NATIONAL TRUCKING AND FORWARDING CORPORATION, PETITIONER, VS. RIGHT FORWARDERS CORPORATION, SOLOMON SHAUF, ROBERTO PAGOTAN AND SHIRLEY CRUZ PAGOTAN,[] RESPONDENTS.

G.R. NO. 142941. June 26, 2006

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review under Rule 45 of the 1997 Rules of Court assailing the resolution of the Court of Appeals (CA) dated July 20, 1995, which in toto reversed its own decision dated January 14, 1994 in CA-G.R. CV. No. 38504 entitled National Trucking and Forwarding Corporation v. Solomon Shauf and Right Forwarders Corporation (RFC).

Petitioner National Trucking and Forwarding Corporation owned a trailer tractor for the transport of textile carpets from Olongapo to Manila. On January 27, 1989, the tractor was traversing the national highway in Lubao, Pampanga when it was hit by a Nissan Pursar car owned and driven by respondent Solomon Shauf who was then on his way to Olongapo. Immediately after the collision, the Nissan car exploded while the trailer tractor caught fire, destroying all the textile carpets it was carrying.

During investigation, authorities found that the 10-wheeler truck of respondent RFC hit the Nissan carï¿½s rear causing the latter to swerve to its left and collide with petitioner's trailer.

Petitioner filed before the Regional Trial Court of Manila, Branch 16, a complaint for damages against respondents Shauf and RFC, including the latter's President and Manager, respectively, spouses Roberto and Shirley Cruz Pagotan. On the other hand, Shauf filed a cross-claim against RFC and in turn, RFC filed a counterclaim against Shauf.

After trial, the court a quo found RFC liable for the collision. It ruled that the driver of RFC's 10-wheeler truck tried to overtake Shauf but slowed down upon seeing petitioner's trailer coming from the opposite direction. It was in the driver's attempt to regain his position on the road that RFC's truck hit Shauf. The latter then lost control of the steering wheel and bumped onto petitioner's trailer.

The trial court held:

> WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered:
>
> - On plaintiff's complaint:
>
> xxx xxx xxx
>
> - The amount of P157,070.81 representing actual damages for the repair of the trailer-tractor;
>
> - The amount of P7,000.00 as attorney's fees; and

- Costs of suit.

- On defendant Solomon Shauf's cross-claim, to pay the latter:

- P70,000 representing actual damages for the loss of the Nissan Pulsar car;

- P7,000.00 as attorney's fees; and

- Costs of Suit.

- DISMISSING the counterclaims of defendants RF/Pagotan/Cruz.

SO ORDERED.[1]

RFC elevated the case to the CA. In a decision[2] dated January 14, 1994, the CA affirmed in toto the assailed decision of the trial court but when RFC filed its motion for reconsideration, it (the CA) vacated its prior ruling and granted the appeal. It found that the trial court overlooked the police report on the incident stating that Shauf overtook the 10-wheeler truck and sideswiped it. In a resolution dated July 20, 1995, the CA ruled:

> AFTER carefully considering the grounds or contentions of the appellant-movant xxx, We are persuaded [to believe] that the points raised in this motion for reconsideration are meritorious.
>
> ACCORDINGLY, in the light of the foregoing disquisitions and finding merit in the motion for reconsideration, the same is hereby GRANTED. Consequently, the decision promulgated on January 14, 1994 is hereby RECONSIDERED, so as to correct an honest oversight or misapprehension of facts. The complaint filed by plaintiff-appellee as well as the claim of the cross-claimant is hereby ordered DISMISSED.
>
> FOR lack of basis of supporting evidence, the counter-claim cannot however be given due course. We make no pronouncement as to costs.[3]

In this petition, petitioner faults the CA for reversing its decision of January 14, 1994, thus leaving no one to answer for the damages it sustained.

We find for petitioner.

This case falls under one of the exceptions to the rule that this Court does not review the findings of fact of the lower courts. There being contradictory factual findings as to who was responsible for the collision and who should pay damages to petitioners, we pass on the facts and evidence of the case.[4]

The records without doubt reveal that the RFC truck first hit the rear of Shauf's Nissan car which in turn caused it to collide with petitioner's trailer. The testimony of RFC's witnesses that the Nissan car tried to overtake RFC's truck was self-serving. The driver, for one, was expected to point the accusing finger at anyone but himself. The picture that he depicted of the accident was unbelievable and contrary to ordinary human experience. The trial court correctly ruled that:

II. The claim of RFC truck driver Romeo Bunto that it was the car that tried to overtake him does not inspire much belief. If the car were [sic] the one that tried to overtake the RFC truck from the right side traveling at 60KPH while the RFC truck at 20KPH, per Romeo's testimony itself, in all probability, there would not have been accident at all. At such rates of speed, if Romeo [was] really [a] careful driver, common sense dictates that he should have given way to the overtaking car even if the car was overtaking on the wrong side. xxx

For another thing, the photos of the RFC truck clearly evince that it is rather new and sturdily built 10-wheeler truck. It emerged from the accident almost without a scratch. If indeed the car was the one that overtook, it would

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have been no match for [sic] the bulkier and sturdier RFC truck, either it would have been crushed to a pulp inclusive of the passengers or at the most have been severely damaged.[5]

We defer to the foregoing evaluation of the trial court.[6] It was in a better position to observe the witnesses' truthfulness, honesty, candor and demeanor.[7]

Moreover, the police report relied upon by the CA could hardly be given any probative value as the person who prepared it never testified as to the truthfulness of the facts recited therein.[8] While it is true that a report rendered in the fulfillment of public duties may be admitted in evidence without proof of genuineness,[9] it is also true that it is only a prima facie evidence of the facts stated there and the same may be negated by clear and convincing evidence to the contrary.[10]

With the foregoing, we are constrained to set aside the assailed resolution of the CA.

WHEREFORE, the petition is hereby GRANTED. The assailed resolution of the Court of Appeals in CA-G.R. CV. No. 38504 is SET ASIDE. The decision of the Regional Trial Court of Manila, Branch 16, is REINSTATED.

No costs.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[*] The Court of Appeals was impleaded as public respondent in this case. However, under Rule 45 of the Rules of Court, the petition for review on certiorari shall be filed without impleading the lower courts either as petitioners or respondents. Hence, the CA was deleted from the title.

[1] Decided by Judge Ramon O. Santiago; rollo, p. 88.

[2] Penned by Associate Justice Jainal D. Rasul and concurred in by Associate Justices Gloria C. Paras and Ramon Mabutas, Jr., of the Seventh Division of the Court of Appeals; rollo, pp. 57-66.

[3] Penned by Justice Jainal Rasul, concurred in by Justice Gloria C. Paras, of the Former Seventh Division of the Court of Appeals; rollo, pp. 51-52.

[4] Chiang Yia Min v. Court of Appeals, G.R. No. 137932, 28 March 2001, 355 SCRA 608.

[5] Decided by Judge Ramon O. Santiago; rollo, p. 86.

[6] People v. Preciados, G.R. No. 122934, 5 January 2001, 349 SCRA 1.

[7] Republic v. Court of Appeals, G.R. No. 116373, 18 January 2001, 349 SCRA 451.

[8] TSN, April 25, 1991, pp. 2-7.

[9] Francisco, EVIDENCE 3rd Edition (1996) (REX Printing Company, Inc., Quezon City, Philippines).

[10] Id.; see also People v. Mejia, 341 Phil. 118 (1997).

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