

SARKIES TOURS PHILIPPINES, INC. PETITIONER VS. HONORABLE COURT OF APPEALS (TENTH DIVISION), DR. ELINO G. FORTADES, MARISOL A. FORTADES AND FATIMA A. FORTADES., RESPONDENT.

G.R. No. 108897. October 02, 1997

Ponente: ROMERO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-108897/>

ROMERO, J.:

This petition for review is seeking the reversal of the decision of the Court of Appeals in CA-G.R. CV No. 18979 promulgated on January 13, 1993, as well as its resolution of February 19, 1993, denying petitioner's motion for reconsideration for being a mere rehash of the arguments raised in the appellant's brief.

The case arose from a damage suit filed by private respondents Elino, Marisol, and Fatima Minerva, all surnamed Fortades, against petitioner for breach of contract of carriage allegedly attended by bad faith.

On August 31, 1984, Fatima boarded petitioner's De Luxe Bus No. 5 in Manila on her way to Legazpi City. Her brother Raul helped her load three pieces of luggage containing all of her optometry review books, materials and equipment, trial lenses, trial contact lenses, passport and visa, as well as her mother Marisol's U.S. immigration (green) card, among other important documents and personal belongings. Her belongings was kept in the baggage compartment of the bus, but during a stopover at Daet, it was discovered that all but one bag remained in the open compartment. The others, including Fatima's things, were missing and could have dropped along the way. Some of the passengers suggested retracing the route to try to recover the lost items, but the driver ignored them and proceeded to Legazpi City.

Fatima immediately reported the loss to her mother who, in turn, went to petitioner's office in Legazpi City and later at its head office in Manila. The latter, however, merely offered her P1,000.00 for each piece of luggage lost, which she turned down. After returning to Bicol disappointed but not defeated, they asked assistance from the radio stations and even from Philtranco bus drivers who plied the same route on August 31st. The effort paid off when one of Fatima's bags was recovered. Marisol also reported the incident to the National Bureau of Investigation's field office in Legazpi City, and to the local police.

On September 20, 1984, respondents, through counsel, formally demanded satisfaction of their complaint from petitioner. In a letter dated October 1, 1984, the latter apologized for the delay and said that "(a) team has been sent out to Bicol for the purpose of recovering or at least getting the full detail"[1] of the incident.

After more than nine months of fruitless waiting, respondents decided to file the case below to recover the value of the remaining lost items, as well as moral and exemplary damages, attorney's fees and expenses of litigation. They claimed that the loss was due to petitioner's failure to observe extraordinary diligence in the care of Fatima's luggage and that petitioner dealt with them in bad faith from the start. Petitioner, on the other hand, disowned any liability for the loss on the ground that Fatima allegedly did not declare any excess baggage upon boarding its bus.

On June 15, 1988, after trial on the merits, the court a quo adjudged the case in favor of herein respondents, viz:

“PREMISES CONSIDERED, judgment is hereby rendered in favor of the plaintiffs (herein respondents) and against the herein defendant Sarkies Tours Philippines, Inc., ordering the latter to pay to the former the following sums of money, to wit:

1. The sum of P30,000.00 equivalent to the value of the personal belongings of plaintiff Fatima Minerva Fortades, etc. less the value of one luggage recovered;
2. The sum of P90,000.00 for the transportation expenses, as well as moral damages;
3. The sum of P10,000.00 by way of exemplary damages;
4. The sum of P5,000.00 as attorney’s fees; and
5. The sum of P5,000.00 as litigation expenses or a total of One Hundred Forty Thousand (P140,000.00) Pesos.

to be paid by herein defendant Sarkies Tours Philippines, Inc. to the herein plaintiffs within 30 days from receipt of this Decision.

SO ORDERED.”

On appeal, the appellate court affirmed the trial court’s judgment, but deleted the award of moral and exemplary damages. Thus,

WHEREFORE, premises considered, except as above modified, fixing the award for transportation expenses at P30,000.00 and the deletion of the award for moral and exemplary damages, the decision appealed from is AFFIRMED, with costs against defendant-appellant.

SO ORDERED."

Its motion for reconsideration having been likewise rejected by the Court of Appeals, so petitioner elevated its case to this Court for a review.

After a careful scrutiny of the records of this case, we are convinced that the trial and appellate courts resolved the issues judiciously based on the evidence at hand.

Petitioner claims that Fatima did not bring any piece of luggage with her, and even if she did, none was declared at the start of the trip. The documentary and testimonial evidence presented at the trial, however, established that Fatima indeed boarded petitioner’s De Luxe Bus No. 5 in the evening of August 31, 1984, and she brought three pieces of luggage with her, as testified by her brother Raul,[2] who helped her pack her things and load them on said bus. One of the bags was even recovered with the help of a Philtranco bus driver. In its letter dated October 1, 1984, petitioner tacitly admitted its liability by apologizing to respondents and assuring them that efforts were being made to recover the lost items.

The records also reveal that respondents went to great lengths just to salvage their loss. The incident was reported to the police, the NBI, and the regional and head offices of petitioner. Marisol even sought the assistance of Philtranco bus drivers and the radio stations. To expedite the replacement of her mother’s lost U.S. immigration documents, Fatima also had to execute an affidavit of loss.[3] Clearly, they would not have gone through all that trouble in pursuit of a fancied loss.

Fatima was not the only one who lost her luggage. Other passengers suffered a similar fate: Dr. Lita Samarista testified that petitioner offered her P1,000.00 for her lost baggage and she accepted it;[4] Carleen Carullo-Magno

also lost her chemical engineering review materials, while her brother lost abaca products he was transporting to Bicol.[5]

Petitioner's receipt of Fatima's personal luggage having been thus established, it must now be determined if, as a common carrier, it is responsible for their loss. Under the Civil Code, "(c)ommon carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods x x x transported by them,"[6] and this liability "lasts from the time the goods are unconditionally placed in the possession of, and received by the carrier for transportation until the same are delivered, actually or constructively, by the carrier for transportation until the same are delivered, actually or constructively, by the carrier to x x x the person who has a right to receive them,"[7] unless the loss is due to any of the excepted causes under Article 1734 thereof.[8]

The cause of the loss in the case at bar was petitioner's negligence in not ensuring that the doors of the baggage compartment of its bus were securely fastened. As a result of this lack of care, almost all of the luggage was lost, to the prejudice of the paying passengers. As the Court of Appeals correctly observed:

x x x. Where the common carrier accepted its passenger's baggage for transportation and even had it placed in the vehicle by its own employee, its failure to collect the freight charge is the common carrier's own lookout. It is responsible for the consequent loss of the baggage. In the instant case, defendant appellant's employee even helped Fatima Minerva Fortades and her brother load the luggages/baggages in the bus' baggage compartment, without asking that they be weighed, declared, receipted or paid for (TSN, August 4, 1986, pp. 29, 34, 54, 57, 70; December 23, 1987, p. 35). Neither was this required of the other passengers (TSN, August 4, 1986, p. 104; February 5, 1988, p. 13)."

Finally, petitioner questions the award of actual damages to respondents. On this point, we likewise agree with the trial and appellate courts' conclusions. There is no dispute that of the three pieces of luggage of Fatima, only one was recovered. The other two contained optometry books, materials, equipment, as well as vital documents and personal belongings. Respondents had to shuttle between Bicol and Manila in their efforts to be compensated for the loss. During the trial, Fatima and Marisol had to travel from the United States just to be able to testify. Expenses were also incurred in reconstituting their lost documents. Under these circumstances, the Court agrees with the Court of Appeals in awarding P30,000.00 for the lost items and P30,000.00 for the transportation expenses, but disagrees with the deletion of the award of moral and exemplary damages which, in view of the foregoing proven facts, with negligence and bad faith on the fault of petitioner having been duly established, should be granted to respondents in the amount of P20,000.00 and P5,000.00, respectively.

WHEREFORE, the assailed decision of the Court of Appeals dated January 13, 1993, and its resolution dated February 19, 1993, are hereby **AFFIRMED** with the **MODIFICATION** that petitioner is ordered to pay respondent an additional P20,000.00 as moral damages and P5,000.00 as exemplary damages. Costs against petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Rollo, p. 63.

[2] TSN, August 4, 1986, pp. 29, 34, 40-41, 54, 57, 70.

[3] Exhibit "E."

[4] TSN, August 4, 1986, p. 83.

[5] TSN, February 5, 1988, pp. 8, 14-16.

[6] Article 1733.

[7] Article 1736.

[8] Such as “(1) Flood, storm, earthquake, lightning, or other natural disaster or calamity; (2) Act of the public enemy in war, whether international or civil; (3) Act or omission of the shipper or owner of the goods; (4) The character of the goods or defects in the packing or in the containers; (5) Order or act of competent public authority.”

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.