characterized as "novel" by the petitioner: whether Article 2185 of the New Civil Code, which presumes the driver of a motor vehicle negligent if he was violating a traffic regulation at the time of the mishap, should apply by analogy to non-motorized vehicles.[1]

As found by the RTC, and affirmed by the Court of Appeals, the accident in question occurred on 8 February 1989, at around nine in the evening, at the intersection of Boni Avenue and Barangka Drive in Mandaluyong (now a city). Villagracia was traveling along Boni Avenue on his bicycle, while Añonuevo, traversing the opposite lane was driving his Lancer car with plate number PJJ 359. The car was owned by Procter and Gamble Inc., the employer of Añonuevo's brother, Jonathan. Añonuevo was in the course of making a left turn towards Libertad Street when the collision occurred. Villagracia sustained serious injuries as a result, which necessitated his hospitalization several times in 1989, and forced him to undergo four (4) operations.

On 26 October 1989, Villagracia instituted an action for damages against Procter and Gamble Phils., Inc. and Añonuevo before the RTC.[2] He had also filed a criminal complaint against Añonuevo before the Metropolitan Trial Court of Mandaluyong, but the latter was subsequently acquitted of the criminal charge.[3] Trial on the civil action ensued, and in a *Decision* dated 9 March 1990, the RTC rendered judgment against Procter and Gamble and Añonuevo, ordering them to pay Villagracia the amounts of One Hundred Fifty Thousand Pesos (₱150, 000.00). for actual damages, Ten Thousand Pesos (₱10,000.00) for moral damages, and Twenty Thousand Pesos (₱20,000.00) for attorney's fees, as well as legal costs.[4] Both defendants appealed to the Court of Appeals.

In a *Decision*[5] dated 8 May 1997, the Court of Appeals Fourth Division affirmed the RTC *Decision in toto*[6]. After the Court of Appeals denied the *Motion for Reconsideration* in a *Resolution*[7] dated 22 July 1997, Procter and Gamble and Añonuevo filed their respective petitions for review with this Court. Procter and Gamble's petition was denied by

this Court in a *Resolution* dated 24 November 1997. Añonuevo's petition,[8] on the other hand, was given due course,[9] and is the subject of this *Decision*.

In arriving at the assailed *Decision,* the Court of Appeals affirmed the factual findings of the RTC. Among them: that it was Añonuevo's vehicle which had struck Villagracia;[10] that Añonuevo's vehicle had actually hit Villagracia's left mid-thigh, thus causing a comminuted fracture;[11] that as testified by eyewitness Alfredo Sorsano, witness for Villagracia, Añonuevo was "umaarangkada," or speeding as he made the left turn into Libertad;[12] that considering Añonuevo's claim that a passenger jeepney was obstructing his path as he made the turn. Añonuevo had enough warning to control his speed;[13] and that Añonuevo failed to exercise the ordinary precaution, care and diligence required of him in order that the accident could have been avoided.[14] Notably, Añonuevo, in his current petition, does not dispute the findings of tortious conduct on his part made by the lower courts, hinging his appeal instead on the alleged negligence of Villagracia. Añonuevo proffers no exculpatory version of facts on his part, nor does he dispute the conclusions made by the RTC and the Court of Appeals. Accordingly, the Court, which is not a trier of facts,[15] is not compelled to review the factual findings of the lower courts, which following jurisprudence have to be received with respect and are in fact generally binding.[16]

Notwithstanding, the present petition presents interesting questions for resolution. Añonuevo's arguments are especially fixated on a particular question of law: whether Article 2185 of the New Civil Code should apply by analogy to non-motorized vehicles.[17] In the same vein, Añonuevo insists that Villagracia's own fault and negligence serves to absolve the former of any liability for damages.

Its is easy to discern why Añonuevo chooses to employ this line of argument. Añonuevo points out that Villagracia's bicycle had no safety gadgets such as a horn or bell, or headlights, as invoked by a 1948 municipal ordinance.[18] Nor was it duly registered with the Office of the Municipal Treasurer, as required by the same ordinance. Finally, as admitted by Villagracia, his bicycle did not have foot brakes.[19] Before this Court, Villagracia does not dispute these allegations, which he admitted during the trial, but directs our attention instead to the findings of Añonuevo's own negligence.[20] Villagracia also contends that, assuming there was contributory negligence on his part, such would not exonerate Añonuevo from payment of damages. The Court of Appeals likewise acknowledged the lack of safety gadgets on Villagracia's bicycle, but characterized the contention as "off-tangent" and insufficient to obviate the fact that it was Añonuevo's own negligence that caused the accident.[21]

Añonuevo claims that Villagracia violated traffic regulations when he failed to register his bicycle or install safety gadgets thereon. He posits that Article 2185 of the New Civil Code applies by analogy. The provision reads:

Article 2185. Unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap he was violating any traffic regulation.

The provision was introduced for the first time in this jurisdiction with the adoption in 1950 of the New Civil Code.[22] Its applicability is expressly qualified to motor vehicles only, and there is no ground to presume that the law intended a broader coverage.

Still, Añonuevo hypothesizes that Article 2185 should apply by analogy to all types of vehicles[23] . He points out that modern-day travel is more complex now than when the Code was enacted, the number and types of vehicles now in use far more numerous than as of then. He even suggests that at the time of the enactment of the Code, the legislators "must have seen that only motor vehicles were of such public concern that they had to be specifically mentioned," yet today, the interaction of vehicles of all types and nature has "inescapably become matter of public concern" so as to expand the application of the law to be more responsive to the times.[24]

What Añonuevo seeks is for the Court to amend the explicit command of the legislature, as embodied in Article 2185, a task beyond the pale of judicial power. The Court interprets, and not creates, the law. However, since the Court is being asked to consider the matter, it might as well examine whether Article 2185 could be interpreted to include non-motorized vehicles.

At the time Article 2185 was formulated, there existed a whole array of non-motorized vehicles ranging from human-powered contraptions on wheels such as bicycles, scooters, and animal-drawn carts such as *calesas* and *carromata*. These modes of transport were even more prevalent on the roads of the 1940s and 1950s than they are today, yet the framers of the New Civil Code chose then to exclude these alternative modes from the scope of Article 2185 with the use of the term "motorized vehicles." If Añonuevo seriously contends that the application of Article 2185 be expanded due to the greater interaction today of all types of vehicles, such argument contradicts historical experience. The ratio of motorized vehicles as to non-motorized vehicles, as it stood in 1950, was significantly lower than as it stands today. This will be certainly affirmed by statistical data, assuming such has been compiled, much less confirmed by persons over sixty. Añonuevo's characterization of a vibrant intra-road dynamic between motorized and non-motorized vehicles is more apropos to the past than to the present.

There is a fundamental flaw in Añonuevo's analysis of Art. 2185, as applicable today. He premises that the need for the distinction between motorized and non-motorized vehicles arises from the relative mass of number of these vehicles. The more pertinent basis for the segregate classification is the difference in type of these vehicles. A

motorized vehicle operates by reason of a motor engine unlike a non-motorized vehicle, which runs as a result of a direct exertion by man or beast of burden of direct physical force. A motorized vehicle, unimpeded by the limitations in physical exertion. is capable of greater speeds and acceleration than non-motorized vehicles. At the same time, motorized vehicles are more capable in inflicting greater injury or damage in the event of an accident or collision. This is due to a combination of factors peculiar to the motor vehicle, such as the greater speed, its relative greater bulk of mass, and greater combustability due to the fuels that they use.

There long has been judicial recognition of the peculiar dangers posed by the motor vehicle. As far back as 1912, in the *U.S. v. Juanillo*[25] , the Court has recognized that an automobile is capable of great speed, greater than that of ordinary vehicles hauled by animals, "and beyond doubt it is highly dangerous when used on country roads, putting to great hazard the safety and lives of the mass of the people who travel on such roads."[26] In the same case, the Court emphasized:

A driver of an automobile, under such circumstances, is required to use a greater degree of care than drivers of animals, for the reason that the machine is capable of greater destruction, and furthermore, it is absolutely under the power and control of the driver; whereas, a horse or other animal can and does to some extent aid in averting an accident. It is not pleasant to be obliged to slow down automobiles to accommodate persons riding, driving, or walking. It is probably more agreeable to send the machine along and let the horse or person get out of the way in the best manner possible; but it is well to understand, if this course is adopted and an accident occurs, that the automobile driver will be called upon to account for his acts. An automobile driver must at all times use all the care and caution which a careful and prudent driver would have exercised under the circumstances.[27]

American jurisprudence has had occasion to explicitly rule on the relationship between the motorist and the cyclist. Motorists are required to exercise ordinary or reasonable care to avoid collision with bicyclists.[28] While the duty of using ordinary care falls alike on the motorist and the rider or driver of a bicycle, it is obvious, for reasons growing out of the inherent differences in the two vehicles, that more is required from the former to fully discharge the duty than from the latter.[29]

The Code Commission was cognizant of the difference in the natures and attached responsibilities of motorized and non-motorized vehicles. Art. 2185 was not formulated to compel or ensure obeisance by all to traffic rules and regulations. If such were indeed the evil sought to be remedied or guarded against, then the framers of the Code would have expanded the provision to include non-motorized vehicles or for that matter, pedestrians. Yet, that was not the case; thus the need arises to ascertain the peculiarities attaching to a motorized vehicle within the dynamics of road travel. The fact that there has long existed a higher degree of diligence and care imposed on motorized vehicles, arising from the special nature of motor vehicle, leads to the inescapable conclusion that the qualification under Article 2185 exists precisely to recognize such higher standard. Simply put, the standards applicable to motor vehicle are not on equal footing with other types of vehicles.

Thus, we cannot sustain the contention that Art. 2185 should apply to non-motorized vehicles, even if by analogy. There is factual and legal basis that necessitates the distinction under Art. 2185, and to adopt Añonuevo's thesis would unwisely obviate this distinction.

Even if the legal presumption under Article 2185 should not apply to Villagracia, this should not preclude any possible finding of negligence on his part. While the legal argument as formulated by Añonuevo is erroneous, his core contention that Villagracia was negligent for failure to comply with traffic regulations warrants serious consideration, especially since the imputed negligent acts were admitted by Villagracia himself.

The Civil Code characterizes negligence as the omission of that diligence which is required by the nature of the obligation and corresponds with the circumstances of the persons, of the time and of the place.[30] However, the existence of negligence in a given case is not determined by the personal judgment of the actor in a given situation, but rather, it is the law which determines what would be reckless or negligent.[31]

Añonuevo, asserts that Villagracia was negligent as the latter had transgressed a municipal ordinance requiring the registration of bicycles and the installation of safety devices thereon. This view finds some support if anchored on the long standing principle of *negligence per se.*

The generally accepted view is that the violation of a statutory duty constitutes negligence, negligence as a matter of law, or *negligence per se.*[32] In *Teague vs. Fernandez*,[33] the Court cited with approval American authorities elucidating on the rule:

"The mere fact of violation of a statute is not sufficient basis for an inference that such violation was the proximate cause of the injury complained. However, if the very injury has happened which was intended to be prevented by the statute, it has been held that violation of the statute will be deemed to be the proximate cause of the injury." (65 C.J.S. 1156)

"The generally accepted view is that violation of a statutory duty constitutes negligence, negligence as a matter of law, or, according to the decisions on the question, negligence *per se*, for the reason that non-observance of what

the legislature has prescribed as a suitable precaution is failure to observe that care which an ordinarily prudent man would observe, and, when the state regards certain acts as so liable to injure others as to justify their absolute prohibition, doing the forbidden act is a breach of duty with respect to those who may be injured thereby; or, as it has been otherwise expressed, when the standard of care is fixed by law, failure to conform to such standard is negligence, negligence *per se* or negligence in and of itself, in the absence of a legal excuse. According to this view it is immaterial, where a statute has been violated, whether the act or omission constituting such violation would have been regarded as negligence in the absence of any statute on the subject or whether there was, as a matter of fact, any reason to anticipate that injury would result from such violation. x x x." (65 C.J.S. pp.623-628)

"But the existence of an ordinance changes the situation. If a driver causes an accident by exceeding the speed limit, for example, we do not inquire whether his prohibited conduct was unreasonably dangerous. It is enough that it was prohibited. Violation of an ordinance intended to promote safety is negligence. If by creating the hazard which the ordinance was intended to avoid it brings about the harm which the ordinance was intended to prevent, it is a legal cause of the harm. This comes only to saying that in such circumstances the law has no reason to ignore the causal relation which obviously exists in fact. The law has excellent reason to recognize it, since it is the very relation which the makers of the ordinance anticipated. This court has applied these principles to speed limits and other regulations of the manner of driving." (Ross vs. Hartman, 139 Fed. 2d 14 at 15).

"x x x However, the fact that other happenings causing or contributing toward an injury intervened between the violation of a statute or ordinance and the injury does not necessarily make the result so remote that no action can be maintained. The test is to be found not in the number of intervening events or agents, but in their character and in the natural and probable connection between the wrong done and the injurious consequence. The general principle is that the violation of a statute or ordinance is not rendered remote as the cause of an injury by the intervention of another agency if the occurrence of the accident, in the manner in which it happened, was the very thing which the statute or ordinance was intended to prevent." (38 Am Jur 841)[34]

In *Teague,* the owner of a vocational school stricken by a fire resulting in fatalities was found negligent, base on her failure to provide adequate fire exits in contravention of a Manila city ordinance.[35] *In F.F. Cruz and Co., Inc. v. Court of Appeals*[36] *,* the failure of the petitioner to construct a firewall in accordance with city ordinances sufficed to support a finding of negligence.[37] In *Cipriano v. Court of Appeals*, [38] the Court found that the failure of the petitioner to register and insure his auto rustproofing shop in accordance with the statute constituted negligence *per se*, thus holding him liable for the damages for the destruction by fire of a customer's vehicle garaged therein.

Should the doctrine of negligence *per se* apply to Villagracia, resulting from his violation of an ordinance? It cannot be denied that the statutory purpose for requiring bicycles to be equipped with headlights or horns is to promote road safety and to minimize the occurrence of road accidents involving bicycles. At face value, Villagracia's mishap was precisely the danger sought to be guarded against by the ordinance he violated. Añonuevo argues that Villagracia's violation should bar the latter's recovery of damages, and a simplistic interpretation of negligence *per se* might vindicate such an argument.

But this is by no means a simple case. There is the fact which we consider as proven, that Añonuevo was speeding as he made the left turn, and such negligent act was the proximate cause of the accident. This reckless behavior would have imperiled anyone unlucky enough within the path of Añonuevo's car as it turned into the intersection, whether they are fellow motorists, pedestrians, or cyclists. We are hard put to conclude that Villagracia would have avoided injury had his bicycle been up to par with safety regulations, especially considering that Añonuevo was already speeding as he made the turn, or before he had seen Villagracia. Even assuming that Añonuevo had failed to see Villagracia because the bicycle was not equipped with headlights, such lapse on the cyclist's part would not have acquitted the driver of his duty to slow down as he proceeded to make the left turn.

This court has appreciated that negligence *per se*, arising from the mere violation of a traffic statute, need not be sufficient in itself in establishing liability for damages. In *Sanitary Steam Laundry, Inc. v. Court of Appeals*,[39] a collision between a truck and a privately-owned Cimarron van caused the death of three of the van's passengers. The petitioner therein, the owner of the truck, argued that the driver of the Cimarron was committing multiple violations of the Land Transportation and Traffic Code[40] at the time of the accident. Among these violations: the Cimarron was overloaded at the time of the accident; the front seat of the van was occupied by four adults, including the driver; and the van had only one functioning headlight. Similar as in this case, petitioner therein invoked Article 2185 and argued that the driver of the Cimarron should be presumed negligent. The Court, speaking through Justice Mendoza, dismissed these arguments:

[It] has not been shown how the alleged negligence of the Cimarron driver contributed to the collision between the vehicles. Indeed, petitioner has the burden of showing a causal connection between the injury received and the violation of the Land Transportation and Traffic Code. He must show that the violation of the statute was the proximate or legal cause of the injury or that it substantially contributed thereto. Negligence consisting in whole or in part, of violation of law, like any other negligence, is without legal consequence unless it is a contributing cause of the injury. Petitioner says that "driving an overloaded vehicle with only one functioning headlight during nighttime certainly increases the risk of accident," that because the Cimarron had only one headlight, there was "decreased visibility," and that the fact that the vehicle was overloaded and its front seat overcrowded "decreased its

maneuverability." However, mere allegations such as these are not sufficient to discharge its burden of proving clearly that such alleged negligence was the contributing cause of the injury.[41]

Sanitary Steam[42] is controlling in this case. The bare fact that Villagracia was violating a municipal ordinance at the time of the accident may have sufficiently established some degree of negligence on his part, but such negligence is without legal consequence unless it is shown that it was a contributing cause of the injury. If anything at all, it is but indicative of Villagracia's failure in fulfilling his obligation to the municipal government, which would then be the proper party to initiate corrective action as a result. But such failure alone is not determinative of Villagracia's negligence in relation to the accident. Negligence is relative or comparative, dependent upon the situation of the parties and the degree of care and vigilance which the particular circumstances reasonably require.[43] To determine if Villagracia was negligent, it is not sufficient to rely solely on the violations of the municipal ordinance, but imperative to examine Villagracia's behavior in relation to the contemporaneous circumstances of the accident.

The rule on negligence *per se* must admit qualifications that may arise from the logical consequences of the facts leading to the mishap. The doctrine (and Article 2185, for that matter) is undeniably useful as a judicial guide in adjudging liability, for it seeks to impute culpability arising from the failure of the actor to perform up to a standard established by a legal fiat. But the doctrine should not be rendered inflexible so as to deny relief when in fact there is no causal relation between the statutory violation and the injury sustained. Presumptions in law, while convenient, are not intractable so as to forbid rebuttal rooted in fact. After all, tort law is remunerative in spirit, aiming to provide compensation for the harm suffered by those whose interests have been invaded owing to the conduct of others.[44]

Under American case law, the failures imputed on Villagracia are not grievous enough so as to negate monetary relief. In the absence of statutory requirement, one is not negligent as a matter of law for failing to equip a horn, bell, or other warning devise onto a bicycle.[45] In most cases, the absence of proper lights on a bicycle does not constitute negligence as a matter of law[46] but is a question for the jury whether the absence of proper lights played a causal part in producing a collision with a motorist.[47] The absence of proper lights on a bicycle at night, as required by statute or ordinance, may constitute negligence barring or diminishing recovery if the bicyclist is struck by a motorist as long as the absence of such lights was a proximate cause of the collision;[48] however, the absence of such lights will not preclude or diminish recovery if the scene of the accident was well illuminated by street lights,[49] if substitute lights were present which clearly rendered the bicyclist visible,[50] if the motorist saw the bicycle in spite of the absence of lights thereon,[51] or if the motorist would have been unable to see the bicycle even if it had been equipped with lights.[52] A bicycle equipped with defective or ineffective brakes may support a finding of negligence barring or diminishing recovery by an injured bicyclist where such condition was a contributing cause of the accident.[53]

The above doctrines reveal a common thread. The failure of the bicycle owner to comply with accepted safety practices, whether or not imposed by ordinance or statute, is not sufficient to negate or mitigate recovery unless a causal connection is established between such failure and the injury sustained. The principle likewise finds affirmation in Sanitary Steam, wherein we declared that the violation of a traffic statute must be shown as the proximate cause of the injury, or that it substantially contributed thereto.[54] Añonuevo had the burden of clearly proving that the alleged negligence of Villagracia was the proximate or contributory cause of the latter's injury.

On this point, the findings of the Court of Appeals are well-worth citing:

[As] admitted by appellant Añonuevo, he first saw appellee Villagracia at a distance of about ten (10) meters before the accident. Corrolarily, therefore, he could have avoided the accident had he [stopped] alongside with an earlier *(sic)* jeep which was already at a full stop giving way to appellee. But according to [eyewitness] Sorsano, he saw appellant Añonuevo "umaarangkada" and hit the leg of Villagracia (TSN March 14, 1990 p. 30). This earlier (sic) jeep at a full stop gave way to Villagracia to proceed but Añonuevo at an unexpected motion (umarangkada) came out hitting Villagracia (TSN March 9, 1990 p. 49). Appellant Añonuevo admitted that he did not blow his horn when he crossed Boni Avenue (TSN March 21, 1990 p. 47).[55]

By Añonuevo's own admission, he had seen Villagracia at a good distance of ten (10) meters. Had he been decelerating, as he should, as he made the turn, Añonuevo would have had ample opportunity to avoid hitting Villagracia. Moreover, the fact that Añonuevo had sighted Villagracia before the accident would negate any possibility that the absence of lights on the bike contributed to the cause of the accident.[56] A motorist has been held liable for injury to or death of a bicyclist where the motorist turned suddenly into the bicyclist so as to cause a collision.[57]

Neither does Añonuevo attempt before this Court to establish a causal connection between the safety violations imputed to Villagracia and the accident itself. Instead, he relied on a putative presumption that these violations in themselves sufficiently established negligence appreciable against Villagracia. Since the onus on Añonuevo is to conclusively prove the link between the violations and the accident, we can deem him as having failed to discharge his necessary burden of proving Villagracia's own liability.

Neither can we can adjudge Villagracia with contributory negligence. The leading case in contributory negligence, *Rakes v. Atlantic Gulf*[58] clarifies that damages may be mitigated if the claimant "in conjunction with the occurrence,

[contributes] only to his injury."[59] To hold a person as having contributed to his injuries, it must be shown that he performed an act that brought about his injuries in disregard of warnings or signs of an impending danger to health and body.[60] To prove contributory negligence, it is still necessary to establish a causal link, although not proximate, between the negligence of the party and the succeeding injury. In a legal sense, negligence is contributory only when it contributes proximately to the injury, and not simply a condition for its occurrence.[61]

As between Añonuevo and Villagracia, the lower courts adjudged Añonuevo as solely responsible for the accident. The petition does not demonstrate why this finding should be reversed. It is hard to imagine that the same result would not have occurred even if Villagracia's bicycle had been equipped with safety equipment. Añonuevo himself admitted having seen Villagracia from ten (10) meters away, thus he could no longer claim not having been sufficiently warned either by headlights or safety horns. The fact that Añonuevo was recklessly speeding as he made the turn likewise leads us to believe that even if Villagracia's bicycle had been equipped with the proper brakes, the cyclist would not have had opportunity to brake in time to avoid the speeding car. Moreover, it was incumbent on Añonuevo to have established that Villagracia's failure to have installed the proper brakes contributed to his own injury. The fact that Añonuevo failed to adduce proof to that effect leads us to consider such causal connection as not proven.

All told, there is no reason to disturb the assailed judgment.

WHEREFORE, the *Petition* is DENIED. The *Decision* of the Court of Appeals is AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr. and Chico-Nazario, JJ., concur.

Footnotes

[1] Rollo, p.14.

[2] *Id*. at 25. Docketed as Civil Case No. 58784.

[3] *Id*. at 27.

[4] *Id*. at 25.

[5] Penned by Justice B. Adefuin-De La Cruz, concurred in by Justices G. Paras and R. Galvez.

[6] Rollo, pp. 25-39.

[7] *Id*. at 52.

[8] Docketed as C.A. G.R. No. 129966

[9] In a Resolution dated 8 December 1996.

[10] Rollo, p. 33.

[11] *Ibid.*

[12] *Id*. at 31-32.

[13] *Id*. at 32.

[14] *Id*. at 31.

[15] W-Red Construction v. Court of Appeals, G.R. No. 122648, August 17, 2000, 392 Phil. 888, 899 (2000).

[16] Engreso vs. De La Cruz, G.R. No. 148727, April 9, 2003, 401 SCRA 217, 220.

[17] Rollo, p. 14.

[18] *Id*. at 18. Particularly Municipal Ordinance No. 2, Series of 1948. Section 3 thereof states: "x x x [No] bicycle shall be issued a registration certificate and plate unless the bicycle is equipped with a headlight and a bicycle horn or bell."

[19] *Id*. at 20.

[20] *Id*. at 118.

[21] *Id*. at 34.

[22] Tolentino, in his annotations on the Civil Code, states that the article restates a principle enunciated in the U.S. v. Crame, 30 Phil. 2 (1915). *See* A. Tolentino, V Civil Code of the Philippines (1999 ed.), at 625. While the said case does not expressly state such a rule, its conclusion of negligence, derived from the appreciation of the various traffic violations of the defendant therein, is in accord with the principle behind the rule.

[23] Rollo, p. 16. He cites the definition of vehicle as "every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation." *Id*., *citing* Philippine Law Dictionary, p. 618; and Woodward v. Collector of Customs, 39 Phil. 516 (1919).

[24] Rollo, p. 16.

[25] 23 Phil. 212 (1912).

[26] *Id*. at 222.

[27] *Id*. at 225.

[28] 8 AM JUR 2d §675.

[29] *Id., citing* Luther v. State, 177 Ind. 619, 98 N.E. 640 (1912).

[30] *See* Art. 1173, New Civil Code.

[31] See Picart v. Smith, 37 Phil. 809, 813 (1918); Civil Aeronautics Administration v. Court of Appeals, G.R No. L-51806, 8 November 1988, 167 SCRA 28, 39; Layugan v. Intermediate Appellate Court, G.R. No. L-73998, 14 November 1988, 167 SCRA 363, 372-373; Leaño v. Domingo, G.R No. 84378, 4 July 1991, 198 SCRA 800, 804; PBCom v. Court of Appeals, 336 Phil. 667,676 (1997); BPI v. Court of Appeals, 383 Phil. 538, 555 (2000).

[32] 65 C.J.S., p. 623. *See* also J.C Sangco, I Torts and Damages (1993), at 12.

[33] 151-A Phil. 648 (1973).

[34] Teague v. Fernandez, 151-A Phil. 648, 652-653 (1973).

[35] *Id*. at 651-652.

[36] G.R. No. L-52732, 29 August 1988, 164 SCRA 731.

[37] *Id*. at 736.

[38] 331 Phil. 1019 (1996).

[39] 360 Phil. 199 (1998).

[40] Republic Act No. 4136.

[41] Sanitary Steam Laundry, Inc. v. Court of Appeals, 360 Phil. 199, 208-209 (1998).

[42] *Id.*

[43] Corliss v. Manila Railroad Company, 137 Phil. 101, 107-108 *citing* Ahern v. Oregon Telephone Co., 35 Pac 549 (1894).

[44] *See* M. Brazier, Street on torts 3 (8th ed., 1988).

[45] 8 AM JUR 2d §678; *citing* Longie v. Exline, 659 F. Supp. 177 (D. Md. 1987); Green v. Pedigo, 75 Cal. App. 2d 300, 170 P.2d 999 (2d Dist. 1946).

[46] *Id.* citing Taylor v. Yukeic, 273 A.D. 915, 77 N.Y.S. 2d 620; Masters v. Alexander, 424 Pa. 225 A.2d 905 (1967).

[47] Id. citing Howie v. Bardwell, 287 mass. 121, 191 N.E. 640 (1934); Brown v. Tanner, 281 Mich. 150, 274 N.W. 744 (1937); Bauman by Chapman v. Crawford, 104 Wash. 2d 241, 704 P.2d 1181 (1985).

[48] *Id. citing* Johnson v. Railway Exp. Agency, 131 F.2d 1009 (C.C.A 7th Cir. 1942); Longie v. Exline, 659 F. Supp. 177 (D. Md. 1987); Zachary v. Travelers Indm. Co., 533 So. 2d 1300 (La. Ct. App. 3d Cir. 1988); Haskins v. Carolina Power and Light Co., 47 N.C app. 664, 267 S.E 2d 587 (1980); Everest v. Riecken, 26 Wash. 2d 542, 174 P. 2d 762 (1946).

[49] *Id. citing* La Count v. Pasarich, 205 Cal. 181, 270 P. 210 (1928).

[50] *Id. citing* Landis v. Wick, 154 Or. 199, 59 P. 2d 403 (1936).

[51] *Id. citing* Anderson v. Sterrit, 95 Kan. 483, 148 P. 635 (1915).

[52] *Id. citing* Howie v. Bardwell, 287 Mass. 121, 191 N.E. 640 (1934).

[53] *Id. citing* Longie v. Exline, 659 F. Supp. 177 (D. Md. 1987); Green v. Pedigo, 75 Cal. App. 2d 300, 170 P.2d 999 (2dDist. 1946).

[54] *Supra* note 41.

[55] Rollo,p. 34.

[56] *See supra* note 42.

[57] Tennessee Mill & Feed Co. v. Giles, 211 Ala. 44, 99 So. 84 (1924), cited in 8 AM JUR 2d § 675.

[58] 7 Phil. 359 (1907).

[59] Id. at 375.

[60] Ma-ao Sugar Central Co., Inc. and Araneta vs. Court of Appeals, G.R. No. 83491, 27 August 1990, 189 SCRA 88, 93.

[61] Fuentes v. NLRC, G.R. No. L-75955, 28 October 1988, 166 SCRA 752, 757.

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