

NINETEENTH DIVISION

[CA-G.R. CEB CR NO. 02163, February 13, 2015]

**GENER CALORING, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, REPRESENTED BY THE OFFICE OF THE SOLICITOR
GENERAL, AND ELVIRA VISTA, RESPONDENTS.**

D E C I S I O N

QUIJANO-PADILLA, J.:

The Case

Before Us is a Petition for Review^[1] under Rule 42 of the Rules of Court assailing the Decision^[2] dated March 7, 2013 of the Regional Trial Court of Negros Oriental, Seventh (7th) Judicial Region, Branch 63, Bayawan City, in Criminal Case No. 1350 for Reckless Imprudence Resulting to Homicide and Damage to Property, which affirmed in toto the Judgment^[3] dated February 16, 2012 of the Municipal Trial Court in Cities, Branch 001, City of Bayawan, Province of Negros Oriental in Criminal Case No. 6767.

The Facts

An Amended Complaint^[4] dated March 8, 2000 for Reckless Imprudence Resulting to Homicide and Damage to Property was filed against the petitioner Gener Caloring, allegedly committed as follows:

“That on or about 5:00 o'clock in the afternoon of February 20, 2000, in the Municipality of Bayawan, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the said accused being the driver of a TMX motorcycle, then and there willfully, unlawfully, and feloniously drive and operate the same in a reckless, negligent and imprudent manner without due regard to the traffic laws, regulations and ordinances of the place, and without taking the necessary and reasonable precautions in observing the degree of care required by the circumstances of time, place, grade, curvatures and other conditions of the road to avoid accidents to persons and damage to property, causing such negligence, carelessness and imprudence, said vehicle driven by said accused to hit and bump the bicycle driven by one Eriberto T. Vista causing him to be thrown and dragged by several feet towards the pavement, thereby inflicting upon said Eriberto Vista the following injuries to wit:

Severe intracranial trauma with depressed fracture of the (R) parietal bone and intracranial hemorrhage;

Fracture of the (R) clavicle, fracture of (R) tibial bone; fracture of (L) radio-ulna;

Cardiopulmonary arrest secondary to vehicular accident.

which injuries directly caused the death of said Eriberto Vista and damage to the bicycle driven by Eriberto T. Vista in the amount of P6,000.00.

Contrary to Art. 365 in relation to Art. 249 of the Revised Penal Code."^[5]

Upon arraignment^[6] on May 3, 2000, the petitioner pleaded not guilty of the crime charged.

Evidence for the Petitioner

In gist, petitioner Gener Caloring alleged^[7] that on February 20, 2000 at around 6:00 o'clock in the afternoon, he was riding his Honda TMX motorcycle and traversing the National Highway of Poblacion Bayawan City, Negros Oriental when he met an accident with the deceased (Eriberto Vista)^[8]. He averred that prior to the accident, he was not able to see the deceased who was traveling at the opposite direction, since there was a parked tricycle. It was only when the bicycle changed direction and encroached the inside of the petitioner's proper lane, that he noticed the deceased, but it was already too late to apply the brakes and to avoid collision. It is petitioner's postulation that the accident was caused by the deceased as the latter was driving unsteadily and suddenly turned towards his lane.

Petitioner presented as witnesses himself, Eddie Sastre and Nory Bongaitan.

Eddie Sastre testified^[9] that he saw the incident between the petitioner and the deceased as he was at the crossing at that time. He alleged that the petitioner was not driving his motorcycle in a high speed and that it was the deceased who was driving his bicycle in a wobbly manner. He further stated during cross-examination that it was the deceased who bumped the petitioner when the former suddenly made a left turn.

The other witness for the defense Nory Bongaitan^[10] testified that prior to the accident, he passed by the deceased and saw him fell down on the ground while riding his bicycle. He, however was not able to go near the incident as there were already many people surrounding the deceased.

Evidence for the Respondent

The People presented as witnesses Justo Toledo, Dr. Krypton Kho and Elvira Vista.

Justo Toledo narrated^[11] that during the incident, he was riding a tricycle which was approaching an intersection, when it was overtaken by the petitioner who was driving his motorcycle in high speed. He posited that while the deceased was making a left turn at the intersection, the latter was hit by the petitioner.

Dr. Krypton Kho, on the other hand was the doctor who attended the deceased at the hospital after the incident. He testified^[12] as to the injuries suffered by the deceased.

The last witness for the prosecution was the deceased's wife Elvira Vista who testified^[13] as to the medical and burial expenses incurred in relation to the hospitalization and death of the deceased.

The Ruling of the Municipal Trial Court

In a Judgment^[14] dated February 16, 2012, the Municipal Trial Court in Cities, Branch 001, City of Bayawan, Province of Negros Oriental found the petitioner guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting in Homicide. The trial court postulated that the petitioner was proven to have been reckless in driving his motorcycle, which caused the death of the deceased Eriberto Vista. However, there was no evidence adduced as to the damaged caused on the bicycle of the deceased.

The dispositive portion of the Judgment states:

"WHEREFORE, accused Gener Caloring is found guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting in Homicide as defined in Article 365 of the Revised Penal Code and applying the Indeterminate Sentence law, he is sentenced to an indeterminate penalty of four (4) months of arrestor mayor as MINIMUM to four (4) years of prison correccional as MAXIMUM.

Accused Gener Caloring is ordered to indemnify the heirs of Eriberto Vista with the following amounts:

- 1) Sixty Thousand (P60,000.00) for the burial expenses;
- 2) Eighty One Thousand Two Hundred Sixty Three Pesos and Five Centavos (P81,263.05) for hospital expenses;
- 3) Fourteen Thousand Sixty Four Pesos and Fifty Eight Centavos (P14,064.58) as Miscellaneous medical expenses;
- 4) Conformably with jurisprudence, a death indemnity of Fifty Thousand (P50,000.00) Pesos;
- 5) Moral Damages in the amount of Ten Thousand (P10,000.00) Pesos; and
- 6) Cost of the suit.

SO ORDERED."^[15]

The Ruling of the Regional Trial Court

In a Decision^[16] dated March 7, 2013, the Regional Trial Court of Negros Oriental, Seventh (7th) Judicial Region, Branch 63, Bayawan City, affirmed the ruling of the Municipal Trial Court in Cities (MTCC). The decretal portion of the decision reads:

"PREMISES CONSIDERED, finding the decision of the lower court to be in accordance with the facts, evidences and law, the judgment appealed is hereby AFFIRMED IN TOTO.

SO ORDERED."^[17]

Unsatisfied, petitioner filed a Motion for Reconsideration,^[18] however it was denied by the RTC in an Order^[19] dated May 15, 2013.

Aggrieved with the decision, the petitioner interposed this petition raising the following issues, to wit:

- 1) Whether or not the petitioner/accused is guilty of reckless imprudence resulting to homicide?
- 2) Whether or not the point of impact occurring well within the accused's proper lane in this case, negates criminal liability of the petitioner/accused for reckless imprudence resulting to homicide?
- 3) Whether or not it was the deceased's recklessness in overtaking the pedicab in front of him and encroaching into the accused's proper lane that caused the deceased's death?

The Ruling of this Court

The petition lacks merit, hence the conviction of herein petitioner stands.

It is axiomatic that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors; gross misapprehension of facts; and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial.
^[20]

Guided by the above-mentioned doctrine and after a thorough evaluation of the parties' respective contentions, We find no sufficient reason to disturb the findings of guilt by the lower courts.

Evidently, the primordial question to be answered in this present controversy is who between the parties was negligent to have caused the unfortunate incident.

Crucial to this determination is the evidence or the testimonies of the witnesses who purportedly saw the incident as it transpired and the other documentary evidence relative thereto.

Eddie Sastre was presented^[21] by the defense to prove that it was the deceased who was actually at fault. The witness posited that while he was at the crossing of Bayawan East Elementary School, he saw the deceased riding his bicycle in a wobbly manner while traversing the National Highway, then the said deceased suddenly made a U-turn going to the elementary school's direction. Such sudden change of course by the deceased caused the collision between the latter and the petitioner, who at that time was riding his motorcycle on the opposite lane.

On the other hand, the prosecution presented Justo Toledo, who executed an affidavit^[22] and testified^[23] that he was riding a tricycle when the petitioner, who was driving his motorcycle in high speed, overtook them and hit the deceased, who came from the opposite lane and who at that moment was making a left turn at the

crossing. He further narrated that he saw the deceased turned turtle twice after the collision.

Verily, taking into consideration the findings of fact by the lower courts and the testimonies of the two witnesses, We find Toledo's testimony more credible. This is because his testimony jibe with the sketch^[24] prepared by the police who investigated the scene. As can be depicted from the sketch, the petitioner was overtaking a tricycle while approaching an intersection. Meanwhile, the deceased was on the other lane and was about to complete crossing the intersection going towards his left, when the collision happened. The illustration also showed how forceful the impact was, as the deceased and the petitioner were thrown a number of meters away from the point of impact.

Moreover, the testimony of the neuro-surgeon who attended to the deceased's injuries and the Certificate of Death^[25] of the said deceased also buttress the claim of the prosecution's witness that the petitioner was driving very fast. Dr. Krypton Kho testified^[26] that the deceased had a brain injury, wherein a segment of the skull was broken and was pushed inward to the brain. According to the doctor, this injury could have been caused by a direct blow to the right side of the head. In addition, the deceased also had a fractured arm and leg. Certainly, these major injuries signify that the impact caused by the collision was very strong, negating the claim of the defense that the petitioner was driving in a normal speed and that it was the deceased (riding a bicycle) who bumped the former.

Furthermore, We also observed inconsistencies in the testimony of the defense witness Eddie Sastre. In his direct testimony, it can be deduced from his narration that it was the petitioner who hit the deceased, while during cross-examination, he elucidated that it was the deceased who bumped the petitioner. Pertinent portions of his testimony are as follows:

Direct Examination

Q Now, when you said that the bicycle made a sudden change of
: direction, what happened right after that?

A He was hit by the motorcycle at the side of the road.^[27]
:

Cross-Examination

Q So, your (sic) telling this Honorable Court that it was the
: bicycle which bumped the motorcycle. Is that correct?

A Yes, because it was the bicycle who bumped the motorcycle
: because the bicycle "nilapaw".^[28]

It is also to be noted that the witness Eddie Sastre averred^[29] that it was only in the year 2010 that he was able to talk to the petitioner regarding the incident. Consequently, he only testified in court in 2011, which is approximately eleven (11) years from the time the incident happened. Such considerable length of time in the