



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REYNALDO S. MARIANO,
Petitioner,

G.R. No. 178145

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
*MENDOZA, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

JUL 07 2014

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RESOLUTION

BERSAMIN, J.:

The courts of law are hereby reminded once again to exercise care in the determination of the proper penalty imposable upon the offenders whom they find and declare to be guilty of the offenses charged or proved. Their correct determination is the essence of due process of law.

The Office of the Provincial Prosecutor of Bulacan charged the petitioner with frustrated murder for hitting and bumping Ferdinand de Leon while overtaking the latter's jeep in the information filed in the Regional Trial Court, Branch 81, in Malolos, Bulacan (RTC), viz:

That on or about the 12th day of September, 1999, in the municipality of Angat, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously, with the use of the motor vehicle he was then driving, with evident premeditation, treachery and abuse of superior strength, hit, bump and run over with the said motor

* Vice Associate Justice Bienvenido L. Reyes, who is on Wellness Leave, per Special Order No. 1715 dated July 1, 2014.

vehicle one Ferdinand de Leon, thereby inflicting upon him serious physical injuries which ordinarily would have caused the death of the said Ferdinand de Leon, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of his will, that is, by the timely and able medical assistance rendered to said Ferdinand de Leon.

Contrary to law.¹

The CA summarized the antecedent events as follows:

At about 6:30 in the evening of September 12, 1999, Ferdinand de Leon was driving his owner type jeep along Barangay Engkanto, Angat, Bulacan. With him were his wife, Urbanita, and their two-year old son, as they just came from a baptismal party. Luis de Leon, an uncle of Ferdinand, also came from the baptismal party and was driving his owner type jeep. Accused-appellant Reynaldo Mariano was driving his red Toyota pick-up with his wife, Rebecca, and their helper, Rowena Años, as passengers. They had just attended a worship service in Barangay Engkanto.

The Toyota pick-up overtook the jeep of Ferdinand de Leon and almost bumped it. Ferdinand got mad, overtook the pick-up and blocked its path. Reynaldo Mariano stopped the pick-up behind the jeep. Ferdinand alighted from his jeep and approached Reynaldo. Ferdinand claimed that he and Reynaldo had an altercation. However, Reynaldo insisted that he just stayed inside the pick-up and kept quiet while Ferdinand hurled invectives at him. Urbanita tried to pacify Ferdinand and sought the assistance of Luis de Leon. Luis intervened and told Ferdinand and Reynaldo "*magpasensiyahan na lamang kayo at pagpasensiyahan mo si Ferdinand.*" Ferdinand and Reynaldo heeded the advice of Luis and they went their separate ways.

Instead of proceeding to his house in Norzagaray, Ferdinand decided to drop by his mother's house in San Roque, Angat to pick up some items. He parked his jeep in front of the house of his mother and alighted therefrom. However, he was bumped by a moving vehicle, thrown four (4) meters away and lost consciousness. Urbanita shouted, "*Mommy, Mommy, nasagasaan si Ferdie.*" She identified the fast moving vehicle that bumped Ferdinand as the same red Toyota pick-up driven by Reynaldo.

On the other hand, Reynaldo and his wife, Rebecca, tried to show that the jeep of Ferdinand stopped on the road in front of the house of the latter's mother about five (5) to six (6) meters away from their pick-up. Reynaldo stopped the pick-up as he saw an oncoming vehicle, which he allowed to pass. Thereafter, Reynaldo made a signal and overtook the jeep of Ferdinand. However, Ferdinand suddenly alighted from his jeep, lost his balance and was sideswiped by the overtaking pick-up. Reynaldo did not stop his pick-up and he proceeded on his way for fear that the bystanders might harm him and his companions. After bringing his

¹ *Rollo*, p. 58.

companions to their house in Marungko, Angat, Bulacan, Reynaldo proceeded to Camp Alejo S. Santos in Malolos, Bulacan to surrender and report the incident.

Ferdinand was brought to the Sto. Niño Hospital in Bustos, Bulacan, where he stayed for two and a half days and incurred medical expenses amounting to P17,800.00. On September 15, 1999, Ferdinand was transferred to St. Luke's Medical Center in Quezon City, where he stayed until September 25, 1999 and incurred medical expenses amounting to P66,243.25. He likewise spent P909.50 for medicines, P2,900.00 for scanning, P8,000.00 for doctor's fee and P12,550.00 for the services of his caregivers and masseur from September 12 to October 31, 1999. Ferdinand suffered multiple facial injuries, a fracture of the inferior part of the right orbital wall and subdural hemorrhage secondary to severe head trauma, as evidenced by the certification issued by Dr. Hernando L. Cruz, Jr. of St. Luke's Medical Center. Urbanita, received the amount of P50,000.00 from Reynaldo Mariano by way of financial assistance, as evidenced by a receipt dated September 15, 1999.²

Under its decision rendered on May 26, 2003 after trial, however, the RTC convicted the petitioner of frustrated homicide,³ to wit:

WHEREFORE, the foregoing considered, this Court hereby finds the accused **Reynaldo Mariano GUILTY** for the lesser offense of Frustrated Homicide under Article 249 of the Revised Penal Code in relation to Article 50 thereof and is hereby sentenced to suffer the indeterminate penalty of **three (3) years and four (4) months of Prision Correccional as minimum to six (6) years and one (1) day of Prision Mayor** as maximum and is hereby directed to pay the complainant, Ferdinand de Leon, the amount of **₱196,043.25 less ₱50,000.00 (already given) as actual damages, ₱100,000.00 as moral damages, and the costs of the suit.**

SO ORDERED.⁴

On appeal, the CA promulgated its assailed decision on June 29, 2006,⁵ modifying the felony committed by the petitioner from frustrated homicide to reckless imprudence resulting in serious physical injuries, ruling thusly:

WHEREFORE, the Decision appealed from is **MODIFIED** and accused-appellant Reynaldo Mariano is found guilty of the crime of reckless imprudence resulting in serious physical injuries and is sentenced to suffer the indeterminate penalty of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year, seven (7) months and eleven (11) days of *prision correccional*, as maximum, and to indemnify

² Id. at 41-43.

³ Id. at 58-70.

⁴ Id. at 70.

⁵ Id. at 40-53; penned by Associate Justice Marina L. Buzon (retired), with the concurrence of Association Justice Regalado E. Maambong (retired/deceased) and Associate Justice Lucenito N. Tagle (retired).

Ferdinand de Leon in the amount of P58,402.75 as actual damages and P10,000.00 as moral damages.

SO ORDERED.⁶

In this appeal, the petitioner argues that his guilt for any crime was not proved beyond reasonable doubt, and claims that Ferdinand's injuries were the result of a mere accident. He insists that he lacked criminal intent; that he was not negligent in driving his pick-up truck; and that the CA should have appreciated voluntary surrender as a mitigating circumstance in his favor.

Ruling

We affirm the conviction of the petitioner for reckless imprudence resulting in serious physical injuries.

The following findings by the CA compel us to affirm, to wit:

Reynaldo tried to show that he stopped his pick-up five (5) to six (6) meters behind the jeep of Ferdinand, as he allowed an oncoming vehicle to pass. Thereafter, he overtook the jeep of Ferdinand. However, the fact that Ferdinand's body was thrown four (4) meters away from his jeep showed that Reynaldo was driving his pick-up at a fast speed when he overtook the jeep of Ferdinand. It is worthy to note that Reynaldo admitted that he has known Ferdinand and the latter's family since 1980 because they have a store where he used to buy things. As aptly observed by the OSG, Reynaldo should have foreseen the possibility that Ferdinand would alight from his jeep and go inside the house of his mother where the store is also located.

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As aptly observed by the court *a quo*, only a vehicle that is moving beyond the normal rate of speed and within the control of the driver's hands could have caused Ferdinand's injuries. The very fact of speeding is indicative of imprudent behavior, as a motorist must exercise ordinary care and drive at a reasonable rate of speed commensurate with the conditions encountered, which will enable him or her to keep the vehicle under control and avoid injury to others using the highway. As held in *People v. Garcia*:

“A man must use common sense, and exercise due reflection in all his acts; it is his duty to be cautious, careful, and prudent, if not from instinct, then through fear of incurring punishment. He is responsible for such results as anyone might foresee and for acts which no one would have performed except through culpable abandon. Otherwise his own person, rights and property, all those of

⁶ Id. at 52.

his fellow-beings, would ever be exposed to all manner of danger and injury.”

Thus, had Reynaldo not driven his pick-up at a fast speed in overtaking the jeep of Ferdinand, he could have easily stopped his pick-up or swerved farther to the left side of the road, as there was no oncoming vehicle, when he saw that Ferdinand alighted from his jeep and lost his balance, in order to avoid hitting the latter or, at least, minimizing his injuries.⁷

The findings by the CA are controlling on the Court. Indeed, the findings of both lower courts on the circumstances that had led to the injuries of Ferdinand fully converged except for the RTC’s conclusion that malicious intent had attended the commission of the offense. Such findings cannot be disturbed by the Court in this appellate review, for it is a well-settled rule that the findings of the trial court, especially when affirmed by the CA, are binding and conclusive upon the Court.⁸

“Reckless imprudence consists in voluntary, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.”⁹ To constitute the offense of reckless driving, the act must be something more than a mere negligence in the operation of the motor vehicle, but a willful and wanton disregard of the consequences is required.¹⁰ The Prosecution must further show the direct causal connection between the negligence and the injuries or damages complained of. In *Manzanares v. People*,¹¹ the petitioner was found guilty of reckless imprudence resulting in multiple homicide and serious physical injuries because of the finding that he had driven the Isuzu truck very fast before it smashed into a jeepney. In *Pangonrom v. People*,¹² a public utility driver driving his vehicle very fast was held criminally negligent because he had not slowed down to avoid hitting a swerving car. In the absence of any cogent reasons, therefore, the Court bows to the CA’s observations that the petitioner had driven his pick-up truck at a fast speed in order to overtake the jeep of Ferdinand, and in so attempting to overtake unavoidably hit Ferdinand, causing the latter’s injuries.

Contrary to the petitioner’s insistence, the mitigating circumstance of voluntary surrender cannot be appreciated in his favor. Paragraph 5 of Article 365, *Revised Penal Code*, expressly states that in the imposition of the penalties, the courts shall exercise their sound discretion, without regard

⁷ *Rollo*, pp. 45-49.

⁸ *Dumayag v. People*, G.R. No. 172778, November 26, 2012, 686 SCRA 347, 357-358.

⁹ Article 365, *Revised Penal Code*.

¹⁰ *Dumayag v. People*, supra note 8, at 358-359.

¹¹ G.R. Nos. 153760-61, October 16, 2006, 504 SCRA 354.

¹² G.R. No. 143380, April 11, 2005, 455 SCRA 211.

to the rules prescribed in Article 64 of the *Revised Penal Code*. “The rationale of the law,” according to *People v. Medroso, Jr.*:¹³

x x x can be found in the fact that in quasi-offenses penalized under Article 365, the carelessness, imprudence or negligence which characterizes the wrongful act may vary from one situation to another, in nature, extent, and resulting consequences, and in order that there may be a fair and just application of the penalty, the courts must have ample discretion in its imposition, without being bound by what We may call the mathematical formula provided for in Article 64 of the Revised Penal Code. On the basis of this particular provision, the trial court was not bound to apply paragraph 5 of Article 64 in the instant case even if appellant had two mitigating circumstances in his favor with no aggravating circumstance to offset them.

Even so, the CA erred in imposing on the petitioner the penalty for reckless imprudence resulting in serious physical injuries. The error should be avoided because no person should be condemned to suffer a penalty that the law does not prescribe or provide for the offense charged or proved. Verily, anyone judicially declared guilty of any crime must be duly punished in accordance with the law defining the crime and prescribing the punishment. Injustice would always result to the offender should the penalty exceed that allowed by the law. The imposition of the correct penalty on the offender is the essence of due process of law.

The penalty for the offender guilty of reckless imprudence is based on the gravity of the resulting injuries had his act been intentional. Thus, Article 365 of the *Revised Penal Code* stipulates that had the act been intentional, and would constitute a **grave felony**, the offender shall suffer *arresto mayor* in its maximum period to *prision correccional* in its medium period; if it would have constituted a **less grave felony**, *arresto mayor* in its minimum and medium periods shall be imposed; and if it would have constituted a **light felony**, *arresto menor* in its maximum period shall be imposed. Pursuant to Article 9 of the *Revised Penal Code*, a **grave felony** is that to which the law attaches the capital punishment or a penalty that in any of its periods is **afflictive** in accordance with Article 25 of the *Revised Penal Code*; a **less grave felony** is that which the law punishes with a penalty that is **correctional** in its maximum period in accordance with Article 25 of the *Revised Penal Code*; and a **light felony** is an infraction of law for the commission of which a penalty of either *arresto menor* or a fine not exceeding ₱200.00, or both is provided.

In turn, Article 25 of the *Revised Penal Code* enumerates the principal **afflictive penalties** to be *reclusion perpetua*, *reclusion temporal*, and *prision mayor*; the principal **correctional penalties** to be *prision correccional*, *arresto mayor*, suspension and *destierro*; and the light penalties to be *arresto*

¹³ L-37633, January 31, 1975, 62 SCRA 245, 249.

menor and fine not exceeding ₱200.00. Under this provision, death stands alone as the capital punishment.

The *Revised Penal Code* classifies the felony of serious physical injuries based on the gravity of the physical injuries, to wit:

Article 263. *Serious physical injuries*. — Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

1. The penalty of *prision mayor*, if in consequence of the physical injuries inflicted, the injured person shall become insane, imbecile, impotent, or blind;

2. The penalty of *prision correccional* in its medium and maximum periods, if in consequence of the physical injuries inflicted, the person injured shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm, or a leg or shall have lost the use of any such member, or shall have become incapacitated for the work in which he was therefor habitually engaged;

3. The penalty of *prision correccional* in its minimum and medium periods, if in consequence of the physical injuries inflicted, the person injured shall have become deformed, or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance of the work in which he as habitually engaged for a period of more than ninety days;

4. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if the physical injuries inflicted shall have caused the illness or incapacity for labor of the injured person for more than thirty days.

If the offense shall have been committed against any of the persons enumerated in Article 246, or with attendance of any of the circumstances mentioned in Article 248, the case covered by subdivision number 1 of this Article shall be punished by *reclusion temporal* in its medium and maximum periods; the case covered by subdivision number 2 by *prision correccional* in its maximum period to *prision mayor* in its minimum period; the case covered by subdivision number 3 by *prision correccional* in its medium and maximum periods; and the case covered by subdivision number 4 by *prision correccional* in its minimum and medium periods.

The provisions of the preceding paragraph shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.

In its decision,¹⁴ the CA found that Ferdinand had sustained multiple facial injuries, a fracture of the inferior part of the right orbital wall, and subdural hemorrhage secondary to severe head trauma; that he had become stuporous and disoriented as to time, place and person. It was also on record

¹⁴ *Rollo*, p. 50.

that he had testified at the trial that he was unable to attend to his general merchandise store for three months due to temporary amnesia; and that he had required the attendance of caregivers and a masseur until October 31, 1999.

With Ferdinand not becoming insane, imbecile, impotent, or blind, his physical injuries did not fall under Article 263, 1, *supra*. Consequently, the CA incorrectly considered the petitioner's act as a grave felony had it been intentional, and should not have imposed the penalty at *arresto mayor* in its maximum period to *prision correccional* in its medium period. Instead, the petitioner's act that caused the serious physical injuries, had it been intentional, would be a **less grave felony** under Article 25 of the *Revised Penal Code*, because Ferdinand's physical injuries were those under Article 263, 3, *supra*, for having incapacitated him from the performance of the work in which he was habitually engaged in for more than 90 days.

Conformably with Article 365 of the *Revised Penal Code*, the proper penalty is *arresto mayor* in its minimum and medium periods, which ranges from one to four months. As earlier mentioned, the rules in Article 64 of the *Revised Penal Code* are not applicable in reckless imprudence, and considering further that the maximum term of imprisonment would not exceed one year, rendering the *Indeterminate Sentence Law* inapplicable,¹⁵ the Court holds that the straight penalty of two months of *arresto mayor* was the correct penalty for the petitioner.

The Court agrees with the CA's modification of the award of actual and moral damages amounting to ₱58,402.75 and ₱10,000.00, respectively.

Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. This is because the courts cannot rely on speculation, conjecture or guesswork in determining the fact and amount of damages. To justify an award of actual damages, there must be competent proof of the actual loss suffered, which should be based on the amounts actually expended by the victim,¹⁶ or other competent proof. Here, the receipts presented by the Prosecution proved the expenses actually incurred amounting to ₱108,402.75, but such aggregate was reduced by the victim's earlier receipt of ₱50,000.00 from the petitioner in the form of financial assistance. Hence, the victim should recover only the unpaid portion of ₱58,402.75.

¹⁵ Section 2. This Act shall not apply to persons convicted of offenses punished with death penalty or life imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who shall have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; **to those whose maximum term of imprisonment does not exceed one year**; nor to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof. (As amended by Act No. 4225, Aug. 8, 1935)

¹⁶ *Tan v. OMC Carriers, Inc.*, G.R. No. 190521, January 12, 2011, 639 SCRA 471, 481.

Moral damages are given to ease the victim's grief and suffering. Moral damages should reasonably approximate the extent of the hurt caused and the gravity of the wrong done.¹⁷ Accordingly, the CA properly reduced to ₱10,000.00 the moral damages awarded to Ferdinand.

In addition, we impose an interest of 6% *per annum* on the actual and moral damages reckoned from the finality of this decision until the full payment of the obligation. This is because the damages thus fixed thereby become a forbearance. The rate of 6% *per annum* is pursuant to Circular No. 799, series of 2013, issued by the Office of the Governor of the Bangko Sentral ng Pilipinas on June 21, 2013, and the pronouncement in *Nacar v. Gallery Frames*.¹⁸

WHEREFORE, the Court **AFFIRMS** the decision promulgated on June 29, 2006, subject to the modifications that: (a) the penalty to be imposed on the petitioner shall be a straight penalty of two months of *arresto mayor*; and (b) the awards for actual and moral damages shall earn 6% interest rate *per annum* commencing from the finality of this decision until fully paid.


The petitioner shall pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

¹⁷ *Yuchengco v. The Manila Chronicle Publishing Corporation*, G.R. No. 184315, November 28, 2011, 661 SCRA 392, 405.

¹⁸ G.R. No. 189871, August 13, 2013, 703 SCRA 439, 458.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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
MARIA LOURDES P. A. SERENO
Chief Justice