

THE CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. FRANCISCO GAMBE, DEFENDANT AND APPELLANT.

G.R. No. 1922. March 31, 1906

Ponente: CARSON, J.

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CARSON, J.:

The testimony in this case is conflicting and contradictory to a degree, but upon a careful examination of the whole record we are of opinion that the findings in the judgment of the trial court are sustained by the weight of the evidence.

Accepting the facts set out therein as correct, there can be no doubt that the defendant, Francisco Gambe, the pilot who was in command and had complete control of the steamer Alfred at the time of the accident, and not the owners of the boat, must be held responsible for the damages resulting therefrom. It was contended that the owners should be held responsible because the Alfred was not equipped with the most modern and improved means of communication from the bridge to the engine room, including a speaking tube. But the lack of the speaking tube can not be held as in any wise contributing to the accident, which was solely the result of the mistake on the part of the pilot in giving the orders "forward" and "full speed forward" when he should have given the order "astern" or "full speed astern."

It is contended further that the record fails to show the actual damage suffered by the bridge, and therefore furnishes no basis for a judgment in damages, but we think that the testimony of Major Case, the city engineer of Manila, and A. W. Ayres, inspector of the port, is conclusive upon this point, and no evidence in rebuttal having been introduced by the defense, we must sustain the finding of the trial court as to the actual damages inflicted upon the bridge.

The judgment appealed from should be, and is hereby, affirmed, with costs against the appellant. After expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter the record remanded to the court below for proper action. So ordered.

Arellano, C J., Torres, Mapa, and Johnson, JJ., concur.

WILLARD, J.:

I do not concur as to the amount of damages.

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