CALTEX (PHILIPPINES), INC. PETITIONER, VS. SULPICIO LINES, INC., GO SIOC SO, ENRIQUE S. GO, EUSEBIO S. GO, CARLOS S. GO, VICTORIANO S. GO, DOMINADOR S. GO, RICARDO S. GO, EDWARD...

G.R. No. 131166. September 30, 1999

Ponente: PARDO, J.

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PARDO, J.:

Is the charterer of a sea vessel liable for damages resulting from a collision between the chartered vessel and a passenger ship?

When MT Vector left the port of Limay, Bataan, on December 19, 1987 carrying petroleum products of Caltex (Philippines), Inc. (hereinafter Caltex) no one could have guessed that it would collide with MV Doña Paz, killing almost all the passengers and crew members of both ships, and thus resulting in one of the country's worst maritime disasters.

The petition before us seeks to reverse the Court of Appeals decision[1]holding petitioner jointly liable with the operator of MT Vector for damages when the latter collided with Sulpicio Lines, Inc.'s passenger ship MV Doña Paz.

The facts are as follows:

On December 19, 1987, motor tanker MT Vector left Limay, Bataan, at about 8:00 p.m., enroute to Masbate, loaded with 8,800 barrels of petroleum products shipped by petitioner Caltex.[2] MT Vector is a tramping motor tanker owned and operated by Vector Shipping Corporation, engaged in the business of transporting fuel products such as gasoline, kerosene, diesel and crude oil. During that particular voyage, the MT Vector carried on board gasoline and other oil products owned by Caltex by virtue of a charter contract between them.[3]

On December 20, 1987, at about 6:30 a.m., the passenger ship MV Doña Paz left the port of Tacloban headed for Manila with a complement of 59 crew members including the master and his officers, and passengers totaling 1,493 as indicated in the Coast Guard Clearance.[4] The MV Doña Paz is a passenger and cargo vessel owned and operated by Sulpicio Lines, Inc. plying the route of Manila/ Tacloban/ Catbalogan/ Manila/ Catbalogan/ Tacloban/ Manila, making trips twice a week.

At about 10:30 p.m. of December 20, 1987, the two vessels collided in the open sea within the vicinity of Dumali Point between Marinduque and Oriental Mindoro. All the crewmembers of MV Doña Paz died, while the two survivors from MT Vector claimed that they were sleeping at the time of the incident.

The MV Doña Paz carried an estimated 4,000 passengers; many indeed, were not in the passenger manifest. Only 24 survived the tragedy after having been rescued from the burning waters by vessels that responded to distress calls.[5] Among those who perished were public school teacher Sebastian Cañezal (47 years old) and his daughter Corazon Cañezal (11 years old), both unmanifested passengers but proved to be on board the vessel.

On March 22, 1988, the board of marine inquiry in BMI Case No. 653-87 after investigation found that the MT Vector, its registered operator Francisco Soriano, and its owner and actual operator Vector Shipping Corporation, were at fault and responsible for its collision with MV Doña Paz.[6]

On February 13, 1989, Teresita Cañezal and Sotera E. Cañezal, Sebastian Cañezal's wife and mother respectively, filed with the Regional Trial Court, Branch 8, Manila, a complaint for "Damages Arising from Breach of Contract of Carriage" against Sulpicio Lines, Inc. (hereafter Sulpicio). Sulpicio, in turn, filed a third party complaint against Francisco Soriano, Vector Shipping Corporation and Caltex (Philippines), Inc. Sulpicio alleged that Caltex chartered MT Vector with gross and evident bad faith knowing fully well that MT Vector was improperly manned, ill-equipped, unseaworthy and a hazard to safe navigation; as a result, it rammed against MV Doña Paz in the open sea setting MT Vector's highly flammable cargo ablaze.

On September 15, 1992, the trial court rendered decision dismissing the third party complaint against petitioner. The dispositive portion reads:

> "WHEREFORE, judgement is hereby rendered in favor of plaintiffs and against defendant-3rd party plaintiff Sulpicio Lines, Inc., to wit:
>
> "1. For the death of Sebastian E. Cañezal and his 11-year old daughter Corazon G. Cañezal, including loss of future earnings of said Sebastian, moral and exemplary damages, attorney's fees, in the total amount of P 1,241,287.44 and finally;
>
> "2. The statutory costs of the proceedings.
>
> "Likewise, the 3rd party complaint is hereby DISMISSED for want of substantiation and with costs against the 3rd party plaintiff.
>
> "IT IS SO ORDERED.
>
> "DONE IN MANILA, this 15th day of September 1992.
>
> "ARSENIO M. GONONG
> "Judge"[7]

On appeal to the Court of Appeals interposed by Sulpicio Lines, Inc., on April 15, 1997, the Court of Appeal modified the trial court's ruling and included petitioner Caltex as one of the those liable for damages. Thus:

> "WHEREFORE, in view of all the foregoing, the judgment rendered by the Regional Trial Court is hereby MODIFIED as follows:
>
> "WHEREFORE, defendant Sulpicio Lines, Inc., is ordered to pay the heirs of Sebastian E. Cañezal and Corazon Cañezal:
>
> "1. Compensatory damages for the death of Sebastian E.Cañezal and Corazon Cañezal the total amount of ONE HUNDRED THOUSAND PESOS (P100,000);
>
> "2. Compensatory damages representing the unearned income of Sebastian E. Cañezal, in the total amount of THREE HUNDRED SIX THOUSAND FOUR HUNDRED EIGHTY (P306,480.00) PESOS;
>
> "3. Moral damages in the amount of THREE HUNDRED THOUSAND PESOS (P 300,000.00);
>
> "4. Attorney's fees in the concept of actual damages in the amount of FIFTY THOUSAND PESOS (P 50,000.00);
>
> "5. Costs of the suit.

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> "Third party defendants Vector Shipping Co. and Caltex (Phils.), Inc. are held equally liable under the third party complaint to reimburse/indemnify defendant Sulpicio Lines, Inc. of the above-mentioned damages, attorney's fees and costs which the latter is adjudged to pay plaintiffs, the same to be shared half by Vector Shipping Co. (being the vessel at fault for the collision) and the other half by Caltex (Phils.), Inc. (being the charterer that negligently caused the shipping of combustible cargo aboard an unseaworthy vessel).
>
> "SO ORDERED.
>
> "JORGE S. IMPERIAL
>
> "Associate Justice
>
> "WE CONCUR:
>
> "RAMON U. MABUTAS. JR.
>
> PORTIA ALIÑO HERMACHUELOS
>
> "Associate Justice
>
> Associate Justice"[8]
>
> Hence, this petition.
>
> We find the petition meritorious.
>
> First: The charterer has no liability for damages under Philippine Maritime laws.

The respective rights and duties of a shipper and the carrier depends not on whether the carrier is public or private, but on whether the contract of carriage is a bill of lading or equivalent shipping documents on the one hand, or a charter party or similar contract on the other.[9]

Petitioner and Vector entered into a contract of affreightment, also known as a voyage charter.[10]

A charter party is a contract by which an entire ship, or some principal part thereof, is let by the owner to another person for a specified time or use; a contract of affreightment is one by which the owner of a ship or other vessel 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.[11]

A contract of affreightment may be either time charter, wherein the leased vessel is leased to the charterer for a fixed period of time, or voyage charter, wherein the ship is leased for a single voyage. In both cases, the charter-party provides for the hire of the vessel only, either for a determinate period of time or for a single or consecutive voyage, the ship owner to supply the ship's store, pay for the wages of the master of the crew, and defray the expenses for the maintenance of the ship.[12]

Under a demise or bareboat charter on the other hand, the charterer mans the vessel with his own people and becomes, in effect, the owner for the voyage or service stipulated, subject to liability for damages caused by negligence.

If the charter is a contract of affreightment, which leaves the general owner in possession of the ship as owner for the voyage, 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.[13]

Second : MT Vector is a common carrier

Charter parties fall into three main categories: (1) Demise or bareboat, (2) time charter, (3) voyage charter. Does a charter party agreement turn the common carrier into a private one? We need to answer this question in order to shed light on the responsibilities of the parties.

In this case, the charter party agreement did not convert the common carrier into a private carrier. The parties entered into a voyage charter, which retains the character of the vessel as a common carrier.

In Planters Products, Inc. vs. Court of Appeals,[14] we said:

> "It is therefore imperative that a public carrier shall remain as such, notwithstanding the charter of the whole or portion of a vessel by one or more persons, provided the charter is limited to the ship only, as in the case of a time-charter or voyage charter. It is only when the charter includes both the vessel and its crew, as in a bareboat or demise that a common carrier becomes private, at least insofar as the particular voyage covering the charter-party is concerned. Indubitably, a ship-owner in a time or voyage charter retains possession and control of the ship, although her holds may, for the moment, be the property of the charterer."

Later, we ruled in Coastwise Lighterage Corporation vs. Court of Appeals:[15]

> "Although a charter party may transform a common carrier into a private one, the same however is not true in a contract of affreightment xxx"

A common carrier is a person or corporation whose regular business is to carry passengers or property for all persons who may choose to employ and to remunerate him.[16] MT Vector fits the definition of a common carrier under Article 1732 of the Civil Code. In Guzman vs. Court of Appeals,[17] we ruled:

> "The Civil Code defines "common carriers" in the following terms:
>
> "Article 1732. Common carriers are persons, corporations, firms or associations engaged in the business of carrying or transporting passengers for passengers or goods or both, by land, water, or air for compensation, offering their services to the public."
>
> "The above article makes no distinction between one whose principal business activity is the carrying of persons or goods or both, and one who does such carrying only as an ancillary activity (in local idiom, as "a sideline"). Article 1732 also carefully avoids making any distinction between a person or enterprise offering transportation service on a regular or scheduled basis and one offering such services on a an occasional, episodic or unscheduled basis. Neither does Article 1732 distinguish between a carrier offering its services to the "general public," i.e., the general community or population, and one who offers services or solicits business only from a narrow segment of the general population. We think that Article 1733 deliberately refrained from making such distinctions.
>
> "It appears to the Court that private respondent is properly characterized as a common carrier even though he merely "back-hauled" goods for other merchants from Manila to Pangasinan, although such backhauling was done on a periodic, occasional rather than regular or scheduled manner, and even though respondent's principal occupation was not the carriage of goods for others. There is no dispute that private respondent charged his customers a fee for hauling their goods; that the fee frequently fell below commercial freight rates is not relevant here."
>
> Under the Carriage of Goods by Sea Act :
>
> Sec. 3. (1) The carrier shall be bound before and at the beginning of the voyage to exercise due diligence to -
>
> (a) Make the ship seaworthy;
>
> (b) Properly man, equip, and supply the ship;

xxx xxx xxx

Thus, the carriers are deemed to warrant impliedly the seaworthiness of the ship. For a vessel to be seaworthy, it must be adequately equipped for the voyage and manned with a sufficient number of competent officers and crew. The failure of a common carrier to maintain in seaworthy condition the vessel involved in its contract of carriage is a clear breach of its duty prescribed in Article 1755 of the Civil Code.[18]

The provisions owed their conception to the nature of the business of common carriers. This business is impressed with a special public duty. The public must of necessity rely on the care and skill of common carriers in the vigilance over the goods and safety of the passengers, especially because with the modern development of science and invention, transportation has become more rapid, more complicated and somehow more hazardous.[19] For these reasons, a passenger or a shipper of goods is under no obligation to conduct an inspection of the ship and its crew, the carrier being obliged by law to impliedly warrant its seaworthiness.

This aside, we now rule on whether Caltex is liable for damages under the Civil Code.

Third: Is Caltex liable for damages under the Civil Code?

We rule that it is not.

Sulpicio argues that Caltex negligently shipped its highly combustible fuel cargo aboard an unseaworthy vessel such as the MT Vector when Caltex:

1. Did not take steps to have M/T Vector's certificate of inspection and coastwise license renewed;

2. Proceeded to ship its cargo despite defects found by Mr. Carlos Tan of Bataan Refinery Corporation;

3. Witnessed M/T Vector submitting fake documents and certificates to the Philippine Coast Guard.

Sulpicio further argues that Caltex chose MT Vector to transport its cargo despite these deficiencies:

1. The master of M/T Vector did not posses the required Chief Mate license to command and navigate the vessel;

2. The second mate, Ronaldo Tarife, had the license of a Minor Patron, authorized to navigate only in bays and rivers when the subject collision occurred in the open sea;

3. The Chief Engineer, Filoteo Aguas, had no license to operate the engine of the vessel;

4. The vessel did not have a Third Mate, a radio operator and a lookout; and

5. The vessel had a defective main engine.[20]

As basis for the liability of Caltex, the Court of Appeals relied on Articles 20 and 2176 of the Civil Code, which provide:

> "Article 20. - Every person who contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.
>
> "Article 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."

And what is negligence?

The Civil Code provides:

> "Article 1173. The fault or negligence of the obligor consists in the omission of that diligence which is

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> required by the nature of the obligation and corresponds with the circumstances of the persons, of the time and of the place. When negligence shows bad faith, the provisions of Article 1171 and 2201 paragraph 2, shall apply.
>
> If the law does not state the diligence which is to be observed in the performance, that which is expected of a good father of a family shall be required."

In Southeastern College, Inc. vs. Court of Appeals,[21] we said that negligence, as commonly understood, is conduct which naturally or reasonably creates undue risk or harm to others. It may be the failure to observe that degree of care, precaution, and vigilance, which the circumstances justly demand, or the omission to do something which ordinarily regulate the conduct of human affairs, would do.

The charterer of a vessel has no obligation before transporting its cargo to ensure that the vessel it chartered complied with all legal requirements. The duty rests upon the common carrier simply for being engaged in "public service."[22] The Civil Code demands diligence which is required by the nature of the obligation and that which corresponds with the circumstances of the persons, the time and the place. Hence, considering the nature of the obligation between Caltex and MT Vector, the liability as found by the Court of Appeals is without basis.

The relationship between the parties in this case is governed by special laws. Because of the implied warranty of seaworthiness,[23] shippers of goods, when transacting with common carriers, are not expected to inquire into the vessel's seaworthiness, genuineness of its licenses and compliance with all maritime laws. To demand more from shippers and hold them liable in case of failure exhibits nothing but the futility of our maritime laws insofar as the protection of the public in general is concerned. By the same token, we cannot expect passengers to inquire every time they board a common carrier, whether the carrier possesses the necessary papers or that all the carrier's employees are qualified. Such a practice would be an absurdity in a business where time is always of the essence. Considering the nature of transportation business, passengers and shippers alike customarily presume that common carriers possess all the legal requisites in its operation.

Thus, the nature of the obligation of Caltex demands ordinary diligence like any other shipper in shipping his cargoes.

A cursory reading of the records convinces us that Caltex had reasons to believe that MT Vector could legally transport cargo that time of the year.

> "Atty. Poblador: Mr. Witness, I direct your attention to this portion here containing the entries here under "VESSEL'S DOCUMENTS
>
> 1. Certificate of Inspection No. 1290-85, issued December 21, 1986, and Expires December 7, 1987", Mr. Witness, what steps did you take regarding the impending expiry of the C.I. or the Certificate of Inspection No. 1290-85 during the hiring of MT Vector?
>
> "Apolinar Ng: At the time when I extended the Contract, I did nothing because the tanker has a valid C.I. which will expire on December 7, 1987 but on the last week of November, I called the attention of Mr. Abalos to ensure that the C.I. be renewed and Mr. Abalos, in turn, assured me they will renew the same.
>
> "Q: What happened after that?
>
> "A: On the first week of December, I again made a follow-up from Mr. Abalos, and said they were going to send me a copy as soon as possible, sir.[24]
>
> xxx xxx xxx
> "Q: What did you do with the C.I.?

> "A: We did not insist on getting a copy of the C.I. from Mr. Abalos on the first place, because of our long business relation, we trust Mr. Abalos and the fact that the vessel was able to sail indicates that the documents are in order. xxx"[25]

On cross examination -

> "Atty. Sarenas: This being the case, and this being an admission by you, this Certificate of Inspection has expired on December 7. Did it occur to you not to let the vessel sail on that day because of the very approaching date of expiration?
>
> "Apolinar Ng: No sir, because as I said before, the operation Manager assured us that they were able to secure a renewal of the Certificate of Inspection and that they will in time submit us a copy."[26]

Finally, on Mr. Ng's redirect examination:

> "Atty. Poblador: Mr. Witness, were you aware of the pending expiry of the Certificate of Inspection in the coastwise license on December 7, 1987. What was your assurance for the record that this document was renewed by the MT Vector?
>
> "Atty. Sarenas: xxx
>
> "Atty. Poblador: The certificate of Inspection?
>
> "A: As I said, firstly, we trusted Mr. Abalos as he is a long time business partner; secondly, those three years, they were allowed to sail by the Coast Guard. That are some that make me believe that they in fact were able to secure the necessary renewal.
>
> "Q: If the Coast Guard clears a vessel to sail, what would that mean?
>
> "Atty. Sarenas: Objection.
>
> "Court: He already answered that in the cross examination to the effect that if it was allowed, referring to MV Vector, to sail, where it is loaded and that it was scheduled for a destination by the Coast Guard, it means that it has Certificate of Inspection extended as assured to this witness by Restituto Abalos. That in no case MV Vector will be allowed to sail if the Certificate of Inspection is, indeed, not to be extended. That was his repeated explanation to the cross-examination. So, there is no need to clarify the same in the re-direct examination."[27]

Caltex and Vector Shipping Corporation had been doing business since 1985, or for about two years before the tragic incident occurred in 1987. Past services rendered showed no reason for Caltex to observe a higher degree of diligence.

Clearly, as a mere voyage charterer, Caltex had the right to presume that the ship was seaworthy as even the Philippine Coast Guard itself was convinced of its seaworthiness. All things considered, we find no legal basis to hold petitioner liable for damages.

As Vector Shipping Corporation did not appeal from the Court of Appeals' decision, we limit our ruling to the liability of Caltex alone. However, we maintain the Court of Appeals' ruling insofar as Vector is concerned .

WHEREFORE, the Court hereby GRANTS the petition and SETS ASIDE the decision of the Court of Appeals in CA-G. R. CV No. 39626, promulgated on April 15, 1997, insofar as it held Caltex liable under the third party complaint to reimburse/indemnify defendant Sulpicio Lines, Inc. the damages the latter is adjudged to pay plaintiffs-appellees. The Court AFFIRMS the decision of the Court of Appeals insofar as it orders Sulpicio Lines, Inc. to pay the heirs of Sebastian E. Cañezal and Corazon Cañezal damages as set forth therein. Third-party defendant-appellee Vector Shipping Corporation and Francisco Soriano are held liable to reimburse/indemnify

defendant Sulpicio Lines, Inc. whatever damages, attorneys' fees and costs the latter is adjudged to pay plaintiffs-appellees in the case.

No costs in this instance.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Ynares-Santiago, JJ., concur. Puno, J., took no part due to close relation with a party.

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[1] In CA-G.R CV No. 29526 promulgated on April 15, 1997, Justice Jorge S. Imperial, ponente, Justices Mabutas and Hormachuelos, concurring.

[2] Findings and Recommendation of the Board of Marine Inquiry dated March 22, 1988, Rollo, p. 358.

[3] Ibid., Rollo, p. 350.

[4] Ibid., Rollo, p. 357. Actually, there were more than 4,000 passengers.

[5] Decision, Court of Appeals, dated April 15, 1997, Rollo, pp. 54-75.

[6] Finding and Recommendations of the Board of Marine Inquiry dated March 22, 1988, Rollo, pp. 347-402.

[7] Rollo, pp. 156-225.

[8] Court of Appeals decision in CA-G. R. CV No. 39526, dated April 15, 1997, Rollo, pp. 54-75.

[9] Philippine Admiralty and Maritime Law, by Attys. Eduardo Hernandez and Antero Peñasales, 1987, p. 237, citing Schoenbaum & Yiannopoulos, Admiralty and Maritime Law, at p. 364.

[10] Ibid., p.495, citing Healy & Sharp, Admiralty, p. 405.

[11] Tabacalera Insurance Co. vs. North Front Shipping Services, 272 SCRA 527 (1997), citing Planters Products, Inc. vs. Court of Appeals, 226 SCRA 476 (1993).

[12] Ibid., citing Planters Products, Inc. vs. Court of Appeals, 226 SCRA 476 (1993).

[13] Puromines vs. Court of Appeals, 220 SCRA 281 (1993).

[14] 226 SCRA 476 (1993).

[15] 245 SCRA 797 (1995).

[16] United States vs. Quinajon, 31 Phil. 189, (1915); United States. vs. Tan Piaoco, 40 Phil. 853 (1920).

[17] 168 SCRA 612, 617-619 (1988).

[18] Trans-Asia Shipping Lines vs. Court of Appeals, 254 SCRA 260 (1996), citing Chan Keep vs. Chan Gioco, 14 Phil. 5 (1909).

[19] Arturo M. Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Volume V, 1992, p. 298, citing Commission Report, pp. 66-67.

[20] Memorandum of Sulpicio Lines, Inc., Rollo, pp. 493-520.

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[21] 292 SCRA 422 (1998), citing Valenzuela vs. Court of Appeals, 253 SCRA 303 (1996); Cf. Quibal vs. Sandiganbayan, 244 SCRA 224 (1995); Citibank, NA vs. Gatchalian, 240 SCRA 212 (1995).

[22] De Guzman vs. Court of Appeals, 168 SCRA 612 (1988).

[23] Under Section 3 (1) of the Carriage of Goods by Sea Act.

[24] TSN, May 7, 1991, pp. 18-19.

[25] TSN, Direct Examination of Apolinario Ng, dated May 7, 1991, pp. 21-22.

[26] TSN, Cross-Examination of Apolinario Ng, dated May 13, 1991, p. 7.

[27] TSN, Re-direct Examination of Apolinario Ng, dated May 13, 1991, p. 51.

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