

FOURTH DIVISION

[CA-G.R. CR NO. 35716, August 12, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO DE GUZMAN Y JACOB, ACCUSED-APPELLANT.**

D E C I S I O N

GONZALES-SISON, M., J.:

This appeal seeks to reverse and set aside the Decision^[1] dated January 9, 2013 of the Regional Trial Court, Branch 76, San Mateo, Rizal, which found herein accused-appellant **Armando de Guzman y Jacob** guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Homicide (Violation of Article 365, Paragraph 2, Sub-paragraph 6, of the Revised Penal Code) and, accordingly, sentences him to suffer the indeterminate penalty of imprisonment of **4 years, 2 months and 1 day**, as minimum, to **7 years, 4 months and 1 day**, as maximum. Accused-appellant is likewise ordered to pay the heirs of the victim, **Marina Roxas y Mercado**, civil indemnity, actual, moral and exemplary damages.

The accused-appellant was charged with reckless imprudence resulting to homicide in an Information filed with the Regional Trial Court of San Mateo, Rizal (Branch 76), the accusatory portion of which reads:

"That on or about the 27th day of May 2005 in the Municipality of Rodriguez, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the driver of a KAWASAKI Motorized Tricycle bearing Plate No. PY-8476 and owned by Remegio Jacob, without due regard to traffic laws, rules and regulations and without taking the necessary care and precaution to avoid injuries to person, did then and there willfully, unlawfully and feloniously drive, manage and operate the said motor vehicle in a reckless, careless, negligent and imprudent manner, causing by such negligence, carelessness and imprudence, the said vehicle hit and bump a pedestrian one MARINA ROXAS y MERCADO, thereby causing the latter to sustain mortal injuries which directly caused her death, the offense being attended with the qualifying circumstances of having failed to lend on the spot to the injured party such help as may be in his hands to give.

CONTRARY TO LAW."

The accused-appellant, assisted by counsel *de oficio*, was duly arraigned, and pleaded not guilty to the charge.

During the trial, the prosecution presented the testimonies of Cristina Rendoña, Jose Arnel Marquez, PO2 Joselito Infante, and Bonifacio Roxas.

Cristina Rendoña (Cristina) testified that on May 27, 2005 at around 7:30 o'clock in the evening, she and her sister Marina Roxas (victim) alighted from a passenger

jeepney and was about to cross M. H. del Pilar Street, Brgy. Balite, Rodriguez, Rizal when they saw a tricycle fast approaching. Upon seeing the tricycle, the two were prompted to stop. However, when the tricycle was already near, Cristina and the victim were surprised to see another tricycle behind the first tricycle speeding and overtaking the first tricycle. Consequently, the victim pushed Cristina forward to prevent her from being hit by the tricycle but Cristina sustained some injuries just the same while the victim was hit and dragged by the sidecar of the second tricycle causing her instantaneous death. The driver of the second tricycle was later identified as Armando De Guzman who fled on board his tricycle right after the incident.

Initially, Cristina and the victim were rushed by other tricycle drivers to H-Vill Hospital but the doctor at H-Vill told them that the condition of the victim is "50/50". So that, Cristina and the victim were brought to the East Avenue Medical Hospital where Cristina and the victim were X-rayed and medically treated. However, despite medical attendance, the victim died. Cristina presented photographs of her injuries in the arm, right cheek and left hip and was issued a medical certificate.

Cristina further testified that the accused-appellant was arrested only on a Monday night because he hid. The following day, a Tuesday, Cristina filed a complaint. She identified accused-appellant Armando de Guzman in court.

When cross-examined, Cristina testified that the name of the accused-appellant was only relayed to her by the tricycle drivers who assisted and brought them to the hospital. Cristina recognized the face of the accused-appellant because he was the one whom she saw overtaking the other tricycle prior to their being hit by his sidecar. The tricycle that bumped them had no passenger but she did not notice if there was any back rider. Cristina recalled that accused-appellant was running very fast and, in fact, she saw smoke coming out from the back of the tricycle. She describes the same as *"mabilis po kasi umuusok ang likuran niya at nakita ko po kung paano niya pigain ang manibela niya"*.^[2]

As testified to by P/Chief Inspector Jose Arnel Marquez, he is a Medico-Legal Officer and Chief of the Eastern Police District Crime Laboratory who signed and issued Medico-Legal Report M-292-05.^[3] He narrated that he conducted an autopsy on the cadaver of the victim by virtue of a letter-request for autopsy^[4] by the Chief of Police of Rodriguez Municipal Police Station. Upon receipt of the letter-request for autopsy, he proceeded to the Boy Santiago Funeral Parlor where the cadaver of the victim was brought. There, a representative of the parlor handed to him a Certification of Identification and Consent for Autopsy^[5] signed by the daughter of the victim and the victim's Certificate of Death.^[6] After receipt of these documents, witness proceeded with the examination of the external injuries sustained by the victim consisting of ten (10) contusions and abrasions. After the external examination on the cadaver, he proceeded with the overall opening of the cadaver and found out that the victim sustained fracture from the skull particularly the frontal bone, the parietal bone, temporal bone, the occipital bone and there was a subdural and sub-arachnoidal hemorrhage on the brain which could have been inflicted by coming in contact with a hard and blunt object, like the front or side part of the tricycle. In sum, the witness certified that the cause of death of the victim is traumatic injuries to the head.^[7]

As regards witness PO2 Joselito Infante, for purposes of expediency, the prosecution and the defense entered into a stipulation of facts to the effect that this witness was requested to investigate the incident that transpired on May 27, 2005 at around 7:30 o'clock in the evening; that he had gone to the place of the incident and gathered evidence for the vehicular incident report, subject to the counter-proposal by the defense that this witness had no personal knowledge of the incident which was admitted by the prosecution; that after the investigation, he prepared a Recommendation which he submitted to the Chief of Police dated May 29, 2005. He was presented to identify Exhibits "D" and "D-1" which is a Memorandum indorsing a case for Reckless Imprudence Resulting to Homicide.

Likewise, for purposes of expediency, the prosecution proposed for a stipulation of facts to the defense that witness Bonifacio Roxas is the husband of the victim and that he will be presenting the funeral and burial expenses incurred by him for the death of his wife, to which proposal the defense agreed.

The appellant, for his part, testified that he was a construction worker. On May 27, 2005, after their work at about 6:00 o'clock in the evening, he was requested by his co-workers to bring them home using the tricycle which is owned by his uncle. It was then drizzling and they took the highway Balite which is the usual route for jeepneys and trucks. He claims that the victim suddenly crossed the street. As he was trying to avoid being hit by an incoming truck, he accidentally hit the victim. Upon hitting the victim, he panicked and was confused. Feeling at a lost on what to do, he fled.

When cross-examined, appellant admitted that he was only using a student driver's license on the date of the accident. The operator of the tricycle allowed him to drive the tricycle with full knowledge that he had no valid driver's license. Appellant also admitted that at the time of the incident, he was not being supervised by any licensed driver which is a requirement for those possessing only student driver's license. He further admitted that he did not immediately surrender to the police because he was afraid of the relatives of the victim. He only came to know about the victim from his brother and that his companions at the time of the incident assisted the victim.

Appellant likewise stated that on the night when he fled from the scene of the incident, he went to H-Vill Hospital to report the incident. He admits that he is responsible for the death of the victim but raises the defense of "accident" because according to him he merely tried to avoid an incoming truck. He explains that he was then overtaking another tricycle and a truck was coming at the opposite direction.

On redirect examination, appellant admits that he did not pick up the victim to bring her to the hospital because he was confused. Instead, he fled and just reported the incident to a hospital. However, he claims that he told his companion to help the victim. This companion approached the victim and hailed a tricycle. He did not attempt to help the victim for fear of being mauled by bystanders.^[8]

No other witness was presented to corroborate the appellant's testimony.

Brushing aside the appellant's defense of "accident", the RTC convicted him of the crime charged in the Information in its Decision of January 9, 2013 as follows:

"WHEREFORE, judgment is hereby rendered finding accused Armando de Guzman y Jacobe alias "Arman" GUILTY beyond reasonable doubt of the crime of **RECKLESS IMPRUDENCE RESULTING TO HOMICIDE** (Violation of Article 365, 6th paragraph no. 2 in relation to the last paragraph of the Revised Penal Code) and sentences him to suffer the indeterminate penalty of **4 years, 2 months and 1 day** as minimum, to **7 years, 4 months and 1 day** as maximum, there being no mitigating or aggravating circumstances.

Accused Armando de Guzman y Jacobe alias "Arman" is likewise ordered to indemnify the heirs of the victim the following amounts:

- a. Php 50,000.00 as civil indemnity;
- b. Php 67,000.00 as actual damages representing the burial and funeral expenses;
- c. Php 100,000.00 as moral damages; and
- d. Php 50,000.00 as exemplary damages.

Accused Armando de Guzman y Jacobe alias "Arman" is hereby ordered committed to the National Bilibid Prisons in Muntinlupa City for service of sentence.

SO ORDERED."

Hence, the present appeal raising the lone assignment of error, *viz*:

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Appellant maintains that the prosecution failed to prove beyond reasonable doubt that he was negligent and that he failed to exercise the necessary precaution in order to prevent injury to others. He added that the victim and her companion were negligent when they crossed the street and even stayed at the middle for minutes.

The appeal lacks merit.

Article 365 of the Revised Penal Code, as amended, defining and penalizing quasi-offenses provides:

"Imprudence and negligence. – Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of *arresto mayor* in its maximum period to *prision correccional* in its medium period; if it would have constituted a less grave felony, the penalty of *arresto mayor* in its minimum and medium periods shall be imposed; if it would have constituted a light felony, the penalty of *arresto menor* in its maximum period shall be imposed.

Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of *arresto mayor* in its medium and maximum periods; if it would