Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

UNKNOWN OWNER OF THE VESSEL M/V CHINA JOY, SAMSUN SHIPPING LTD., and INTER-ASIA MARINE TRANSPORT, INC.,
Petitioners,

- versus -

ASIAN TERMINALS, INC.,
Respondent.

G.R. No. 195661

Present:

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

Promulgated:

March 11, 2015

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RESOLUTION

REYES, *J.*:

The instant petition for review on *certiorari*[1] assails the Decision[2] dated November 10, 2010 and Resolution[3] dated February 14, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 93164. The CA reversed and set aside the Decision[4] dated January 30, 2009 of the Regional Trial Court (RTC) of Manila, Branch 51, in Civil Case No. 99-93067, which dismissed for insufficiency of evidence the complaint for damages[5] filed by herein respondent Asian Terminals, Inc. (ATI) against Unknown Owner of the Vessel M/V China Joy (shipowner),[6] Samsun Shipping Ltd. (Samsun) and

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[1] *Rollo*, pp. 9-19.

[2] Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Hakim S. Abdulwahid and Samuel H. Gaerlan concurring; id. at 23-42.

[3] Id. at 44.

[4] Issued by Judge Gregorio B. Clemeña, Jr.; id. at 193-200.

[5] Id. at 46-50.

[6] Subsequently identified as Trans-Pacific Shipping Company, with address at 3200 N.W. Yeon Avenue, Portland, Oregon, United States of America, id. at 92.

Inter-Asia Marine Transport, Inc. (Inter-Asia) (petitioners).

The CA aptly summed up the facts of the case as follows:

On 25 January 1997, the cargo ship M/V "China Joy" (**the Vessel**) arrived at the Mariveles Grain Terminal Wharf, operated by plaintiff [**ATI**].

According to the Berth Term *Grain Bills of Lading*, the Vessel carried soybean meal that had been shipped by ContiQuincyBunge L.L.C[.] (**ContiQuincyBunge**), an exporter of soybean meal and related products, in favor of several consignees in the Philippines.

Under the *Charter Party Agreement* over M/V "China Joy," ContiQuincyBunge represented itself as the Charterer of the Vessel, with San Miguel Foods, Inc. as Co-Charterer, and defendant [**Samsun**] represented itself as the Agent of the Shipowners. Samsun is a foreign corporation not doing business in the Philippines.

On 3 February 1997[,] ATI used its Siwertell Unloader No. 2 to unload the soybean meal from the Vessel's Hold No. 2. The Siwertell Unloader is a pneumatic vacubator that uses compressed gas to vertically move heavy bulk grain from within the hatch of the ship in order to unload it off the ship.

The unloading operations were suddenly halted when the head of Unloader No. 2 hit a flat low-carbon or "mild" steel bar measuring around 8 to 10 inches in length, 4 inches in width, and 1 ¼ inch in thickness that was in the middle of the mass of soybean meal. The flat steel bar lodged itself between the vertical screws of Unloader No. 2, causing portions of screw numbers 2 and 3 to crack and be sheared off under the torsional load.

According to the quotation of BMH Marine AB Sweden, the sole manufacturer of Siwertell unloaders, the replacement cost of each screw is US$12,395.00 or US$24,790.00 for the 2 screws plus freight. The labor cost to remove and re-assemble the screws is estimated at US$2,000.00.

On 4 February 1997, ATI sent a *Note of Protest* to the Master of the Vessel for the damages sustained by its unloading equipment as a result of encountering the flat steel bar among the soybean meal. However, the Vessel's Master wrote a note on the *Protest* stating that it is not responsible for the damage because the metal piece came from the cargo and not from the vessel itself.

On 5 March 1997, ATI sent a claim to defendant [**Inter-Asia**] for the amount of US$37,185.00 plus US$2,000.00 labor cost representing the damages sustained by its unloading equipment.

Inter-Asia rejected ATI's claim for the alleged reason that it is not the Shipowner's Agent. Inter-Asia informed ATI that its principal is Samsun. Moreover, according to Inter-Asia, the owner of the Vessel is Trans-Pacific Shipping Co., c/o Lasco Shipping Company. Inter-Asia, however, offered to relay ATI's claim to Trans-Pacific through Samsun.

> As previously noted, the *Charter Party Agreement* states Samsun to be the Agent of the Shipowners, but since Samsun is a foreign corporation not licensed to do business in the Philippines, it transacted its business through Inter-Asia. Hence, Inter-Asia is the Agent of the Agent of the Shipowners.
>
> When negotiations for settlement failed, ATI filed the instant *Complaint* for Damages against Samsun, Inter-Asia and the "Unknown Owner of the Vessel M/V 'China Joy'" on 9 March 1999.
>
> In the joint *Answer*, Inter-Asia reiterated that it is not the Agent of the Shipowners. Defendants further averred that the soybean meal was shipped on board the M/V "China Joy" under a Free-In-and-Out-Stowed-and-Trimmed (FIOST) Clause, which supposedly means that the Shipper/Charterer itself (ContiQuincyBunge LLC) loaded the cargo on board the Vessel, and the latter and her complement had no participation therein except to provide the use of the Vessel's gear. Similarly, under the FIOST clause, the discharge of the cargo was to be done by the consignees' designated personnel without any participation of the Vessel and her complement.
>
> Defendants argued that since the metal foreign object was found in the ***middle*** of the cargo, it could not have come from the ***bottom*** of the hatch because the hatch had been inspected and found clean prior to loading. Defendants further averred that neither could the metal bar have been part of the Vessel that had broken off and fallen into the hatch because tests conducted on the metal piece revealed that said metal bar was not part of the Vessel.
>
> Defendants concluded that the metal bar could only have been already co-mingled with the soybean meal upon loading by ContiQuincyBunge at loadport, and, therefore, defendants are not liable for the damages sustained by the unloader of ATI.[7] (Citations omitted)

Rulings of the RTC and CA

On January 30, 2009, the RTC rendered a Decision[8] dismissing ATI's complaint for insufficiency of evidence. The RTC explained that while the damage to ATI's Siwertell Unloader No. 2 was proven, "[t]he *Court is at a quandary as to who caused the piece of metal to* [*co-mingle*] *with the shipment*."[9]

ATI thereafter filed an appeal,[10] which the CA granted through the herein assailed decision, the dispositive portion of which partially states:

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7 Id. at 23-27.
8 Id. at 193-200.
9 Id. at 199.
10 Id. at 203-237.

> ***WHEREFORE***, the appeal is ***GRANTED,*** x x x. Defendants-appellees are found jointly and severally liable to [ATI] for the amount of US$30,300.00 with interest thereon at 6% per annum from the filing of the *Complaint* on 9 March 1999 until the judgment becomes final and executory. Thereafter, an interest rate of 12% per annum shall be imposed until the amount is fully and actually paid.
>
> ***SO ORDERED***.[11]

The CA explained its ruling, *viz*:

> As a rule of evidence, the doctrine of *res ipsa loquitur* is peculiar to the law of negligence which recognizes that *prima facie* negligence may be established ***without direct proof*** and furnishes a substitute for specific proof of negligence.
>
> x x x x
>
> We find the application of the doctrine of *res ipsa loquitur* to be appropriate in the case at bar.
>
> First. Since the cargo to be unloaded was free-flowing soybean meal in bulk, ATI correctly used a pneumatic vacubator unloader to extract the soybean meal from the holds. Under normal unloading procedures of bulk grain, it is not expected that a metal foreign object would be among the grain to be unloaded. x x x.
>
> Such an accident does not occur in the ordinary course of things, unless the loading of the soybean meal at loadport was mismanaged in some way that allowed a metal foreign object to be co-mingled with the soybean meal cargo.
>
> *Second*. The damage to the vertical screws of ATI's unloader was caused by the presence of the metal bar among the soybean meal in Hold No. 2 of the ship: an instrumentality within the exclusive control of the shipowner.
>
> x x x According to defendants, "*the vessel and her complement had no participation in the loading and discharge of said bulk cargo except to provide use of the vessel's gear*."
>
> Defendants' argument is neither accurate nor meritorious. In the first place, the terms of the Charter Party in this case was not Free-In-and-Out-***Stowed-and-Trimmed*** [FIOST] but Free-In-and-***Spout-Trimmed***-and-Free-Out [FISTFO].
>
> x x x x
>
> x x x [I]t appears that the FIOST clause in a Charter Party Agreement speaks of who is to bear the ***cost*** or ***expense*** of loading, spout trimming and unloading the cargo. "Free In and Out" means that the shipowner is free from such expenses. This becomes clearer when the

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[11] Id. at 41.

FIOST clause is stipulated as an adjunct to the terms of payment of the freight rate.

x x x x

Being a provision for the apportionment of ***expense*** (as an exclusion from the rate of freight to be paid), the interpretation of the FIOST clause should not be extended to mean an apportionment of ***liability***, unless specified in clear and unambiguous terms.

While there are instances where a Charter Party Agreement clearly states that the Charterer will be liable to third parties for damages caused by its cargo (as in the case of spills of petroleum oil cargo, or of damage to third parties caused by toxic cargo), there is no such provision in this case. Therefore, liability or non-liability for such damage cannot be presumed from the FIOST clause alone, and the *Charter Party Agreement* must be closely scrutinized for the parties' intention on liability.

Clause 22 of the *Charter Party Agreement* states:

> "At loadport, the stevedores[,] although arranged by charterers, shippers, or their agents[, are] to be ***under the direction and control of the Master.*** All claims for damage allegedly caused by stevedores [are] to be settled between stevedores and Owners. Charterers shall render assistance to Owners to settle such damage in case of need."

x x x Clause 22 clearly states that ***loading shall be done under the direction and control of the Master***. Hence, if the metal bar that damaged ATI's unloader was inadvertently mixed into the soybean meal during loading, by express provision of the *Charter Party Agreement*, the cost of the damage should be borne by the shipowner because the loading was done under the supervision and control of the Master of the Vessel.

Hence, not only did defendants have ***presumed*** exclusive control of the Vessel during the loading of the soybean meal by reason of them being the owners or agents of the owners thereof, they also had ***actual*** exclusive control thereof by express stipulation in the *Charter Party Agreement* that the loading of the cargo shall be under the direction and control of the Master of the Vessel.

This is as it should be, considering that the charter in this case is a ***contract of affreightment*** by which the owner of a ship lets the whole or part of her to a merchant or other person for the conveyance of goods, on a particular voyage, in consideration of the payment of freight. The Supreme Court has held that if the charter is a contract of affreightment, ***the rights and the responsibilities of ownership rest on the owner.*** The charterer is free from liability to third persons in respect of the ship.

Third. There is neither allegation nor evidence in the record that ATI's negligence contributed to the damage of its unloader.

All 3 requisites of *res ipsa loquitur* being present, the presumption or inference arises that defendants' negligence was the proximate cause of the damage to ATI's unloader. The burden of evidence shifted to defendants to prove otherwise. Th[e] defendants failed to do so.

x x x x

Defendants' testimonial evidence consisted of the sole testimony of the former Operations Manager of Inter-Asia, who x x x on cross-examination, x x x admitted that he was not present at the loading of the cargo and, therefore, did not actually see that the soybean meal was free of any foreign metal object.

Defendants' evidence, which heavily relies on (1) their erroneous interpretation of the FIOST clause in the *Charter Party Agreement*; (2) the Master's unsupported allegation written on the *Note of Protest* that the metal bar did not come from the vessel; and (3) their witness' dubious interpretation that the notation "loaded clean" on the *Berth Term[ ]Grain Bills of Lading* means that the soybean meal had no foreign material included therein, does not present a satisfactory answer to the question: ***How did the metal bar get co-mingled with the soybean meal, and what did the Master of the Vessel do to prevent such an occurrence***? x x x.

By their failure to explain the circumstances that attended the accident, when knowledge of such circumstances is accessible only to them, defendants failed to overcome the *prima facie* presumption that the accident arose from or was caused by their negligence or want of care.

The *res ipsa loquitur* doctrine is based in part upon the theory that the defendant in charge of the instrumentality which causes the injury either ***knows the cause of the accident*** or ***has the best opportunity of ascertaining it*** and that the plaintiff has no such knowledge, and therefore is compelled to allege negligence in general terms and to rely upon the proof of the happening of the accident in order to establish negligence. x x x.

x x x x

The *prima facie* evidence of defendants' negligence, being unexplained and uncontroverted, is sufficient to maintain the proposition affirmed. Hence, the negligence of the Master of the Vessel is ***conclusively presumed*** to be the proximate cause of the damage sustained by ATI's unloader. Moreover, since the Master's liability is ultimately that of the shipowner because he is the representative of the shipowner, the shipowner and its agents are solidarily liable to pay ATI the amount of damages actually proved.

Articles 587 and 590 under Book III of the Code of Commerce provide for the liability of the shipowner and its agents for acts of the Master or Captain, as follows:

> Art. 587. ***The ship agent shall also be civilly liable for the indemnities in favor of third persons which may arise from the conduct of the captain in the care of the goods which he loaded on the vessel***; but he may exempt himself therefrom by abandoning the vessel with all her equipment and the freight it may have earned during the voyage.

> Art. 590. ***The co-owners of the vessel shall be civilly liable in the proportion of their interests in the common fund for the results of the acts of the captain referred to in Art. 587.***[12] (Citations omitted, italics and emphasis in the original, and underscoring ours)

Anent the amount of the herein petitioners' solidary liability, the CA found that only US$30,300.00 of ATI's claim is supported by evidence. The quotation submitted by the manufacturer of Siwertell unloaders indicated that (a) the replacement cost for the two damaged screws is US$24,790.00, (b) freight cost is US$3,510.00, and (c) labor cost in removing and re-assembling the screws is US$2,000.00.[13]

The CA, however, found no grounds to award attorney's fees in ATI's favor lest it be "*tantamount to imposing a premium on one's right to litigate*."[14]

The herein petitioners filed a motion for reconsideration before the CA, which denied the same through the Resolution issued on February 14, 2011.

Issues

The instant petition raises the questions of whether or not the CA erred in (a) applying the doctrine of *res ipsa loquitur*, and (b) rejecting the argument that "the petitioners had no participation in the loading and discharge of the bulk cargo except to provide use of the vessel's gear."[15]

In support thereof, the petitioners emphasize that the foreign metal object was found in the middle of the cargo. Hence, it is logical to conclude that the metal came in with the cargo and could not have fallen off from some appurtenance of the vessel before or after loading.[16] The petitioners likewise claim that because of the Free-In-and-Out Clause under which the cargo was carried, the charterer chose who were to effect the loading, unloading and discharge of the goods, which tasks were performed without the participation of the vessel and its complement.[17] Besides, notwithstanding Clause 22 of the Charter Party Agreement, the Master of the Vessel's control is figurative and pertains merely to the maintenance of the vessel's seaworthiness, and not to acts of covert negligence which could

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[12] Id. at 29-40.
[13] Id. at 40.
[14] Id. at 41.
[15] Id. at 12.
[16] Id. at 14.
[17] Id. at 15.

have been committed without even the charterer's own knowledge.[18] Further, while it is true that in a contract of affreightment, the charterer is free from liability to third persons in respect of the ship, in the instant petition, the offending factor which caused the damage was not the vessel, but the cargo itself, thus, the liability should instead rest upon the cargo owner, who was not even impleaded as a party to the case.[19] The doctrine of *res ipsa loquitur* hence finds application herein but in support of the petitioners' lack of culpability since they possessed neither the knowledge nor the opportunity of ascertaining the presence of the foreign metal object lodged in the middle of the soybean meal cargo.[20]

In its Comment,[21] ATI contends that "*the law does not distinguish between 'covert' and 'evident' negligence in determining whether the doctrine of res ipsa loquitur applies.*"[22] An unusual event occurred because proper care was not observed. The event took place in Hold No. 2 of M/V China Joy, which was within the shipowner's exclusive control. There is likewise no evidence of ATI's negligence, which could have contributed to the damage of its own unloader. Besides, ATI did not witness the loading of the soybean meal cargo into M/V China Joy at the Port of New Orleans, United States of America. Hence, ATI cannot furnish direct evidence on whether or not the hold or hatch containing the cargo was inspected and found clean prior to loading, and sealed thereafter.

ATI also asserts that the petitioners presented no evidence conclusively proving that the foreign metal object was indeed in the middle and not at the top or bottom of the soybean meal cargo. Moreover, the petitioners' only witness, Alejandro Gilhang, the former Operations Manager of Inter-Asia, admitted that he was not present during the loading, thus, he could not have seen if the cargo was free of any foreign metal object.[23]

ATI likewise points out that the petitioners have not explicitly quoted in verbatim any provision in the Charter Party Agreement, which the latter invoke to vaguely argue that the loading of the cargo pertains exclusively to the charterer. Therefore, the petitioners have nary a legal basis for their assertion that the shipowner has no liability insofar as the loading operations are concerned. Besides, even if such provision in fact exists, ATI is not privy to the Charter Party Agreement.[24]

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[18] Id. at 15-16.
[19] Id. at 16-17.
[20] Id. at 16.
[21] Id. at 259-271.
[22] Id. at 264.
[23] Id. at 268.
[24] Id. at 269.

Ruling of the Court

The Court agrees with the CA that the petitioners are liable to ATI for the damage sustained by the latter's unloader. However, the Court finds the petitioners' liability to be based on quasi-delict and not on a contract of carriage. The Court likewise deems it proper to modify the rate of interests on the amount of damages imposed by the CA upon the petitioners.

The Court notes that the shipowner and shipowner's agent, Samsun, are all juridical entities not registered and not doing business in the Philippines. It was the charterer's agent, Inter-Asia, a duly-registered domestic corporation, which had filed the instant petition for itself and on behalf of the shipowner and Samsun.[25] In the course of the proceedings too, none of the parties had raised issues anent the validity of the service of summons and the courts' acquisition of jurisdiction over the persons of the petitioners.

The petitioners present two issues for the Court's resolution, to wit: (a) the applicability of the doctrine of *res ipsa loquitur* in the case at bar; and (b) who participated and should thus assume liability for the loading of the soybean meal cargo.

In its Decision dated January 30, 2009, the RTC declared that while ATI indeed sustained damages to its unloader, liability therefor cannot, however, be established with certainty.

In the assailed decision, the CA, on the other hand, discussed in detail why and how the three requisites to the application of the doctrine of *res ipsa loquitur* are found to be attendant in the case at bar. *First,* the co-mingling of the two foreign metal objects with the soybean meal cargo and the consequent damage to ATI's unloader is an accident which ordinarily does not occur in the absence of someone's negligence. *Second,* the foreign metal objects were found in the vessel's Hold No. 2, which is within the exclusive control of the petitioners. *Third*, records do not show that ATI's negligence had in any way contributed to the damage caused to its unloader.

The Court agrees with the CA anent ATI's entitlement to the payment of damages from the petitioners and the applicability of the doctrine of *res ipsa loquitur*. However, the Court finds as misplaced the CA's application of the laws on maritime commerce and contracts of carriage for reasons discussed below.

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[25] Id. at 10.

There is no contract of carriage between the petitioners and ATI.

There is no contract of carriage between ATI, on one hand, and the shipowner, Samsun, ContiQuincyBunge L.L.C., and Inter-Asia, on the other. It likewise bears stressing that the subject of the complaint, from which the instant petition arose, is not the damage caused to the cargo, but to the equipment of an arrastre operator. Further, ATI's contractual relation is not with the petitioners, but with the consignee and with the Philippine Ports Authority (PPA).

In *Delgado Brothers, Inc. v. Home Insurance Company and Court of Appeals*,[26] the Court discusses the functions of an arrastre operator, *viz*:

> Under this provision, petitioner's functions as arrastre operator are (1) to receive, handle, care for, and deliver all merchandise imported and exported, upon or passing over Government-owned wharves and piers in the Port of Manila, (2) as well as to record or cheek all merchandise which may be delivered to said port at *shipside*, and in general[,] (3) to furnish light and water services and other incidental services in order to undertake its arrastre service. <u>Note that there is nothing in those functions which relate to the trade and business of navigation x x x, nor to the use or operation of vessels x x x</u>. Both as to the nature of the functions and the place of their performance (upon wharves and piers shipside), <u>**petitioner's services are clearly not maritime**</u>. As we held in the *Macondray* case, <u>**they are no different from those of a depositary or warehouseman**</u>. Granting, *arguendo*, that petitioner's arrastre service depends on, assists, or furthers maritime transportation x x x, it may be deemed merely *incidental* to its aforementioned functions as arrastre operator and does not, thereby, make petitioner's arrastre service maritime in character.[27] (Citations omitted, italics in the original, emphasis and underscoring ours)

"The functions of an arrastre operator involve the handling of cargo deposited on the wharf or between the establishment of the consignee or shipper and the ship's tackle. Being the custodian of the goods discharged from a vessel, an arrastre operator's duty is to take good care of the goods and to turn them over to the party entitled to their possession."[28]

"The legal relationship between an arrastre operator and a consignee is akin to that between a warehouseman and a depositor. As to both the nature of the functions and the place of their performance, an arrastre operator's services are clearly not maritime in character."[29]

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[26] 111 Phil. 452 (1961).

[27] Id. at 457.

[28] *Asian Terminals, Inc. v. Philam Insurance Co., Inc.*, G.R. No. 181163, July 24, 2013, 702 SCRA 88, 115.

[29] *International Container Terminal Services, Inc. v. Prudential Guarantee & Assurance Co., Inc.*, 377 Phil. 1082, 1090 (1999).

In *Insurance Company of North America v. Asian Terminals, Inc.*,[30] the Court explained that the liabilities of the arrastre operator for losses and damages are set forth in the contract for cargo handling services it had executed with the PPA. Corollarily then, the rights of an arrastre operator to be paid for damages it sustains from handling cargoes do not likewise spring from contracts of carriage.

However, in the instant petition, the contending parties make no references at all to any provisions in the contract for cargo handling services ATI had executed with the PPA.

Article 2176 of the New Civil Code and the doctrine of *res ipsa loquitur* apply.

Notwithstanding the above, the petitioners cannot evade liability for the damage caused to ATI's unloader in view of Article 2176 of the New Civil Code, which pertinently provides as follows:

> 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 no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

In *Taylor v. Manila Electric Railroad and Light Co.*,[31] the Court explained that to establish a plaintiff's right to recovery for quasi-delicts, three elements must exist, to wit: (a) damages to the plaintiff; (b) negligence by act or omission of which defendant personally, or some person for whose acts it must respond, was guilty; and (c) the connection of cause and effect between the negligence and the damage.[32]

Negligence, on the other hand, is defined as the failure to observe that degree of care, precaution and vigilance that the circumstances justly demand, whereby another suffers injury.[33]

In the case under consideration, the parties do not dispute the facts of damage upon ATI's unloader, and of such damage being the consequence of someone's negligence. However, the petitioners deny liability claiming that it was not established with reasonable certainty whose negligence had

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30 G.R. No. 180784, February 15, 2012, 666 SCRA 226.
31 16 Phil. 8 (1910).
32 Id. at 15.
33 *United States v. Barias*, 23 Phil. 434, 437 (1912).

caused the co-mingling of the metal bars with the soybean meal cargo. The Court, on this matter, agrees with the CA's disquisition that the petitioners should be held jointly and severally liable to ATI. ATI cannot be faulted for its lack of direct access to evidence determinative as to who among the shipowner, Samsun, ContiQuincyBunge and Inter-Asia should assume liability. The CA had exhaustively discussed why the doctrine of *res ipsa loquitur* applies. The metal bars which caused damage to ATI's unloader was found co-mingled with the cargo inside Hold No. 2 of the ship, which was then within the exclusive control of the petitioners. Thus, the presumption that it was the petitioners' collective negligence, which caused the damage, stands. This is, however, without prejudice to the petitioners' rights to seek reimbursements among themselves from the party whose negligence primarily caused the damage.

A modification of the interests imposed on the damages awarded is in order.

Anent the interests imposed by the CA upon the damages to be paid to ATI, modification of the same is in order.

In *Nacar v. Gallery Frames*,[34] the Court declared:

> **To recapitulate and for future guidance, the guidelines laid down in the case of *Eastern Shipping Lines* are accordingly modified to embody BSP-MB Circular No. 799, as follows:**
>
> I. When an obligation, regardless of its source, *i.e.*, law, contracts, quasi-contracts, delicts or quasi-delicts is breached, the contravenor can be held liable for damages. The provisions under Title XVIII on "Damages" of the Civil Code govern in determining the measure of recoverable damages.
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> II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:
>
> 1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 6% *per annum* to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

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[34] G.R. No. 189871, August 13, 2013, 703 SCRA 439.

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the *discretion of the court* at the rate of 6% *per annum*. No interest, however, shall be adjudged on unliquidated claims or damages, except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code), but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 6% *per annum* from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

x x x x.[35] (Citation omitted, emphasis and italics in the original, and underscoring ours)

The Court agrees with the CA that as regards ATI's claim, only the amount of US$30,300.00 is duly supported by evidence. However, in view of *Nacar*, the said amount shall be subject to legal interest at the rate of six percent (6%) *per annum* reckoned from the finality of this Resolution, the date when the quantification of damages may be deemed to have been reasonably ascertained, until full satisfaction thereof.

WHEREFORE, the Decision dated November 10, 2010 of the Court of Appeals in CA-G.R. CV No. 93164 is **AFFIRMED with MODIFICATION**. The petitioners, Unknown Owner of the Vessel M/V China Joy, Samsun Shipping Ltd. and Inter-Asia Marine Transport, Inc., are hereby ordered to **pay** the respondent, Asian Terminals, Inc., actual and compensatory damages in the amount of US$30,300.00, plus legal interest at the rate of six percent (6%) *per annum* reckoned from the finality of this Resolution until full satisfaction thereof.

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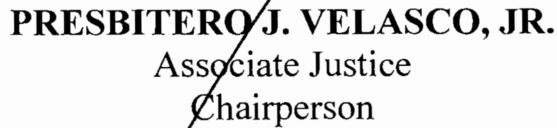
[35] Id. at 457-458.

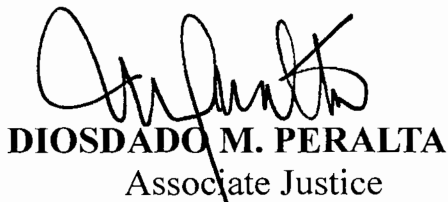
SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



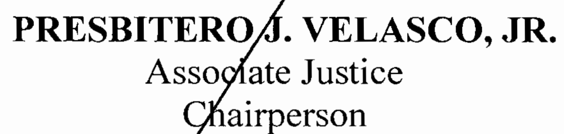
DIOSDADO M. PERALTA
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

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



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice