

THIRD DIVISION

[G.R. NO. 157658, October 15, 2007]

**PHILIPPINE NATIONAL RAILWAYS AND VIRGILIO J. BORJA,
PETITIONERS, VS. COURT OF APPEALS (SECOND DIVISION),
CORAZON C. AMORES, MA. EMILIE A. MOJICA, CECILE C. SISON,
DINO C. AMORES, LARISA C. AMORES, ARMAND JINO C. AMORES
AND JOHN C. AMORES, RESPONDENTS.**

DECISION

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to annul and set aside the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 54906 which reversed the Decision^[2] of the Regional Trial Court (RTC) of Manila, Branch 28, in Civil Case No. 92-61987.

The factual antecedents are as follows:

In the early afternoon of April 27, 1992, Jose Amores (Amores) was traversing the railroad tracks in Kahilum II Street, Pandacan, Manila. Before crossing the railroad track, he stopped for a while then proceeded accordingly.^[3] Unfortunately, just as Amores was at the intersection, a Philippine National Railways' (PNR) train with locomotive number T-517 turned up and collided with the car.^[4]

At the time of the mishap, there was neither a signal nor a crossing bar at the intersection to warn motorists of an approaching train. Aside from the railroad track, the only visible warning sign at that time was the defective standard signboard "STOP, LOOK and LISTEN" wherein the sign "Listen" was lacking while that of "Look" was bent.^[5] No whistle blow from the train was likewise heard before it finally bumped the car of Amores.^[6] After impact, the car was dragged about ten (10) meters beyond the center of the crossing.^[7] Amores died as a consequence thereof.

On July 22, 1992, the heirs of Amores, consisting of his surviving wife and six children, herein respondents, filed a Complaint for Damages^[8] against petitioners PNR and Virgilio J. Borja (Borja), PNR's locomotive driver at the time of the incident, before the RTC of Manila. The case was raffled to Branch 28 and was docketed as Civil Case No. 92-61987. In their complaint, respondents averred that the train's speedometer was defective, and that the petitioners' negligence was the proximate cause of the mishap for their failure to take precautions to prevent injury to persons and property despite the dense population in the vicinity. They then prayed for actual and moral damages, as well as attorney's fees.^[9]

In their Answer,^[10] the petitioners denied the allegations, stating that the train was railroad-worthy and without any defect. According to them, the proximate cause of the death of Amores was his own carelessness and negligence, and Amores wantonly disregarded traffic rules and regulations in crossing the railroad tracks and trying to beat the approaching train. They admitted that there was no crossing bar at the site of the accident because it was merely a *barangay* road.^[11] PNR stressed that it exercised the diligence of a good father of a family in the selection and supervision of the locomotive driver and train engineer, Borja, and that the latter likewise used extraordinary diligence and caution to avoid the accident. Petitioners further asserted that respondents had the last clear chance to avoid the accident but recklessly failed to do so.

After trial on the merits, on August 22, 1996, the RTC rendered judgment in favor of the petitioners, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered dismissing the complaint of the plaintiffs and the defendants' counterclaim.

The costs shall be halved and paid equally by the parties.

The counsel for the defendants is hereby ordered to inform this court who is the legal representative of the deceased defendant, Virgilio Borja, within ten (10) days from receipt of a copy of this decision.

SO ORDERED.^[12]

The RTC rationalized that the proximate cause of the collision was Amores' fatal misjudgment and the reckless course of action he took in crossing the railroad track even after seeing or hearing the oncoming train.

On appeal, the CA reversed the RTC decision, as follows:

WHEREFORE, the assailed Decision of the Regional Trial Court of Manila, Branch 28 is hereby **REVERSED**. The defendants PNR and the estate of Virgilio J. Borja are jointly and severally liable to pay plaintiffs the following:

- 1) The amount of P122,300.00 for the cost of damage to the car; and,
- 2) The amount of P50,000 as moral damages.

For lack of official receipts for funeral expenses and specimen of the last pay slip of the deceased, the claim for reimbursement of funeral expenses and claim for payment of support is hereby **DENIED** for lack of basis. Costs against Defendants.

SO ORDERED.^[13]

In reversing the trial court's decision, the appellate court found the petitioners negligent. The court based the petitioners' negligence on the failure of PNR to install a semaphore or at the very least, to post a flagman, considering that the crossing is located in a thickly populated area. Moreover, the signboard "Stop, Look

and Listen” was found insufficient because of its defective condition as described above. Lastly, no negligence could be attributed to Amores as he exercised reasonable diligence in crossing the railroad track.

Aggrieved by this reversal, the petitioners filed the present petition for review on *certiorari*, raising the following grounds:

I

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN RENDERING ITS DECISION REVERSING THE DECISION OF THE REGIONAL TRIAL COURT OF MANILA BRANCH 28, IN NOT TAKING INTO CONSIDERATION THE PROVISION OF SECTION 42, R.A. 4136 OF THE LAND TRANSPORTATION AND TRAFFIC CODE.

II

THE DECISION OF THE COURT OF APPEALS IS CONTRARY TO THE EVIDENCE ON RECORD ADDUCED IN THE TRIAL ON THE MERIT IN CIVIL CASE NO. 92-61987.^[14]

The petitioners insist that Amores must have heard the train’s whistle and heeded the warning but, noting that the train was still a distance away and moving slowly, he must have calculated that he could beat it to the other side of the track before the train would arrive at the intersection. The petitioners likewise add that the train was railroad-worthy and that its defective speedometer did not affect the train’s operation. Lastly, they insist that evidence showed sufficient warning signs strategically installed at the crossing to alert both motorists and pedestrians.

Respondents, on the other hand, argue that the cause of the accident was petitioners’ carelessness, imprudence and laxity in failing to provide a crossing bar and keeper at the Kahilum II railway intersection. Considering that Kahilum II Street is in the middle of a thickly populated squatters’ area, and many pedestrians cross the railroad track, notwithstanding the fact that it is a public street and a main thoroughfare utilized in going to Herran Street, the presence of adequate warning signals would have prevented the untimely death of Amores. Another crucial point raised by the respondents is the manner in which Borja applied the brakes of the train only when the locomotive was already very near Amores’ car, as admitted by witness Querimit. Finally, respondents claim that Borja’s failure to blow the locomotive’s horn, pursuant to the usual practice of doing the same 100 meters before reaching the Kahilum II crossing point is an earmark of recklessness on the part of the petitioners.

The petition must fail.

The only issue to be resolved in the present case is whether the appellate court was correct in ascribing negligence on the part of the petitioners. It was ascertained beyond quandary that the proximate cause of the collision is the negligence and imprudence of the petitioner PNR and its locomotive driver, Borja, in operating the passenger train.