

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

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PAREDES, J.:[*]

THE CASE

THIS PETITION FOR REVIEW[1], filed by petitioner Mario Frane Almarez (petitioner) seeks to reverse and set aside the Decision[2] 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[3] 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[4] reads, thus:

That on or about the 22[nd] 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[5] 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[6] 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[7] 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.[8]

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.[9]

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.[10] 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.[11]

Hence, this petition for review with the assigned errors[12], 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 covering the damages claimed.

Petitioner's contentions deserve scant consideration.

Jurisprudence is settled as to the elements that must be present for the prosecution of reckless imprudence under Article 365 of the Revised Penal Code, viz.:

Article 365 of the Revised Penal Code states that 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 (1) his employment or occupation; (2) his degree of intelligence; (3) his physical condition; and (4) other circumstances regarding persons, time and place[13].

The RTC affirmed the findings of the MeTC that petitioner did not take the necessary precautions and was negligent in driving his Tamaraw FX. Petitioner's failure to drive safely resulted in the injuries sustained by private complainants and damage to Edmond's vehicle. A reading of the errors raised by petitioner show that he is not disputing the finding that a collision occurred, and this was caused by his lack of precaution and negligence.

He does not dispute that private complainants suffered injury, rather, what he asserts is that they were not incapacitated for a period of nine days or less as they were merely advised to rest; hence, he argues that there is no basis for his conviction. This argument is not tenable.

It has been held that when there is no evidence of actual incapacity or required medical attendance, of the offended party for labor, the offense is committed is slight physical injuries[14]. The medical certificates submitted by private complainants reads, that: "The patient is advised to rest for a period of 3 days of recuperation and follow-up." The medical advice, albeit it is "to rest", shows that some form of trauma was sustained by the patient and the advice was meant for the patient to recuperate from this trauma; and "to rest" means that the person was unable to perform his/her usual activities, be it to go to work or to go to school.

Moreover, petitioner faults the RTC when it affirmed the grant of temperate damages when private complainants failed to present the official receipt for the repair of Edmond's vehicle. This argument fails to convince.

It is settled that when the court finds that some pecuniary loss has been suffered but the amount cannot, from the nature of the case, be proven with certainty, the court may award temperate damages in the exercise of its sound discretion[15]. It is beyond cavil that Edmond's vehicle was damaged. He testified as to the amount of the repair but only presented the estimate therefor. As held by the MeTC, an estimate cannot be made the basis for the award of actual damages. Thus, given this circumstance, the RTC did not err when it affirmed the award of temperate damages.

In sum, after a judicious review of the records of this case, We hold that the RTC did not err in affirming the decision of the MeTC. As such, We have no other recourse but to dismiss the petition for review.

WHEREFORE, premises considered, the Petition for Review is DISMISSED. The assailed Decision dated

February 5, 2010 issued by the Regional Trial Court, Branch 139 of Makati City, in Criminal Case No. 09-001 finding petitioner MARIO ALMAREZ Y FRANE guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting in Slight Physical Injuries and Damage to Property, is AFFIRMED.

SO ORDERED.

Dicdican, (Chairperson), and [**]Corales, JJ., concur.

[*] Acting Senior Member per Office Order No. 461-14-ABR dated November 3, 2014.

[**] Acting Junior Member per Office Order No. 461-14-ABR dated November 3, 2014.

[1] Rollo, pp. 6-10. The Court required the elevation of the records of this Petition for Review for a reasonable and fair assessment of the parties' respective position in the resolution dated November 27, 2013 which was complied with by the RTC as shown by its compliance dated December 17, 2013, rollo, pp. 108-109 and 110.

[2] Records, pp. 364-71.

[3] Records, pp. 187-92.

[4] Ibid., p. 1.

[5] Records, p. 61.

[6] Ibid., pp. 368-9.

[7] Exhibits "F" and "G," records, pp. 45-47.

[8] Records, p. 383.

[9] Ibid., p. 345.

[10] Ibid., p. 370.

[11] Ibid., p. 371.

[12] Rollo, p. 48.

[13] People of the Philippines vs. Glenn de los Santos, G.R. No. 131588. March 27, 2001.

[14] People of the Philippines vs. Bernard Mapalo, G.R. No. 172608, February 6, 2007 citing Kingston(e) Li y Nunez v. People, G.R. No. 127962, April 14, 2004.

[15] Vicente Josefa vs. Manila Electric Company, G.R. No. 182705, July 18, 2014.

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