

# SPECIAL ELEVENTH DIVISION

[ CA-G.R. CR No. 33255, November 25, 2014 ]

**MARIO ALMAREZ Y FRANE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

## DECISION

**PAREDES, J.:[\*]**

### THE CASE

THIS PETITION FOR REVIEW<sup>[1]</sup>, filed by petitioner Mario Frane Almarez (petitioner) seeks to reverse and set aside the Decision<sup>[2]</sup> dated February 5, 2010 issued by the Regional Trial Court (RTC), Branch 139, Makati City, in Criminal Case No. 09-001 for *Reckless Imprudence Resulting in Slight Physical Injuries and Damage to Property* which, in turn, affirmed the Decision<sup>[3]</sup> dated December 10, 2008 of the Metropolitan Trial Court (MeTC), Branch 65, Makati City, in Criminal Case No. 338687.

### THE ANTECEDENTS

On September 6, 2004, petitioner was charged with *Reckless Imprudence Resulting in Less Serious Physical Injuries and Damage to Property*, the accusatory portion of the Information<sup>[4]</sup> reads, thus:

That on or about the 22<sup>nd</sup> day of February 2004 in Makati City, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, being then the driver and/or person in charge of a Toyota Tamaraw FX bearing plate no. WJC 944 and owned by him, did then and there operate the said motor vehicle in a reckless, careless, negligent and imprudent manner, without due regard to traffic laws, rules and regulations and without taking the necessary care and precaution to avoid injuries to persons and damage to property, causing such recklessness, carelessness, negligence and imprudence to hit and bump, with its front portion, the left side portion of the Mitsubishi Lancer bearing plate no. TPJ 763 being then driven and owned by Edmond Dantes Asis y Reyes, thereby causing damage to the latter motor vehicle in the amount of P84,250.00 and further causing less serious bodily injuries to the said driver Edmond Dantes Asis y Reyes and the passengers thereof Johanna (*sic*) Marie Asis y Gaerlan and Paulo Dax Vincent Asis y Gaerlan, each of which (*sic*) required medical attendance of more than ten (10) days but less than thirty (30) days and which incapacitated each of them for labor for the same period of time.

Contrary to law.

Petitioner pleaded<sup>[5]</sup> not guilty to the charges. Thereafter, trial of the case ensued.

Private complainants Edmond Dantes Asis (Edmond), Jordana Mari G. Asis (Jordana), and Paulo Dax Vincent G. Asis (Paulo) testified for the prosecution. Petitioner testified on his behalf.

We adopt the finding of facts of the MeTC, and affirmed<sup>[6]</sup> by the RTC, as follows:

On February 22, 2004 at around 1:15 in the afternoon, a collision occurred between a 1994 Mitsubishi Lancer with Plate No. TPJ 763 driven by private complainant Edmond Dantes Asis y Reyes and a Toyota Tamaraw FX with Plate No. WJC 944 driven by petitioner. Immediately before the impact, the Lancer was traversing Kalayaan Avenue towards Pateros. The traffic light on the Lancer's lane was green while that on the FX's lane was red.

Petitioner claimed that while he was in that position, an unidentified funeral escort signaled him to proceed, which he hastily heeded. As a result, the front of the FX hit the left side portion of the Lancer causing the latter vehicle to swerve to the right, hitting the traffic post. Edmond, the driver of the Lancer, and his two passengers, Jordana and Paulo, sustained injuries<sup>[7]</sup> and were rushed to the Ospital ng Makati. Both vehicles were damaged.

After trial, on December 10, 2008, the MeTC issued a decision, the decretal portion of which reads as follows:

WHEREFORE, premises considered, the Court finds accused MARIO ALMAREZ y FRANE guilty for (*sic*) the crime of Reckless Imprudence Resulting to (*sic*) Slight Physical Injuries and Damage to Property. Accordingly, accused is hereby sentenced to suffer twenty (20) days of imprisonment and to pay (*a*) fine in the amount of P50,000.00.

Accused is likewise ordered to pay private complainant Edmond Dantes Asis the amount of P50,000.00 for the reasonable cost of repairs of his vehicle by way of civil liability ex-delicto.

SO ORDERED.<sup>[8]</sup>

Aggrieved by the Decision of the MeTC, petitioner appealed to the RTC assailing both the findings of fact and law of the MeTC, asserting that it was private complainant Edmond who was negligent when the Lancer hit the FX he was driving. Petitioner contends that there was a funeral escort who signaled him to proceed, as he did proceed, notwithstanding the red traffic light.<sup>[9]</sup>

The RTC held that the version of the prosecution is more credible as the same was sufficiently supported by the evidence. The RTC further held that the claim of petitioner that a funeral escort had signaled private complainant to stop, was not supported by any evidence.<sup>[10]</sup> Thus, the RTC rejected petitioner's assertion. The

dispositive portion of the assailed RTC Decision reads as follows:

WHEREFORE, premises considered, the appeal of accused-appellant Mario Almarez y Frane is hereby DISMISSED for lack of merit.

The Decision of the Metropolitan Trial Court of Makati City, Branch 65, dated 10 December 2008 in Criminal Case No. 338687 is hereby AFFIRMED in toto.

SO ORDERED.<sup>[11]</sup>

Hence, this petition for review with the assigned errors<sup>[12]</sup>, as follows:

I.

WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED AND VIOLATED SECTION 1, RULE 36, RULES OF COURT, IN AFFIRMING THE DECISION OF THE METROPOLITAN TRIAL COURT ON THE AMOUNT OF ALLEGED REASONABLE COSTS OF REPAIR OF THE DAMAGED VEHICLE DESPITE LACK OF EVIDENCE PRESENTED DURING THE TRIAL TO THAT EFFECT.

II.

WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED AND VIOLATED SECTION 1, RULE 36, RULES OF COURT, IN AFFIRMING THE DECISION OF THE METROPOLITAN TRIAL COURT ON THE CONVICTION OF THE ACCUSED FOR THE CRIME OF RECKLESS IMPRUDENCE RESULTING TO PHYSICAL INJURIES, BECAUSE THE PRIVATE COMPLAINANTS WERE NEVER INCAPACITATED FOR LABOR NOR THEIR INJURIES REQUIRED MEDICAL ATTENDANCE AS THEY WERE MERELY ADVISED TO REST FOR THREE (3) DAYS.

**THE ISSUE**

The issue to be resolved in this case is whether or not the RTC was correct in affirming the guilt of the petitioner.

**THE COURT'S RULING**

***The petition for review is without merit.***

Petitioner contends that the RTC erred when it affirmed the December 10, 2008 Decision of the MeTC which is not supported by evidence. Petitioner asserts that there was no evidence to prove that private complainants suffered injuries which required medical attendance as they were merely advised to rest; consequently, the crime of reckless imprudence resulting in slight physical injuries was not proven.

Moreover, petitioner argues that the grant of damages for the repair of Edmond's vehicle is likewise without basis because Edmond failed to present an official receipt