Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ANNIE TAN, Petitioner,	**G.R. No. 220400**
	Present:
-versus-	PERALTA, *J., Chairperson,* LEONEN, REYES, A., JR., HERNANDO, and CARANDANG,* *JJ.*
GREAT HARVEST ENTERPRISES, INC., Respondent.	**Promulgated:** March 20, 2019

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DECISION

LEONEN, *J.*:

Common carriers are obligated to exercise extraordinary diligence over the goods entrusted to their care. This is due to the nature of their business, with the public policy behind it geared toward achieving allocative efficiency and minimizing the inherently inequitable dynamics between the parties to the transaction.

This resolves a Petition for Review on Certiorari[1] filed under Rule 45 of the Rules of Civil Procedure by Annie Tan (Tan), assailing the Court of Appeals March 13, 2015 Decision[2] and September 15, 2015 Resolution[3] in

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* Designated additional Member per Special Order No. 2624 dated November 28, 2018.

1 *Rollo*, pp. 10–24.

2 Id. at 26–36. The Decision was penned by Associate Justice Danton Q. Bueser, and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Victoria Isabel A. Paredes of the Special Sixteenth Division, Court of Appeals, Manila.

CA-G.R. CV No. 100412. The assailed judgments upheld the Regional Trial Court January 3, 2012 Decision[4] in Civil Case No. Q-94-20745, which granted Great Harvest Enterprises, Inc.'s (Great Harvest) Complaint for sum of money against Tan.

On February 3, 1994, Great Harvest hired Tan to transport 430 bags of soya beans worth ₱230,000.00 from Tacoma Integrated Port Services, Inc. (Tacoma) in Port Area, Manila to Selecta Feeds in Camarin, Novaliches, Quezon City.[5]

That same day, the bags of soya beans were loaded into Tan's hauling truck. Her employee, Rannie Sultan Cabugatan (Cabugatan), then delivered the goods to Selecta Feeds.[6]

At Selecta Feeds, however, the shipment was rejected. Upon learning of the rejection, Great Harvest instructed Cabugatan to deliver and unload the soya beans at its warehouse in Malabon. Yet, the truck and its shipment never reached Great Harvest's warehouse.[7]

On February 7, 1994, Great Harvest asked Tan about the missing delivery. At first, Tan assured Great Harvest that she would verify the whereabouts of its shipment, but after a series of follow-ups, she eventually admitted that she could not locate both her truck and Great Harvest's goods.[8] She reported her missing truck to the Western Police District Anti-Carnapping Unit and the National Bureau of Investigation.[9]

On February 19, 1994, the National Bureau of Investigation informed Tan that her missing truck had been found in Cavite. However, the truck had been cannibalized and had no cargo in it.[10] Tan spent over ₱200,000.00 to have it fixed.[11]

Tan filed a Complaint against Cabugatan and Rody Karamihan (Karamihan), whom she accused of conspiring with each other to steal the shipment entrusted to her.[12] An Information[13] for theft was filed against

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3 Id. at 38–39. The Resolution was penned by Associate Justice Danton Q. Bueser, and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Victoria Isabel A. Paredes of the Former Special Sixteenth Division, Court of Appeals, Manila.

4 Id. at 40–46. The Decision was penned by Judge Santiago M. Arenas of Branch 217, Regional Trial Court, Quezon City.

5 Id. at 27.

6 Id. In other parts of the *rollo*, Cabugatan is spelled "Carugatan."

7 Id.

8 Id. at 28.

9 Id. at 52.

10 Id. at 28.

11 Id. at 13. In another part of the *rollo*, Tan reportedly spent ₱300,000.00.

12 Id. at 52.

13 Id. at 48.

Karamihan, while Cabugatan was charged with qualified theft.[14]

On March 2, 1994, Great Harvest, through counsel, sent Tan a letter demanding full payment for the missing bags of soya beans. On April 26, 1994, it sent her another demand letter. Still, she refused to pay for the missing shipment or settle the matter with Great Harvest.[15] Thus, on June 2, 1994, Great Harvest filed a Complaint for sum of money against Tan.[16]

In her Answer, Tan denied that she entered into a hauling contract with Great Harvest, insisting that she merely accommodated it. Tan also pointed out that since Great Harvest instructed her driver to change the point of delivery without her consent, it should bear the loss brought about by its deviation from the original unloading point.[17]

In its August 4, 2000 Decision,[18] the Regional Trial Court of Manila found Karamihan guilty as an accessory after the fact of theft, and sentenced him to serve a prison sentence between six (6) months of *arresto mayor* maximum to one (1) year of *prision correccional* minimum. He was also ordered to indemnify Tan ₱75,000.00, the amount he had paid Cabugatan for the 430 bags of soya beans.[19]

In its January 3, 2012 Decision,[20] the Regional Trial Court of Quezon City granted Great Harvest's Complaint for sum of money. It found that Tan entered into a verbal contract of hauling with Great Harvest, and held her responsible for her driver's failure to deliver the soya beans to Great Harvest.[21] The dispositive portion of the Decision read:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter:
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> 1. To pay the sum of P230,000.00 with interest thereon at the rate of 12% per annum starting from June 2, 1994 (when the case was filed) and until paid;
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> 2. To pay the sum of P50,000.00 as Attorney's fees; and
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> 3. Costs against the defendant.
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> SO ORDERED.[22]

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14 Id. at 54.
15 Id. at 28.
16 Id. at 40.
17 Id. at 42.
18 Id. at 48–65. The Decision docketed as Criminal Case No. 94-136947 was penned by Presiding Judge Ricardo G. Bernardo, Jr. of Branch 10, Regional Trial Court, Manila.
19 Id. at 65.
20 Id. at 40–46.
21 Id. at 44–45.
22 Id. at 45.

Tan moved for reconsideration of the January 3, 2012 Decision, but her Motion was denied by the trial court in its November 21, 2012 Order.[23]

Tan filed an Appeal, but the Court of Appeals dismissed it in its March 13, 2015 Decision.[24]

In affirming the January 3, 2012 Decision, the Court of Appeals found that the parties' standard business practice when the recipient would reject the cargo was to deliver it to Great Harvest's warehouse. Thus, contrary to Tan's claim, there was no deviation from the original destination.[25]

The Court of Appeals also held that the cargo loss was due to Tan's failure to exercise the extraordinary level of diligence required of her as a common carrier, as she did not provide security for the cargo or take out insurance on it.[26]

The dispositive portion of the Court of Appeals Decision read:

> **WHEREFORE**, the premises considered, the instant appeal is hereby **DISMISSED** and the assailed Decision dated January 3, 2012 [is] **AFFIRMED *in toto*.**
>
> **IT IS SO ORDERED.**[27] (Emphasis in the original)

Tan moved for reconsideration, but her Motion was denied by the Court of Appeals in its September 15, 2015 Resolution.[28]

Thus, Tan filed her Petition for Review on Certiorari,[29] maintaining that her Petition falls under the exceptions to a Rule 45 petition since the assailed Court of Appeals Decision was based on a misapprehension of facts.[30]

Petitioner contends that she is not liable for the loss of the soya beans and points out that the agreement with respondent Great Harvest was to deliver them to Selecta Feeds, an obligation with which she complied. She claims that what happened after that was beyond her control. When Selecta

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23 Id. at 47. The Order was penned by Judge Santiago M. Arenas of Branch 217, Regional Trial Court, Quezon City.
24 Id. at 26–36.
25 Id. at 32.
26 Id. at 33–34.
27 Id. at 35.
28 Id. at 38–39.
29 Id. at 10–24.
30 Id. at 15–16.

Feeds rejected the soya beans and respondent directed Cabugatan to deliver the goods to its warehouse, respondent superseded her previous instruction to Cabugatan to return the goods to Tacoma, the loading point. Hence, she was no longer required to exercise the extraordinary diligence demanded of her as a common carrier.[31]

Tan opines that she is not liable for the value of the lost soya beans since the truck hijacking was a fortuitous event and because "the carrier is not an insurer against all risks of travel."[32]

She prayed for: (1) ₱500,000.00 in actual damages to compensate for the expenses she incurred in looking for and fixing her truck; (2) ₱500,000.00 in moral damages for the stress and mental anguish she experienced in searching for her truck and the missing soya beans; (3) ₱500,000.00 in exemplary damages to deter respondent from filing a similar baseless complaint in the future; and (4) ₱200,000.00 as attorney's fees. On the other hand, if she is found liable to respondent, petitioner concedes that her liability should only be pegged at ₱75,000.00, the actual price Karamihan paid for respondent's shipment.[33]

On January 25, 2016,[34] respondent was directed to comment on the petition but it manifested[35] that it was waiving its right to file a comment.

The sole issue for this Court's resolution is whether or not petitioner Annie Tan should be held liable for the value of the stolen soya beans.

The Petition must fail.

The Rules of Court is categorical that only questions of law may be raised in petitions filed under Rule 45, as this Court is not a trier of facts. Further, factual findings of appellate courts, when supported by substantial evidence, are binding upon this Court.[36]

However, these rules do admit of exceptions.[37] In particular, petitioner referred to the exception "[w]hen the judgment is based on a misapprehension of facts"[38] to justify the questions of fact in her Petition for Review on Certiorari.

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31 Id. at 16–17.
32 Id. at 17.
33 Id. at 18–19.
34 Id. at 66.
35 Id. at 73–74.
36 *Siasat v. Court of Appeals*, 425 Phil. 139, 145 (2002) [Per J. Pardo, First Division] and *Padilla v. Court of Appeals*, 241 Phil. 776, 781 (1988) [Per J. Paras, Second Division].
37 *Medina v. Mayor Asistio,* 269 Phil. 225, 232 (1990) [Per J. Bidin, Third Division].
38 *Rollo,* p. 15.

A careful review of the records of this case convinces us that the assailed judgments of the Court of Appeals are supported by substantial evidence.

Article 1732 of the Civil Code defines common carriers as "persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water or air, for compensation, offering their services to the public." The Civil Code outlines the degree of diligence required of common carriers in Articles 1733, 1755, and 1756:

> ARTICLE 1733. Common carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case.
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> . . . .
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> ARTICLE 1755. A common carrier is bound to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances.
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> ARTICLE 1756. In case of death of or injuries to passengers, common carriers are presumed to have been at fault or to have acted negligently, unless they prove that they observed extraordinary diligence as prescribed in articles 1733 and 1755.

Law and economics provide the policy justification of our existing jurisprudence. The extraordinary diligence required by the law of common carriers is primarily due to the nature of their business, with the public policy behind it geared toward achieving allocative efficiency between the parties to the transaction.

Allocative efficiency is an economic term that describes an optimal market where customers are willing to pay for the goods produced.[39] Thus, both consumers and producers benefit and stability is achieved.

The notion of common carriers is synonymous with public service under Commonwealth Act No. 146 or the Public Service Act.[40] Due to the public nature of their business, common carriers are compelled to exercise

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[39] Robert D. Cooter, *Economic Theories of Legal Liability*, The Journal of Economic Perspectives, vol. 5, no. 3, 11, 16 (1991).

[40] *De Guzman v. Court of Appeals*, 250 Phil. 613 (1988) [Per J. Feliciano, Third Division]. The Decision erroneously wrote Commonwealth Act No. 1416.

extraordinary diligence since they will be burdened with the externalities or the cost of the consequences of their contract of carriage if they fail to take the precautions expected of them.

Common carriers are mandated to internalize or shoulder the costs under the contracts of carriage. This is so because a contract of carriage is structured in such a way that passengers or shippers surrender total control over their persons or goods to common carriers, fully trusting that the latter will safely and timely deliver them to their destination. In light of this inherently inequitable dynamics—and the potential harm that might befall passengers or shippers if common carriers exercise less than extraordinary diligence—the law is constrained to intervene and impose sanctions on common carriers for the parties to achieve allocative efficiency.[41]

Here, petitioner is a common carrier obligated to exercise extraordinary diligence[42] over the goods entrusted to her. Her responsibility began from the time she received the soya beans from respondent's broker and would only cease after she has delivered them to the consignee or any person with the right to receive them.[43]

Petitioner's argument is that her contract of carriage with respondent was limited to delivering the soya beans to Selecta Feeds. Thus, when Selecta Feeds refused to accept the delivery, she directed her driver to return the shipment to the loading point. Respondent refutes petitioner's claims and asserts that their standing agreement was to deliver the shipment to respondent's nearest warehouse in case the consignee refused the delivery.

After listening to the testimonies of both parties, the trial court found that respondent was able to prove its contract of carriage with petitioner. It also found the testimony of respondent's witness, Cynthia Chua (Chua), to be more believable over that of petitioner when it came to the details of their contract of carriage:

> Defendant's assertion that the diversion of the goods was done without her consent and knowledge is self-serving and is effectively belied

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41 1 ROBERT COOTER, LAW AND ECONOMICS 225 (4th ed., 2003).

42 CIVIL CODE, art. 1733 provides:

ARTICLE 1733. Common carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case.

Such extraordinary diligence in the vigilance over the goods is further expressed in articles 1734, 1735, and 1745, Nos. 5, 6, and 7, while the extraordinary diligence for the safety of the passengers is further set forth in articles 1755 and 1756.

43 CIVIL CODE, art. 1736 provides:

ARTICLE 1736. The extraordinary responsibility of the common carrier lasts from the time the goods are unconditionally placed in the possession of, and received by the carrier for transportation until the same are delivered, actually or constructively, by the carrier to the consignee, or to the person who has a right to receive them, without prejudice to the provisions of article 1738.

> by the positive testimony of witness Cynthia Chua, Account Officer of plaintiff corporation (page 23, TSN, March 26, 1996). Equally self-serving is defendant's claim that she is not liable for the loss of the soyabeans (*sic*) considering that the plaintiff has no existing contract with her. Such a sweeping submission is also belied by the testimony of plaintiff's witness Cynthia Chua who categorically confirmed the existing business relationship of plaintiff and defendant for hauling and delivery of goods as well as the arrangement to deliver the rejected goods to the plaintiff's nearest warehouse in the event that goods are rejected by the consignee with prior approval of the consignor (page 11, TSN, March 26, 1996).[44]

The trial court's appreciation of Chua's testimony was upheld by the Court of Appeals:

> Verily, the testimony alone of appellee's Account Officer, Cynthia Chua, dispels the contrary allegations made by appellant in so far as the nature of their business relationship is concerned. Consistently and without qualms, said witness narrated the details respecting the company's relations with the appellant and the events that transpired before, during and after the perfection of the contract and the subsequent loss of the subject cargo. Said testimony and the documentary exhibits, i.e., the Tacoma waybill and the appellee's waybill, prove the perfection and existence of the disputed verbal contract.
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> Emphatically, from the aforesaid waybills, it was duly established that while verbal, the parties herein has (*sic*) agreed for the hauling and delivery of the soya beans from the company's broker to the intended recipient. It was further proven by evidence that appellant had agreed and consented to the delivery of the soya beans to the company's nearest warehouse in case the cargo goods had been rejected by the recipient as it had been the practice between the parties.[45] (Citation omitted)

This Court accords the highest respect to the trial court's assessment of a witness' credibility, as it was in a better position to observe the witness' demeanor while testifying.[46] We see no reason to disturb the factual findings of the lower courts, especially since they were supported by substantial evidence.

Furthermore, Article 1734 of the Civil Code holds a common carrier fully responsible for the goods entrusted to him or her, unless there is enough evidence to show that the loss, destruction, or deterioration of the goods falls under any of the enumerated exceptions:

> ARTICLE 1734. Common carriers are responsible for the loss, destruction, or deterioration of the goods, unless the same is due to any of the following causes only:

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44 *Rollo*, p. 44.
45 Id. at 32.
46 *Spouses Bernales v. Heirs of Sambaan*, 624 Phil. 88, 103 (2010) [Per J. Del Castillo, Second Division].

(1) Flood, storm, earthquake, lightning, or other natural disaster or calamity;
(2) Act of the public enemy in war, whether international or civil;
(3) Act or omission of the shipper or owner of the goods;
(4) The character of the goods or defects in the packing or in the containers;
(5) Order or act of competent public authority.

Nothing in the records shows that any of these exceptions caused the loss of the soya beans. Petitioner failed to deliver the soya beans to respondent because her driver absconded with them. She cannot shift the blame for the loss to respondent's supposed diversion of the soya beans from the loading point to respondent's warehouse, as the evidence has conclusively shown that she had agreed beforehand to deliver the cargo to respondent's warehouse if the consignee refused to accept it.[47]

Finally, petitioner's reliance on *De Guzman v. Court of Appeals*[48] is misplaced. There, the common carrier was absolved of liability because the goods were stolen by robbers who used "grave or irresistible threat, violence[,] or force"[49] to hijack the goods. *De Guzman* viewed the armed hijack as a fortuitous event:

> Under Article 1745 (6) above, a common carrier is held responsible — and will not be allowed to divest or to diminish such responsibility — even for acts of strangers like thieves or robbers, except where such thieves or robbers in fact acted "with grave or irresistible threat, violence or force." We believe and so hold that the limits of the duty of extraordinary diligence in the vigilance over the goods carried are reached where the goods are lost as a result of a robbery which is attended by "grave or irresistible threat, violence[,] or force."[50]

In contrast to *De Guzman*, the loss of the soya beans here was not attended by grave or irresistible threat, violence, or force. Instead, it was brought about by petitioner's failure to exercise extraordinary diligence when she neglected vetting her driver or providing security for the cargo and failing to take out insurance on the shipment's value. As the Court of Appeals held:

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47 *Rollo*, p. 32.

48 250 Phil. 613 (1988) [Per J. Feliciano, Third Division].

49 CIVIL CODE, art. 1745 provides:
ARTICLE 1745. Any of the following or similar stipulations shall be considered unreasonable, unjust and contrary to public policy:
. . . .
(6) That the common carrier's liability for acts committed by thieves, or of robbers who do not act with grave or irresistible threat, violence or force, is dispensed with or diminished[.]

50 *De Guzman v. Court of Appeals*, 250 Phil. 613, 622 (1988) [Per J. Feliciano, Third Division].

> Besides, as the records would show, appellant did not observe extra-ordinary (*sic*) diligence in the conduct of her business as a common carrier. In breach of their agreement, appellant did not provide security while the goods were in transit and she also did not pay for the insurance coverage of said goods. These measures could have prevented the hi-jacking (*sic*) or could have ensured the payment of the damages sustained by the appellee.[51]

WHEREFORE, the Petition is **DENIED**. Petitioner Annie Tan is directed to pay respondent Great Harvest Enterprises, Inc. the sum of Two Hundred Thirty Thousand Pesos (₱230,000.00) with interest at the rate of twelve percent (12%) per annum from June 2, 1994 until June 30, 2013, and at the rate of six percent (6%) per annum from July 1, 2013 until its full satisfaction. She is further directed to pay Fifty Thousand Pesos (₱50,000.00) as attorney's fees and the costs of suit.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

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51 *Rollo*, p. 34.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Acting Chief Justice
(per Special Order No. 2644
dated March 15, 2019)

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

JUN 04 2019