

NEGROS NAVIGATION CO., INC., PETITIONER, VS. THE COURT OF APPEALS, RAMON MIRANDA, SPS. RICARDO AND VIRGINIA DE LA VICTORIA, RESPONDENTS.

G.R. No. 110398. November 07, 1997

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals affirming with modification the Regional Trial Court's award of damages to private respondents for the death of relatives as a result of the sinking of petitioner's vessel.

In April of 1980, private respondent Ramon Miranda purchased from the Negros Navigation Co., Inc. four special cabin tickets (#74411, 74412, 74413 and 74414) for his wife, daughter, son and niece who were going to Bacolod City to attend a family reunion. The tickets were for Voyage No. 457-A of the M/V Don Juan, leaving Manila at 1:00 p.m. on April 22, 1980.

The ship sailed from the port of Manila on schedule.

At about 10:30 in the evening of April 22, 1980, the Don Juan collided off the Tablas Strait in Mindoro, with the M/T Tacloban City, an oil tanker owned by the Philippine National Oil Company (PNOC) and the PNOC Shipping and Transport Corporation (PNOC/STC). As a result, the M/V Don Juan sank. Several of her passengers perished in the sea tragedy. The bodies of some of the victims were found and brought to shore, but the four members of private respondents' families were never found.

Private respondents filed a complaint on July 16, 1980 in the Regional Trial Court of Manila, Branch 34, against the Negros Navigation, the Philippine National Oil Company (PNOC), and the PNOC Shipping and Transport Corporation (PNOC/STC), seeking damages for the death of Ardita de la Victoria Miranda, 48, Rosario V. Miranda, 19, Ramon V. Miranda, Jr., 16, and Elfreda de la Victoria, 26.

In its answer, petitioner admitted that private respondents purchased ticket numbers 74411, 74412, 74413 and 74414; that the ticket numbers were listed in the passenger manifest; and that the Don Juan left Pier 2, North Harbor, Manila on April 22, 1980 and sank that night after being rammed by the oil tanker M/T Tacloban City, and that, as a result of the collision, some of the passengers of the M/V Don Juan died. Petitioner, however, denied that the four relatives of private respondents actually boarded the vessel as shown by the fact that their bodies were never recovered. Petitioner further averred that the Don Juan was seaworthy and manned by a full and competent crew, and that the collision was entirely due to the fault of the crew of the M/T Tacloban City.

On January 20, 1986, the PNOC and petitioner Negros Navigation Co., Inc. entered into a compromise agreement whereby petitioner assumed full responsibility for the payment and satisfaction of all claims arising out of or in connection with the collision and releasing the PNOC and the PNOC/STC from any liability to it. The agreement was subsequently held by the trial court to be binding upon petitioner, PNOC and PNOC/STC. Private

respondents did not join in the agreement.

After trial, the court rendered judgment on February 21, 1991, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs, ordering all the defendants to pay jointly and severally to the plaintiffs damages as follows:

To Ramon Miranda:

P42,025.00 for actual damages;

P152,654.55 as compensatory damages for loss of earning capacity of his wife;

P90,000.00 as compensatory damages for wrongful death of three (3) victims;

P300,000.00 as moral damages;

P50,000.00 as exemplary damages, all in the total amount of P634,679.55; and

P40,000.00 as attorney's fees.

To Spouses Ricardo and Virginia de la Victoria:

P12,000.00 for actual damages;

P158,899.00 as compensatory damages for loss of earning capacity;

P30,000.00 as compensatory damages for wrongful death;

P100,000.00 as moral damages;

P20,000.00 as exemplary damages, all in the total amount of P320,899.00; and

P15,000.00 as attorney's fees.

On appeal, the Court of Appeals[1] affirmed the decision of the Regional Trial Court with modification –

1. Ordering and sentencing defendants-appellants, jointly and severally, to pay plaintiff-appellee Ramon Miranda the amount of P23,075.00 as actual damages instead of P42,025.00;
2. Ordering and sentencing defendants-appellants, jointly and severally, to pay plaintiff-appellee Ramon Miranda the amount of P150,000.00, instead of P90,000.00, as compensatory damages for the death of his wife and two children;
3. Ordering and sentencing defendants-appellants, jointly and severally, to pay plaintiffs-appellees Dela Victoria spouses the amount of P50,000.00, instead of P30,000.00, as compensatory damages for the death of their daughter Elfreda Dela Victoria;

Hence this petition, raising the following issues:

- (1) whether the members of private respondents' families were actually passengers of the Don Juan;
- (2) whether the ruling in *Mecenas v. Court of Appeals*, [2] finding the crew members of petitioner to be grossly negligent in the performance of their duties, is binding in this case;
- (3) whether the total loss of the M/V Don Juan extinguished petitioner's liability; and
- (4) whether the damages awarded by the appellate court are excessive, unreasonable and unwarranted.

First. The trial court held that the fact that the victims were passengers of the M/V Don Juan was sufficiently proven by private respondent Ramon Miranda, who testified that he purchased tickets numbered 74411, 74412, 74413, and 74414 at P131.30 each from the Makati office of petitioner for Voyage No. 47-A of the M/V Don Juan, which was leaving Manila on April 22, 1980. This was corroborated by the passenger manifest (Exh. E) on which the numbers of the tickets and the names of Ardita Miranda and her children and Elfreda de la Victoria appear.

Petitioner contends that the purchase of the tickets does not necessarily mean that the alleged victims actually took the trip. Petitioner asserts that it is common knowledge that passengers purchase tickets in advance but do not actually use them. Hence, private respondent should also prove the presence of the victims on the ship. The witnesses who affirmed that the victims were on the ship were biased and unreliable.

This contention is without merit. Private respondent Ramon Miranda testified that he personally took his family and his niece to the vessel on the day of the voyage and stayed with them on the ship until it was time for it to leave. There is no reason he should claim members of his family to have perished in the accident just to maintain an action. People do not normally lie about so grave a matter as the loss of dear ones. It would be more difficult for private respondents to keep the existence of their relatives if indeed they are alive than it is for petitioner to show the contrary. Petitioner's only proof is that the bodies of the supposed victims were not among those recovered from the site of the mishap. But so were the bodies of the other passengers reported missing not recovered, as this Court noted in the *Mecenas*[3] case.

Private respondent Miranda's testimony was corroborated by Edgardo Ramirez. Ramirez was a seminarian and one of the survivors of the collision. He testified that he saw Mrs. Miranda and Elfreda de la Victoria on the ship and that he talked with them. He knew Mrs. Miranda who was his teacher in the grade school. He also knew Elfreda who was his childhood friend and townmate. Ramirez said he was with Mrs. Miranda and her children and niece from 7:00 p.m. until 10:00 p.m. when the collision happened and that he in fact had dinner with them. Ramirez said he and Elfreda stayed on the deck after dinner and it was there where they were jolted by the collision of the two vessels. Recounting the moments after the collision, Ramirez testified that Elfreda ran to fetch Mrs. Miranda. He escorted her to the room and then tried to go back to the deck when the lights went out. He tried to return to the cabin but was not able to do so because it was dark and there was a stampede of passengers from the deck.

Petitioner casts doubt on Ramirez' testimony, claiming that Ramirez could not have talked with the victims for about three hours and not run out of stories to tell, unless Ramirez had a "storehouse" of stories. But what is incredible about acquaintances thrown together on a long journey staying together for hours on end, in idle conversation precisely to while the hours away?

Petitioner also points out that it took Ramirez three (3) days before he finally contacted private respondent Ramon Miranda to tell him about the fate of his family. But it is not improbable that it took Ramirez three days before calling on private respondent Miranda to tell him about the last hours of Mrs. Miranda and her children and niece, in view of the confusion in the days following the collision as rescue teams and relatives searched for survivors.

Indeed, given the facts of this case, it is improper for petitioner to even suggest that private respondents' relatives did not board the ill-fated vessel and perish in the accident simply because their bodies were not recovered.

Second. In finding petitioner guilty of negligence and in failing to exercise the extraordinary diligence required of it in the carriage of passengers, both the trial court and the appellate court relied on the findings of this Court in *Mecenas v. Intermediate Appellate Court*,[4] which case was brought for the death of other passengers. In that case it was found that although the proximate cause of the mishap was the negligence of the crew of the M/T

Tacloban City, the crew of the Don Juan was equally negligent as it found that the latter's master, Capt. Rogelio Santisteban, was playing mahjong at the time of collision, and the officer on watch, Senior Third Mate Rogelio De Vera, admitted that he failed to call the attention of Santisteban to the imminent danger facing them. This Court found that Capt. Santisteban and the crew of the M/V Don Juan failed to take steps to prevent the collision or at least delay the sinking of the ship and supervise the abandoning of the ship.

Petitioner Negros Navigation was found equally negligent in tolerating the playing of mahjong by the ship captain and other crew members while on board the ship and failing to keep the M/V Don Juan seaworthy so much so that the ship sank within 10 to 15 minutes of its impact with the M/T Tacloban City.

In addition, the Court found that the Don Juan was overloaded. The Certificate of Inspection, dated August 27, 1979, issued by the Philippine Coast Guard Commander at Iloilo City stated that the total number of persons allowed on the ship was 864, of whom 810 are passengers, but there were actually 1,004 on board the vessel when it sank, 140 persons more than the maximum number that could be safely carried by it.

Taking these circumstances together, and the fact that the M/V Don Juan, as the faster and better-equipped vessel, could have avoided a collision with the PNOC tanker, this Court held that even if the Tacloban City had been at fault for failing to observe an internationally-recognized rule of navigation, the Don Juan was guilty of contributory negligence. Through Justice Feliciano, this Court held:

The grossness of the negligence of the "Don Juan" is underscored when one considers the foregoing circumstances in the context of the following facts: Firstly, the "Don Juan" was more than twice as fast as the "Tacloban City." The "Don Juan's" top speed was 17 knots; while that of the "Tacloban City" was 6.3. knots. Secondly, the "Don Juan" carried the full complement of officers and crew members specified for a passenger vessel of her class. Thirdly, the "Don Juan" was equipped with radar which was functioning that night. Fourthly, the "Don Juan's" officer on-watch had sighted the "Tacloban City" on his radar screen while the latter was still four (4) nautical miles away. Visual confirmation of radar contact was established by the "Don Juan" while the "Tacloban City" was still 2.7 miles away. In the total set of circumstances which existed in the instant case, the "Don Juan," had it taken seriously its duty of extraordinary diligence, could have easily avoided the collision with the "Tacloban City." Indeed, the "Don Juan" might well have avoided the collision even if it had exercised ordinary diligence merely.

It is true that the "Tacloban City" failed to follow Rule 18 of the International Rules of the Road which requires two (2) power-driven vessels meeting end on or nearly end on each to alter her course to starboard (right) so that each vessel may pass on the port side (left) of the other. The "Tacloban City," when the two (2) vessels were only three-tenths (0.3) of a mile apart, turned (for the second time) 15o to port side while the "Don Juan" veered hard to starboard. . . . [But] "route observance" of the International Rules of the Road will not relieve a vessel from responsibility if the collision could have been avoided by proper care and skill on her part or even by a departure from the rules.

In the petition at bar, the "Don Juan" having sighted the "Tacloban City" when it was still a long way off was negligent in failing to take early preventive action and in allowing the two (2) vessels to come to such close quarters as to render the collision inevitable when there was no necessity for passing so near to the "Tacloban City" as to create that hazard or inevitability, for the "Don Juan" could choose its own distance. It is noteworthy that the "Tacloban City," upon turning hard to port shortly before the moment of collision, signalled its intention to do so by giving two (2) short blasts with its horn. The "Don Juan" gave no answering horn blast to signal its own intention and proceeded to turn hard to starboard.

We conclude that Capt. Santisteban and Negros Navigation are properly held liable for gross negligence in connection with the collision of the "Don Juan" and "Tacloban City" and the sinking of the "Don Juan" leading to the death of hundreds of passengers. . . .[5]

Petitioner criticizes the lower court's reliance on the Mecenase case, arguing that, although this case arose out of the same incident as that involved in Mecenase, the parties are different and trial was conducted separately. Petitioner contends that the decision in this case should be based on the allegations and defenses pleaded and evidence adduced in it or, in short, on the record of this case.

The contention is without merit. What petitioner contends may be true with respect to the merits of the individual claims against petitioner but not as to the cause of the sinking of its ship on April 22, 1980 and its liability for such accident, of which there can only be one truth. Otherwise, one would be subscribing to the sophistry: truth on one side of the Pyrenees, falsehood on the other!

Adherence to the Mecenase case is dictated by this Court's policy of maintaining stability in jurisprudence in accordance with the legal maxim "stare decisis et non quieta movere" (Follow past precedents and do not disturb what has been settled.) Where, as in this case, the same questions relating to the same event have been put forward by parties similarly situated as in a previous case litigated and decided by a competent court, the rule of stare decisis is a bar to any attempt to relitigate the same issue.[6] In *Woulfe v. Associated Realities Corporation*, [7] the Supreme Court of New Jersey held that where substantially similar cases to the pending case were presented and applicable principles declared in prior decisions, the court was bound by the principle of stare decisis. Similarly, in *State ex rel. Tollinger v. Gill*, [8] it was held that under the doctrine of stare decisis a ruling is final even as to parties who are strangers to the original proceeding and not bound by the judgment under the res judicata doctrine. The Philadelphia court expressed itself in this wise: "Stare decisis simply declares that, for the sake of certainty, a conclusion reached in one case should be applied to those which follow, if the facts are substantially the same, even though the parties may be different." [9] Thus, in *J. M. Tuason v. Mariano*, supra, this Court relied on its rulings in other cases involving different parties in sustaining the validity of a land title on the principle of "stare decisis et non quieta movere."

Indeed, the evidence presented in this case was the same as those presented in the Mecenase case, to wit:

Document

Mecenase case

This case

Decision of Commandant Phil. Coast Guard in BMI Case No. 415-80 dated 3/26/81

Exh. 10 [10]

Exh. 11-B-NN/X

Decision of the Minister of National Defense dated 3/12/82

Exh. 11 [11]

Exh. ZZ

Resolution on the motion for reconsideration of the decision of the Minister of National Defense dated 7/24/84

Exh. 13 [12]

Exh. AAA (private respondents)

Certificate of inspection dated 8/27/79

Exh. 1-A [13]

Exh. 19-NN

Certificate of Stability dated 12/16/76

Exh. 6-A[14]

Exh. 19-D-NN

Nor is it true that the trial court merely based its decision on the Mecenas case. The trial court made its own independent findings on the basis of the testimonies of witnesses, such as Senior Third Mate Rogelio de Vera, who incidentally gave substantially the same testimony on petitioner's behalf before the Board of Marine Inquiry. The trial court agreed with the conclusions of the then Minister of National Defense finding both vessels to be negligent.

Third. The next issue is whether petitioner is liable to pay damages notwithstanding the total loss of its ship. The issue is not one of first impression. The rule is well-entrenched in our jurisprudence that a shipowner may be held liable for injuries to passengers notwithstanding the exclusively real and hypothecary nature of maritime law if fault can be attributed to the shipowner.[15]

In Mecenas, this Court found petitioner guilty of negligence in (1) allowing or tolerating the ship captain and crew members in playing mahjong during the voyage, (2) in failing to maintain the vessel seaworthy and (3) in allowing the ship to carry more passengers than it was allowed to carry. Petitioner is, therefore, clearly liable for damages to the full extent.

Fourth. Petitioner contends that, assuming that the Mecenas case applies, private respondents should be allowed to claim only P43,857.14 each as moral damages because in the Mecenas case, the amount of P307,500.00 was awarded to the seven children of the Mecenas couple. Under petitioner's formula, Ramon Miranda should receive P43,857.14, while the De la Victoria spouses should receive P97,714.28.

Here is where the principle of stare decisis does not apply in view of differences in the personal circumstances of the victims. For that matter, differentiation would be justified even if private respondents had joined the private respondents in the Mecenas case. The doctrine of stare decisis works as a bar only against issues litigated in a previous case. Where the issue involved was not raised nor presented to the court and not passed upon by the court in the previous case, the decision in the previous case is not stare decisis of the question presently presented.[16] The decision in the Mecenas case relates to damages for which petitioner was liable to the claimants in that case.

In the case at bar, the award of P300,000.00 for moral damages is reasonable considering the grief petitioner Ramon Miranda suffered as a result of the loss of his entire family. As a matter of fact, three months after the collision, he developed a heart condition undoubtedly caused by the strain of the loss of his family. The P100,000.00 given to Mr. and Mrs. de la Victoria is likewise reasonable and should be affirmed.

As for the amount of civil indemnity awarded to private respondents, the appellate court's award of P50,000.00 per victim should be sustained. The amount of P30,000.00 formerly set in *De Lima v. Laguna Tayabas Co.*,[17] *Heirs of Amparo delos Santos v. Court of Appeals*,[18] and *Philippine Rabbit Bus Lines, Inc. v. Intermediate Appellate Court*[19] as benchmark was subsequently increased to P50,000.00 in the case of *Sulpicio Lines, Inc. v. Court of Appeals*,[20] which involved the sinking of another interisland ship on October 24, 1988.

We now turn to the determination of the earning capacity of the victims. With respect to Ardita Miranda, the trial court awarded damages computed as follows:[21]

In the case of victim Ardita V. Miranda whose age at the time of the accident was 48 years, her life expectancy

was computed to be 21.33 years, and therefore, she could have lived up to almost 70 years old. Her gross earnings for 21.33 years based on P10,224.00 per annum, would be P218,077.92. Deducting therefrom 30% as her living expenses, her net earnings would be P152,654.55, to which plaintiff Ramon Miranda is entitled to compensatory damages for the loss of earning capacity of his wife. In considering 30% as the living expenses of Ardita Miranda, the Court takes into account the fact that plaintiff and his wife were supporting their daughter and son who were both college students taking Medicine and Law respectively.

In accordance with the ruling in *Villa-Rey Transit, Inc. v. Court of Appeals*,^[22] we think the life expectancy of Ardita Miranda was correctly determined to be 21.33 years, or up to age 69. Petitioner contends, however, that Mrs. Miranda would have retired from her job as a public school teacher at 65, hence her loss of earning capacity should be reckoned up to 17.33 years only.

The accepted formula for determining life expectancy is $\frac{2}{3}$ multiplied by (80 minus the age of the deceased). It may be that in the Philippines the age of retirement generally is 65 but, in calculating the life expectancy of individuals for the purpose of determining loss of earning capacity under Art. 2206(1) of the Civil Code, it is assumed that the deceased would have earned income even after retirement from a particular job. In this case, the trial court took into account the fact that Mrs. Miranda had a master's degree and a good prospect of becoming principal of the school in which she was teaching. There was reason to believe that her income would have increased through the years and she could still earn more after her retirement, e.g., by becoming a consultant, had she not died. The gross earnings which Mrs. Miranda could reasonably be expected to earn were it not for her untimely death was, therefore, correctly computed by the trial court to be P218,077.92 (given a gross annual income of P10,224.00 and life expectancy of 21.33 years).

Petitioner contends that from the amount of gross earnings, 60% should be deducted as necessary living expenses, not merely 30% as the trial court allowed. Petitioner contends that 30% is unrealistic, considering that Mrs. Miranda's earnings would have been subject to taxes, social security deductions and inflation.

We agree with this contention. In *Villa-Rey Transit, Inc. v. Court of Appeals*,^[23] the Court allowed a deduction of P1,184.00 for living expenses from the P2,184.00 annual salary of the victim, which is roughly 54.2% thereof. The deceased was 29 years old and a training assistant in the Bacnotan Cement Industries. In *People v. Quilaton*,^[24] the deceased was a 26-year old laborer earning a daily wage. The court allowed a deduction of P120,000.00 which was 51.3% of his annual gross earnings of P234,000.00. In *People v. Teehankee*,^[25] the court allowed a deduction of P19,800.00, roughly 42.4% thereof from the deceased's annual salary of P46,659.21. The deceased, Maureen Hultman, was 17 years old and had just received her first paycheck as a secretary. In the case at bar, we hold that a deduction of 50% from Mrs. Miranda's gross earnings (P218,077.92) would be reasonable, so that her net earning capacity should be P109,038.96. There is no basis for supposing that her living expenses constituted a smaller percentage of her gross income than the living expenses in the decided cases. To hold that she would have used only a small part of her income for herself, a larger part going to the support of her children would be conjectural and unreasonable.

As for *Elfreda de la Victoria*, the trial court found that, at the time of her death, she was 26 years old, a teacher in a private school in Malolos, Bulacan, earning P6,192.00 per annum. Although a probationary employee, she had already been working in the school for two years at the time of her death and she had a general efficiency rating of 92.85% and it can be presumed that, if not for her untimely death, she would have become a regular teacher. Hence, her loss of earning capacity is P111,456.00, computed as follows:

net earning capacity (x) = life expectancy x

[gross annual income less reasonable & necessary living expenses (50%)]

$$x = [2 (80-26)] x$$

$$[P6,192.00 - P3,096.00]$$

$$3$$

$$= 36 x 3,096.00$$

$$= P111,456.00$$

On the other hand, the award of actual damages in the amount of P23,075.00 was determined by the Court of Appeals on the basis of receipts submitted by private respondents. This amount is reasonable considering the expenses incurred by private respondent Miranda in organizing three search teams to look for his family, spending for transportation in going to places such as Batangas City and Iloilo, where survivors and the bodies of other victims were found, making long distance calls, erecting a monument in honor of the four victims, spending for obituaries in the Bulletin Today and for food, masses and novenas.

Petitioner's contention that the expenses for the erection of a monument and other expenses for memorial services for the victims should be considered included in the indemnity for death awarded to private respondents is without merit. Indemnity for death is given to compensate for violation of the rights of the deceased, i.e., his right to life and physical integrity.[26] On the other hand, damages incidental to or arising out of such death are for pecuniary losses of the beneficiaries of the deceased.

As for the award of attorney's fees, we agree with the Court of Appeals that the amount of P40,000.00 for private respondent Ramon Miranda and P15,000.00 for the de la Victoria spouses is justified. The appellate court correctly held:

The Mecenase case cannot be made the basis for determining the award for attorney's fees. The award would naturally vary or differ in each case. While it is admitted that plaintiff-appellee Ramon Miranda who is himself a lawyer, represented also plaintiffs-appellees Dela Victoria spouses, we note that separate testimonial evidence were adduced by plaintiff-appellee Ramon Miranda (TSN, February 26, 1982, p. 6) and plaintiffs-appellees spouses Dela Victoria (TSN, August 13, 1981, p. 43). Considering the amount of work and effort put into the case as indicated by the voluminous transcripts of stenographic notes, we find no reason to disturb the award of P40,000.00 for plaintiff-appellee Ramon Miranda and P15,000.00 for plaintiffs-appellees Dela Victoria spouses.[27]

The award of exemplary damages should be increased to P300,000.00 for Ramon Miranda and P100,000.00 for the de la Victoria spouses in accordance with our ruling in the Mecenase case:

Exemplary damages are designed by our civil law to permit the courts to reshape behaviour that is socially deleterious in its consequence by creating negative incentives or deterrents against such behaviour. In requiring compliance with the standard of extraordinary diligence, a standard which is in fact that of the highest possible degree of diligence, from common carriers and in creating a presumption of negligence against them, the law seeks to compel them to control their employees, to tame their reckless instincts and to force them to take adequate care of human beings and their property. The Court will take judicial notice of the dreadful regularity with which grievous maritime disasters occur in our waters with massive loss of life. The bulk of our population is too poor to afford domestic air transportation. So it is that notwithstanding the frequent sinking of passenger vessels in our waters, crowds of people continue to travel by sea. This Court is prepared to use the instruments given to it by the law for securing the ends of law and public policy. One of those instruments is the institution of exemplary damages; one of those ends, of special importance in an archipelagic state like the Philippines, is the safe and reliable carriage of people and goods by sea.[28]

WHEREFORE, the decision of the Court of Appeals is **AFFIRMED** with modification and petitioner is

ORDERED to pay private respondents damages as follows:

To private respondent Ramon Miranda:

P23,075.00 for actual damages;

P109,038.96 as compensatory damages for loss of earning capacity of his wife;

P150,000.00 as compensatory damages for wrongful death of three (3) victims;

P300,000.00 as moral damages;

P300,000.00 as exemplary damages, all in the total amount of P882,113.96; and

P40,000.00 as attorney's fees.

To private respondents Spouses Ricardo and Virginia de la Victoria:

P12,000.00 for actual damages;

P111,456.00 as compensatory damages for loss of earning capacity;

P50,000.00 as compensatory damages for wrongful death;

P100,000.00 as moral damages;

P100,000.00 as exemplary damages, all in the total amount of P373,456.00; and

P15,000.00 as attorney's fees.

Petitioners are further ordered to pay costs of suit.

In the event the Philippine National Oil Company and/or the PNOC Shipping and Transport Corporation pay or are required to pay all or a portion of the amounts adjudged, petitioner Negros Navigation Co., Inc. shall reimburse either of them such amount or amounts as either may have paid, and in the event of failure of Negros Navigation Co., Inc., to make the necessary reimbursement, PNOC and/or PNOC/STC shall be entitled to a writ of execution without need of filing another action.

SO ORDERED.

Regalado, (Chairman), and Puno, JJ., concur.

[1] Per Justice Eduardo G. Montenegro and concurred in by Justices Arturo B. Buena and Regina G. Ordoñez-Benitez.

[2] 180 SCRA 83 (1989).

[3] 180 SCRA at 87.

[4] Ibid.

[5] Id. at 95-98.

- [6] J. M. Tuason & Corp. v. Mariano, 85 SCRA 644 (1978).
- [7] 130 N.J. Eq. 519, 23 A.2d 399, 401 (1942).
- [8] 75 Ohio App. ___, 62 N.E.2d 760 (1944).
- [9] Heisler v. Thomas Colliery Co., 274 Pa. 448, 452, 118 A. 394, 395 (1922). Accord, Monogahela Street Ry. Co. v. Philadelphia Co., 350 Pa. 603, 39 A.2d 909, 916 (1944); In re Burt's Estate, 353 Pa. 217, 44 A.2d 670, 677 (1945).
- [10] p. 90 at note 7.
- [11] Id., at note 8.
- [12] Id., at note 9.
- [13] p. 94 at note 16.
- [14] Id., at note 18.
- [15] Manila Steamship Co. v. Insa Abdulhanan, 100 Phil. 32 (1956); Chua Yek Heng v. Intermediate Appellate Court, 166 SCRA 183 (1988); Heirs of Amparo delos Santos v. Court of Appeals, 186 SCRA 649 (1990).
- [16] Eubanks v. State, Tex. Civ. App., 203 S.W. 2d 339, 342 (1947).
- [17] 160 SCRA 70 (1988).**
- [18] Supra, note 15.
- [19] 189 SCRA 158 (1990).**
- [20] 246 SCRA 376 (1995).**
- [21] Records, p. 721.
- [22] 31 SCRA 511 (1970); Accord, People v. Teehankee, Jr., 249 SCRA 54 (1995); Philippine Airlines, Inc. v. Court of Appeals, 185 SCRA 110 (1990); Monzon v. Intermediate Appellate Court, 169 SCRA 760 (1989); Davila v. Philippine Airlines, 49 SCRA 497 (1973).
- [23] Supra, note 22.
- [24] 205 SCRA 279 (1992).**
- [25] Supra, note 22.
- [26] Geluz v. Court of Appeals, 2 SCRA 801 (1961).
- [27] Rollo, p. 62.
- [28] 180 SCRA at 100.

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