

## FIRST DIVISION

[ G.R. No. 206468, August 02, 2017 ]

**JUDITH D. DARINES AND JOYCE D. DARINES, PETITIONERS, VS.  
PRESENT: EDUARDO QUIÑONES AND ROLANDO QUITAN,  
RESPONDENTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari* assails the October 29, 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 95638, which reversed and set aside the July 14, 2010 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Baguio City, Branch 3 in Civil Case No. 6363-R for "Breach of Contract of Carriage & Damages." Also challenged is the March 6, 2013 CA Resolution<sup>[3]</sup> denying the motion for reconsideration on the assailed Decision.

#### ***Factual Antecedents***

Judith D. Darines (Judith) and her daughter, Joyce D. Darines (Joyce) (petitioners) alleged in their Complaint<sup>[4]</sup> that on December 31, 2005, they boarded the Amianan Bus Line with Plate No. ACM 497 and Body No. 808 as paying passengers enroute from Carmen, Rosales, Pangasinan to Baguio City. Respondent Rolando M. Quitan (Quitan) was driving the bus at that time. While travelling on Camp 3, Tuba, Benguet along Kennon Road, the bus crashed into a truck (with Plate No. XSE 578) which was parked on the shoulder of Kennon Road. As a result, both vehicles were damaged; two passengers of the bus died; and the other passengers, including petitioners, were injured. In particular, Joyce suffered cerebral concussion while Judith had an eye wound which required an operation.

Petitioners argued that Quitan and respondent Eduardo Quiñones (Quiñones), the operator of Amianan Bus Line, breached their contract of carriage as they failed to bring them safely to their destination. They also contended that Quitan's reckless and negligent driving caused the collision. Consequently, they prayed for actual, moral, exemplary and temperate damages, and costs of suit.

For their part, Quiñones and Quitan (respondents) countered in their Answer<sup>[5]</sup> that, during the December 31, 2005 incident, Quitan was driving in a careful, prudent, and dutiful manner at the normal speed of 40 kilometers per hour. According to them, the proximate cause of the incident was the negligence of the truck driver, Ronald C. Fernandez, who parked the truck at the roadside right after the curve without having installed any early warning device. They also claimed that Quiñones observed due diligence in the selection and supervision of his employees as he conducted seminars on road safety measures; and Quitan attended such seminars including those required by the government on traffic safety. They likewise averred

that Quitan was a licensed professional driver who, in his 12 years as a public utility driver, had not figured in any incident like the one at hand.

During the trial, Judith testified that Quitan was driving at a very fast pace resulting in a collision with the truck parked at the shoulder of the road.<sup>[6]</sup> Consequently, the bone holding her right eye was fractured and had to be operated.<sup>[7]</sup> She claimed that, as a result of incident, she failed to report for work for two months.<sup>[8]</sup>

To prove the actual damages that she suffered, Judith presented receipts for medicine, and a summary of expenses, which included those incurred for the ritual *dao-is*. She explained that she and Joyce are Igorots, being members of *Ibaloi*, *Kankanay-ey*, an indigenous tribe;<sup>[9]</sup> and as their customary practice, when a member who meets an accident is released from the hospital, they butcher pigs to remove or prevent bad luck from returning to the family.<sup>[10]</sup>

Moreover, to support her claim for moral damages, Judith testified that she suffered sleepless nights since she worried about the result and possible effect of her operation.<sup>[11]</sup>

On the other hand, respondents presented Ernesto Benitez (Benitez), who, on behalf of respondents, testified that he bought the medicines and paid petitioners' hospitalization expenses, as evidenced by receipts he submitted in court.<sup>[12]</sup>

### ***Ruling of the Regional Trial Court***

On July 14, 2010, the RTC rendered its Decision ordering respondents to pay petitioners the following:

1. Moral Damages of One Hundred Thousand Pesos (P100,000.00);
2. Exemplary Damages of Thirty Thousand Pesos (P30,000.00);
3. Attorney's Fees of Fifteen Percent (15%) of the Damages, plus Total Appearance Fees of Sixteen Thousand Five Hundred Pesos (P16,500.00); and
4. Costs of Suit.<sup>[13]</sup>

The RTC held that since the respondents already paid the actual damages relating to petitioners' medical and hospitalization expenses, then the only remaining matters for resolution were: whether respondents were liable to pay petitioners a) actual damages representing the expenses incurred during the *dao-is* ritual; and, Judith's alleged lost income; b) moral and exemplary damages; and, c) attorney's fees.

The RTC noted that petitioners did not present any receipt as regards the expenses they incurred during the *dao-is* ritual. As regards their claim for Judith's lost income, the RTC held that petitioners similarly failed to substantiate the same as there was no showing that Judith's failure to report for work for two months was because of the incident. Thus, the RTC did not award actual damages for lack of evidence.

However, the RTC awarded moral damages grounded on Judith's testimony

regarding her pain and suffering. It likewise awarded exemplary damages by way of correction, and to serve as example to common carriers to be extraordinarily diligent in transporting passengers. It also granted petitioners attorney's fees plus costs of suit on the ground that petitioners were compelled to litigate the case.

Aggrieved, respondents appealed to the CA.

### ***Ruling of the Court of Appeals***

In its October 29, 2012 Decision, the CA reversed and set aside the RTC Decision.

The CA stressed that respondents did not dispute that they were liable for breach of contract of carriage; in fact, they paid for the medical and hospital expenses of petitioners. Nonetheless, the CA deleted the award of moral damages because petitioners failed to prove that respondents acted fraudulently or in bad faith, as shown by the fact that respondents paid petitioners' medical and hospitalization expenses. The CA held that, since no moral damages was awarded, then there was no basis to grant exemplary damages. Finally, it ruled that because moral and exemplary damages were not granted, then the award of attorney's fees must also be deleted.

On March 6, 2013, the CA denied petitioners' Motion for Reconsideration.

### **Issues**

Hence, petitioners filed this Petition raising the issues as follows:

1. WHETHER OR NOT THE CASE OF PETITIONERS FALL[S] UNDER ARTICLES 20,1157,1759, 2176,2180 AND 2219 OF THE CIVIL CODE THEREBY ENTITL[ING THEM] TO MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES;
2. WHETHER OR NOT THE XXX AWARD OF DAMAGES AND ATTORNEY'S FEES BY THE TRIAL COURT BECAME FINAL AND EXECUTORY SINCE HEREIN RESPONDENTS DID NOT QUESTION THE SAME IN THEIR APPEAL BUT MERELY QUESTIONED THE AMOUNTS OF AWARD [FOR BEING] EXORBITANT.<sup>[14]</sup>

### ***Petitioners' Arguments***

Petitioners maintain that respondents are liable to pay them moral and exemplary damages because the proximate cause of their injuries was the reckless driving of Quitan. As regards Quiñones, his fault is presumed considering that he did not offer proof that he exercised extraordinary diligence in the selection and supervision of his employees. They added that the negligence of respondents resulted in the latter's failure to transport them to their destination thereby constituting a breach of their contract of carriage. They also argued that the RTC's grant of damages and attorney's fees in their favor already attained finality because when respondents appealed to the CA, they only questioned the amounts given by the RTC for being exorbitant, but not the award itself.

### ***Respondents' Arguments***

Respondents, on their end, posit that they are not liable to pay moral damages because their acts were not attended by fraud or bad faith. They add that since petitioners are not entitled to moral damages, then it follows that they are also not entitled to exemplary damages; and same is true with regard to the grant of attorney's fees as the same necessitates the grant of moral and exemplary damages.

### **Our Ruling**

The Court denies the Petition.

First of all, petitioners contend that the awards of moral and exemplary damages and attorney's fees by the RTC already attained finality because respondents did not dispute such grants when they appealed to the CA but only the fact that the amounts were exorbitant.

Such contention is without merit.

A plain reading of the assigned errors<sup>[15]</sup> and issues<sup>[16]</sup> in the Appellants' Brief of respondents with the CA reveals that they questioned the awards of moral and exemplary damages as well as attorney's fees made by the RTC to petitioners. Since respondents timely challenged the awards when they interposed an appeal to the CA, the same had not yet attained finality.

Going now to the main issue, the Court fully agrees with the CA ruling that in an action for breach of contract, moral damages may be recovered only when a) death of a passenger results; or b) the carrier was guilty of fraud and bad faith even if death does not result; and that neither of these circumstances were present in the case at bar. The CA correctly held that, since no moral damages was awarded then, there is no basis to grant exemplary damages and attorney's fees to petitioners.

To stress, this case is one for breach of contract of carriage (*culpa contractual*) where it is necessary to show the existence of the contract between the parties, and the failure of the common carrier to transport its passenger safely to his or her destination. An action for breach of contract differs from *quasi-delicts* (also referred as *culpa aquiliana* or *culpa extra contractual*) as the latter emanate from the negligence of the tortfeasor<sup>[17]</sup> including such instance where a person is injured in a vehicular accident by a party other than the carrier where he is a passenger.

The principle that, in an action for breach of contract of carriage, moral damages may be awarded only in case (1) an accident results in the death of a passenger; or (2) the carrier is guilty of fraud or bad faith, is pursuant to Article 1764, in relation to Article 2206(3) of the Civil Code, and Article 2220 thereof,<sup>[18]</sup> as follows:

Article 1764. Damages in cases comprised in this Section shall be awarded in accordance with Title XVIII of this Book, concerning Damages. Article 2206 shall also apply to the **death of a passenger** caused by the breach of contract by a common carrier. (Emphasis supplied)