

SPECIAL TWENTIETH DIVISION

[CA-G.R. CEB-CR. NO. 01253, February 28, 2014]

EDUARDO PRAGSA Y BANTILLO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, HEIRS OF THE LATE INOCENCIA AND MARDIE RADAN, RESPONDENTS.

D E C I S I O N

LAGURA-YAP, J.:

"The right of a person using public streets and highways for travel in relation to other motorists is mutual, coordinate and reciprocal. He is bound to anticipate the presence of other persons whose rights on the street or highway are equal to his own. Although he is not an insurer against injury to persons or property, it is nevertheless his duty to operate his motor vehicle with due and reasonable care and caution under the circumstances for the safety of others as well as for his own."

- Justice Tinga^[1]

In this Petition for Review^[2], Eduardo Pragsa seeks to reverse the decisions of MTCC, Sagay City, which were affirmed by RTC, Branch 60, Cadiz City, convicting him of two counts of Reckless Imprudence Resulting to Homicide and another for Damage to Property.

ANTECEDENTS

The Information in Criminal Case No. 8138 charging Eduardo Pragsa with Reckless Imprudence Resulting to Homicide alleged:

"That on or about the 4th day of September, 2005, in the City of Sagay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the driver of a Mitsubishi Fuso Dropside truck bearing plate number GJT-895 xxx drive and operate in a reckless xxx manner and at a speed greater than was reasonable and proper, without due regard to traffic laws xxx and without taking the necessary precaution to avoid accident to person and/or damage to property, thereby causing the victim INOCENCIA RADAN y DICHOSO who was riding at the back of the Honda wave motorcycle driven by her daughter MARDIE RADAN, bumped by one speeding Mitsubishi Fuso Dropside truck which resulted in the death of the said victim.

CONTRARY TO LAW."

In the Information under Criminal Case No. 8139 Eduardo Pragsa is also charged with Reckless Imprudence Resulting to Homicide, viz:

"That on or about the 4th day of September, 2005, in the City of Sagay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being then the driver of of a Mitsubishi Fuso Dropside truck bearing plate number GJT-895 xxx drive xxx in a careless xxx manner and at a speed greater than was reasonable xxx without due regard to traffic laws xxx and without taking the necessary precaution to avoid accident to person xxx thereby causing the victim MARDIE RADAN y DICHOSO who was driving the Honda wave motorcycle, bumped and drugged under the speeding Mitsubishi Fuso Dropside truck which resulted in the death of the said victim.

CONTRARY TO LAW."

In the third Information, Criminal Case No. 8140, charging Eduardo Pragsa with Reckless Imprudence Resulting to Damage to Property, it stated:

The accused pleaded

"That on or about the 4th day of September, 2005, in the City of Sagay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being the driver of a Mitsubishi Fuso Dropside truck bearing plate number GJT-895, did then and there drive xxx in a careless xxx manner and at a speed greater than was reasonable xxx without due regard to traffic laws xxx and without taking the necessary precaution to avoid accident to person and/or damage to property, thereby causing the said one (1) Honda Wave motorcycle, bumped by one speeding Mitsubishi Fuso Dropside truck which resulted damage of the said motorcycle in the amount of Php 30,000.00.

CONTRARY TO LAW."

The accused entered a plea of not guilty when he was arraigned of the aforequoted charges.

The MTCC summed up the evidence of the prosecution in this manner:

On September 4, 2006, Benjie Radan drove his Suzuki Multicab with his wife and two children. They were going to Purok Kakahuyan, Rizal, Sigay City Ahead of him was his sister, Mardie Radan who was driving a Honda Wave motorcycle. Their mother, Inocencia Radan, was riding the back of the motorcycle.

Benjie Radan testified that he was around 20 to 30 meters behind his sister when he saw her execute a left turn towards the crossing in Purok Kakahuyan. Then, he saw a Canter bump the motorcycle. As a consequence, the motorcycle was dragged underneath the Canter.

Wilfredo Salvareta, another eyewitness, testified that on the said date and time, he was in the waiting shed with his friends- Bano, Bebe, Arnel when he saw the motorcycle executing a signal to turn left. There was a vehicle following the motorcycle. Salvareta said that the motorcycle was already on the left side of the highway when suddenly, there was another vehicle which was running very fast, that hit the motorcycle on the right

side. The motorcycle was dragged underneath for some 20-30 meters before the Canter stopped. When Salvareta saw that the Canter did not stop, still dragging the motorcycle and the driver underneath, he ran to the driver. He saw the driver's head, swaying back and forth. He shouted at the driver, "Are you drunk?" Salvareta smelled the liquor from the mouth of the driver.

Ronelo Capitli, testified that he was in his store when the incident occurred. The vehicle was running so fast that his store was lifted up and he thought it was an emergency. Then he heard the sound of the impact.

Arnel Orocio also saw the white Fuso Canter Truck running very fast and it bumped the motorcycle. He saw the victim Inocencia Radan thrown away from the motorcycle. He helped bring the victim to the hospital. As to the place of the incident, it was well-lighted by the streetlights.

These four witnesses the accused as the driver of Canter Truck that collided with the motorcycle driven by the Mardie Radan.

The attending physician, Dr. Carmelo Canto said that the two victims died of injuries sustained as a result of the vehicular accident.

Benjamin Radan, Sr., husband of Inocencia and father of Mardie testified about the moral anxiety he suffered from the death of his wife and daughter. He presented the death certificates of his wife and daughter. He claimed that spent for the medical expenses of his wife before she died: hospital charges of P 3,187.20, doctor's fee of P 7,100.00. He incurred expenses for his wife's funeral of P 7,775.00, for her wake in the amount of P 29,800.00 and embalment of P 30,000.00. He also spent P 50,000.00 for the services of counsel.

For the hospitalization of his daughter Mardie, Benjamin Radan, Sr. claimed he spent around P 281,000.00, and doctor's fees of P 39,000.00. Benjamin Radan recalled that his daughter earned a monthly salary of P 11,167.00 as a public school teacher. She received monthly PERA of P500.00, clothing allowance of P 4,000.00, productivity bonus of P 2,000.00, year-end bonus of P 11,167.00, cash gift of P 5,000.00 and cash allowance of P 300.00. His daughter died when she was 34 years old and single.

Vernon Celo, a motorcycle mechanic, estimated that the motorcycle sustained damage of P 18,546.00.

The evidence of the defense is summarized hereunder:

The accused stated that had already passed the Crossing of Purok Kakahuyan when he saw the lights of a motorcycle going in the opposite direction when this motorcycle suddenly entered his lane and bumped his truck. The accused said he had a professional driver's license. Before this case, he had not figured in a traffic incident.

Reynaldo Bersales, a passenger of the Canter truck, testified that he saw

the motorcycle twenty meters away after they passed the Crossing of Purok Kakahuyan. The motorcycle was zigzagging when this motorcycle bumped the bumper of the Canter they were on.

Ali Reboton, another passenger of the Canter truck also testified that the motorcycle was zigzagging on the road before it bumped their vehicle. He shouted to the driver to apply the brakes but found out later that the brake line had been cut as the motorcycle was dragged under.

The MTCC promulgated the Decisions dated July 16, 2008^[3] convicting the accused of the three charges.

The accused appealed to the RTC, which in its Joint Decisions dated May 26, 2009^[4], affirmed the convictions.

Hence, this Petition for Review by the accused as petitioner, with the following assignment of errors:

I. THE RTC ERRED IN AFFIRMING THE LOWER COURT'S DECISION WHICH DECISION DISREGARDED PETITIONER'S TESTIMONIAL EVIDENCE, BEING FROM FRIENDS AND WORKMATES OF PETITIONERS, EVEN IF THEY ARE EYE-WITNESSES TO THE INCIDENT.

II. THE RTC ERRED IN AFFIRMING THE LOWER COURT'S DECISION WHICH DECISION COMPLETELY DISREGARDED THE FINDINGS OF PHYSICAL EVIDENCE BY TRAFFIC INVESTIGATOR (sic) PO2 BARRY LAYCO, POINTING TO REASONABLE DOUBT.

III. THE RTC ERRED IN AFFIRMING THE LOWER COURT'S DECISION WHICH FIND PETITIONER GUILTY EVEN IF THE PROXIMATE CAUSE CANNOT BE ATTRIBUTED TO HIM AND DESPITE THE LACK OF DRIVER'S LICENSE AND NON WEARING OF HELMETS BY VICTIMS.

On July 25, 2011, the Solicitor General filed his Comment^[5] to the Petition for Review.

On December 19, 2011, the Solicitor General submitted his Memorandum of Authorities^[6].

On January 6, 2012, the petitioner through counsel, also submitted his Memorandum^[7].

OUR RULING

As the issues raised by the petitioner are interrelated, We shall discuss them jointly without losing sight of the rule reiterated in *Roño Seguritan y Jara v. People of the Philippines*^[8]. In a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record^[9]. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the

court below.

From its assessment of the testimonies of the prosecution witnesses, the MTCC could not find any indication in their demeanor to show that they were not forthright. According to the MTCC, the testimonies of these witnesses came out of the crucible of cross examination intact^[10]. The MTCC gave credence to the accounts of the prosecution witnesses that the Canter truck driven by the petitioner was running at a high speed as the windshield of the truck was totally damaged^[11]. Further, the motorcycle was dragged underneath the truck by another 148 feet before it stopped^[12]. Inocencia Radan was thrown towards the right side lane of the road and Mardie Radan was dragged underneath the Canter truck for about 30 meters^[13].

Juxtaposing a different version of the incident, the defense, through its witnesses Reboton and Bersales, contends that it was the motorcycle that encroached the lane of the Canter truck, which had already passed the middle of the intersection. Mardie Radan was allegedly not in control of the motorcycle as shown by her zigzagging. Due to her miscalculation, Mardie Radan was not able to clear her turn so that her motorcycle collided with the Canter truck^[14].

Our own examination of the sketch^[15] taken from the place of the incident immediately after it happened, would sustain the accounts of the prosecution eyewitnesses that the Canter truck operated by the petitioner was running at a high speed when it hit and bumped the motorcycle driven by the victim. The considerable stretch of the 148-foot skid mark starting from the point of impact^[16] to the point where the Canter truck was resting^[17], shows that the petitioner took that far to stop the Canter truck after the collision. "The location, direction and length of skid marks may be very important to a reconstruction of the facts and to the evaluation of statement made by the driver of the vehicle or other witnesses. They serve to check on the driver's statement as to how soon he saw the pedestrian or obstacle and how rapidly he applied his brakes. They also give a fairly reliable guide as to the speed of his vehicle at the time the brakes were applied^[18]."

A reasonable deduction can be drawn from the existence of the skid marks. These physical facts prove that the petitioner drove the Canter truck at such a high speed even as he was approaching the corner of Purok Kakahuyan^[19]. The area was a curve though not necessarily a blind curve as reasoned out by the defense witness Bersales. That notwithstanding, an incoming vehicle from the opposite side could be seen. It is a relevant fact admitted by the petitioner that he only noticed the presence of the motorcycle when it was already ten meters away^[20]. In contrast, his passengers, Reboton and Bersales, saw the motorcycle of the victim, some 20 to 25 meters away^[21] before the collision. There is no mention by these witnesses that they immediately relayed to the driver (petitioner) their observation as a timely forewarning.

The petitioner was oblivious of the curve in the corner of Purok Kakahuyan and oblivious too by the oncoming motorcycle on his left because he drove too fast. Speeding is indicative of imprudent behavior because a motorist is bound to exercise such ordinary care and drive at a reasonable rate of speed commensurate with the