

## **SPECIAL THIRD DIVISION**

**[ CA-G.R. CR No. 34502, May 19, 2014 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN BARRION Y VILLALUNA, ACCUSED-APPELLANT.**

### **DECISION**

**BUESER, J.:**

Before the Court is an appeal from the Decision<sup>[1]</sup> rendered by the Regional Trial Court, Branch 39 of Calapan City finding the accused-appellant guilty of Reckless Imprudence Resulting in Double Homicide in Criminal Case No. C-05-8284 entitled "People of the Philippines vs. Edwin Barrion y Villaluna".

Culled from the records<sup>[2]</sup> are the following pertinent, material antecedent facts:

On October 25, 2005, at around 4:00 o'clock in the morning, complainants Renemer Obando (Renemer), Marvin Ortega (Marvin), Marlon Padua (Marlon), Arjay Obando (Arjay), Antonio Cabrera (Antonio), Galore Gaytona (Galore), and Jefferson Panganiban (Jefferson) were at the house of Reagan Ortega (Reagan) in Barangay Caanan, Victoria, Oriental Mindoro. Private complainants were to accompany Mario Pacion (Mario) to the pier of Calapan City, Oriental Mindoro to catch the 5:00 o'clock Supercat trip.

About ten minutes later, the entire group left Reagan's house for Calapan Pier on board a Toyota Tamaraw FX driven by Reagan. Seated beside Reagan were Marvin and Renemer, while Mario, Antonio and Arjay were seated behind the driver's seat. On the other hand, Marlon, Jefferson and Galore took the back seat.

While traversing the national highway of Victoria, Oriental Mindoro at a speed of around 50km/hr., private complainants noticed an oncoming Isuzu truck with its headlight on high beam. Renemer advised Reagan to signal the oncoming truck to turn its headlight on low beam. Renemer further noticed that the said truck was at its full speed and encroaching their lane. As advised, Reagan made the signals and slowed down. However, the truck made no response to the flashed signals and continued on a high beam, impairing Reagan's vision. Thereafter, the truck collided with the private complainants' vehicle. The said collision resulted to the death of Reagan and Mario and caused injuries to the others. The driver of the truck turned out to be the accused-appellant.

Accused-appellant Edwin Barrion y Villanueva was charged with Reckless Imprudence Resulting in Double Homicide, Multiple slight Physical Injuries and Damage to Property, defined and penalized under Article 365 of the Revised Penal Code (RPC), in an Information which reads:

"That on or about 25<sup>th</sup> day of October 2005, at around 4:30 a.m in the morning more or less, along the National Highway of Barangay Poblacion

IV, Municipality of Victoria, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above named accused, being then and there the driver of an Isuzu eight-wheeler truck with plate number RAF 971 owned by Marlon Castillo, willfully, unlawfully and with reckless imprudence, and in violation of traffic rules and regulations, managed and drove said vehicle in careless manner without due regard to traffic conditions, and without sounding a horn or attracting in any other way the attention of other motor vehicles, or keeping to the right-hand side of the street according to the direction he was going, thereby permitting the said truck to hit and bump the Toyota Tamaraw FX with plate number TSS 135 owned by Alfredo Ortega SR., and driven by Reagan Ortega thereby causing the untimely demise of the said REAGAN ORTEGA and MARIO ROMEO PACION; causing slight physical injuries on ARJAY OBANDO, 17 years old, MARLON PADUA, RENEMER OBANDO, ANTONIO CABRERA, JEFFERSON PANGANIBAN, GALORE GAYTANO, AND MARVIN ORTEGA who were also on board the said Toyota Tamaraw FX; and that because of the incident, the said Toyota Tamaraw FX sustained and that because of the incident, the said Toyota Tamaraw FX sustained damages, to the damage and prejudice of the complainants.

Contrary to law.”

When arraigned, accused-appellant, assisted by counsel, pleaded not guilty to the charge. Thereafter, trial on the merits ensued.

Subsequently, the court a quo rendered its assailed Decision dated September 6, 2011 finding appellant guilty as charged. The dispositive portion of the decision reads:

“**ACCORDINGLY**, in view of the forgoing, the Court finds the accused EDWIN BARRION y VILLANUEVA **GUILTY** beyond reasonable doubt as principal of the crime of RECKLESS IMPRUDENCE RESULTING TO DOUBLE HOMICIDE AND MULTIPLE SLIGHT PHYSICAL INJURIES AND DAMAGE TO PROPERTY, defined and punished under Article 365 of the Revised Penal Code, and sentence him to suffer an indeterminate penalty of imprisonment ranging **FOUR (4) MONTHS OF ARRESTO MAYOR, AS MINIMUM, TO FOUR (4) YEARS, TWO (2) MONTHS OF PRISON CORRECTIONAL, AS MAXIMUM.**

The accused is likewise ordered to **PAY**:

- the HEIRS OF THE DECEASED REAGAN L. ORTEGA, the following amounts:
  - a) P50,000.00 as and for indemnity for death of Reagan L. Ortega
  - b) P500,000.00 as and for actual damages;
  - c) P50,000.00 as and for moral damages;
  - d) P50,000.00 as and for exemplary damages;
  - e) P25,000.00 as and for attorney's fees plus P2,500.00 for every court appearance;
  - f) P200,000.00 as and for temperate damages; and
  - g) P1,000,000.00 as and for temperate damages in lieu

of damages for loss of earning capacity of deceased Reagan L. Ortega;

- the HEIRS PF THE DECEASED MARIO ROMEO PACION the following amounts:
  - a) P50,000.00 as and for indemnity for death of Marion Romeo Pacion;
  - b) P50,000.00 as and for temperate damages in lieu of actual damages;
  - c) P50,000.00 as and for moral damages;
  - d) P50,000.00 as and for exemplary damages;
  - e) P500,000.00 as and for temperate damages in lieu of damages for loss of earning capacity of deceased Mario Romeo Pacion;
- ARJAY OBANDO, RENER OBANDO, MARLON PADUA, ANTONIO CABRERA, JEFFERSON PANGANIBAN, GALORE GAYTANO, and MARVIN ORTEGA the following amounts:
  - a) P30,000.00 each, as and for moral damages
  - b) P10,000.00 each as and for temperate damages in lieu of actual damages; and
  - c) P50,000.00 each, as and for exemplary damages;
  - d) the cost of suit

SO ORDERED.”

Aggrieved, accused-appellant interposed this appeal raising the following arguments:

I

THE ACCUSED-APPELLANT WAS DRIVING HIS ISUZU TRUCK AT AN ALLOWABLE RATE OF SPEED BY TRAFFIC RULES AND REGULATIONS.

II

THE DECEASED DRIVER OF THE ILL-FATED TAMARAW FX WAS COMMITTING TWO (2) TRAFFIC VIOLATIONS AT THE TIME OF THE ACCIDENT.

III

THE DECEASED DRIVER OF THE TAMARAW FX ENCROACHED ON THE LANE OF THE ROAD OF THE ACCUSED-APPELLANT.

IV

THE COURT A QUO REQUIRED TOO MUCH FROM THE ACCUSED-APPELLANT IN PUTTING ALL THE BLAME ON HIM.

V