

**LIGHT RAIL TRANSIT AUTHORITY & RODOLFO ROMAN,
PETITIONERS, VS. MARJORIE NAVIDAD, HEIRS OF THE LATE
NICANOR NAVIDAD & PRUDENT SECURITY AGENCY,
RESPONDENTS.**

G.R. No. 145804. February 06, 2003

Ponente: VITUG, J.

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VITUG, J.:

The case before the Court is an appeal from the decision and resolution of the Court of Appeals, promulgated on 27 April 2000 and 10 October 2000, respectively, in CA-G.R. CV No. 60720, entitled “Marjorie Navidad and Heirs of the Late Nicanor Navidad vs. Rodolfo Roman, et. al.,” which has modified the decision of 11 August 1998 of the Regional Trial Court, Branch 266, Pasig City, exonerating Prudent Security Agency (Prudent) from liability and finding Light Rail Transit Authority (LRTA) and Rodolfo Roman liable for damages on account of the death of Nicanor Navidad.

On 14 October 1993, about half an hour past seven o’clock in the evening, Nicanor Navidad, then drunk, entered the EDSA LRT station after purchasing a “token” (representing payment of the fare). While Navidad was standing on the platform near the LRT tracks, Junelito Escartin, the security guard assigned to the area approached Navidad. A misunderstanding or an altercation between the two apparently ensued that led to a fist fight. No evidence, however, was adduced to indicate how the fight started or who, between the two, delivered the first blow or how Navidad later fell on the LRT tracks. At the exact moment that Navidad fell, an LRT train, operated by petitioner Rodolfo Roman, was coming in. Navidad was struck by the moving train, and he was killed instantaneously.

On 08 December 1994, the widow of Nicanor, herein respondent Marjorie Navidad, along with her children, filed a complaint for damages against Junelito Escartin, Rodolfo Roman, the LRTA, the Metro Transit Organization, Inc. (Metro Transit), and Prudent for the death of her husband. LRTA and Roman filed a counterclaim against Navidad and a cross-claim against Escartin and Prudent. Prudent, in its answer, denied liability and averred that it had exercised due diligence in the selection and supervision of its security guards.

The LRTA and Roman presented their evidence while Prudent and Escartin, instead of presenting evidence, filed a demurrer contending that Navidad had failed to prove that Escartin was negligent in his assigned task. On 11 August 1998, the trial court rendered its decision; it adjudged:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants Prudent Security and Junelito Escartin ordering the latter to pay jointly and severally the plaintiffs the following:

“a)

1)

Actual damages of P44,830.00;

2)

Compensatory damages of P443,520.00;

3)

Indemnity for the death of Nicanor Navidad in the sum of P50,000.00;

“b)

Moral damages of P50,000.00;

“c)

Attorney’s fees of P20,000;

“d)

Costs of suit.

“The complaint against defendants LRTA and Rodolfo Roman are dismissed for lack of merit.

“The compulsory counterclaim of LRTA and Roman are likewise dismissed.”[1]

Prudent appealed to the Court of Appeals. On 27 August 2000, the appellate court promulgated its now assailed decision exonerating Prudent from any liability for the death of Nicanor Navidad and, instead, holding the LRTA and Roman jointly and severally liable thusly:

“WHEREFORE, the assailed judgment is hereby MODIFIED, by exonerating the appellants from any liability for the death of Nicanor Navidad, Jr. Instead, appellees Rodolfo Roman and the Light Rail Transit Authority (LRTA) are held liable for his death and are hereby directed to pay jointly and severally to the plaintiffs-appellees, the following amounts:

a) P44,830.00 as actual damages;

b) P50,000.00 as nominal damages;

c) P50,000.00 as moral damages;

d) P50,000.00 as indemnity for the death of the deceased; and

e) P20,000.00 as and for attorney’s fees.”[2]

The appellate court ratiocinated that while the deceased might not have then as yet boarded the train, a contract of carriage theretofore had already existed when the victim entered the place where passengers were supposed to be after paying the fare and getting the corresponding token therefor. In exempting Prudent from liability, the court stressed that there was nothing to link the security agency to the death of Navidad. It said that Navidad failed to show that Escartin inflicted fist blows upon the victim and the evidence merely established the fact of death of

Navidad by reason of his having been hit by the train owned and managed by the LRTA and operated at the time by Roman. The appellate court faulted petitioners for their failure to present expert evidence to establish the fact that the application of emergency brakes could not have stopped the train.

The appellate court denied petitioners' motion for reconsideration in its resolution of 10 October 2000.

In their present recourse, petitioners recite alleged errors on the part of the appellate court; viz:

“I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED BY DISREGARDING THE FINDINGS OF FACTS BY THE TRIAL COURT

“II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT PETITIONERS ARE LIABLE FOR THE DEATH OF NICANOR NAVIDAD, JR.

“III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT RODOLFO ROMAN IS AN EMPLOYEE OF LRTA.”[3]

Petitioners would contend that the appellate court ignored the evidence and the factual findings of the trial court by holding them liable on the basis of a sweeping conclusion that the presumption of negligence on the part of a common carrier was not overcome. Petitioners would insist that Escartin's assault upon Navidad, which caused the latter to fall on the tracks, was an act of a stranger that could not have been foreseen or prevented. The LRTA would add that the appellate court's conclusion on the existence of an employer-employee relationship between Roman and LRTA lacked basis because Roman himself had testified being an employee of Metro Transit and not of the LRTA.

Respondents, supporting the decision of the appellate court, contended that a contract of carriage was deemed created from the moment Navidad paid the fare at the LRT station and entered the premises of the latter, entitling Navidad to all the rights and protection under a contractual relation, and that the appellate court had correctly held LRTA and Roman liable for the death of Navidad in failing to exercise extraordinary diligence imposed upon a common carrier.

Law and jurisprudence dictate that a common carrier, both from the nature of its business and for reasons of public policy, is burdened with the duty of exercising utmost diligence in ensuring the safety of passengers.[4] The Civil Code, governing the liability of a common carrier for death of or injury to its passengers, provides:

“Article 1755. A common carrier is bound to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances.

“Article 1756. In case of death of or injuries to passengers, common carriers are presumed to have been at fault or to have acted negligently, unless they prove that they observed extraordinary diligence as prescribed in articles 1733 and 1755.”

“Article 1759. Common carriers are liable for the death of or injuries to passengers through the negligence or willful acts of the former's employees, although such employees may have acted beyond the scope of their authority or in violation of the orders of the common carriers.

“This liability of the common carriers does not cease upon proof that they exercised all the diligence of a good father of a family in the selection and supervision of their employees.”

“Article 1763. A common carrier is responsible for injuries suffered by a passenger on account of the willful acts or negligence of other passengers or of strangers, if the common carrier’s employees through the exercise of the diligence of a good father of a family could have prevented or stopped the act or omission.”

The law requires common carriers to carry passengers safely using the utmost diligence of very cautious persons with due regard for all circumstances.[5] Such duty of a common carrier to provide safety to its passengers so obligates it not only during the course of the trip but for so long as the passengers are within its premises and where they ought to be in pursuance to the contract of carriage.[6] The statutory provisions render a common carrier liable for death of or injury to passengers (a) through the negligence or wilful acts of its employees or b) on account of wilful acts or negligence of other passengers or of strangers if the common carrier’s employees through the exercise of due diligence could have prevented or stopped the act or omission.[7] In case of such death or injury, a carrier is presumed to have been at fault or been negligent, and [8] by simple proof of injury, the passenger is relieved of the duty to still establish the fault or negligence of the carrier or of its employees and the burden shifts upon the carrier to prove that the injury is due to an unforeseen event or to force majeure.[9] In the absence of satisfactory explanation by the carrier on how the accident occurred, which petitioners, according to the appellate court, have failed to show, the presumption would be that it has been at fault,[10] an exception from the general rule that negligence must be proved.[11]

The foundation of LRTA’s liability is the contract of carriage and its obligation to indemnify the victim arises from the breach of that contract by reason of its failure to exercise the high diligence required of the common carrier. In the discharge of its commitment to ensure the safety of passengers, a carrier may choose to hire its own employees or avail itself of the services of an outsider or an independent firm to undertake the task. In either case, the common carrier is not relieved of its responsibilities under the contract of carriage.

Should Prudent be made likewise liable? If at all, that liability could only be for tort under the provisions of Article 2176[12] and related provisions, in conjunction with Article 2180,[13] of the Civil Code. The premise, however, for the employer’s liability is negligence or fault on the part of the employee. Once such fault is established, the employer can then be made liable on the basis of the presumption *juris tantum* that the employer failed to exercise *diligentissimi patris familias* in the selection and supervision of its employees. The liability is primary and can only be negated by showing due diligence in the selection and supervision of the employee, a factual matter that has not been shown. Absent such a showing, one might ask further, how then must the liability of the common carrier, on the one hand, and an independent contractor, on the other hand, be described? It would be solidary. A contractual obligation can be breached by tort and when the same act or omission causes the injury, one resulting in *culpa contractual* and the other in *culpa aquiliana*, Article 2194[14] of the Civil Code can well apply.[15] In fine, a liability for tort may arise even under a contract, where tort is that which breaches the contract.[16] Stated differently, when an act which constitutes a breach of contract would have itself constituted the source of a quasi-delictual liability had no contract existed between the parties, the contract can be said to have been breached by tort, thereby allowing the rules on tort to apply.[17]

Regrettably for LRT, as well as perhaps the surviving spouse and heirs of the late Nicanor Navidad, this Court is concluded by the factual finding of the Court of Appeals that “there is nothing to link (Prudent) to the death of Nicanor (Navidad), for the reason that the negligence of its employee, Escartin, has not been duly proven x x x.” This finding of the appellate court is not without substantial justification in our own review of the records of the case.

There being, similarly, no showing that petitioner Rodolfo Roman himself is guilty of any culpable act or omission, he must also be absolved from liability. Needless to say, the contractual tie between the LRT and Navidad is not itself a juridical relation between the latter and Roman; thus, Roman can be made liable only for

his own fault or negligence.

The award of nominal damages in addition to actual damages is untenable. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.[18] It is an established rule that nominal damages cannot co-exist with compensatory damages.[19]

WHEREFORE, the assailed decision of the appellate court is AFFIRMED with MODIFICATION but only in that (a) the award of nominal damages is DELETED and (b) petitioner Rodolfo Roman is absolved from liability. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, p. 16.

[2] Rollo, pp. 46-47.

[3] Rollo, pp. 18-19.

[4] Arada vs. Court of Appeals, 210 SCRA 624.

[5] Philippine Airlines, Inc. vs. Court of Appeals, 226 SCRA 423.

[6] Dangwa Transportation Co., Inc. vs. Court of Appeals, 202 SCRA 575.

[7] Article 1763, Civil Code.

[8] Gatchalian vs. Delim, 203 SCRA 126; Yobido vs. Court of Appeals, 281 SCRA 1; Landingin vs. Pangasinan Transportation Co., 33 SCRA 284.

[9] Mercado vs. Lira, 3 SCRA 124.

[10] Article 1756, Civil Code.

[11] Vda. De Abeto vs. Phil. Air Lines, Inc., 30 July 1982.

[12] 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.

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

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages 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.

The State is responsible in like manner when it acts through a special agent, but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in article 2176 shall be applicable.

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.

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.

[14] Art. 2194. The responsibility of two or more persons who are liable for a quasi-delict is solidary.

[15] *Air France vs. Carrascoso*, 124 Phil. 722.

[16] *PSBA vs. CA*, 205 SCRA 729.

[17] *Cangco vs. Manila Railroad*, 38 Phil. 768; *Manila Railroad vs. Compania Transatlantica*, 38 Phil. 875.

[18] Article 2221, Civil Code.

[19] *Medina, et al. vs. Cresencia*, 99 Phil. 506.

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