

TEODORICO MANZANARES, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NOS. 153760-61. October 16, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Decision of the Court of Appeals dated 30 April 2002[1] in CA-G.R. CR No. 19600 and CA-G.R. CV No. 53834 affirming the joint decision of the Regional Trial Court (RTC) of Malolos, Bulacan, in Criminal Case No. 5782-M and Civil Cases No. 6734-M, 6769-M, 6935-M, 6894-M, and 8478-M.

The pertinent facts are as follows:

At about 2:30 o'clock in the afternoon of 13 January 1983, a vehicular collision took place along MacArthur Highway, Barangay Tikay, Malolos, Bulacan, involving an Isuzu six-wheeler truck bearing plate no. CBG 283 Pilipinas '82 and a passenger jeepney with plate no. DDC 430 UV Pilipinas '82. The Isuzu truck was owned by petitioner Manhattan Enterprises, Inc. and was then driven by petitioner Teodorico Manzanares. The passenger jeepney, on the other hand, was registered in the name of Teodoro Basallo. It was established during the trial that the passenger jeepney was heading southwards in the direction of Manila while the Isuzu truck was heading the opposite way.

The incident resulted in the deaths of the driver of the passenger jeepney Jesus Basallo, Miguel Anas, Ferdinand Exaltacion, and Antonio Pasco. It also inflicted serious physical injuries to some of the passengers of the jeepney, namely: Angela Enriquez, Romeo Espelimbergo, Teresita dela Cruz, Cita Vicente, Jesus Bartolome, Rolando Peralta, and Felicidad Raymundo.

As expected, the incident spawned the filing of civil suits by those harmed by the collision.

The families of the deceased Ferdinand Exaltacion[2] and Miguel Anas[3] instituted separate civil cases for damages against petitioners Manzanares, Manhattan Enterprises, Inc., the latter's managing partner, Eduardo Yang, and the operator of the passenger jeepney, Teodoro Basallo. The heirs of Antonio Pasco opted to file a complaint against petitioners Manhattan Enterprises Co. and Teodorico Manzanares.[4]

The heirs of Jesus Basallo also filed a complaint for his death but their complaint was dismissed for failure to prosecute.[5]

Two of those who sustained injuries also filed their respective complaints against petitioners and Teodoro Basallo. In her complaint,[6] Felicidad Tomaquin claimed that because of the incident, she would not be able to report to her work in a factory for more than twelve months while Cita Vicente demanded that she be paid her salary for the two-month period that she was unable to perform her job as a secretary in a law firm in Bulacan.[7]

Except for the personal circumstances of the parties and the amount of damages claimed, the civil cases filed

against petitioner Manzanares alleged that he drove the Isuzu truck in a grossly negligent, reckless, careless, and imprudent manner without due regard to traffic rules and ordinances.

As for petitioners Manhattan Enterprises, Inc. and Eduardo Yang, the complainants alleged that they failed to exercise the diligence of a good father of a family in the selection and supervision of petitioner Manzanares who was their employee when the mishap occurred.

Teodoro Basallo was sued on the basis of breach of contract of carriage as he was the registered owner of the passenger jeepney.

In their joint answers,[8] petitioners denied the material allegations of the complaints and claimed, by way of special and affirmative defense, that petitioner Manzanares was faultless in the accident in question; that petitioner Manhattan Enterprises, Inc. had always exercised the diligence required in the selection and supervision of all its employees; and that it had always acted in good faith in dealing with others.

In his answers,[9] Teodoro Basallo alleged that while he owned the passenger jeepney involved in the collision, the same was on lease to his brother and the jeepney's driver, Jesus Basallo for P100.00 a day thus, he did not have a contract of carriage with anyone.

Aside from the civil cases, an Information was also filed against petitioner Manzanares before the RTC of Malolos, Bulacan. The accusatory portion of the information reads:

That on or about the 13[th] day of January, 1983, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Teodorico Manzanares y Domingo, being then the chauffeur and person in charge of a truck bearing plate no. CBG 283 Pilipinas '82, did then and there willfully, unlawfully and feloniously drive and operate the same while passing along the Mac-Arthur Highway in the said municipality in a negligent, careless and imprudent manner, without due regard to the traffic laws, rules and regulations and without taking the necessary precautions to prevent accident to persons and damage to property, causing by such negligence, carelessness and imprudence, the said truck bearing plate no. CBG 283 T. Pilipinas '82, to bump a passenger jeep bearing plate no. DDC 430 UV Pilipinas '82 owned by Teodoro Basallo and driven by Jesus Basallo, thereby causing serious physical injuries which directly caused the death of the said Jesus Basallo, Atty. Miguel Anas y Alli, Ferdinand Exaltacion y de Guzman and Antonio Pasco y Geronimo; serious physical injuries to the passenger(s) thereof; namely: Angela Enriquez y Nicolas, Romeo Espelimbergo and Teresita dela Cruz, Cita Vicente, Jesus Bartolome, Rolando Peralta and Felicidad Raymundo y Tomaquin which required medical attendance for a period of two (2) to three (3) months barring complications and which incapacitated them from performing their customary labor for the same period of time; and damage to the said jeep in the amount of P65,000.00, to the damage and prejudice of the said owner in the aforesaid amount of P65,000.00.[10]

These cases were later on consolidated and a joint trial ensued.

During the hearing of the cases, Dr. Eufemia B. Arellano, rural physician of Malolos, Bulacan, testified that she issued the death certificates of Jesus Basallo, Atty. Anas, and Antonio Pasco[11] and she was the one who signed their autopsy reports. For Jesus Basallo, she identified the cause of death to be cerebral hemorrhage due to fracture of the base of the skull and hemorrhage of the lung due to multiple fractures of the ribs[12] while Atty. Anas died because of cerebral hemorrhage due to fracture of the skull and hemorrhage of the lungs due to multiple fractures of the ribs.[13] As for Pasco, his death was brought about by cerebral hemorrhage due to multiple fractures of cranium and hemorrhage of the lungs brought about by multiple fractures of his ribs.[14]

The prosecution likewise introduced in evidence the radiological report on Exaltacion stating that he suffered from complete fracture of the distal end of the left clavicle and complete fracture of the scapula.[15]

The following temporary medico-legal certificates with respect to the injuries to the passengers of the jeepney were also admitted during the trial:

Angela Enriquez:

- Lacerated wound on the left eyeball 4-5 cm. in size.
- Hematoma, periorbital area left.
- Abrasion, 3-4 cm. left lateral neck.
- Complete, over-riding fracture middle third of the clavicle, right.[16]

Cita Vicente

- Lacerated wound, 6 cm. right parietal area.
- Lacerated wound, 3 cm. left occipital area.
- Contusion hematoma, right and left side of nasal bone.
- Abrasion, right arm.
- Abrasion, right and left knee.[17]

Jesus Bartolome

- 4-5 cms. Lacerated wound, deep right frontal.
- 3-4 cms. Lacerated wound, on the right eyebrow.
- 5x1 cm. lacerated wound, right face.
- Lacerated wound, 4-5 cm. medial aspect right hand.
- Multiple abrasions, right hand.[18]

Rolando Peralta

- Swelling of the right arm.[19]

Romeo Espelimbergo

- Punctured wound, left arm, measuring 0.5 cm in circumference, 1 cm. in depth.
- Lacerated wound - superficial face left side 1 cm. in length.
- Skin Abrasion, multiple, both lower extremities, and left hand.
- Skin burns - 2[nd] degree - multiple - left eye inner cantus and around the left leg.
- Contusion with abrasion, left superior iliac spine measuring 7 cms. x 7 cms.
- X-ray of the hip - shows an incomplete fracture of the left acetabulum.[20]

Teresita Dela Cruz

- Wound lacerated, 4-5 cm. temporo-parietal left.
- Wound lacerated, mouth, left angle, 5 cm.

- Complete fracture distal end of the clavicle, left.
- Complete over-riding fracture 3[rd] rib anteriorly, left and 2[nd] rib, right.
- Complete, [over]-riding fracture middle third of the tibia and fibula.[21]

Felicidad Tomaquin

- Abrasion, left side of the mouth.
- 4 cm. lacerated wound, at the right occipital area.
- Hematoma, chest left side at the level of the angle of lower.
- Tenderness at the epigastric area.
- Tenderness at the left lateral side of abdomen and inguinal area.[22]

Subsequently, Patrolman Liberato Macapagal was presented as a witness and he testified that at about 2:35 o'clock in the afternoon of 13 January 1983, he received a report about an accident which happened at Barangay Tikay, Malolos, Bulacan.[23] When he arrived at the said place, he saw that the reported mishap involved a passenger jeepney with plate number DDC 430 and an Isuzu delivery truck bearing plate number CBG 283.[24] The two vehicles were resting on the right side of the MacArthur Highway going towards Guiguinto, Bulacan. The Isuzu truck was still on the asphalted highway while the passenger jeepney rested on the ramp.[25] In the course of his investigation, he prepared a sketch showing the relative conditions of the Isuzu truck and of the passenger jeepney as well as the other physical evidence around these vehicles.[26] In addition, he also caused the taking of pictures of the incident before the body of Jesus Basallo was extracted from the passenger jeepney.[27]

Patrolman Macapagal also stated that he noticed skid marks along the highway which were allegedly caused by the Isuzu truck when its driver stepped on its brake pedal.[28] When asked as to the length of the skid marks, he replied that they measured about fifteen to twenty meters.[29] While he was not certain as to the point of impact, Patrolman Macapagal stated that there were more pieces of broken glass on the shoulder of the highway than there were on the asphalted portion thereof.[30]

After Patrolman Macapagal, Angela Enriquez, a passenger of the jeepney which figured in the collision testified that the vehicle she was riding in was on the inclined pavement of the cemented portion[31] of the highway when it was bumped by the Isuzu truck which was then in the process of overtaking another vehicle.[32] Substantially, this was also how Tomaquin and Vicente recalled the incident. Tomaquin stated during her turn at the witness stand that "the jeep (they) were riding was already ascending in the cemented portion of the highway" [33] while Vicente alleged that the passenger jeepney was "umaakyat pa lang sa kalsada"[34] when the incident took place.

Another witness presented by the prosecution was Paterno Dimapilis who claimed that he was resting near the entrance of the vulcanizing shop he was working located along Barangay Tikay, Malolos, Bulacan.[35] He declared that the smash up occurred in the following manner:

Q-

Immediately before the collision, where was the passenger jeepney?

A-

It was at the shoulder of the road, sir.

Q-

What shoulder if coming from Malolos (going) towards the direction of Manila?

A-

At the right shoulder of the road, sir.

Q-

How about the 6 wheeler truck, where was it before the collision took place?

A-

The 6-wheeler truck came from the direction of Manila, sir.

Q-

Where was it facing before the collision?

A-

It was facing Malolos, sir.

Q-

If the truck was coming from Manila while according to you the jeep was facing towards Manila coming from Malolos, please tell the Honorable Court how the collision took place?

A-

That truck was following a Philippine Rabbit Bus, sir.

Q-

Yes, please continue.

A-

This Philippine Rabbit Bus wanted to overtake while the 6 wheeler truck also wanted to overtake but was in a dilemma because there was an on-coming tamaraw jeep, sir.

Q-

You said that the truck was placed in a dilemma or " naalangan," what do you want to tell the court by "naalangan"?

A-

Because of the dilemma of the driver of the 6 wheeler truck due to the oncoming tamaraw jeep, the 6-wheeler truck (swerved) to the left, sir.

Q-

Left of what?

A-

At the left side of the road coming from Manila going to Malolos, sir.

Q-

At that precise moment, when you saw the 6-wheeler truck swerved to the left, did you notice where the

passenger jeepney was?

A-

The passenger jeepney was at the right shoulder of the road facing Manila, sir.

Q-

Alright, what happened when the truck swerved to the left?

A-

When the 6-wheeler truck was swerving to the left to avoid the tamaraw, the passenger jeepney was about to stop on the cemented portion of the road, sir, and that was the time when it was bumped by the 6-wheeler truck, sir.[36]

For his part, petitioner Manzanares testified that he, together with a truck helper, was on his way back to petitioner Manhattan Enterprises, Inc. premises after delivering cement in Tabang, Guiguinto, Bulacan when he got involved in an accident with a passenger jeepney. According to him, he was following a passenger bus which overtook another passenger jeepney unloading its passengers. After the passenger bus successfully went back to its proper lane he tried to see if there was any oncoming vehicle so that he too can overtake the passenger jeepney which was then still occupying a portion of his side of the road. Seeing no oncoming vehicle except for another passenger jeepney on the shoulder at the opposite side of the MacArthur Highway, he proceeded to overtake. However, the passenger jeepney he was trying to pass "immediately took its motion"[37] forcing him to apply the brakes of the Isuzu truck which skidded as a result. It was then that the Isuzu truck bumped the passenger jeepney on the other side of the highway then driven by Jesus Basallo.

When asked by the prosecutor on cross-examination, petitioner Manzanares admitted that the two passenger jeepneys were obliquely situated from one another and were about five to ten meters apart.[38] He also claimed that while he was overtaking, Jesus Basallo suddenly "climbed"[39] onto the asphalted portion of the highway forcing him to step on his brakes but despite his effort, the Isuzu truck still skidded to the left without him even turning the steering wheel to that side.[40]

After the trial, petitioner Manzanares was found guilty of reckless imprudence resulting in multiple homicide and serious physical injuries and damage to property. The dispositive portion of the trial court's decision states:

WHEREFORE, judgment is hereby rendered as follows:

I. Criminal Case No. 5782-M entitled People of the Philippines vs. Teodorico Manzanares. This Court finds the said accused guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting in Multiple Homicide and Serious Physical Injuries and Damage to Property. Accordingly, the said accused is hereby sentenced to suffer an indeterminate prison term of a minimum of three (3) years, six (6) months and twenty (20) days of prison correccional, medium to a maximum of seven (7) years and four (4) months of prison mayor, medium and to pay the costs.

The accused is likewise ordered to pay: 1) ANGELA ENRIQUEZ a) actual damages in the amount of Two Hundred Fifty (P250.00) PESOS; b) moral damages in the amount of FIVE HUNDRED (P500.00) PESOS; c) exemplary damages in the amount of ONE HUNDRED (P100.00) PESOS; and d) attorney's fees and litigation expenses in the amount of ONE THOUSAND (P1,000.00) PESOS; and 2) TERESITA DELA CRUZ a) actual damages in the amount of ONE THOUSAND (P1,000.00) PESOS; b) moral damages in the amount of ONE THOUSAND (P1,000.00) PESOS; c) exemplary damages in the amount of TWO HUNDRED (P200.00) PESOS; and d) attorney's fees and litigation expenses in the amount of ONE THOUSAND (P1,000.00) PESOS.

II. In the Civil Cases -

1) In Civil Case No. 6734-M, entitled Sps. Edilberto Exaltacion, et al. vs. Eduardo Yang, et al., judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the latter to pay the former as follows:

- actual damages in the amount of TWENTY SIX THOUSAND SIX HUNDRED THIRTY (P26,630.00) PESOS;
- moral damages in the amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS;
- exemplary damages in the amount of TEN THOUSAND (P10,000.00) PESOS;
- attorney's fees in the amount of TWENTY THOUSAND (P20,000.00) PESOS plus five (5%) per cent of the total amount recoverable;
- litigation expenses in the amount of FIFTEEN THOUSAND (P15,000.00) PESOS.

2) In Civil Case No. 6769-M entitled Lydia Anas, et al. vs. Manhattan Enterprises Co., et al., judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the latter to pay the former as follows:

- a) actual damages in the amount of THIRTY THOUSAND (P30,000.00) PESOS;
- b) compensatory damages in the amount of NINETY FOUR THOUSAND NINE HUNDRED (P94,900.00) PESOS;
- c) moral damages in the amount of SIXTY THOUSAND (P60,000.00) PESOS;
- d) exemplary damages in the amount of TEN THOUSAND (P10,000.00) PESOS; and
- e) attorney's fees and litigation expenses in the amount of TWENTY THOUSAND (P20,000.00) PESOS.

3) In Civil Case No. 6935-M entitled Eduarda Daplinan Vda. De Pasco, et al. vs. Manhattan Enterprises Co., et al., judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the latter to pay the former as follows:

- actual damages in the amount of TWENTY FIVE THOUSAND (P25,000.00) PESOS;
- compensatory damages in the amount of THIRTY THOUSAND (P30,000.00) PESOS;
- moral damages in the amount of TWENTY THOUSAND (P20,000.00) PESOS;
- exemplary damages in the amount of FIVE THOUSAND (P5,000.00) PESOS; and
- attorney's fees and litigation expenses in the amount of TWENTY THOUSAND (P20,000.00) PESOS.

4) In Civil Case No. 6894-M entitled Felicidad Tomaquin vs. Teodorico Manzanares, et al., judgment is hereby rendered in favor of the plaintiff and against the defendants, ordering the latter to pay the former as follows:

- actual damages in the amount of ONE THOUSAND (P1,000.00) PESOS;
- moral damages in the amount of FIVE HUNDRED (P500.00) PESOS;
- exemplary damages in the amount of TWO HUNDRED (P200.00) PESOS; and
- attorney's fees and litigation expenses in the amount of ONE THOUSAND (P1,000.00) PESOS.

5) In Civil Case No. 8478-M entitled Cita Vicente vs. Teodorico Manzanares, et al., judgment is hereby rendered in favor of the plaintiff and against the defendants, ordering the latter to pay the former as follows:

- actual damages in the amount of FIVE HUNDRED (P500.00) PESOS;
- moral damages in the amount of ONE THOUSAND (P1,000.00) PESOS;
- exemplary damages in the amount of FIVE HUNDRED (P500.00) PESOS; and
- attorney's fees and litigation expenses in the amount of TWO THOUSAND FIVE HUNDRED (P2,500.00) PESOS.

COSTS against the defendants in all of the instant 5 civil cases.[41]

In its assailed Decision of 30 April 2002, the Court of Appeals affirmed, with modification, the Decision of the trial court. The decretal portion of the Court of Appeals' Decision reads:

WHEREFORE, except for these MODIFICATIONS:

In Crim. Case No. 5782-M, the awards for exemplary damages, attorney's fees and litigation expenses, are DELETED;

In Civil Case No. 6734-M, the awards for exemplary damages, attorney's fees and litigation expenses, are deleted; indemnity for death of P50,000.00 is additionally awarded; and the award for moral damages is reduced to P50,000.00;

In Civil Case No. 6769-M, the awards for exemplary damages, attorney's fees and litigation expenses, are deleted; indemnity for death of P50,000.00 is additionally awarded; and the award for moral damages is reduced to P50,000.00;

In Civil Case No. 6935-M, the awards for exemplary damages, attorney's fees and litigation expenses, are deleted; indemnity for death of P50,000.00 is additionally awarded; and the award for moral damages is increased to P50,000.00;

In Civil Case No. 6894-M, the awards for exemplary damages, attorney's fees and litigation expenses, are deleted; and

In Civil Case No. 8478-M, the awards for exemplary damages, attorney's fees and litigation expenses, are deleted.

but in all other respects the appealed Decision is otherwise AFFIRMED.[42]

Aggrieved, petitioners are now before this Court impugning the judgment of the appellate court for the following reason:

THE COURT A QUO ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING WITH MODIFICATION ONLY AS TO DAMAGES THE APRIL 30, 2002 DECISION OF THE TRIAL COURT BY OVERLOOKING CERTAIN FACTS WHICH MAY SUBSTANTIALLY AFFECT THE RESOLUTION OF THE CASE.[43]

Petitioners insist that the prosecution failed to discharge its duty of establishing petitioner Manzanares' guilt beyond reasonable doubt and that the decisions both of the trial court and of the Court of Appeals were based only on mere assumptions. They pointed out that if it were true that petitioner Manzanares swerved farther to the left of the highway while he was overtaking, as found by the trial court, then, there was no reason why it still ended up on the asphalted portion of the highway. Moreover, they claim that petitioner Manzanares exercised caution before he proceeded to overtake the passenger jeepney on his side of the road by making sure that there was no oncoming vehicle on the opposite side of the highway. It was only after petitioner Manzanares was certain that he could successfully overtake that he did so but Jesus Basallo suddenly and unexpectedly maneuvered his passenger

jeepney into the highway forcing petitioner Manzanares to apply the brakes of his truck. Unfortunately, the Isuzu truck skidded and rammed into the passenger jeepney driven by Jesus Basallo. Petitioners also impugn the reliance by the trial court and the Court of Appeals on the testimony of Dimapilis by claiming that the latter was a biased witness supplied by the parents of Ferdinand Exaltacion, one of the passengers who died because of the incident.

Petitioners also maintain that at the time of the incident, the passenger jeepney owned by Teodoro Basallo was not covered by any franchise to operate and that Jesus Basallo was driving with an expired license. Thus, under Article 2185 of the Civil Code,[44] Jesus Basallo is presumed negligent.

The Office of the Solicitor General filed its Comment[45] and essentially maintained that this petition does not present any special and important reason that may justify the exercised of this Court's power of review under Rule 45 of the Rules of Court.

The petition is unmeritorious.

It is quite evident that the question as to who between petitioner Manzanares and Jesus Basallo was negligent in the operation of his vehicle is factual in nature justifying the outright rejection of this petition. As this court has repeatedly stressed in the majority of appeals in criminal cases, an appellate court gives great weight to the factual findings of trial courts and accords them respect if not finality 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.[46]

Petitioners plead with us to absolve them of any liability arising from the incident which occurred in the afternoon of 13 January 1983 by shifting the blame to the Jesus Basallo, the driver of the passenger jeepney involved in the incident. We have carefully reviewed the entire records of this case and failed to find any reason to rule in their favor.

We particularly take note of the inconsistency in petitioner Manzanares' stance as to what really caused him to abruptly step on his brakes while he was trying to pass the passenger jeepney then unloading its passengers in his side of the road. While he insists that he was compelled to apply his brakes when he saw Jesus Basallo's passenger jeepney move into the MacArthur Highway away from the shoulder to allow its passengers to disembark, he stated a different recollection of the incident in his direct testimony on 5 March 1986, thus:

Q-

Will you tell this Honorable Court how that accident where you were involved happened?

A-

I was following a truck, sir, and that truck I was following overtook a jeep which was unloading a passenger, sir.

Q-

What happened next after that truck you have mentioned overtook a passenger jeep which was unloading a passenger?

A-

I was also coming, sir.

Q-

Coming from where?

A-

From Tabang going to Malolos, sir.

Q-

How about that truck which according to you overtook a jeep which was unloading a passenger, where did it come from?

A-

From Tabang, sir.

Q-

What happened when that truck you were following overtook that jeep which was unloading passenger?

A-

He was able to overtook (sic), sir.

Q-

And after... by the way, what kind of truck was it which you said overtook that passenger jeepney which you said was unloading a passenger, if you still recall?

A-

It was a passenger bus, sir, colored red.

x x x x

Q-

After that passenger bus according to you had overtaken the jeep which was unloading a passenger, what happened next to you, if anything had happened?

A-

I was also going to overtake because the jeep was still there but I tried to see whether there was an oncoming vehicle so that I would be able to overtake, also, sir.

Q-

Was that the only thing you did before overtaking the said passenger jeep?

A-

I did not see any oncoming vehicle, sir.

Q-

When you said you did not see oncoming vehicle, you mean you did not see vehicle coming from the direction of Malolos going towards Guiguinto?

A-

No one, sir, was coming except a jeep which was on the shoulder of the road, sir.

Q-

What did you do upon seeing that there was no oncoming vehicle from the direction of Malolos?

A-

I overtook, sir.

Q-

Were you able to successfully overtook that passenger jeepney which was unloading passenger?

A-

No, sir.

Q-

Why, please tell the Court?

A-

When I was already aligned with the jeep, I was to overtake the jeep which was on a stop on the shoulder, it immediately took its motion, sir.

Q-

And what did you do when you saw that the jeep on the shoulder immediately entering the pavement?

A-

I applied my brakes, sir.

Q-

How many times did you apply your brakes?

A-

Only once, sir.

Q-

Did the truck you were driving stopped as a result of the application of that brake?

A-

It still continued to move (umusad), sir.

x x x x

Q-

You said your truck skidded, what happened after it skidded?

A-

It bumped the jeep, sir.

Q-

What kind of jeep?

A-

A passenger jeep, sir.[47] (Emphases supplied.)

On cross-examination, he reiterated that the passenger jeepney he was supposed to pass commenced moving while he was in the process of overtaking -

ATTY. ARCEO:

Q-

And when you were abreast to the jeep you testified, did you not, that the jeep started its motion?

ATTY. PASAMBA:

Which jeep now?

ATTY. ARCEO:

The jeep at the right side.

A-

Still little by little, sir.[48]

By his own admission, it is crystal clear that petitioner Manzanares was caught by surprise when the passenger jeepney he intended to overtake started moving alongside him causing him to hesitate and to step on his brakepedal. But as he was running at such a fast pace, the momentum of the Isuzu truck overpowered his brakes such that the truck still continued with its motion until it bumped the passenger jeepney driven by Jesus Basallo right at the edge of the asphalted portion of the highway. The location of the debris, as illustrated by the sketch prepared by Patrolman Macapagal, and his testimony confirm that there were more pieces of broken glass on the shoulder of the road than there were on the highway itself. Evidence tending to illustrate the relative positions of the vehicles immediately after the accident tends to throw light on the issue of speed and direction of the vehicle's movements prior to, and at the same time of, the accident.[49] This confirms that only a small portion of the passenger jeepney was positioned on the asphalted portion of the highway itself while the remainder of its body was still on the shoulder of the road. Given petitioner's testimony that the two passenger jeepneys were far from one another, there was more than ample road space within which petitioner Manzanares could have maneuvered the Isuzu truck instead of bumping into the passenger jeepney and pinning Jesus Basallo to his death. The fact that he was unable to do so and in the end lost control of the Isuzu truck indicate that petitioner Manzanares was unreasonably fast in traversing that portion of the road despite his insistence that he was driving slowly because his speedometer was not functioning.[50]

Equally damning for petitioner Manzanares are the photographs of the two vehicles which were presented before the court for they easily contradict his claim with respect to the speed of the Isuzu truck.[51] In the case of *Macalinao v. Ong*,[52] we had the occasion to discuss the evidentiary value of photographs -

According to American courts, photographs are admissible in evidence in motor vehicle accident cases when they appear to have been accurately taken and are proved to be a faithful and clear representation of the subject, which cannot itself be produced, and are of such nature as to throw light upon a disputed point.[53]

The severe damage to the front left portion of the passenger jeepney as shown by said pictures gives rise to the inevitable conclusion that the Isuzu truck was running fast before it smashed into the jeepney. Such destruction could not have resulted had petitioner Manzanares been driving his truck slowly for then the impact would not

have been as severe. As we have previously declared, "the very fact of speeding is indicative of imprudent behavior, as a motorist must exercise ordinary care and drive at a reasonable rate of speed commensurate with the conditions encountered, which will enable him or her to keep the vehicle under control and avoid injury to others using the highway." [54]

Nor are we convinced that the Isuzu truck "voluntarily" swerved to the left of the highway. Such bare claim on the part of petitioner Manzanares' part amounts to nothing but an unsubstantiated and self-serving allegation.

Finally, as to petitioners' argument that Jesus Basallo should be presumed negligent because he was driving with an expired license and the passenger jeepney owned by his brother Teodorico did not have a franchise to operate, we hold that the same fails to convince. "The defense of contributory negligence does not apply in criminal cases committed through reckless imprudence, since one cannot allege the negligence of another to evade the effects of his own negligence." [55]

WHEREFORE, premises considered, the present Petition is DENIED. The Court of Appeals' Decision dated 30 April 2002 affirming, with modification, the Decision dated 16 December 1994 of the Regional Trial Court, Branch 7, Malolos, Bulacan is hereby AFFIRMED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Roberto A. Barrios with Associate Justices Bienvenido L. Reyes and Edgardo Sundiam, concurring; rollo, pp. 168-183.

[2] Spouses Edilberto L. Exaltacion and Adelaida Guzman Exaltacion v. Eduardo Yang, doing business under the name and style of Manhattan Enterprises, Inc., Teodorico D. Manzanares, Teodoro Basallo (Civil Case No. 6734-M); records, Vol. IV, pp. 1-5.

[3] Lydia A. Anas, Consejo A. Anas, Miguel Anas, Jr., Wilfredo Anas, Ma. Millie Anas-Saclote, Belinda Anas, Johna Anas, Daniel Anas, Desposorio Anas, Victor Anas, Antoniette Anas and Dominador Anas v. Manhattan Enterprises Company, Teodorico Manzanares and Teodoro Basallo (Civil Case No. 6769-M); records, Vol. II, pp. 1-5.

[4] Eduarda Daplinan Vda. de Pasco, Rosa Pasco Alonzo, Jesusa Pasco Buslon, Francisco D. Pasco, Miraver D. Pasco and Ma. Teresa D. Pasco, represented by her guardian ad-litem Eduarda Daplinan Vda. de Pasco v. Manhattan Enterprises Co. and Teodorico Manzanares (Civil Case No. 6935-M); records, Vol. V, pp. 1-3.

[5] Rollo, p. 19.

[6] Records, Vol. I, pp. 1-4.

[7] Id., Vol. III, pp. 1-4.

[8] Id., Vol. I, pp. 23-24; id., Vol. II, pp. 30-32; id., Vol. III, pp. 55-56; id., Vol. IV, pp. 33-35; id., Vol. V, pp. 4-6.

[9] Id. at 8-11; id., Vol. II, pp. 8-11; id., Vol. III, pp. 11-14; id., Vol. IV, pp. 16-19.

[10] Rollo, pp. 34-35.

[11] Marked during the hearing of the criminal case as Exhibits "A," "B," and "C."

[12] Exhibit "B-2."

[13] Exhibit "C-2."

[14]Exhibit "D-2."

[15]Exhibit "J."

[16] Exhibit "H."

[17] Exhibit "L."

[18] Exhibit "M."

[19] Exhibit "N."

[20] Exhibit "O."

[21]Exhibit "P."

[22] Exhibit "Q."

[23] TSN, 16 November 1983, p. 6.

[24]Id. at 7-8.

[25]Id. at 8.

[26] Such as the skid marks, broken glass, and damaged portion of the passenger jeepney.; Exhibit "A"; TSN, 16 November 1983, p. 10.

[27] TSN, 6 December 1983, p. 4.

[28]TSN, 12 January 1984, p. 8.

[29]Id. at 9.

[30]TSN, 12 January 1984, p. 11.

[31]Referring to the asphalted portion of the highway.

[32] TSN, 7 March 1984, p. 6.

[33]TSN, 12 July 1984, p. 4.

[34]TSN, 23 February 1989, p. 17.

[35] TSN, 16 April 1985, p. 9.

[36] TSN, 28 December 1984, 5-7.

[37] TSN, 5 March 1986, p. 14.

[38]TSN, 19 March 1986, p. 16.

[39] TSN, 17 April 1986, p. 7.

[40] Id. at 8.

[41] Rollo, pp. 86-88.

[42]Id. at 181-183.

[43] Id. at 23-24.

[44] CIVIL CODE, Article 2185 provides: Unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation.

[45] Rollo, pp. 223-238.

[46] People v. Rualo, G.R. No. L-70287, 31 July 1987, 152 SCRA, 635, 639.

[47] TSN, 5 March 1986, pp. 12-16.

[48] TSN, 18 April 1986, p. 20.

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

[50] TSN, 19 March 1986, p. 12.

[51] Exhibits "E" to "E-5."

[52] G.R. No. 146635, 14 December 2005, 477 SCRA 740, 750-751.

[53] Id.

[54] Gabriel v. Court of Appeals, supra note 49 at 148-149.

[55] Genobiagon v. Court of Appeals, G.R. No. 40452, 12 October 1989, 178 SCRA 422, 425.

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