Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEDRO DE BELEN AND BEJAN* MORA SEMILLA,
Petitioners,

-versus-

VIRGINIA GEBE FUCHS,
Respondent.

G.R. No. 258557

Present:
LEONEN, *J.*, *Chairperson*,
LAZARO-JAVIER,*
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:
OCT 23 2023

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DECISION

LOPEZ, J., *J.*:

This Court resolves a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, assailing the Decision[2] and the Resolution[3] of the Court of Appeals (*CA*), which affirmed the Decision[4] of the Regional Trial Court (*RTC*) finding Bejan Mora Semilla (*Bejan*) liable for damages based on a

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* Also referred to as "Bedjan" in some parts of the *rollo*.

* on official business per Special Order No. 3031 dated October 6, 2023.

1 *Rollo*, pp. 26–44.

2 *Id.* at 46–66. The February 10, 2021 Decision in CA G.R. CV No. 114183 was penned by Associate Justice Rafael Antonio M. Santos, and concurred in by Associate Justices Elihu A. Ybañez and Raymond Reynold R. Lauigan, Special Ninth Division, Court of Appeals, Manila.

3 *Id.* at 68–70. The December 9, 2021 Resolution in CA G.R. CV No. 114183 was penned by Associate Justice Rafael Antonio M. Santos, and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Raymond Reynold R. Lauigan, Special Former Special Ninth Division, Court of Appeals, Manila.

4 *Id.* at 161–176. The June 4, 2019 Decision in Civil Case No. 17-8 was penned by Presiding Judge Emmanuel R. Recalde of Branch 38, Regional Trial Court, Boac, Marinduque.

quasi-delict under Article 2176,[5] and Pedro de Belen (*Pedro*) vicariously liable under Article 2180[6] of the Civil Code.

The Antecedents

Virginia Gebe Fuchs (*Virginia*) is the wife of Johann Gruber Fuchs, Jr. (*Johann*), an Austrian citizen and a longtime resident of Marinduque. Together, they had three children.[7]

On April 19, 2017, at around 10:00 p.m., Johann was on his way home driving a tricycle along the National Road, Barangay Bangbang Gasan, Marinduque.[8] As Johann headed towards Barangay Pangi of the same municipality, a passenger jeepney traversing in the opposite direction and driven by Bejan directly collided with Johann's tricycle. As a result of the collision, the tricycle tilted to a 45-degree angle directly pinning Johann underneath, causing injuries to his thighs, legs, and other parts of his body.[9]

Johann was then brought to the hospital. When Virginia was informed of the incident, she immediately proceeded thereon, she asked Johann what happened, to which he replied: "I have no chance, the jeepney was so fast and took my lane."[10]

Due to the seriousness of Johann's condition, he was airlifted by plane on April 20, 2017 from Marinduque and brought to St. Luke's Medical Center in Taguig City for treatment. However, the injuries he sustained from the accident ultimately resulted in his death on April 22, 2017.[11]

Resultantly, Virginia filed a criminal case against Bejan for reckless imprudence resulting in homicide and damage to property docketed as Criminal Case No. 2017-27 before the Municipal Trial Court (*MTC*) of Gasan,

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5 CIVIL CODE, art. 2176 states:
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.

6 CIVIL CODE, art. 2180 states:
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.

. . . .

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 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.

7 *Rollo*, p. 47.

8 *Id.* at 47–48 & 163.

9 *Id.* at 48 & 163–164.

10 *Id.* at 55.

11 *Id.* at 48.

Marinduque. On July 16, 2018, the MTC found Bejan guilty beyond reasonable doubt of the crime charged.[12]

The records disclosed that Virginia made an express reservation in the criminal case to pursue an independent civil action against Bejan, as the driver of a passenger jeepney, based on a quasi-delict under Article 2176 of the Civil Code, and Pedro, as the owner of the vehicle and employer of Bejan and based on vicarious liability under Article 2180 of the Civil Code.[13]

In the Complaint[14] for damages, Virginia sought actual or compensatory damages for the death of Johann in the amount of PHP 1,500,000.00 which represented hospital fees and medical charges she incurred for her husband's treatment, as well as his funeral expenses. She also sought moral damages in the amount of PHP 1,000,000.00 as their family suffered great anguish, serious anxiety, shock, and sleepless nights over Johann's death. Further, Virginia sought the amount of PHP 15,000.00 for the repair of the motorcycle and attorney's fees.[15]

Meanwhile, Pedro agreed to stipulate the fact that he was the owner and operator of the passenger jeepney driven by Bejan and that he employed the latter to work as his driver on April 19, 2017.[16]

At the time, Pedro confirmed that he was also aboard the same jeepney with Bejan.[17] However, they both denied that Bejan was negligent in driving the vehicle. According to them, it was Johann who was negligent for he was highly intoxicated while he drove on the wrong side of the road and with a low light.[18]

More, both Pedro and Bejan argued that Johann tested positive for alcoholic breath at the time of the incident proving that his act was the proximate cause of his own death.[19]

In its Decision,[20] the RTC ruled in favor of Virginia, the dispositive portion of which states:

> **WHEREFORE**, in view of the foregoing, judgment is hereby rendered ordering Defendants BEJAN MORA SEMILLA and PEDRO DE BELEN to pay, jointly and severally, Plaintiff the following:

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12 *Id.*
13 *Id.*
14 *Id.* at 71–75.
15 *Id.* at 48–49.
16 *Id.* at 164.
17 *Id.*
18 *Id.* at 49.
19 *Id.*
20 *Id.* at 161–176.

> (a) civil indemnity in the amount of Fifty Thousand Pesos ([PHP] 50,000.00);
> (b) actual damages in the amount of One Million Six Hundred Forty-One Thousand Eight Hundred Sixty-Five Pesos and Twelve Centavos ([PHP] 1,641,865.12);
> (c) Moral damages in the amount of Eighty Thousand Pesos ([PHP] 80,000.00); and
> (d) Temperate damages in the amount of Ten Thousand Pesos ([PHP] 10,000.00).
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> **SO ORDERED**.[21] (Emphasis in the original)

The RTC found that Bejan's reckless driving was the proximate cause of Johann's death.[22] Being Bejan's employer, Pedro was found vicariously liable under Article 2180 of the Civil Code. More, the RTC held that Pedro failed to prove that he exercised due diligence of a good father of a family in selecting Bejan and engaging his services as a driver, as he merely relied on Bejan's competence based on his driver's license and other certifications that he can drive and the fact that he had been his driver for a long time.[23]

Initially, Virginia sought to be paid damages representing Johann's loss of earning capacity. Although generally, this has to be proven by multiplying the life expectancy by the net earnings of the deceased, Virginia argued that Johann fell under the exception to the rule, as he was self-employed and earned less than the minimum wage under current labor laws,[24] and that Johann was a businessman/contractor and/or an employee by occupation.[25] Nonetheless, as no documentary evidence was presented regarding the actual income he derived from his business, the RTC did not consider Virginia's testimony as regards the same.[26]

The RTC then awarded actual damages for the medical expenses incurred for Johann's treatment in the amount of PHP 1,641,865.12,[27] civil indemnity in the amount of PHP 50,000.00, moral damages in the amount of PHP 80,000.00, and temperate damages in the amount of PHP 10,000.00

Aggrieved, Pedro and Bejan filed an appeal before the CA.[28]

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[21] *Id.* at 176.
[22] *Id.* at 171.
[23] *Id.* at 172.
[24] *Id.* at 174.
[25] *Id.*
[26] *Id.*
[27] *Id.* at 175.
[28] *Id.* at 50.

In its assailed Decision,[29] the CA affirmed the RTC's ruling, adding the imposition of the applicable interest rate on the total monetary award of 6%. The dispositive portion of the Decision states:

> **WHEREFORE**, the appeal is **DENIED** for lack of merit. The Decision dated 4 June 2019 of the Regional Trial Court, Branch 38, Boac, Marinduque in Civil Case No. 17-8 is hereby **AFFIRMED** with **MODIFICATION** that the total monetary award shall earn interest at a rate of six percent (6%) per *annum* from the finality of the *Decision* until fully paid.
>
> **SO ORDERED**.[30] (Emphasis in the original)

Pedro and Bejan moved for reconsideration but this was denied by the CA in its Resolution.[31]

Hence, this Petition.

Bejan contends that he was not negligent in driving the passenger jeepney rather, it was Johann who was the one at fault and encroached on their lane.[32] More, he insists that Johann was heavily intoxicated when he was driving his tricycle.[33]

Pedro, on the other hand, disputes his vicarious liability on account of his due diligence in engaging Bejan's services as the driver of the passenger jeepney based on the latter's driver's license and certifications.[34]

Issue

The question for this Court's resolution is whether the CA erred in finding Pedro de Belen and Bejan Mora Semilla civilly liable on account of the death of Johann Gruber Fuchs, Jr.

This Court's Ruling

We affirm the CA Decision with modification.

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[29] *Id.* at 46–66.
[30] *Id.* at 65.
[31] *Id.* at 68–70.
[32] *Id.* at 33.
[33] *Id.* at 34.
[34] *Id.* at 35.

As a rule, this Court cannot pass upon petitions *sans* any whimsical or capricious exercise of judgment by the lower courts or an ample showing that they lacked basis for their conclusions.

In *NGEI Multi-Purpose Cooperative, Inc. v. Filipinas Palmoil Plantation Inc.*,[35] this Court held that:

> **[O]nly questions of law may be brought by the parties and passed upon by this Court in the exercise of its power to review. Also, judicial review by this Court does not extend to a reevaluation of the sufficiency of the evidence** upon which the proper [...] tribunal has based its determination.[36] (Emphasis in the original)

Thus, the review of appeals filed before this Court is not a matter of right, but of sound judicial discretion under Section 6, Rule 45 of the Rules of Court.[37] However, the rule that this Court is not a trier of facts is not absolute and is subject to exceptions. In *Pascual v. Burgos*,[38] we enumerated the following exceptions:

> (1) When the conclusion is a finding grounded entirely on speculation, surmises[,] or conjectures; (2) When the inference made is manifestly mistaken, absurd[,] or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[39] (Citation omitted)

A close reading of the Petition would show that the issues raised, particularly as to who was negligent between the parties and who was the proximate cause of the collision resulting in the injuries and the death of Johann, as well as damage to property, are all factual in nature.

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[35] 697 Phil. 433 (2012) [Per J. Mendoza, Third Division].

[36] *Id.* at 441.

[37] RULES OF COURT, Rule 45, sec. 6 states:
SECTION 6. Review discretionary. — A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered:
(a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
(b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.

[38] 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

[39] *Id.* at 182–183.

Yet, even assuming the Petition falls under the exceptions, it still fails to persuade.

The RTC and the CA were unanimous in finding that Bejan's negligence in recklessly driving was the proximate cause of the collision of the passenger jeepney and the tricycle and which resulted in Johann's death.

In *ANECO v. Balen*,[40] this Court defined negligence in the following manner:

> Negligence is defined as the failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, by reason of which such other person suffers injury. The test to determine the existence of negligence in a particular case may be stated as follows: Did the defendant in the performance of the alleged negligent act use reasonable care and caution which an ordinary person would have used in the same situation? If not, then he is guilty of negligence. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that norm.[41] (Citation omitted)

On the other hand, proximate cause is defined as that which, in a natural and continuous sequence, unbroken by any new cause, produces an event, without which the event would not have occurred.[42]

Here, the CA found that the passenger jeepney and the tricycle were traversing on opposite sides of the road when they met head-on. Noteworthy, however, is the fact that the road they were both on was curved.[43]

At the time, the investigation report of Police Officer III Christopher Frianela (*PO3 Frianela*) revealed that Bejan drove the passenger jeepney encroaching upon the lane on the other side of the road where the tricycle was situated. This resulted in the accident.[44]

This is further supported by the position of the damages sustained from the point of the collision: for the passenger jeepney, in its frontal area, and for the tricycle, at its left side.[45]

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[40] 620 Phil. 485 (2009) [Per J. Nachura, Third Division].
[41] *Id.* at 490.
[42] 807 Phil. 317, 320 (2017) [Per J. Bersamin, Third Division].
[43] *Rollo*, p. 52.
[44] *Id.* at 53.
[45] *Id.*

As discussed by the CA:

> Based on the sketch prepared by PO3 Cristopher S. Frianela (PO3 Frianela), at the possible point of impact, the tricycle had already negotiated the curve of the road on its proper lane (on the inner curve) while the passenger jeepney was just entering the curved road but occupied a portion of the lane of the tricycle (inner curve). PO3 Frianela concluded that the collision was the fault of defendant-appellant [Bejan] after observing the relative positions of the passenger jeepney and the tricycle after the impact.
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> . . . .
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> In addition, based from the Police Blotter detailing the damage sustained by each vehicle, the points of collision appear to be the left front side of the passenger jeepney and the left side of the tricycle, thus:
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> > [...] Na ang nasabing jeep ay nasira ng kaliwang tapaludo[,] nabasag ang kaaliwang salamin at na damage ang kaliwan[g] pinto nito. Na ang nasabing tricycle ay nasira ang manibela, nayupi ang bubong[,] at nasira ang kaliwang bahagi ng tricycle. xxx
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> . . . .
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> In addition, PO3 Frianela noted that when he arrived, the tricycle had not been moved and was where it was at the time of impact, with Johann still inside it. The tricycle's position showed that it was on its proper land which belies defendant-appellant [Bejan]'s claim that it was Johann's tricycle which encroached on the passenger jeepney's lane.[46]

Additionally, PO3 Frianela's Sinumpaang Salaysay revealed that when he arrived at the scene, Bejan and Pedro already moved the passenger jeepney from its original position or from where the collision occurred.[47]

As held by the RTC, in altering the jeepney's position well before an investigation was had, Pedro and Bejan's intentions then became dubious. Likewise, this controverts their claims that they were not negligent and that it was Johann who was the negligent driver and his negligence, the proximate cause of the accident.[48]

Moreover, Article 2185 of the Civil Code states that 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.[49]

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[46] *Id.* at 53–54.
[47] *Id.* at 53.
[48] *Id.* at 54.
[49] 661 Phil. 99, 100 (2011) [Per J. Peralta, Second Division].

Under Section 37[50] of Republic Act No. 4136,[51] otherwise known as the Land Transportation and Traffic Code, all motorists are mandated to drive and operate vehicles on the right side of the road or highway. Here, at the time of the incident, Bejan was driving on the right side of the lane, but he violated the same law when he encroached on the outer left lane while driving through the curved road, and is thus presumed negligent. Therefore, there exists a basis in finding that Bejan's negligent driving, coupled with his speeding, was the proximate cause of the collision that resulted in Johann's death.

Next, this Court upholds the finding of the CA that Johann's declaration to Virginia that "I have no chance, the jeepney was so fast and took my lane" formed part of the *res gestae*.

In *People v. Vargas*,[52] this Court held:

> A declaration is deemed part of the *res gestae* and is admissible in evidence as an exception to the hearsay rule provided that: (1) the principal act, the *res gestae*, is a startling occurrence; (2) the statements were made before the declarant had time to contrive or devise; and (3) the statements must concern the occurrence in question and its immediately attending circumstances.[53] (Citation omitted)

All the requisites for *res gestae* are present: the collision is the startling occurrence, Johann's statement to Virginia was made shortly after the happening of the startling occurrence, and it concerned the collision. Taking these into consideration, it supports the conclusion of the RTC and the CA that Bejan was speeding at the time of the accident.

Pedro and Bejan's self-serving statements that Johann was the one who encroached on their lane failed to trump the totality of the evidence presented showing that it was Bejan, and not Johann, who was negligent.

At this juncture, this Court clarifies the basis for Pedro's liability. Both the RTC and the CA held that Pedro is vicariously liable with Bejan, as his employer, under Article 2180 of the Civil Code. However, We find that Pedro is liable under Article 2184 of the same Code.

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[50] Republic Act No. 4136, art. I, sec. 37 states:
Section 37. *Driving on right side of highway.* – Unless a different course of action is required in the interest of the safety and the security of life, person or property, or because of unreasonable difficulty of operation in compliance herewith, every person operating a motor vehicle or an animal-drawn vehicle on a highway shall pass to the right when meeting persons or vehicles coming toward him, and to the left when overtaking persons or vehicles going the same direction, and when turning to the left in going from one highway to another, every vehicle shall be conducted to the right of the center of the intersection of the highway.

[51] An Act to Compile the Laws Relative to Land Transportation and Traffic Rules, To Create Land Transportation Commission and for Other Purposes, June 20, 1964.

[52] 863 Phil. 541 (2019) [Per Acting C.J. Carpio, Second Division].

[53] *Id.* at 555.

The concept of vicarious liability or imputed negligence under civil law is embedded in Article 2180, in relation to Article 2176, where an employer, whose employee commits an act or omission causing damage or injury to another, may nevertheless be held civilly liable:

> ART. 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 so pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.
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> ART. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.
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> . . . .
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> Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned task, even though the former are not engaged in any business or industry, unless said employers can prove that they observed all the diligence of a good father of a family to prevent damage.

Effectively, under Article 2180 in relation to Article 2176 of the Civil Code, it is the employer who becomes primarily liable for the acts of the employee should damages result from an act within the scope of their assigned task.

The employer's liability is based on their negligence in supervision and authority.[54] It is not conditioned upon the insolvency of, or prior recourse against, the negligent employee. To rebut this, employers can prove that they observed the diligence of a good father of a family to absolve themselves from liability, though they are not engaged in any business or industry.

This differs from the solidary liability of joint tortfeasors under Article 2194[55] of the Civil Code when two or more persons are found responsible and liable for the commission of a quasi-delict. In *Go v. Cordero*,[56] joint tortfeasors are defined as:

> [A]ll the persons who command, instigate, promote, encourage, advise, countenance, cooperate in, aid or abet the commission of a tort, or who approve of it after it is done, if done for their benefit. **They are each liable as principals, to the same extent and in the same manner as if they had performed the wrongful act themselves.**[57] (Emphasis in the original)

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[54] *Bahia v. Litonjua*, 30 Phil. 624, 627 (1915) [Per J. Moreland, *En Banc*].

[55] CIVIL CODE OF THE PHILIPPINES, art. 2194 states:
Art. 2194. The responsibility of two or more persons who are liable for quasi-delict is solidary.

[56] 634 Phil. 69 (2010) [Per J. Villarama, Jr., First Division].

[57] *Id.* at 101.

Owing to the nature of their liability, any or all the joint tortfeasors may be sued by the injured party and each of them becomes liable for the whole damage or injury caused by all of them.[58]

Specifically, in cases of motor vehicle mishaps, Article 2180 of the Civil Code must be read in conjunction with Section 5(a) of Republic Act No. 4136.

Under the registered owner rule, if a motor vehicle driven by a person other than the registered owner causes an accident resulting in the death or injuries of another, it is the registered owner who is viewed by the law as the tortfeasor-driver's employer and is likewise made primarily liable for the tort committed by the latter.

But, unlike Article 2180, in relation to Article 2176 of the Civil Code, there is no need to determine whether there are existing employer-employee relations between the tortfeasor-driver and the employer in Article 2184.

This Court harmonized the application of Articles 2176 and 2180 of Civil Code as regards the registered owner rule in *Caravan Travel and Tours International, Inc. v. Abejar*[59] as follows:

> These rules appear to be in conflict when it comes to cases in which the employer is also the registered owner of a vehicle. Article 2180 requires proof of two things: first, an employment relationship between the driver and the owner; and second, that the driver acted within the scope of his or her assigned tasks. On the other hand, applying the registered-owner rule only requires the plaintiff to prove that the defendant-employer is the registered owner of the vehicle.
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> The registered-owner rule was articulated as early as 1957 in *Erezo, et al. v. Jepte*, where this court explained that the registration of motor vehicles, as required by Section 5(a) of Republic Act No. 4136, the Land Transportation and Traffic Code, was necessary "not to make said registration the operative act by which ownership in vehicles is transferred, . . . but to permit the use and operation of the vehicle upon any public highway[.]" Its "main aim . . . is to identify the owner so that if any accident happens, or that any damage or injury is caused by the vehicle on the public highways, responsibility therefor can be fixed on a definite individual, the registered owner."
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> *Aguilar, Sr. v. Commercial Savings Bank* recognized the seeming conflict between Article 2180 and the registered-owner rule and applied the latter.

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[58] *Chan, Jr. v. Iglesia ni Cristo, Inc.*, 509 Phil. 753, 762 (2005) [Per J. Chico-Nazario, Second Division].

[59] 780 Phil. 509 (2016) [Per J. Leonen, Second Division].

. . . .

Preference for the registered-owner rule became more pronounced in *Del Carmen, Jr. v. Bacoy*.

. . . .

Filcar Transport Services v. Espinas stated that the registered owner of a vehicle can no longer use the defenses found in Article 2180:

. . . .

Mendoza v. Spouses Gomez reiterated this doctrine.

However, *Aguilar, Sr., Del Carmen, Filcar*, and *Mendoza* should not be taken to mean that Article 2180 of the Civil Code should be completely discarded in cases where the registered-owner rule finds application.

As acknowledged in *Filcar*, there is no categorical statutory pronouncement in the Land Transportation and Traffic Code stipulating the liability of a registered owner. The source of a registered owner's liability is not a distinct statutory provision, but remains to be Articles 2176 and 2180 of the Civil Code:

> While Republic Act No. 4136 or the Land Transportation and Traffic Code does not contain any provision on the liability of registered owners in case of motor vehicle mishaps, Article 2176, in relation with Article 2180, of the Civil Code imposes an obligation upon Filcar, as registered owner, to answer for the damages caused to Espinas' car.

Thus, it is imperative to apply the registered-owner rule in a manner that harmonizes it with Articles 2176 and 2180 of the Civil Code. Rules must be construed in a manner that will harmonize them with other rules so as to form a uniform and consistent system of jurisprudence. In light of this, the words used in *Del Carmen* are particularly notable. There, this court stated that Article 2180 'should defer to' the registered-owner rule. It never stated that Article 2180 should be totally abandoned.

Therefore, the appropriate approach is that in cases where both the registered-owner rule and Article 2180 apply, the plaintiff must first establish that the employer is the registered owner of the vehicle in question. Once the plaintiff successfully proves ownership, there arises a disputable presumption that the requirements of Article 2180 have been proven. As a consequence, the burden of proof shifts to the defendant to show that no liability under Article 2180 has arisen.[60] (Emphasis supplied and citations omitted)

Hence, under Article 2180 of the Civil Code and the registered owner rule, the liability of employers is primary and solidary with that of their employees.

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[60] *Id.* at 531, 533–536.

On the other hand, there are instances under the law where the liability of an employer is subsidiary. In *Pajarito v. Señeris*,[61] We discussed the liability of employers arising from the civil liability of a defendant resulting from a crime:

> Pursuant to Article 103, in relation to Article 102, of the Revised Penal Code, an employer may be subsidiary liable for the employee's civil liability in a criminal action when: (1) the employer is engaged in any kind of industry; (2) the employee committed the offense in the discharge of his duties; and (3) he is insolvent and has not satisfied his civil liability. [2] The subsidiary civil liability of the employer, however, arises only after conviction of the employee in the criminal case. In *Martinez v. Barredo*, this Court ruled that a judgment of conviction sentencing a defendant employee to pay an indemnity in the absence of any collusion between the defendant and the offended party, is conclusive upon the employer in an action for the enforcement of the latter's subsidiary liability.[62] (Citation omitted)

Under Article 103 of the Revised Penal Code, the liability of an employer is merely subsidiary, meaning, they assume the liability of their employees only upon the latter's death or incapacity. This presupposes the recovery of civil liability based on delict. In this case, Article 103 does not apply considering that Virginia chose to pursue an independent civil action based on a quasi-delict.

More notably, actions based on Article 2180 apply only if the employer is not in the vehicle with the employee; otherwise, it is Article 2184 of the Civil Code which is the applicable law, *viz.*:

> Art. 2184. In motor vehicle mishaps, the owner is solidarily liable with his driver, if the former, who was in the vehicle, could have, by the use of the due [sic] diligence, prevented the misfortune. It is disputably presumed that a driver was negligent, if he had been found guilty of reckless driving or violating traffic regulations at least twice within the next preceding two months.
>
> If the owner was not in the motor vehicle, the provisions of Article 2180 are applicable.

Article 2184 of the Civil Code speaks of a situation where the owner is in the vehicle. In such a case, the owner becomes solidarily liable for damages caused by their negligent driver except if they could show that they could not prevent the misfortune even with the use of due diligence. On the other hand, in a situation where the owner is not in the motor vehicle, they become vicariously liable for damages caused by an employee acting within the scope of their assigned task except if the owner shows that they observed the diligence of a good father of a family to prevent damage.

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[61] 176 Phil. 592 (1978) [Per J. Antonio, Second Division].
[62] *Id.* at 598.

In expounding Article 2184 of the Civil Code, former Senator Arturo M. Tolentino[63] explained that the first line of the provision, which was a relatively new provision under our present Civil Code, was first conceptualized in *Chapman v. Underwood*,[64] thus:

> Although in the *David* case[,] the owner of the vehicle was not present at the time the alleged negligent acts were committed by the driver, the same rule applies where the owner is present, unless the negligent acts of the driver are continued for such a length of time as to give the owner a reasonable opportunity to observe them and to direct his driver to desist therefrom. An owner who sits in his automobile, or other vehicle, and permits his driver to continue in a violation of the law by the performance of negligent acts, after he has had a reasonable opportunity to observe them and to direct that the driver cease therefrom, becomes himself responsible for such acts. The owner of an automobile who permits his chauffeur to drive up the Escolta, for example, at a speed of 60 miles an hour, without any effort to stop him, although he has had a reasonable opportunity to do so, becomes himself responsible, both criminally and civilly, for the results produced by the acts of the chauffeur. On the other hand, if the driver, by a sudden act of negligence, and without the owner having a reasonable opportunity to prevent the act or its continuance, injures a person or violates the criminal law, the owner of the automobile, although present therein at the time the act was committed, is not responsible, either civilly or criminally, therefor. The act complained of must be continued in the presence of the owner for such a length of time that the owner, by his acquiescence, makes his driver act his own.[65]

Additionally, former Associate Justice Edgardo Paras deemed it worthy to note the difference in the motor vehicle owner's responsibility when he or she was in the vehicle, or was not, as in Article 2184 of the Civil Code, the law compels them to be an intelligent "back-seat driver."[66]

Applying the foregoing, we find that Article 2184 of the Civil Code is the applicable law in the case at bar.

It remains undisputed that at the time of the collision, Pedro was the owner and operator of the passenger jeepney and was aboard the same on April 19, 2017. Pedro himself admitted that he hired Bejan to be the driver of his jeep for that particular day. These were stipulated during pre-trial.[67]

Being the owner of the vehicle and able to observe the condition of the road and the vehicle being driven, Pedro should have called out Bejan to slow down or advised him that he was about to encroach on the opposite lane,

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[63] Arturo M. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, p. 625 (1992).

[64] 27 Phil. 374 (1914) [Per J. Moreland, *En Banc*].

[65] *Id.* at 376–377.

[66] Edgardo L. Paras, CIVIL CODE OF THE PHILIPPINES ANNOTATED, Volume V, Part II, Nineteenth Edition, p. 493 (2021).

[67] *Rollo*, p. 164.

particularly as they were traversing a curved road at nighttime, to have avoided the accident from occurring in the first place.

Equally significant is the fact that Pedro did not testify as to the circumstances of the accident for only Bejan was presented during trial.[68] By way of defense, Pedro remains firm that he acted with due diligence of a good father of a family in hiring Bejan, relying on the following Certifications[69] to prove the latter's competence, to wit:

(a) Professional Driver's License no. D0381003336;
(b) Certificate of Training on Maintenance and Operation, Sides Fire Truck (October 31, 1992);
(c) Certificate in Risk Assessment/Accident Prevention Training Session ([February 08, 2004]);
(d) Certificate of Attendance in Operation and Return to Service for the Magnum Rapid Intervention Vehicle ([May 05, 2007])
(e) Certificate of Employment as Driver / Driver, Heavy Vehicle-ABV Rock Group KB;
(f) Letter of Recommendation as Crew Chief's/Team Leaders For Best Quality Work ([August 2, 2006]); and
(g) Certificate of Recognition issued by Dolphin Energy.[70] (Citations omitted)

However, these documents do not show that Pedro could not have prevented the accident even if he exercised due diligence. As Pedro was inside the vehicle with his driver, it was incumbent upon him to prove the acts taken by him to prevent the accident, especially under the prevailing circumstances at the time. Simply put, it is not enough for him to solely rely on the qualifications of his driver as the present case is not a situation where the owner is not in the motor vehicle.

This must be differentiated from *Caedo v. Yue Ke Thai*,[71] where the circumstances did not require the car owner to be in any special state of alert. In *Caedo*, the collision between the respondent's driver and a third person occurred at daytime and on a road without traffic. Further, their car was operated by the driver at a normal speed. This Court explained:

> In the present case[,] the defendants' evidence is that Rafael Bernardo had been Yu Khe Thai's driver since 1937, and before that had been employed by Yutivo Sons Hardware Co. in the same capacity for over ten years. During that time he had no record of violation of traffic laws and regulations. No negligence for having employed him at all may be imputed to his master. Negligence on the part of the latter, if any, must be sought in the immediate setting and circumstances of the accident, that is, in his failure to detain the driver from pursuing a course which not only gave him clear

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68 *Id.*
69 *Id.* at 121–127.
70 *Id.* at 35–36.
71 135 Phil. 399 (1968) [Per J. Makalintal, *En Banc*].

> notice of the danger but also sufficient time to act upon it. We do not see that such negligence may be imputed. The car, as has been stated, was not running at an unreasonable speed. The road was wide and open, and devoid of traffic that early morning. There was no reason for the car owner to be in any special state of alert. He had reason to rely on the skill and experience of his driver. He became aware of the presence of the *carretela* when his car was only twelve meters behind it, but then his failure to see it earlier did not constitute negligence, for he was not himself at the wheel[.][72]

Thus, pursuant to Article 2184 of the Civil Code, this Court finds Pedro, as the employer present in the same vehicle as his employee-driver, solidarily liable with Bejan for the payment of the monetary awards to the victim's heirs.

As to the damages, this Court upholds the award of actual damages by the RTC and the CA. During trial, Virginia presented a Waiver Form for Directly Filed Claims issued by St. Luke's Medical Center – Global City amounting to PHP 1,641,865.12 as incurred hospital expenses. Although this was the only document presented as proof of actual damages, its due execution and the amount stated therein were admitted during trial.[73]

We also uphold the civil indemnity award of PHP 50,000.00 for the death of the victim. Civil or death indemnity is mandatory and granted to the heirs of the victim without the need of proof other than the commission of the crime. At present, the amount of the indemnity is fixed at PHP 50,000.00.[74]

With regard to the award of moral damages worth PHP 80,000.00, Article 2206(3)[75] of the Civil Code expressly grants moral damages for mental anguish due to the death of the deceased, in addition to the award of civil indemnity. Thus, the same award was also proper.[76]

However, this Court deletes the temperate damages in the amount of PHP 15, 000.00 awarded to Virginia which was originally granted by the RTC to repair the tricycle driven by Johann.[77] As Pedro and Bejan's claim for actual damages was duly proven, temperate damages should no longer be awarded.

Lastly, we affirm the legal interest of 6% per annum on the damages awarded herein, from the time this Decision becomes final and executory until it is wholly satisfied.

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72 *Id.* at 404–405.

73 *Rollo*, p. 63.

74 *Torreon v. Aparra*, 822 Phil. 561, 595 (2017) [Per J. Leonen, Third Division].

75 CIVIL CODE, art. 2206(3) states:
Art. 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:
. . . .
3) The spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased.

76 *Rollo*, p. 64.

77 *Id.* at 175.

ACCORDINGLY, the Petition is **DENIED**. The Decision dated February 10, 2021 and the Resolution dated December 9, 2021 of the Court of Appeals in CA-G.R. CV No. 114183 are hereby **AFFIRMED WITH MODIFICATION**. Pedro de Belen and Bejan Mora Semilla are solidarily liable for the payment of the following amounts to the heirs of Johann Gruber Fuchs, Jr.:

(a) Civil indemnity in the amount of PHP 50,000.00;
(b) Actual damages in the amount of PHP 1,641,865.12; and
(c) Moral damages in the amount of PHP 80,000.00.

The total amount adjudged shall earn an interest rate of 6% per annum from the finality of this Decision until fully paid.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice

(on official business)
AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the 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.

ALEXANDER G. GESMUNDO
Chief Justice