

## FIRST DIVISION

[ G.R. No. 195671, January 21, 2015 ]

**ROGELIO J. GONZAGA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated September 18, 2009 and the Resolution<sup>[3]</sup> dated January 26, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 00427-MIN, which affirmed the Decision<sup>[4]</sup> dated July 31, 2006 of the Regional Trial Court of Malaybalay City, Bukidnon, Branch 10 (RTC) in Criminal Case No. 9832-99, finding petitioner Rogelio J. Gonzaga (Rogelio) guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Homicide with Double Serious Physical Injuries and Damage to Property under Article 365 in relation to Article 263 of the Revised Penal Code (RPC).

#### The Facts

At around 6 o'clock in the morning of June 25, 1997, Dionesio Inguito, Sr. (Dionesio, Sr.) was driving his motorcycle along Brgy. Kiara, Don Carlos, Bukidnon towards Brgy. Bocboc<sup>[5]</sup> of the same municipality, to bring his two (2) minor children, Dionesio Inguito, Jr. (Dionesio, Jr.) and Cherry Inguito<sup>[6]</sup> (Cherry), to school.<sup>[7]</sup> While they were ascending the curving road going to Bocboc on their proper lane on the right side of the road, a Toyota Land Cruiser (Land Cruiser) driven by Rogelio was swiftly descending the same lane from the opposite direction. Dionesio, Sr. blew the horn of his motorcycle to signal the Land Cruiser to return to its proper lane but the Land Cruiser remained.<sup>[8]</sup> In order to avoid collision, Dionesio, Sr. tried to swerve to the left, but the Land Cruiser suddenly swerved towards the same direction and collided head-on with the motorcycle.<sup>[9]</sup>

As a result of the collision, Dionesio, Sr. and his 2 children were thrown off the motorcycle. Dionesio, Sr. was pinned beneath the Land Cruiser,<sup>[10]</sup> while Cherry and Dionesio, Jr. were thrown over the hood of the Land Cruiser and fell on the side of the road,<sup>[11]</sup> causing injuries to their legs. Siblings Rolf, Cherry,<sup>[12]</sup> and Jenny Ann Aquino, who were traversing the same road aboard their own motorcycle, stopped to help and placed the victims together<sup>[13]</sup> on the rightmost side of the road facing Brgy. Bocboc,<sup>[14]</sup> while Rogelio remained inside the Land Cruiser.<sup>[15]</sup>

Rolf left the scene of the incident to seek further assistance, leaving his two (2) sisters to cater to the victims.<sup>[16]</sup> Eventually, he chanced upon Kagawad Nerio Dadivas (Kgd. Dadivas), who had just opened his store, and informed the latter of the vehicular accident. After reporting the incident to the police and getting his

vehicle, Kgd. Dadivas proceeded to the site and loaded the victims to his vehicle with Rolf's assistance.<sup>[17]</sup> Meanwhile, Rolf went to Brgy. Kawilihan to inform Dionesio, Sr.'s wife, Clemencia Inguito (Clemencia), of what had transpired.<sup>[18]</sup>

Thereafter, the victims were brought to the Emergency Hospital of Maramag where they were treated.<sup>[19]</sup> Operations were performed on the legs of Dionesio, Jr. and Dionesio, Sr., but the latter eventually expired. Cherry's leg was placed in a cast and she was confined in the hospital, together with Dionesio, Jr., for more than one (1) month, or until July 26, 1997.<sup>[20]</sup> All the expenses were shouldered by Clemencia.<sup>[21]</sup>

In view of the foregoing mishap, the provincial prosecutor filed an Information<sup>[22]</sup> charging Rogelio for Reckless Imprudence Resulting to Homicide with Double Serious Physical Injuries and Damage to Property "with the aggravating circumstance that accused failed to lend on the spot to the injured party such help that was in his hands to give"<sup>[23]</sup> before the RTC. Upon arraignment,<sup>[24]</sup> Rogelio entered a plea of not guilty.<sup>[25]</sup>

In his defense, Rogelio claimed that he was driving the Land Cruiser on his proper lane along the descending curving road towards the direction of Kalilangan, Bukidnon, when, from a distance of about 70 meters away, he saw the motorcycles driven by Dionesio, Sr. and Rolf racing towards the curve from the opposite direction.<sup>[26]</sup> Dionesio, Sr. was driving his motorcycle in a zigzag manner on the Land Cruiser's lane while Rolf was on his proper lane.<sup>[27]</sup> Undecided which side of the road to take to avoid collision, Rogelio stopped the Land Cruiser but the motorcycle of Dionesio, Sr., nonetheless, bumped into it.<sup>[28]</sup> As a result of the impact, Cherry and Dionesio, Jr. were thrown over the roof and the hood of the Land Cruiser, respectively, and fell on the side of the road, while Dionesio, Sr. and the motorcycle were pinned beneath the land Cruiser.<sup>[29]</sup> With the use of a jack handle and the assistance of two (2) persons, *i.e.*, Jose Bacus and Reynaldo Quidato, who arrived at the scene, he was able to retrieve both Dionesio, Sr. and the motorcycle from beneath the Land Cruiser. Thereafter, they loaded the victims on board the Land Cruiser so they may be brought to the hospital, but the vehicle turned out to have defective brakes, so he asked other persons to secure another vehicle instead.<sup>[30]</sup>

### **The RTC Proceedings**

In a Decision<sup>[31]</sup> dated July 31, 2006 (July 31, 2006 Decision), the RTC found Rogelio guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Homicide with Double Serious Physical Injuries and Damage to Property punishable under Article 365 in relation to Article 263 of the RPC.<sup>[32]</sup>

It held that Rogelio's act of driving very fast on the wrong side of the road was the proximate cause of the collision, resulting to the death of Dionesio, Sr. and serious physical injuries to Dionesio, Jr. and Cherry. Considering further that Rogelio failed to offer any help to the victims,<sup>[33]</sup> the RTC sentenced him to suffer a higher indeterminate penalty of four (4) years, two (2) months of *prision correccional* maximum, as minimum, to eight (8) years and one (1) day of *prision mayor* medium, as maximum, and ordered him to pay the following civil liabilities: (a)

P50,000.00 as moral damages for the death of Dionesio, Sr.; (b) P30,000.00 as moral damages for the mental anguish suffered by the family; (c) P200,000.00 for the medical expenses incurred; (d) P25,000.00 for the expenses incurred during the wake and the burial; (e) P30,000.00 for the damaged motorcycle; (f) P60,000.00 for the loss of earning capacity; and (g) P30,000.00 as attorney's fees.<sup>[34]</sup>

Rogelio filed a motion for reconsideration<sup>[35]</sup> which was partly granted in a Resolution<sup>[36]</sup> dated February 22, 2007, reducing the penalty to four (4) months and one (1) day of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum, with the same civil liabilities. The RTC reconsidered its opinion regarding Rogelio's claim of having extended aid to the victims, concluding that the jack handle that was used to get the body of Dionesio, Sr. beneath the Land Cruiser could have been his in the absence of showing who owned the same.<sup>[37]</sup> Aggrieved, Rogelio appealed to the CA.

### **The CA Ruling**

In a Decision<sup>[38]</sup> dated September 18, 2009, however, the CA reinstated the RTC's July 31, 2006 Decision, thereby imposing on Rogelio the original indeterminate penalty of four (4) years, two (2) months of *prision correccional* maximum, as minimum, to eight (8) years and one (1) day of *prision mayor* medium, as maximum, and the same civil liabilities,<sup>[39]</sup> hence, this petition.

### **The Issue Before the Court**

The essential issue for the Court's resolution is whether or not the CA correctly upheld Rogelio's conviction in accordance with the RTC's July 31, 2006 Decision.

### **The Court's Ruling**

The petition lacks merit.

Reckless imprudence, as defined in Article 365<sup>[40]</sup> of the RPC, 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.

In order to establish a motorist's liability for the negligent operation of a vehicle, it must be shown that there was a direct causal connection between such negligence and the injuries or damages complained of. To constitute the offense of reckless driving, the act must be something more than a mere negligence in the operation of a motor vehicle – a willful and wanton disregard of the consequences is required.<sup>[41]</sup> Willful, wanton or reckless disregard for the safety of others within the meaning of reckless driving statutes has been held to involve a conscious choice of a course of action which injures another, either with knowledge of serious danger to others involved, or with knowledge of facts which would disclose the danger to any reasonable person. **Verily, it is the inexcusable lack of precaution or conscious indifference to the consequences of the conduct which supplies**

**the criminal intent and brings an act of mere negligence and imprudence under the operation of the penal law**, without regard to whether the private offended party may himself be considered likewise at fault.<sup>[42]</sup>

In the present case, the RTC and the CA uniformly found that Rogelio's act of **driving very fast on the wrong side of the road was the proximate cause of the collision**, resulting to the death of Dionesio, Sr. and serious physical injuries to Dionesio, Jr. and Cherry. Notably, the road where the incident occurred was a curve sloping upwards towards Brgy. Bocboc where the Inguitos were bound and descending towards the opposite direction where Rogelio was going. Indeed, the very fact of speeding, under such circumstances, is indicative of imprudent behavior. As a motorist, Rogelio was bound to exercise ordinary care in such affair by driving at a reasonable rate of speed commensurate with the conditions encountered, as this would enable him to keep the vehicle under control and avoid injury to others using the highway.<sup>[43]</sup> Moreover, it is elementary in traffic school that a driver slows down before negotiating a curve as it may be reasonably anticipated that another vehicle may appear from the opposite direction at any moment. Hence, excessive speed, combined with other circumstances such as the occurrence of the accident on or near a curve, as in this case, constitutes negligence.<sup>[44]</sup> Consequently, the Court finds that Rogelio acted recklessly and imprudently in driving at a fast speed on the wrong side of the road while approaching the curve where the incident happened, thereby rendering him criminally liable, as well as civilly accountable for the material damages resulting therefrom.

Nonetheless, while the CA and the RTC concurred that the proximate cause of the collision was Rogelio's reckless driving, the CA Decision made no mention as to the presence or absence of the ***limiting element in the last paragraph of Article 365 of the RPC***, which imposes the penalty next higher in degree upon the offender who "**fails to lend on the spot to the injured parties such help as may be in his hands to give.**" Based on case law, the obligation under this paragraph: (a) is dependent on the means in the hands of the offender, i.e., the type and degree of assistance that he/she, at the time and place of the incident, is capable of giving; and (b) requires adequate proof.<sup>[45]</sup>

It is well to point out that the RTC's July 31, 2006 Decision found that Rogelio failed to offer any help to the victims<sup>[46]</sup> and, thus, imposed on him the penalty next higher in degree. However, upon Rogelio's motion, the RTC reconsidered its earlier conclusion, holding that the jack handle that was used to get the body of Dionesio, Sr. beneath the Land Cruiser could have been his in the absence of showing who owned the same and, accordingly, reduced the penalty.<sup>[47]</sup> Nothing was said on this point by the CA which affirmed Rogelio's conviction based on the RTC's July 31, 2006 Decision.

The Court has perused the records and found contradictory testimonies presented by the prosecution and the defense on this matter. Considering however, that Cherry herself admitted that the victims were first loaded on the Land Cruiser before they were transferred to Kgd. Dadas's vehicle,<sup>[48]</sup> the Court is inclined to sustain Rogelio's claim that he tried to extend help to the victims, but when he started the engine with the intention to go to the hospital, he discovered that the vehicle had no

brakes.<sup>[49]</sup> Hence, in imposing the proper penalty on the accused, the qualifying circumstance under the last paragraph of Article 365 of the RPC should not be considered.

Here, Rogelio was charged with the offense of Reckless Imprudence Resulting to Homicide with Double Serious Physical Injuries and Damage to Property under Article 365 in relation to Article 263<sup>[50]</sup> of the RPC, a complex crime. Article 48 of the RPC provides that when a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime, in this case, Reckless Imprudence Resulting to Homicide, shall be imposed, the same to be applied in its maximum period.

Under Article 365 of the RPC, when reckless imprudence in the use of a motor vehicle results in the death of a person, as in this case, the accused shall be punished with the penalty of ***prision correccional in its medium and maximum periods***, i.e., two (2) years, four (4) months and one (1) day to six (6) years. Applying the Indeterminate Sentence Law,<sup>[51]</sup> the minimum of said penalty should be taken from *arresto mayor* in its maximum period to *prision correccional* in its minimum period, or four (4) months and one (1) day to two (2) years and four (4) months. Consequently, the Court finds a need to modify the penalty to be imposed on Rogelio and thus, sentences him to suffer an indeterminate penalty of two (2) years of *prision correccional* in its minimum, as minimum, to six years of *prision correccional* in its maximum, as maximum.

As a final note, the Court clarifies that the order for the payment of "moral damages" in the amount of P50,000.00 for the death of Dionesio, Sr. should be, properly speaking, denominated as one for the payment of "civil indemnity" as they were not awarded under the parameters of the Civil Code relevant thereto,<sup>[52]</sup> but was one "given without need of proof other than the fact of death as a result of the crime and proof of [the accused's] responsibility for it."<sup>[53]</sup> This is a palpable legal error which the Court should correct if only for terminological propriety. With the private complainant not herein impleaded, the rest of the RTC's July 31, 2006 Decision with respect to the civil liabilities awarded should remain undisturbed. Note that, in line with existing jurisprudence, interest at the rate of six percent (6) per annum shall be imposed on all damages awarded from the date of finality of judgment until fully paid.<sup>[54]</sup>

**WHEREFORE**, the petition is **DENIED**. The Decision dated September 18, 2009 and the Resolution dated January 26, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 00427-MIN, finding petitioner Rogelio J. Gonzaga guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Homicide with Double Serious Physical Injuries and Damage to Property under Article 365 in relation to Article 263 of the Revised Penal Code are hereby **AFFIRMED** with the following **MODIFICATIONS**:

- (a) Petitioner is sentenced to suffer an indeterminate penalty of two (2) years of *prision correccional* in its minimum, as minimum, to six (6) years of *prision correccional* in its maximum, as maximum; and
- (b) The award of P50,000.00 for the death of Dionesio Inguito, Sr. in favor of his heirs is denominated as "civil indemnity," instead of "moral damages."