

## SECOND DIVISION

**[ G.R. No. 208802, October 14, 2015 ]**

**G.V. FLORIDA TRANSPORT, INC., PETITIONER, VS. HEIRS OF  
ROMEO L. BATTUNG, JR., REPRESENTED BY ROMEO BATTUNG,  
SR., RESPONDENTS.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated May 31, 2013 and the Resolution<sup>[3]</sup> dated August 23, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 97757, which affirmed *in toto* the Decision<sup>[4]</sup> dated August 29, 2011 of the Regional Trial Court of Cabagan, Isabela, Branch 22 (RTC) in Civil Case No. 22-1103 finding petitioner G.V. Florida Transport, Inc. (petitioner), Federico M. Duplio, Jr. (Duplio), and Christopher Daraoay (Daraoay) jointly and severally liable to respondents heirs of Romeo L. Battung, Jr. (respondents) for damages arising from *culpa contractual*.

#### The Facts

Respondents alleged that in the evening of March 22, 2003, Romeo L. Battung, Jr. (Battung) boarded petitioner's bus with body number 037 and plate number BVJ-525 in Delfin Albano, Isabela, bound for Manila.<sup>[5]</sup> Battung was seated at the first row behind the driver and slept during the ride. When the bus reached the Philippine Carabao Center in Muñoz, Nueva Ecija, the bus driver, Duplio, stopped the bus and alighted to check the tires. At this point, a man who was seated at the fourth row of the bus stood up, shot Battung at his head, and then left with a companion. The bus conductor, Daraoay, notified Duplio of the incident and thereafter, brought Romeo to the hospital, but the latter was pronounced dead on arrival.<sup>[6]</sup> Hence, respondents filed a complaint<sup>[7]</sup> on July 15, 2008 for damages in the aggregate amount of P1,826,000.00<sup>[8]</sup> based on a breach of contract of carriage against petitioner, Duplio, and Baraoay (petitioner, *et al.*) before the RTC, docketed as Civil Case No. 22-1103. Respondents contended that as a common carrier, petitioner and its employees are bound to observe extraordinary diligence in ensuring the safety of passengers; and in case of injuries and/or death on the part of a passenger, they are presumed to be at fault and, thus, responsible therefor. As such, petitioner, *et al.* should be held civilly liable for Battung's death.<sup>[9]</sup>

In their defense, petitioner, *et al.* maintained that they had exercised the extraordinary diligence required by law from common carriers. In this relation, they claimed that a common carrier is not an absolute insurer of its passengers and that Battung's death should be properly deemed a fortuitous event. Thus, they prayed for the dismissal of the complaint, as well as the payment of their counterclaims for

damages and attorney's fees.<sup>[10]</sup>

### **The RTC Ruling**

In a Decision<sup>[11]</sup> dated August 29, 2011, the RTC ruled in respondents' favor and, accordingly, ordered petitioner, *et al.* to pay respondent the amounts of: (a) P1,586,000.00 as compensatory damages for unearned income; (b) P50,000.00 as actual damages; and (c) P50,000.00 as moral damages.<sup>[12]</sup>

The RTC found that petitioner, *et al.* were unable to rebut the presumed liability of common carriers in case of injuries/death to its passengers due to their failure to show that they implemented the proper security measures to prevent passengers from carrying deadly weapons inside the bus which, in this case, resulted in the killing of Battung. As such, petitioner, *et al.* were held civilly liable for the latter's death based on *culpa contractual*.<sup>[13]</sup>

Dissatisfied, petitioner, *et al.* appealed to the CA.<sup>[14]</sup>

### **The CA Ruling**

In a Decision<sup>[15]</sup> dated May 31, 2013, the CA affirmed the ruling of the RTC in toto.<sup>[16]</sup> It held that the killing of Battung cannot be deemed as a fortuitous event, considering that such killing happened right inside petitioner's bus and that petitioner, *et al.* did not take any safety measures in ensuring that no deadly weapon would be smuggled inside the bus.<sup>[17]</sup>

Aggrieved, only petitioner moved for reconsideration<sup>[18]</sup> which was, however, denied in a Resolution<sup>[19]</sup> dated August 23, 2013; hence, the instant petition.

### **The Issue Before the Court**

The core issue for the Court's resolution is whether or not the CA correctly affirmed the ruling of the RTC finding petitioner liable for damages to respondent arising from *culpa contractual*.

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

The petition is meritorious.

#### **I.**

The law exacts from common carriers (*i.e.*, those persons, corporations, firms, or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public<sup>[20]</sup>) the highest degree of diligence (*i.e.*, **extraordinary diligence**) in ensuring the safety of its passengers. **Articles 1733 and 1755 of the Civil Code state:**

Art. 1733. Common carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case.

Art. 1755. A common carrier is bound to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances.

In this relation, **Article 1756 of the Civil Code** provides that "[i]n 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." This disputable presumption may also be overcome by a showing that the accident was caused by a fortuitous event.<sup>[21]</sup>

The foregoing provisions notwithstanding, it should be pointed out that the law does not make the common carrier an insurer of the absolute safety of its passengers. In *Mariano, Jr. v. Callejas*,<sup>[22]</sup> the Court explained that:

While the law requires the highest degree of diligence from common carriers in the safe transport of their passengers and creates a presumption of negligence against them, **it does not, however, make the carrier an insurer of the absolute safety of its passengers.**

Article 1755 of the Civil Code **qualifies the duty of extraordinary care, vigilance[,] and precaution in the carriage of passengers by common carriers to only such as human care and foresight can provide. What constitutes compliance with said duty is adjudged with due regard to all the circumstances.**

Article 1756 of the Civil Code, in creating a presumption of fault or negligence on the part of the common carrier when its passenger is injured, merely relieves the latter, for the time being, from introducing evidence to fasten the negligence on the former, because the presumption stands in the place of evidence. **Being a mere presumption, however, the same is rebuttable by proof that the common carrier had exercised extraordinary diligence as required by law in the performance of its contractual obligation, or that the injury suffered by the passenger was solely due to a fortuitous event.**

In fine, we can only infer from the law the intention of the Code Commission and Congress **to curb the recklessness of drivers and operators of common carriers in the conduct of their business.**

Thus, it is clear that neither the law nor the nature of the business of a transportation company makes it an insurer of the passenger's safety, **but that its liability for personal injuries sustained by its passenger rests upon its negligence, its failure to exercise the**

**degree of diligence that the law requires.**<sup>[23]</sup> (Emphases and underscoring supplied)

Therefore, it is imperative for a party claiming against a common carrier under the above-said provisions to show that the injury or death to the passenger/s arose from the negligence of the common carrier and/or its employees in providing safe transport to its passengers.

In *Pilapil v. CA*,<sup>[24]</sup> the Court clarified that where the injury sustained by the passenger was in no way due (1) to any defect in the means of transport or in the method of transporting, or (2) to the negligent or willful acts of the common carrier's employees with respect to the foregoing - such as when the injury arises wholly from causes created by strangers which the carrier had no control of or prior knowledge to prevent — there would be no issue regarding the common carrier's negligence in its duty to provide safe and suitable care, as well as competent employees in relation to its transport business; as such, the presumption of fault/negligence foisted under Article 1756 of the Civil Code should not apply:

First, as stated earlier, the presumption of fault or negligence against the carrier is only a disputable presumption.[The presumption] gives in where contrary facts are established proving either that the carrier had exercised the degree of diligence required by law or the injury suffered by the passenger was due to a fortuitous event. Where, as in the instant case, the injury sustained by the petitioner was in no way due to any defect in the means of transport or in the method of transporting or to the negligent or wilful acts of [the common carrier's] employees, and therefore involving no issue of negligence in its duty to provide safe and suitable [care] as well as competent employees, with the injury arising wholly from causes created by strangers over which the carrier had no control or even knowledge or could not have prevented, the presumption is rebutted and the carrier is not and ought not to be held liable. To rule otherwise would make the common carrier the insurer of the absolute safety of its passengers which is not the intention of the lawmakers. (Emphasis and underscoring supplied)

In this case, Battung's death was neither caused by any defect in the means of transport or in the method of transporting, or to the negligent or willful acts of petitioner's employees, namely, that of Duplio and Daraoay, in their capacities as driver and conductor, respectively. Instead, the case involves the death of Battung wholly caused by the surreptitious act of a co-passenger who, after consummating such crime, hurriedly alighted from the vehicle.<sup>[25]</sup> Thus, there is no proper issue on petitioner's duty to observe extraordinary diligence in ensuring the safety of the passengers transported by it, and the presumption of fault/negligence against petitioner under Article 1756 in relation to Articles 1733 and 1755 of the Civil Code should not apply.

## **II.**