

PHILIPPINE NATIONAL RAILWAYS, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND ROSARIO TUPANG, RESPONDENTS.

G.R. No. 55347. October 04, 1985

Ponente: ESCOLIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-55347/>

ESCOLIN, J.:

Invoking the principle of state immunity from suit, the Philippine National Railways, PNR for short, instituted this petition for review on certiorari to set aside the decision of the respondent Appellate Court which held petitioner PNR liable for damages for the death of Winifredo Tupang, a paying passenger who fell off a train operated by the petitioner.

The pertinent facts are summarized by the respondent court as follows:

"x x x The facts show that on September 10, 1972, at about 9:00 o'clock in the evening, Winifredo Tupang, husband of plaintiff Rosario Tupang, boarded Train No. 516 of appellant at Libmanan, Camarines Sur, as a paying passenger bound for Manila. Due to some mechanical defect, the train stopped at Sipocot, Camarines Sur, for repairs, taking some two hours before the train could resume its trip to Manila. Unfortunately, upon passing Iyam Bridge at Lucena, Quezon, Winifredo Tupang fell off the train resulting in his death. The train did not stop despite the alarm raised by the other passengers that somebody fell from the train. Instead, the train conductor, Perfecto Abrazado, called the station agent at Candelaria, Quezon, and requested for verification of the information. Police authorities of Lucena City were dispatched to the Iyam Bridge where they found the lifeless body of Winifredo Tupang.

"As shown by the autopsy report, Winifredo Tupang died of cardio-respiratory failure due to massive cerebral hemorrhage due to traumatic injury [Exhibits B and C, Folder of Exhibits]. Tupang was later buried in the public cemetery of Lucena City by the local police authorities." [Rollo, pp. 91-92]

Upon complaint filed by the deceased's widow, Rosario Tupang, the then Court of First Instance of Rizal, after trial, held the petitioner PNR liable for damages for breach of contract of carriage and ordered it "to pay the plaintiff the sum of P12,000.00 for the death of Winifredo Tupang, plus P20,000.00 for loss of his earning capacity, and the further sum of P10,000.00 as moral damages, and P2,000.00 as attorney's fees, and costs." [1]

On appeal, the Appellate Court sustained the holding of the trial court that the PNR did not exercise the utmost diligence required by law of a common carrier. It further increased the amount adjudicated by the trial court by ordering PNR to pay the plaintiff an additional sum of P5,000.00 as exemplary damages.

Moving for reconsideration of the above decision, the PNR raised for the first time, as a defense, the doctrine of state immunity from suit. It alleged that it is a mere agency of the Philippine government without distinct or separate personality of its own, and that its funds are governmental in character and, therefore, not subject to garnishment or execution. The motion was denied; the respondent court ruled that the ground advanced could not be raised for the first time on appeal.

Hence, this petition for review.

The petition is devoid of merit. The PNR was created under Rep. Act 4156, as amended. Section 4 of the said Act provides:

"The Philippine National Railways shall have the following powers:

a. To do all such other things and to transact all such business directly or indirectly necessary, incidental or conducive to the attainment of the purpose of the corporation; and

b. Generally, to exercise all powers of a corporation under the Corporation Law."

Under the foregoing section, the PNR has all the powers, the characteristics and attributes of a corporation under the Corporation Law. There can be no question then that the PNR may sue and be sued and may be subjected to court processes just like any other corporation.[2]

The petitioner's contention that the funds of the PNR are not subject to garnishment or execution hardly raises a question of first impression. In *Philippine National Railways v. Union de Maquinistas, et al.*,[3] then Justice Fernando, later Chief justice, said: "The main issue posed in this certiorari proceeding, whether or not the funds of the Philippine National Railways, could be garnished or levied upon on execution was resolved in two recent decisions, the *Philippine National Bank v. Court of Industrial Relations* [81 SCRA 314] and *Philippine National Bank v. Hon. Judge Pabalan* [83 SCRA 595]. This Court in both cases answered the question in the affirmative. There was no legal bar to garnishment or execution. The argument based on non-suability of a state allegedly because the funds are governmental in character was unavailing. So it must be again."

In support of the above conclusion, Justice Fernando cited the Court's holding in *Philippine National Bank v. Court of Industrial Relations*, to wit: "The premise that the funds could be spoken of as public in character may be accepted in the sense that the People's Homesite and Housing Corporation was a government-owned entity. It does not follow though that they were exempt from garnishment. *National Shipyard and Steel Corporation v. Court of Industrial Relations* is squarely in point. As was explicitly stated in the opinion of then Justice, later Chief Justice, Concepcion: 'The allegation to the effect that the funds of the NASSCO are public funds of the government, and that, as such, the same may not be garnished, attached or levied upon, is untenable for, as a government-owned and controlled corporation, the NASSCO has a personality of its own, distinct and separate from that of the Government. It has — pursuant to Section 2 of Executive Order No. 356, dated October 23, 1950 ***, pursuant to which the NASSCO has been established — 'all the powers of a corporation under the Corporation Law ***.'"[4]

As far back as 1941, this Court in the case of *Manila Hotel Employees Association v. Manila Hotel Co.*,[5] laid down the rule that "when the government enters into commercial business, it abandons its sovereign capacity and is to be treated like any other corporation. [*Bank of the U.S. v. Planters' Bank*, 9 Waitch 904, 6 L. ed. 244]. By engaging in a particular business through the instrumentality of a corporation, the government divests itself pro hac vice of its sovereign character, so as to render the corporation subject to the rules of law governing private corporations." Of similar import is the pronouncement in *Prisco v. CIR*,[6] that "when the government engages in business, it abdicates part of its sovereign prerogatives and descends to the level of a citizen, x x x." In fine, the petitioner PNR cannot legally set up the doctrine of non-suability as a bar to the plaintiff's suit for damages.

The appellate court found, and petitioner does not deny, that the train boarded by the deceased Winifredo Tupang was so overcrowded that he and many other passengers had no choice but to sit on the open platforms between the coaches of the train. It is likewise undisputed that the train did not even slow down when it approached the Iyam Bridge which was under repair at the time. Neither did the train stop, despite the alarm raised by other passengers that a person had fallen off the train at Iyam Bridge.[7]

The petitioner has the obligation to transport its passengers to their destinations and to observe extraordinary diligence in doing so. Death or any injury suffered by any of its passengers gives rise to the presumption that it was negligent in the performance of its obligation under the contract of carriage. Thus, as correctly ruled by the respondent court, the petitioner failed to overthrow such presumption of negligence with clear and convincing evidence.

But while petitioner failed to exercise extraordinary diligence as required by law,[8] it appears that the deceased was chargeable with contributory negligence. Since he opted to sit on the open platform between the coaches of the train, he should have held tightly and tenaciously on the upright metal bar found at the side of said platform to avoid falling off from the speeding train. Such contributory negligence, while not exempting the PNR from liability, nevertheless justified the deletion of the amount adjudicated as moral damages. By the same token, the award of exemplary damages must be set aside. Exemplary damages may be allowed only in cases where the defendant acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.[9] There being no evidence of fraud, malice or bad faith on the part of petitioner, the grant of exemplary damages should be discarded.

WHEREFORE, the decision of the respondent appellate court is hereby modified by eliminating therefrom the amounts of P10,000.00 and P5,000.00 adjudicated as moral and exemplary damages, respectively. No costs.

SO ORDERED.

Concepcion, Jr., Cuevas, and Alampay, JJ., concur.

Aquino, J., (Chairman), concurs. The case of *Malong vs. PNR*, L-49930, Aug. 7, 1985 (en Banc) holds that the PNR is not immune from suit and is liable as a common carrier for the negligent acts of its employees. It is expressly liable for moral damages for the death of a passenger under arts. 1764 and 2206 of the Civil Code.

Abad Santos, J., concurs with the admonition that government owned and/or controlled corporations should desist from invoking the baseless immunity transmit.

[1] Record on Appeal, pp. 16-17

[2] Sec. 13, Act 1459, as amended.

[3] 84 SCRA 223

[4] 84 SCRA 223

[5] 73 Phil. 374

[6] 102 Phil. 515

[7] p. 93, Rollo

[8] "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.

Such extraordinary diligence in the vigilance over the goods is further expressed in articles 1734, 1735, and 1745, Nos. 5, 6, and 7, while the extraordinary diligence for the safety of the passengers is further set forth in articles 1755, and 1756."

"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."

[9] Article 2232, Civil Code

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.