

Barredo v. Garcia and Almario in Perspective

Ignacio S. Sapalo

30 *ATENEO L.J.* 69 (1986)

SUBJECT(S): CIVIL

KEYWORD(S): QUASI-DELICT, SUBSIDIARY LIABILITY, *BARREDO V. GARCIA*

The case of *Barredo v. Garcia* (73 Phil. 607 (1942)) involves a 16-year old boy, one of the passengers of a *caretela*, who died as a result of a collision with a recklessly driven taxi. In the criminal action, the parents of the victim reserved their right to file a separate civil action. After conviction of the driver with the charge of homicide thru reckless imprudence, they proceeded to file a separate civil action against the taxi-owner based on Article 2180 of the New Civil Code. The taxi-driver met this with the argument that the driver having been convicted of criminal negligence, Article 100 in relation to Articles 102-03 of the Revised Penal Code should govern his liability, which, pursuant to said provisions is only subsidiary, but since the driver has not been sued in a civil action and his property not yet exhausted, the plaintiffs have no recourse against him.

The Court, in said case, ruled in favor of the plaintiff, holding that a quasi-delict is “a separate legal institution under the Civil Code, with a substantivity all its own, and individuality that is entirely apart and independent from a delict or crime.”

The Comment thus analyzes related decisions on the matter of interpreting and applying *Barredo* and Article 2177 of the New Civil Code, which include: *Diana v. Batangas* (93 Phil. 391 (1953)), *Jacson v. Glorioso* (22 SCRA 316 (1968)), *Mendoza v. La Mallorca* (82 SCRA 243 (1978)), and *Padua v. Robles* (66 SCRA 485 (1975)) on the one hand, and *Tactaquin v. Palileo* (21 SCRA 346 (1967)) on the other.

The Author concludes by stating that the doctrine in *Barredo* is meritorious but is susceptible to improvement, in effect, posing a challenge to legislators.