

## VALENTINO TRIPON, JR. Y CANLAS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

Ponente: GARCIA-FERNANDEZ, J.

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### GARCIA-FERNANDEZ, J.:

This is a petition for review under Rule 42 of the Revised Rules of Court of the decision dated January 25, 2011 of the Regional Trial Court (RTC), Branch 74 of Malabon City in Case No. R-09-03-MN, denying the appeal and affirming the decision dated July 30, 2008 of the Metropolitan Trial Court (MeTC) in Criminal Case No. JL00-1004.

The factual antecedents as culled from the record shows:

On June 15, 2001 at around 10:00 to 11:00 p.m., petitioner Valentino Tripon, Jr. y Canlas was driving a passenger jeepney with plate no. NTH-977, when he hit private complainant Jason Valenzuela y Caco, who was then driving his motorcycle. As a result of the vehicular accident, private complainant sustained physical injuries which required medical attention and prevented him from performing his customary work for a period of more than thirty (30) days. An information for Reckless Imprudence Resulting in Serious Physical Injuries was filed against petitioner in Criminal Case No. JL00-1004 before the MeTC of Malabon City.[1] On August 9, 2001, when petitioner was arraigned, he pleaded "not guilty".[2]

During the trial, the prosecution presented as witnesses, private complainant Jason Valenzuela, Mark Anthony Gonzales and Dr. Teresita R. Sanchez, while petitioner and one Edison Liguad testified as witnesses for the defense.

On July 30, 2008, the MeTC of Malabon City rendered a decision, the dispositive portion of which provides:

"WHEREFORE, judgment is hereby rendered finding the accused Valentino Tripon, Jr. y Canlas GUILTY as charged of reckless imprudence resulting in serious physical injuries defined and penalized under Art. 365, paragraph 1, in relation to Art. 363, subdivision 4 of the Revised Penal Code and is sentenced to an imprisonment of Two (2) months and One (1) day to Three (3) months, medium of arresto mayor in its minimum and medium periods. Accused is also found liable and is hereby ordered to pay private complainant Jason Valenzuela y Caco P20,047 in actual damages and P10,000.00 in moral damages.

SO ORDERED."[3]

On appeal by petitioner,[4] the RTC of Malabon City issued a decision dated January 25, 2011, affirming the MeTC decision. The RTC ruled that the evidence for the prosecution sufficiently established the gross negligence and imprudence of petitioner in driving his jeepney; that the latter failed to take the necessary precaution when his jeepney digressed to the opposite lane while overtaking another jeepney on a curved road, thus causing the collision with the incoming motorcycle driven by the private complainant; and that the proximate cause of the accident resulting in the private respondent's injuries, was the negligence of the petitioner.[5]

In this petition for review, petitioner assigned the following errors to the RTC:

- THE TRIAL COURT COMMITTED SERIOUS AND REVERSIBLE ERROR IN RULING THAT THE PETITIONER WAS NEGLIGENT BECAUSE HIS JEEPNEY WAS OVERTAKING PRIOR TO THE COLLISION WHEREAS THE OVERTAKING WAS NOT PROVEN BEYOND REASONABLE DOUBT;
- THE TRIAL COURT COMMITTED SERIOUS AND REVERSIBLE ERROR IN FINDING THAT THE PETITIONER WAS OVERTAKING PRIOR TO THE COLLISION GIVEN THE SITUATION AND LOCATION OF THE VICTIM'S MOTORCYCLE AFTER THE ACCIDENT;
- THE TRIAL COURT COMMITTED SERIOUS AND REVERSIBLE ERROR IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES WHILE DISCREDITING THAT OF THE DEFENSE;
- THE REGIONAL TRIAL COURT COMMITTED REVERSIBLE ERROR IN RULING THAT PETITIONER IS NEGLIGENT BECAUSE HE PARKED HIS JEEPNEY ON A CURVE; and,
- THE REGIONAL TRIAL COURT COMMITTED SERIOUS AND REVERSIBLE ERROR IN AFFIRMING THE CONVICTION OF THE PETITIONER ON THE GROUND OF "CLEAR AND CONVINCING EVIDENCE." [6]

Petitioner contends that the prosecution failed to discharge its duty of establishing his guilt beyond reasonable doubt; and that both decisions issued by the MeTC and the RTC were based on mere assumptions. Petitioner also contends that no evidence was presented confirming the allegation that he encroached on the opposite lane while overtaking another jeepney, as the prosecution failed to present any police or traffic incident report.

Since the errors assigned to the RTC are interrelated, they shall be discussed jointly.

The appeal is bereft of merit.

This Court sees no reason to overturn the findings of the lower courts on petitioner's gross negligence and culpability, considering that both the MeTC and RTC concurred in their findings. Such concurrence is highly persuasive on the Court, especially in a case where the determinative issues are essentially factual. It has been repeatedly stressed in majority of appeals in criminal cases, that an appellate court accords great weight and respect, if not finality on factual findings of trial courts unless the accused-appellant is able to show that the trial court overlooked or disregarded matters of substance which if considered would very likely change the results. [7]

Contrary to petitioner's allegations, the prosecution presented sufficient evidence to prove guilt beyond reasonable doubt. Prosecution witnesses clearly showed that petitioner failed to take the necessary care and precaution in passing or overtaking another vehicle, and in so doing, he encroached on the opposite lane, causing the collision with the incoming motorcycle driven by the private complainant. Moreover, record shows that petitioner was initially at full-stop to allow his passengers to alight from the vehicle; and that he was already aware of the incoming motorcycle while in the act of overtaking another vehicle. [8] It is a settled rule that a driver abandoning his proper lane for the purpose of overtaking another vehicle in an ordinary situation has the duty to see to it that the road is clear and he should not proceed if he cannot do so in safety. [9] This rule is consistent with Section 41, paragraph (a) of R.A. 4136 as amended, otherwise known as The Land Transportation and Traffic Code, which provides:

Sec. 41. Restrictions on overtaking and passing. – (a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking or passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking or passing to be made in safety.

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material

damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.[10] For failing to observe the duty of diligence and care imposed on drivers of vehicles abandoning their lane, petitioner must be held liable.

Anent the penalty imposed, the RTC imposed the penalty of imprisonment of two (2) months and one (1) day to three (3) months, of *arresto mayor* in its medium period as minimum and medium periods. However, the Indeterminate Sentence Law finds no application in this case, since Section 2 thereof provides that it shall not apply to persons convicted of offenses whose maximum term of imprisonment does not exceed one year.[11] Article 365 pertinently provides:

Art. 365. 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.

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In the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in Article 64 of the Revised Penal Code.

From the foregoing, this Court modifies the penalty imposed by the RTC by imposing upon petitioner a straight penalty of two (2) months and one (1) day of *arresto mayor* in its medium period.

WHEREFORE, the instant petition for review is DENIED. The appealed decision dated January 25, 2011 of the Regional Trial Court (RTC) of Malabon City in Case No. R-09-03-MN is AFFIRMED with MODIFICATION that petitioner is sentenced to suffer the penalty of two (2) months and one (1) day of *arresto mayor*.

### SO ORDERED.

Lampas Peralta, (Chairperson), and Acosta, JJ., concur.

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[1] Record, p. 1.

[2] *Id.* at p. 25.

[3] *Id.* at pp. 320-326.

[4] *Id.* at pp. 324-325.

[5] *Id.* at pp. 394-399.

[6] Rollo, pp. 17-18.

[7] *Teodorico Manzanares vs. People of the Philippines*, G.R. Nos. 153760-61, October 12, 2006.

[8] TSN, November 24, 2005, Record, pp. 219-227.

[9] *Rogelio Engada vs. Court of Appeals and People of the Philippines*, G.R. No. 140698, June 20, 2003.

[10] Art. 365, Revised Penal Code.

[11] *Carlito Pentecostes, Jr. vs. People of the Philippines*, G.R. No. 167766, April 7, 2010.

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