



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**JUDITH D. DARINES and
 JOYCE D. DARINES,**
Petitioners,

G.R. No. 206468

Present:

- versus -

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

**EDUARDO QUIÑONES and
 ROLANDO QUITAN,**
Respondents.

Promulgated:

AUG 02 2017

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DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari* assails the October 29, 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CV No. 95638, which reversed and set aside the July 14, 2010 Decision² of the Regional Trial Court (RTC) of Baguio City, Branch 3 in Civil Case No. 6363-R for “Breach of Contract of Carriage & Damages.” Also challenged is the March 6, 2013 CA Resolution³ denying the motion for reconsideration on the assailed Decision.

Factual Antecedents

Judith D. Darines (Judith) and her daughter, Joyce D. Darines (Joyce) (petitioners) alleged in their Complaint⁴ that on December 31, 2005, they boarded the Amianan Bus Line with Plate No. ACM 497 and Body No. 808 as paying passengers enroute from Carmen, Rosales, Pangasinan to Baguio City. Respondent Rolando M. Quitan (Quitan) was driving the bus at that time. While travelling on Camp 3, Tuba, Benguet along Kennon Road, the bus crashed into a truck (with Plate No. XSE 578) which was parked on the shoulder of Kennon

¹ CA *rollo*, Vol. III, pp. 69-74; penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Sesinando E. Villon and Socorro B. Inting.
² Records, pp. 410-423; penned by Presiding Judge Fernando Vil Pamintuan.
³ CA *rollo*, Vol. III, pp. 124-125.
⁴ Records, pp. 2-6.

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Road. As a result, both vehicles were damaged; two passengers of the bus died; and the other passengers, including petitioners, were injured. In particular, Joyce suffered cerebral concussion while Judith had an eye wound which required an operation.

Petitioners argued that Quitan and respondent Eduardo Quiñones (Quiñones), the operator of Amianan Bus Line, breached their contract of carriage as they failed to bring them safely to their destination. They also contended that Quitan's reckless and negligent driving caused the collision. Consequently, they prayed for actual, moral, exemplary and temperate damages, and costs of suit.

For their part, Quiñones and Quitan (respondents) countered in their Answer⁵ that, during the December 31, 2005 incident, Quitan was driving in a careful, prudent, and dutiful manner at the normal speed of 40 kilometers per hour. According to them, the proximate cause of the incident was the negligence of the truck driver, Ronald C. Fernandez, who parked the truck at the roadside right after the curve without having installed any early warning device. They also claimed that Quiñones observed due diligence in the selection and supervision of his employees as he conducted seminars on road safety measures; and Quitan attended such seminars including those required by the government on traffic safety. They likewise averred that Quitan was a licensed professional driver who, in his 12 years as a public utility driver, had not figured in any incident like the one at hand.

During the trial, Judith testified that Quitan was driving at a very fast pace resulting in a collision with the truck parked at the shoulder of the road.⁶ Consequently, the bone holding her right eye was fractured and had to be operated.⁷ She claimed that, as a result of incident, she failed to report for work for two months.⁸

To prove the actual damages that she suffered, Judith presented receipts for medicine, and a summary of expenses, which included those incurred for the ritual *dao-is*. She explained that she and Joyce are Igorots, being members of *Ibaloi*, *Kankanay-ey*, an indigenous tribe;⁹ and as their customary practice, when a member who meets an accident is released from the hospital, they butcher pigs to remove or prevent bad luck from returning to the family.¹⁰

Moreover, to support her claim for moral damages, Judith testified that she

⁵ Id. at 18-22.

⁶ Id. at 342-344.

⁷ Id. at 345-346.

⁸ Id. at 353.

⁹ Id. at 365.

¹⁰ Id. at 355-356.



suffered sleepless nights since she worried about the result and possible effect of her operation.¹¹

On the other hand, respondents presented Ernesto Benitez (Benitez), who, on behalf of respondents, testified that he bought the medicines and paid petitioners' hospitalization expenses, as evidenced by receipts he submitted in court.¹²

Ruling of the Regional Trial Court

On July 14, 2010, the RTC rendered its Decision ordering respondents to pay petitioners the following:

1. Moral Damages of One Hundred Thousand Pesos (₱100,000.00);
2. Exemplary Damages of Thirty Thousand Pesos (₱30,000.00);
3. Attorney's Fees of Fifteen Percent (15%) of the Damages, plus Total Appearance Fees of Sixteen Thousand Five Hundred Pesos (₱16,500.00);
and
4. Costs of Suit.¹³

The RTC held that since the respondents already paid the actual damages relating to petitioners' medical and hospitalization expenses, then the only remaining matters for resolution were: whether respondents were liable to pay petitioners a) actual damages representing the expenses incurred during the *dao-is* ritual; and, Judith's alleged lost income; b) moral and exemplary damages; and, c) attorney's fees.

The RTC noted that petitioners did not present any receipt as regards the expenses they incurred during the *dao-is* ritual. As regards their claim for Judith's lost income, the RTC held that petitioners similarly failed to substantiate the same as there was no showing that Judith's failure to report for work for two months was because of the incident. Thus, the RTC did not award actual damages for lack of evidence.

However, the RTC awarded moral damages grounded on Judith's testimony regarding her pain and suffering. It likewise awarded exemplary damages by way of correction, and to serve as example to common carriers to be extraordinarily diligent in transporting passengers. It also granted petitioners

¹¹ Id. at 357.

¹² Id. at 383-388.

¹³ Id. at 423.

attorney's fees plus costs of suit on the ground that petitioners were compelled to litigate the case.

Aggrieved, respondents appealed to the CA.

Ruling of the Court of Appeals

In its October 29, 2012 Decision, the CA reversed and set aside the RTC Decision.

The CA stressed that respondents did not dispute that they were liable for breach of contract of carriage; in fact, they paid for the medical and hospital expenses of petitioners. Nonetheless, the CA deleted the award of moral damages because petitioners failed to prove that respondents acted fraudulently or in bad faith, as shown by the fact that respondents paid petitioners' medical and hospitalization expenses. The CA held that, since no moral damages was awarded, then there was no basis to grant exemplary damages. Finally, it ruled that because moral and exemplary damages were not granted, then the award of attorney's fees must also be deleted.

On March 6, 2013, the CA denied petitioners' Motion for Reconsideration.

Issues

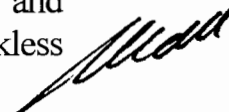
Hence, petitioners filed this Petition raising the issues as follows:

1. WHETHER OR NOT THE CASE OF PETITIONERS FALL[S] UNDER ARTICLES 20, 1157, 1759, 2176, 2180 AND 2219 OF THE CIVIL CODE THEREBY ENTITL[ING THEM] TO MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES;
2. WHETHER OR NOT THE X X X AWARD OF DAMAGES AND ATTORNEY'S FEES BY THE TRIAL COURT BECAME FINAL AND EXECUTORY SINCE HEREIN RESPONDENTS DID NOT QUESTION THE SAME IN THEIR APPEAL BUT MERELY QUESTIONED THE AMOUNTS OF AWARD [FOR BEING] EXORBITANT.¹⁴

Petitioners' Arguments

Petitioners maintain that respondents are liable to pay them moral and exemplary damages because the proximate cause of their injuries was the reckless

¹⁴ Rollo, p. 40.



driving of Quitan. As regards Quiñones, his fault is presumed considering that he did not offer proof that he exercised extraordinary diligence in the selection and supervision of his employees. They added that the negligence of respondents resulted in the latter's failure to transport them to their destination thereby constituting a breach of their contract of carriage. They also argued that the RTC's grant of damages and attorney's fees in their favor already attained finality because when respondents appealed to the CA, they only questioned the amounts given by the RTC for being exorbitant, but not the award itself.

Respondents' Arguments

Respondents, on their end, posit that they are not liable to pay moral damages because their acts were not attended by fraud or bad faith. They add that since petitioners are not entitled to moral damages, then it follows that they are also not entitled to exemplary damages; and same is true with regard to the grant of attorney's fees as the same necessitates the grant of moral and exemplary damages.

Our Ruling

The Court denies the Petition.

First of all, petitioners contend that the awards of moral and exemplary damages and attorney's fees by the RTC already attained finality because respondents did not dispute such grants when they appealed to the CA but only the fact that the amounts were exorbitant.

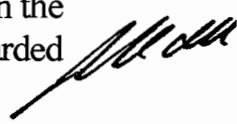
Such contention is without merit.

A plain reading of the assigned errors¹⁵ and issues¹⁶ in the Appellants' Brief of respondents with the CA reveals that they questioned the awards of moral and exemplary damages as well as attorney's fees made by the RTC to petitioners. Since respondents timely challenged the awards when they interposed an appeal to the CA, the same had not yet attained finality.

Going now to the main issue, the Court fully agrees with the CA ruling that in an action for breach of contract, moral damages may be recovered only when a) death of a passenger results; or b) the carrier was guilty of fraud and bad faith even if death does not result; and that neither of these circumstances were present in the case at bar. The CA correctly held that, since no moral damages was awarded

¹⁵ CA *rollo*, Vol. III, p. 30.

¹⁶ *Id.* at 33.



then, there is no basis to grant exemplary damages and attorney's fees to petitioners.

To stress, this case is one for breach of contract of carriage (*culpa contractual*) where it is necessary to show the existence of the contract between the parties, and the failure of the common carrier to transport its passenger safely to his or her destination. An action for breach of contract differs from *quasi-delicts* (also referred as *culpa aquiliana* or *culpa extra contractual*) as the latter emanate from the negligence of the tortfeasor¹⁷ including such instance where a person is injured in a vehicular accident by a party other than the carrier where he is a passenger.

The principle that, in an action for breach of contract of carriage, moral damages may be awarded only in case (1) an accident results in the death of a passenger; or (2) the carrier is guilty of fraud or bad faith, is pursuant to Article 1764, in relation to Article 2206(3) of the Civil Code, and Article 2220 thereof,¹⁸ as follows:

Article 1764. Damages in cases comprised in this Section shall be awarded in accordance with Title XVIII of this Book, concerning Damages. Article 2206 shall also apply to the **death of a passenger** caused by the breach of contract by a common carrier. (Emphasis supplied)

Article 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:

x x x x

(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.

Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to **breaches of contract** where the defendant acted **fraudulently** or in **bad faith**. (Emphasis supplied)

The aforesaid concepts of fraud or bad faith and negligence are basic as they are distinctly differentiated by law. Specifically, fraud or bad faith connotes "deliberate or wanton wrong doing"¹⁹ or such deliberate disregard of contractual obligations²⁰ while negligence amounts to sheer carelessness.²¹

¹⁷ *Calalas v. Court of Appeals*, 388 Phil. 146, 150-151 (2000).

¹⁸ *Id.* at 155.

¹⁹ *Verzosa v. Baytan*, 107 Phil. 1010, 1017 (1960), citing *Fores v. Miranda*, 105 Phil. 266, 276 (1959).

²⁰ *Victory Liner, Inc. v. Gammad*, 486 Phil. 574, 593 (2004).

²¹ *Verzosa v. Baytan*, *supra*.

More particularly, fraud includes “inducement through insidious machination.”²² In turn, insidious machination refers to such deceitful strategy or such plan with an evil purpose. On the other hand, bad faith does not merely pertain to bad judgment or negligence but relates to a dishonest purpose, and a deliberate doing of a wrongful act. Bad faith involves “breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud.”²³

In *Viluan v. Court of Appeals*,²⁴ and *Bulante v. Chu Liante*,²⁵ the Court disallowed the recovery of moral damages in actions for breach of contract for lack of showing that the common carrier committed fraud or bad faith in performing its obligation. Similarly, in *Verzosa v. Baytan*,²⁶ the Court did not also grant moral damages in an action for breach of contract as there was neither allegation nor proof that the common carrier committed fraud or bad faith.²⁷ The Court declared that “[t]o award moral damages for breach of contract, therefore, without proof of bad faith or malice on the part of the defendant, as required by [Article 2220 of the Civil Code], would be to violate the clear provisions of the law, and constitute unwarranted judicial legislation.”²⁸

Meanwhile, in *Gatchalian v. Delim*,²⁹ and *Mr. & Mrs. Fabre, Jr. v. Court of Appeals*,³⁰ the Court found the common carriers liable for breach of contract of carriage and awarded moral damages to the injured passengers on the ground that the common carrier committed *gross* negligence, which amounted to bad faith. Particularly, in *Mr. & Mrs. Fabre, Jr.*, the gross negligence of the common carrier was determined from the fact that its driver was not engaged to drive long distance travels; he was also unfamiliar with the area where he detoured the bus as it was his first time to ply such route; the road was slippery because it was raining, yet the bus was running at 50 kilometers per hour resulting in its skidding to the left shoulder of the road; and the bus hit the steel brace on the road at past 11:30 p.m. The Court also noted that other than the imputation of gross negligence, the injured passengers therein pursued their claim not on the theory of breach of contract of carriage alone but also on *quasi-delicts*.

Clearly, unless it is fully established (and not just lightly inferred) that negligence in an action for breach of contract is so gross as to amount to malice, then the claim of moral damages is without merit.³¹

²² *Cathay Pacific Airways, Ltd. v. Spouses Vazquez*, 447 Phil. 306, 321 (2003).

²³ *Id.* at 321-322.

²⁴ 123 Phil. 561 (1966).

²⁵ 132 Phil. 87 (1968).

²⁶ *Supra* note 19.

²⁷ *Id.* at 1015.

²⁸ *Id.* at 1016, citing *Fores v. Miranda*, *supra* note 19.

²⁹ 280 Phil. 137 (1991).

³⁰ 328 Phil. 774 (1996).

³¹ *Verzosa v. Baytan*, *supra* note 19 at 1017-1018, citing *Fores v. Miranda*, *supra* note 19 at 276.

Here, petitioners impute negligence on the part of respondents when, as paying passengers, they sustained injuries when the bus owned and operated by respondent Quiñones, and driven by respondent Quitan, collided with another vehicle. Petitioners propounded on the negligence of respondents, but did not discuss or impute fraud or bad faith, or such gross negligence which would amount to bad faith, against respondents. There being neither allegation nor proof that respondents acted in fraud or in bad faith in performing their duties arising from their contract of carriage, they are then not liable for moral damages.

The Court also sustains the CA's finding that petitioners are not entitled to exemplary damages. Pursuant to Articles 2229 and 2234³² of the Civil Code, exemplary damages may be awarded only in addition to moral, temperate, liquidated, or compensatory damages. Since petitioners are not entitled to either moral, temperate, liquidated, or compensatory damages, then their claim for exemplary damages is bereft of merit.

Finally, considering the absence of any of the circumstances under Article 2208³³ of the Civil Code where attorney's fees may be awarded, the same cannot be granted to petitioners.

All told, the CA correctly ruled that petitioners are not entitled to moral and exemplary damages as well as attorney's fees.

WHEREFORE, the Petition is **DENIED**. The October 29, 2012 Decision and March 6, 2013 Resolution of the Court of Appeals in CA-G.R. CV No. 95638 are **AFFIRMED**.



³² Article 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

Article 2234. While the amount of the exemplary damages need not be proved, the plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded. x x x

³³ Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:


- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.


SO ORDERED.

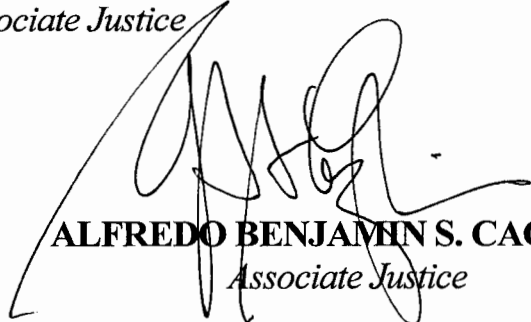

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice