

SECOND DIVISION

[G.R. No. 152033, March 16, 2011]

**FILIPINAS SYNTHETIC FIBER CORPORATION, PETITIONER, VS.
WILFREDO DE LOS SANTOS, BENITO JOSE DE LOS SANTOS,
MARIA ELENA DE LOS SANTOS AND CARMINA VDA. DE LOS
SANTOS, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This Petition for Review under Rule 45 of the 1997 Rules of Civil Procedure assails the Decision^[1] of the Court of Appeals (CA) dated August 15, 2001, affirming with modification, the Decision^[2] dated February 14, 1994 of the Regional Trial Court (RTC), and the Resolution dated January 29, 2002 of the CA, denying petitioner's Motion for Reconsideration.

This all stems from a case for damages filed against the petitioner and one of its employees. The facts, as found by the RTC and the CA, are as follows:

On the night of September 30, 1984, Teresa Elena Legarda-de los Santos (Teresa Elena), the wife of respondent Wilfredo de los Santos (Wilfredo), performed at the Rizal Theater in Makati City, Metro Manila as a member of the cast for the musical play, *Woman of the Year*.

On that same night, at the request of Wilfredo, his brother Armando de los Santos (Armando), husband of respondent Carmina Vda. de los Santos, went to the Rizal Theater to fetch Teresa Elena after the latter's performance. He drove a 1980 Mitsubishi Galant Sigma (Galant Sigma) with Plate No. NSL 559, a company car assigned to Wilfredo.

Two other members of the cast of *Woman of the Year*, namely, Annabel Vilches (Annabel) and Jerome Macuja, joined Teresa Elena in the Galant Sigma.

Around 11:30 p.m., while travelling along the Katipunan Road (White Plains), the Galant Sigma collided with the shuttle bus owned by petitioner and driven by Alfredo S. Mejia (Mejia), an employee of petitioner. The Galant Sigma was dragged about 12 meters from the point of impact, across the White Plains Road landing near the perimeter fence of Camp Aguinaldo, where the Galant Sigma burst into flames and burned to death beyond recognition all four occupants of the car.

A criminal charge for reckless imprudence resulting in damage to property with multiple homicide was brought against Mejia, which was decided in favor of Mejia. The family of Annabel filed a civil case against petitioner and Mejia docketed as Civil Case No. Q-51382, which was raffled to Branch 82 of the RTC of Quezon City. Wilfredo and Carmina, joined by their minor children, also filed separate actions for

damages against petitioner and Mejia. The said cases were eventually consolidated.

After trial on the merits, the RTC decided in favor of herein respondents. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, this Court finds the herein plaintiffs in Civil Case Nos. Q-44498 and Q-45602, namely Wilfredo de los Santos, et al. and Carmina Vda. de los Santos, et al., respectively, to have duly proven their causes of action against Filipinas Synthetic Fiber Corporation and Alfredo S. Mejia, defendants in both cases, thru preponderance of evidence, hence, Judgment is hereby rendered ordering defendants, jointly and severally, to pay the herein plaintiffs in Civil Case No. Q-44498, (1) for actual damages, P29,550.00, with interest thereon at the legal rate until paid; (2) the amount of P4,769,525.00 as compensatory damages and unrealized income of Teresa Elena, which is one-half of the amount of P9,539,050.00, taking into consideration her status in life, and that during her lifetime she was not only spending for herself. The latter's average expenses would either be more or less than one-half of her gross income for the year; (3) P100,000.00 as moral damages to assuage the family of the deceased Teresa Elena for the loss of a love one who was charred beyond recognition; and (4) attorney's fees of P150,000.00. As to exemplary damages, the same cannot be granted for the reason that no one wanted this unfortunate accident to happen, which was a costly one.

For Civil Case No. Q-45602, the herein defendants are hereby ordered, jointly and severally, to pay the plaintiffs (1) P20,550.00 for actual damages, with interest thereon at the legal rate until the same is paid; (2) P444,555.00 as compensatory damages and unrealized income of the deceased Armando de los Santos, for the same reason as the deceased Teresa Elena, who during his lifetime, Armando was not only spending for himself; (3) P100,000.00 as moral damages to assuage the loss of a love one who was burnt beyond recognition; and (4) P100,000.00 as attorney's fees. As to exemplary damages, the same could not be granted for the same reason as that in Civil Case No. Q-44498.

SO ORDERED.

After the denial of the motion for reconsideration, petitioner appealed to the CA, and the latter ruled:

WHEREFORE, the assailed February 14, 1994 Decision of the Regional Trial Court of Quezon City, Branch 100 is AFFIRMED, subject to modification that in Civil Case No. Q-44498 the compensatory damages and unrealized income of deceased Teresa Elena shall be P3,120,300.00, and in Civil Case No. Q-45602 the compensatory damages and unrealized income of deceased Armando shall be P509,649.00.

SO ORDERED.

The subsequent motion for reconsideration was also denied. Hence, the present petition wherein the petitioner assigned the following errors:

ASSIGNMENT OF ERRORS

I. THE HONORABLE COURT OF APPEALS ERRED IN FINDING THE PETITIONER MEJIA NEGLIGENT, SUCH NOT BEING SUPPORTED BY THE EVIDENCE ON RECORD.

II. THE HONORABLE COURT OF APPEALS' FINDING THAT PETITIONER FILSYN DID NOT EXERCISE THE DUE DILIGENCE OF A GOOD FATHER OF A FAMILY IN THE SELECTION AND SUPERVISION OF ITS EMPLOYEES IS NOT SUPPORTED BY THE EVIDENCE ON RECORD.

III. THE DAMAGES AWARDED BY THE HONORABLE COURT OF APPEALS IS NOT IN ACCORD WITH THE EVIDENCE ON RECORD.

The respondents filed their Comment^[3] dated June 7, 2002, while the petitioner filed its Reply^[4] dated January 29, 2003. Subsequently, their respective memoranda^[5] were filed.

The petition lacks merit.

Petitioner insists that the CA was not correct in ruling that Mejia was negligent. It argues that the said conclusion was not derived from the evidence adduced during the trial, which, upon further analysis, makes the nature of the issue presented to be factual.

Whether a person is negligent or not is a question of fact which this Court cannot pass upon in a petition for review on *certiorari*, as its jurisdiction is limited to reviewing errors of law.^[6] As a rule, factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal. The established exceptions are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of fact are conclusions without citation of specific evidence on which they are based; (8) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (9) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.^[7]

Not falling under any of the exceptions enumerated above, this Court must defer to the findings of the RTC and the CA.

Petitioner argues that the RTC admitted that De los Santos made a turn along White Plains Road without exercising the necessary care which could have prevented the accident from happening. It quoted the following portion of the RTC's decision:

The Court is convinced that defendant Mejia was running real fast along EDSA when he saw a vehicle on the opposite side suddenly turn left towards White Plains.

According to petitioner, the sudden turn of the vehicle used by the victims should also be considered as negligence on the part of the driver of that same vehicle, thus, mitigating, if not absolving petitioner's liability. However, the said argument deserves scant consideration.

It was well established that Mejia was driving at a speed beyond the rate of speed required by law, specifically Section 35 of Republic Act No. (RA) 4136.^[8] Given the circumstances, the allowed rate of speed for Mejia's vehicle was 50 kilometers per hour, while the records show that he was driving at the speed of 70 kilometers per hour. Under the New Civil Code,^[9] unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation. Apparently, in the present case, Mejia's violation of the traffic rules does not erase the presumption that he was the one negligent at the time of the collision. Even apart from statutory regulations as to speed, a motorist is nevertheless expected to exercise ordinary care and drive at a reasonable rate of speed commensurate with all the conditions encountered^[10] which will enable him to keep the vehicle under control and, whenever necessary, to put the vehicle to a full stop to avoid injury to others using the highway.^[11] [] To suggest that De los Santos was equally negligent based on that sole statement of the RTC is erroneous. The entire evidence presented must be considered as a whole. Incidentally, a close reading of the ruling of the CA would clearly show the negligence of Mejia. A portion of the decision reads:

A closer study of the Police Accident Report, Investigation Report and the sketch of the accident would reveal nothing but that the shuttle bus was traveling at such a reckless speed that it collided with the car bearing the deceased. The impact was such that the bus landed astride the car, dragged the car across the right lane of White Plains Road, across the concrete island/flower box in the center of White Plains Road, destroying the lamp post in the island until both vehicles landed by the petitioner fence of Camp Aguinaldo.

From those evidence, borne out by the records, there was proof more than preponderant to conclude that Mejia was traveling at an unlawful speed, hence, the negligent driver. We, therefore, cannot find any error on the part of the trial court in concluding that he (Mejia) was driving more than his claim of 70 kilometers per hour. Significantly, the claimed speed of Mejia is still unlawful, considering that Section 35 of RA 4136 states that the maximum allowable speed for trucks and buses must not exceed 50 kilometers per hour. We are, therefore, unpersuaded by the defendants-appellants' claim that it was the driver of [the] Galant Sigma

who was negligent by not observing Sections 42(d) and 43(c) of RA 4136-A. Second sentence of Section 42 provides that the driver of any vehicle traveling at any unlawful speed shall forfeit any right of way which he might otherwise have. A person driving a vehicle is presumed negligent if at the time of the mishap, he was violating a traffic regulation. The excessive speed employed by Mejia was the proximate cause of the collision that led to the sudden death of Teresa Elena and Armando. If the defendants-appellants truly believe that the accident was caused by the negligence of the driver of the Galant Sigma, they should have presented Mejia to the witness stand. Being the driver, Mejia would have been in the best position to establish their thesis that he was negligent when the mishap happened. Under the RULES OF EVIDENCE (Section 3[e], Rule 131), such suppression gives rise to the presumption that his testimony would have been adverse, if presented. It must be stressed further that Mejia left the scene, not reporting the fatal accident to the authorities neither did he wait for the police to arrive. He only resurfaced on the day after the incident. This is a clear transgression of Section 55 of RA 4136-A which provides:

SEC. 55 *Duty of driver in case of accident.* - In the [event] that any accident should occur as a result of the operation of a motor vehicle upon a highway, the driver shall stop immediately, and, if requested by any person present, shall show his driver's license, give his true name and address and also the true name and address of the owner of the motor vehicle.

No driver of a motor vehicle concerned in a vehicular accident shall leave the scene of the accident without aiding the victim, except under any of the following circumstances:

1. If he is in imminent danger of being seriously harmed by any person or persons by reason of the accident;
2. If he reports the accident to the nearest officer of the law; or
3. If he has to summon a physician or nurse to aid the victim.

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Equally untenable is the defendants-appellants contention that it would be impossible for the shuttle bus which was traveling at 70 kilometers per hour to stop. In view of this assertion, we quote with favor the statement of Justice Feliciano in the Kapalaran case that the law seeks to stop and prevent the slaughter and maiming of people (whether passenger or not) and the destruction of property (whether freight or not) on our highways by buses, the very size and power of which seem often to inflame the minds of the drivers. To our mind, if a vehicle was travelling in an allowable speed, its driver would not have a difficulty in applying the brakes.