Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MAKATI SHANGRI-LA HOTEL AND RESORT, INC., Petitioner,	**G.R. No. 189998**
	Present:
-versus-	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.*
ELLEN JOHANNE HARPER, JONATHAN CHRISTOPHER HARPER, and RIGOBERTO GILLERA, Respondents.	Promulgated: 29 AUG 2012

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DECISION

BERSAMIN, *J.*:

The hotel owner is liable for civil damages to the surviving heirs of its hotel guest whom strangers murder inside his hotel room.

The Case

Petitioner, the owner and operator of the 5-star Shangri-La Hotel in Makati City (Shangri-La Hotel), appeals the decision promulgated on October 21, 2009,[1] whereby the Court of Appeals (CA) affirmed with modification the judgment rendered on October 25, 2005 by the Regional Trial Court (RTC) in Quezon City holding petitioner liable for damages for

[1] *Rollo*, pp. 58-83; penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justice Fernanda Lampas Peralta and Associate Justice Celia C. Librea-Leagogo concurring.

the murder of Christian Fredrik Harper, a Norwegian national.[2] Respondents Ellen Johanne Harper and Jonathan Christopher Harper are the widow and son of Christian Harper, while respondent Rigoberto Gillera is their authorized representative in the Philippines.

Antecedents

In the first week of November 1999, Christian Harper came to Manila on a business trip as the Business Development Manager for Asia of ALSTOM Power Norway AS, an engineering firm with worldwide operations. He checked in at the Shangri-La Hotel and was billeted at Room 1428. He was due to check out on November 6, 1999. In the early morning of that date, however, he was murdered inside his hotel room by still unidentified malefactors. He was then 30 years old.

How the crime was discovered was a story in itself. A routine verification call from the American Express Card Company to cardholder Harper's residence in Oslo, Norway (*i.e.*, Bygdoy Terasse 16, 0287 Oslo, Norway) led to the discovery. It appears that at around 11:00 am of November 6, 1999, a Caucasian male of about 30–32 years in age, 5'4" in height, clad in maroon long sleeves, black denims and black shoes, entered the Alexis Jewelry Store in Glorietta, Ayala Center, Makati City and expressed interest in purchasing a Cartier lady's watch valued at ₱320,000.00 with the use of two Mastercard credit cards and an American Express credit card issued in the name of Harper. But the customer's difficulty in answering the queries phoned in by a credit card representative sufficiently aroused the suspicion of saleslady Anna Liza Lumba (Lumba), who asked for the customer's passport upon suggestion of the credit card representative to put the credit cards on hold. Probably sensing trouble for himself, the customer hurriedly left the store, and left the three credit cards and the passport behind.

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[2] Id. at 109-118.

In the meanwhile, Harper's family in Norway must have called him at his hotel room to inform him about the attempt to use his American Express card. Not getting any response from the room, his family requested Raymond Alarcon, the Duty Manager of the Shangri-La Hotel, to check on Harper's room. Alarcon and a security personnel went to Room 1428 at 11:27 a.m., and were shocked to discover Harper's lifeless body on the bed.

Col. Rodrigo de Guzman (de Guzman), the hotel's Security Manager, initially investigated the murder. In his incident report, he concluded from the several empty bottles of wine in the trash can and the number of cigarette butts in the toilet bowl that Harper and his visitors had drunk that much and smoked that many cigarettes the night before.[3]

The police investigation actually commenced only upon the arrival in the hotel of the team of PO3 Carmelito Mendoza[4] and SPO4 Roberto Hizon. Mendoza entered Harper's room in the company of De Guzman, Alarcon, Gami Holazo (the hotel's Executive Assistant Manager), Norge Rosales (the hotel's Executive Housekeeper), and Melvin Imperial (a security personnel of the hotel). They found Harper's body on the bed covered with a blanket, and only the back of the head could be seen. Lifting the blanket, Mendoza saw that the victim's eyes and mouth had been bound with electrical and packaging tapes, and his hands and feet tied with a white rope. The body was identified to be that of hotel guest Christian Fredrik Harper.

Mendoza subsequently viewed the closed circuit television (CCTV) tapes, from which he found that Harper had entered his room at 12:14 a.m. of November 6, 1999, and had been followed into the room at 12:17 a.m. by a woman; that another person, a Caucasian male, had entered Harper's room at 2:48 a.m.; that the woman had left the room at around 5:33 a.m.; and that the Caucasian male had come out at 5:46 a.m.

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3 Id. at 60.

4 Also referred to by petitioner as PO3 Carmelito Valiente.

On November 10, 1999, SPO1 Ramoncito Ocampo, Jr. interviewed Lumba about the incident in the Alexis Jewelry Shop. During the interview, Lumba confirmed that the person who had attempted to purchase the Cartier lady's watch on November 6, 1999 had been the person whose picture was on the passport issued under the name of Christian Fredrik Harper and the Caucasian male seen on the CCTV tapes entering Harper's hotel room.

Sr. Insp. Danilo Javier of the Criminal Investigation Division of the Makati City Police reflected in his Progress Report No. 2[5] that the police investigation showed that Harper's passport, credit cards, laptop and an undetermined amount of cash had been missing from the crime scene; and that he had learned during the follow-up investigation about an unidentified Caucasian male's attempt to purchase a Cartier lady's watch from the Alexis Jewelry Store in Glorietta, Ayala Center, Makati City with the use of one of Harper's credit cards.

On August 30, 2002, respondents commenced this suit in the RTC to recover various damages from petitioner,[6] pertinently alleging:

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> 7. The deceased was to check out and leave the hotel on November 6, 1999, but in the early morning of said date, while he was in his hotel room, he was stabbed to death by an (sic) still unidentified male who had succeeded to intrude into his room.
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> 8. The murderer succeeded to trespass into the area of the hotel's private rooms area and into the room of the said deceased on account of the hotel's gross negligence in providing the most basic security system of its guests, the lack of which owing to the acts or omissions of its employees was the immediate cause of the tragic death of said deceased.
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> xxx
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> 10. Defendant has prided itself to be among the top hotel chains in the East claiming to provide excellent service, comfort and security for its guests for which reason ABB Alstom executives and their guests have invariably chosen this hotel to stay.[7]
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5 *Rollo*, p. 26 (entitled *Re: Death of Christian Harper, dated January 17, 2000, of the Criminal Investigation Division of the Makati Police Station*).

6 Id. at 84-89.

7 Id. at 86.

Ruling of the RTC

On October 25, 2005, the RTC rendered judgment after trial,[8] *viz*:

> WHEREFORE, finding the defendant hotel to be remiss in its duties and thus liable for the death of Christian Harper, this Court orders the defendant to pay plaintiffs the amount of:
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> PhP 43,901,055.00 as and by way of actual and compensatory damages;
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> PhP 739,075.00 representing the expenses of transporting the remains of Harper to Oslo, Norway;
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> PhP 250,000.00 attorney's fees;
>
> and to pay the cost of suit.
>
> SO ORDERED.

Ruling of the CA

Petitioner appealed, assigning to the RTC the following errors, to wit:

> I
>
> THE TRIAL COURT ERRED IN RULING THAT THE PLAINTIFFS-APPELLEES ARE THE HEIRS OF THE LATE CHRISTIAN HARPER, AS THERE IS NO COMPETENT EVIDENCE ON RECORD SUPPORTING SUCH RULING.
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> II
>
> THE TRIAL COURT ERRED IN RULING THAT THE DEFENDANT-APPELLANT'S NEGLIGENCE WAS THE PROXIMATE CAUSE OF THE DEATH OF MR. HARPER, OR IN NOT RULING THAT IT WAS MR. CHRISTIAN HARPER'S OWN NEGLIGENCE WHICH WAS THE SOLE, PROXIMATE CAUSE OF HIS DEATH.
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> III
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> THE TRIAL COURT ERRED IN AWARDING TO THE PLAINTIFFS-APPELLEES THE AMOUNT OF PHP43,901,055.00, REPRESENTING THE ALLEGED LOST EARNING OF THE LATE CHRISTIAN HARPER, THERE BEING NO COMPETENT PROOF OF THE EARNING OF MR. HARPER DURING HIS LIFETIME AND OF THE ALLEGATION THAT THE PLAINTIFFS-APPELLEES ARE MR. HARPER'S HEIRS.
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> IV
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> THE TRIAL COURT ERRED IN AWARDING TO THE PLAINTIFFS-APPELLEES THE AMOUNT OF PHP739,075.00, REPRESENTING THE ALLEGED COST OF TRANSPORTING THE REMAINS OF MR.

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[8] Id. at 109-118.

> CHRISTIAN HARPER TO OSLO, NORWAY, THERE BEING NO PROOF ON RECORD THAT IT WAS PLAINTIFFS-APPELLEES WHO PAID FOR SAID COST.
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> V
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> THE TRIAL COURT ERRED IN AWARDING ATTORNEY'S FEES AND COST OF SUIT TO THE PLAINTIFFS-APPELLEES, THERE BEING NO PROOF ON RECORD SUPPORTING SUCH AWARD.

On October 21, 2009, the CA affirmed the judgment of the RTC with modification,[9] as follows:

> **WHEREFORE**, the assailed Decision of the Regional Trial Court dated October 25, 2005 is hereby **AFFIRMED** with **MODIFICATION**. Accordingly, defendant-appellant is ordered to pay plaintiffs-appellees the amounts of ₱52,078,702.50, as actual and compensatory damages; ₱25,000.00, as temperate damages; ₱250,000.00, as attorney's fees; and to pay the costs of the suit.
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> **SO ORDERED**.[10]

Issues

Petitioner still seeks the review of the judgment of the CA, submitting the following issues for consideration and determination, namely:

> I.
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> WHETHER OR NOT THE PLAINTIFFS-APPELLEES WERE ABLE TO PROVE WITH COMPETENT EVIDENCE THE AFFIRMATIVE ALLEGATIONS IN THE COMPLAINT THAT THEY ARE THE WIDOW AND SON OF MR. CHRISTIAN HARPER.
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> II.
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> WHETHER OR NOT THE APPELLEES WERE ABLE TO PROVE WITH COMPETENT EVIDENCE THE AFFIRMATIVE ALLEGATIONS IN THE COMPLAINT THAT THERE WAS NEGLIGENCE ON THE PART OF THE APPELLANT AND ITS SAID NEGLIGENCE WAS THE PROXIMATE CAUSE OF THE DEATH OF MR. CHRISTIAN HARPER.
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> III.
>
> WHETHER OR NOT THE PROXIMATE CAUSE OF THE DEATH OF MR. CHRISTIAN HARPER WAS HIS OWN NEGLIGENCE.

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9 Id. at 58-83.
10 Id. at 82-83.

Ruling

The appeal lacks merit.

1.
Requirements for authentication of documents establishing respondents' legal relationship with the victim as his heirs were complied with

As to the first issue, the CA pertinently held as follows:

> The documentary evidence that plaintiffs-appellees offered relative to their heirship consisted of the following –
>
> 1. Exhibit "Q" - Birth Certificate of Jonathan Christopher Harper, son of Christian Fredrik Harper and Ellen Johanne Harper;
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> 2. Exhibit "Q-1" - Marriage Certificate of Ellen Johanne Clausen and Christian Fredrik Harper;
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> 3. Exhibit "R" - Birth Certificate of Christian Fredrick Harper, son of Christopher Shaun Harper and Eva Harper; and
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> 4. Exhibit "R-1" - Certificate from the Oslo Probate Court stating that Ellen Harper was married to the deceased, Christian Fredrick Harper and listed Ellen Harper and Jonathan Christopher Harper as the heirs of Christian Fredrik Harper.
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> Defendant-appellant points out that plaintiffs-appellees committed several mistakes as regards the above documentary exhibits, resultantly making them incompetent evidence, to wit, (a) none of the plaintiffs-appellees or any of the witnesses who testified for the plaintiffs gave evidence that Ellen Johanne Harper and Jonathan Christopher Harper are the widow and son of the deceased Christian Fredrik Harper; (b) Exhibit "Q" was labeled as Certificate of Marriage in plaintiffs-appellees' Formal Offer of Evidence, when it appears to be the Birth Certificate of the late Christian Harper; (c) Exhibit "Q-1" is a translation of the Marriage Certificate of Ellen Johanne Harper and Christian Fredrik Harper, the original of which was not produced in court, much less, offered in evidence. Being a mere translation, it cannot be a competent evidence of the alleged fact that Ellen Johanne Harper is the widow of Christian Fredrik Harper, pursuant to the Best Evidence Rule. Even assuming that it is an original Marriage Certificate, it is not a public document that is admissible without the need of being identified or authenticated on the witness stand by a witness, as it appears to be a document issued by the Vicar of the Parish of Ullern and, hence, a private document; (d) Exhibit "R" was labeled as Probate Court Certificate in plaintiffs-appellees' Formal Offer of Evidence, when it appears to be the Birth Certificate of

the deceased, Christian Fredrik Harper; and (e) Exhibit "R-1" is a translation of the supposed Probate Court Certificate, the original of which was not produced in court, much less, offered in evidence. Being a mere translation, it is an incompetent evidence of the alleged fact that plaintiffs-appellees are the heirs of Christian Fredrik Harper, pursuant to the Best Evidence Rule.

Defendant-appellant further adds that Exhibits "Q-1" and "R-1" were not duly attested by the legal custodians (by the Vicar of the Parish of Ullern for Exhibit "Q-1" and by the Judge or Clerk of the Probate Court for Exhibit "R-1") as required under Sections 24 and 25, Rule 132 of the Revised Rules of Court. Likewise, the said documents are not accompanied by a certificate that such officer has the custody as also required under Section 24 of Rule 132. Consequently, defendant-appellant asseverates that Exhibits "Q-1" and "R-1" as private documents, which were not duly authenticated on the witness stand by a competent witness, are essentially hearsay in nature that have no probative value. Therefore, it is obvious that plaintiffs-appellees failed to prove that they are the widow and son of the late Christian Harper.

Plaintiffs-appellees make the following counter arguments, viz, (a) Exhibit "Q-1", the Marriage Certificate of Ellen Johanne Harper and Christian Fredrik Harper, was issued by the Office of the Vicar of Ullern with a statement that "this certificate is a transcript from the Register of Marriage of Ullern Church." The contents of Exhibit "Q-1" were translated by the Government of the Kingdom of Norway, through its authorized translator, into English and authenticated by the Royal Ministry of Foreign Affairs of Norway, which in turn, was also authenticated by the Consul, Embassy of the Republic of the Philippines in Stockholm, Sweden; (b) Exhibit "Q", the Birth Certificate of Jonathan Christopher Harper, was issued and signed by the Registrar of the Kingdom of Norway, as authenticated by the Royal Ministry of Foreign Affairs of Norway, whose signature was also authenticated by the Consul, Embassy of the Republic of the Philippines in Stockholm, Sweden; and (c) Exhibit "R-1", the Probate Court Certificate was also authenticated by the Royal Ministry of Foreign Affairs of Norway, whose signature was also authenticated by the Consul, Embassy of the Republic of the Philippines in Stockholm, Sweden.

They further argue that since Exhibit "Q-1", Marriage Certificate, was issued by the vicar or parish priest, the legal custodian of parish records, it is considered as an exception to the hearsay rule. As for Exhibit "R-1", the Probate Court Certificate, while the document is indeed a translation of the certificate, it is an official certification, duly confirmed by the Government of the Kingdom of Norway; its contents were lifted by the Government Authorized Translator from the official record and thus, a written official act of a foreign sovereign country.

WE rule for plaintiffs-appellees.

The Revised Rules of Court provides that public documents may be evidenced by a copy attested by the officer having the legal custody of the record. The attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

If the record is not kept in the Philippines, the attested copy must be accompanied with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

The documents involved in this case are all kept in Norway. These documents have been authenticated by the Royal Norwegian Ministry of Foreign Affairs; they bear the official seal of the Ministry and signature of one, Tanja Sorlie. The documents are accompanied by an Authentication by the Consul, Embassy of the Republic of the Philippines in Stockholm, Sweden to the effect that, Tanja Sorlie is duly authorized to legalize official documents for the Ministry.

Exhibits "Q" and "R" are extracts of the register of births of both Jonathan Christopher Harper and the late Christian Fredrik Harper, respectively, wherein the former explicitly declares that Jonathan Christopher is the son of Christian Fredrik and Ellen Johanne Harper. Said documents bear the signature of the keeper, Y. Ayse B. Nordal with the official seal of the Office of the Registrar of Oslo, and the authentication of Tanja Sorlie of the Royal Ministry of Foreign Affairs, Oslo, which were further authenticated by Philippine Consul Marian Jocelyn R. Tirol. In addition, the latter states that said documents are the birth certificates of Jonathan Christopher Harper and Christian Fredrik Harper issued by the Registrar Office of Oslo, Norway on March 23, 2004.

Exhibits "Q-1", on the other hand, is the Marriage Certificate of Christian Fredrik Harper and Ellen Johanne Harper issued by the vicar of the Parish of Ullern while Exhibit "R-1" is the Probate Court Certificate from the Oslo Probate Court, naming Ellen Johanne Harper and Jonathan Christopher Harper as the heirs of the deceased Christian Fredrik Harper. The documents are certified true translations into English of the transcript of the said marriage certificate and the probate court certificate. They were likewise signed by the authorized government translator of Oslo with the seal of his office; attested by Tanja Sorlie and further certified by our own Consul.

In view of the foregoing, WE conclude that plaintiffs-appellees had substantially complied with the requirements set forth under the rules. WE would also like to stress that plaintiffs-appellees herein are residing overseas and are litigating locally through their representative. While they are not excused from complying with our rules, WE must take into account the attendant reality that these overseas litigants communicate with their representative and counsel via long distance communication. Add to this is the fact that compliance with the requirements on attestation and authentication or certification is no easy process and completion thereof may vary depending on different factors such as the location of the requesting party from the consulate and the office of the record custodian, the volume of transactions in said offices and even the mode of sending these documents to the Philippines. With these circumstances under consideration, to OUR minds, there is every reason for an equitable

> **and relaxed application of the rules on the issuance of the required attestation from the custodian of the documents to plaintiffs-appellees' situation. Besides, these questioned documents were duly signed by the officers having custody of the same.**[11]

Petitioner assails the CA's ruling that respondents substantially complied with the rules on the authentication of the proofs of marriage and filiation set by Section 24 and Section 25 of Rule 132 of the *Rules of Court* when they presented Exhibit Q, Exhibit Q-1, Exhibit R and Exhibit R-1, because the legal custodian did not duly attest that Exhibit Q-1 and Exhibit R-1 were the correct copies of the originals on file, and because no certification accompanied the documents stating that "such officer has custody of the originals." It contends that respondents did not competently prove their being Harper's surviving heirs by reason of such documents being hearsay and incompetent.

Petitioner's challenge against respondents' documentary evidence on marriage and heirship is not well-taken.

Section 24 and Section 25 of Rule 132 provide:

> Section 24. *Proof of official record*.—The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.
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> Section 25. *What attestation of copy must state*.—Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

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[11] *Rollo*, pp. 64-68 (bold emphasis supplied).

Although Exhibit Q,[12] Exhibit Q-1,[13] Exhibit R[14] and Exhibit R-1[15] were not attested by the officer having the legal custody of the record or by his deputy in the manner required in Section 25 of Rule 132, and said documents did not comply with the requirement under Section 24 of Rule 132 to the effect that if the record was not kept in the Philippines a certificate of the person having custody must accompany the copy of the document that was duly attested stating that such person had custody of the documents, the deviation was not enough reason to reject the utility of the documents for the purposes they were intended to serve.

Exhibit Q and Exhibit R were extracts from the registry of births of Oslo, Norway issued on March 23, 2004 and signed by Y. Ayse B. Nordal, Registrar, and corresponded to respondent Jonathan Christopher Harper and victim Christian Fredrik Harper, respectively.[16] Exhibit Q explicitly stated that Jonathan was the son of Christian Fredrik Harper and Ellen Johanne Harper, while Exhibit R attested to the birth of Christian Fredrik Harper on December 4, 1968. Exhibit Q and Exhibit R were authenticated on March 29, 2004 by the signatures of Tanja Sorlie of the Royal Ministry of Foreign Affairs of Norway as well as by the official seal of that office. In turn, Consul Marian Jocelyn R. Tirol of the Philippine Consulate in Stockholm, Sweden authenticated the signatures of Tanja Sorlie and the official seal of the Royal Ministry of Foreign Affairs of Norway on Exhibit Q and Exhibit R, explicitly certifying to the authority of Tanja Sorlie "to legalize official documents for the Royal Ministry of Foreign Affairs of Norway."[17]

Exhibit Q-1,[18] the Marriage Certificate of Ellen Johanne Clausen Harper and Christian Fredrik Harper, contained the following data, namely: (*a*) the parties were married on June 29, 1996 in Ullern Church; and (*b*) the certificate was issued by the Office of the Vicar of Ullern on June 29, 1996.

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12 Id. at 98.
13 Id. at 100
14 Id. at 101.
15 Id. at 104.
16 Id. at 98-101.
17 Id. at 101 and 103 (Annexes D-2 and D-3).
18 Id. at 100.

Exhibit Q-1 was similarly authenticated by the signature of Tanja Sorlie of the Royal Ministry of Foreign Affairs of Norway, with the official seal of that office. Philippine Consul Tirol again expressly certified to the capacity of Sorlie "to legalize official documents for the Royal Ministry of Foreign Affairs of Norway,"[19] and further certified that the document was a true translation into English of a transcript of a Marriage Certificate issued to Christian Frederik Harper and Ellen Johanne Clausen by the Vicar of the Parish of Ullern on June 29, 1996.

Exhibit R-1,[20] a Probate Court certificate issued by the Oslo Probate Court on February 18, 2000 through Morten Bolstad, its Senior Executive Officer, was also authenticated by the signature of Tanja Sorlie and with the official seal of the Royal Ministry of Foreign Affairs of Norway. As with the other documents, Philippine Consul Tirol explicitly certified to the capacity of Sorlie "to legalize official documents for the Royal Ministry of Foreign Affairs of Norway," and further certified that the document was a true translation into English of the Oslo Probate Court certificate issued on February 18, 2000 to the effect that Christian Fredrik Harper, born on December 4, 1968, had reportedly died on November 6, 1999.[21]

The Oslo Probate Court certificate recited that both Ellen Johanne Harper and Christopher S. Harper were Harper's heirs, to wit:

> The above names surviving spouse has accepted responsibility for the commitments of the deceased in accordance with the provisions of Section 78 of the Probate Court Act (Norway), and the above substitute guardian has agreed to the private division of the estate.
>
> The following heir and substitute guardian will undertake the private division of the estate:
>
> Ellen Johanne Harper
> Christopher S. Harper
>
> This probate court certificate relates to the entire estate.

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19 Id. at 99.
20 Id. at 104.
21 Id. at 103.

Oslo Probate Court, 18 February 2000.[22]

The official participation in the authentication process of Tanja Sorlie of the Royal Ministry of Foreign Affairs of Norway and the attachment of the official seal of that office on each authentication indicated that Exhibit Q, Exhibit R, Exhibit Q-1 and Exhibit R-1 were documents of a public nature in Norway, not merely private documents. It cannot be denied that based on Philippine Consul Tirol's official authentication, Tanja Sorlie was "on the date of signing, duly authorized to legalize **official documents** for the Royal Ministry of Foreign Affairs of Norway." Without a showing to the contrary by petitioner, Exhibit Q, Exhibit R, Exhibit Q-1 and Exhibit R-1 should be presumed to be themselves official documents under Norwegian law, and admissible as *prima facie* evidence of the truth of their contents under Philippine law.

At the minimum, Exhibit Q, Exhibit R, Exhibit Q-1 and Exhibit R-1 substantially met the requirements of Section 24 and Section 25 of Rule 132 as a condition for their admission as evidence in default of a showing by petitioner that the authentication process was tainted with bad faith. Consequently, the objective of ensuring the authenticity of the documents prior to their admission as evidence was substantially achieved. In *Constantino-David v. Pangandaman-Gania*,[23] the Court has said that substantial compliance, by its very nature, is actually inadequate observance of the requirements of a rule or regulation that are waived under equitable circumstances in order to facilitate the administration of justice, there being no damage or injury caused by such flawed compliance.

The Court has further said in *Constantino-David v. Pangandaman-Gania* that the focus in every inquiry on whether or not to accept substantial compliance is always on the presence of equitable conditions to administer justice effectively and efficiently without damage or injury to the spirit of

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22 Id. at 104.
23 G.R. No. 156039, August 14, 2003, 409 SCRA 80.

the legal obligation.[24] There are, indeed, such equitable conditions attendant here, the foremost of which is that respondents had gone to great lengths to submit the documents. As the CA observed, respondents' compliance with the requirements on attestation and authentication of the documents had not been easy; they had to contend with many difficulties (such as the distance of Oslo, their place of residence, from Stockholm, Sweden, where the Philippine Consulate had its office; the volume of transactions in the offices concerned; and the safe transmission of the documents to the Philippines).[25] Their submission of the documents should be presumed to be in good faith because they did so in due course. It would be inequitable if the sincerity of respondents in obtaining and submitting the documents despite the difficulties was ignored.

The principle of substantial compliance recognizes that exigencies and situations do occasionally demand some flexibility in the rigid application of the rules of procedure and the laws.[26] That rules of procedure may be mandatory in form and application does not forbid a showing of substantial compliance under justifiable circumstances,[27] because substantial compliance does not equate to a disregard of basic rules. For sure, substantial compliance and strict adherence are not always incompatible and do not always clash in discord. The power of the Court to suspend its own rules or to except any particular case from the operation of the rules whenever the purposes of justice require the suspension cannot be challenged.[28] In the interest of substantial justice, even procedural rules of the most mandatory character in terms of compliance are frequently relaxed. Similarly, the procedural rules should definitely be liberally construed if strict adherence to their letter will result in absurdity and in manifest injustice, or where the merits of a party's cause are apparent and outweigh

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24 Id., at 94.
25 *Rollo*, p. 68.
26 *Hadji-Sirad v. Civil Service Commission*, G.R. No. 182267, August 28, 2009, 597 SCRA 475.
27 *Prince Transport, Ind. v. Garcia*, G.R. No. 167291, January 12, 2011, 639 SCRA 312, 326.
28 *De Guzman v. Sandiganbayan*, G.R. No. 103276, April 11, 1996, 256 SCRA 171, 177.

considerations of non-compliance with certain formal requirements.[29] It is more in accord with justice that a party-litigant is given the fullest opportunity to establish the merits of his claim or defense than for him to lose his life, liberty, honor or property on mere technicalities. Truly, the rules of procedure are intended to promote substantial justice, not to defeat it, and should not be applied in a very rigid and technical sense.[30]

Petitioner urges the Court to resolve the apparent conflict between the rulings in *Heirs of Pedro Cabais v. Court of Appeals*[31] (*Cabais*) and in *Heirs of Ignacio Conti v. Court of Appeals*[32] (*Conti*) establishing filiation through a baptismal certificate.[33]

Petitioner's urging is not warranted, both because there is no conflict between the rulings in *Cabais* and *Conti*, and because neither *Cabais* nor *Conti* is relevant herein.

In *Cabais*, the main issue was whether or not the CA correctly affirmed the decision of the RTC that had relied mainly on the baptismal certificate of Felipa C. Buesa to establish the parentage and filiation of Pedro Cabais. The Court held that the petition was meritorious, stating:

> A birth certificate, being a public document, offers *prima facie* evidence of filiation and a high degree of proof is needed to overthrow the presumption of truth contained in such public document. This is pursuant to the rule that entries in official records made in the performance of his duty by a public officer are *prima facie* evidence of the facts therein stated. The evidentiary nature of such document must, therefore, be sustained in the absence of strong, complete and conclusive proof of its falsity or nullity.
>
> On the contrary, a baptismal certificate is a private document, which, being hearsay, is not a conclusive proof of filiation. It does not have the same probative value as a record of birth, an official or public

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29 *Department of Agrarian Reform v. Republic*, G.R. No. 160560, July 29, 2005, 465 SCRA 419, 428; *Yao v. Court of Appeals*, G.R. No. 132428, October 24, 2000, 344 SCRA 202, 221.

30 *Angel v. Inopiquez*, G.R. No. 66712. January 13, 1989, 69 SCRA 129, 136; *Calasiao Farmers Cooperative Marketing Association, Inc. v. Court of Appeals*, No. L-50633, August 17, 2981, 106 SCRA 630, 637; *Director of Lands v. Romamban*, No. L-36948, August 28, 1984, 131 SCRA 431, 438.

31 G.R. No. 106314-15, October 8, 1999, 316 SCRA 338.

32 G.R. No. 118464, December 21, 1998, 300 SCRA 345

33 *Rollo*, p. 12.

> document. In *US v. Evangelista*, this Court held that church registers of births, marriages, and deaths made subsequent to the promulgation of General Orders No. 68 and the passage of Act No. 190 are no longer public writings, nor are they kept by duly authorized public officials. Thus, in this jurisdiction, a certificate of baptism such as the one herein controversy is no longer regarded with the same evidentiary value as official records of birth. Moreover, on this score, jurisprudence is consistent and uniform in ruling that the canonical certificate of baptism is not sufficient to prove recognition.[34]

The Court sustained the *Cabais* petitioners' stance that the RTC had apparently erred in relying on the baptismal certificate to establish filiation, stressing the baptismal certificate's limited evidentiary value as proof of filiation inferior to that of a birth certificate; and declaring that the baptismal certificate did not attest to the veracity of the statements regarding the kinsfolk of the one baptized. Nevertheless, the Court ultimately ruled that it was respondents' failure to present the birth certificate, more than anything else, that lost them their case, stating that: "The unjustified failure to present the birth certificate instead of the baptismal certificate now under consideration or to otherwise prove filiation by any other means recognized by law weigh heavily against respondents."[35]

In *Conti*, the Court affirmed the rulings of the trial court and the CA to the effect that the *Conti* respondents were able to prove by preponderance of evidence their being the collateral heirs of deceased Lourdes Sampayo. The *Conti* petitioners disagreed, arguing that baptismal certificates did not prove the filiation of collateral relatives of the deceased. Agreeing with the CA, the Court said:

> We are not persuaded. Altogether, the documentary and testimonial evidence submitted xxx are competent and adequate proofs that private respondents are collateral heirs of Lourdes Sampayo.
>
> xxx
>
> Under Art. 172 of the Family Code, the filiation of legitimate children shall be proved by any other means allowed by the Rules of Court and special laws, in the absence of a record of birth or a parent's admission of such legitimate filiation in a public or private document duly signed by the parent. Such other proof of one's filiation may be a baptismal certificate, a judicial admission, a family Bible in which his

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34 *Supra*, note 31, at pp. 343-344.

35 Id.

> name has been entered, common reputation respecting his pedigree, admission by silence, the testimonies of witnesses and other kinds of proof admissible under Rule 130 of the Rules of Court. By analogy, this method of proving filiation may also be utilized in the instant case.
>
> Public documents are the written official acts, or records of the official act of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or a foreign country. **The baptismal certificates presented in evidence by private respondents are public documents. Parish priests continue to be the legal custodians of the parish records and are authorized to issue true copies, in the form of certificates, of the entries contained therein.**
>
> The admissibility of baptismal certificates offered by Lydia S. Reyes, absent the testimony of the officiating priest or the official recorder, was settled in People v. Ritter, citing U.S. v. de Vera (28 Phil. 105 [1914], thus:
>
> > …. The entries made in the Registry Book may be considered as entries made in the course of business under Section 43 of Rule 130, which is an exception to the hearsay rule. The baptisms administered by the church are one of its transactions in the exercise of ecclesiastical duties and recorded in the book of the church during this course of its business.
>
> **It may be argued that baptismal certificates are evidence only of the administration of the sacrament, but in this case, there were four (4) baptismal certificates which, when taken together, uniformly show that Lourdes, Josefina, Remedios and Luis had the same set of parents, as indicated therein. Corroborated by the undisputed testimony of Adelaida Sampayo that with the demise of Lourdes and her brothers Manuel, Luis and sister Remedios, the only sibling left was Josefina Sampayo Reyes, such baptismal certificates have acquired evidentiary weight to prove filiation.**[36]

Obviously, *Conti* did not treat a baptismal certificate, standing alone, as sufficient to prove filiation; on the contrary, *Conti* expressly held that a baptismal certificate had evidentiary value to prove filiation if *considered alongside other evidence of filiation*. As such, a baptismal certificate alone is not sufficient to resolve a disputed filiation.

Unlike *Cabais* and *Conti*, this case has respondents presenting *several* documents, like the birth certificates of Harper and respondent Jonathan Harper, the marriage certificate of Harper and Ellen Johanne Harper, and the probate court certificate, all of which were presumably regarded as public

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[36] *Heirs of Ignacio Conti v. Court of Appeals*, G.R. No. 118464, December 21, 1998, 300 SCRA 345, 356-358.

documents under the laws of Norway. Such documentary evidence sufficed to competently establish the relationship and filiation under the standards of our *Rules of Court*.

II
Petitioner was liable due to its own negligence

Petitioner argues that respondents failed to prove its negligence; that Harper's own negligence in allowing the killers into his hotel room was the proximate cause of his own death; and that hotels were not insurers of the safety of their guests.

The CA resolved petitioner's arguments thuswise:

> Defendant-appellant contends that the pivotal issue is whether or not it had committed negligence and corollarily, whether its negligence was the immediate cause of the death of Christian Harper. In its defense, defendant-appellant mainly avers that it is equipped with adequate security system as follows: (1) keycards or vingcards for opening the guest rooms, (2) two CCTV monitoring cameras on each floor of the hotel and (3) roving guards with handheld radios, the number of which depends on the occupancy rate of the hotel. Likewise, it reiterates that the proximate cause of Christian Harper's death was his own negligence in inviting to his room the two (2) still unidentified suspects.
>
> Plaintiffs-appellees in their Brief refute, in that, the liability of defendant-appellant is based upon the fact that it was in a better situation than the injured person, Christian Harper, to foresee and prevent the happening of the injurious occurrence. They maintain that there is no dispute that even prior to the untimely demise of Christian Harper, defendant-appellant was duly forewarned of its security lapses as pointed out by its Chief Security Officer, Col. Rodrigo De Guzman, who recommended that one roving guard be assigned on each floor of the hotel considering the length and shape of the corridors. They posit that defendant-appellant's inaction constitutes negligence.
>
> This Court finds for plaintiffs-appellees.
>
> As the action is predicated on negligence, the relevant law is Article 2176 of the Civil Code, which states that –
>
> > "Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there was no pre-existing contractual relation between the parties, is called quasi-delict and is governed by the provisions of this chapter."

Negligence is defined as the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent and reasonable man would not do. The Supreme Court likewise ruled that negligence is want of care required by the circumstances. It is a relative or comparative, not an absolute, term and its application depends upon the situation of the parties and the degree of care and vigilance which the circumstances reasonably require. In determining whether or not there is negligence on the part of the parties in a given situation, jurisprudence has laid down the following test: Did defendant, in doing the alleged negligent act, use that reasonable care and caution which an ordinarily prudent person would have used in the same situation? If not, the person is guilty of negligence. The law, in effect, adopts the standard supposed to be supplied by the imaginary conduct of the discreet *pater familias* of the Roman law.

The test of negligence is objective. WE measure the act or omission of the tortfeasor with a perspective as that of an ordinary reasonable person who is similarly situated. The test, as applied to the extant case, is whether or not defendant-appellant, under the attendant circumstances, used that reasonable care and caution which an ordinary reasonable person would have used in the same situation.

WE rule in the negative.

In finding defendant-appellant remiss in its duty of exercising the required reasonable care under the circumstances, the court a *quo* reasoned-out, to wit:

> "Of the witnesses presented by plaintiffs to prove its (sic) case, the only one with competence to testify on the issue of adequacy or inadequacy of security is Col. Rodrigo De Guzman who was then the Chief Security Officer of defendant hotel for the year 1999. He is a retired police officer and had vast experience in security jobs. He was likewise a member of the elite Presidential Security Group.
>
> He testified that upon taking over the job as the chief of the security force of the hotel, he made an assessment of the security situation. Col. De Guzman was not satisfied with the security set-up and told the hotel management of his desire to improve it. In his testimony, De Guzman testified that at the time he took over, he noticed that there were few guards in the elevated portion of the hotel where the rooms were located. The existing security scheme then was one guard for 3 or 4 floors. He likewise testified that he recommended to the hotel management that at least one guard must be assigned per floor especially considering that the hotel has a long "L-shaped" hallway, such that one cannot see both ends of the hallway. He further opined that "even one guard in that hallway is not enough because of the blind portion of the hallway."
>
> On cross-examination, Col. De Guzman testified that the security of the hotel was adequate at the time the crime occurred because the hotel was not fully booked. He qualified his testimony on direct in that his recommendation

of one guard per floor is the "ideal" set-up when the hotel is fully-booked.

Be that as it may, it must be noted that Col. De Guzman also testified that the reason why the hotel management disapproved his recommendation was that the hotel was not doing well. It is for this reason that the hotel management did not heed the recommendation of Col. De Guzman, no matter how sound the recommendation was, and whether the hotel is fully-booked or not. It was a business judgment call on the part of the defendant.

Plaintiffs anchor its (sic) case on our law on quasi-delicts.

> Article 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called quasi-delict.

Liability on the part of the defendant is based upon the fact that he was in a better situation than the injured person to foresee and prevent the happening of the injurious occurrence.

There is no dispute that even prior to the untimely demise of Mr. Harper, defendant was duly forewarned of the security lapses in the hotel. Col. De Guzman was particularly concerned with the security of the private areas where the guest rooms are. He wanted not just one roving guard in every three or four floors. He insisted there must be at least one in each floor considering the length and the shape of the corridors. The trained eyes of a security officer was (sic) looking at that deadly scenario resulting from that wide security breach as that which befell Christian Harper.

The theory of the defense that the malefactor/s was/were known to Harper or was/were visitors of Harper and that there was a shindig among [the] three deserves scant consideration.

The NBI Biology Report (Exh. "C" & "D") and the Toxicology Report (Exh. "E") belie the defense theory of a joyous party between and among Harper and the unidentified malefactor/s. Based on the Biology Report, Harper was found negative of prohibited and regulated drugs. The Toxicology Report likewise revealed that the deceased was negative of the presence of alcohol in his blood.

The defense even suggests that the malefactor/s gained entry into the private room of Harper either because Harper allowed them entry by giving them access to the vingcard or because Harper allowed them entry by opening the door for them, the usual gesture of a room occupant to his visitors.

> While defendant's theory may be true, it is more likely, under the circumstances obtaining that the malefactor/s gained entry into his room by simply knocking at Harper's door and the latter opening it probably thinking it was hotel personnel, without an inkling that criminal/s could be in the premises.
>
> The latter theory is more attuned to the dictates of reason. If indeed the female "visitor" is known to or a visitor of Harper, she should have entered the the room together with Harper. It is quite unlikely that a supposed "visitor" would wait three minutes to be with a guest when he/she could go with the guest directly to the room. The interval of three minutes in Harper's entry and that of the alleged female visitor belies the "theory of acquaintanceship". It is most likely that the female "visitor" was the one who opened the door to the male "visitor", undoubtedly, a co-conspirator.
>
> In any case, the ghastly incident could have been prevented had there been adequate security in each of the hotel floors. This, coupled with the earlier recommendation of Col. De Guzman to the hotel management to act on the security lapses of the hotel, raises the presumption that the crime was foreseeable.
>
> Clearly, defendant's inaction constitutes negligence or want of the reasonable care demanded of it in that particular situation.
>
> In a case, the Supreme Court defined negligence as:
>
> > The failure to observe for the protection of the interests of another person that degree of care, precaution and vigilance, which the circumstances justly demand, whereby such person suffers injury.
> >
> > Negligence is want of care required by the circumstances. It is a relative or comparative, not an absolute term, and its application depends upon the situation of the parties, and the degree of care and vigilance which the circumstances reasonably impose. Where the danger is great, a high degree of care is necessary.
>
> Moreover, in applying the premises liability rule in the instant case as it is applied in some jurisdiction (sic) in the United States, it is enough that guests are injured while inside the hotel premises to make the hotelkeeper liable. With great caution should the liability of the hotelkeeper be enforced when a guest died inside the hotel premises.
>
> It also bears stressing that there were prior incidents that occurred in the hotel which should have forewarned the hotel management of the security lapses of the hotel. As testified to by Col. De Guzman, "there were 'minor'

> incidents" (loss of items) before the happening of the instant case.
>
> These "minor" incidents may be of little significance to the hotel, yet relative to the instant case, it speaks volume. This should have served as a caveat that the hotel security has lapses.
>
> Makati Shangri-La Hotel, to stress, is a five-star hotel. The "reasonable care" that it must exercise for the safety and comfort of its guests should be commensurate with the grade and quality of the accommodation it offers. If there is such a thing as "five-star hotel security", the guests at Makati Shangri-La surely deserves just that!
>
> When one registers (as) a guest of a hotel, he makes the establishment the guardian of his life and his personal belongings during his stay. It is a standard procedure of the management of the hotel to screen visitors who call on their guests at their rooms. The murder of Harper could have been avoided had the security guards of the Shangri-La Hotel in Makati dutifully observed this standard procedure."
>
> WE concur.

Well settled is the doctrine that "the findings of fact by the trial court are accorded great respect by appellate courts and should not be disturbed on appeal unless the trial court has overlooked, ignored, or disregarded some fact or circumstances of sufficient weight or significance which, if considered, would alter the situation." After a conscientious sifting of the records, defendant-appellant fails to convince US to deviate from this doctrine.

It could be gleaned from findings of the trial court that its conclusion of negligence on the part of defendant-appellant is grounded mainly on the latter's inadequate hotel security, more particularly on the failure to deploy sufficient security personnel or roving guards at the time the ghastly incident happened.

A review of the testimony of Col. De Guzman reveals that on direct examination he testified that at the time he assumed his position as Chief Security Officer of defendant-appellant, during the early part of 1999 to the early part of 2000, he noticed that some of the floors of the hotel were being guarded by a few guards, for instance, 3 or 4 floors by one guard only on a roving manner. He then made a recommendation that the ideal-set up for an effective security should be one guard for every floor, considering that the hotel is L-shaped and the ends of the hallways cannot be seen. At the time he made the recommendation, the same was denied, but it was later on considered and approved on December 1999 because of the Centennial Celebration.

On cross-examination, Col. De Guzman confirmed that after he took over as Chief Security Officer, the number of security guards was increased during the first part of December or about the last week of November, and before the incident happened, the security was adequate. He also qualified that as to his direct testimony on "ideal-set up", he was referring to one guard for every floor if the hotel is fully booked. At the

time he made his recommendation in the early part of 1999, it was disapproved as the hotel was not doing well and it was not fully booked so the existing security was adequate enough. He further explained that his advice was observed only in the late November 1999 or the early part of December 1999.

It could be inferred from the foregoing declarations of the former Chief Security Officer of defendant-appellant that the latter was negligent in providing adequate security due its guests. With confidence, it was repeatedly claimed by defendant-appellant that it is a five-star hotel. Unfortunately, the record failed to show that at the time of the death of Christian Harper, it was exercising reasonable care to protect its guests from harm and danger by providing sufficient security commensurate to it being one of the finest hotels in the country. In so concluding, WE are reminded of the Supreme Court's enunciation that the hotel business like the common carrier's business is imbued with public interest. Catering to the public, hotelkeepers are bound to provide not only lodging for hotel guests but also security to their persons and belongings. The twin duty constitutes the essence of the business.

It is clear from the testimony of Col. De Guzman that his recommendation was initially denied due to the fact that the business was then not doing well. The "one guard, one floor" recommended policy, although ideal when the hotel is fully-booked, was observed only later in November 1999 or in the early part of December 1999, or needless to state, after the murder of Christian Harper. The apparent security lapses of defendant-appellant were further shown when the male culprit who entered Christian Harper's room was never checked by any of the guards when he came inside the hotel. As per interview conducted by the initial investigator, PO3 Cornelio Valiente to the guards, they admitted that nobody know that said man entered the hotel and it was only through the monitor that they became aware of his entry. It was even evidenced by the CCTV that before he walked to the room of the late Christian Harper, said male suspect even looked at the monitoring camera. Such act of the man showing wariness, added to the fact that his entry to the hotel was unnoticed, at an unholy hour, should have aroused suspicion on the part of the roving guard in the said floor, had there been any. Unluckily for Christian Harper, there was none at that time.

Proximate cause is defined as that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces, the injury, and without which the result would not have occurred. More comprehensively, proximate cause is that cause acting first and producing the injury, either immediately or by setting other events in motion, all constituting a natural and continuous chain of events, each having a close causal connection with its immediate predecessor, the final event in the chain immediately effecting the injury as natural and probable result of the cause which first acted, under such circumstances that the person responsible for the first event should, as an ordinarily prudent and intelligent person, have reasonable ground to expect at the moment of his act or default that an injury to some person might probably result therefrom.

Defendant-appellant's contention that it was Christian Harper's own negligence in allowing the malefactors to his room that was the proximate cause of his death, is untenable. To reiterate, defendant-appellant is engaged in a business imbued with public interest, ergo, it is bound to

> provide adequate security to its guests. As previously discussed, defendant-appellant failed to exercise such reasonable care expected of it under the circumstances. Such negligence is the proximate cause which set the chain of events that led to the eventual demise of its guest. Had there been reasonable security precautions, the same could have saved Christian Harper from a brutal death.

The Court concurs entirely with the findings and conclusions of the CA, which the Court regards to be thorough and supported by the records of the trial. Moreover, the Court cannot now review and pass upon the uniform findings of negligence by the CA and the RTC because doing so would require the Court to delve into and revisit the factual bases for the finding of negligence, something fully contrary to its character as not a trier of facts. In that regard, the factual findings of the trial court that are supported by the evidence on record, especially when affirmed by the CA, are conclusive on the Court.[37] Consequently, the Court will not review unless there are exceptional circumstances for doing so, such as the following:

> *(a)* When the findings are grounded entirely on speculation, surmises or conjectures;
>
> *(b)* When the inference made is manifestly mistaken, absurd or impossible;
>
> *(c)* When there is grave abuse of discretion;
>
> *(d)* When the judgment is based on a misapprehension of facts;
>
> *(e)* When the findings of facts are conflicting;
>
> *(f)* When in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
>
> *(g)* When the findings are contrary to the trial court;
>
> *(h)* When the findings are conclusions without citation of specific evidence on which they are based;
>
> *(i)* When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent;

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[37] *Lambert v. Heirs of Ray Castillon*, G.R. No. 160709, February 23, 2005, 452 SCRA 285, 290.

> *(j)* When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and
>
> *(k)* When the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[38]

None of the exceptional circumstances obtains herein. Accordingly, the Court cannot depart from or disturb the factual findings on negligence of petitioner made by both the RTC and the CA.[39]

Even so, the Court agrees with the CA that petitioner failed to provide the basic and adequate security measures expected of a five-star hotel; and that its omission was the proximate cause of Harper's death.

The testimony of Col. De Guzman revealed that the management practice prior to the murder of Harper had been to deploy only one security or roving guard for every three or four floors of the building; that such ratio had not been enough considering the L-shape configuration of the hotel that rendered the hallways not visible from one or the other end; and that he had recommended to management to post a guard for each floor, but his recommendation had been disapproved because the hotel "was not doing well" at that particular time.[40]

Probably realizing that his testimony had weakened petitioner's position in the case, Col. De Guzman soon clarified on cross-examination that petitioner had seen no need at the time of the incident to augment the number of guards due to the hotel being then only half-booked. Here is how his testimony went:

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38 *Heirs of Carlos Alcaraz v. Republic*, G.R. 131667, July 28, 2005, 464 SCRA 280, 289.
39 *Cuizon v. Remoto*, G.R. No. 143027, March 31, 2006, 486 SCRA 196.
40 TSN, November 26, 2004, p. 23.

ATTY MOLINA:

I just forgot one more point, Your Honor please. Was there ever a time, Mr. Witness, that your recommendation to post a guard in every floor ever considered and approved by the hotel?

A: Yes, Sir.

Q: When was this?

A: That was on December 1999 because of the Centennial Celebration when the hotel accepted so many guests wherein most of the rooms were fully booked and I recommended that all the hallways should be guarded by one guard.[41]

xxx

ATTY COSICO:

Q: So at that time that you made your recommendation, the hotel was half-filled.

A: Maybe.

Q: And even if the hotel is half-filled, your recommendation is that each floor shall be maintained by one security guard per floors?

A: Yes sir.

Q: Would you agree with me that even if the hotel is half-filled, there is no need to increase the guards because there were only few customers?

A: I think so.

Q: So you will agree with me that each floor should be maintained by one security guard if the rooms are filled up or occupied?

A: Yes sir.

Q: Now, you even testified that from January 1999 to November 1999 thereof, only minor incidents were involved?

A: Yes sir.

Q: So it would be correct to say that the security at that time in February was adequate?

A: I believe so.

Q: Even up to November when the incident happened for that same reason, security was adequate?

A: Yes, before the incident.

Q: Now, you testified on direct that the hotel posted one guard each floor?

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[41] *Rollo*, pp. 135-136 (TSN, February 13, 2004, pp. 17-18).

A: Yes sir.

Q: And it was your own recommendation?

A: Yes, because we are expecting that the hotel will be filled up.

Q: In fact, the hotel was fully booked?

A: Yes sir.[42]

Petitioner would thereby have the Court believe that Col. De Guzman's initial recommendation had been rebuffed due to the hotel being only half-booked; that there had been no urgency to adopt a one-guard-per-floor policy because security had been adequate at that time; and that he actually meant by his statement that "the hotel was not doing well" that the hotel was only half-booked.

We are not convinced.

The hotel business is imbued with public interest. Catering to the public, hotelkeepers are bound to provide not only lodging for their guests but also security to the persons and belongings of their guests. The twin duty constitutes the essence of the business.[43] Applying by analogy Article 2000,[44] Article 2001[45] and Article 2002[46] of the *Civil Code* (all of which concerned the hotelkeepers' degree of care and responsibility as to the personal effects of their guests), we hold that there is much greater reason to apply the same if not greater degree of care and responsibility when the lives and personal safety of their guests are involved. Otherwise, the hotelkeepers would simply stand idly by as strangers have unrestricted access to all the

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[42] Id., at 154-156 (TSN, February 27, 2004, pp. 5-7).

[43] *YHT Realty Corporation v. Court of Appeals*, G.R. No. 126780, February 17, 2005, 451 SCRA 638, 658.

[44] Article 2000. The responsibility referred to in the two preceding articles shall include the loss of, or injury to the personal property of the guests caused by the servants or employees of the keepers of hotels or inns as well as strangers; but not that which may proceed from any force majeure. The fact that travellers are constrained to rely on the vigilance of the keeper of the hotels or inns shall be considered in determining the degree of care required of him.

[45] Article 2001. The act of a thief or robber, who has entered the hotel is not deemed force majeure, unless it is done with the use of arms or through an irresistible force. (n)

[46] Article 2002. The hotel-keeper is not liable for compensation if the loss is due to the acts of the guest, his family, servants or visitors, or if the loss arises from the character of the things brought into the hotel. (n)

hotel rooms on the pretense of being visitors of the guests, without being held liable should anything untoward befall the unwary guests. That would be absurd, something that no good law would ever envision.

In fine, the Court sees no reversible error on the part of the CA.

WHEREFORE, the Court **AFFIRMS** the judgment of the Court of Appeals; and **ORDERS** petitioner to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

MARIA LOURDES P. A. SERENO
Chief Justice