

**RADIO COMMUNICATIONS OF THE PHILIPPINES, INC. (RCPI),
PETITIONER, VS. HON. COURT OF APPEALS, AND SPOUSES MINERVA
TIMAN AND FLORES TIMAN, RESPONDENTS.**

G.R. No. 79578. March 13, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

A social condolence telegram sent through the facilities of the petitioner gave rise to the present petition for review on certiorari assailing the decision[1] of the respondent Court of Appeals which affirmed in toto the judgment[2] of the trial court, dated February 14, 1985, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Ordering the defendant RCPI to pay plaintiff the amount of P30,848.05 representing actual and compensatory damages; P10,000.00 as moral damages and P5,000.00 as exemplary damages.
2. Awarding of attorney's fees in the sum of P5,000.00.

Costs against the defendant.

SO ORDERED.[3]

The facts as gleaned from the records of the case are as follows:

On January 24, 1983, private respondents-spouses Minerva Timan and Flores Timan sent a telegram of condolence to their cousins, Mr. and Mrs. Hilario Midoranda, at Trinidad, Calbayog City, through petitioner Radio Communications of the Philippines, Inc. (RCPI, hereinafter) at Cubao, Quezon City, to convey their deepest sympathy for the recent death of the mother-in-law of Hilario Midoranda,[4] to wit:

MR. & MRS. HILARIO MIDORANDA

TRINIDAD, CALBAYOG CITY

MAY GOD GIVE YOU COURAGE AND STRENGTH TO BEAR YOUR LOSS. OUR DEEPEST SYMPATHY TO YOU AND MEMBERS OF THE FAMILY.

MINER & FLORY.[5]

The condolence telegram was correctly transmitted as far as the written text was concerned. However, the condolence message as communicated and delivered to the addressees was typewritten on a "Happy Birthday" card and placed inside a "Christmasgram" envelope. Believing that the transmittal to the addressees of the aforesaid telegram in that nonsuch manner was done intentionally and with gross breach of contract resulting to ridicule, contempt, and humiliation of the private respondents and the addressees, including their friends and relatives, the spouses Timan demanded an explanation. Unsatisfied with RCPI's explanations in its letters, dated

March 9 and April 20, 1983, the Timans filed a complaint for damages.[6]

The parties stipulated at the pre-trial that the issue to be resolved by the trial court was:

Whether or not the act of delivering the condolence message in a "Happy Birthday" card with a "Christmasgram" envelope constitutes a breach of contract on the part of the defendant. If in the affirmative, whether or not plaintiff is entitled to damages.[7]

The trial court rendered judgment in favor of the respondents Timans which was affirmed in toto by the Court of Appeals. RCPI now submits the following assignment of errors:

I

THE RESPONDENT COURT ERRED IN CONDEMNING PETITIONER TO PAY ACTUAL AND COMPENSATORY DAMAGES IN THE AMOUNT OF P30,848.05.

II

THE RESPONDENT COURT ERRED IN CONDEMNING PETITIONER TO PAY MORAL DAMAGES IN THE AMOUNT OF P10,000.00.

III

THE RESPONDENT COURT ERRED IN CONDEMNING PETITIONER TO PAY EXEMPLARY DAMAGES IN THE AMOUNT OF P5,000.00.

IV

THE RESPONDENT COURT ERRED IN CONDEMNING PETITIONER TO PAY ATTORNEY'S FEES IN THE AMOUNT OF P5,000.00 PLUS COSTS OF SUIT.[8]

The four assigned errors are going to be discussed jointly because they are all based on the same findings of fact.

We fully agree with the appellate court's endorsement of the trial court's conclusion that RCPI, a corporation dealing in telecommunications and offering its services to the public, is engaged in a business affected with public interest. As such, it is bound to exercise that degree of diligence expected of it in the performance of its obligation.[9]

One of RCPI's main arguments is that it still correctly transmitted the text of the telegram and was received by the addressees on time despite the fact that there was "error" in the social form and envelope used.[10] RCPI asserts that there was no showing that it has any motive to cause harm or damage on private respondents:

Petitioner humbly submits that the "error" in the social form used does not come within the ambit of fraud, malice or bad faith as understood/defined under the law.[11]

We do not agree.

In a distinctly similar case,[12] and oddly also involving the herein petitioner as the same culprit, we held:

Petitioner is a domestic corporation engaged in the business of receiving and transmitting messages. Everytime a person transmits a message through the facilities of the petitioner, a contract is entered into. Upon receipt of the rate or fee fixed, the petitioner undertakes to transmit the message accurately x x x As a corporation, the petitioner can act only through its employees. Hence the acts of its employees in receiving and transmitting messages are the acts of the petitioner. To hold that the petitioner is not liable directly for the acts of its employees in the pursuit of petitioner's business is to deprive the general public availing of the services of the petitioner of an effective and adequate remedy.[13]

Now, in the present case, it is self-evident that a telegram of condolence is intended and meant to convey a message of sorrow and sympathy. Precisely, it is denominated "telegram of condolence" because it tenders sympathy and offers to share another's grief. It seems out of this world, therefore, to place that message of condolence in a birthday card and deliver the same in a Christmas envelope for such acts of carelessness and incompetence not only render violence to good taste and common sense, they depict a bizarre presentation of the sender's feelings. They ridicule the deceased's loved ones and destroy the atmosphere of grief and respect for the departed.

Anyone who avails of the facilities of a telegram company like RCPI can choose to send his message in the ordinary form or in a social form. In the ordinary form, the text of the message is typed on plain newsprint paper. On the other hand, a social telegram is placed in a special form with the proper decorations and embellishments to suit the occasion and the message and delivered in an envelope matching the purpose of the occasion and the words and intent of the message. The sender pays a higher amount for the social telegram than for one in the ordinary form. It is clear, therefore, that when RCPI typed the private respondents' message of condolence in a birthday card and delivered the same in a colorful Christmasgram envelope, it committed a breach of contract as well as gross negligence. Its excuse that it had run out of social condolence cards and envelopes[14] is flimsy and unacceptable. It could not have been faulted had it delivered the message in the ordinary form and reimbursed the difference in the cost to the private respondents. But by transmitting it unfittingly--through other special forms clearly, albeit outwardly, portraying the opposite feelings of joy and happiness and thanksgiving--RCPI only exacerbated the sorrowful situation of the addressees and the senders. It bears stress that this botchery exposed not only the petitioner's gross negligence but also its callousness and disregard for the sentiments of its clientele, which tantamount to wanton misconduct, for which it must be held liable for damages.

It is not surprising that when the Timans' telegraphic message reached their cousin, it became the joke of the Midorandas' friends, relatives, and associates who thought, and rightly so, that the unpardonable mix-up was a mockery of the death of the mother-in-law of the senders' cousin. Thus it was not unexpected that because of this unusual incident, which caused much embarrassment and distress to respondent Minerva Timan, he suffered nervousness and hypertension resulting in his confinement for three days starting from April 4, 1983 at the Capitol Medical Center in Quezon City.[15]

The petitioner argues that "a court cannot rely on speculation, conjectures or guess work as to the fact and amount of damages, but must depend on the actual proof that damages had been suffered and evidence of the actual amount." [16] In other words, RCPI insists that there is no causal relation of the illness suffered by Mr. Timan with the foul-up caused by the petitioner. But that is a question of fact. The findings of fact of the trial court and the respondent court concur in favor of the private respondents. We are bound by such findings--that is the general rule well-established by a long line of cases. Nothing has been shown to convince us to justify the relaxation of this rule in the petitioner's favor. On the contrary, these factual findings are supported by substantial evidence on record.

Anent the award of moral and exemplary damages assigned as errors, the findings of the respondent court are persuasive.

x x x When plaintiffs placed an order for transmission of their social condolence telegram, defendant did not inform the plaintiff of the exhaustion of such social condolence forms. Defendant-appellant accepted through its authorized agent or agency the order and received the corresponding compensation therefor. Defendant did not comply with its contract as intended by the parties and instead of transmitting the condolence message in an ordinary form, in accordance with its guidelines, placed the condolence message expressing sadness and sorrow in forms conveying joy and happiness. Under the circumstances, We cannot accept the defendant's plea of good faith predicated on such exhaustion of social condolence forms. Gross negligence or carelessness can

be attributed to defendant-appellant in not supplying its various stations with such sufficient and adequate social condolence forms when it held out to the public sometime in January, 1983, the availability of such social condolence forms and accepted for a fee the transmission of messages on said forms. Knowing that there are no such forms as testified to by its Material Control Manager Mateo Atienza, and entering into a contract for the transmission of messages in such forms, defendant-appellant committed acts of bad faith, fraud or malice. x x x[17]

RCPI's argument that it can not be held liable for exemplary damages, being penal or punitive in character,[18] is without merit. We have so held in many cases, and oddly, quite a number of them likewise involved the herein petitioner as the transgressor.

x x x x x x x x

x x x In contracts and quasi-contracts, exemplary damages may be awarded if the defendant acted in a wanton, fraudulent, reckless, oppressive or malevolent manner. There was gross negligence on the part of RCPI personnel in transmitting the wrong telegram, of which RCPI must be held liable. Gross carelessness or negligence constitutes wanton misconduct.

x x x x x x x x

x x x punitive damages may be recovered for wilful or wantonly negligent acts in respect of messages, even though those acts are neither authorized nor ratified (*Arkansas & L.R. Co. v. Stroude*, 91 SW 18; *West v. Western U. Tel. Co.*, 17 P 807; *Peterson v. Western U. Tel. Co.*, 77 NW 985; *Brown v. Western U. Tel. Co.*, 6 SE 146). Thus, punitive damages have been recovered for mistakes in the transmission of telegrams (*Pittman v. Western Union Tel. Co.*, 66 SO 977; *Painter v. Western Union Tel. Co.*, 84 SE 293) (italics supplied).[19]

We wish to add a little footnote to this Decision. By merely reviewing the number of cases that has reached this Court in which the petitioner was time and again held liable for the same causes as in the present case--breach of contract and gross negligence--the ineluctable conclusion is that it has not in anyway reformed nor improved its services to the public. It must do so now or else next time the Court may be constrained to adjudge stricter sanctions.

WHEREFORE, premises considered, the decision appealed from is AFFIRMED in toto.

Costs against the petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] CA-G.R. CV No. 06008, promulgated on August 14, 1987; Magsino, Celso L., J., ponente, Melo, Jose A.R. and Lising, Esteban M., concurring.

[2] Rendered by Judge Johnico G. Serquiña, Regional Trial Court of Quezon City, Branch CV (105), Civil Case No. Q-38497.

[3] Rollo, 59.

[4] Id., 56.

[5] Id., 48.

[6] Id., 56.

[7] Id., 57.

[8] Id., 11.

[9] Id., 49.

[10] Petition, 6; Rollo, 12.

[11] Id.

[12] "SA IYO WALANG PAKINABANG DUMATING--KA DIYAN--WALA KANG PADALA DITO--KAHIT BULBUL MO"; RCPI v. Court of Appeals, No. L-44748, promulgated on August 29, 1986, 143 SCRA 659.

[13] Supra, 662-663.

[14] Rollo, 6.

[15] Id., 50.

[16] Id., 100.

[17] Id., 51.

[18] Petition, 16; Rollo, 22.

[19] RCPI vs. Court of Appeals, No. 55194, promulgated on February 26, 1981, 103 SCRA 359, 362.

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