

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. FELICISIMO MEDROSO, JR., ACCUSED AND APPELLANT.

G.R. No. L-37633. January 31, 1975

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

The only question or issue involved in this appeal is the correctness of the judgment rendered by the Court of First Instance of Camarines Sur in Criminal Case No. 403 wherein accused-appellant, Felicisimo Medroso, Jr., on a plea of guilty, was convicted of "Homicide through reckless imprudence" and sentenced

"to suffer the penalty of, from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY, as minimum, to SIX (6) YEARS, as maximum, of prision correccional and ordered to pay the heirs of the deceased in the sum of P12,000.00 as actual damages, P4,000.00 as moral damages and P4,000.00 as exemplary damages, Philippine currency, and to pay the cost of this proceeding." (p. 11, Rollo)

Sometime on August 6, 1971, the Provincial Fiscal of Camarines Sur filed with the local Court of First Instance an Information accusing the herein appellant, Felicisimo Medroso, Jr., of "Homicide through reckless imprudence" alleged to have been committed as follows:

"That on or about the 16th of May, 1971, in the barrio of San Roque, municipality of Bombon, province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without any license to drive motor vehicles issued by competent authority, did then and there wilfully and unlawfully manage and operate a BHP dump truck bearing Plate No. 7329, S. 1969 and with BHP truck No. 14-H3-12P and while passing along the said barrio in a negligent, careless and imprudent manner, without due regard to traffic laws, rules and regulations to prevent accident to persons and damage to property, caused by such negligence and imprudence, said truck driven and operated by him to bump and hit one Inigo Andes thereby causing his death." (p. 4, Rollo)

The case was called for trial on July 18, 1972, on which date appellant with the assistance of his counsel pleaded guilty to the charge with two mitigating circumstances in his favor, viz: plea of guilty and voluntary surrender, to which the prosecuting fiscal offered no objection.

In its decision, the trial court, presided by Hon. Delfin Vir. Sunga, after appreciating the above-mentioned mitigating circumstances and considering as an aggravating circumstance the fact that appellant drove the vehicle in question without a license, sentenced the accused as indicated above.

Not content with the penalty imposed, accused appealed to the Court of Appeals.

On September 19, 1973, the Appellate Court, through its Second Division at the time, certified the case to this Court on the ground that the appeal covers pure questions of law.

Appellant is charged with homicide thru reckless imprudence for which the penalty provided for in Paragraph 6, sub-section 2 of Article 365 of the Revised Penal Code is prision correccional in its medium and maximum

periods or from two years, four months and one day to six years.

Appellant now contends that inasmuch as he has two mitigating circumstances in his favor without any aggravating circumstance, as driving without a license is not be considered such, he is entitled to a penalty one degree lower than that prescribed by law pursuant to Article 64 of the Revised Penal Code[1] or, *arresto mayor* in its maximum period to *prision correccional* in its minimum period, that is, from "four months and one day to two years, four months and one day," and that applying the Indeterminate Sentence Law, the trial court should have imposed a minimum within the penalty still one degree lower, which is *arresto mayor* minimum and medium periods (1 month and 1 day to 4 months) and to a maximum of not more than two years, four months, and one day of *prision correccional*.

Appellant's proposition would indeed be correct if he were charged with any of the offenses penalized in the Revised Penal Code other than Article 365 thereof. But because appellant is accused under Article 365, he is not entitled as a matter of right to the provisions of Article 64 of the Code.

Paragraph 5 of Article 365 expressly states that in the imposition of the penalties provided for in the Article, the courts shall exercise their sound discretion without regard to the rules prescribed in Article 64.[2] The rationale of the law can be found in the fact that in quasi-offenses penalized under Article 365, the carelessness, imprudence or negligence which characterizes the wrongful act may vary from one situation to another, in nature, extent, and resulting consequences, and in order that there may be a fair and just application of the penalty, the courts must have ample discretion in its imposition, without being bound by what We may call the mathematical formula provided for in Article 64 of the Revised Penal Code. On the basis of this particular provision, the trial court was not bound to apply paragraph 5 of Article 64 in the instant case even if appellant had two mitigating circumstances in his favor with no aggravating circumstance to offset them.

In *People vs. Agito*, 1958, 103 Phil. 526, the accused, Simplicio Agito, was charged with triple homicide and serious physical injuries thru reckless imprudence before the Court of First Instance of Occidental Mindoro. He pleaded guilty and the trial court, applying Article 365, paragraph 6, sub-section 2 of the Revised Penal Code, sentenced him to suffer an indeterminate penalty from one year and one day to three years, six months and twenty one days of *prision correccional*. The accused appealed questioning the propriety of the penalty imposed and appellant contended *inter alia* that the trial court erred in not considering the mitigating circumstance of plea of guilty so as to reduce the penalty to a minimum period. This contention was held by this Court to be untenable for to uphold it would be contrary to Article 365, paragraph 5, of the Revised Penal Code as amended by R.A. 384 which provides that "(I)n the imposition of these penalties (referring to the penalties defined in Article 365), the courts shall exercise their sound discretion without regard to the rules prescribed in Article 64." (Portion in parenthesis supplied)

In the case now before Us, the penalty for homicide thru reckless imprudence with violation of the Automobile Law is *prision correccional* in its medium and maximum periods with a duration from two years, four months, and one day to six years. Applying the Indeterminate Sentence Law to which appellant is entitled[3] the imposable penalty covers a minimum to be taken from the penalty one degree lower than that prescribed by law or *arresto mayor* in its maximum period to *prision correccional* in its minimum period, i.e. four months and one day to two years and four months, and a maximum to be taken in turn from the penalty prescribed for the offense the duration of which is from two years, four months and one day to six years. The determination of the minimum and maximum terms is left entirely to the discretion of the trial court, the exercise of which will not be disturbed on appeal unless there is a clear abuse.[4]

The penalty imposed by the trial court is well within the periods we have given above except for the one day

excess in the minimum thereof. The minimum of the indeterminate sentence given by His Honor the trial Judge should have been "two years and four months of prision correccional" instead of "two years, four months and one day", because with the addition of one day the minimum term fell within the range of the penalty prescribed for the offense in contravention of the provisions of the Indeterminate Sentence Law. On this score, there is need to correct the minimum of the indeterminate penalty imposed by the court a quo.

As regards the second issue raised by appellant, We do not find any reversible error in the judgment awarding to the heirs of the deceased P4,000.00 as moral damages and another P4,000.00 as exemplary damages in addition to P12,000.00 by way of actual damages.

Moral damages compensate for mental anguish, serious anxiety, and moral shock suffered by the victim or his family as the proximate result of the wrongful act,[5] and they are expressly recoverable where a criminal offense results in physical injuries as in the instant case before Us which in fact culminated in the death of the victim.[6]

In *People vs. Pantoja*, L-18793, Oct. 11, 1968, 25 SCRA 468, this Court fixed the sum of P12,000.00 as compensatory damages for a death caused by a crime (Art. 2206 of the Civil Code) and it was there stated that, in proper cases, the courts may adjudge additional sums by way of moral damages and exemplary damages.

The determination of the amount which would adequately compensate the victim or his family in a criminal case of this nature is left to the discretion of the trial judge whose assessment will not be disturbed on appeal unless there is a manifest showing that the same is arbitrary or excessive, for it has been said that "(T)here can be no exact or uniform rule for measuring the value of a human life and the measure of damages cannot be arrived at by precise mathematical calculation, but the amount recoverable depends on the particular facts and circumstances of each case." (25 C.J.S., 1241, cited in *Alcantara vs. Surro, et al.*, 93 Phil. 472, 477)

With respect to the exemplary damages awarded by the trial court, the same are justified by the fact that the herein appellant without having been issued by competent authority a license to drive a motor vehicle, wilfully operated a BHP dump truck and drove it in a negligent and careless manner as a result of which he hit a pedestrian who died from the injuries sustained by him. Exemplary damages are corrective in nature and are imposed by way of example or correction for the public good (Art. 2229, Civil Code), and the situation before Us calls for the imposition of this kind of damages to deter others from taking into their hands a motor vehicle without being qualified to operate it on the highways thereby converting the vehicle into an instrument of death.

WHEREFORE, the appealed decision is hereby MODIFIED in that the minimum term is reduced by one day. The herein appellant is sentenced therefore to an indeterminate penalty ranging from TWO (2) YEARS and FOUR (4) MONTHS of prision correccional as minimum to SIX (6) YEARS also of prision correccional as maximum. In all other respects, the decision stands. Without pronouncement as to costs.

Castro, (Chairman), Teehankee, Makasiar, and Esguerra, JJ., concur.

[1] Article 64, Revised Penal Code: —

Rules for the application of penalties which contain three periods.

x x x x x x x x

- When there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable according to the number and nature of such circumstances.

[2] As amended by Republic Act 384

[3] Indeterminate Sentence Law, Act No. 4103 as amended by Act No. 4225:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum of which shall be within the range of the penalty next lower to that prescribed by the code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

[4] People vs. De Joya, et al., 98 Phil. 238

[5] Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission. (Civil Code)

[6] Art. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) x x x x x x x x (Civil Code)

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