



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 December 2020** which reads as follows:*

“G.R. No. 228332 (Butuan New Dennis Marketing, Inc., Alfredo L. Villaflor, and Alfredo Ngsiao Yee, Jr. v. Corazon M. Navia, doing business under the name and style, Langihan General Merchandise). — The petitioners raise the questions: whether the fire was a fortuitous event; whether they were negligent; and whether the amount of damages awarded was excessive, which are factual in nature and beyond the ambit of this Court’s jurisdiction in a petition for review on *certiorari*. Even if this Court decides these issues, the same will not merit a different result.

“The test to determine the existence of negligence in a particular case may be stated as follows: *did the defendant in committing the alleged negligent act, use reasonable care and caution which an ordinarily prudent person in the same situation would have employed? If not, then he is guilty of negligence.*”¹ Here, it is undisputed that the fire started in the building of the petitioners which is under their exclusive management and control. The fire then spread to and burned the respondent’s building. However, the petitioners failed to prove affirmative action that they undertook safety and precautionary measures to prevent the fire from happening, such as the availability of fire protection equipment (extinguishers, sprinklers, alarm) and proper storage of chemicals, flammable materials, or other hazardous substances. To prove that they were not negligent, the petitioners aver that the Department of Trade and Industry, the City Legal Office of Butuan City, the Office of the City Architect, and the Office of the City Fire Marshall all certified that no charges have been, nor will be, filed against them for hoarding large quantities of cooking oil, or for violation of the National Building Code and the Fire Safety Code of the Philippines. Yet, the petitioners cannot conveniently rely on these certifications. They must also show that they exercised due diligence to prevent or minimize the loss before, during and after the occurrence of the fire. However, none of these

¹ *Perla Compania de Seguros, Inc. v. Sps. Sarangaya III*, 510 Phil. 676, 687 (2005).

were alleged and proven.

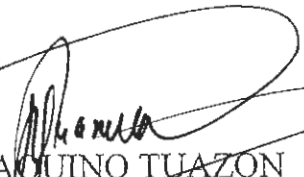
Also, Article 1174 of the Civil Code provides that no person shall be responsible for fortuitous events, or those events which could not be foreseen, or which, though foreseen, were inevitable. Contrary to the petitioners' theory, fire is not considered a fortuitous event as it arises almost invariably from some act of man.² Moreover, if the negligence or fault of the obligor coincided with the occurrence of the fortuitous event, and caused the loss or damage or the aggravation thereof, the fortuitous event cannot shield the obligor from liability for his negligence.

Finally, the Court of Appeals-Cagayan de Oro City properly awarded temperate damages given that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty. The determination of temperate damages is usually left to the discretion of the courts but the same should be reasonable, bearing in mind that it should be more than nominal but less than compensatory.³ In this case, the award of ₱1,000,000.00, in lieu of actual damages, is just and reasonable. There is no doubt that the respondent suffered some form of pecuniary loss for the impairment of the structural integrity of her building because of fire exposure. Consistent with prevailing jurisprudence, the damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this resolution until full payment.⁴

FOR THESE REASONS, the petition is **DENIED**. The Court of Appeals-Cagayan de Oro City's Decision⁵ dated April 14, 2016, in CA-G.R. CV NO. 03302-MIN, is **AFFIRMED** with **MODIFICATION** in that the award of temperate damages shall earn an interest of six percent (6%) *per annum* from the date of the finality of this Resolution until full payment.

SO ORDERED. (Perlas-Bernabe, J., on official leave. Rosario, J., designated additional Member per Special Order No. 2797 dated November 5, 2020.)"

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
19 MAR 2021

² See *Phil. Home Assurance Corp. v. CA*, 327 Phil. 255, 266 (1996).

³ *College Assurance Plan v. Belfranlt Development, Inc.*, 563 Phil. 355, 367 (2007).

⁴ *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

⁵ *Rollo*, pp. 170-196; penned by Associate Justice Romulo V. Borja, with the concurrence of Associate Justices Edgardo T. Lloren and Oscar V. Badelles.

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 4
Butuan City
(Civil Case No. 5519)

COURT OF APPEALS (reg)
Special Twenty-First Division
Cagayan De Oro City
CA-G.R. CV No. 03302-MIN

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Supreme Court, Manila

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*with copy of CA Decision dated 14 April 2016.
Please notify the Court of any change in your address.
GR228332. 12/02/2020(126)URES 12/19