G.V. FLORIDA TRANSPORT, INC., PETITIONER, VS. HEIRS OF ROMEO L. BATTUNG, JR., REPRESENTED BY ROMEO BATTUNG, SR., RESPONDENTS.

G.R. No. 208802. October 14, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated May 31, 2013 and the Resolution[3] dated August 23, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 97757, which affirmed in toto the Decision[4] dated August 29, 2011 of the Regional Trial Court of Cabagan, Isabela, Branch 22 (RTC) in Civil Case No. 22-1103 finding petitioner G.V. Florida Transport, Inc. (petitioner), Federico M. Duplio, Jr. (Duplio), and Christopher Daraoay (Daraoay) jointly and severally liable to respondents heirs of Romeo L. Battung, Jr. (respondents) for damages arising from culpa contractual.

The Facts

Respondents alleged that in the evening of March 22, 2003, Romeo L. Battung, Jr. (Battung) boarded petitioner's bus with body number 037 and plate number BVJ-525 in Delfin Albano, Isabela, bound for Manila.[5] Battung was seated at the first row behind the driver and slept during the ride. When the bus reached the Philippine Carabao Center in Muñoz, Nueva Ecija, the bus driver, Duplio, stopped the bus and alighted to check the tires. At this point, a man who was seated at the fourth row of the bus stood up, shot Battung at his head, and then left with a companion. The bus conductor, Daraoay, notified Duplio of the incident and thereafter, brought Romeo to the hospital, but the latter was pronounced dead on arrival.[6] Hence, respondents filed a complaint[7] on July 15, 2008 for damages in the aggregate amount of P1,826,000.00[8] based on a breach of contract of carriage against petitioner, Duplio, and Baraoay (petitioner, et al.) before the RTC, docketed as Civil Case No. 22-1103. Respondents contended that as a common carrier, petitioner and its employees are bound to observe extraordinary diligence in ensuring the safety of passengers; and in case of injuries and/or death on the part of a passenger, they are presumed to be at fault and, thus, responsible therefor. As such, petitioner, et al. should be held civilly liable for Battung's death.[9]

In their defense, petitioner, et al. maintained that they had exercised the extraordinary diligence required by law from common carriers. In this relation, they claimed that a common carrier is not an absolute insurer of its passengers and that Battung's death should be properly deemed a fortuitous event. Thus, they prayed for the dismissal of the complaint, as well as the payment of their counterclaims for damages and attorney's fees.[10]

The RTC Ruling

In a Decision[11] dated August 29, 2011, the RTC ruled in respondents' favor and, accordingly, ordered petitioner, et al. to pay respondent the amounts of: (a) P1,586,000.00 as compensatory damages for unearned

income; (b) P50,000.00 as actual damages; and (c) P50,000.00 as moral damages.[12]

The RTC found that petitioner, et al. were unable to rebut the presumed liability of common carriers in case of injuries/death to its passengers due to their failure to show that they implemented the proper security measures to prevent passengers from carrying deadly weapons inside the bus which, in this case, resulted in the killing of Battung. As such, petitioner, et al. were held civilly liable for the latter's death based on culpa contractual.[13]

Dissatisfied, petitioner, et al. appealed to the CA.[14]

The CA Ruling

In a Decision[15] dated May 31, 2013, the CA affirmed the ruling of the RTC in toto.[16] It held that the killing of Battung cannot be deemed as a fortuitous event, considering that such killing happened right inside petitioner's bus and that petitioner, et al. did not take any safety measures in ensuring that no deadly weapon would be smuggled inside the bus.[17]

Aggrieved, only petitioner moved for reconsideration[18] which was, however, denied in a Resolution[19] dated August 23, 2013; hence, the instant petition.

The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly affirmed the ruling of the RTC finding petitioner liable for damages to respondent arising from culpa contractual.

The Court's Ruling

The petition is meritorious.

I.

The law exacts from common carriers (i.e., those persons, corporations, firms, or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public[20]) the highest degree of diligence (i.e., extraordinary diligence) in ensuring the safety of its passengers. Articles 1733 and 1755 of the Civil Code state:

> Art. 1733. Common carriers, from the nature of their business and for reasons of public policy, are 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.
>
> Art. 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.

In this relation, Article 1756 of the Civil Code provides that "[i]n 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." This disputable presumption may also be overcome by a showing that the accident was caused by a fortuitous event.[21]

The foregoing provisions notwithstanding, it should be pointed out that the law does not make the common carrier an insurer of the absolute safety of its passengers. In Mariano, Jr. v. Callejas,[22] the Court explained that:

> While the law requires the highest degree of diligence from common carriers in the safe transport of their passengers and creates a presumption of negligence against them, it does not, however, make the carrier an insurer of the absolute safety of its passengers.
>
> Article 1755 of the Civil Code qualifies the duty of extraordinary care, vigilance[,] and precaution in the

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> carriage of passengers by common carriers to only such as human care and foresight can provide. What constitutes compliance with said duty is adjudged with due regard to all the circumstances.
>
> Article 1756 of the Civil Code, in creating a presumption of fault or negligence on the part of the common carrier when its passenger is injured, merely relieves the latter, for the time being, from introducing evidence to fasten the negligence on the former, because the presumption stands in the place of evidence. Being a mere presumption, however, the same is rebuttable by proof that the common carrier had exercised extraordinary diligence as required by law in the performance of its contractual obligation, or that the injury suffered by the passenger was solely due to a fortuitous event.
>
> In fine, we can only infer from the law the intention of the Code Commission and Congress to curb the recklessness of drivers and operators of common carriers in the conduct of their business.
>
> Thus, it is clear that neither the law nor the nature of the business of a transportation company makes it an insurer of the passenger's safety, but that its liability for personal injuries sustained by its passenger rests upon its negligence, its failure to exercise the degree of diligence that the law requires.[23] (Emphases and underscoring supplied)

Therefore, it is imperative for a party claiming against a common carrier under the above-said provisions to show that the injury or death to the passenger/s arose from the negligence of the common carrier and/or its employees in providing safe transport to its passengers.

In Pilapil v. CA,[24] the Court clarified that where the injury sustained by the passenger was in no way due (1) to any defect in the means of transport or in the method of transporting, or (2) to the negligent or willful acts of the common carrier's employees with respect to the foregoing - such as when the injury arises wholly from causes created by strangers which the carrier had no control of or prior knowledge to prevent — there would be no issue regarding the common carrier's negligence in its duty to provide safe and suitable care, as well as competent employees in relation to its transport business; as such, the presumption of fault/negligence foisted under Article 1756 of the Civil Code should not apply:

> First, as stated earlier, the presumption of fault or negligence against the carrier is only a disputable presumption.[The presumption] gives in where contrary facts are established proving either that the carrier had exercised the degree of diligence required by law or the injury suffered by the passenger was due to a fortuitous event. Where, as in the instant case, the injury sustained by the petitioner was in no way due to any defect in the means of transport or in the method of transporting or to the negligent or wilful acts of [the common carrier'sl employees, and therefore involving no issue of negligence in its duty to provide safe and suitable [care] as well as competent employees, with the injury arising wholly from causes created by strangers over which the carrier had no control or even knowledge or could not have prevented, the presumption is rebutted and the carrier is not and ought not to be held liable. To rule otherwise would make the common carrier the insurer of the absolute safety of its passengers which is not the intention of the lawmakers. (Emphasis and underscoring supplied)

In this case, Battung's death was neither caused by any defect in the means of transport or in the method of transporting, or to the negligent or willful acts of petitioner's employees, namely, that of Duplio and Daraoay, in their capacities as driver and conductor, respectively. Instead, the case involves the death of Battung wholly caused by the surreptitious act of a co-passenger who, after consummating such crime, hurriedly alighted from the vehicle.[25] Thus, there is no proper issue on petitioner's duty to observe extraordinary diligence in ensuring the safety of the passengers transported by it, and the presumption of fault/negligence against petitioner under Article 1756 in relation to Articles 1733 and 1755 of the Civil Code should not apply.

II.

On the other hand, since Battung's death was caused by a co-passenger, the applicable provision is Article 1763 of the Civil Code, which states that "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." Notably, for this obligation, the law provides a lesser degree of diligence, i.e., diligence of a good father of a family, in assessing the existence of any culpability on the common carrier's part.

Case law states that the concept of diligence of a good father of a family "connotes reasonable care consistent with that which an ordinarily prudent person would have observed when confronted with a similar situation. The test to determine whether negligence attended the performance of an obligation is: did the defendant in doing the alleged negligent act use that reasonable care and caution which an ordinarily prudent person would have used in the same situation? If not, then he is guilty of negligence."[26]

In ruling on this case, the CA cited Fortune Express, Inc. v. Court of Appeals[27] (Fortune) in ascribing negligence on the part of petitioner, ratiocinating that it failed to implement measures to detect if its passengers were carrying firearms or deadly weapons which would pose a danger to the other passengers.[28] However, the CA's reliance was plainly misplaced in view of Fortune's factual variance with the case at bar.

In Fortune, the common carrier had already received intelligence reports from law enforcement agents that certain lawless elements were planning to hijack and burn some of its buses; and yet, it failed to implement the necessary precautions to ensure the safety of its buses and its passengers. A few days later, one of the company's buses was indeed hijacked and burned by the lawless elements pretending as mere passengers, resulting in the death of one of the bus passengers. Accordingly, the Court held that the common carrier's failure to take precautionary measures to protect the safety of its passengers despite warnings from law enforcement agents showed that it failed to exercise the diligence of a good father of a family in preventing the attack against one of its buses; thus, the common carrier was rightfully held liable for the death of the aforementioned passenger.

In contrast, no similar danger was shown to exist in this case so as to impel petitioner or its employees to implement heightened security measures to ensure the safety of its passengers. There was also no showing that during the course of the trip, Battung's killer made suspicious actions which would have forewarned petitioner's employees of the need to conduct thorough checks on him or any of the passengers. Relevantly, the Court, in Nocum v. Laguna Tayabas Bus Company,[29] has held that common carriers should be given sufficient leeway in assuming that the passengers they take in will not bring anything that would prove dangerous to himself, as well as his co-passengers, unless there is something that will indicate that a more stringent inspection should be made, viz.:

> In this particular case before Us, it must be considered that while it is true the passengers of appellant's bus should not be made to suffer for something over which they had no control, as enunciated in the decision of this Court cited by His Honor, fairness demands that in measuring a common carrier's duty towards its passengers, allowance must be given to the reliance that should be reposed on the sense of responsibility of all the passengers in regard to their common safety. It is to be presumed that a passenger will not take with him anything dangerous to the lives and limbs of his co-passengers, not to speak of his own. Not to be lightly considered must be the right to privacy to which each passenger is entitled. He cannot be subjected to any unusual search, when he protests the innocuousness of his baggage and nothing appears to indicate the contrary, as in the case at bar. In other words, inquiry may be verbally made as to the nature of a passenger's baggage when such is not outwardly perceptible, but beyond this, constitutional boundaries are already in danger of being transgressed. Calling a policeman to his aid, as suggested by the service manual invoked by the trial judge, in compelling the passenger to submit to more rigid inspection, after the passenger had already declared that the box contained mere clothes and other miscellaneous, could not have justified invasion of a

> constitutionally protected domain. Police officers acting without judicial authority secured in the manner provided by law are not beyond the pale of constitutional inhibitions designed to protect individual human rights and liberties. Withal, what must be importantly considered here is not so much the infringement of the fundamental sacred rights of the particular passenger herein involved, but the constant threat any contrary ruling would pose on the right of privacy of all passengers of all common carriers, considering how easily the duty to inspect can be made an excuse for mischief and abuse. Of course, when there are sufficient indications that the representations of the passenger regarding the nature of his baggage may not be true, in the interest of the common safety of all, the assistance of the police authorities may be solicited, not necessarily to force the passenger to open his baggage, but to conduct the needed investigation consistent with the rules of propriety and, above all, the constitutional rights of the passenger. It is in this sense that the mentioned service manual issued by appellant to its conductors must be understood.[30] (Emphases and underscoring supplied)

In this case, records reveal that when the bus stopped at San Jose City to let four (4) men ride petitioner's bus (two [2] of which turned out to be Battung's murderers), the bus driver, Duplio, saw them get on the bus and even took note of what they were wearing. Moreover, Duplio made the bus conductor, Daraoay, approach these men and have them pay the corresponding fare, which Daraoay did.[31] During the foregoing, both Duplio and Daraoay observed nothing which would rouse their suspicion that the men were armed or were to carry out an unlawful activity. With no such indication, there was no need for them to conduct a more stringent search (i.e., bodily search) on the aforesaid men. By all accounts, therefore, it cannot be concluded that petitioner or any of its employees failed to employ the diligence of a good father of a family in relation to its responsibility under Article 1763 of the Civil Code. As such, petitioner cannot altogether be held civilly liable.

WHEREFORE, the petition is GRANTED. Accordingly, the Decision dated May 31, 2013 and the Resolution dated August 23, 2013 of the Court of Appeals in CA-G.R. CV No. 97757 are hereby REVERSED and SET ASIDE. Accordingly, the complaint for damages filed by respondents heirs of Romeo L. Battung, Jr. is DISMISSED for lack of merit.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

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[1] Rollo, pp. 10-34.

[2] Id. at 42-58. Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Francisco P. Acosta and Angelita A. Gacutan concurring.

[3] Id. at 60-61.

[4] Id. at 92-100. Penned by Judge Felipe Jesus Torio II.

[5] Id. at 93.

[6] Id. at 43-45. See also 63-64.

[7] Dated July 14, 2008. Id. at 62-65.

[8] Broken down as follows: (a) P1,316,000.00 as loss of earning capacity; (b) P150,000.00 as actual damages; (c) P300,000.00 as moral damages; (d) P50,000.00 as exemplary damages; and (e) P10,000.00 as litigation expenses; id. at 64-65.

[9] Id. at 63.

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[10] Id. at 46-47.

[11] Id. at 92-100.

[12] Id. at 100.

[13] Id. at 98-99.

[14] See Notice of Appeal dated September 15, 2011; id. at 101.

[15] Id. at 42-58.

[16] Id. at 57.

[17] Id. at 49.

[18] See Motion for Reconsideration dated June 19, 2013; id. at 129-134.

[19] Id. at 60-61.

[20] See Article 1732 of the Civil CODE.

[21] See Tin v. Arriesgado, 481 Phil. 1, 20-21 (2004), citing Estrada v. Consolacion, 163 Phil. 540, 551 (1976),

[22] 612 Phil. 85 (2009).

[23] Id. at 90, citing Pilapil v. CA, 259 Phil. 1031, 1036 (1989).

[24] Pilapil v. CA, id. at 1037.

[25] See rollo, pp. 45-47.

[26] Crisoslomo v. CA, 456 Phil. 845, 856-857 (2003), citing Jarco Marketing Corporation v. CA, 378 Phil. 991, 1003 (1999), further citing Picart v. Smith, 37 Phil. 809 (1918).

[27] 364 Phil. 480 (1999).

[28] See rollo, pp. 53-54.

[29] 140 Phil. 459 (1969).

[30] Id. at 464-465.

[31] See records, pp. 15-17.

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