

**MARITO T. BERNALES, PETITIONER, VS. NORTHWEST AIRLINES, RESPONDENT.***G.R. No. 182395. October 05, 2015*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182395/>**BRION, J.:\***

This petition for review on certiorari seeks to reverse the 31 March 2008 decision of the Court of Appeals (CA) in CA-G.R. CV No. 86861,[1] which reversed the 26 January 2006 decision of the Regional Trial Court (RTC) of Iriga City, Branch 60 in Civil Case No. 3355.[2] This RTC ruling, in turn, ordered the respondent Northwest Airlines (NWA) to pay the petitioner moral and exemplary damages plus attorney's fees in the sum of twelve million five hundred thirty thousand pesos (P12,530,000.00).

**ANTECEDENTS**

The petitioner Marito T. Bernales is a lawyer, a university dean, and a board member of the Sangguniang Panlalawigan of Camarines Sur. On 1 October 2002, he and several other prominent personalities from Bicol were on their way to Honolulu, Hawaii, as the delegates of a trade and tourism mission for the province. They were economy class passengers of Northwest Airlines Flight No. 10 from Manila to Honolulu via Narita, Japan.

The delegation arrived at Narita International Airport (NRT) at around 11:00 a.m. Their connecting flight was scheduled at 8:40 p.m., later that evening.

At around 6:00 p.m., a typhoon hit Japan, leading to the cancellation of most flights, including NWA Flight No. 10. However, NWA did not cancel Flight No. 22, also bound for Honolulu later that night, to minimize delays and to accommodate stranded passengers in case the typhoon would subside.

Under NWA policy, affected passengers are protected in their booking for the next available flight in case of cancellations. This means that if there are available seats in the next flight, the delayed passengers would be accommodated with priority given to first class and business class passengers. If only limited seats are available, the delayed passengers are wait-listed according to their priority level and in the sequence of their check-in. In all cases, the original passengers of the next flight are prioritized over the delayed passengers.

At around 9:00 p.m., the storm subsided and the airport resumed its operations. Ordinarily, NRT has an 11:00 p.m. cut-off for flights to give the city a reprieve from airplane noise. On this day, the Narita Airport Authority extended the airplane curfew to 1:00 a.m., in order to accommodate the delayed flights and to make up for lost time. This opened up the possibility that the petitioner's group could still push through to Honolulu.

The delegates opted to be wait-listed for Flight No. 22. The petitioner was placed last in the wait-list as he was the last economy class passenger to check in for Flight No. 10. To ensure departure before the 1:00 a.m. curfew, NWA gave out "dummy" boarding passes to the wait-listed passengers even before the priority passengers boarded the plane.

The passengers of Flight 22 were called for boarding at around 11:00 p.m. and the delegates boarded the shuttle taking them to the airplane. But before the shuttle bus could leave, NWA Customer Service Agent Tsuruki Ohashi

entered the shuttle and informed the petitioner that he could not take Flight 22 as no available seat was left for him.

According to the petitioner's version of events, Ohashi barged into the bus and shouted "Marito, Marito Bernales, where are you?" When the petitioner identified himself, Ohashi allegedly yelled, "Bullshit, Marito Bernales, you are not included in the manifest. Get out! Get out!" Ohashi allegedly took the petitioner's boarding pass and grabbed him by the arm before ejecting him from the shuttle. The shuttle bus carrying his hand-carried bag left the petitioner alone outside the terminal without his money, passport, and other travel documents.

Because of the incident, the other delegates refused to board the airplane unless the petitioner was physically brought to them at the tarmac. After a stalemate between the delegates and the airline's employees, the petitioner was transported by shuttle to the aircraft to rejoin his group.

NWA narrates in its narration of events, that Ohashi politely approached the petitioner in the shuttle bus and informed him that they needed to accommodate two original priority passengers who arrived. Ohashi politely asked the petitioner to alight. Ohashi assured the petitioner that he would look for a volunteer passenger who would give up his seat to accommodate the petitioner and asked him to wait inside the terminal. NWA alleges that the petitioner gracefully complied without objections. Ohashi found a volunteer passenger within ten minutes. NWA immediately transported the petitioner to the airplane for the flight.

NWA maintains that Ohashi has an impeccable service record in customer relations and has received multiple commendations.

In either case, the petitioner was given a dummy boarding pass for Seat No. 35 in the name of "Eddie Tanno." The dummy boarding pass was issued out of necessity due to the lack of time to issue a new one. The petitioner, however, thought it was a real boarding pass. He proceeded to Seat No. 35-H and found it occupied by Eddie Tanno. He showed the dummy boarding pass to Tanno who, noticing his name irately asked, "Can't you read?" An attendant noticed the commotion and immediately escorted the petitioner to Seat No. 15-H, his allotted vacant seat.

Unfortunately, Flight No. 22 failed to depart in time to beat the Narita curfew. The pilot thus instructed the passengers to disembark and wait for the next flight. The passengers of Flight No. 22 were returned to the terminal where they had to wait with 1,500 other stranded passengers.

All the nearby hotels were fully booked from the many flight cancellations. Because it was already late, NWA failed to find billeting for the stranded Flight No. 22 passengers and they had to spend the night at the airport; they were given blankets, pillows, snacks, water, and food coupons. The petitioner claims that he was made to sleep on the terminal floor "akin to the beggars of Quiapo and Baclaran" and had to suffer the discomfort of using the public toilets.

In the morning of 2 October 2002, NWA gave the delegates two options: (1) take a direct flight to Honolulu scheduled for 3 October 2002; or (2) take a 3:35 p.m. flight later that day to Los Angeles, California, with an immediate connecting flight to Honolulu. The delegates chose the second option so they could leave immediately.

The delegates arrived at Honolulu on 2 October 2002 between 3:00 and 4:00 p.m., Honolulu time. But they had already missed the courtesy calls they were to make on the governor and the mayor, which were scheduled for earlier that day.

On 12 February 2003, the petitioner filed a complaint for moral and exemplary damages against the respondent NWA for breach of their contract of carriage. The petitioner alleged that Ohashi's rude treatment, his ejection

from the shuttle bus, the resulting missed obligations due to the flight's delay, and the humiliation from the ordeal caused him immense mental anguish and moral shock. He prayed for P10,000,000.00 as moral damages, P2,000,000.00 as exemplary damages, and P500,000.00 as attorney's fees plus P5,000.00 per court appearance. The complaint was docketed as Civil Case No. 3355.

On 30 April 2003, NWA filed its answer denying that Ohashi, or any of its employees, forcibly ejected the petitioner or treated him rudely. NWA insisted that it acted in good faith and never in a wanton, fraudulent, oppressive, or malevolent manner.

After proceedings, the RTC rendered its decision on 3 October 2005 in favor of the petitioner. The RTC believed the petitioner's version of events and blamed the respondent for: (1) the humiliation caused by Eddie Tanno; (2) the failure to billet the passengers to a nearby hotel; and (3) for causing the petitioner to miss his scheduled obligations in Honolulu. The RTC awarded him P10,000,000.00 as moral damages, P2,000,000.00 as exemplary damages, P530,000.00 as attorney's fees.

NWA appealed the case to the CA. The appeal was docketed as CA-G.R. CV No. 86861.

On 31 March 2008, the CA reversed the RTC decision and dismissed the complaint. The CA held that: (1) moral damages cannot be awarded in breaches of contracts of carriage except in cases of the death of a passenger or when the common carrier acted in bad faith;<sup>[3]</sup> (2) the typhoon was the real and proximate cause of the cancellation of flights and NWA's failure to bring the petitioner to Honolulu in time; (3) the petitioner's accusation that Mr. Ohashi verbally abused him is not believable and contrary to ordinary human experience; (4) the airline cannot be responsible for the remarks of Eddie Tanno, a fellow passenger; and (5) 1,500 other passengers similarly experienced the discomfort of spending the night at the airport, and NWA did not maliciously single him out. The CA concluded that NWA did not act in bad faith; therefore, there was no basis to grant moral and exemplary damages.

On 23 April 2008, the petitioner filed this petition for review on certiorari arguing that the CA erred in finding that NWA acted in good faith and in dismissing his complaint. The petitioner also adopts the RTC's decision and asserts that this case is an exception to the rule that the factual findings of the CA are conclusive on this Court.

In its comment, NWA pointed out that the petition should be dismissed outright because it only raises questions of fact. NWA also maintained in its memorandum that the CA did not err in concluding that the former acted in good faith and that the petitioner's version of the events was incredible and contrary to human experience.

### OUR RULING

At the outset, we also note that the petitioner only raised questions of fact, which are not proper in a petition for review on certiorari. Under Section 1 of Rule 45, such petition shall only raise questions of law. The Supreme Court is not a trier of facts and it is not our function to analyze and weigh the evidence that the lower courts have passed upon. Ordinarily, the factual findings of the Court of Appeals are conclusive upon this Court. However, jurisprudence has carved out recognized exceptions<sup>[4]</sup> to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures;<sup>[5]</sup> (2) when the inference made is manifestly mistaken, absurd or impossible;<sup>[6]</sup> (3) when there is grave abuse of discretion;<sup>[7]</sup> (4) when the judgment is based on a misapprehension of facts;<sup>[8]</sup> (5) when the findings of facts are conflicting;<sup>[9]</sup> (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;<sup>[10]</sup> (7) when the findings are contrary to those of the trial court;<sup>[11]</sup> (8) when the findings are conclusions without citation of specific evidence on which they are based;<sup>[12]</sup> (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent;<sup>[13]</sup> (10)

when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record;[14] and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[15]

In the present case, the RTC believed the petitioner's version of events while the CA believed the respondent. Considering that the lower courts differ in their factual conclusions, this case qualifies as an exception to the general rule.

After a review of the records and considering the conflicting versions of events, we agree with the CA.

Moral damages predicated upon a breach of a carriage contract is only recoverable in instances where the mishap results in the death of a passenger,[16] or where the carrier is guilty of fraud or bad faith.[17] Bad faith is not simple negligence or bad judgment; it involves ill intentions and a conscious design to do a wrongful act for a dishonest purpose..[18]

Under the carriage contract, NWA had the obligation to transport the petitioner from Narita International Airport to Honolulu, Hawaii, on 1 October 2002 at 8:40 p.m. NWA failed to perform this duty because a strong typhoon hit Japan that evening, forcing widespread flight cancellations. Nevertheless, NWA attempted to fly the petitioner to Honolulu on a later flight after the typhoon passed. This attempt failed because NWA was prevented by the mandatory airport curfew. NWA was only able to fulfill its obligation at 3:35 p.m. the following day

The primary cause of NWA's delay in the fulfillment of its obligation was the unusually strong typhoon that struck Japan that evening. We take notice that this was Typhoon Higos, one of the most powerful typhoons to hit Japan as of that date.[19] Typhoon Higos resulted in the cancellation of more than 200 flights.[20]

From this perspective, we cannot attribute bad faith or ill motives on NWA for cancelling Flight No. 10. Pushing through would have recklessly endangered the lives of the passengers and the crew. Evidently, the real and proximate cause of NWA's breach of contract was a fortuitous event.

Moreover, NWA demonstrated good faith when it exerted its best efforts to accommodate the delayed Flight No. 10 passengers on Flight No. 22. While Flight No. 22 also failed to leave, the failure was caused by the 1:00 p.m. Narita curfew. Again, we cannot attribute malice on NWA for the cancellation of Flight No. 22.

As the CA did, we do not believe the petitioner's accusations that Ohashi barged into shuttle bus, verbally abused him, and forced him off the bus. It makes no sense for Ohashi to suddenly yell, "Bullshit, Marito Bernales, you are not included in the manifest. Get out! Get out!" out of nowhere without any prior exchanges. Moreover, we find it hard to believe that neither the petitioner nor the other delegates protested on the spot against the alleged abusive treatment. As the CA observed, this version of events is contrary to ordinary human experience.

Moreover, Ohashi has a good track record in customer service and was the recipient of several commendation letters that were presented in court. We agree with the petitioner that under the rules of evidence, his previous acts are not admissible to prove how Ohashi behaved during the incident. But as the respondent pointed out, previous conduct may be received as evidence to prove specific intent, habit, and tendencies.[21] Ohashi's track record contradicts the petitioner's portrayal of him as an unreasonably rude person.

We also find it hard to swallow the petitioner's theory that Ohashi only brought him to the plane because the other delegates stayed on the tarmac and refused to board unless the petitioner was with them. These delegates did not object when the petitioner was allegedly maltreated and ejected from the shuttle bus, yet the petitioner would have us believe that they protested on the tarmac for thirty to forty minutes in his behalf. We find it contrary to common experience for people to do or say nothing when a companion is being abused, then suddenly protest

after the fact when they were already away from the incident. These, to us, are inconsistent reactions. Thus, we find NWA's account to be more credible.

On the insulting remark from Eddie Tanno, we cannot possibly hold NWA responsible for the actions of the other passengers. The RTC blames the mistake of NWA's agents in the issuance of the dummy boarding pass for putting the petitioner in that situation. Moral damages, however, cannot be awarded for simple mistakes in the absence of bad faith.

Finally, we also cannot impute bad faith on NWA's failure to house the passengers in any nearby hotels. Flight No. 22 was cancelled at around 1 a.m. Considering the number of flights cancelled earlier that evening, it is understandable that hotel rooms had already been booked by the other airlines also billeting their passengers.

The petitioner paints the dismal picture that he was forced to use the public comfort rooms and sleep on the floor like "the beggars of Quiapo and Baclaran." He fails to mention though that the 1,500 other stranded passengers had to endure the same discomforts that he experienced; NWA did not maliciously single him out. All the stranded passengers suffered the same experience because of Typhoon Higos. NWA did the next best thing it could and provided the passengers with blankets, snacks, and other comforts available under the circumstances.

The arrival of Typhoon Higos was an extraordinary and unavoidable event. Its occurrence made it impossible for NWA to bring the petitioner to Honolulu in time for his commitments. We cannot hold the respondent liable for a breach of contract resulting from a fortuitous event. Moreover, we find that NWA did not act in bad faith or in a wanton, fraudulent, reckless, or oppressive manner. On the contrary, it exerted its best efforts to accommodate the petitioner on Flight No. 22 and to lessen the petitioner's discomfort when he and the other passengers were left to pass the night at the terminal. Thus, the CA did not err in dismissing the complaint.

WHEREFORE, considering that the Court of Appeals committed no reversible errors, we DENY the petition for lack of merit. Costs against the petitioner.

### **SO ORDERED.**

Peralta,[\*\*] Villarama, Jr.,[\*\*\*] Leonen, and Jardeleza,[\*\*\*\*] JJ., concur.

---

[\*] Designated as Acting Chairperson, per Special Order No. 2222 dated September 29, 2015.

[\*\*] Designated as Acting Member in lieu of Associate Justice Antonio T. Carpio, per Special Order 2223 dated September 29, 2015.

[\*\*\*] Designated Acting Member in lieu of Associate Justice Jose C. Mendoza, per Raffle dated September 7, 2015.

[\*\*\*\*] Designated Acting Member in lieu of Associate Justice Mariano C. del Castillo, per Raffle dated December 22, 2014.

[1] Penned by Associate Justice Ricardo D. Rosario and concurred in by Associate Justices Mariano C. Del Castillo (now Associate Justice of this Court) and Arcangelita Romilla-Lontok; rollo, pp. 85-97.

[2] Rollo, pp. 73-83.

[3] CA Decision p. 8 citing Articles 1764 and 2220 of the Civil Code; rollo, p. 92.

[4] *New City Builders, Inc. v. NLRC*, 499 Phil. 207, 212 (2005) citing *Insular Life Assurance Company, Ltd. v. CA*, All Phil. 7 (2004).

- [5] Joaquin v. Navarro, 93 Phil. 257 (1953).
- [6] De Luna v. Linatoc, 74 Phil. 15 (1942).
- [7] Buyco v. People, 95 Phil. 453 (1954).
- [8] Cruz v. Sosing, 94 Phil. 26 (1953).
- [9] Casica v. Villaseca, 101 Phil. 1205 (1957).
- [10] Lim Yhi Luya v. Court of Appeals, G.R. No. L-40258, September 11, 1980, 99 SCRA 668.
- [11] Sacay v. Sandiganbayan, G.R. Nos. L-66497-98, July 10, 1986, 142 SCRA 593.
- [12] Universal Motors v. Court of Appeals, G.R. No. L-47432, January 27, 1992, 205 SCRA 448.
- [13] Alsua-Betts v. Court of Appeals, G.R. Nos. L-46430-31, July 30, 1979, 92 SCRA 332.
- [14] Medina v. Asistio, G.R. No. 75450, November 8, 1990, 191 SCRA 218.
- [15] Abellana v. Dosdos, G.R. No. L-19498, 26 February 1965, 13 SCRA 244.
- [16] Art. 1764 and 2206, Civil Code.
- [17] Art. 2220, Civil Code; Cathay Pacific Airways, Ltd. v. Court of Appeals, G.R. No. 60501, 5 March 1993, 219 SCRA 520, 524.
- [18] Far East Bank and Trust Company v. Court of Appeals, G.R. No. 108164, 23 February 1995, 241 SCRA 671, 675; Montinola v. Philippine Airlines, G.R. No. 198656, 8 September 2014, 734 SCRA 439, 458.
- [19] "Typhoon Bears Down on Tokyo." 1 October 2002. Accessed 24 July 2015. Available at <http://edition.cnn.com/2002/world/asiapcf/east/10/01/typhoon.japan/>; "Japan Hit By Deadly Storm." 2 October 2002. Accessed 24 July 2015. Available at <http://news.bbc.co.Uk/2/hi/asia-pacific/2290162.stm>.
- [20] Id.
- [21] Section 34, Rule 130 of the Rules of Court.

**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.