

FIRST DIVISION

[G.R. No. 178145, July 07, 2014]

**REYNALDO S. MARIANO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

R E S O L U T I O N

BERSAMIN, J.:

The courts of law are hereby reminded once again to exercise care in the determination of the proper penalty imposable upon the offenders whom they find and declare to be guilty of the offenses charged or proved. Their correct determination is the essence of due process of law.

The Office of the Provincial Prosecutor of Bulacan charged the petitioner with frustrated murder for hitting and bumping Ferdinand de Leon while overtaking the latter's jeep in the information filed in the Regional Trial Court, Branch 81, in Malolos, Bulacan (RTC), viz:

That on or about the 12th day of September, 1999, in the municipality of Angat, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously, with the use of the motor vehicle he was then driving, with evident premeditation, treachery and abuse of superior strength, hit, bump and run over with the said motor vehicle one Ferdinand de Leon, thereby inflicting upon him serious physical injuries which ordinarily would have caused the death of the said Ferdinand de Leon, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of his will, that is, by the timely and able medical assistance rendered to said Ferdinand de Leon.

Contrary to law.^[1]

The CA summarized the antecedent events as follows:

At about 6:30 in the evening of September 12, 1999, Ferdinand de Leon was driving his owner type jeep along Barangay Engkanto, Angat, Bulacan. With him were his wife, Urbanita, and their two-year old son, as they just came from a baptismal party. Luis de Leon, an uncle of Ferdinand, also came from the baptismal party and was driving his owner type jeep. Accused-appellant Reynaldo Mariano was driving his red Toyota pick-up with his wife, Rebecca, and their helper, Rowena Años, as passengers. They had just attended a worship service in Barangay

Engkanto.

The Toyota pick-up overtook the jeep of Ferdinand de Leon and almost bumped it. Ferdinand got mad, overtook the pick-up and blocked its path. Reynaldo Mariano stopped the pick-up behind the jeep. Ferdinand alighted from his jeep and approached Reynaldo. Ferdinand claimed that he and Reynaldo had an altercation. However, Reynaldo insisted that he just stayed inside the pick-up and kept quiet while Ferdinand hurled invectives at him. Urbanita tried to pacify Ferdinand and sought the assistance of Luis de Leon. Luis intervened and told Ferdinand and Reynaldo "*magpasensiyahan na lamang kayo at pagpasensiyahan mo si Ferdinand.*" Ferdinand and Reynaldo heeded the advice of Luis and they went their separate ways.

Instead of proceeding to his house in Norzagaray, Ferdinand decided to drop by his mother's house in San Roque, Angat to pick up some items. He parked his jeep in front of the house of his mother and alighted therefrom. However, he was bumped by a moving vehicle, thrown four (4) meters away and lost consciousness. Urbanita shouted, "*Mommy, Mommy, nasagasaan si Ferdie.*" She identified the fast moving vehicle that bumped Ferdinand as the same red Toyota pick-up driven by Reynaldo.

On the other hand, Reynaldo and his wife, Rebecca, tried to show that the jeep of Ferdinand stopped on the road in front of the house of the latter's mother about five (5) to six (6) meters away from their pick-up. Reynaldo stopped the pick-up as he saw an oncoming vehicle, which he allowed to pass. Thereafter, Reynaldo made a signal and overtook the jeep of Ferdinand. However, Ferdinand suddenly alighted from his jeep, lost his balance and was sideswiped by the overtaking pick-up. Reynaldo did not stop his pick-up and he proceeded on his way for fear that the bystanders might harm him and his companions. After bringing his companions to their house in Marungko, Angat, Bulacan, Reynaldo proceeded to Camp Alejo S. Santos in Malolos, Bulacan to surrender and report the incident.

Ferdinand was brought to the Sto. Niño Hospital in Bustos, Bulacan, where he stayed for two and a half days and incurred medical expenses amounting to P17,800.00 On September 15, 1999, Ferdinand was transferred to St. Luke's Medical Center in Quezon City, where he stayed until September 25, 1999 and incurred medical expenses amounting to P66,243.25. He likewise spent P909.50 for medicines, P2,900.00 for scanning, P8,000.00 for doctor's fee and P12,550.00 for the services of his caregivers and masseur from September 12 to October 31, 1999. Ferdinand suffered multiple facial injuries, a fracture of the inferior part of the right orbital wall and subdural hemorrhage secondary to severe head trauma, as evidenced by the certification issued by Dr. Hernando L. Cruz, Jr. of St. Luke's Medical Center. Urbanita, received the amount of P50,000.00 from Reynaldo Mariano by way of financial assistance, as evidenced by a receipt dated September 15, 1999.^[2]

Under its decision rendered on May 26, 2003 after trial, however, the RTC convicted the petitioner of frustrated homicide,^[3] to wit:

WHEREFORE, the foregoing considered, this Court hereby finds the accused **Reynaldo Mariano GUILTY** for the lesser offense of Frustrated Homicide under Article 249 of the Revised Penal Code in relation to Article 50 thereof and is hereby sentenced to suffer the indeterminate penalty of **three (3) years and four (4) months of Prision Correccional as minimum to six (6) years and one (1) day of Prision Mayor** as maximum and is hereby directed to pay the complainant, Ferdinand de Leon, the amount of **P196,043.25 less P50,000.00 (already given) as actual damages, P100,000.00 as moral damages, and the costs of the suit.**

SO ORDERED.^[4]

On appeal, the CA promulgated its assailed decision on June 29, 2006,^[5] modifying the felony committed by the petitioner from frustrated homicide to reckless imprudence resulting in serious physical injuries, ruling thusly:

WHEREFORE, the Decision appealed from is **MODIFIED** and accused-appellant Reynaldo Mariano is found guilty of the crime of reckless imprudence resulting in serious physical injuries and is sentenced to suffer the indeterminate penalty of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year, seven (7) months and eleven (11) days of *prision correccional*, as maximum, and to indemnify Ferdinand de Leon in the amount of P58,402.75 as actual damages and P10,000.00 as moral damages.

SO ORDERED.^[6]

In this appeal, the petitioner argues that his guilt for any crime was not proved beyond reasonable doubt, and claims that Ferdinand's injuries were the result of a mere accident. He insists that he lacked criminal intent; that he was not negligent in driving his pick-up truck; and that the CA should have appreciated voluntary surrender as a mitigating circumstance in his favor.

Ruling

We affirm the conviction of the petitioner for reckless imprudence resulting in serious physical injuries.

The following findings by the CA compel us to affirm, to wit:

Reynaldo tried to show that he stopped his pick-up five (5) to six (6) meters behind the jeep of Ferdinand, as he allowed an oncoming vehicle

to pass. Thereafter, he overtook the jeep of Ferdinand. However, the fact that Ferdinand's body was thrown four (4) meters away from his jeep showed that Reynaldo was driving his pick-up at a fast speed when he overtook the jeep of Ferdinand. It is worthy to note that Reynaldo admitted that he has known Ferdinand and the latter's family since 1980 because they have a store where he used to buy things. As aptly observed by the OSG, Reynaldo should have foreseen the possibility that Ferdinand would alight from his jeep and go inside the house of his mother where the store is also located.

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As aptly observed by the court *a quo*, only a vehicle that is moving beyond the normal rate of speed and within the control of the driver's hands could have caused Ferdinand's injuries. The very fact of speeding is indicative of imprudent behavior, as a motorist must exercise ordinary care and drive at a reasonable rate of speed commensurate with the conditions encountered, which will enable him or her to keep the vehicle under control and avoid injury to others using the highway. As held in *People v. Garcia*:

"A man must use common sense, and exercise due reflection in all his acts; it is his duty to be cautious, careful, and prudent, if not from instinct, then through fear of incurring punishment. He is responsible for such results as anyone might foresee and for acts which no one would have performed except through culpable abandon. Otherwise his own person, rights and property, all those of his fellow-beings, would ever be exposed to all manner of danger and injury."

Thus, had Reynaldo not driven his pick-up at a fast speed in overtaking the jeep of Ferdinand, he could have easily stopped his pick-up or swerved farther to the left side of the road, as there was no oncoming vehicle, when he saw that Ferdinand alighted from his jeep and lost his balance, in order to avoid hitting the latter or, at least, minimizing his injuries.^[7]

The findings by the CA are controlling on the Court. Indeed, the findings of both lower courts on the circumstances that had led to the injuries of Ferdinand fully converged except for the RTC's conclusion that malicious intent had attended the commission of the offense. Such findings cannot be disturbed by the Court in this appellate review, for it is a well-settled rule that the findings of the trial court, especially when affirmed by the CA, are binding and conclusive upon the Court.^[8]

"Reckless imprudence consists in voluntary, 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."^[9] To constitute the offense of reckless driving, the act must be something more than a mere negligence in the operation of the motor vehicle, but a willful and wanton