

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RENATO GARCIA Y ROMANO, APPELLANT.

G.R. No. 153591. February 23, 2004

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Appellant Renato Garcia y Romano was charged with Murder before the Regional Trial Court of Quezon City, Branch 87, in Criminal Case No. Q-98-79961 in an Information[1] which reads:

That on or about the 22nd day of May, 1998, in Quezon City, Philippines, the said accused, being then the driver and/or person in charge of an Isuzu Jitney bearing Plate No. NPJ-948 did then and there unlawfully and feloniously drive, manage and operate the same along Zabarte Road in said City, in a careless, reckless, negligent and impudent manner, by then and there making the said vehicle run at a speed greater than was reasonable and proper without taking the necessary precaution to avoid accident to person/s of the traffic at said place at the time, causing as consequence of his said carelessness, negligence, impudence and lack of precaution, the said vehicle so driven, managed and operated by him to hit and bump, as in fact it hit and bumped Sanily Billon y Trinidad, a pedestrian, thereafter, with intent to kill, qualified by evident premeditation and use of motor vehicle, did then and there willfully, unlawfully and feloniously ran said vehicle over the victim thereby causing her serious and mortal wounds which were the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of the said Sanily Billon y Trinidad.

CONTRARY TO LAW.

On arraignment, appellant pleaded “not guilty”. Thereafter, trial on the merits followed.

The prosecution alleged that at around 12:00 noon of May 22, 1998, Bentley Billon and his younger sister, Sanily, boarded a passenger jeepney on their way to Sacred Heart School in Barangay Kaligayahan, Novaliches, Quezon City to attend remedial classes. They alighted on Zabarte Road in front of the school. Bentley crossed the street and waited on the center island for Sanily to cross. While Sanily was crossing the street, a passenger jeepney driven by appellant, coming from Camarin and heading towards Quirino Highway, hit her on the left side of the body. Sanily fell and was thrown to the ground a meter away from the vehicle. The jeepney stopped. But as Bentley was running towards his sister, the vehicle suddenly accelerated with its front tire running over Sanily’s stomach. Bentley and appellant pulled Sanily, who was writhing in excruciating pain, from underneath the vehicle and brought her to the Sta. Lucia Hospital but due to lack of medical facilities, she was transferred to the Quezon City General Hospital (QCGH) where she was operated. However, she died four days later.

Dr. Emmanuel Reyes,[2] Medico-legal of the Southern Police District, Fort Bonifacio, testified that the attending physician, Dr. Santiago C. Sagad, noted lacerations in Sanily’s liver and spleen which was caused by a blunt/strong force on the victim’s body, resulting to her death due to internal bleeding. He opined that the blunt force may have also caused lacerations in the victim’s intestine and the abrasions on the arm, from the elbow to the shoulder could be the result of the skin’s contact with a rough surface.

Appellant admitted having ran over the victim, but claimed that it was an accident. He narrated that at around noon on May 22, 1998, while driving his passenger jeepney along Zabarte Road, he saw a boy crossing the street followed by the victim. While the vehicle was running, he heard a thud. He immediately applied his breaks and alighted to check what it was. He saw to his horror a girl sprawled underneath his vehicle between the front and the rear tires. He and the victim's brother rushed the girl to the Sta. Lucia Hospital, but they transferred her to the Quezon City General Hospital which has better facilities. A week later, he learned that the victim died.

On May 2, 2002, the trial court rendered judgment,[3] finding appellant guilty beyond reasonable doubt of Murder and sentenced him to suffer the penalty of reclusion perpetua, the dispositive portion of which reads:[4]

WHEREFORE, judgment is hereby rendered finding accused guilty beyond reasonable doubt of the crime of Murder, for which, said RENATO GARCIA y ROMANO is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of Sanily Billon the sum of One Hundred and Twenty Three Thousand and Five Hundred Pesos (P123,500.00) as actual damages including attorney's fees; Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of Sanily and Five Hundred Thousand Pesos (P500,000.00) as moral damages.

Cost against the accused.

SO ORDERED.

The trial court held that appellant is guilty of murder qualified by evident premeditation because he deliberately ran over the slumped body of the victim.

Hence this appeal, raising the following errors, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING AGAINST ACCUSED-APPELLANT THE QUALIFYING CIRCUMSTANCE OF EVIDENT PREMEDITATION

II

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER AS CHARGED.

The issue to be resolved is whether or not appellant is guilty of murder or reckless imprudence resulting in homicide.

Appellant argues that the trial court gravely erred in finding that the qualifying circumstance of evident premeditation attended the commission of the offense. He contends that the mere allegation by the prosecution that he bumped the victim and intentionally ran over her body is not sufficient to establish evident premeditation. He claims that he did not intentionally run over the victim when his vehicle bumped her because he was rattled and was no longer aware of what he was doing.

We find from a careful review of the facts on record that the unfortunate incident was more the result of reckless imprudence than of malicious intent. Therefore, the trial court erred in convicting appellant of the crime of murder qualified by evident premeditation.

The elements of evident premeditation are: (1) a previous decision by the appellant to commit the crime; (2) an overt act/acts manifestly indicating that the appellant clung to his determination; and (3) a lapse of time between the decision to commit the crime and its actual execution sufficient to allow appellant to reflect upon the consequences of his acts.

The victim's brother, Bentley, testified that the vehicle stopped after it bumped the victim, but it moved forward and ran over the prostrate body of her sister. From his narration, we find that no sufficient time elapsed for appellant to decide to commit the crime and reflect on its consequences. Moreover, there was no showing that appellant performed other overt acts to show that he was determined to commit murder. The essence of evident premeditation is that the execution of the criminal act must be preceded by cool thought and reflection upon the resolution to carry out the criminal intent, during the space of time sufficient to arrive at a calm judgment.[5] These circumstances do not obtain in the case at bar.

Appellant could have reacted on instinct and relied on sheer impulse to respond to the situation at hand. While it is possible that appellant deliberately ran over the victim, it is equally possible, if not more probable, that the vehicle moved forward because appellant failed to control its momentum. Indeed, this is more consistent with the un rebutted evidence that the jeepney, which had no handbrake, was moving fast and that appellant became confused when the accident occurred. Furthermore, appellant's act of bringing the victim to the hospital despite numerous opportunities to flee from the scene is more compatible with a state of mind devoid of criminal intent.

In view of the gravity of the offense involved, the trial court should have been more circumspect in weighing the evidence of both parties. Our own evaluation of the evidence reveals that appellant had no intention to kill the victim. As such, he cannot be held liable for an intentional felony. All reasonable doubt intended to demonstrate negligence, and not criminal intent, must be resolved in favor of appellant.[6]

Thus, appellant is guilty of reckless imprudence resulting in homicide defined in Article 365 of the Revised Penal Code, as amended. In *U.S. v. Maleza*, [7] we explained the rationale behind this crime as follows:

A man must use common sense, and exercise due reflection in all his acts; it is his duty to be cautious, careful, and prudent, if not from instinct, then through fear of incurring punishment. He is responsible for such results as anyone might foresee and for acts which no one would have performed except through culpable abandon. Otherwise his own person, rights and property, all those of his fellow-beings, would ever be exposed to all manner of danger and injury.

In intentional crimes, the act itself is punished; in negligence or imprudence, what is principally penalized is the mental attitude or condition behind the act, the dangerous recklessness, lack of care or foresight, the imprudencia punible.[8] Article 365 of the Revised Penal Code, as amended, 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 such act. Compared to intentional felonies, such as homicide or murder, what takes the place of the element of malice or intention to commit a wrong or evil is the failure of the offender to take precautions due to lack of skill taking into account his employment, or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time, and place.[9]

Appellant showed an inexcusable lack of precaution when he disregarded a traffic sign cautioning motorists to slow down[10] and drove his vehicle in full speed despite being aware that he was traversing a school zone and pedestrians were crossing the street. He should have observed due diligence of a reasonably prudent man by slackening his speed and proceeding cautiously while passing the area.

The imposable penalty, under Art. 365 (2)[11] of the Revised Penal Code, homicide resulting from reckless imprudence in the use of motor vehicle is prision correccional in its medium and maximum periods, which ranges from two (2) years, four (4) months and one (1) day to six (6) years. Under Article 65 of the Revised Penal Code, the penalty shall be divided into three equal portions of time, each of which shall form one period. There being no aggravating or mitigating circumstance, the proper penalty shall be within the medium period, which is three (3)

years, six (6) months and twenty-one (21) days to four (4) years, nine (9) months and ten (10) days. Applying the provisions of the Indeterminate Sentence Law, appellant is entitled to a minimum term to be taken from the penalty next lower in degree, which is arresto mayor, maximum to prision correccional, minimum. Accordingly, appellant should be sentenced to an indeterminate penalty of four (4) months and one (1) day of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum.[12]

The trial court correctly awarded P50,000.00 as civil indemnity. However, the award of moral damages in the amount of P500,000.00 should be reduced to P50,000.00.[13] The award of P30,000.00 as actual damages must likewise be modified. The mother of the victim presented receipts that they, in fact, spent P58,257.90[14] for hospital bills and funeral expenses. The fact that she received P40,000.00 from insurance will not affect the award of actual damages.[15] The award of exemplary damages is deleted for lack of factual basis.

WHEREFORE, in view of the foregoing, the Decision of the Regional Trial Court of Quezon City, Branch 87, in Civil Case No. Q-98-79961, convicting appellant of the crime of murder is REVERSED and SET ASIDE. Appellant Renato Garcia y Romano is found guilty beyond reasonable doubt of the crime reckless imprudence resulting in homicide, and he is sentenced to suffer an indeterminate prison term of four (4) months and one (1) day of arresto mayor, as minimum, to four (4) years and two (2) months of prision correccional, as maximum. Appellant is ordered to pay the heirs of the victim, P50,000.00 as civil indemnity, P58,257.90 as actual damages and P50,000.00 as moral damages.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Panganiban, Carpio and Azcuna, JJ., concur.

[1] Rollo, p. 7.

[2] As amicus curiae, Dr. Emmanuel Reyes testified on the clinical record and medical certificate of the deceased, prepared by Dr. Santiago C. Sagad, resident physician, Quezon City General Hospital.

[3] Rollo, p. 16.

[4] Decision penned by Judge Fatima Gonzales Asdala; Rollo, pp. 16-27.

[5] *People v. Durante*, 53 Phil. 363, 369 [1929].

[6] *People v. De los Santos*, G.R. No. 131588, 27 March 2001, 355 SCRA 415; citing *People v. Pacana*, 47 Phil. 48, 57 [1924].

[7] 14 Phil. 468, 470 [1909].

[8] *Quizon v. The Hon. Justice of the Peace of Bacolor, Pampanga*, 97 Phil. 342 [1955].

[9] *People v. Carmen, et al.*, G.R. No. 137268, 26 March 2001, 355 SCRA 267.

[10] TSN, 6 February 2002, p. 21.

[11] When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by prision correccional in its medium and the maximum periods.

[12] *Abueva v. People*, G.R. No. 134387, 27 September 2002, 390 SCRA 62.

[13] Metro Manila Transit Corporation v. Court of Appeals, G.R. No. 116617 and Rosales, et al. v. Court of Appeals, et al., G.R. No. 126395, 16 November 1998, 298 SCRA 495.

[14] Exhibits “B” to “B-68”, Records, pp. 235-253.

[15] Catuiza v. People, et al., 121 Phil. 512 [1965].

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