

**RAYMUNDO ODANI SECOSA, EL BUENASENSENTO SY AND DASSAD
WAREHOUSING AND PORT SERVICES, INCORPORATED,
PETITIONERS, VS. HEIRS OF ERWIN SUAREZ FRANCISCO,
RESPONDENTS.**

G.R. No. 160039. June 29, 2004

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-160039/>

YNARES-SANTIAGO, J.:

This is a petition for review under Rule 45 of the Rules of Court seeking the reversal of the decision[1] of the Court of Appeals dated February 27, 2003 in CA-G.R. CV No. 61868, which affirmed in toto the June 19, 1998 decision[2] of Branch 20 of the Regional Trial Court of Manila in Civil Case No. 96-79554.

The facts are as follows:

On June 27, 1996, at around 4:00 p.m., Erwin Suarez Francisco, an eighteen year old third year physical therapy student of the Manila Central University, was riding a motorcycle along Radial 10 Avenue, near the Veteran Shipyard Gate in the City of Manila. At the same time, petitioner, Raymundo Odani Secosa, was driving an Isuzu cargo truck with plate number PCU-253 on the same road. The truck was owned by petitioner, Dassad Warehousing and Port Services, Inc.

Traveling behind the motorcycle driven by Francisco was a sand and gravel truck, which in turn was being tailed by the Isuzu truck driven by Secosa. The three vehicles were traversing the southbound lane at a fairly high speed. When Secosa overtook the sand and gravel truck, he bumped the motorcycle causing Francisco to fall. The rear wheels of the Isuzu truck then ran over Francisco, which resulted in his instantaneous death. Fearing for his life, petitioner Secosa left his truck and fled the scene of the collision.[3]

Respondents, the parents of Erwin Francisco, thus filed an action for damages against Raymond Odani Secosa, Dassad Warehousing and Port Services, Inc. and Dassad's president, El Buenasucenso Sy. The complaint was docketed as Civil Case No. 96-79554 of the RTC of Manila, Branch 20.

On June 19, 1998, after a full-blown trial, the court a quo rendered a decision in favor of herein respondents, the dispositive portion of which states:

WHEREFORE, premised on the foregoing, judgment is hereby rendered in favor of the plaintiffs ordering the defendants to pay plaintiffs jointly and severally:

- The sum of P55,000.00 as actual and compensatory damages;
- The sum of P20,000.00 for the repair of the motorcycle;
- The sum of P100,000.00 for the loss of earning capacity;
- The sum of P500,000.00 as moral damages;

- The sum of P50,000.00 as exemplary damages;
- The sum of P50,000.00 as attorney's fees plus cost of suit.

SO ORDERED.

Petitioners appealed the decision to the Court of Appeals, which affirmed the appealed decision in toto.[4]

Hence the present petition, based on the following arguments:

I.

THE COURT OF APPEALS SERIOUSLY ERRED WHEN IT AFFIRMED THE DECISION OF THE TRIAL COURT THAT PETITIONER DASSAD DID NOT EXERCISE THE DILIGENCE OF A GOOD FATHER OF A FAMILY IN THE SELECTION AND SUPERVISION OF ITS EMPLOYEES WHICH IS NOT IN ACCORDANCE WITH ARTICLE 2180 OF THE NEW CIVIL CODE AND RELATED JURISPRUDENCE ON THE MATTER.

II.

THE COURT OF APPEALS SERIOUSLY ERRED WHEN IT AFFIRMED THE DECISION OF THE TRIAL COURT IN HOLDING PETITIONER EL BUENASENSO SY SOLIDARILY LIABLE WITH PETITIONERS DASSAD AND SECOSA IN VIOLATION OF THE CORPORATION LAW AND RELATED JURISPRUDENCE ON THE MATTER.

III.

THE JUDGMENT OF THE TRIAL COURT AS AFFIRMED BY THE COURT OF APPEALS AWARDED P500,000.00 AS MORAL DAMAGES IS MANIFESTLY ABSURD, MISTAKEN AND UNJUST.[5]

The petition is partly impressed with merit.

On the issue of whether petitioner Dassad Warehousing and Port Services, Inc. exercised the diligence of a good father of a family in the selection and supervision of its employees, we find the assailed decision to be in full accord with pertinent provisions of law and established jurisprudence.

Article 2176 of the Civil Code provides:

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.

On the other hand, Article 2180, in pertinent part, states:

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 x x x.

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 x x x.

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.

Based on the foregoing provisions, when an injury is caused by the negligence of an employee, there instantly arises a presumption that there was negligence on the part of the employer either in the selection of his employee or in the supervision over him after such selection. The presumption, however, may be rebutted by a clear showing on the part of the employer that it exercised the care and diligence of a good father of a family in the

selection and supervision of his employee. Hence, to evade solidary liability for quasi-delict committed by an employee, the employer must adduce sufficient proof that it exercised such degree of care.[6]

How does an employer prove that he indeed exercised the diligence of a good father of a family in the selection and supervision of his employee? The case of *Metro Manila Transit Corporation v. Court of Appeals*[7] is instructive:

In fine, the party, whether plaintiff or defendant, who asserts the affirmative of the issue has the burden of presenting at the trial such amount of evidence required by law to obtain a favorable judgment[8] . . . In making proof in its or his case, it is paramount that the best and most complete evidence is formally entered.[9]

Coming now to the case at bar, while there is no rule which requires that testimonial evidence, to hold sway, must be corroborated by documentary evidence, inasmuch as the witnesses' testimonies dwelt on mere generalities, we cannot consider the same as sufficiently persuasive proof that there was observance of due diligence in the selection and supervision of employees. Petitioner's attempt to prove its "deligentissimi patris familias" in the selection and supervision of employees through oral evidence must fail as it was unable to buttress the same with any other evidence, object or documentary, which might obviate the apparent biased nature of the testimony.[10]

Our view that the evidence for petitioner MMTC falls short of the required evidentiary quantum as would convincingly and undoubtedly prove its observance of the diligence of a good father of a family has its precursor in the underlying rationale pronounced in the earlier case of *Central Taxicab Corp. vs. Ex-Meralco Employees Transportation Co., et al.*,[11] set amidst an almost identical factual setting, where we held that:

"The failure of the defendant company to produce in court any 'record' or other documentary proof tending to establish that it had exercised all the diligence of a good father of a family in the selection and supervision of its drivers and buses, notwithstanding the calls therefor by both the trial court and the opposing counsel, argues strongly against its pretensions.

We are fully aware that there is no hard-and-fast rule on the quantum of evidence needed to prove due observance of all the diligence of a good father of a family as would constitute a valid defense to the legal presumption of negligence on the part of an employer or master whose employee has by his negligence, caused damage to another. x x x (R)educing the testimony of Albert to its proper proportion, we do not have enough trustworthy evidence left to go by. We are of the considered opinion, therefore, that the believable evidence on the degree of care and diligence that has been exercised in the selection and supervision of Roberto Leon y Salazar, is not legally sufficient to overcome the presumption of negligence against the defendant company.

The above-quoted ruling was reiterated in a recent case again involving the *Metro Manila Transit Corporation*,[12] thus:

In the selection of prospective employees, employers are required to examine them as to their qualifications, experience, and service records.[13] On the other hand, with respect to the supervision of employees, employers should formulate standard operating procedures, monitor their implementation, and impose disciplinary measures for breaches thereof. To establish these factors in a trial involving the issue of vicarious liability, employers must submit concrete proof, including documentary evidence.

In this case, MMTC sought to prove that it exercised the diligence of a good father of a family with respect to the selection of employees by presenting mainly testimonial evidence on its hiring procedure. According to MMTC, applicants are required to submit professional driving licenses, certifications of work experience, and clearances from the National Bureau of Investigation; to undergo tests of their driving skills, concentration, reflexes, and vision; and, to complete training programs on traffic rules, vehicle maintenance, and standard operating procedures during emergency cases.

x x x x x x x x

Although testimonies were offered that in the case of Pedro Musa all these precautions were followed, the records of his interview, of the results of his examinations, and of his service were not presented. . . [T]here is no record that Musa attended such training programs and passed the said examinations before he was employed. No proof was presented that Musa did not have any record of traffic violations. Nor were records of daily inspections, allegedly conducted by supervisors, ever presented. . . The failure of MMTC to present such documentary proof puts in doubt the credibility of its witnesses.

Jurisprudentially, therefore, the employer must not merely present testimonial evidence to prove that he observed the diligence of a good father of a family in the selection and supervision of his employee, but he must also support such testimonial evidence with concrete or documentary evidence. The reason for this is to obviate the biased nature of the employer's testimony or that of his witnesses.[14]

Applying the foregoing doctrines to the present case, we hold that petitioner Dassad Warehousing and Port Services, Inc. failed to conclusively prove that it had exercised the requisite diligence of a good father of a family in the selection and supervision of its employees.

Edilberto Duerme, the lone witness presented by Dassad Warehousing and Port Services, Inc. to support its position that it had exercised the diligence of a good father of a family in the selection and supervision of its employees, testified that he was the one who recommended petitioner Raymundo Secosa as a driver to Dassad Warehousing and Port Services, Inc.; that it was his duty to scrutinize the capabilities of drivers; and that he believed petitioner to be physically and mentally fit for he had undergone rigid training and attended the PPA safety seminar.[15]

Petitioner Dassad Warehousing and Port Services, Inc. failed to support the testimony of its lone witness with documentary evidence which would have strengthened its claim of due diligence in the selection and supervision of its employees. Such an omission is fatal to its position, on account of which, Dassad can be rightfully held solidarily liable with its co-petitioner Raymundo Secosa for the damages suffered by the heirs of Erwin Francisco.

However, we find that petitioner El Buenasenso Sy cannot be held solidarily liable with his co-petitioners. While it may be true that Sy is the president of petitioner Dassad Warehousing and Port Services, Inc., such fact is not by itself sufficient to hold him solidarily liable for the liabilities adjudged against his co-petitioners.

It is a settled precept in this jurisdiction that a corporation is invested by law with a personality separate from that of its stockholders or members.[16] It has a personality separate and distinct from those of the persons composing it as well as from that of any other entity to which it may be related. Mere ownership by a single stockholder or by another corporation of all or nearly all of the capital stock of a corporation is not in itself sufficient ground for disregarding the separate corporate personality.[17] A corporation's authority to act and its liability for its actions are separate and apart from the individuals who own it.[18]

The so-called veil of corporation fiction treats as separate and distinct the affairs of a corporation and its officers and stockholders. As a general rule, a corporation will be looked upon as a legal entity, unless and until sufficient reason to the contrary appears. When the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.[19] Also, the corporate entity may be disregarded in the interest of justice in such cases as fraud that may work inequities among members of the corporation internally, involving no rights of the public or third persons. In both instances, there must have been fraud and proof of it. For the separate juridical personality of a corporation to be disregarded, the wrongdoing must be clearly and convincingly established.[20] It cannot be presumed.[21]

The records of this case are bereft of any evidence tending to show the presence of any grounds enumerated above that will justify the piercing of the veil of corporate fiction such as to hold the president of Dassad Warehousing

and Port Services, Inc. solidarily liable with it.

The Isuzu cargo truck which ran over Erwin Francisco was registered in the name of Dassad Warehousing and Port Services, Inc., and not in the name of El Buenasenso Sy. Raymundo Secosa is an employee of Dassad Warehousing and Port Services, Inc. and not of El Buenasenso Sy. All these things, when taken collectively, point toward El Buenasenso Sy's exclusion from liability for damages arising from the death of Erwin Francisco.

Having both found Raymundo Secosa and Dassad Warehousing and Port Services, Inc. liable for negligence for the death of Erwin Francisco on June 27, 1996, we now consider the question of moral damages which his parents, herein respondents, are entitled to recover. Petitioners assail the award of moral damages of P500,000.00 for being manifestly absurd, mistaken and unjust. We are not persuaded.

Under Article 2206, the "spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish for the death of the deceased." The reason for the grant of moral damages has been explained in this wise:

. . . the award of moral damages is aimed at a restoration, within the limits possible, of the spiritual status quo ante; and therefore, it must be proportionate to the suffering inflicted. The intensity of the pain experienced by the relatives of the victim is proportionate to the intensity of affection for him and bears no relation whatsoever with the wealth or means of the offender." [22]

In the instant case, the spouses Francisco presented evidence of the searing pain that they felt when the premature loss of their son was relayed to them. That pain was highly evident in the testimony of the father who was forever deprived of a son, a son whose untimely death came at that point when the latter was nearing the culmination of every parent's wish to educate their children. The death of Francis has indeed left a void in the lives of the respondents. Antonio Francisco testified on the effect of the death of his son, Francis, in this manner:

Q:

(Atty. Balanag): What did you do when you learned that your son was killed on June 27, 1996?

A:

(ANTONIO FRANCISCO): I boxed the door and pushed the image of St. Niño telling why this happened to us.

Q:

Mr. Witness, how did you feel when you learned of the untimely death of your son, Erwin Suares (sic)?

A:

Masakit po ang mawalan ng anak. It's really hard for me, the thought that my son is dead.

x x x x x x x x

Q:

How did your family react to the death of Erwin Suarez Francisco?

A:

All of my family and relatives were felt (sic) sorrow because they knew that my son is (sic) good.

Q:

We know that it is impossible to put money terms(s) [on] the life of [a] human, but since you are now in court and if you were to ask this court how much would you and your family compensate? (sic)

A:

Even if they pay me millions, they cannot remove the anguish of my son (sic).[23]

Moral damages are emphatically not intended to enrich a plaintiff at the expense of the defendant. They are awarded to allow the former to obtain means, diversion or amusements that will serve to alleviate the moral suffering he has undergone due to the defendant's culpable action and must, perforce, be proportional to the suffering inflicted.[24] We have previously held as proper an award of P500,000.00 as moral damages to the heirs of a deceased family member who died in a vehicular accident. In our 2002 decision in *Metro Manila Transit Corporation v. Court of Appeals, et al.*, [25] we affirmed the award of moral damages of P500,000.00 to the heirs of the victim, a mother, who died from injuries she sustained when a bus driven by an employee of the petitioner hit her. In the case at bar, we likewise affirm the portion of the assailed decision awarding the moral damages.

Since the petitioners did not question the other damages adjudged against them by the court a quo, we affirm the award of these damages to the respondents.

WHEREFORE, the petition is DENIED. The assailed decision is AFFIRMED with the MODIFICATION that petitioner El Buenasenso Sy is ABSOLVED from any liability adjudged against his co-petitioners in this case.

Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Carpio, and Azcuna, JJ., concur.

[1] Penned by Justice Danilo B. Pine and concurred in by Justices Eugenio S. Labitoria and Renato C. Dacudao. Rollo, pp. 25-31.

[2] Penned by Judge Virgilio D. Quijano, Presiding Judge.

[3] Rollo, pp. 25-26.

[4] *Id.*, p. 31.

[5] *Id.*, p. 15.

[6] *Baliwag Transit, Inc. v. Court of Appeals, et al.*, G.R. No. 116624, 20 September 1996, 262 SCRA 230. See also, *Philippine Air Lines v. Court of Appeals*, G.R. No. L-46036, 18 May 1990, 185 SCRA 449.

[7] G.R. No. 104408, 21 June 1993, 223 SCRA 521.

[8] *Citing Republic v. Court of Appeals*, G.R. No. 84966, 21 November 1991, 204 SCRA 160.

[9] *U.S. v. Tria*, 17 Phil. 303 (1910).

[10] *Garcia v. Gonzales*, G.R. No. 48184, 12 March 1990, 183 SCRA 72.

[11] 54 O.G., No. 31, 7415 (1958).

[12] *Metro Manila Transit Corporation v. Court of Appeals, et al.*, G.R. No. 116617, 16 November 1998, 298 SCRA 495.

- [13] Campo v. Camarote, 100 Phil. 459, 463 (1956).
- [14] Ernesto Syki v. Salvador Begasa, G.R. No. 149149, 23 October 2003.
- [15] Rollo, p. 27.
- [16] Villanueva, Philippine Commercial Law Review, 1998 edition, p. 345.
- [17] Sunio v. NLRC, G.R. No. L-57767, 31 January 1984, 127 SCRA 390.
- [18] Jentz, Miller, Cross and Clarkson, West's Business Law, 4th edition, p. 614.
- [19] Volume 1, Fletcher Cyclopedia Corporations, Chapter 2, Section 41.7.
- [20] Matuguina Integrated Wood Products, Inc. v. Court of Appeals, G.R. No. 98310, 24 October 1996, 263 SCRA 490, 509.
- [21] Avelina G. Ramoso, et al. v. Court of Appeals, et al., G.R. No. 117416, 8 December 2000, 347 SCRA 463.
- [22] Sangco, Torts and Damages, 986 [1994 ed.].
- [23] TSN, March 20, 1997, pp. 4-6.
- [24] Philtranco Service Enterprises v. Court of Appeals, et al., G.R. No. 120553, 17 June 1997, 273 SCRA 562.
- [25] G.R. No. 141089, 1 August 2002.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.