

## SPECIAL FIRST DIVISION

[ G.R. No. 170071, July 16, 2012 ]

**HEIRS OF JOSE MARCIAL K. OCHOA NAMELY: RUBY B. OCHOA MICAELA B. OCHOA AND JOMAR B. OCHOA, PETITIONER, VS. G & S TRANSPORT CORPORATION, RESPONDENT.**

[G.R. NO. 170125]

**G & S TRANSPORT CORPORATION, PETITIONER, VS. HEIRS OF JOSE MARCIAL K. OCHOA NAMELY: RUBY B. OCHOA, MICAELA B. OCHOA AND JOMAR B. OCHOA, RESPONDENTS.**

### R E S O L U T I O N

**DEL CASTILLO, J.:**

Before us is the Motion for Reconsideration<sup>[1]</sup> of our March 9, 2011 Decision filed by G & S Transport Corporation (G & S).

#### ***Brief Background***

On March 9, 2011, we rendered a Decision<sup>[2]</sup> in the consolidated petitions of G & S<sup>[3]</sup> and of the heirs.<sup>[4]</sup> These petitions stemmed from a Complaint<sup>[5]</sup> for Damages filed by the heirs against G & S with the Regional Trial Court (RTC), Pasig City, Branch 164 on account of Jose Marcial's death while onboard a taxicab owned and operated by G & S.

The RTC adjudged G & S guilty of breach of contract of carriage and ordered it to pay the heirs the following amounts:

1. P50,000 as civil indemnity;
2. P6,537,244.96 for loss of earning capacity of the deceased;
3. P100,000.00 for attorney's fees; and,
4. costs of litigation.<sup>[6]</sup>

Acting upon the heirs' Partial Motion for Reconsideration,<sup>[7]</sup> the RTC also ordered G & S to pay the heirs the following:

1. P300,000.00 as moral damages;
2. P50,000.00 as exemplary damages.<sup>[8]</sup>

On appeal, the Court of Appeals (CA) affirmed the RTC Decision but with the modifications that the awards for loss of income in the amount of P6,537,244.96 be deleted and that moral damages be reduced to P200,000.00.<sup>[9]</sup> The deletion was ordered on the ground that the income certificate issued by Jose Marcial's employer, the United States Agency for International Development (USAID), is self-serving,

unreliable and biased, and that the same was not supported by competent evidence such as income tax returns or receipts. With respect to moral damages, the CA found the same excessive and disproportionate to the award of P50,000.00 exemplary damages. Thus, the same was reduced to P200,000.00.<sup>[10]</sup>

The parties' respective appeals<sup>[11]</sup> from the CA Decision became the subject of this Court's March 9, 2011 Decision which denied G & S's petition and partly granted that of the heirs. The Court affirmed the assailed CA Decision with the modifications that G & S is ordered to pay the heirs P6,611,634.59 for loss of earning capacity of the deceased, as well as moral damages in the reduced amount of P100,000.00. The dispositive portion of our March 9, 2011 Decision, reads:

**WHEREFORE**, the petition for review on *certiorari* in G.R. No. 170071 is **PARTLY GRANTED** while the petition in G.R. No. 170125 is **DENIED**. The assailed Decision and Resolution dated June 29, 2005 and October 12, 2005 of the Court of Appeals in CA-G.R. CV No. 75602 are **AFFIRMED with the MODIFICATIONS** that G & S is ordered to pay the heirs of Jose Marcial K. Ochoa the sum of P6,611,634.59 for loss of earning capacity of the deceased and P100,000.00 as moral damages.

**SO ORDERED.**<sup>[12]</sup>

### ***G & S's Motion for Reconsideration***

G & S filed a Motion for Reconsideration<sup>[13]</sup> arguing that the USAID Certification used as basis in computing the award for loss of income is inadmissible in evidence because it was not properly authenticated and identified in court by the signatory thereof; that it exercised the diligence of a good father of a family in the selection and supervision of its employees and, hence, was able to overcome the presumption of fault imputed to it; and, that while settled is the rule that this Court is not a trier of facts, G & S can seek a review of facts even if it did not particularly state under which exception to such rule its case falls.

### ***The heirs' Comment to the Motion for Reconsideration***

In their Comment,<sup>[14]</sup> the heirs point out that G & S's arguments have already been squarely passed upon by this Court and by the lower courts. Moreover, these arguments involve questions of fact which cannot be reviewed in a petition for review on *certiorari*. As to the USAID Certification, the heirs aver that the same was properly admitted in evidence. This is because Jose Marcial's widow, witness Ruby Bueno Ochoa, was able to competently testify as to the authenticity and due execution of the said Certification since the signatory thereof, Jonas Cruz (Cruz), personally issued and handed the same to her. In addition, the accuracy of the contents of the Certification was never questioned by G & S as, in fact, it did not present evidence to dispute its contents.

### ***The Court's Ruling***

The Motion for Reconsideration is denied.

***The requirement of authentication of documentary evidence applies only to a private document.***

It is true that before a private document offered as authentic be received in evidence, its due execution and authenticity must first be proved.<sup>[15]</sup> However, it must be remembered that this requirement of authentication only pertains to private documents and “does not apply to public documents, these being admissible without further proof of their due execution or genuineness. Two reasons may be advanced in support of this rule, namely: said documents have been executed in the proper registry and are presumed to be valid and genuine until the contrary is shown by clear and convincing proof; and, second, because public documents are authenticated by the official signature and seals which they bear and of which seals, courts may take judicial notice.”<sup>[16]</sup> Hence, in a case, the Court held that in the presentation of public documents as evidence, due execution and authenticity thereof are already presumed.<sup>[17]</sup>

*The subject USAID Certification is a public document, hence, does not require authentication.*

It therefore becomes necessary to first ascertain whether the subject USAID Certification is a private or public document before this Court can rule upon the correctness of its admission and consequent use as basis for the award of loss of income in these cases.

Sec. 19, Rule 132 of the Rules of Court classifies documents as either public or private, viz:

Sec. 19. Classes of Documents – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

**(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;**

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein. All other writings are private. (Emphasis supplied.)

Paragraph (a) of the above-quoted provision classifies the written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country, as public

documents. As mentioned in our March 9, 2011 Decision, USAID is the principal United States agency that extends assistance to countries recovering from disaster, trying to escape poverty, and engaging in democratic reforms and that it is an independent federal government agency that receives over-all foreign policy guidance from the Secretary of State of the United States.<sup>[18]</sup> A further research on said agency shows that it was created through Executive Order 10973<sup>[19]</sup> by President John F. Kennedy on November 3, 1961 pursuant to the Foreign Assistance Act of 1961.<sup>[20]</sup> It is headed by an Administrator and Deputy Administrator, both appointed by the President of the United States and confirmed by its Senate.<sup>[21]</sup> From these, there can be no doubt that the USAID is an official government agency of a foreign country, the United States. Hence, Cruz, as USAID's Chief of the Human Resources Division in the Philippines, is actually a public officer. Apparently, Cruz's issuance of the subject USAID Certification was made in the performance of his official functions, he having charge of all employee files and information as such officer. In view of these, it is clear that the USAID Certification is a public document pursuant to paragraph (a), Sec. 19, Rule 132 of the Rules of Court. Hence, and consistent with our above discussion, the authenticity and due execution of said Certification are already presumed. Moreover, as a public document issued in the performance of a duty by a public officer, the subject USAID Certification is *prima facie* evidence of the facts stated therein.<sup>[22]</sup> And, there being no clear and sufficient evidence presented by G & S to overcome these presumptions, the RTC is correct when it admitted in evidence the said document. The USAID Certification could very well be used as basis for the award for loss of income to the heirs.

*G & S failed to overcome the presumption that "the common carrier is at fault or is negligent when a passenger dies or is injured."*<sup>[23]</sup>

G & S insists that it exercised the required diligence of a good father of a family when it hired and continued to employ Bibiano Padilla, Jr. (the driver of the ill-fated Avis taxicab). It claims that it was able to prove this through the documentary exhibits it submitted before the trial court and that the same are sufficient to relieve it from liability to the heirs.

The reasons advanced by G & S in support of this argument are mere rehash if not a repetition of those raised in its petition which have already been considered and passed upon in our March 9, 2011 Decision and, hence, do not require reconsideration. The conclusion therefore that G & S failed to overcome the presumption that the common carrier is at fault or is negligent when a passenger dies or is injured stands.

*There is no compelling reason to reexamine the factual findings of the lower courts.*

G & S questions the portion of our March 9, 2011 Decision which reads:

In this case, the said three issues boil down to the determination of the following questions: *What is the proximate cause of the death of Jose Marcial? Is the testimony of prosecution witness Clave credible? Did G & S exercise the diligence of a good father of a family in the selection and*