

**THE HEIRS OF THE LATE RUBEN REINOSO, SR., REPRESENTED BY
RUBEN REINOSO JR., PETITIONERS, VS. COURT OF APPEALS,
PONCIANO TAPALES, JOSE GUBALLA, AND FILWRITERS GUARANTY
ASSURANCE ...**

G.R. No. 116121. July 18, 2011

Ponente: MENDOZA, J.

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MENDOZA, J.:

Before the Court is a petition for review assailing the May 20, 1994 Decision [1] and June 30, 1994 Resolution [2] of the Court of Appeals (CA), in CA-G.R. CV No. 19395, which set aside the March 22, 1988 Decision of the Regional Trial Court, Branch 8, Manila (RTC) for non-payment of docket fees. The dispositive portion of the CA decision reads:

IN VIEW OF ALL THE FOREGOING, the decision appealed from is SET ASIDE and REVERSED and the complaint in this case is ordered DISMISSED.

No costs pronouncement.

SO ORDERED.

The complaint for damages arose from the collision of a passenger jeepney and a truck at around 7:00 o'clock in the evening of June 14, 1979 along E. Rodriguez Avenue, Quezon City. As a result, a passenger of the jeepney, Ruben Reinoso, Sr. (Reinoso), was killed. The passenger jeepney was owned by Ponciano Tapales (Tapales) and driven by Alejandro Santos (Santos), while the truck was owned by Jose Guballa (Guballa) and driven by Mariano Geronimo (Geronimo).

On November 7, 1979, the heirs of Reinoso (petitioners) filed a complaint for damages against Tapales and Guballa. In turn, Guballa filed a third party complaint against Filwriters Guaranty Assurance Corporation (FGAC) under Policy Number OV-09527.

On March 22, 1988, the RTC rendered a decision in favor of the petitioners and against Guballa. The decision in part, reads:

In favor of herein plaintiffs and against defendant Jose Guballa:

1. For the death of Ruben Reinoso, Sr.

P30,000.00

2. Loss of earnings (monthly income at the time of death (P2,000.00 Court used P1,000.00 only per month (or P12,000.00 only per year) & victim then being 55 at death had ten (10) years life expectancy.....

120,000.00

3. Mortuary, Medical & funeral expenses and all incidental expenses in the wake in serving those who condoled.....

15,000.00

4. Moral damages

50,000.00

5. Exemplary damages

25,000.00

6. Litigation expenses

15,000.00

7. Attorney's fees

25,000.00

Or a total of ₱250,000.00

For damages to property:

In favor of defendant Ponciano Tapales and against defendant Jose Guballa:

1. Actual damages for repair is already awarded to defendant-cross-claimant Ponciano Tapales by Br. 9, RTC-Malolos, Bulacan (Vide: Exh. 1-G-Tapales); hence, cannot recover twice.

2. Compensatory damages (earnings at P150.00 per day) and for two (2) months jeepney stayed at the repair shop.....

P9,000.00

3. Moral damages

10,000.00

4. Exemplary damages

10,000.00

5. Attorney's fees.....

15,000.00

or a total of P44,000.00

Under the 3[rd] party complaint against 3[rd] party defendant Filwriters Guaranty Assurance Corporation, the Court hereby renders judgment in favor of said 3[rd] party plaintiff by way of 3[rd] party liability under policy No. OV-09527 in the amount of ₱50,000.00 undertaking plus ₱10,000.00 as and for attorney's fees.

For all the foregoing, it is the well considered view of the Court that plaintiffs, defendant Ponciano Tapales and 3[rd] Party plaintiff Jose Guballa established their claims as specified above, respectively. Totality of evidence preponderance in their favor.

J U D G M E N T

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

In favor of plaintiffs for the death of Ruben Reinoso, Sr.

.....P250,000.00;

In favor of defendant Ponciano Tapales due to damage of his passenger jeepney

.....P44,000.00;

In favor of defendant Jose Guballa under Policy No. OV-09527

.....P60,000.00;

All the specified accounts with 6% legal rate of interest per annum from date of complaint until fully paid (Reformina vs. Tomol, 139 SCRA 260; and finally;

Costs of suit.

SO ORDERED. [3]

On appeal, the CA, in its Decision dated May 20, 1994, set aside and reversed the RTC decision and dismissed the complaint on the ground of non-payment of docket fees pursuant to the doctrine laid down in *Manchester v. CA*. [4] In addition, the CA ruled that since prescription had set in, petitioners could no longer pay the required docket fees. [5]

Petitioners filed a motion for reconsideration of the CA decision but it was denied in a resolution dated June 30, 1994. [6] Hence, this appeal, anchored on the following

G R O U N D S:

A. The Court of Appeals MISAPPLIED THE RULING of the Supreme Court in the case of *Manchester Corporation vs. Court of Appeals* to this case.

B. The issue on the specification of the damages appearing in the prayer of the Complaint was NEVER PLACED IN ISSUE BY ANY OF THE PARTIES IN THE COURT OF ORIGIN (REGIONAL TRIAL COURT) NOR IN THE COURT OF APPEALS.

C. The issues of the case revolve around the more substantial issue as to the negligence of the private respondents and their culpability to petitioners." [7]

The petitioners argue that the ruling in *Manchester* should not have been applied retroactively in this case, since it was filed prior to the promulgation of the *Manchester* decision in 1987. They plead that though this Court stated that failure to state the correct amount of damages would lead to the dismissal of the complaint, said doctrine should be applied prospectively.

Moreover, the petitioners assert that at the time of the filing of the complaint in 1979, they were not certain of the amount of damages they were entitled to, because the amount of the lost income would still be finally determined in the course of the trial of the case. They claim that the jurisdiction of the trial court remains even if there was failure to pay the correct filing fee as long as the correct amount would be paid subsequently.

Finally, the petitioners stress that the alleged defect was never put in issue either in the RTC or in the CA.

The Court finds merit in the petition.

The rule is that payment in full of the docket fees within the prescribed period is mandatory.[8] In *Manchester v. Court of Appeals*, [9] it was held that a court acquires jurisdiction over any case only upon the payment of the

prescribed docket fee. The strict application of this rule was, however, relaxed two (2) years after in the case of *Sun Insurance Office, Ltd. v. Asuncion*,^[10] wherein the Court decreed that where the initiatory pleading is not accompanied by the payment of the docket fee, the court may allow payment of the fee within a reasonable period of time, but in no case beyond the applicable prescriptive or reglementary period. This ruling was made on the premise that the plaintiff had demonstrated his willingness to abide by the rules by paying the additional docket fees required.^[11] Thus, in the more recent case of *United Overseas Bank v. Ros*,^[12] the Court explained that where the party does not deliberately intend to defraud the court in payment of docket fees, and manifests its willingness to abide by the rules by paying additional docket fees when required by the court, the liberal doctrine enunciated in *Sun Insurance Office, Ltd.*, and not the strict regulations set in *Manchester*, will apply. It has been on record that the Court, in several instances, allowed the relaxation of the rule on non-payment of docket fees in order to afford the parties the opportunity to fully ventilate their cases on the merits. In the case of *La Salette College v. Pilotin*,^[13] the Court stated:

Notwithstanding the mandatory nature of the requirement of payment of appellate docket fees, we also recognize that its strict application is qualified by the following: first, failure to pay those fees within the reglementary period allows only discretionary, not automatic, dismissal; second, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances. ^[14]

While there is a crying need to unclog court dockets on the one hand, there is, on the other, a greater demand for resolving genuine disputes fairly and equitably,^[15] for it is far better to dispose of a case on the merit which is a primordial end, rather than on a technicality that may result in injustice.

In this case, it cannot be denied that the case was litigated before the RTC and said trial court had already rendered a decision. While it was at that level, the matter of non-payment of docket fees was never an issue. It was only the CA which *motu proprio* dismissed the case for said reason.

Considering the foregoing, there is a need to suspend the strict application of the rules so that the petitioners would be able to fully and finally prosecute their claim on the merits at the appellate level rather than fail to secure justice on a technicality, for, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.^[16]

The Court also takes into account the fact that the case was filed before the *Manchester* ruling came out. Even if said ruling could be applied retroactively, liberality should be accorded to the petitioners in view of the recency then of the ruling. Leniency because of recency was applied to the cases of *Far Eastern Shipping Company v. Court of Appeals* ^[17] and *Spouses Jimmy and Patri Chan v. RTC of Zamboanga*. ^[18] In the case of *Mactan Cebu International Airport Authority v. Mangubat (Mactan)*, ^[19] it was stated that the "intent of the Court is clear to afford litigants full opportunity to comply with the new rules and to temper enforcement of sanctions in view of the recency of the changes introduced by the new rules." In *Mactan*, the Office of the Solicitor General (OSG) also failed to pay the correct docket fees on time.

We held in another case:

x x x It bears stressing that the rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that, on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would

tend to frustrate rather than promote justice, it is always within the power of the Court to suspend the Rules, or except a particular case from its operation. [20]

The petitioners, however, are liable for the difference between the actual fees paid and the correct payable docket fees to be assessed by the clerk of court which shall constitute a lien on the judgment pursuant to Section 2 of Rule 141 which provides:

SEC. 2. Fees in lien. - Where the court in its final judgment awards a claim not alleged, or a relief different from, or more than that claimed in the pleading, the party concerned shall pay the additional fees which shall constitute a lien on the judgment in satisfaction of said lien. The clerk of court shall assess and collect the corresponding fees.

As the Court has taken the position that it would be grossly unjust if petitioners' claim would be dismissed on a strict application of the Manchester doctrine, the appropriate action, under ordinary circumstances, would be for the Court to remand the case to the CA. Considering, however, that the case at bench has been pending for more than 30 years and the records thereof are already before this Court, a remand of the case to the CA would only unnecessarily prolong its resolution. In the higher interest of substantial justice and to spare the parties from further delay, the Court will resolve the case on the merits.

The facts are beyond dispute. Reinoso, the jeepney passenger, died as a result of the collision of a jeepney and a truck on June 14, 1979 at around 7:00 o'clock in the evening along E. Rodriguez Avenue, Quezon City. It was established that the primary cause of the injury or damage was the negligence of the truck driver who was driving it at a very fast pace. Based on the sketch and spot report of the police authorities and the narration of the jeepney driver and his passengers, the collision was brought about because the truck driver suddenly swerved to, and encroached on, the left side portion of the road in an attempt to avoid a wooden barricade, hitting the passenger jeepney as a consequence. The analysis of the RTC appears in its decision as follows:

Perusal and careful analysis of evidence adduced as well as proper consideration of all the circumstances and factors bearing on the issue as to who is responsible for the instant vehicular mishap convince and persuade this Court that preponderance of proof is in favor of plaintiffs and defendant Ponciano Tapales. The greater mass of evidence spread on the records and its influence support plaintiffs' plaint including that of defendant Tapales.

The Land Transportation and Traffic Rule (R.A. No. 4136), reads as follows:

"Sec. 37. Driving on right side of highway. - Unless a different course of action is required in the interest of the safety and the security of life, person or property, or because of unreasonable difficulty of operation in compliance therewith, every person operating a motor vehicle or an animal drawn vehicle on highway shall pass to the right when meeting persons or vehicles coming toward him, and to the left when overtaking persons or vehicles going the same direction, and when turning to the left in going from one highway to another, every vehicle shall be conducted to the right of the center of the intersection of the highway."

Having in mind the foregoing provision of law, this Court is convinced of the veracity of the version of the passenger jeepney driver Alejandro Santos, (plaintiffs' and Tapales' witness) that while running on lane No. 4 westward bound towards Ortigas Avenue at between 30-40 kms. per hour (63-64 tsn, Jan. 6, 1984) the "sand & gravel" truck from the opposite direction driven by Mariano Geronimo, the headlights of which the former had seen while still at a distance of about 30-40 meters from the wooden barricade astride lanes 1 and 2, upon reaching said wooden block suddenly swerved to the left into lanes 3 and 4 at high speed "napakabilis po ng dating ng truck." (29 tsn, Sept. 26, 1985) in the process hitting them (Jeepney passenger) at the left side up to where the reserve tire was in an oblique manner "pahilis" (57 tsn, Sept. 26, 1985). The jeepney after it was bumped by the truck due to the strong impact was thrown "resting on its right side while the left side was on top

of the Bangketa (side walk)". The passengers of the jeepney and its driver were injured including two passengers who died. The left side of the jeepney suffered considerable damage as seen in the picture (Exhs. 4 & 5-Tapales, pages 331-332, records) taken while at the repair shop.

The Court is convinced of the narration of Santos to the effect that the "gravel & sand" truck was running in high speed on the good portion of E. Rodriguez Avenue (lane 1 & 2) before the wooden barricade and (having in mind that it had just delivered its load at the Corinthian Gardens) so that when suddenly confronted with the wooden obstacle before it had to avoid the same in a manner of a reflex reaction or knee-jerk response by forthwith swerving to his left into the right lanes (lanes 3 & 4). At the time of the bumping, the jeepney was running on its right lane No. 4 and even during the moments before said bumping, moving at moderate speed thereon since lane No. 3 was then somewhat rough because being repaired also according to Mondalia who has no reason to prevaricate being herself one of those seriously injured. The narration of Santos and Mondalia are convincing and consistent in depicting the true facts of the case untainted by vacillation and therefore, worthy to be relied upon. Their story is forfeited and confirmed by the sketch drawn by the investigating officer Pfc. F. Amaba, Traffic Division, NPD, Quezon City who rushed to the scene of the mishap (Vide: Resolution of Asst fiscal Elizabeth B. Reyes marked as Exhs. 7, 7-A, 7-B-Tapales, pp. 166-168, records; the Certified Copy found on pages 598-600, *ibid*, with the attached police sketch of Pfc. Amaba, marked as Exh. 8-Tapales on page 169, *ibid*; certified copy of which is on page 594, *ibid*) indicating the fact that the bumping indeed occurred at lane No. 4 and showing how the 'gavel & sand' truck is positioned in relation to the jeepney. The said police sketch having been made right after the accident is a piece of evidence worthy to be relied upon showing the true facts of the bumping-occurrence. The rule that official duty had been performed (Sec.5(m), R-131, and also Sec. 38, R-a30, Rev. Rules of Court) - there being no evidence adduced and made of record to the contrary - is that said circumstance involving the two vehicles had been the result of an official investigation and must be taken as true by this Court. [21]

While ending up on the opposite lane is not conclusive proof of fault in automobile collisions, [22] the position of the two vehicles, as depicted in the sketch of the police officers, clearly shows that it was the truck that hit the jeepney. The evidentiary records disclosed that the truck was speeding along E. Rodriguez, heading towards Santolan Street, while the passenger jeepney was coming from the opposite direction. When the truck reached a certain point near the Meralco Post No. J9-450, the front portion of the truck hit the left middle side portion of the passenger jeepney, causing damage to both vehicles and injuries to the driver and passengers of the jeepney. The truck driver should have been more careful, because, at that time, a portion of E. Rodriguez Avenue was under repair and a wooden barricade was placed in the middle thereof.

The Court likewise sustains the finding of the RTC that the truck owner, Guballa, failed to rebut the presumption of negligence in the hiring and supervision of his employee. Article 2176, in relation to Article 2180 of the Civil Code, provides:

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.

xxxx

Art. 2180. The obligation imposed by Art. 2176 is demandable not only for one's own acts or omissions but also for those of persons for whom one is responsible.

xxxx

Employers shall be liable for the damage caused by their employees and household helpers acting within the

scope of their assigned tasks even though the former are not engaged in any business or industry.

xxxx

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

Whenever an employee's negligence causes damage or injury to another, there instantly arises a presumption juris tantum that the employer failed to exercise diligentissimi patris families in the selection or supervision of his employee.[23] Thus, in the selection of prospective employees, employers are required to examine them as to their qualification, experience and service record. With respect to the supervision of employees, employers must formulate standard operating procedures, monitor their implementation, and impose disciplinary measures for breaches thereof. These facts must be shown by concrete proof, including documentary evidence. [24] Thus, the RTC committed no error in finding that the evidence presented by respondent Guballa was wanting. It ruled:

x x x. As expected, defendant Jose Guballa, attempted to overthrow this presumption of negligence by showing that he had exercised the due diligence required of him by seeing to it that the driver must check the vital parts of the vehicle he is assigned to before he leaves the compound like the oil, water, brakes, gasoline, horn (9 tsn, July 17, 1986); and that Geronimo had been driving for him sometime in 1976 until the collision in litigation came about (5-6 tsn, ibid); that whenever his trucks gets out of the compound to make deliveries, it is always accompanied with two (2) helpers (16-17 tsn, ibid). This was all which he considered as selection and supervision in compliance with the law to free himself from any responsibility. This Court then cannot consider the foregoing as equivalent to an exercise of all the care of a good father of a family in the selection and supervision of his driver Mariano Geronimo." [25]

WHEREFORE, the petition is GRANTED. The May 20, 1994 Decision and June 30, 1994 Resolution of the Court of Appeals are REVERSED and SET ASIDE and the March 22, 1988 Decision of the Regional Trial Court, Branch 8, Manila, is REINSTATED.

SO ORDERED.

Carpio,[*] Velasco, Jr., (Chairperson), Peralta, and Abad, JJ., concur.

[*] Designated as additional member of the Third Division per Special Order No. 1042 dated July 6, 2011.

[**] Now Centennial Guarantee Assurance Corporation. Rollo, p. 244.

[1] Id. at 24-28. Penned by then Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justice Jorge S. Imperial and Associate Justice Pacita Cañizares-Nye.

[2] Id. at 30.

[3] Rollo, pp. 54-56.

[4] 233 Phil. 579 (1987).

[5] Rollo, pp. 24-28.

[6] Id at 30.

[7] Id. at 15-19.

[8] Pedrosa v. Hill, 327 Phil. 153, 158 (1996).

- [9] Supra note 4.
- [10] 252 Phil. 280 (1989).
- [11] Id. at 291.
- [12] G.R. No. 171532, August 7, 2007, 529 SCRA 334, 353.
- [13] 463 Phil. 785 (2003).
- [14] Id. at 794.
- [15] Santos v. Court of Appeals, 323 Phil. 762, 770 (1996).
- [16] Bautista v. Unangst, G.R. No. 173002, July 4, 2008, 557 SCRA 256, 271.
- [17] G.R. No. 130150, October 1, 1998, 297 SCRA 30.
- [18] G.R. No. 149253, April 15, 2004, 427 SCRA 796.
- [19] 371 Phil. 393 (1999).
- [20] Cua, Jr. v. Tan, G.R. Nos. 181455-56, December 4, 2009, 607 SCRA 645, 687.
- [21] Records, Vol. I, pp. 698-699.
- [22] Macalinao v. Ong, 514 Phil. 127, 137 (2005).
- [23] Id.
- [24] Pleyto v. Lomboy, 476 Phil. 373, 386 (2004).
- [25] Records, Vol. I, pp. 701-702.

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