

TEODORICO CASTILLO, PETITIONER, VS. JUDGE PROCORO J. DONATO, BRANCH 24, REGIONAL TRIAL COURT OF ISABELA AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 70230. June 24, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the penalty for double homicide and damage to property through reckless imprudence. Teodorico Castillo on January 25, 1978, while recklessly driving a bus of the Philippine National Railways, bumped a jeepney on the highway at Cordon, Isabela with the result that the jeepney driver and passenger thereof were killed and the jeepney was totally wrecked.

He was charged and convicted of double homicide and damage to property through reckless imprudence. He was sentenced to two (2) indeterminate penalties of two years and four months of prision correccional as minimum to four years, nine months and ten days of prision correccional as maximum and to pay a fine of P25,000, the value of the jeepney. That judgment was affirmed by the Appellate Court.

No civil liability was adjudged because the offended parties filed a separate civil action against Castillo and his employer, the Philippine National Railways.

Castillo's application for probation was denied because the total imprisonment penalty imposed upon him was nine years, six months and twenty days, or more than six years. He filed the instant certiorari and prohibition case. He contends that only one penalty for the two deaths should have been imposed.

That contention is correct. He committed the complex crime of double homicide and damage to property through reckless imprudence by means of his single act of bumping the jeep (People vs. Lara, 75 Phil. 786; People vs. Pacson, CA 46 O.G. 2165; People vs. Biador, CA 55 O.G. 6384). The imposition of the imprisonment penalty and the fine is justified (Angeles vs. Jose, 96 Phil. 151, 152).

But the decision had become final and executory. We cannot now change the penalty although excessive. The remedy lies with the Chief Executive, not with the courts (Pomeroy vs. Director of Prisons, 107 Phil. 50, 59).

WHEREFORE, the petition is dismissed. Pursuant to article 5 of the Revised Penal Code, the attention of the Chief Executive, through the Minister of Justice, is respectfully invited to the excessive penalty imposed on the petitioner. Only one indeterminate penalty should have been imposed on him.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

Abad Santos, J., the trial court committed a mistake in imposing two penalties for a complex crime and the Appellate Court which is supposed to know better compounded the error. This is a reflection on the competency

of persons who are appointed to deal with the life, liberty and property of fellow human beings.

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