

## FIRST DIVISION

[ G.R. NO. 143380, April 11, 2005 ]

**OLIMPIO PANGONOROM AND METRO MANILA TRANSIT CORPORATION, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review<sup>[1]</sup> to annul the Decision<sup>[2]</sup> dated 29 November 1999 of the Court of Appeals in CA-G.R. CR No. 14764, as well as its Resolution<sup>[3]</sup> dated 5 May 2000 denying the motion for reconsideration. The Court of Appeals affirmed *in toto* the 5 February 1993 Decision<sup>[4]</sup> of the Regional Trial Court of Quezon City, Branch 79 in Criminal Case No. Q-90-11397.

#### The Charge

On 21 March 1990, Assistant City Prosecutor Rosario U. Barias filed an Information charging Olimpio Pangonorom ("Olimpio") with reckless imprudence resulting in damage to property with multiple slight physical injuries, committed as follows:

That on or about the 10<sup>th</sup> day of July, 1989, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, being then the driver and person in charge of a motor vehicle (MMTC-passenger bus) with plate No. NVJ-999 TB Pil. '89, did, then and there unlawfully and feloniously drive, manage and operate the same along E. de los Santos Ave., Quezon Avenue - this City, in a careless, reckless and imprudent manner, by then and there driving the same without due regard to traffic laws and regulations and without taking the necessary precautions to prevent accident to person and damage to property, causing by such carelessness, recklessness and imprudence said motor vehicle so driven by him to strike and collide with an [I]suzu [G]emini car with plate No. NAR-865 L Pil. '89, belonging to Mary Berba and driven by Carlos Berba y Remulla, thereby causing damages in the total amount of P42,600.00, Philippine Currency; as a consequence thereof said Carlos Berba sustained physical injuries for a period of less than nine (9) days and incapacitated him from performing his customary labor for the same period of time and also his passengers namely: Mary Berba y Matti and Amelia Berba y Mendoza sustained physical injuries for a period of less than nine (9) days and incapacitated them from performing their customary labor for the same period of time, thereafter, abandoned said offended parties without aiding them, to the damage and prejudice of the said offended parties in such amount as may be awarded

to them under the provisions of the Civil Code.

CONTRARY TO LAW.<sup>[5]</sup>

### **Arraignment and Plea**

When arraigned on 26 June 1990, Olimpio, with the assistance of counsel, entered a plea of not guilty.<sup>[6]</sup>

### **The Trial**

The prosecution presented five witnesses: (1) Carlos R. Berba; (2) Mary M. Berba; (3) Amelia Berba; (4) Edward Campos; and (5) Enrico B. Estupigan.

On the other hand, the defense presented three witnesses: (1) Olimpio himself; (2) Milagros Garbo; and (3) Nenita Amado.

The facts, as summarized by the trial court, are as follows:

The evidence of the prosecution shows that on July 10, 1989 at around 9:00 P.M. Carlos R. Berba was driving an Isuzu Gemini car bearing Plate No. NAR-865 L Pil. '89 belonging to his mother Mary Berba. With him inside the car were his mother Mary Berba who was seated in front beside him and his auntie Amelia Berba who was at the back seat. They were cruising along EDSA coming from the direction of Makati and headed towards the intersection of EDSA and Quezon Boulevard but upon nearing 680 Appliances along EDSA, Quezon City, their car was bumped from behind by MMTC Passenger Bus bearing Plate No. NVJ-999 TB Pil. '89 driven by herein accused Olimpio Pangonorom thereby causing damages to their car which was estimated at P42,600.00 (Exhs. F, F-1). The front and rear portions of their car incurred damages because by reason of the strong impact at the rear portion of their car, it was pushed forward and bumped the car in front of it, then it rested near the island. The bus driven by the accused still travelled a distance of 20 meters from the point of impact. The accused left his bus but they came to know his name is Olimpio Pangonorom. Their car was a total wreck as shown in its photographs (Exhs. B and C).

Carlos Berba noticed this bus following them closely at Nepa Q-Mart up to the point of collision. His car was running along the second lane of EDSA from the island. The MMTC bus driven by the accused was running very fast, kept on switching lane until it finally occupied the second lane and bumped his car. Carlos Berba sustained cuts on his shoulder and back because of broken glasses and was treated at East Avenue Medical Center. He incurred P1,000.00 for medication (Exhs. G to G-3). Mary Berba sustained contusion, hematoma and abrasion (Exh. H). Amelia Berba sustained abrasion on his right elbow (Exh. K). Both were also treated at East Avenue Medical Center.

Edward Campos and Enrico Bantique Estupigan, passengers of MMTC Bus driven by the accused explained that their bus was running at 70-80 kph when it swerved to the right to avoid hitting a van stranded at the left

side of the island but in the process it hit and bumped an Isuzu Gemini car in front of it. The rear portion of the Isuzu Gemini car was smashed and the front part was also damaged as it hit the Lancer car running ahead. The bus driver, herein accused, fled from the scene.

It was a rainy day, road was slippery, the rain had just stopped but was still drizzling.

The defense on the other hand presented accused Olimpio Pangonorom, Milagros Garbo, Nenita Amado and documents marked as Exhs. 1 to 15 with sub-markings.

Accused Olimpio Pangonorom testified that he was a driver since 1976, having worked as a truck driver in Mindanao, then employed as driver of Silangan Transit up to 1981 and from 1981 up to the present is a driver of Metro Manila Transit. He is a holder of professional driver's license with OR No. 15160307 (Exhs. 1, 1-A). On July 10, 1989 he drove MMTC bus from Monumento to Baclaran and vice-versa. He was driving MMTC bus between 7:00 - 8:00 P.M. along EDSA headed towards Monumento when upon reaching in front of 680 Appliances his bus was involved in a vehicular accident. It was drizzling, his bus was running at a speed of 70 kph along the third lane of EDSA going to Monumento and an Isuzu Gemini car ahead of him was on his left side running along the second lane of EDSA at a distance of 30 meters away. When the car was at a distance of 20 meters away and before reaching the stalled vehicle, it swerved to the right without signal light, so he blew his horn, stepped on his brakes, but since the street was downgrade, it was raining and slippery, his brakes failed to control his bus, thus hit and bumped the Isuzu Gemini car. He identified the Isuzu Gemini car and damages sustained by the car in the photograph marked as Exh. C. His bus slid after he applied his brakes because the street was slippery. He reported at their garage after the accident, left his vehicle and went back at the scene with a wrecker. The passengers of the Isuzu car were brought to the hospital.

The training officer of MMTC, Milagros Garbo, testified on the procedure of the company in hiring an applicant driver and the requirements to be submitted by the applicant. An applicant for a driver of MMTC as what had been done to the accused before he was admitted as company driver of MMTC must pass an interview, seminars, written examination, actual driving test, psycho-physical test, road test, line familiarization test, defensive driving seminar, driver's familiarization seminar, and traffic rules and environment seminar. Documents they required to be submitted by an applicant driver were NBI Clearance, Residence Certificate, Professional Driver's License, and Official Receipts of payment of required fees for driver's license (Exhs. 1 to 15).

The internal control relative to the supervision of their drivers was explained by witness Nenita Amado, a transport supervisor of MMTC. She supervises and gives instructions and recommendations on bus rules and regulations to their drivers. They have ten (10) comptrollers, thirty-six (36) dispatchers, seven (7) field supervisors, sixty (60) inspectors and

four (4) service wreckers who helped in the supervision of the drivers and conductors of MMTC. They have centralized radio that monitor the activities of their drivers during their travel. Her instructions to the drivers were to avoid accident, obey traffic rules and regulations and to be courteous to passengers.<sup>[7]</sup>

On 5 February 1993, the trial court rendered its Decision with the following dispositive portion:

PREMISES CONSIDERED, the Court finds accused Olimpío Pangonorom guilty beyond reasonable doubt of the crime of reckless imprudence resulting in multiple slight physical injuries and sentences him to suffer an imprisonment of thirty (30) days of *arresto menor*, to indemnify the offended parties of the damages incurred by their Isuzu Gemini car in the sum of P42,600.00 and to reimburse the medical expenses of Carlos R. Berba in the sum of P182.50, Amelia Berba in the sum of P217.50 and Mary Berba in the sum of P45.00.

SO ORDERED.<sup>[8]</sup>

Petitioners appealed the trial court's decision to the Court of Appeals.<sup>[9]</sup>

### **The Ruling of the Court of Appeals**

The Court of Appeals ruled that the finding that Olimpío drove the passenger bus in a negligent manner, considering the circumstances of weather and road condition, is a finding of fact of the trial court that is entitled to respect. The Court of Appeals stated that it is a settled rule that factual findings of trial courts are accorded great respect unless it can be shown that they overlooked some circumstances of substance which, if considered, will probably alter the result. The Court of Appeals held that no such circumstance was overlooked in this case.

The Court of Appeals ruled that even if it were true, as Olimpío claimed, that the car Carlos Berba ("Carlos") was then driving occupied Olimpío's lane while the car was 20 meters away, it is a safe distance for a vehicle to switch lanes. The Court of Appeals held that if only Olimpío did not drive very fast and considered that the street was downgrade and slippery, he could have easily avoided the accident by applying his brakes.

The Court of Appeals also ruled that the testimonies of Edward Campos ("Edward") and Enrico Bantigue, who were passengers of the MMTC bus, are worthy of credence. The Court of Appeals stated that they are neutral witnesses who had no motive to testify against Olimpío. They testified that: (1) the MMTC bus was running at 70-80 kilometers per hour; (2) the bus swerved to the right to avoid hitting a van stranded at the left side of the island; and (3) in the process, the bus hit and bumped the Gemini car ahead of it. Edward further testified that Olimpío earlier overtook another bus. Edward stated that it was for this reason that the MMTC bus went into the lane where the stalled van was located. The Court of Appeals held that the MMTC bus was the one switching lanes.

The dispositive portion of the decision of the Court of Appeals reads:

WHEREFORE, the judgment herein appealed from is hereby AFFIRMED in toto.

SO ORDERED.<sup>[10]</sup>

On 28 December 1999, petitioners filed with the Court of Appeals a motion for reconsideration of the assailed decision. Petitioners asserted that the Court of Appeals erred in finding Olimpio negligent in driving the subject bus. Petitioners also asserted that Carlos was the one switching lanes and was therefore the one negligent in driving his car. Petitioners stated that the Court of Appeals erred in not holding that the MMTC was not subsidiarily liable for Olimpio's civil liability in the instant case. Petitioners stated that the testimonies of witnesses Milagros Garbo and Nenita Amado, as well as Exhibits 1 to 15, proved that the MMTC exercised due diligence in the selection and supervision of its drivers.<sup>[11]</sup>

On 5 May 2000, the Court of Appeals issued a Resolution<sup>[12]</sup> denying the motion for reconsideration. With the assailed decision having "amply discussed, considered and ruled upon" the issues that petitioners raised in their motion for reconsideration, the Court of Appeals held that there was no cogent reason for it to reverse the assailed decision. The Court of Appeals also held that the MMTC was already estopped in assailing the trial court's decision considering that the MMTC never appealed the decision within the reglementary period.

### **The Issues**

Petitioners have presented the following for our consideration:

1. The Court of Appeals gravely abused its discretion in sustaining the trial court's findings of facts instead of considering certain facts and circumstance raised by petitioners that properly cast an element of reasonable doubt.
2. Whether Estoppel applies to MMTC.<sup>[13]</sup>

### **The Ruling of the Court**

The petition is without merit.

In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.<sup>[14]</sup>

Petitioners fault the Court of Appeals for having sustained the trial court's findings of fact. Petitioners assert that the Court of Appeals failed to consider certain circumstances that would warrant a reversal of the factual findings of the trial court.

Petitioners claim that Carlos' negligence in switching lanes to avoid hitting a stranded van caused the collision. Petitioners assert that Carlos was negligent because he transferred to the lane where Olimpio was then driving along without first blinking his signal light and with his car only 20 meters away from the bus. This being so, petitioners assert that they should not be held responsible for Carlos'