

LARRY V. CAMINOS, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 147437. May 08, 2009*

Ponente: TINGA, J.

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The right of a person using public streets and highways for travel in relation to other motorists is mutual, coordinate and reciprocal.[1] He is bound to anticipate the presence of other persons whose rights on the street or highway are equal to his own.[2] Although he is not an insurer against injury to persons or property,[3] it is nevertheless his duty to operate his motor vehicle with due and reasonable care and caution under the circumstances for the safety of others[4] as well as for his own.[5]

This Petition for Review[6] seeks the reversal of the Decision[7] of the Court of Appeals in CA-G.R. CR No. 14819 dated 28 February 1995. The assailed decision affirmed the judgment of conviction[8] rendered by the Regional Trial Court of Pasig City, Branch 163 in Criminal Case No. 76653—one for reckless imprudence resulting in damage to property—against petitioner Larry V. Caminos, Jr. but reduced the latter's civil liability on account of the finding that the negligence of Arnold Litonjua, the private offended party, had contributed to the vehicular collision subject of the instant case.

The case is rooted on a vehicular collision that happened on the night of 21 June 1988 at the intersection of Ortigas Avenue and Columbia Street in Mandaluyong City, right in front of Gate 6 of East Greenhills Subdivision. The vehicles involved were a Mitsubishi Super Saloon[9] driven by petitioner and a Volkswagen Karmann Ghia[10] driven by Arnold Litonjua (Arnold). The mishap occurred at approximately 7:45 in the evening.[11] That night, the road was wet.[12] Arnold, who had earlier passed by Wack Wack Subdivision, was traversing Ortigas Avenue toward the direction of Epifanio Delos Santos Avenue. He prepared to make a left turn as he reached the intersection of Ortigas Avenue and Columbia Street, and as soon as he had maneuvered the turn through the break in the traffic island the Mitsubishi car driven by petitioner suddenly came ramming into his car from his right-hand side. Petitioner, who was also traversing Ortigas Avenue, was headed towards the direction of San Juan and he approached the same intersection from the opposite direction.[13]

The force exerted by petitioner's car heaved Arnold's car several feet away from the break in the island, sent it turning 180 degrees until it finally settled on the outer lane of Ortigas Avenue.[14] It appears that it was the fender on the left-hand side of petitioner's car that made contact with Arnold's car, and that the impact—which entered from the right-hand side of Arnold's car to the left—was established on the frontal center of the latter vehicle which thus caused the left-hand side of its hood to curl upward.[15]

Arnold immediately summoned to the scene of the collision Patrolman Ernesto Santos (Patrolman Santos),[16] a traffic investigator of the Mandaluyong Police Force who at the time was manning the police outpost in front of the Philippine Overseas Employment Administration Building.[17] Patrolman Santos interrogated both petitioner and Arnold and made a sketch depicting the relative positions of the two colliding vehicles after the impact.[18]

The sketch, signed by both petitioner and Arnold and countersigned by Patrolman Santos, shows petitioner's car—which, it seems, was able to keep its momentum and general direction even upon impact—was stalled along Ortigas Avenue a few feet away from the intersection and facing the direction of San Juan whereas Arnold's car had settled on the outer lane of Ortigas Avenue with its rear facing the meeting point of the median lines of the intersecting streets at a 45-degree angle.[19]

At the close of the investigation, a traffic accident investigation report (TAIR)[20] was forthwith issued by P/Cpl. Antonio N. Nato of the Eastern Police District. The report revealed that at the time of the collision, Arnold's car, which had "no right of way,"[21] was "turning left" whereas petitioner's car was "going straight" and was "exceeding lawful speed." [22] It also indicated that the vision of the drivers was obstructed by the "center island flower bed." [23]

Petitioner was subsequently charged before the Regional Trial Court of Pasig City with reckless imprudence resulting in damage to property.[24] He entered a negative plea on arraignment.[25]

At the ensuing trial, Patrolman Santos admitted having executed the sketch which depicts the post-collision positions of the two vehicles.[26] Arnold's testimony established that his vehicle was at a full stop at the intersection when the incident happened.[27] Told by the trial court to demonstrate how the incident transpired, he executed a sketch which showed that his car had not yet invaded the portion of the road beyond the median line of the island and that the path taken by petitioner's car, depicted by broken lines, came swerving from the outer lane of the road to the left and rushing toward the island where Arnold's car was executing a turn.[28] On cross-examination, he admitted the correctness of the entry in the TAIR to the effect that he was turning left when hit by petitioner's car,[29] but he claimed on re-direct examination that he had stopped at the intersection in order to keep the traffic open to other vehicles and that it was then that petitioner bumped his car. On re-cross examination, however, he stated that he had brought his car to a full stop before turning left but that the front portion thereof was already two (2) feet into the other lane of Ortigas Avenue and well beyond the median line of the traffic island.[30]

Antonio Litonjua (Antonio), the father of Arnold in whose name the Volkswagen car was registered, testified that the estimation of the cost of repairs to be made on the car was initially made by SKB Motors Philippines, Inc. The estimation report dated 30 June 1988 showed the total cost of repairs to be P73,962.00. The necessary works on the car, according to Antonio, had not been performed by SKB Motors because the needed materials had not been delivered.[31] Meanwhile, SKB Motors allegedly ceased in its operation, so Antonio procured another repair estimation this time from Fewkes Corporation.[32] The estimation report was dated 13 December 1991, and it bloated the total cost of repairs to P139,294.00.[33] Ricardo Abrencia, resident manager of Fewkes Corporation, admitted that he personally made and signed the said estimation report and that Antonio had already delivered a check representing the payment for half of the total assessment.[34]

Petitioner, the lone defense witness, was a company driver in the employ of Fortune Tobacco, Inc. assigned to drive for the company secretary, Mariano Tanigan, who was with him at the time of the incident. In an effort to exonerate himself from liability, he imputed negligence to Arnold as the cause of the mishap, claiming that that he, moments before the collision, was actually carefully traversing Ortigas Avenue on second gear. He lamented that it was Arnold's car which bumped his car and not the other way around and that he had not seen Arnold's car coming from the left side of the intersection—which seems to suggest that Arnold's car was in fact in motion or in the process of making the turn when the collision occurred. His speed at the time, according to his own estimate, was between 25 and 30 kph because he had just passed by the stoplight located approximately 100 meters away at the junction of Ortigas Avenue and EDSA, and that he even slowed down as he approached the intersection.[35]

In its 18 September 1992 Decision,[36] the trial court found petitioner guilty as charged. The trial court relied principally on the sketch made by Patrolman Santos depicting the post-collision positions of the two vehicles—that piece of evidence which neither of the parties assailed at the trial—and found that of the two conflicting accounts of how the collision happened it was Arnold's version that is consistent with the evidence. It pointed out that just because Arnold had no right of way, as shown in the TAIR, does not account for fault on his part since it was in fact petitioner's car that came colliding with Arnold's car. It concluded that petitioner, by reason of his own admission that he did not notice Arnold's car at the intersection, is solely to be blamed for the incident especially absent any showing that there was any obstruction to his line of sight. Petitioner, according to the trial court, would have in fact noticed on-coming vehicles coming across his path had he employed proper precaution. Accordingly, the trial court ordered petitioner to pay civil indemnity in the amount of P139,294.00 as well as a fine in the same amount.

The Court of Appeals agreed with the factual findings of the trial court. In its Decision dated 28 February 1995, the appellate court affirmed the judgment of conviction rendered by the trial court against petitioner. However, it mitigated the award of civil indemnity on its finding that Arnold himself was likewise reckless in maneuvering a left turn inasmuch as he had neglected to look out, before entering the other lane of the road, for vehicles that could likewise be possibly entering the intersection from his right side.[37]

This notwithstanding, petitioner was still unsatisfied with the ruling of the appellate court. Seeking an acquittal, he filed the present petition for review in which he maintains Arnold's own negligence was the principal determining factor that caused the mishap and which should thus defeat any claim for damages. In declaring him liable to the charge despite the existence of negligence attributable to Arnold, petitioner believes that the Court of Appeals had misapplied the principle of last clear chance in this case.

The Office of the Solicitor General (OSG), in its Comment,[38] argues that petitioner's negligence is the proximate cause of the collision and that Arnold Litonjua's negligence was contributory to the accident which, however, does not bar recovery of damages. Additionally, it recommends the reduction of both the fine and the civil indemnity as the same are beyond what the prosecution was able to prove at the trial.

The Court denies the petition.

Reckless imprudence generally defined by our penal law 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.[39]

Imprudence connotes a deficiency of action. It implies a failure in precaution or a failure to take the necessary precaution once the danger or peril becomes foreseen.[40] Thus, something more than mere negligence in the operation of a motor vehicle is necessary to constitute the offense of reckless driving, and a willful and wanton disregard of the consequences is required.[41] Willful, wanton or reckless disregard for the safety of others within the meaning of reckless driving statutes has been held to involve a conscious choice of a course of action which injures another, either with knowledge of serious danger to others involved, or with knowledge of facts which would disclose the danger to any reasonable person.[42]

Hence, in prosecutions for reckless imprudence resulting in damage to property, whether or not one of the drivers of the colliding automobiles is guilty of the offense is a question that lies in the manner and circumstances of the operation of the motor vehicle,[43] and a finding of guilt beyond reasonable doubt requires the concurrence of the following elements, namely, (a) that the offender has done or failed to do an act; (b) that the act is voluntary; (c) that the same is without malice; (d) that material damage results; and (e) that there has been inexcusable lack of

precaution on the part of the offender.[44]

Among the elements constitutive of the offense, what perhaps is most central to a finding of guilt is the conclusive determination that the accused has exhibited, by his voluntary act without malice, an inexcusable lack of precaution because it is that which supplies the criminal intent so indispensable as to bring an act of mere negligence and imprudence under the operation of the penal law.[45] This, because a conscious indifference to the consequences of the conduct is all that is required from the standpoint of the frame of mind of the accused,[46] that is, without regard to whether the private offended party may himself be considered likewise at fault.

Inasmuch as the Revised Penal Code, however, does not detail what particular act or acts causing damage to property may be characterized as reckless imprudence, certainly, as with all criminal prosecutions, the inquiry as to whether the accused could be held liable for the offense is a question that must be addressed by the facts and circumstances unique to a given case. Thus, if we must determine whether petitioner in this case has shown a conscious indifference to the consequences of his conduct, our attention must necessarily drift to the most fundamental factual predicate. And we proceed from petitioner's contention that at the time the collision took place, he was carefully driving the car as he in fact approached the intersection on second gear and that his speed allegedly was somewhere between 25 and 30 kph which under normal conditions could be considered so safe and manageable as to enable him to bring the car to a full stop when necessary.

Aside from the entry in the TAIR, however, which noted petitioner's speed to be beyond what is lawful, the physical evidence on record likewise seems to negate petitioner's contention. The photographs taken of Arnold's car clearly show that the extent of the damage to it could not have been caused by petitioner's car running on second gear at the speed of 25-30 kph. The fact that the hood of Arnold's car was violently wrenched as well as the fact that on impact the car even turned around 180 degrees and was hurled several feet away from the junction to the outer lane of Ortigas Avenue—when in fact Arnold had already established his turn to the left on the inner lane and into the opposite lane—clearly demonstrate that the force of the collision had been created by a speed way beyond what petitioner's estimation.

Rate of speed, in connection with other circumstances, is one of the principal considerations in determining whether a motorist has been reckless in driving an automobile,[47] and evidence of the extent of the damage caused may show the force of the impact from which the rate of speed of the vehicle may be modestly inferred.[48] While an adverse inference may be gathered with respect to reckless driving[49] from proof of excessive speed under the circumstances[50]—as in this case where the TAIR itself shows that petitioner approached the intersection in excess of lawful speed—such proof raises the presumption of imprudent driving which may be overcome by evidence,[51] or, as otherwise stated, shifts the burden of proof so as to require the accused to show that under the circumstances he was not driving in a careless or imprudent manner.[52]

We find, however, that petitioner has not been able to discharge that burden inasmuch as the physical evidence on record is heavy with conviction way more than his bare assertion that his speed at the time of the incident was well within what is controllable. Indeed, the facts of this case do warrant a finding that petitioner, on approach to the junction, was traveling at a speed far greater than that conveniently fixed in his testimony. Insofar as such facts are consistent with that finding, their truth must reasonably be admitted.[53]

Speeding, moreover, is indicative of imprudent behavior because a motorist is bound to exercise such ordinary care and drive at a reasonable rate of speed commensurate with the conditions encountered on the road. What is reasonable speed, of course, is necessarily subjective as it must conform to the peculiarities of a given case but in all cases, it is that which will enable the driver to keep the vehicle under control and avoid injury to others using

the highway.[54] This standard of reasonableness is actually contained in Section 35 of R.A. No. 4136. It states:

SEC. 35. Restriction as to speed.—(a) Any person driving a motor vehicle on a highway shall drive the same at a careful and prudent speed, not greater nor less than is reasonable and proper, having due regard for the traffic, the width of the highway, and of any other condition then and there existing; and no person shall drive any motor vehicle upon a highway at such speed as to endanger the life, limb and property of any person, nor at a speed greater than will permit him to bring the vehicle to a stop within the assured clear distance ahead.

Even apart from statutory regulations as to speed, a motorist is nevertheless expected to exercise ordinary care and drive at a reasonable rate of speed commensurate with all the conditions encountered [55] which will enable him to keep the vehicle under control and, whenever necessary, to put the vehicle to a full stop to avoid injury to others using the highway. [56]

It must be stressed that this restriction on speed assumes more importance where the motorist is approaching an intersection. Ordinary or reasonable care in the operation of a motor vehicle at an intersection would naturally require more precaution than is necessary when driving elsewhere in a street or highway.[57] A driver approaching an intersection is generally under duty, among others, to be vigilant and to have the vehicle under control as to be able to stop at the shortest possible notice,[58] that is, he must look for vehicles that might be approaching from within the radius that denotes the limit of danger.[59]

Since compliance with this duty is measured by whether an approaching motorist has exercised the level of precaution required under the circumstances, then with more reason that he exhibit a relatively higher level of care when the intersection is blind at the point where the roads meet. In other words, where the view at an intersection is obstructed and an approaching motorist cannot get a good view to the right or left until he is close to the intersection, prudence would dictate that he take particular care to observe the traffic before entering the intersection or otherwise use reasonable care to avoid a collision,[60] which means that he is bound to move with the utmost caution until it is determinable that he can proceed safely and at the slowest speed possible[61] so that the vehicle could be stopped within the distance the driver can see ahead.[62]

On this score, what brings certain failure in petitioner's case is his own admission that he had not seen Arnold's car making a left turn at the intersection. Of course, there had been an arduous debate at the trial as to whether Arnold's car was in motion or at a full stop at the intersection moments before the collision; nevertheless, inasmuch as he (Arnold), as shown by the evidence, had been able to establish himself at the intersection significantly ahead of petitioner, it defies logic to accord even a semblance of truth to petitioner's assertion that he had not seen Arnold's car entering the intersection laterally from his left especially when the said car admittedly had already taken two feet of the other lane of the road—the lane on which petitioner was proceeding to cross—and well beyond the median line of the intersecting road on which Arnold proceeded after making the turn. Indeed, not even the fact that the view at the intersection was blocked by the flower bed on the traffic island could provide an excuse for petitioner as it has likewise been established that he approached the intersection at such a speed that could not, as in fact it did not, enable him to arrest his momentum and forestall the certainty of the collision.

It can only be surmised at this point that petitioner had inexcusably fallen short of the standard of care in a situation which called for more precaution on the highway in failing to make an observation in the interest at least of his own safety whether or not it was safe to enter the crossing. Since he is chargeable with what he should have observed only had he exercised the commensurate care required under the circumstances of the case, the inescapable conclusion is that he had inexcusably breached the elementary duties of a responsible, prudent and reasonable motorist.

In general, the degree of care and attention required of a driver in a particular case in exercising reasonable care

will vary with and must be measured in the light of all the surrounding circumstances, such that it must be commensurate with the dangers which are to be anticipated and the injuries which are likely to result from the use of the vehicle.[63] In other words, he must observe a sense of proportionality between precaution and the peculiar risks attendant or even inherent in the condition of the road[64] which are open to ordinary observation.[65] The ultimate test, in other words, is to be found in the reasonable foreseeability that harm might result if commensurate care is not exercised. It is not necessary, however, that a motorist actually foresee the probability of harm or that the particular injury which resulted was foreseeable; it would suffice that he, in the position of an ordinary prudent man, knowing what he knew or should have known, anticipate that harm of a general nature as that suffered was to materialize.[66] The evidence in this case is teeming with suggestion that petitioner had failed to foresee the certainty of the collision that was about to happen as he entered the junction in question especially considering that his lateral vision at the intersection was blocked by the structures on the road. In the same way, he failed to solidly establish that such failure to foresee the danger lurking on the road could be deemed excusable as indeed his contention that he was running at a safe speed is totally negated by the evidence derived from the physical facts of the case.

Yet, petitioner clings to a chance of acquittal. In his petition, he theorizes that the negligence of Arnold, which according to the Court of Appeals was incipient in character, was actually the principal determining factor which caused the mishap and the fact that the TAIR indicated that Arnold had no right of way, it is he himself who had the status of a favored driver. The contention is utterly without merit.

In traffic law parlance, the term "right of way" is understood as the right of one vehicle to proceed in a lawful manner in preference to another approaching vehicle under such circumstances of direction, speed and proximity as to give rise to a danger of collision unless one of the vehicles grants precedence to the other.[67] Although there is authority to the effect that the right of way is merely of statutory creation and exists only according to express statutory provision,[68] it is generally recognized, where no statute or ordinance governs the matter, that the vehicle first entering an intersection is entitled to the right of way, and it becomes the duty of the other vehicle likewise approaching the intersection to proceed with sufficient care to permit the exercise of such right without danger of collisions.[69]

In our setting, the right of way rule is governed by Section 42 of Republic Act (R.A.) No. 4136,[70] which materially provides:

Section 42. Right of Way.

(a)

When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right, except as otherwise hereinafter provided. The driver of any vehicle traveling at an unlawful speed shall forfeit any right which he might otherwise have hereunder.

(b)

The driver of a vehicle approaching but not having entered an intersection shall yield the right of a way to a vehicle within such intersection or turning therein to the left across the line of travel of such first-mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required in this Act. x x x.

The provision governs the situation when two vehicles approach the intersection from the same direction and one of them intends make a turn on either side of the road. But the rule embodied in the said provision, also prevalent in traffic statutes in the United States, has also been liberally applied to a situation in which two vehicles approach

an intersection from directly opposite directions at approximately the same time on the same street and one of them attempts to make a left-hand turn into the intersecting street, so as to put the other upon his right, the vehicle making the turn being under the duty of yielding to the other.[71]

Nevertheless, the right of way accorded to vehicles approaching an intersection is not absolute in terms. It is actually subject to and is affected by the relative distances of the vehicles from the point of intersection.[72] Thus, whether one of the drivers has the right of way or, as sometimes stated, has the status of a favored driver on the highway, is a question that permeates a situation where the vehicles approach the crossing so nearly at the same time and at such distances and speed that if either of them proceeds without regard to the other a collision is likely to occur.[73] Otherwise stated, the statutory right of way rule under Section 42 of our traffic law applies only where the vehicles are approaching the intersection at approximately the same time and not where one of the vehicles enter the junction substantially in advance of the other.

Whether two vehicles are approaching the intersection at the same time does not necessarily depend on which of the vehicles enters the intersection first. Rather, it is determined by the imminence of collision when the relative distances and speeds of the two vehicles are considered.[74] It is said that two vehicles are approaching the intersection at approximately the same time where it would appear to a reasonable person of ordinary prudence in the position of the driver approaching from the left of another vehicle that if the two vehicles continued on their courses at their speed, a collision would likely occur, hence, the driver of the vehicle approaching from the left must give the right of precedence to the driver of the vehicle on his right.[75]

Nevertheless, the rule requiring the driver on the left to yield the right of way to the driver on the right on approach to the intersection, no duty is imposed on the driver on the left to come to a dead stop, but he is merely required to approach the intersection with his vehicle under control so that he may yield the right of way to a vehicle within the danger zone on his right.[76] He is not bound to wait until there is no other vehicle on his right in sight before proceeding to the intersection but only

until it is reasonably safe to proceed.[77] Thus, in *Adzuara v. Court of Appeals*,^[78] it was established that a motorist crossing a thru-stop street has the right of way over the one making a turn; but if the person making the turn has already negotiated half of the turn and is almost on the other side so that he is already visible to the person on the thru-street, he is bound to give way to the former.

Moreover, in a prosecution for reckless or dangerous driving, the negligence of the person who was injured or who was the driver of the motor vehicle with which the accused's vehicle collided does not constitute a defense.[79] In fact, even where such driver is said to be guilty of a like offense, proof thereof may never work favors to the case of the accused.[80] In other words, proof that the offended party was also negligent or imprudent in the operation of his automobile bears little weight, if at all, at least for purposes of establishing the accused's culpability beyond reasonable doubt. Hence, even if we are to hypothesize that Arnold was likewise negligent in neglecting to keep a proper lookout as he took a left turn at the intersection, such negligence, contrary to petitioner's contention, will nevertheless not support an acquittal. At best, it will only determine the applicability of several other rules governing situations where concurring negligence exists and only for the purpose of arriving at a proper assessment of the award of damages in favor of the private offended party.

But it must be asked: do the facts of the case support a finding that Arnold was likewise negligent in executing the left turn? The answer is in the negative. It is as much unsafe as it is unjust to assume that Arnold, just because the TAIR so indicated that he at the time had no right of way, that Arnold had performed a risky maneuver at the intersection in failing

to keep a proper lookout for oncoming vehicles. In fact, aside from petitioner's bare and self-serving assertion that

Arnold's fault was the principal determining cause of the mishap as well as his allegation that it was actually Arnold's car that came colliding with his car, there is no slightest suggestion in the records that could tend to negate what the physical evidence in this case has established. Clearly, it was petitioner's negligence, as pointed out by the OSG, that proximately caused the accident.

Finally, on the issue of damages, inasmuch as petitioner had not extended efforts to present countervailing evidence disproving the extent and cost of the damage sustained by Arnold's car, the award assessed and ordered by the trial court must stand.

All told, it must be needlessly emphasized that the measure of a motorist's duty is such care as is, under the facts and circumstances of the particular case, commensurate with the dangers which are to be anticipated and the injuries which are likely to result from the use of the vehicle, and in proportion to or commensurate with the peculiar risk attendant on the circumstances and conditions in the particular case,[81] the driver being under the duty to know and to take into consideration those circumstances and factors affecting the safe operation of the vehicle which would be open to ordinary observation.[82]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CR No. 14819 dated 28 February 1995 is REVERSED and SET ASIDE. The Decision of the Regional Trial Court of Pasig, Branch 163 in Criminal Case No. 76653 dated 18 September 1992 is REINSTATED.

SO ORDERED.

Carpio-Morales,[*] (Acting Chairperson), Velasco, Jr., Leonardo-De Castro,**] and Brion, JJ., concur.

[*] Acting Chairperson as replacement of Justice Leonardo A. Quisumbing who is on official leave per Special Order No. 618.

[**] Additional member of the Second Division per Special Order No. 619.

[1] Richards v. Begenstos, 21 N.W.2d 23; Hodges v. Smith, 298 S.W. 1023; Lawson v. Fordyce, 12 N.W.2d 301.

[2] Magnolia Petroleum Co. v. Owen, 101 S.W.2d 354.

[3] Atlantic Greyhound Corp. v. Lyon, 107 F.2d 157; Oklahoma Natural Gas Co. v. McKee, 121 F.2d 583.

[4] Burdick v. Powell Bros. Truck Lines, 124 F.2d 694; Dixie Motor Coach Corp. v. Lane, 116 F.2d 264; Shipley v. Komer, 154 F.2d 861.

[5] Magnolia Petroleum Co. v. Owen, 101 S.W.2d 354.

[6] Under Rule 45 of the RULES OF COURT. Rollo, pp. 8-23.

[7] Penned by then Associate Justice Romeo J. Callejo (now retired Associate Justice, Supreme Court of the Philippines) and concurred in by Associate Justices Alfredo L. Benipayo and Ricardo P. Galvez. CA rollo, pp. 94-113; Rollo, pp. 27-46.

[8] In Criminal Case No. 76653. The trial court decision dated 18 September 1992 was penned by Acting Judge Rodolfo R. Bonifacio. Records, pp. 182-194.

[9] The Mitubishi Super Saloon with plate numbers PDU 403 was registered in the name of Antonio S. Gonzales.

[10] The Volkswagen Karmann Ghia bore plate numbers NTX 617. It was registered in the name of Antonio K. Litonjua, the father of the private offended party, Arnold Litonjua. See Records, Exhibit "E."

[11] Records, Exhibits "1" and "D"; Rollo, p. 27.

[12] See the Traffic Accident Investigation Report. Records; see also rollo, p. 27.

[13] Rollo, p. 28.

[14] Id. at 28.

[15] See Records, Exhibits "C", "C-1", "C-2", "C-3" and "C-4." These exhibits in the form of photographs depict the extent of the damage caused to Arnold Litonjua's Volkswagen Karmann Ghia.

[16] Rollo, p. 28.

[17] TSN, 21 February 1990, pp. 5-6.

[18] Id. at 7-8. The sketch executed by Patrolaman Ernesto Santos was marked as Exhibit "A" for the prosecution.

[19] Records, Exhibit "A."

[20] Id., Exhibit "1" of the defense and Exhibit "D" of the prosecution.

[21] Id., Exhibit "1-b."

[22] Id., Exhibits "1" and "D."

[23] Id., Exhibit "1-a."

[24] Id. at 1. The inculpatory portion of the Information reads:

That on or about the 21st day of June 1988, in the municipality of Mandaluyong, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being then the driver and/or person in charge of the Mitsubishi 4-door sedan bearing Plate No. PDU 403, did then and there willfully, unlawfully and feloniously drive, manage and operate the same in a careless, reckless, negligent and imprudent manner, without due regard to traffic laws, rules and regulations and without taking the necessary care and precaution to avoid damage to property, causing by such negligence, carelessness and imprudence the said vehicle to bump/collide with a Volkswagen bearing Plate No. NTX 617 being then driven by one Arnold M. Litonjua and owned by one Antonio K. Litonjua, thereby causing damage to the latter motor vehicle in the amount of P73,962.00, to the damage and prejudice of its owner in the aforesaid amount of P73,962.00, Philippine currency.

Contrary to law.

[25] Records, p. 23.

[26] TSN, 21 February 1990, pp. 7, 12-13.

[27] TSN, 14 August 1991, p. 5.

[28] Records, Exhibit "B."

[29] TSN, 25 September 1991, pp. 4-6.

[30] TSN, 26 September 1991, pp. 2-3, 5, 7-8.

[31] TSN, 29 October, 1991, p. 6-8. See Records, Exhibits "F" and "F-1".

[32] TSN, 16 January 1992, pp. 4, 6.

[33] Records, Exhibit "G" and "G-1."

[34] TSN, 16 January 1992, pp. 19-22.

[35] TSN, 3 March 1992, pp. 4-6, 8, 10-11.

[36] The dispositive portion of the trial court's decision reads:

WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the offense of Reckless Imprudence Resulting [in] Damage to Property, and hereby sentences him to pay a fine of One Hundred Thirty[-nine] Thousand Two Hundred Ninety[-four] (P139,294.00) Pesos which is [the] amount equal to the damage to property resulting from said Reckless Imprudence.

On the civil aspect, the accused is hereby ordered to indemnify Antonio Litonjua the similar amount of One Hundred Thirty[-nine] Thousand Two Hundred Ninety[-four] (P139,294.00) Pesos for the damages sustained by his motor vehicle, with costs de officio.

SO ORDERED.

[37] Rollo, p. 46.

[38] Id. at 138-166.

[39] THE REVISED PENAL CODE, REYES, LUIS B., 15[th] ed. (2001) p. 995.

[40] THE REVISED PENAL CODE, REYES, LUIS B., 15[th] ed. (2001) pp. 994-995.

[41] *People v. Paarlberg*, 612 N.E.2d 106 (1933); *People v. Crawford*, 467 N.W.2d 818 (1991); *Wood v. City of Casper*, 683 P.2d 1147 (1984); *State v. Houser*, 626 P.2d 256 (1981); *State v. Boydston*, 609 P.2d 224 (1980); *State v. Tamanaha*, 377 P.2d 688 (1962).

[42] *Wofford v. State*, 395 S.E.2d 630 (1990); *Shorter v. State*, 122 N.E.2d 847 (1954); *White v. State*, 647 S.W.2d 751 (1983).

[43] 7A Am. Jur. 2d, pp. 861-862.

[44] THE REVISED PENAL CODE, REYES, LUIS B., 15[th] ed. (2001) p. 995.

[45] *White v. State*, 647 S.W.2d 751 (1983).

[46] *People v. Ackroyd*, 543 N.Y.S.2d 848 (1989).

[47] 52 A.L.R.2d 1343.

[48] *Knuth v. Murphy*, 54 N.W.2d 771. This case held that evidence of the extent of personal injuries is competent to show the force of the impact as a basis for an inference of the rate of speed of the vehicle.

[49] *Sanford v. State*, 16 So.2d 628; *People v. Whitby*, 44 N.Y.S.2d 76.

[50] *People v. Devoe*, 159 N.E. 682; *People v. Whitby*, 44 N.Y.S.2d 76.

[51] *People v. Carrie*, 204 N.Y.S. 759.

[52] *People v. Herman*, 20 N.Y.S.2d 149.

[53] See *Woodson v. Germas*, 104 S.E.2d 739.

[54] *Gabriel v. Court of Appeals*, G.R. No. 128474, 6 October 2004, 440 SCRA 136, 148-149.

- [55] *Foster v. ConAgra Poultry Co.*, 670 So.2d 471.
- [56] *Nunn v. Financial Indem. Co.*, 694 So.2d 630. Duty of reasonable care includes duty to keep the vehicle under control and to maintain proper lookout for hazards.
- [57] *Roberts v. Leahy*, 214 P.2d 673.
- [58] *Reppert v. White Star Lines*, 106 A.L.R. 413; *Riccio v. Ginsberg*, 62 A.L.R. 967.
- [59] *Stauffer v. School District of Tecumseh*, 473 N.W.2d 392.
- [60] *Kane v. Locke*, 12 N.W.2d 495; *Shelton v. Detamore*, 93 S.E.2d 314.
- [61] *Matthews v. Patton*, 123 A.2d 667.
- [62] *Henthorn v. M.G.C.Corp.*, 83 N.W.2d 759.
- [63] *Reed v. Stroh*, 128 P.2d 829; *Butcher v. Thornhill*, 58 P.2d 179.
- [64] *Reed v. Stroh*, 128 P.2d 829; *Tucker v. Ragland-Potter Co.*, 148 S.W.2d 691.
- [65] *Webb v. Smith*, 10 S.E. 2d 503; *Le Master v. Fort Worth Transit Co.*, 142 S.W.2d 908.
- [66] *Figlar v. Gordon*, 53 A.2d 645.
- [67] *Burrows v. Jacobsen*, 311 N.W.2d 880 (1981).
- [68] *Betchkal v. Willis*, 378 N.W.2d 684 (1985).
- [69] *Creech v. Blackwell*, 298 S.W.2d 394.
- [70] Entitled "AN ACT TO COMPILE THE LAWS RELATIVE TO LAND TRANSPORTATION AND TRAFFIC RULES, TO CREATE A LAND TRANSPORTATION COMMISSION AND FOR OTHER PURPOSES." The law was approved on 20 June 1964.
- [71] *McCarthy v. Beckwith*, 141 N.E. 126; *Arvo v. Delta Hardware Co.*, 204 N.W. 134; *Cohen v. Silverman*, 190 N.W. 795; *Webber v. Park Auto Transp. Co.*, 47 A.L.R. 590.
- [72] *Wlodkowski v. Yerkaitis*, 57 A.2d 792.
- [73] *Reynolds v. Madison Bus Co.*, 26 N.W. 2d 653.
- [74] *Wilmes v. Mihelich*, 25 N.W.2d 833.
- [75] *Moore v. Kujath*, 29 N.W.2d 883.
- [76] *Moore v. Kujath*, 29 N.W.2d 883.
- [77] *Metzger v. Cushman's Sons*, 152 N.E. 695.
- [78] G.R. No. 125134, 22 January 1999, 301 SCRA 657.
- [79] *State v. Blake*, 255 N.W. 108.
- [80] *State v. Sullivan*, 277 N.W. 230.
- [81] *Reed v. Stroh*, 128 P.2d 829.
- [82] *Webb v. Smith*, 10 S.E. 2d 503; *Le Master v. Fort Worth Transit Co.*, 142 S.W.2d 908.

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