

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMILIO BIAG Y RAFANAN, ACCUSED-APPELLANT.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Before the Court is an appeal from the Decision dated April 16, 2012 rendered by the Regional Trial Court of Manila City, Branch 43 (RTC), in Criminal Case No. 07-255532,[1] the dispositive portion of which states:

"ACCORDINGLY, the guilt of the accused is proven by proof beyond reasonable doubt. Accused Emilio Biag y Rafanan is sentenced to imprisonment of One (1) Month and One (1) Day. He is ordered to pay minor complainant Meena Jelo Abogadie the amount of Fifty Thousand Pesos (P50,000.00) for actual damages and Thirty Thousand Pesos (P30,000.00) for moral damages.

SO ORDERED.”[2]

The Facts

Accused-appellant Emilio Biag y Rafanan was indicted for the crime of Reckless Imprudence Resulting in Serious Physical Injuries in an information filed by the Office of the Manila City Prosecutor, the accusative portion of which reads as follows:

"That on or about March 8, 2006, in the City of Manila, Philippines, the said accused, being then the driver and/or person in charge of a Honda Motorcycle bearing Plate o. XO-4580, did then and there unlawfully and feloniously drive, manage and operate the said vehicle along Piy Margal/V. Cruz St., Sampaloc, this City in a careless, reckless, negligent and imprudent manner by then and there making the same run at a speed greater than was reasonable and proper without taking the necessary precaution to avoid accident to person, considering the condition of the traffic at said place at the time, causing as a consequence of such carelessness, recklessness, negligence, imprudence and lack of precaution the said vehicle, so driven, manage and operated by him in a manner above set-forth, to collide with a Granstar Motorcycle driven by Marilyn V. Bogadie y Vilorio and owned by Joel Abogadie and due to the said impact, Meena Jelo Abogadie y Vilorio, a minor, 8 years old, a passenger of Granstar Motorcycle, sustained physical injuries which have required and will require medical attendance for a period of more than thirty (30) days and incapacitated her from performing her customary labor during the said period of time.

CONTRARY TO LAW.”[3]

Upon arraignment, appellant, with the assistance of his counsel, entered a plea of "Not Guilty." The possibility of an amicable settlement discounted and the pre-trial conference subsequently terminated, the RTC proceeded to try the case on the merits.

To prove its case, the prosecution called to the witness stand the minor Meena Jelo Abogadie and her mother, Marilyn Abogadie. Their combined testimonies were to the effect, among other matters, that at around 1:00 p.m. of March 8, 2006, Marilyn fetched Meena from the Dominican School of Manila where, at 11 years old,[4] she was then enrolled as a Grade 6 pupil. Nearing the intersection of Piy Margal and Vicente Cruz Sts. in Sampaloc,

Manila and heading towards the direction of Quezon City, said mother and daughter claimed that the scooter they were riding was bumped from the left by the motorcycle then being driven by appellant, with Gilbert Deladia as back rider. As a consequence of the collision, Meena was pinned down by appellant's motorcycle whose muffler caused burn injuries on her left leg. Accordingly, Meena was brought to the UST Hospital[5] where her family spent around P50,000.00 for her hospital and medical expenses.[6]

The prosecution also adduced the testimonies of Police Officer Demetrio Bunquin, the investigator from the Manila District Traffic Enforcement Bureau, and Dr. Bienvenido Torres, Meena's attending physician. While admitting that he did not go to site of the collision, Bunquin issued a Traffic Investigation Report[7] which, based on the statement of Marilyn and appellant, stated that the latter's motorcycle fell and that its muffler hit Meena's left leg.[8] Having attended to Meena at the UST Hospital, Dr. Torres also issued an initial and final medico legal report[9] certifying that said minor's burn injuries required multiple admissions and skin grafting which took not more than 31 days to heal.[10]

In refutation, the defense presented the testimonies of appellant and Deladia who both claimed that, from the right direction, it was the scooter being driven by Marilyn which bumped the motorcycle they were riding. Coming from Lacson St. and cruising through the middle lane of Vicente Cruz St. which was a one-way street then experiencing heavy traffic, said defense witnesses asserted that Marilyn's scooter suddenly came out from behind a van and hit the right side of appellant's motorcycle, specifically the disk break of the front wheel thereof. Although they were unharmed because they were able to brace their legs on the left side of the motorcycle, Marilyn and Meena purportedly fell on them, causing the left leg of the latter to hit the motorcycle's exhaust pipe.[11] Together with a sketch of the collision scene,[12] appellant submitted copies of his Sinumpaang Salaysay[13] and driver's license.[14]

On April 16, 2012, the RTC rendered the herein appealed decision finding appellant guilty of simple negligence or imprudence and liable to the minor complainant for moral and exemplary damages.[15] Finding the defense version contradicted by the Traffic Accident Report and appellant's own Sinumpaang Salaysay which both indicated that Marilyn's scooter did not come in contact with the motorcycle, the RTC ruled as follows:

"Analyzing further, it is worth emphasizing that the injury suffered by the child is third degree burn which required skin grafting operation. This means that the child was stuck for a considerable moment of time when pinned or sandwiched in between the two (2) colliding motorcycles. If the leg of the child was on top of the motorcycle of the accused, it could be easily moved away. There is no other conclusion other than that the motorcycle of the accused was the one on top of the child or her leg. The removal of the motorcycle of the accused took a considerable length of time so that the injury caused to the child reached third degree burn. If the child was on top of the motorcycle of the accused, she could easily get away and would not suffer such deep burned injury. It would be pointed out that what Marilyn was driving is a scooter which [was] a small-sized motorcycle that can easily be lifted. The accused was driving a 'Honda' motorcycle which is obviously bigger and heavier.

The defense posited by the accused is denial. In his denial, he submitted a story that cannot be reconciled, and therefore, the same is not reliable. The evidence of the prosecution pointing to the accused as the one who bumped the scooter of Marilyn was not overcome, rather it was even beefed up by the contradicting versions of the accused in the way he puts up his denial." [16]

The Issue

Appellant urges the reversal of the appealed Decision upon the following error imputed against the RTC, to wit:

"THE REGIONAL TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF SIMPLE IMPRUDENCE/NEGLIGENCE RESULTING TO PHYSICAL INJURIES AND HOLDING HIM LIABLE FOR ACTUAL AND MORAL DAMAGES."[17]

The Court's Ruling

The appeal is bereft of merit.

Against the RTC's finding that the version of the prosecution was more believable than that proffered by the defense which was contradictory to the account of the incident in the Traffic Accident Report and the Sinumpaang Salaysay executed by him, appellant calls our attention to the fact that police investigator Bunquin was not present at the time and place of its occurrence. Contending that this circumstance already casts doubt on the propriety of his conviction, appellant insists that he was not reckless in driving his motorcycle and that the proximate cause of the injuries sustained by Meena was Marilyn's sudden manoeuvre of her scooter from behind a van and bumping the front wheel of his motorcycle. As a consequence, appellant maintains that he cannot be held liable for the injury and/or damages resulting from the collision.[18]

While it may, however, be conceded that personal knowledge is a substantive prerogative in accepting testimonial evidence establishing the truth of a disputed fact,[19] appellant lose sight of the fact that the Traffic Accident Report upon which Bunquin testified was based on the statements he and Marilyn voluntarily gave at the police station shortly after the accident. Even if said document were, moreover, to be disregarded, we find that the RTC took appropriate note of the fact that, in his Sinumpaang Salaysay, appellant distinctly stated that Marilyn's scooter nearly bumped his motorcycle, i.e, did not come in contact with the latter vehicle. Since said assertion was materially at variance with appellant's testimony that Marilyn's scooter bumped the front wheel of his motorcycle, the RTC discounted the former's credibility and, as a result, upheld the version proffered by the prosecution.

In not disturbing the foregoing findings, uppermost in the mind of the Court is the long and well settled rule in criminal jurisprudence that when the issue is one of credibility of witnesses, the appellate court will normally not disturb the factual findings of the trial court.[20] This rule is anchored on the fact that the trial court judge is in a better position to determine the issue of credibility since he has the opportunity to observe the deportment of the witness during the trial. Hence, unless the it overlooked, misunderstood or misapplied some fact or circumstance of weight and substance which will alter the appealed decision or affect the result of the case,[21] the trial court's factual findings - including the credibility of witnesses, the probative weight of their testimonies, the conclusions drawn from the factual findings - are accorded great respect and even conclusive effect on appeal.[22]

It doesn't help appellant's cause any that the prosecution's version of the incident complained against is also consistent with the physical evidence which, in case of contradiction, generally prevails over testimonial evidence.[23] As may be gleaned from the testimony of Dr. Torres who issued an initial and final medico legal report regarding the injuries sustained by Meena, said minor suffered third degree burns which required multiple hospital admissions, skin grafting and not more than 31 days to heal. Given the degree of the burn suffered by Meena, the RTC went on to conclude that her left leg must have been pressed to the exhaust pipe of appellant's motorcycle for an appreciable length of time. To our mind, the RTC correctly found this conclusion to be more consistent with the prosecution's claim that appellant's motorcycle fell on Marilyn and Meena instead of the other way around as posited by the defense.

Having discounted the credibility of appellant and the plausibility of his testimony, the RTC cannot be faulted for finding appellant guilty of simple negligence resulting in physical injuries on the strength of the claim of Marilyn and Meena that the former's motorcycle bumped their scooter. Negligence, after all, is defined as the failure to observe for the protection of the interests of another person that degree of care, precaution and vigilance which

the circumstances justly demand, whereby such other person suffers injury.[24] With Marilyn and Meena testifying that the injuries sustained by said minor were the direct result of appellant's motorcycle bumping the scooter on which they were riding, the prosecution was able to sufficiently prove the causality between the act complaint against as well as the resultant injury.

Considering Dr. Torres' testimony that Meena's injuries required healing for a period not exceeding 31 days, it would appear that said minor suffered less serious physical injuries which is a less grave felony.[25] Under the second paragraph of Art. 365 of the Revised Penal Code, the penalty of *arresto mayor* in its minimum period shall be imposed upon "(a)ny person who, by simple negligence or imprudence, shall commit an act which would, otherwise, xxx xxx xxx have constituted a less serious felony." Given these parameters, the RTC cannot be faulted for imposing upon appellant the straight penalty of imprisonment for 1 month and 1 day which is the least imposable penalty under the circumstances.

On the principle that proof of the actual amount of the loss is required to sustain an award of actual damages,[26] we are not, finally, inclined to disturb the RTC's award thereof in the sum of P50,000.00 which is supported by Marilyn's testimony and the medical receipts marked as Exhibits "I", "J" and "K". The same can be said of the RTC's award of P30,000.00 by way of moral damages which, by its nature, are not punitive in nature but are designed to compensate and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, moral shock, social humiliation or similar other injury unjustly inflicted upon a person.[27] Moreover, it has been ruled that moral damages may be recovered for physical injuries arising from a criminal offense.[28]

WHEREFORE, premises considered, the appeal is DENIED for lack of merit and the appealed Decision dated April 16, 2012 is, accordingly, AFFIRMED in toto.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Garcia, R.R., and Bueser, D.Q., JJ., concur.

[1] Rec., pp. 103-110

[2] Id., at 109-110

[3] Id., at 103

[4] Exhibit "H"

[5] TSNs, May 25, 2009, August 10, 2009, November 23, 2009, February 15, 2010, April 21, 2010

[6] Exhibits "I" to "K" and submarkings

[7] Exhibit "B"

[8] TSN, June 23, 2010

[9] Exhibits "L" and "M"

- [10] TSN, June 23, 2010
- [11] TSN, May 2, 2011, October 26, 2011
- [12] Exhibit "2"
- [13] Exhibit "1"
- [14] Exhibit "3"
- [15] Supra, at Note 1
- [16] Rec., pp. 108-109
- [17] Rollo, p. 54
- [18] Id., at 54-58
- [19] Da Jose vs. Angeles, G.R. No. 187899, October 23, 2013
- [20] People vs. Agliday, G.R. No. 140794, October 16, 2000
- [21] People vs. Magalona, G.R. No. 143294, July 17, 2003
- [22] People vs. Diu, G.R. No. 201449, April 3, 2013
- [23] People vs. Marquina, G.R. No. 130213, January 31, 2002
- [24] Jarcia vs. People, G.R. No. 187926, February 15, 2012
- [25] People vs. Patrolla, Jr., G.R. no. 112445, March 7, 1996
- [26] Victory Liner, Inc. vs. Heirs of Andres Malecdan, G.R. No. 154278, December 22, 2002
- [27] Supra, at Note 24
- [28] Mayo vs. People, G.R. No. 91201, December 5, 1991

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