

## SECOND DIVISION

[ G.R. No. 128474, October 06, 2004 ]

**ARNEL GABRIEL, PETITIONER, VS. COURT OF APPEALS AND  
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**TINGA, J.:**

The automobile has probably, directly or indirectly, caused more litigation than any other material objective of human endeavor in a corresponding period of time and even more so since its invention.<sup>[1]</sup> This Court, on occasion, is constrained to determine how and why particular motor vehicle accidents happen and whether the persons responsible are criminally liable. The applicable standards for vehicular accident cases have long been settled by jurisprudence and the correct application of such standards invariably hinges on the particular facts involved.<sup>[2]</sup> The Court's review though should by no means be perfunctory as the liberty of the accused is at stake.

The case emanates from a three-way vehicular collision on the night of 19 April 1990 along Maharlika Highway in San Pablo City, Laguna. Three persons died as a result, and for their death, petitioner Arnel Gabriel (Gabriel) was found guilty of the crime of *Reckless Imprudence Resulting to Double Homicide and Damage to Property* by the Regional Trial Court (RTC) of San Pablo City.<sup>[3]</sup> Gabriel fruitlessly appealed to the Court of Appeals, which modified the RTC's decision by finding Gabriel liable instead for *Reckless Imprudence Resulting to Multiple Homicide*.<sup>[4]</sup>

The Information against Gabriel reads:

The undersigned Asst. City Prosecutor accuses ARNEL GABRIEL of the crime of RECKLESS IMPRUDENCE RESULTING TO MULTIPLE HOMICIDE, SERIOUS PHYSICAL INJURIES AND DAMAGE TO PROPERTY under Art. 365 of the Revised Penal Code, committed as follows:

That on or about April 19, 1990, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, being then the driver and person in charge of a passenger type jeep with Plate No. NCF-726, owned by Marcelino Gabriel and insured with Interworld Assurance Corporation, Legaspi Village, Makati, Metro Manila, did then and there recklessly, carelessly, imprudently and negligently manage and operate said vehicle along Brgy. San Vicente, this city and without due regard to traffic rules and regulation (sic) and imprudence hit the Volkswagen car with Plate No. DAU-203 driven by Fernando

Pitargue and owned by Dr. Philip Plantilla, insured with Jon Doe Insurance, causing damage to said car in the amount of P50,000.00, Philippine Currency and inflicting mortal wounds to Fernando Pitargue and Carlos Asistido which caused their immediate death and injuries to Dr. Philip Plantilla which required medical attendance for a period of more than 30 days and incapacitated the said Dr. Philip Plantilla from performing his customary labor during the same period of time.

#### CONTRARY TO LAW.<sup>[5]</sup>

The three vehicles involved in the collision were a passenger type jeep (jeepney),<sup>[6]</sup> a Volkswagen Beetle car (Beetle),<sup>[7]</sup> and a six-wheeler Isuzu delivery truck (six-wheeler).<sup>[8]</sup> The Beetle carried three persons, including Dr. Philip Plantilla, director of the Nagcarlan District Hospital, who was injured in the accident. The other two occupants of the Beetle died in the accident — the driver, Fernando Pitargue, Sr., and Carlos Asistido.<sup>[9]</sup> The third fatality, Isabela Banes, was one of the passengers of the jeepney driven by Gabriel.<sup>[10]</sup> On the other hand, the six-wheeler was driven by Romeo Macabuhay, who also appeared as the principal witness of the prosecution.<sup>[11]</sup>

The mishap occurred on the stretch of the Maharlika Highway located in Barangay San Vicente, San Pablo City. The highway is a two-lane, two-way road. The prosecution alleged that on the night of the accident, the Beetle and the six-wheeler were both traveling on the same lane of Maharlika Highway, proceeding towards the direction of San Pablo City. The six-wheeler was behind the Beetle. The jeepney, on the other hand, was travelling the opposite lane on the way to Atimonan, Quezon, purportedly at high speed. After negotiating a curve, the jeepney veered out of its lane, swerving into the lane occupied by the Beetle and the six-wheeler. The jeepney collided with the left side of the Beetle, forcing the latter out of the road and into the right shoulder of the highway. The collision with the Beetle also forced the jeepney to turn turtle and thereafter hit the front portion of the truck, which was then fifteen (15) meters behind the Beetle. The second impact forced the jeepney into the same right shoulder lane where the stricken Beetle had rested. The six-wheeler meanwhile moved into the opposite side of the road and parked on the left shoulder of the highway.

The three fatalities died on the spot. Their bodies lay prostrate on the ground by the time the police arrived at the scene. The investigation at the scene was conducted by Patrolman Jerryson Laguras, who prepared a sketch showing the relative positions of the vehicles and other significant findings.<sup>[12]</sup> Laguras also prepared the police report. He testified as a prosecution witness. The prosecution also presented the truck driver, Macabuhay, who recounted the collisions he had witnessed. Dr. Plantilla likewise testified on the injuries he sustained and the expenses he incurred.<sup>[13]</sup>

Gabriel, in defense, admitted driving the jeepney on the night in question at the Maharlika Highway, on his way to Quezon. While negotiating a curve near the scene of the accident, Gabriel noticed the headlights of an oncoming vehicle focused towards his direction. He maneuvered his jeepney to the right of the road, and

switched to low gear. Despite the defensive moves which had put the jeepney's right front and rear wheels on the road shoulder, according to Gabriel, his jeepney was bumped by the Beetle still. The left front wheel burst, causing the jeepney to swerve to the right, fall on its right side, and slide towards the center of the highway. At that point, the jeepney was placed on the other direction — towards San Pablo City. In that position, the jeepney was hit by the six-wheeler, causing some of the occupants of the jeepney to be thrown out. One of them, Menandro Marquez, testified for the defense. He claimed that he was seated at the front seat of the jeepney, adding that the jeepney, while on the extreme right of the Quezon-bound lane, was bumped by a brightly lighted vehicle.<sup>[14]</sup>

Another witness for the defense, Barangay Chairman Dominador Gonzales, Jr. of San Vicente, San Pablo City, corroborated Gabriel's version of the events. He claimed witnessing the collision, which occurred after the Beetle had tried to overtake the six-wheeler truck.<sup>[15]</sup> The Beetle's attempt to overtake led to its collision with the jeepney traveling on the opposite lane.<sup>[16]</sup>

In convicting Gabriel, the RTC found the prosecution's version of the facts to be more credible. The dispositive portion of the RTC decision reads, thus:

WHEREFORE, finding the accused Arnel Gabriel guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Double Homicide and Damage to Property, he is hereby sentenced to suffer an indeterminate penalty of imprisonment ranging from two (2) years and four (4) months of prision correccional as minimum to six (6) years also of prision correccional as maximum and to make the following indemnifications:

1. To Dr. Philip Plantilla:

a) For the expenses he incurred during his hospitalization at the Makati Medical Center	P181,613.00
b) For reimbursement of his gifts to the doctors and nurses who attended to him at the Makati Medical Center	10,000.00
c) For actual damages of his Volkswagen car which was a total wreck	50,000.00

2. To the heirs of the deceased Fernando Pitargue, Sr.:

a) For loss of life of the deceased Fernando, Sr.	P50,000.00
b) For transfer fee of the cadaver of Fernando Pitargue	15,000.00
c) As reimbursement for payment of the casket and funeral services	13,500.00
d) For the grave site	491.00
e) For the loss of earning	129,360.00

3. To the heirs of the deceased Carlos Asistido:

a) For the loss of the life of Carlos Asistido	P50,000.00
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b) For the expenses during the wake	3,000.00
c) For the casket and funeral services	12,000.00
d) For loss of earnings	9,000.00

The Court of Appeals sustained the RTC except in two respects. The appellate court found that the RTC failed to consider that Gabriel was also liable for the death of Isabela Banes, and thus found Gabriel guilty of *Reckless Imprudence Resulting in Multiple Homicide*, instead of Double Homicide.<sup>[17]</sup> The Court of Appeals awarded Fifty Thousand Pesos (P50,000.00) to the heirs of Banes.<sup>[18]</sup> Finally, the appellate court found no basis for the lower court's award of Ten Thousand Pesos (P10,000.00) to Dr. Plantilla by way of reimbursement of his gifts to the medical staff who attended to him.<sup>[19]</sup>

His appeal having failed, Gabriel now resorts to the present petition in an attempt to free himself of liability. In his petition, Gabriel makes the broad claim that the RTC decision is not in accord with law, jurisprudence and the record of the case, with the Court of Appeals similarly in error with its departure from the generally accepted and usual course of judicial proceedings.<sup>[20]</sup> More particularly, he asserts that the RTC erred in finding that his negligence was the proximate cause of the collision; in giving full credence to the testimony of Macabuhay; in lending weight to the erroneous sketch prepared by Patrolman Laguras; and in failing to give credence to the testimonies of Marquez and Gonzales, particularly their assertions that the first collision took place on the Quezon-bound lane not the San Pablo-bound lane. Gabriel also raises questions on the damages awarded by the RTC and affirmed by the Court of Appeals. Finally, Gabriel asserts that the Court of Appeals should not have awarded damages for the death of Isabela Banes, considering that he was not charged in the *Information* with having caused her death.

The factual findings of the RTC and the Court of Appeals are congruent. Such concurrence is highly persuasive on the Court, especially in a case such as this, where the determinative issues are essentially factual. Still, a review is due on whether the conclusion of guilt is so supported by the evidence at hand that reasonable doubt could be eliminated.

We cannot overemphasize the primacy in probative value of physical evidence, that mute but eloquent manifestation of the truth.<sup>[21]</sup> An examination of the wreck of the Beetle, as shown by photographic evidence, clearly reveals that the vehicle was struck on its left side in the area where the hinges of the left door would have been. The point of impact was so severe that it obliterated much of the side of the Beetle. The photographs of the damage support the prosecution's version that the Beetle was hit from the left side by the jeepney, which veered from its proper lane. The photographs also belie Gabriel and Marquez's claim that it was the Beetle which struck the jeepney, as they depict that the Beetle was clearly bumped from the side and not from the front. Their version would have had credence if the Beetle were moving laterally, which of course is an implausible sequence.

Just as the claims of Gabriel and Marquez on the point of impact are devoid of credence, the damage sustained by the Beetle is not necessarily inconsistent with the defense's position that the accident occurred on the Quezon-bound lane and not on the San Pablo-bound lane. Assuming the Beetle had veered the San Pablo-bound lane while overtaking, it could have very well been struck on the side by the

incoming jeepney. Indeed, the question on which lane the first collision occurred is the most crucial at hand, as it determines which vehicle was on the wrong side of the road. Both the RTC and the Court of Appeals concluded that the collision occurred on the San Pablo-bound lane and that it was the jeepney which veered to the wrong side. Such findings are supported by clear and convincing evidence.

The RTC and the Court of Appeals gave full credence to the testimony of the truck driver Macabuhay who witnessed the first collision. Gabriel disputes the RTC's characterization of Macabuhay as a "disinterested witness," asserting that the latter, as a participant in the second collision, had every reason to proffer a biased testimony to avoid his own liability.

This dispute is quite strained. There is no serious allegation that Macabuhay was in any way responsible for the first collision. It did not matter to him, or it would not affect his possible liability, whether it was the jeepney or the Beetle which was at fault in the first collision. His testimony on the first collision may thus be deemed as neutral and unbiased. Neither was there any evidence presented by Gabriel that would dispute Macabuhay's credibility or impartiality. Thus, Macabuhay's testimony that the first collision took place on the San Pablo-bound lane was given proper credence by the RTC.

On the other hand, the testimonies of defense witnesses Marquez and Gonzales on the location of the first collision do not deserve credence. By his own admission, Marquez was sleepy at the time of the accident.<sup>[22]</sup> He lost consciousness as a result of being flung out of the jeepney because of the collision, regaining it only after he was admitted in a hospital in Manila.<sup>[23]</sup> Moreover, Marquez was a friend of Gabriel's and, according to the latter, it was at his urging that they went on that fateful trip to Atimonan in the first place.<sup>[24]</sup> It is not hard to doubt that Marquez is a biased witness. Although biased witnesses may be honest, they cannot— as long as human nature remains unchanged— overcome the tendency to distort, magnify or even minimize, as their interest persuades, the incidents which they relate.<sup>[25]</sup>

The testimony of Gonzales, which conveniently corroborates Gabriel on all material points, is even more incredulous, notwithstanding Gonzales's being the Barangay Captain then of San Vicente, where the accident occurred. As noted by the RTC, Gonzales declared that he was on the shoulder of the road, beside the truck, when the first collision took place.<sup>[26]</sup> From his vantage point, his view was obstructed by the truck.<sup>[27]</sup> He claimed to have first heard the collision. He immediately took five big steps onto the highway, and then saw the Beetle and the jeepney colliding.<sup>[28]</sup> In short, the sound of the collision took place before the actual collision itself. If true, this would rate as one of the greatest scientific revelations of all time. But since courts are obliged to take judicial notice of the laws of nature,<sup>[29]</sup> this Court prefers to side with prudence.<sup>[30]</sup>

The RTC also correctly pointed out that the natural tendency in such case would be for Gonzales to have taken caution and avoid exposure to danger.<sup>[31]</sup> Instead, Gonzales, who was already on the shoulder of the road, stepped into the highway and along the possible course of the collision he claimed to have heard occurring. The human mind may be less predictable than the physical laws, but the conjunction of two unnatural occurrences at once is just too much for this Court to believe but