835 Phil. 521

FIRST DIVISION

[G.R. No. 197908, July 04, 2018]

VISITACION R. REBULTAN, CECILOU R. BAYONA, CECILIO REBULTAN, JR., AND VILNA R. LABRADOR, PETITIONERS, V. SPOUSES EDMUNDO DAGANTA AND MARVELYN P. DAGANTA, AND WILLIE VILORIA, RESPONDENTS.

D E C I S I O N

JARDELEZA, J.:

This is a petition for review on *certiorari*[1] seeking to nullify the April 26, 2011 Decision[2] and July 20, 2011 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 92218 (collectively, Assailed Decision). The CA reversed the July 24, 2008 Decision[4] of Branch 70 of the Regional Trial Court (RTC) of Iba, Zambales in Civil Case No. RTC-1668-I, a case for damages.[5]

On May 3, 1999, at about 6:30 in the morning, along the National Highway in Barangay Mabanglit, Cabangan, Zambales, Cecilio Rebultan, Sr. (Rebultan, Sr.) and his driver, Jaime Lomotos (Lomotos), were on board a Kia Ceres, on their way to report for work in the Department of Environment and Natural Resources (DENR) in Masinloc, Zambales when they figured in a vehicular accident with an Isuzu-powered passenger jeepney driven by Willie Viloria (Viloria).[6] The Kia Ceres was traveling northbound to Iba, Zambales, while the jeepney was traveling southbound to Cabangan, Zambales.[7] The powerful impact resulted in serious physical injuries to Rebultan, Sr. and Lomotos, as well as physical damage to both vehicles. Rebultan, Sr., who was 60 years old[8] at that time, later died from his injuries.[9]

On February 15, 2000, the heirs of Rebultan, Sr. (petitioners) filed a complaint[10] for damages against Viloria, and Spouses Edmundo and Marvelyn P. Daganta (spouses Daganta) as the owners of the jeepney (collectively, respondents). Petitioners prayed for compensation for the loss of life and earning capacity of Rebultan, Sr., actual and moral damages, attorney's and appearance fees, as well as other just and equitable reliefs.[11]

In their answer with counterclaims,[12] respondents alleged that it was the driver of the Kia Ceres who was negligent, and who should be held responsible for the death of Rebultan, Sr. and the damages to the motor vehicles. As counterclaim, respondents sought the payment of: (1) P123,550.00 for the repair of the jeepney; (2) P700.00 per day beginning May 3, 1999 as lost income of Viloria; (3) P20,000.00 and P1,000.00 per hearing, as attorney's and appearance fees, respectively; and (4) P5,000.00 as miscellaneous expenses.[13]

Subsequently, respondents spouses Daganta filed a third-party complaint[14] against Lomotos. Lomotos denied liability and prayed for the dismissal of the third-party

complaint. As counterclaim, he sought the payment for moral damages, appearance fees, and attorney's fees.[15]

After trial, the RTC issued its Decision[16] dated July 24, 2008 finding Viloria negligent in driving the jeepney which led to the death of Rebultan, Sr. Spouses Daganta were found vicariously liable as the employers of Viloria. Together, they were held solidarily liable to pay the heirs of Rebultan, Sr. the following sums: (a) P71,857.15 as actual damages; (b) P50,000.00 as moral damages; (c) P1,552.731.72 as loss of earning capacity; and (d) P50,000.00 as attorney's fees. The RTC concluded that Viloria's continuous driving even when turning left going to a street is the proximate cause of the accident. It dismissed the third-party complaint against Lomotos.[17]

Respondents appealed the Decision before the CA but only as to the finding of negligence on the part of Viloria. They no longer appealed the dismissal of the third-party complaint.[18]

In its Assailed Decision, the CA reversed the RTC ruling and dismissed the complaint.[19] It ruled that it was Lomotos (not Viloria) who was negligent. Under Section 42(a) and (b), Article III, Chapter IV of Republic Act No. 4136[20] (R.A. No. 4136), Viloria had the right of way, being the driver of the vehicle on the right, and because he had already turned towards the left of the intersection.[21] This, according to the CA, is the import of the ruling in *Caminos, Jr. v. People*[22] which it found squarely applicable to this case. It held that Lomotos, being in violation of a traffic regulation, is presumed to be negligent under Article 2185 of the Civil Code.[23] There being no negligence on the part of Viloria, the spouses Daganta's vicarious liability cannot be imposed.[24] The CA noted that while respondents filed a third-party complaint against Lomotos, it cannot reverse its dismissal because respondents did not appeal the same.[25]

The CA likewise denied the petitioners' motion for reconsideration.[26]

Hence, this petition where petitioners argue that the CA erred in finding no negligence on the part of Viloria despite the following: (1) the conflicting testimony of Viloria shows that he had not yet made a left turn towards the barangay road;[27] (2) the testimony of Lomotos established that Viloria was racing a mini-bus and abruptly swerved to the left, which was corroborated by Traffic Accident Report No. 99002[28] dated May 3, 1999;[29] (3) the sketch relied upon by the CA was prepared by respondents' counsel and only to confirm the jeepney's location at the time of the accident;[30] (4) the photographs, which were taken only after the collision when both vehicles were already found on the same side of the highway, were not authenticated by the person or persons who took them;[31] (5) the inconsistency in Viloria's testimony as to the reason why he was turning left confirms that it was a mere afterthought to avoid the approaching Kia Ceres;[32] and (6) the evidence shows that Lomotos was driving the Kia Ceres along the proper lane, while Viloria had overtaken a bigger vehicle in disregard of the law against reckless driving.[33]

In their comment,[34] respondents manifested that there being no new matters raised by petitioners, they are adopting their previous arguments in their

"Opposition"[35] dated May 30, 2011 filed before the CA.

Petitioners, by way of reply,[36] reiterate that the traffic accident report and the testimonial evidence show that Viloria was negligent when he recklessly overtook a mini-bus, and only maneuvered the jeepney to the left side of the road to avoid collision with the on-coming Kia Ceres.

The issue before us is whether Viloria was negligent in driving the jeepney at the time of the collision.

We grant the petition.

I

Prefatorily, we reiterate that in a petition for review under Rule 45, only questions of law may be raised. Our jurisdiction is limited to reviewing only errors of law, and not weighing all over again evidence already considered in the proceedings below. The resolution of factual issues is the function of lower courts, whose findings are accorded with respect, unless certain exceptions are present to warrant review of these findings.[37]

The issue of negligence is factual.[38] Nevertheless, we find that there are exceptions to the rule that the CA's findings of fact are generally conclusive and may not be reviewed under a petition for review on *certiorari* under Rule 45. Evidently, the RTC and the CA have contradictory factual findings: the former found that Viloria was negligent, while the latter adjudged that it was Lomotos who was negligent. Our examination of the records shows that the CA made an inference from its findings of fact that is manifestly mistaken.

The CA's bases in concluding that Lomotos did not yield to Viloria because the latter had the right of way are paragraphs (a) and (b), Section 42 of R.A. No. 4136, and *Caminos, Jr. v. People*.[39] Section 42(a) and (b) of R.A. No. 4136 states:

ARTICLE III
Right of Way and Signals

> Sec. 42. Right of Way. - (a) When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right, except as otherwise hereinafter provided. The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.
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> (b) The driver of a vehicle approaching but not having entered an intersection, shall yield the right of way to a vehicle within such intersection or turning therein to the left across the line of travel of such first-mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required in this Act.

Caminos, Jr., on the other hand, involved a criminal case of reckless imprudence resulting in damage to property. In that case, a vehicular accident happened in the intersection of Ortigas Avenue and Columbia Street. The vehicles that collided were traversing Ortigas Avenue in separate directions: Vehicle A was going towards the direction of Epifanio Delos Santos Avenue (EDSA), while Vehicle B was going

towards the direction of San Juan. As Vehicle A was about to make a left turn in Columbia Street, Vehicle B rammed into its right-hand side. Per the traffic report, Vehicle A, which was turning left towards EDSA, had "no right of way," while the vehicle going straight "was exceeding at lawful speed." The driver of Vehicle B raised the defense that he had the right of way, to which Vehicle A's driver must yield to. [40]

In interpreting Section 42(a) and (b) of R.A. No. 4136, we clearly said in *Caminos, Jr.* that the vehicle making a turn to the left is under the duty to yield to the vehicle approaching from the opposite lane on the right:

> The provision [Section 42 (a) and (b) of R.A. No. 4136] governs the situation when two vehicles approach the intersection from the same direction and one of them intends [to] make a turn on either side of the road. But the rule embodied in the said provision, also prevalent in traffic statutes in the United States, has also been liberally applied to a situation in which two vehicles approach an intersection from directly opposite directions at approximately the same time on the same street and one of them attempts to make a left-hand turn into the intersecting street, so as to put the other upon his right, **the vehicle making the turn being under the duty of yielding to the other**.[41] (Emphasis supplied; citation omitted.)

Thus, the CA clearly misconstrued *Caminos, Jr*. and erred when it held that the import of our pronouncement is that the driver turning left at the intersection had the right of way.

In affirming that the driver of Vehicle B was guilty of reckless imprudence, we ruled that even if he had in his favor the right of way, he was still negligent for his failure to observe the proper speed limit. We said further in *Caminos, Jr.* that the invocation of the statutory right of way is not a magic word that gives one who has it unbridled discretion in driving and the opposite party the complete duty to be on the lookout. It does not relieve the driver in whose favor the right of way is given from his obligation to exercise prudence in his driving, with due regard to all circumstances and road conditions:

> Nevertheless, the right of way accorded to vehicles approaching an intersection is not absolute in terms. It is actually subject to and is affected by the relative distances of the vehicles from the point of intersection. Thus, whether one of the drivers has the right of way or, as sometimes stated, has the status of a favored driver on the highway, is a question that permeates a situation where the vehicles approach the crossing so nearly at the same time and at such distances and speed that if either of them proceeds without regard to the other a collision is likely to occur. Otherwise stated, the statutory right of way rule under Section 42 of our traffic law applies only where the vehicles are approaching the intersection at approximately the same time and not where one of the vehicles enter the junction substantially in advance of the other.
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> Whether two vehicles are approaching the intersection at the same time does not necessarily depend on which of the vehicles enters the intersection first. Rather, it is determined by the imminence of collision when the relative distances and speeds of the two vehicles are

considered. It is said that two vehicles are approaching the intersection at approximately the same time where it would appear to a reasonable person of ordinary prudence in the position of the driver approaching from the left of another vehicle that if the two vehicles continued on their courses at their speed, a collision would likely occur, hence, the driver of the vehicle approaching from the left must give the right of precedence to the driver of the vehicle on his right.

Nevertheless, **the rule requiring the driver on the left to yield the right of way to the driver on the right on approach to the intersection, no duty is imposed on the driver on the left to come to a dead stop, but he is merely required to approach the intersection with his vehicle *under control* so that he may yield the right of way to a vehicle within the danger zone on his right.** He is not bound to wait until there is no other vehicle on his right in sight before proceeding to the intersection but only until it is reasonably safe to proceed. Thus, in *Adzuara v. Court of Appeals*, it was established that a motorist crossing a thru-stop street has the right of way over the one making a turn; but if the person making the turn has already negotiated half of the turn and is almost on the other side so that he is already visible to the person on the thru-street, he is bound to give way to the former.[42] (Emphasis and italics supplied; citations omitted.)

Otherwise stated, the driver who has a favored status is not relieved from the duty of driving with due regard for the safety of other vehicles and from refraining from an "arbitrary exercise of such right of way."

Applying *Caminos, Jr.*, it is apparent that it is the Kia Ceres which had the right of way. The jeepney driver making a turn on the left had the duty of yielding to the vehicle on his right, the approaching Kia Ceres driven by Lomotos. Similarly with Vehicle A in *Caminos, Jr*., the jeepney does not have the right of way. Additionally, we do not find the CA's conclusion that the jeepney was already at the intersection, making him the favored driver, to be supported by the records. Thus, we find that the CA erred in holding that it was Viloria, as the jeepney's driver, who had the right of way.

Nevertheless, we still find Lomotos negligent.

Similar to *Caminos, Jr*., records show that Lomotos drove the Kia Ceres at an unlawful speed. Traffic Accident Report No. 99002 supports that Lomotos was guilty of "overspeeding," and his error is listed as driving "too fast."[43] This was corroborated by respondents' witness, Ronald Vivero, who relayed that the Kia Ceres was approaching fast and that it made a loud screech due to its break[44] which indicated the high speed at which it approached the intersection. Thus, we affirm the CA's conclusion that Lomotos was negligent at the time of the collision.

II

We find, however, that Viloria's negligence contributed to the accident.

All motorists are expected to exercise reasonable caution in operating his vehicle. This duty is found in Section 48 of R.A. No. 4136: