

## THIRD DIVISION

[ G.R. No. 138478, November 26, 2002 ]

**PACIFIC AIRWAYS CORPORATION, ARQUE MAMING AND JORBIN TOLENTINO, PETITIONERS, VS. JOAQUIN TONDA, RESPONDENT.**

### DECISION

**CORONA, J.:**

Before this Court, on petition for review on *certiorari* under Rule 45 of the Revised Rules of Court, is the decision<sup>[1]</sup> dated December 10, 1998 of the Court of Appeals<sup>[2]</sup> in CA-G.R. CV No. 44967, which affirmed the decision<sup>[3]</sup> of RTC Pasay City Branch 110, dated December 23, 1993, finding petitioners Pacific Airways Corporation (PACO), Arque Maming, and Jorbin Tolentino liable for damages in favor of respondent Joaquin Tonda.

The facts, as adopted by the Court of Appeals from the trial court's decision, are as follows:

"On January 11, 1991, plaintiff [Respondent], Joaquin Tonda, purchased from defendant Pacific Airways Corporation through its travel agent Valderama Travel and Tours, Inc. a package tour for a party of nine consisting of round trip airfares to, transfers to and from defendant corporation's airstrip at Caticlan, Malay, Aklan and accommodation and breakfast at Boracay, Malay, Aklan. Two receipts were issued (defendant corporation's O.R. No. 56273 [Exhibit 'A'] & 567234 [Exhibit 'B']) which the travel agency advised would entitle the members of the tour package to avail of the above stated services/accommodation. On January 18, 1991, with the receipts, plaintiff, his wife, 3 kids, a nanny, two brothers-in-law, and a sister-in-law flew to Boracay via defendant-corporation's aircraft. Plaintiff and party stayed in Boracay up to January 21, 1991. In the morning of January 21, 1991, plaintiff and party, along with other guests, left Boracay on board bancas provided by defendant corporation and on reaching a certain point, they alighted and boarded tricycles that look them to defendant corporation's airstrip at nearby Caticlan. They arrived at the airstrip at around 9:30 a.m. during which the incident that gave rise to the present complaint took place.

"Taking the witness stand, plaintiff declared as follows: After plaintiff and his party arrived at the airstrip and while their luggages were being unloaded from the tricycles, passengers informed them that they should weigh themselves. Heeding the advice, plaintiff's wife Mrs. Tina Marie Tonda repaired to a nipa structure-office where the weighing scale was located. While she was weighing herself, defendant corporation's employee, Archimedes 'Arque' (N)aming, one of the defendants herein, shouted at Mrs. Tonda, telling her something which was not clearly heard by plaintiff as he was unloading luggages from the tricycles. Plaintiff later

asked his wife what transpired inside the hut and she related that Maming shouted at her to hurry up as there were many passengers who would also take their weight, and that she replied by saying 'please, when you talk to me, talk to me in a nicer manner.' Plaintiff and the other members of his party also went inside the hut to get their weight. Later, as plaintiff and his party were about to board the 19-seater aircraft that would carry 16 passengers, defendant Maming approached Mrs. Tonda and asked for their tickers. Mrs. Tonda obliged by giving him the receipts issued by the travel agency, but defendant Maming shouted at her, telling her that those were not tickets. Mrs. Tonda answered back, saying that those were the receipts that served as their tickets when they left Manila. Plaintiff then butted in and told Maming 'You don't have to talk to my wife like that.' Maming, who seemed to be very nervous, pushed plaintiff, telling him 'You don't have bulls (sic), do you?', prompting plaintiff to push back Maming. Suddenly, Jorvin Tolentino, defendant corporation's employee and also one of the defendants herein, who was behind plaintiff, appeared at plaintiff's right side and punched him at the right eye causing it to bleed. Maming who was in front of plaintiff then slashed plaintiff's left shoulder with a sharp pointed instrument which could have been a ballpen causing it to bleed and leave a scar measuring 4 inches by 12 centimeters and plaintiff to fall down. The other passengers who then intervened took Maming and Tolentino away. Plaintiff immediately aired a verbal complaint at defendant corporation's office, which, however, gave him no medical treatment. On arrival in Manila, plaintiff related the incident to, and sought medical treatment at defendant corporation's office but he was not extended any although he was advised to file a formal complaint so it could be investigated. Plaintiff thus sought medical attendance at the Ayala Alabang Village Association Clinic, which gave him the following treatment:

'Suturing done. Cloxacillin 500 OID x 7 days. Defenamic Acid 500 TID pc prn.'

and later at the Makati Medical Center where he was found to have sustained the following injuries:

'Abrasion, linear; 12.0 cm. long, running upward and laterally, supraclavicular region, right side.

'Wound, lacerated, 0.5 cm. long, zygomatic region, face, right side; 2.0 cm. long running upward and medially, lateral aspect, eyebrow, right.'"

On 23 December 1993, the trial court rendered its decision in favor of respondent Tonda and awarded him actual, moral and exemplary damages, plus attorney's fees.

The dispositive portion<sup>[4]</sup> reads:

"WHEREFORE, judgment is hereby rendered in favor of plaintiff, Joaquin Tonda, and against the defendants, ordering defendants to jointly and severally pay plaintiff

1. ₱1,000.00 as and for actual damages;
2. ₱100,000.00 as and for moral damages;
3. ₱50,000.00 as and for exemplary damages;

4. ₱50,000.00 as and for attorney's fees; and
5. The costs of suit.

"SO ORDERED."

On appeal, the Court of Appeals affirmed the decision of the trial court.<sup>[5]</sup>

Hence, this petition based on this lone assignment of error:

"THE HONORABLE COURT OF APPEALS PATENTLY ERRED IN DISMISSING PETITIONER'S APPEAL AND DENYING THEIR MOTION FOR RECONSIDERATION."<sup>[6]</sup>

The petition is unmeritorious.

In assailing the decision of the Court of Appeals, petitioners impute errors which basically involve questions of fact and the appreciation of evidence by the courts *a quo*. They fault the Court of Appeals for giving credence to respondent's allegedly self-serving testimony which was insufficient to prove his cause of action. They question the finding of negligence on petitioner-PACO's part.

Time and again, this Court has stressed that our jurisdiction in a petition for review on *certiorari* under Rule 45 is limited to reviewing only errors of law, not of fact, unless the findings of fact complained of are devoid of support by the evidence on record, or the assailed judgment is based on the misapprehension of facts.<sup>[7]</sup> The trial court, having heard the witnesses and observed their demeanor and manner of testifying, is in a better position to decide the question of their credibility.<sup>[8]</sup> Hence, the findings of the trial court must be accorded the highest respect, even finality, by this Court.<sup>[9]</sup> Likewise, we have ruled that, when supported by sufficient evidence, findings of fact by the Court of Appeals affirming those of the trial court, are not to be disturbed on appeal. The rationale behind this doctrine is that review of the findings of fact by the Court of Appeals is not a function this Court normally undertakes.<sup>[10]</sup> We will not weigh the evidence all over again unless there is a showing that the findings of the lower court are totally devoid of support or are clearly erroneous so as to constitute serious abuse of discretion.<sup>[11]</sup>

In the case at bar, there is no reason to deviate from this rule inasmuch as the findings of fact by the courts *a quo* are supported by the evidence and records of the case. The errors imputed by the petitioners require an inquiry into the appreciation of evidence by the trial court which this Court cannot do on a petition for review on *certiorari* under Rule 45 of the Rules of Court. Besides, this Court has already ruled that the finding of negligence is a question of fact<sup>[12]</sup> which it cannot look into anew, without any showing that the case falls under the exceptions to the well-established rule that this Court is not a trier of facts.

Hence, we affirm the decision of the courts *a quo* that petitioner PACO is liable for the negligence of its employees, co-petitioners Maming and Tolentino, pursuant to Article 2180,<sup>[13]</sup> in connection to Article 2176<sup>[14]</sup> of the Civil Code. In fact, the finding of mere *negligence* on the part of petitioner's employees is too kind to accurately describe what really happened on January 21, 1999 to respondent and his family. The treatment accorded respondent and his wife by petitioner PACO's