

## TWENTY-SECOND DIVISION

[ CA-G.R. CR NO. 00975-MIN, February 12, 2014 ]

**EDUARDO LOQUERO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**INTING, J.:**

Before Us is a Petition for Review<sup>[1]</sup> under Rule 42 of the Rules of Court from the Decision<sup>[2]</sup> dated April 26, 2012 issued by the Regional Trial Court, 12<sup>th</sup> Judicial Region, Branch 21, Kapatagan, Lanao del Norte in Crim. Case No. 21-2051 which affirmed with modification the Decision<sup>[3]</sup> dated September 30, 2011 of the Municipal Circuit Trial Court (MCTC) of Lala-Salvador, Lanao del Norte in Crim. Case No. 8417 entitled "*People of the Philippines v. Eduardo A. Loquero.*" The dispositive portion<sup>[4]</sup> of which reads:

WHEREFORE, in the light of the foregoing consideration, the Court affirms the decision of the Court a quo convicting accused-appellant Eduardo A. Loquero, promulgated on September 30, 2011, and the award for damages, but with modification as to the nature of civil liability of Rural Transit of Mindanao, Inc. (RTMI), as employer of said accused-appellant, from primary and solidary to subsidiary, and to increase moral damages from P50,000.00 to P100,000.00. With costs to the proceedings against accused-appellant.

SO ORDERED.

The facts are as follows:

Petitioner was charged with Reckless Imprudence Resulting in Homicide and Damage to Property before the Municipal Circuit Trial Court (MCTC) of Lala-Salavador, Lanao del Norte. The accusatory portion of the Information reads:

"That on or about 11:30 in the morning of 9<sup>th</sup> day of July, 2009, at Lanipao, Lala, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused EDUARDO A. LOQUERO, being then the driver and the person in charge of a Rural Bus of Mindanao Incorporated [RTMI] with body number 1171 and bearing plate number KVU-814, color red, and without taking the necessary precaution to avoid accident to person or damage to property, did then and there unlawfully and feloniously and in a reckless and imprudent manner while driving said bus along the National Highway of said municipality, causing by such carelessness, recklessness, imprudence and lack of precaution the said bus bumped, as in fact, it actually bumped EDGAR BAGALYOS and his driven motorcycle thereby causing damage to the said motorcycle and inflicting upon the latter mortal physical injuries which were the direct

and immediate cause of his death soon thereafter, and failed to provide assistance or helping hand to his victim, as he proceeded to his destination.”

At the arraignment, the petitioner entered a plea of “not guilty”. After the pre-trial was closed and terminated, trial ensued.

During the trial, the prosecution presented the victim’s daughter Maria Glenda B. Villagonzalo, Raymund Alejandro and Police Officer Ananias Abrenilla as witnesses. On the other hand, the defense presented petitioner Eduardo Loquero, bus conductor Rolindo Basinillo and dispatcher Rene Lacida.

Maria Glenda B. Villagonzalo testified that before the death of her father Edgar Bagaloyos in a vehicular accident, the latter was employed as General Services Officer and Acting Municipal Administrator of Lala, Lanao del Norte receiving a monthly salary in the amount of Twenty Eight Thousand (P28,000.00) Pesos, representation allowance in the amount of Nine Thousand Nine Hundred (P9,900.00) Pesos and traveling allowance in the amount of Two Thousand (P2,000.00) Pesos. In the course of the trial, the witness presented receipts to prove the expenses they incurred for the wake of Edgar Bagaloyos that lasted for ten (10) days. They incurred expenses for the coffin, tomb, snacks and meals in the total amount of One Hundred Seventy Eight Thousand Nine Hundred Nine (P178, 909.60) Pesos.

Prosecution witness Raymund Alejandro testified and narrated that at around 11:30 o’clock in morning of July 9, 2009, he was at the Oto Restaurant situated along Lanipao National Highway in front of the Municipal Hall of Lala. When he was about to pay for his lunch, he saw the victim Edgar Bagaloyos driving a motorcycle, making a hand signal by extending his left hand, and reaching the center of the road. At that point, Raymund Alejandro saw a speeding Rural Transit bus bump the motorcycle driven by Edgar Bagaloyos. After the collision, the bus slowed down but did not stop. It proceeded to its direction.

PO3 Ananias Abrenilla, a police investigator, also testified in court and narrated that a few minutes after the incident, he arrived at the scene of the vehicular incident and conducted an investigation. The persons who witnessed the incident informed him that it was the Rural Transit bus that bumped the driven motorcycle of Edgar Bagaloyos. The bus was not in the vicinity as it did not stop after the collision. What he saw at the scene was the damaged motorcycle driven by the victim. He further narrated that he prepared a sketch report of the incident. In the sketch report he stated that per his observation, the motorcycle driven by Edgar Bagaloyos was thrown thirty (30) meters away from the point of impact of the collision. As to the skid marks, he observed that “there was only one caused by a double tire from the left most portion of the right lane facing to Iligan City entering the left lane going to Iligan City until it stop with a length of 30 meters, more or less”.<sup>[5]</sup>

For the defense, witness Rolindo Basinillo testified that it was noontime of July 9, 2009 when the Rural Transit Bus bus left Kapatagan, Lanao del Norte bound for Iligan City with eleven (11) passengers. He was sitting at the third seat from the driver. When the bus reached the bridge of Lanipao, he saw a motorcycle ahead of the bus. The driver (petitioner Loquero) of the bus blew his horn. Then he saw the driver (the deceased Edgar Bagaloyos) of the motorcycle execute a hand signal with his left hand as the motorcycle had no signal light, and make a left turn. However, the motorcycle suddenly returned to the center of the road. At that instance, the

bus bumped the motorcycle. With the impact of the collision, the motorcycle driver was thrown away. The driver of the bus wanted to stop but the other passengers told him to proceed instead to Baroy. Upon reaching Baroy, the bus driver surrendered to the police authorities at the PNP, Baroy, Lanao del Norte.

Petitioner Eduardo Loquero, the driver of the Rural Transit bus testified and narrated that at around 11:30 o'clock in the morning, he was traversing the national highway of Lanipao, Lala, Lanao del Norte when he noticed a single motorcycle, which was thirty (30) meters, more or less, in front of his bus. He attempted to overtake the motorcycle by swerving to the left portion of the national highway. But while he was in the process of overtaking, he saw the driver of the single motorcycle extending his left hand – a signal that he would turn left. Seeing that situation, he blew his horn twice in order to alert him that he would overtake his driven motorcycle. At that time, he was about 15 meters away from the motorcycle running at the speed of sixty (60) kilometers per hour, more or less. He then immediately applied his brakes when he noticed that the motorcycle already reached the distance of three (3) meters from the center line.

Petitioner further narrated that after the motorcycle reached the distance of 3 meters from the center, it returned to its lane. It was at that instance that he bumped the motorcycle when it was at the left lane of the highway and about one (1) meter from the center. The bumper of his truck hit the back portion of the motorcycle and the driver was thrown away at a distance of fifteen (15) meters. He did not stop his truck because he got afraid. Instead, he proceeded to Baroy, Lanao del Norte and surrendered to the police authorities there.

The last witness for the defense, Rene Lacida, the dispatcher assigned at Kapatagan Terminal of the Rural Transit Mindanao, Inc. testified that he knows petitioner Eduardo Loquero as the driver of Rural Transit bus 1171. He said that the bus driven by the petitioner arrived at 9: 45 in the morning of July 9, 2009 at Kapatagan, Lanao del Norte as its first trip from Iligan City. The bus left Kapatagan as its second trip on the same date at about 11: 05 in the morning bound for Cagayan de Oro City. The witness denied that the bus driven by the petitioner suffered mechanical trouble when it left Kapatagan.

On September 30, 2011, the Metropolitan Circuit Trial Court, (MCTC) Lala-Salvador, Lanao del Norte rendered a Decision.<sup>[6]</sup> The dispositive portion<sup>[7]</sup> of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Edgardo (sic) A. Loquero, guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide and damage to property and sentences him to suffer the penalty of imprisonment of arresto mayor in its maximum period, as minimum to prision correccional in its medium period, as maximum, which has the range of 6 months and 1 day, as minimum to 4 years and 2 months, as maximum.

The Rural Transit Bus of Mindanao, Incorporated (RTMI), is adjudged primarily and solidarily to pay the surviving heirs of the victim Edgar Bagaloyos, the amount of P50,000 representing the civil indemnity of the death of Edgar Bagaloyos; P50,000.00, representing moral damages, P178,909.06 representing the actual expenses incurred; P20,000.00, representing the damage incurred by the motorcycle; P704,327.00; representing the lost earning of the victim; and 30,000.00, representing

exemplary damages and to pay to the court the docket fee of the total damages awarded to be computed by the Clerk of Court.

SO ORDERED.

Totally dissatisfied with the ruling of the MCTC, petitioner appealed the case before Branch 21, Regional Trial Court of Lanao del Norte. On April 26, 2012, the RTC rendered a Decision<sup>[8]</sup> affirming with modification the Decision of the MCTC. The dispositive portion<sup>[9]</sup> of which states:

WHEREFORE, in the light of the foregoing consideration, the Court affirms the decision of the Court a quo convicting accused-appellant Eduardo A. Loquero, promulgated on September 30, 2011, and the award for damages, but with modification as to the nature of civil liability of Rural Transit of Mindanao, Inc. (RTMI), as employer of said accused-appellant, from primary and solidary to subsidiary, and to increase moral damages from P50,000 to P100,000.00. With costs to the proceedings against accused-appellant.

SO ORDERED.

The petitioner filed a Motion for Reconsideration<sup>[10]</sup> but the RTC denied it in its Order<sup>[11]</sup> dated May 31, 2012.

Aggrieved, petitioner filed the present petition and raised the following assignment of errors<sup>[12]</sup>:

I. THE HONORABLE REGIONAL COURT A QUO SERIOUSLY ERRED IN HOLDING THAT HEREIN PETITIONER WAS NEGLIGENT DESPITE OF ITS FINDING THAT HEREIN PETITIONER WAS ALREADY IN THE PROCESS OF OVERTAKING WHEN THE DECEASED VEERED TO HIS LEFT.

II. THE HONORABLE REGIONAL TRIAL COURT A QUO SERIOUSLY ERRED IN AWARDING MORAL AND EXEMPLARY DAMAGES; WORST IN INCREASING THE AMOUNT OF MORAL DAMAGES FROM PHP50,000.00 TO PHP100,000.00.

III. THE HONORABLE REGIONAL TRIAL COURT A QUO SERIOUSLY ERRED IN AFFIRMING THE EXCESSIVE DAMAGES AWARDED BY THE MCTC TO THE HEIRS OF THE DECEASED.

#### Our Ruling

The appeal is without merit.

At the outset, We observed that the RTC affirmed the decision of the MCTC convicting the petitioner based on Article 2176 of the Civil Code. The MCTC in its Decision, particularly in pages 6, 11 and 12 state:

Article 2176 of the Civil Code, provides, 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 is no pre-existing contractual relations between the parties, is called a quasi-delict.*" To sustain a claim based on quasi-delict, the following requisites must

concur: (a) damage suffered by the plaintiff; (b) fault or negligence of the defendant; and (c) connection of cause and effect between the fault or negligence and the damage incurred by the plaintiff.

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Clearly, accused's negligence is the proximate cause of the bumping which claimed the life of Edgar Bagaloyos. Proximate cause is that which, in the natural and continuous sequence, unbroken by any efficient, intervening cause, produces the injury and without which the result would not have occurred. The cause of the bumping which claimed the life of Bagaloyos is traceable to the negligent act of the accused driver for if accused was not over speeding and the brakes were not defective, the mishap in all probability would not have happened.

But as correctly pointed out by the Office of the Solicitor General, the instant case is a criminal case since the petitioner was charged in a Criminal Information with Reckless Imprudence Resulting in Homicide and Damage to Property. In so doing, the cause of action must be based on *delict* and not on *quasi-delict*. Thus, the applicable law in the present case is Article 365 of the Revised Penal Code and not Article 2176 of the Civil Code.

While We are aware that this is not one of the issues or assigned errors raised by the petitioner in this appeal, We can still rule upon it, in consonance with the Supreme Court's pronouncement in *People v. Rondero*,<sup>[13]</sup> which provides that when an accused appeals from the judgment of his conviction, he waives his constitutional guarantee against double jeopardy and throws the entire case open for appellate review. Corollarily, the Court is called upon to render such judgment as law and justice dictate in the exercise of its concomitant authority to review and sift through the whole case to correct any error, even if unassigned.

We find that the court *a quo* failed to consider the application of Article 365 of the Revised Penal Code in the conviction of the accused-petitioner.

Article 365 of the Revised Penal Code expressly provides for the definition of reckless imprudence –

Reckless imprudence consists in voluntarily, 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.

The elements of reckless imprudence are: (1) that the offender does or fails to do an act; (2) that the doing or the failure to do that act is voluntary; (3) that it be without malice; (4) that material damage results from the reckless imprudence; and (5) that there is inexcusable lack of precaution on the part of the offender, taking into consideration his employment or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time and place.

Judging from the foregoing standard, We find that the petitioner is guilty of reckless imprudence. As aptly found by the MCTC which was sustained by the RTC:

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