



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **13 November 2019** which reads as follows:

"G.R. No. 249756 - JT Hawkins Travellers, Inc. and Alfredo Cotamco Degamo v. Jonathan Cuyos

x ----- x

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court are the March 27, 2019 Decision¹ and September 11, 2019 Resolution² of the Court of Appeals, Cebu City in CA-G.R. CV No. 06344 which affirmed with modification the Decision³ of the Regional Trial Court (RTC) of Cebu City, Branch 21, in Civil Case No. CEB-31113 for Damages.

Respondent Jonathan Cuyos (Cuyos) owns a 10-wheeler cargo truck with plate number GRS 506 while petitioner JT Hawkins Travellers, Inc. (JT Hawkins) owns and operates a public utility vehicle, particularly an Isuzu passenger bus with plate number GVJ 781, which was driven by petitioner Alfredo Cotamco Degamo (Degamo).⁴

In a Complaint for Damages filed by Cuyos, he alleged that his cargo truck driver, Reynaldo Potestas Sumalinog (Sumalinog), was traversing the highway bound for Daanbantayan, Cebu, in the morning of July 7, 2004. Upon reaching Barangay Binabag in Bogo, Cebu, the cargo truck collided with the passenger bus of JT Hawkins. According to Cuyos, Degamo overtook another bus while approaching a curve, swerved to the left encroaching upon the lane of the cargo truck, and collided with it head on. As a result of the collision, the cargo truck was extensively damaged while Sumalinog suffered injuries. Cuyos averred that the proximate cause of the accident was the reckless imprudence, lack of foresight, and gross negligence of Degamo.

In their Answer, petitioners alleged that Sumalinog admitted to a passenger of the bus that he was sleepy while driving the cargo truck. Moreover, petitioners claimed that the cargo truck was overloaded at the time of the collision. Petitioners counterclaimed for damages.

¹ *Rollo*, pp. 20-31; penned by Associate Justice Emily R. Alifio-Geluz and concurred in by Associate Justices Pamela Ann Abella Maxino and Dorothy P. Montejo-Gonzaga.

² *Id.* at 32-22.

³ Not attached to the *rollo*.

⁴ See *id.* at 4 and 21.

Ruling of the Regional Trial Court

On November 21, 2014, the RTC ordered petitioners to pay damages. The dispositive portion of the trial court's Decision reads:

WHEREFORE, all considered, judgment is hereby rendered for the plaintiff ordering defendants JT Hawkins Travellers, Inc., represented by William Tiu and Alfredo Degamo to pay jointly and severally unto them the following:

1. Php 343,828.00 as actual damages;
2. Php 60,000.00 as attorney's fees;
3. Php 30,000.00 as litigation expenses.

Costs against defendants.

SO ORDERED.⁵

Petitioners filed a Motion for Reconsideration but it was denied by the RTC for lack of merit.

Aggrieved, petitioners filed an appeal before the Court of Appeals contending that Cuyos failed to establish his case by preponderance of evidence.

Ruling of the Court of Appeals

In a Decision dated March 27, 2019, the Court of Appeals affirmed with modification the Decision of the RTC based on the testimony of Sumalinog that he saw the passenger bus driven by Degamo maneuvering a curved road and trying to overtake another bus. His testimony was supported by the findings of the traffic investigator and corroborated by photographs of the accident and the traffic accident field sketch.

The appellate court concluded that the proximate cause of the collision was Degamo's act of overtaking another bus while negotiating a curve. The appellate court also held that JT Hawkins should be held solidarily liable with Degamo because William Tiu, the owner of JT Hawkins, failed to establish that he exercised due diligence in the selection and supervision of Degamo.

The appellate court reduced the award of actual damages for failure to substantiate by actual receipts the claim for medication of the driver and helper. The appellate court sustained the grant of attorney's fees and litigation expenses.

⁵ *Id.* at 22.

A Motion for Reconsideration was filed but the same was denied by the Court of Appeals in a Resolution dated September 11, 2019.

Hence, this Petition for Review on *Certiorari*.

Our Ruling

We find no reversible error on the part of the Court of Appeals.

Well-settled is the rule that findings of fact of the trial court, especially when affirmed by the Court of Appeals, are binding and conclusive upon this Court.⁶ Here, both the RTC and the Court of Appeals found that petitioners' negligence was the proximate cause of the injuries sustained by the passengers and damage to the cargo truck of Cuyos. Both found Degamo driving negligently by overtaking another bus and encroaching upon the lane of the cargo truck, causing a head-on collision. Consequently, petitioners were correctly held liable for damages.

Moreover, a reassessment of which party was at fault would require a recalibration of the evidence presented. The same would necessitate a reevaluation of factual findings which is not within the ambit of a Rule 45 petition.

In any case, the Petition must be denied since its timeliness cannot be determined there being no date of posting stamped in the envelope.

However, the damages awarded by the RTC, as modified by the Court of Appeals, should further be modified to include the imposition of interest pursuant to Our ruling in *Nacar v. Gallery Frames*⁷ wherein the Court imposed modified guidelines in the imposition of interest, to wit:

When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages, except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code), but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

In view of this, interest at the rate of six percent (6%) per *annum* shall be imposed on the damages awarded reckoned from the date of judgment of the trial court, or on November 21, 2014 until full payment.

⁶ *Gatan v. Vinarao*, G.R. No. 205912, October 18, 2017.

⁷ 716 Phil. 267, 282-283 (2013).

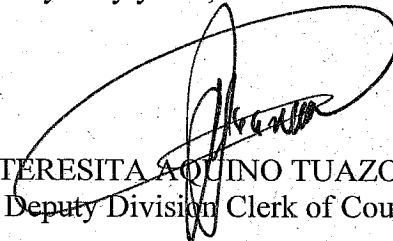
WHEREFORE, the Petition is **DENIED**. The March 27, 2019 Decision and September 11, 2019 Resolution of the Court of Appeals in CA-G.R. CV No. 06344 are **AFFIRMED with MODIFICATION**. Petitioners JT Hawkins Travellers, Inc., represented by William Tiu, and Alfredo Degamo are ordered to pay jointly and severally respondent Jonathan Cuyos the following:

1. PhP 341,430.00 as actual damages;
2. PhP 60,000.00 as attorney's fees;
3. PhP 30,000.00 as litigation expenses; and
4. Costs of suit.

All damages awarded shall be subject to interest at the rate of six percent (6%) per annum from the date of judgment of the trial court on November 21, 2014 until its full payment.

SO ORDERED. (Inting, J., on official leave.)"

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Utth 12/6*

06 DEC 2019

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 21
Cebu City
(Civil Case No. CEB-31113)

COURT OF APPEALS (reg)
Visayas Station
Cebu City
CA-G.R. CEB CV No. 06344

JUDGMENT DIVISION (x)
Supreme Court, Manila

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*with copy of CA Decision dated 27 March 2019
Please notify the Court of any change in your address.
GR249756. 11/13/2019(22)URES