

THIRD DIVISION

[G.R. No. 160219, July 21, 2008]

**VECTOR SHIPPING CORPORATION AND FRANCISCO SORIANO,
PETITIONERS, VS. ADELFO B. MACASA, EMELIA B. MACASA,
TIMOTEO B. MACASA, CORNELIO B. MACASA, JR., AND ROSARIO
C. MACASA, SULPICIO LINES, INC., GO GUIOC SO, ENRIQUE S.
GO, EUSEBIO S. GO, RICARDO S. GO, VICTORIANO S. GO,
EDWARD S. GO, ARTURO S. GO, EDGAR S. GO AND EDMUNDO S.
GO, RESPONDENTS.**

D E C I S I O N

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision^[2] dated September 24, 2003, which affirmed with modification the Decision^[3] of the Regional Trial Court (RTC), Branch 17 of Davao City, dated May 5, 1995.

The Facts

On December 19, 1987, spouses Cornelio (Cornelio) and Anacleta Macasa (Anacleta), together with their eight-year-old grandson, Ritchie Macasa, (Ritchie) boarded the *MV Doña Paz*, owned and operated by respondent Sulpicio Lines, Inc. (Sulpicio Lines), at Tacloban, Leyte bound for Manila. On the fateful evening of December 20, 1987, *MV Doña Paz* collided with the *MT Vector*, an oil tanker owned and operated by petitioners Vector Shipping Corporation (Vector Shipping) and Francisco Soriano (Soriano), which at the time was loaded with 860,000 gallons of gasoline and other petroleum products, in the vicinity of Dumali Point, Tablas Strait, between Marinduque and Oriental Mindoro. Only twenty-six persons survived: 24 passengers of *MV Doña Paz* and 2 crew members of *MT Vector*. Both vessels were never retrieved. Worse, only a few of the victims' bodies, who either drowned or were burned alive, were recovered. Cornelio, Anacleta and Ritchie were among the victims whose bodies have yet to be recovered up to this day.

Respondents Adelfo, Emilia, Timoteo, and Cornelio, Jr., all surnamed Macasa, are the children of Cornelio and Anacleta. On the other hand, Timoteo and his wife, respondent Rosario Macasa, are the parents of Ritchie (the Macasas). Some of the Macasas went to the North Harbor in Manila to await the arrival of Cornelio, Anacleta and Ritchie. When they heard the news that *MV Doña Paz* was rammed at sea by another vessel, bewildered, the Macasas went to the office of Sulpicio Lines to check on the veracity of the news, but the latter denied that such an incident occurred. According to the Macasas, Sulpicio Lines was uncooperative and was reluctant to entertain their inquiries. Later, they were forced to rely on their own efforts to search for the bodies of their loved ones, but to no avail.

The Macasas manifested that before they filed a case in court, Sulpicio Lines, through counsel, intimated its intention to settle, and offered the amount of P250,000.00 for the death of Cornelio, Anacleta and Ritchie. The Macasas rejected the said offer. Thus, on October 2, 1991, the Macasas filed a Complaint for Damages arising out of breach of contract of carriage against Sulpicio Lines before the RTC. The complaint imputed negligence to Sulpicio Lines because it was remiss in its obligations as a common carrier. The Macasas prayed for civil indemnity in the amount of P800,000.00 for the death of Cornelio, Anacleta and Ritchie, as well as for Cornelio's and Anacleta's alleged unearned income since they were both working as vocational instructors before their demise. The Macasas also claimed P100,000.00 as actual and compensatory damages for the lost cash, checks, jewelries and other personal belongings of the latter, P600,000.00 in moral damages, P100,000.00 by way of exemplary damages, and P100,000.00 as costs and attorney's fees.

Sulpicio Lines traversed the complaint, alleging, among others that (1) *MV Doña Paz* was seaworthy in all aspects; (2) it exercised extraordinary diligence in transporting their passengers and goods; (3) it acted in good faith as it gave immediate assistance to the survivors and kin of the victims; (4) the sinking of *MV Doña Paz* was without contributory negligence on its part; and (5) the collision was *MT Vector's* fault since it was allowed to sail with an expired coastwise license, expired certificate of inspection and it was manned by unqualified and incompetent crew members per findings of the Board of Marine Inquiry (BMI) in BMI Case No. 653-87 which had exonerated Sulpicio Lines from liability. Thus, Sulpicio Lines filed a Third-Party Complaint against *Vector Shipping*, Soriano and Caltex Philippines Inc. (Caltex), the charterer of *MT Vector*.

Trial on the merits ensued.

The RTC's Ruling

In its Decision^[4] dated May 5, 1995, the RTC awarded P200,000.00 as civil indemnity for the death of Cornelio, Anacleta and Ritchie; P100,000.00 as actual damages; P500,000.00 as moral damages; P100,000.00 as exemplary damages; and P50,000.00 as attorney's fees. The case was disposed of in this wise:

Accordingly, as a result of this decision, on plaintiffs' complaint against third-party (sic) defendant Sulpicio Lines Inc., third-party defendant Caltex Philippines, Inc. and third-party defendant MT Vector Shipping Corporation and/or Francisco Soriano, are liable against defendant third-party plaintiff, Sulpicio Lines, for reimbursement, subrogation and indemnity on all amounts, defendant Sulpicio Lines was ordered liable against plaintiffs, by way of actual, moral, exemplary damages and attorney's fee, MT Vector Shipping Lines and/or Francisco Soriano, third-party defendants, are ordered jointly and severally, liable to pay third-party plaintiff, Sulpicio Lines, by way of reimbursement, subrogation and indemnity, of all the above amounts, ordered against defendant Sulpicio Lines, Inc., to pay in favor of plaintiff, with interest and cost of suit.

SO ORDERED.^[5]

Aggrieved, Sulpicio Lines, Caltex, Vector Shipping and Soriano appealed to the CA.

The CA's Ruling

In the assailed Decision^[6] dated September 24, 2003, the CA held:

WHEREFORE, all premises considered, the assailed decision is hereby **modified** in that third-party defendant-appellant Caltex Phils., Inc. is hereby exonerated from liability. The P100,000 actual damages is **deleted** while the indemnity for (sic) is reduced to P150,000. All other aspects of the appealed judgment are perforce **affirmed**.

SO ORDERED.^[7]

The Issues

Hence, this Petition raising the following issues:

- 1) May the decision of the Board Marine Inquiry (BMI) which, to date, is still pending with the Department of National Defense (DND) and, therefore, deemed vacated as it is not yet final and executory, be binding upon the court?
- 2) In the absence of clear, convincing, solid, and concrete proof of including, but not limited to, absence of eyewitnesses on that tragic maritime incident on 20 December 1987, will it be in consonance with law, logic, principles of physics, and/or allied science, to hold that MT VECTOR is the vessel solely at fault and responsible for the collision? How about MV DOÑA PAZ, a bigger ship of 2,324.08 gross tonnage (5-deck cargo passenger vessel, then cruising at 16.5 knots)? As compared to MT VECTOR of 629.82 gross tonner tanker, then cruising at 4.5 knots? May it be considered that, as between the two vessels, MV DOÑA PAZ could ha[ve] avoid[ed] such collision had there been an official on the bridge, and that MV DOÑA PAZ could had been earlier alarmed by its radar for an approaching vessel?
- 3) May VECTOR and SORIANO be held liable to indemnify/reimburse SULPICIO the amounts it is ordered to pay the MACASA's because SULPICIO's liability arises from breach of contract of carriage, inasmuch as in "culpa contractual" it is sufficient to prove the existence of the contract, because carrier is presumed to be at fault or to have acted negligently it being its duty to exercise extraordinary diligence, and cannot make the [safety] of its passengers dependent upon the diligence of VECTOR and SORIANO?
- 4) Will it be in accord with existing law and/or jurisprudence that both vessels (MV DOÑA PAZ and MT VECTOR) be declared mutually at fault and, therefore, each must [bear] its own

loss? In the absence of CLEAR and CONVINCING proof[,] who is solely at fault?^[8]

Petitioners posit that the factual findings of the BMI are not binding on the Court as such is limited to administrative liabilities and does not absolve the common carrier from its failure to observe extraordinary diligence; that this Court's ruling in *Caltex (Philippines), Inc. v. Sulpicio Lines, Inc.*^[9] is not *res adjudicata* to this case, since there were several other cases which did not reach this Court but, however, attained finality, previously holding that petitioners and Sulpicio Lines are jointly and severally liable to the victims;^[10] that the collision was solely due to the fault of *MV Doña Paz* as it was guilty of navigational fault and negligence; that due to the absence of the ship captain and other competent officers who were not at the bridge at the time of collision, and running at a speed of 16.5 knots, it was the *MV Doña Paz* which rammed *MT Vector*; and that it was improbable for a slower vessel like *MT Vector* which, at the time, was running at a speed of merely 4.5 knots to ram a much faster vessel like the *MV Doña Paz*.^[11]

On the other hand, Sulpicio Lines claims that this Court's ruling in *Caltex (Philippines), Inc. v. Sulpicio Lines, Inc.*^[12] is *res adjudicata* to this case being of similar factual milieu and that the same is the law of the case on the matter; that the BMI proceedings are administrative in nature and can proceed independently of any civil action filed with the regular courts; that the BMI findings, as affirmed by the Philippine Coast Guard, holding that *MT Vector* was solely at fault at the time of collision, were based on substantial evidence and by reason of its special knowledge and technical expertise, the BMI's findings of facts are generally accorded respect by the courts; and that, as such, said BMI factual findings cannot be the subject of the instant petition for review asking this Court to look again into the pieces of evidence already presented. Thus, Sulpicio Lines prays that the instant Petition be denied for lack of merit.^[13]

In their memorandum, the Macasas manifest that they are basically concerned with their claims against Sulpicio Lines for breach of contract of carriage. The Macasas opine that the arguments raised by Sulpicio Lines in its attempt to avoid liability to the Macasas are without basis in fact and in law because the RTC's Decision is supported by applicable provisions of law and settled jurisprudence on contract of carriage. However, they disagree with the CA on the deletion of the RTC's award of P100,000.00 actual damages. The CA's simple justification that if indeed the victims had such huge amount of money, they could have traveled by plane instead of taking the *MV Doña Paz*, according to the Macasas, is unjust, misplaced and adds insult to injury. They insist that the claim for actual damages was duly established in the hearings before the RTC by ample proof that Cornelio and Anacleta were both professionals; that they were in possession of personal effects and jewelries; and that since it was the Christmas season, the spouses intended a vacation in Manila and buy things to bring home as gifts. The Macasas also appeal that the reduction of the civil indemnity for the death of Cornelio, Anacleta and Ritchie from P200,000.00 to P150,000.00 be reconsidered. Thus, the Macasas pray that the RTC Decision be affirmed *in toto* and/or the CA Decision be modified with respect to the deleted award of actual damages and the reduced civil indemnity for the death of the victims.^[14]

This Court's Ruling