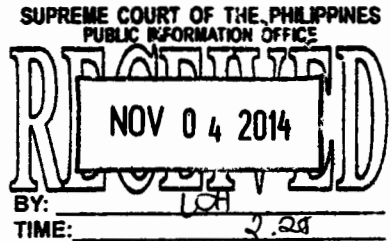




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 15, 2014** which reads as follows:*

“G.R. No. 213196 - PHILTRANCO SERVICE ENTERPRISES, INC., Petitioner v. RODOLFO, EVELYN, RAUL, MAYEN AND VANESSA, ALL SURNAMED ROMERO, Respondents.

On 31 May 1998, Salvador Santos (Santos), employed as a bus driver of petitioner Philtranco Service Enterprises, Inc. (Philtranco), rammed into the house of respondents, the Romero family, Rodolfo, Evelyn, Raul, Mayen and Vanessa, who were all sleeping at the time of the accident at 5:20 a.m. The accident occurred in *Barangay* Bonifacio, San Fernando, Camarines Sur and resulted in the destruction of respondents’ house as well as the eatery and *videoke* bar they owned standing right beside their house.

Because of the destruction of their property, respondents filed a complaint for damages against Santos and his employer, Philtranco, before the Regional Trial Court (RTC), Branch 23, Naga City. Respondents alleged that the proximate cause of the destruction was Santos’ reckless driving, gross negligence, and lack of foresight while driving the Philtranco bus. Respondents likewise sought to make Philtranco vicariously and solidarily liable for the destruction of their property in failing to exercise due diligence in the selection and supervision of its employee.

Santos claimed that the proximate cause of the accident is not his negligence but that of Regerio Amisola (Amisola), driver of Peñafrancia Tours and Travel Transport, Inc. (Peñafrancia bus). At the time of the incident, the Peñafrancia bus being driven by Amisola bumped the rear of the Philtranco bus driven by Santos, pushing the latter to slide off the lower side of the Maharlika Highway and ultimately, hitting respondents’ house and the rest of their property.

- over – four (4) pages

For its part, Philtranco claimed that it has always exercised the diligence of a good father of a family in the selection and supervision of its employees, including Santos.

After trial, the RTC found Santos negligent while performing his duties as driver of Philtranco bus. The whole incident occurred because there was a passenger who had gotten off the bus earlier and who mistakenly took the luggage of another passenger. Santos deliberately ignored Philtranco policy of issuing baggage claim receipts to ensure that the passengers will get the correct luggage they stored underneath the bus. In order to locate the missing luggage, Santos drove back to San Fernando, Camarines Sur. From San Fernando, Santos maneuvered the bus back to Naga City and traversed the area of Maharlika Highway which was very near a curve, at a distance of only 135 meters. Vehicles at that area drive at very high speed. While the Philtranco bus was backing up, the Peñafrancia bus hit its rear. As a result, the Philtranco bus slid off the Maharlika Highway and hit respondents' house.

As for Philtranco, the RTC found that it did not exercise due diligence in the selection and supervision of Santos because: (1) based on his ratings, Santos cannot be considered as an above average driver in terms of skill and compliance with traffic rules and regulations; (2) the mandatory psycho-physical examinations for pre-employment were not conducted by duly licensed or certified psychologists or psychiatrists; (3) the record of Santos showed that he had only thrice attended Philtranco seminars since being hired as a regular driver on 1 September 1998; (4) there was no evidence that Philtranco had been closely supervising their employees; (5) Philtranco's employees blatantly disregarded company rules and regulations as shown by Santos' unauthorized trip back to San Fernando, Camarines Sur; and (6) it was not shown that Santos and his conductor were investigated by Philtranco following the incident.

In all, the RTC found Santos and Philtranco solidarily liable to respondents and awarded temperate damages, in lieu of proof of actual damages, moral and exemplary damages, attorney's fees and other litigation expenses, to wit:

1. The amount of ₱100,000.00 as moral damages;
2. The amount of ₱25,000.00 as exemplary damages;
3. The amount of ₱250,000.00 as temperate damages;
4. The amount of ₱50,000.00 as attorney's fees;

- over -

5. The amount of ₱47,000.00 representing counsel's appearance fee at ₱1,000.00 per court appearance;
6. The amount of ₱3,000.00 representing the filing fee paid by [respondents]; and
7. To pay the costs of the suit.¹

On appeal, the appellate court affirmed *in toto* the ruling of the RTC.

Hence, this petition for review on *certiorari* filed by Philtranco.

Whether the Court of Appeals erred in affirming the lower court's ruling that Philtranco was solidarily liable with Santos for the destruction of respondents' property.

Philtranco's appeal is without merit.

As found by the lower courts, whose factual findings we do not reverse on appeal, except in exceptional circumstances which are not present herein, Philtranco failed to exercise due diligence in the selection and supervision of its employees. Philtranco presented Santos' Driver's Psycho-Physical Test and several Conductor's Learnership exams which were held on various dates in July 1987. However, the lower courts uniformly found that these exams were conducted before Santos was promoted as a regular bus driver in September 1988. Thereafter, Philtranco did not present proof of its supervision and continuous training of its employees, specifically the actual operation and driving of its buses during the period 1988-1998. We are hard pressed to reverse the lower courts' factual findings especially given an only nine-page petition of Philtranco without minutiae of its basis to avoid liability for the destruction of respondents' property.

In the matter of actual damages, respondents were unable to present proof of the actual amount of the damages they had sustained. However, the lower courts were one in ruling that respondents had sustained pecuniary loss. Thus, the lower courts' award of temperate damages in the amount of ₱250,000.00 is correct because respondents were not able to prove actual damages, but showed that they actually suffered pecuniary loss. Although the pecuniary loss cannot be quantified, the lower courts' factual finding thereof is directly related to its finding that respondents' property, their house, the appliances and furniture, as well as the eatery and *videoke* bar, were destroyed when Philtranco's bus, driven by Santos, rammed into it all.

¹ Rollo, p. 95.

In the case of *Philtranco Service Enterprises, Inc. v. Paras*,² likewise involving herein petitioner, we affirmed the appellate court's award of temperate damages and ruled that we cannot disturb the Court of Appeal's determination of temperate damages, for we are in no position today to judge its reasonableness on account of the lapse of a long time from when the accident occurred.

On the whole, we agree with the lower courts' monetary awards to the respondents considering their discussion of the factual, legal and equitable justification for the grant thereof.

The Court further resolves:

- (1) to **NOTE** the petitioner's motion for leave and supplement to the petition for review on certiorari; and
- (2) to require petitioner to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed motion for leave and supplement to petition for review pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.” *SERENO, C.J.*, on leave; *VELASCO, JR., J.*, acting member per S.O. No. 1772 dated August 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{10/15/14}

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² G.R No. 161909, 25 April 2012, 671 SCRA 24.

The Hon. Presiding Judge
Regional Trial Court, Br. 23
4400 Naga City
(Civil Case No. 99-4220)

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