

THIRD DIVISION

[G.R. No. 120097, September 23, 1996]

**FOOD TERMINAL, INC., PETITIONER, VS.
COURT OF APPEALS AND TAO DEVELOPMENT, INC.,
RESPONDENTS.**

R E S O L U T I O N

FRANCISCO, J.:

Petitioner Food Terminal, Inc. (FTI) is a government owned and controlled corporation engaged in the business of providing storage services and bonded warehousing to the public for a fee. Sometime in the first quarter of 1984, petitioner FTI and herein private respondent entered into a contract of storage whereby private respondent deposited in petitioner's cold storage 22,716 bags (approximately 567,900 kilos) of yellow granex onions and 2,853 bags (approximately 71,300 kilos) of red creole onions. These onions were intended for export to Japan. During the first week of May, an ammonia leak penetrated through petitioner's storage facilities and caused damage on private respondent's goods, as a consequence of which, the onions were rendered unfit for export.

Private respondent filed a complaint for damages demanding payment of the actual value of the goods, unrealized profits, exemplary damages and attorney's fees. Finding petitioner negligent in the performance of its duties, the lower court rendered judgment in favor of private respondent as follows:

"ACCORDINGLY, judgment is hereby rendered:

1. Ordering defendant Food Terminal, Inc. to pay plaintiff TAO Development, Inc. the amount of P2,429,055.00 as actual damages representing the loss sustained by plaintiff;
2. Ordering said defendant to pay said plaintiff the amount of P800,000.00 as damages it sustained in paying interest on the cash advance of US\$100,000.00 from plaintiff's Japanese buyer;
3. Ordering said defendant to pay said plaintiff the amount of P1,534,005.00 as unearned profits; and
4. Ordering said defendant to pay said plaintiff the amount of P100,000.00 as attorney's fees.

The above amounts shall earn interest at the rate of 12 per cent per annum from May 15, 1984 until fully satisfied.

In addition, defendant is, likewise, ordered to pay the costs of the suit.

SO ORDERED."^[1]

On appeal, public respondent Court of Appeals (CA) affirmed the decision of the lower court with modification, to wit:

"WHEREFORE, in view of the foregoing, the decision appealed from is hereby AFFIRMED with MODIFICATIONS. Accordingly, judgment is hereby rendered as follows:

a) Ordering the defendant Food Terminal, Inc. to pay appellee TAO Development, Inc. the amount of P2,400,168.00 as actual damages representing the loss sustained by the appellee;

b) Ordering said appellant to pay said appellee the amount of P1,534,005.00 as unearned profits; and

c) Ordering said appellant to pay said appellee the amount of P100,000.00 as attorney's fees.

The above amounts shall earn interest at the rate of 12% per annum from May 15, 1984 until fully satisfied."

No costs.

IT IS SO ORDERED."^[2]

Hence, this petition on both questions of fact and law.

It is contended that the lower court and public respondent CA erred in finding petitioner negligent. Petitioner alleges that the damage to the onions was due to their poor quality, their propensity to deteriorate rapidly, and private respondent's delay in their disposal.

The contention, we note, is premised on a review of the factual findings of the CA and the lower court, matters not ordinarily reviewable in a petition for review on certiorari. Well-established is the rule that factual findings of the trial court and the CA are entitled to great weight and respect^[3] and will not be disturbed on appeal save in exceptional circumstances,^[4] none of which obtains in the case at bench. On the contrary, the finding of the trial court and the CA that the damage caused to private respondent's goods is due to petitioner's negligence is sufficiently supported by the evidence on record. Hence, on this ground, the petitioner's contention must fail.

Petitioner likewise argues that the CA erred in affirming the rate of interest imposed by the lower court in its decision. This contention is well-taken. The CA incorrectly applied the provisions of Central Bank Circular No. 416 which provides:

"By virtue of the authority granted to it under Section 1 of Act 2655, as amended known as the 'Usury Law', the Monetary Board in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for the loan, or forbearance of any money, goods, or credits and the rate