

LINDA CACHO, MINORS SARAH JANE, JACQUELINE, FIRE RINA AND MARK LOUISE ALL SURNAMED CACHO, ALL REPRESENTED BY THEIR MOTHER AND GUARDIAN AD LITEM LINDA CACHO, PETITIONERS, VS. GER...

G.R. No. 203081. January 17, 2018

Ponente: MARTIRES, J.

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MARTIRES, J.:

For resolution is the Petition for Review on Certiorari,[1] docketed as G.R. No. 203081, assailing the 22 March 2012 Decision[2] and the 3 August 2012 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 83499. The CA reversed the 26 January 2004 Decision[4] of the Regional Trial Court, Branch 55 of Alaminos, Pangasinan (RTC), and dismissed the complaint for damages docketed as Civil Case No. A-2553.

THE FACTS

The present case arose from a complaint for damages filed by the petitioners, the wife and children of Bismark Cacho (Cacho), against Gerardo Manahan (Manahan), Dagupan Bus Co., Inc. (Dagupan Bus), and Renato de Vera (De Vera), the owner of R.M. De Vera Construction (De Vera Construction).

The records disclose that on 30 June 1999 a vehicular accident occurred along the national highway at Pogo, Alaminos, Pangasinan, near the Embarcadero Bridge. At around 5:00 A.M. on the said date, Cacho was driving a Nissan Sentra with Plate No. UAM 778 from Alaminos, Pangasinan to Bani, Pangasinan, when it collided with a Dagupan Bus, with Plate No. AVD 548, traversing on the opposite lane. The car had already crossed the bridge when it collided with the bus which was just about to enter the bridge. The collision caused heavy damage to the front of the bus, the total wreckage of the Nissan Sentra, Cacho's instant death, and multiple injuries to three (3) passengers inside the car.

The complaint alleged that Cacho's car was hit by the bus because the latter swerved to the left lane as it tried to avoid a pile of boulders placed on the shoulder of the road. These boulders were negligently placed by De Vera Construction contracted by the local government to do some work on the Embarcadero Bridge.

Dagupan Bus, the owner and operator of the bus, and Manahan, the bus driver, jointly filed their answer with counterclaim and cross-claims. They claimed that it was Cacho who drove fast coming from the bridge and bumped into the bus that was on full stop; and that Cacho had to swerve to the left because there were boulders of rocks scattered on his lane.

In their cross-claims, Dagupan Bus and Manahan argued that the proximate cause of the accident was because of De Vera Construction's negligence for leaving the boulders of rocks on both shoulders of the national highway. These rocks obstructed passage on the highway and posed an imminent danger to vehicles passing by. At the time of the accident, the rocks were piled on both shoulders and some rocks rolled down to both lanes of the highway.

In his answer with counterclaim, De Vera maintained that he ensured the safety of the road by piling the boulders in a safe place to make sure they did not encroach upon the road. He presented the municipality's local civil engineer to testify that he inspected the road and found that De Vera Construction had complied with the safety measures. Like his co-defendants, De Vera blamed Cacho for driving recklessly and causing the collision with the bus.

The Ruling of the Trial Court

After thoroughly evaluating the evidence adduced by all the parties, the RTC held Dagupan Bus, Manahan, and De Vera jointly and severally liable to pay the petitioners:

- Sixty Thousand (P60,000) Pesos as reduced amount for burial and funeral expenses incurred by them as shown from the receipts;
- Fifty Thousand (P50,000) Pesos for loss of life;
- Two Million (P2,000,000) Pesos as the reduced amount for the loss of support of the [petitioners] had not [Cacho] meet his untimely death;
- Another amount of moral damages in the reduced sum of Three Hundred Thousand (P300,000) Pesos;
- Exemplary damages in the reduced sum of One Hundred Thousand (P100,000) Pesos;
- Loss of earning capacity in the amount of One Million Six Hundred Eighty Thousand (P1,680,000) Pesos; and
- Attorney's fees in the sum of Two Hundred Thousand (P200,000) Pesos.

For the total amount of Four Million Three Hundred Ninety Thousand (P4,390,000) Pesos.[5]

Initially, the RTC did not believe that the bus was on full stop and that Cacho caused the collision, viz:

The Court cannot believe that the [bus] had stopped fully upon reaching the front portion of the bridge because Exhibit K shows that in fact the [bus] has encroached the lane as shown in Exhibit K-1 to mean therefore that the [bus] was not on full stop position when the incident happened but was moving. Likewise, Exhibit K shows the left portion, left front wheel of the [bus] was steered to the right which is clearly depicted in Exhibit J and also clearly shown in Exhibit I showing the front right wheel of the bus turned to the left side.

x x x x

The Court cannot also believe that [Cacho] driving the Nissan Sentra was the one that bumped the [bus], the reason being that, if it was [Cacho] driving the car bumped the [bus], in this position shown in

Exhibit F-2, how will the [bus], the defendant in this case explain the damage that he suffered as shown in Exhibit 3 which shows the front left portion of the bus having suffered damages at the line of the bus driver's seat, so that if there were two (2) vehicles running on opposite direction in this kind of impact the smaller vehicle, which is the Nissan Sentra could have been thrown to the left side of the bus (along the driver's line of seat) as shown in Exhibit 2 because if the [bus] was stationary and the Nissan Sentra was the one that bumped while running, the position of the Nissan Sentra car should not have been on the left but on the opposite direction in line with the front of the bus or slightly off the front of the bus and besides how can Dagupan Bus explain if indeed the bus was stationary at the time of the incident since it is shown that it has occupied outside its lane shown in Exhibit K-1.[6]

The RTC explained that Manahan was negligent in driving the bus because it was traversing at the speed of 80-100 KM/H and was about to enter a very narrow bridge.[7] In coming up with this finding, the trial court gave

much credence and importance to the testimony of one Alvin Camba (Camba), who was a passenger of the bus in this incident, over the testimony of Dagupan Bus' conductor.[8] Furthermore, the RTC stressed the negligence on the part of Manahan as he had the last clear chance to avoid the collision, to wit:

Another point. At 5:20 A.M., more or less, both vehicles should have still their lights on and since the [bus] is higher than the Nissan Sentra, the [bus] could have noticed the incoming car and could have the last clear chance to avoid the car, had [Manahan] exercised extraordinary diligence by running the bus slowly since the width of the bridge is narrow and the car was already about to clear the bridge by crossing the span of the entire bridge. This was not done and neither was the last reasonable opportunity to avoid the impending harm exercise; such failure spells clearly the negligence of [Manahan].[9]

To add, applying the doctrine of *res ipsa loquitur*, the RTC concluded that Cacho could not have driven on Manahan's side of the road because the car he was driving was thrown to a position where the car's front was facing the left side of the bus.[10]

In the end, the trial court held that the proximate cause of the incident was the negligence of Manahan in driving the bus as well as the negligence on the part of De Vera for allowing his employees to place boulders near the bridge.[11] The RTC noted:

The Court can also take Judicial Notice of the Embarcadero Bridge which is a very narrow bridge but the length is quite long that could hardly accommodate two (2) big vehicles crossing one another, except, if these vehicles are running at a very low speed.

In Exhibit H and H-1 [De Vera] operating [De Vera Construction], had placed boulders/stones on the edge of the road which to the mind of the Court additionally hampers the flow of traffic and likewise shown in Exhibit I.[12]

The CA Ruling

In the assailed decision, the CA reversed the trial court's ruling, effectively dismissing the complaint for damages against Manahan, Dagupan Bus, and De Vera. Contrary to the trial court's findings, the CA did not believe that the bus was running very fast and that it suddenly swerved to the left to avoid the boulders. It held:

Logic and the principles of force and momentum dictate that, if the [bus] was moving at a high speed until it collided with the Nissan Sentra, said bus would have traveled a farther distance from the point of collision especially considering its size and weight compared to the Nissan Sentra.

Moreover, if the [bus] swerved to its left while speeding until the time of collision, the bus would be occupying a bigger, if not, the entire portion of the opposite lane. Certainly, the Nissan Sentra which is a lighter and smaller vehicle could not have stopped the [bus'] force and momentum if [Manahan] was driving the bus very fast. As the evidence (Exhibit "2") shows, the Nissan Sentra was in a perpendicular position with its front portion rammed against the upper left portion of the bus.

Further, the evidence (Exhibit "K") shows that the [bus] was just situated at the approach of the bridge and in parallel position to the road notwithstanding the fact that its front tires were swerved to its left side. This is consistent with [Dagupan Bus and Manahan's] averment that the bus was at a full stop and waiting for the Nissan Sentra to cross the bridge so that it could in turn proceed.

Regarding the position of the front tires of the bus, to the mind of this Court, considering that the bridge is narrower than the road, the front tires had to be aimed to its left to compensate for the bus length before entering the narrow bridge. Furthermore, the [bus] had to encroach a portion of the opposite lane to avoid the boulders on its right side.

Notwithstanding the position of the bus, it cannot be said that the Dagupan Bus was the party liable for the

collision. It must be emphasized that the [bus] still left a significant space to enable the vehicles coming from the opposite direction to safely pass the bridge and into the highway. As Exhibit "K" shows, there is approximately a 24-inch space between a passing red car and the [bus] and the red car had passed the bridge and traversed the highway and safely avoided the [bus] on its left with ease. Moreover, the picture (Exhibit "K") shows that the red car is being followed by a jeepney, which is evidently bigger than the red car and the subject Nissan Sentra, and presumably, the said jeepney was able to pass through the same space without difficulty.

Definitely, [Cacho] had a significant space to maneuver his car safely from the bridge and into the highway and pas[s] the [bus] on its left. Unfortunately, the Nissan Sentra still collided with the [bus]. Despite the fact that the bus was at a full stop at the approach of the bridge and with enough space for other vehicles from the opposite lane to pass through, [Cacho] failed to avoid the [bus] and collided with [it]. Clearly, it was [Cacho] who drove the Nissan Sentra negligently or with lack of due care. [Cacho]'s negligence resulted in the collision which left his Nissan Sentra car lying perpendicular to the left side of the [bus] and with considerable damage to both the bus and his car, and, sadly, in his death.

x x x x

In the case at bench, the proximate cause of the accident was clearly the negligence of [Cacho] in driving the Nissan Sentra. We are not ruling here on the liability of defendant [De Vera] who was found by the RTC to be solidarity liable with [Dagupan Bus and Manahan] because of his negligence in carelessly dumping the stone boulders on the road and which both the [bus] and the Nissan Sentra tried to avoid on their respective side of the highway. Be it noted that [De Vera] did not appeal from the RTC's decision.[13]

After their motion for reconsideration was denied, the petitioners filed the petition before this Court.

OUR RULING

The petition has merit.

At the onset, we must remember that a Rule 45 review is generally limited to questions of law.[14] This limitation exists because we are not a trier of facts who undertakes the re-examination and re-assessment of the evidence presented by the contending parties during the trial.[15] The appreciation and resolution of factual issues are the functions of the lower courts, whose resulting findings are then received with respect and are generally binding on this Court.[16] However, there are exceptions, such as when the factual findings of the CA and the trial court are contradictory.[17]

Although the present petition substantially raises factual matters, we review the contrasting evaluation and conclusion by the RTC and the CA. An examination of the records shows that both the RTC and the CA had carefully considered the facts behind the case. On one hand, the RTC found that it was Manahan's negligence that was the proximate cause of the accident. The CA's position is that Cacho was driving recklessly as it traversed the bridge, so he was found negligent. Taken that the RTC and the CA have different positions on who was negligent, we now ascertain who between them is correct.

After review of the conclusions of fact and the evidence on record, we are inclined to side with the RTC's findings.

First, the assessment of the trial court on the credibility of witnesses is accorded great weight and respect and even considered as conclusive and binding. Given that the trial judge has the unique opportunity to observe the witness first hand, he can be expected to determine with reasonable discretion which testimony is acceptable and which witness is worthy of belief.[18] In the case at bar, the RTC gave much credence to Camba's testimony as he was a passenger of the bus during the accident. Camba testified that the bus was travelling at a high speed even if it was

nearing the Embarcadero Bridge:

Q:

On June 30, 1999, at about 5:20 in the morning, will you tell us, Mr. Witness, where were you?

A:

I was aboard the [bus] that was bound for Manila but I was going to Alaminos and it collided with a car, sir.

Q:

Mr. Witness, do you know the number of the [bus] that you were riding?

A:

272, sir.

Q:

What happened at Pogo, Alaminos, Pangasinan, Mr. Witness?

A:

I noticed that the driver of the bus that I was riding was driving fast and it suddenly swerved to the left and then I heard a "bang" but I did not alight at once because I was bumped the seat in front and I was a little dizzy.

x x x x

Q:

You said, Mr. Witness, that the driver of the [bus] was driving very fast, is it not?

A:

Yes, sir.

Q:

Could you estimate the speed in terms of kilometers per hour?

A:

Between 80 to 100 kilometers per hour, sir.

Q:

And you said that the bus suddenly swerved to the left, is it not?

A:

Yes, sir.

x x x x

Q:

How far was the spot of the impact or the spot of the accident to the edge of the ridge?

A:

From here... (witness demonstrating) a distance between 2 - 3 or 2 ½ meters.

Q:

So we can safely say that the accident happened at the approach of the bridge coming from Bani?

A:

Yes, madam.

x x x x

Q:

What part of the bus did you ride?

A:

Right side, madam.

Q:

How many seats?

A:

Third seat, madam.

Q:

When you were approaching the bridge, did you also see the car of Mr. Cacho coming?

A:

I did not see the car approaching, madam.

Q:

Were you sleeping at that time?

A:

No, madam.

Q:

Considering that it was 5:00 in the morning, the lights of the vehicle were on, you did not see the light of the car of Mr. Cacho?

A:

When I saw it was immediately before the impact, it was followed by the sound of the impact.[19]

Although Dagupan Bus offered the testimony of one of its bus conductors to contradict Camba's version, we agree with the trial court that his testimony duly established the fact that Manahan was driving the bus at a high speed before they entered the bridge. This unbiased piece of evidence alone supports the RTC's conclusion that there was negligence on the part of Manahan. Absent any showing that the calibration of the credibility of the witness was flawed, we are bound by this assessment. As much as possible, we will sustain the trial court's findings unless it could be shown that it ignored, overlooked, misunderstood, misappreciated, or misapplied substantial facts and circumstances which, if considered, would materially affect the result of the case.[20] In this case, there is no such instance. The RTC's meticulous analysis deserves more credit because it is supported by the evidence on record.

We simply cannot adopt the CA's position that the bus was on full stop upon entering the bridge as this is based on speculation and contrary to evidence. Borne by the record, the impact of the collision resulted in the car being thrown about ninety (90) degrees counter-clockwise to the opposite lane before resting perpendicular to the road. The resulting position of the vehicle after the collision is incompatible with the conclusion that the bus was at full stop. Cacho's car would not be thrown off and be turned counter-clockwise to the opposite direction of its motion if there was no heavier and greater force that collided with it. This circumstance was duly established by the photographs of the scene taken after the accident.

Second, negligence on the part of Manahan was also established by the photographs showing that he occupied Cacho's lane. Exhibits "I-1" and "J-1" would show that the front wheels of the bus were turned to the left. We can easily notice from Exhibits "K-1" and "L-1" that both the front and rear left wheels of the bus already occupied a portion of the opposite lane; leaving a smaller space for Cacho to safely exit the bridge. We also observe that there was enough space on the right side of the road because a man extending his two hands, as depicted in Exhibit "M," could fit between the right side of the bus and the shoulder of the road.

From these circumstances, therefore, we find that Manahan was clearly negligent because the bus he was driving already occupied a portion of the opposite lane, and he was driving at a high speed while approaching the bridge.

In *Picart v. Smith*,^[21] we laid down the test by which we determine the existence of negligence, viz:

The test by which to determine the existence of negligence in a particular case may be stated as follows: Did the defendant in doing the alleged negligent act use that reasonable care and caution which an ordinary prudent person would have used in the same situation? If not, then he is guilty of negligence. The law here in effect adopts the standard supposed to be supplied by the imaginary conduct of the discreet paterfamilias of the Roman law. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that.

The question as to what would constitute the conduct of a prudent man in a given situation must of course be always determined in the light of human experience and in view of the facts involved in the particular case. Abstract speculations cannot here be of much value but this much can be profitably said: Reasonable men govern their conduct by the circumstances which are before them or known to them. They are not, and are not supposed to be, omniscient of the future. Hence they can be expected to take care only when there is something before them to suggest or warn of danger. Could a prudent man, in the case under consideration, foresee harm as a result of the course actually pursued? If so, it was the duty of the actor to take precautions to guard against that harm. Reasonable foresight of harm, followed by the ignoring of the suggestion born of this prevision, is always necessary before negligence can be held to exist. Stated in these terms, the proper criterion for determining the existence of negligence in a given case is this: Conduct is said to be negligent when a prudent man in the position of the tortfeasor would have foreseen that an effect harmful to another was sufficiently probable to warrant his foregoing conduct or guarding against its consequences.^[22] (emphases ours)

Using this test, Manahan was clearly negligent when he was relatively driving fast on a narrow highway and approaching a similarly narrow bridge. We must bear in mind that a bus is a significantly large vehicle which would be difficult to maneuver and stop if it were travelling at a high speed. On top of this, the time of the accident was on or about sunrise when visibility on the road was compromised. Manahan should have been more prudent and careful in his driving the bus especially considering that Dagupan Bus is a common carrier. Given the nature of the business and for reasons of public policy, the common carrier is bound "to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case."^[23]

Moreover, we can also say that Manahan was legally presumed negligent under Article 2185 of the Civil Code, which provides: "unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was [in violation of] any traffic regulation." [24] Based on the place and time of the accident, Manahan was actually violating a traffic rule found in R.A. No. 4136, otherwise known as the Land Transportation and Traffic Code:

CHAPTER VI
TRAFFIC RULES

ARTICLE I
Speed Limit and Keeping to the Right

Section 35. Restriction as to speed. –

(a) Any person driving a motor vehicle on a highway shall drive the same at a careful and prudent speed, not greater or less than is reasonable and proper, having due regard for the traffic, the width of the highway, and of any other condition then and there existing; and no person shall drive any motor vehicle upon a highway at such speed as to endanger the life, limb and property of any person, nor at a speed greater than will permit him to bring the vehicle to a stop within the assured clear distance ahead. (emphasis and underlining ours)

(b) Subject to the provisions of the preceding paragraph, the rate of speed of any motor vehicle shall not exceed the following:

MAXIMUM ALLOWABLE SPEEDS

Passenger Cars and Motorcycle

Motor trucks and buses

1. On open country roads, with no "blind corners" not closely bordered by habitations. 80km. per hour 50 km. per hour
2. On "through streets" or boulevards, clear of traffic, with no "blind corners," when so designated. 40 km. per hour 30 km. per hour
3. On city and municipal streets, with light traffic, when not designated "through streets." 30 km. per hour 30 km. per hour
4. Through crowded streets, approaching intersections at "blind corners," passing school zones, passing other vehicles which are stationary, or for similar dangerous circumstances. 20 km. per hour 20 km. per hour

Considering that the bus was already approaching the Embarcadero Bridge, Manahan should have already slowed down a few meters away from the bridge. Actually, he should have stopped farther away from the bridge because he would have been able to see that Cacho's car was already crossing the bridge. An experienced and competent bus driver would be able to know how to properly react upon seeing another vehicle ahead that is about to exit a narrow bridge. Obviously, Manahan failed to do so.

Having established Manahan's negligence, he is liable with Dagupan Bus to indemnify Cacho's heirs. Article 2180, in relation to Article 2176, of the Civil Code provides that the employer of a negligent employee is liable for the damages caused by the latter. When an injury is caused by the negligence of an employee there instantly arises a presumption of the law 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 had exercised the care and diligence of a good father of a family in the selection and supervision of his employee. Hence, to escape solidary liability, for a quasi-delict committed by its employees, an employer must overcome the presumption by presenting convincing proof that it exercised the care and diligence of a good father of a family in the selection and supervision of its employees.[25]

When an employee causes damage due to his own negligence while performing his own duties, the *juris tantum* presumption arises that his employer is negligent, rebuttable only by proof of observance of the diligence of a good father of a family. In the selection of prospective employees, employers are required to examine them as to their qualifications, experience, and service records. With respect to the supervision of employees, employers must formulate standard operating procedures, monitor their implementation, and impose disciplinary measures for breaches thereof. These facts must be shown by concrete proof, including documentary evidence.[26]

A closer scrutiny of the evidence presented to overcome this presumption would show that Dagupan Bus failed in this regard. It would seem that Manahan applied with Dagupan Bus sometime in April 1999.[27] In his application form, he stated that prior to his employment with Dagupan Bus, he was a truck driver. Along with his application, Manahan was required to submit the following documents: 2x2 ID pictures, recommendation letter, NBI clearance, SSS E-1 form, TIN number, barangay clearance, residence certificate, driver's license, and birth certificate.[28]

Finding his requirements to be complete, Manahan was cleared for actual driving and a written examination. On 10 May 1999, Manahan passed his driving examination, but the examiner noted his slow reaction in stopping.[29] Manahan's written examination also points out that he cannot recognize traffic signs indicating a narrow road.[30] After undergoing shop training, Manahan underwent a seven (7)-day apprentice training which he completed on 7 June 1999.[31] A few days after, or on 21 June 1999, Dagupan Bus gave Manahan clearance to report for duty as a bus driver.[32]

On this point, we are surprised at how prompt Dagupan Bus had allowed Manahan to drive one of its buses considering he had no prior experience driving one. The only time he was actually able to drive a bus was probably during his driving examination and a few more times while undergoing apprenticeship. We cannot simply brush aside and ignore Dagupan Bus' haste to hire Manahan; to our mind, this is negligence on its part.

In addition, we noted that Manahan's apprenticeship record indicate that he is not fit to drive aircon buses nor to drive at night. That the accident happened early in the morning, when the visibility conditions are the same as driving at night, Manahan should not have been driving in the first place. Once more, Dagupan Bus' negligence is clear.

While the immediate beneficiaries of the standard of extraordinary diligence are the passengers, they are not the only persons the law seeks to benefit. If we were to solely require this standard of diligence for a common carrier's passengers, this would be incongruent to the State's responsibility to curb accidents on the road. That common carriers should carefully observe the statutory standard of extraordinary diligence in respect of their passengers, such diligence should similarly benefit pedestrians and the owners and passengers of other vehicles who are equally entitled to the safe and convenient use of our roads and highways.[33]

All said, finding both Manahan and Dagupan Bus negligent in meeting their responsibilities, the RTC was correct in awarding damages in favor of Cacho's heirs. Clearly, the CA committed a reversible error.

Further, we noticed that the RTC failed to provide for the interest required of the award. Since the damages imposed were the result of a complaint for damages based on a quasi-delict, the interest on these awards must be computed from the date when the RTC rendered its decision in the civil case, or on 26 January 2004, as it was at

this time that a quantification of the damages may be deemed to have been reasonably ascertained.[34] From the finality of a judgment awarding a sum of money until it is satisfied, the award shall be considered a forbearance of credit, regardless of whether the award in fact pertained to one.[35] To be consistent with the foregoing, the interest on the monetary awards shall then be fixed at six percent (6%) per annum, until the damages are fully paid.

WHEREFORE, the foregoing premises considered, the present petition is GRANTED. The 22 March 2012 Decision and the 3 August 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 83499 are REVERSED and SET ASIDE and the 26 January 2004 Decision of the Regional Trial Court, Branch 55, Alaminos, Pangasinan in Civil Case No. A-2553 is REINSTATED with the following MODIFICATION: Gerardo Manahan, Dagupan Bus Co., and Renato De Vera are solidarity ordered to pay interest on the monetary awards in favor of the petitioners at the rate of six percent (6%) per annum, to be computed from 26 January 2004.

SO ORDERED.

Velasco, Jr. (Chairperson), Bersamin, Leonen, and Gesmundo, JJ., concur.

[1] Rollo, pp. 9-38; Under Rule 45 of the Rules of Court.

[2] Id. at 41-53.

[3] Id. at 54-55.

[4] Id. at 56-88, penned by Judge Jules A. Mejia.

[5] Id. at 88.

[6] Id. at 79-80.

[7] Id. at 84.

[8] Id. at 80-82.

[9] Id. at 82.

[10] Id.

[11] Id. at 84.

[12] Id. at 79.

[13] Id. at 50-52.

[14] RULES OF COURT, Rule 45, Section 1. Filing of petition with Supreme Court. x x x The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth, x x x (emphasis supplied)

[15] *Maglana Rice and Corn Mill, Inc. v. Sps. Tan*, 673 Phil. 532, 539 (2011).

[16] Id. citing *FNCB Finance v. Estavillo*, 270 Phil. 630, 633 (1990).

[17] *Macalinao v. Ong*, 514 Phil. 127, 134 (2005); *Vallacar Transit, Inc. v. Catubig*, 664 Phil. 529, 542 (2011).

[18] *Cang v. Cullen*, 620 Phil. 403, 416 (2009).

[19] TSN, 28 April 2000, pp. 3-15.

[20] Gomez v. Gomez-Samson, 543 Phil. 436, 464 (2007); Ong v. Bogñalbal, 533 Phil. 139, 154 (2006).

[21] 37 Phil. 809 (1918).

[22] Id. at 813.

[23] Civil Code, Article 1733.

[24] See Mendoza v. Gomez, 736 Phil. 460, 475 (2014); Gulliang v. Bedania, 606 Phil. 57, 63 (2009); Mendoza v. Soriano, 551 Phil. 693, 701 (2007).

[25] Travel & Tours Advisers, Inc. v. Cruz, G.R. No. 199282, 14 March 2016, 787 SCRA 297, 317 citing Baliwag Transit, Inc. v. CA, 330 Phil. 785, 789-790 (1996) further citing China Air Lines, Ltd. v. v. CA, 264 Phil. 15, 26 (1990).

[26] Davao Holiday Transport Services Corporation v. Spouses Emphasis, 748 Phil. 921, 925 (2014) citing Cang v. Cullen, supra note 18 at 421.

[27] Exhibit folder; Exhibits "6-S", "6-T", and "6-U."

[28] Id.; Exhibit "6-K."

[29] Id.; Exhibit "6-LL."

[30] Id.; Exhibits "6-JJ" and "6-KK."

[31] Id.; Exhibits "6-OO" and "6-PP."

[32] Id.; Exhibit folder, Exhibit "6-F."

[33] See Kapalaran Bus Line v. Coronado, 257 Phil. 797, 808 (1989).

[34] Philtranco Service Enterprises, Inc. v. Paras, 686 Phil. 736, 753 (2012); Tan v. OMC Carriers, Inc., 654 Phil. 443, 454 (2011).

[35] S.C. Megaworld Construction and Development Corporation v. Parada, 717 Phil. 752, 773 (2013).

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