



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 10, 2022, which reads as follows:

“G.R. No. 260843 (Panda Transit, *Petitioner* vs. Lazara P. Tolentino, Jomina D. Huerto, Maria G. Vileta, Maura Barrozo, Dante D. Joson, Juan Carlos Camerino, and Frederick G. Bellon, *Respondents*). – This is a Petition for Review on *Certiorari*¹ assailing the Decision² dated November 23, 2020 and the Resolution³ dated May 4, 2022 of the Court of Appeals (CA) in CA-G.R. CV No. 110881 which affirmed the Decision⁴ dated September 10, 2013 of Branch 20, Regional Trial Court (RTC), Imus, Cavite in Civil Case No. 0212-04. The RTC found Panda Transit (petitioner) and Iluminado S. Genoguín (Iluminado) solidarily liable for damages to Lazara P. Tolentino (Lazara), Jomina D. Huerto (Jomina), Maria G. Vileta (Maria), Maura Barrozo (Maura), Dante D. Joson (Dante), Juan Carlos Camerino (Juan), and Frederick G. Bellon (Frederick) (collectively, respondents).

Primarily, the Court observes that the present petition suffers from several technical infirmities. It lacks a soft copy of the petition as required under the Rule on E-Filing (A.M. No. 10-3-7-SC) and the Efficient Use of Paper Rule (A.M. No. 11-9-4-SC). The additional attestations in the verification of the petition as required under Section 4,⁵ Rule 7 of the 2019

¹ *Rollo*, pp. 3-12.

² *Id.* at 136-144. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Remedios A. Salazar-Fernando and Nina G. Antonio-Valenzuela.

³ *Id.* at 152-154.

⁴ *Id.* at 67-77. Penned by Presiding Judge Fernando Felicen.

⁵ Section 4. *Verification*. – Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary’s certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

(a) The allegations in the pleading are true and correct based on his personal knowledge, or based on authentic documents;

(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

Amended Rules of Court are also lacking. Moreover, the verification of the petition/certification against forum shopping was signed by a certain Alexander Beado, without proof of authority to sign for and on behalf of petitioner corporation.⁶ These defects are sufficient bases for the dismissal of the petition pursuant to Section 5,⁷ Rule 45 of the Rules of Court.

In any case, the Court resolves to deny the present petition as the issues raised by petitioner are the same issues raised below, which were adequately discussed by the CA in accordance with rules and prevailing jurisprudence.

Significantly, the present petition directly pertains to the liability of petitioner. It alleges that petitioner should not be held liable because the collision was not caused by the negligence of its driver, Iluminado, but rather by William Tamang (William), the driver of the Hyundai Grace van with plate number WSN-475 who purportedly bumped the front portion of the bus. Under the circumstances, the petition claims that William had the last opportunity to avoid the collision if he had only observed extraordinary diligence in driving the van where the victims were boarded.⁸

By the nature of petitioner's arguments, the issues raised herein involve a calibration and re-evaluation of the evidence presented as well as a review of the factual findings of the lower courts. Whether there was negligence in the case requires an examination of the facts and evidence, and thus, is a question of fact. As a rule, the Court does not review questions of fact but only questions of law in a petition for review on *certiorari* under

A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

⁶ See Section 5, Rule 7 of the 2019 Amended Rules of Court which reads:

Section 5. *Certification against forum shopping.* – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he [or she] has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his [or her] knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) calendar days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (Underlining supplied).

⁷ Section 5. *Dismissal or denial of petition.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

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⁸ *Rollo*, pp. 4, 7.

Rule 45 of the Rules of Court. As the Court is not a trier of facts, the factual findings of the lower tribunals will not be reviewed and will generally be binding and conclusive upon the Court.⁹

In any case, petitioner failed to sufficiently show that the CA committed any reversible error in upholding the finding that petitioner is liable for damages.

First, petitioner failed to establish that William was driving negligently when the collision happened. Contrary to its claim, evidence shows that the proximate cause of the collision was Iluminado's negligence as petitioner's driver and the road-unworthiness of petitioner's bus. Assuming that the loss of control of petitioner's bus was due to a mechanical problem, petitioner cannot escape liability as it should have ensured that its vehicles are roadworthy. Hence, whether the accident was caused by a mechanical problem, by the reckless driving of Iluminado, or by both, it cannot be ignored that petitioner was negligent in the conduct of its business as a common carrier.¹⁰

Second, when a driver causes damage to another through negligence in the performance of duties, there arises a rebuttable presumption that the driver's employer has been negligent. To overcome such presumption, the employer must prove that he or she exercised the diligence of a *bonus pater familias* in the selection and supervision of the driver. Otherwise, the presumption of negligence becomes conclusive.¹¹

Both the RTC and the CA found that the proximate cause of the victims' deaths and the damages sustained by respondents was petitioner's bus. Here, petitioner failed to discharge the required burden of proof in establishing that it exercised the diligence of a good father of a family in selecting and supervising its employees, including Iluminado. Hence, it is conclusively presumed to be negligent and is liable under Articles 2176 and 2180 of the Civil Code, *viz.*:

ARTICLE 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

x x x x

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

⁹ *Rustan Commercial Corp. v. Raysag*, G.R. No. 219664, May 12, 2021.

¹⁰ *Rollo*, p. 73.

¹¹ *Padillo v. Magnaye* (Notice), G.R. No. 195692, March 6, 2019.

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Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

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Based on all the foregoing, it is established that petitioner failed to observe the extraordinary diligence required of it as a common carrier to overcome the presumption of its negligence and fault. It should thus be held liable for the death of Cherie Mae P. Tolentino, Danilo P. Vileta, Sr., and Glenn Amponin Huerto, and the serious injury to Marisol Barrozo, John Cris T. Josen, and Frederick through the negligence of its employee.¹²

WHEREFORE, the petition is **DENIED**. The Decision dated November 23, 2020 and the Resolution dated May 4, 2022 of the Court of Appeals in CA-G.R. CV No. 110881 are **AFFIRMED** with **MODIFICATION**. All damages awarded shall be subject to legal interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until its full satisfaction.

SO ORDERED. ”

By authority of the Court:

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1/28/23

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¹² See Articles 1756 and 1759 of the Civil Code which read:
Article 1756. In case of death of or injuries to passengers, common carriers are presumed to have been at fault or to have acted negligently, unless they prove that they observed extraordinary diligence as prescribed in articles 1733 and 1755.
Article 1759. Common carriers are liable for the death of or injuries to passengers through the negligence or wilful acts of the former’s employees, although such employees may have acted beyond the scope of their authority or in violation of the orders of the common carriers.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 20, Imus, Cavite
(CIVIL CASE NO. 0212-04)

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