

THIRD DIVISION

[G.R. No. 192914, January 11, 2016]

NAPOLEON D. SENIT, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

REYES, J.:

Before the Court is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] dated November 20, 2009 and the Resolution^[3] dated June 17, 2010 of the Court of Appeals (CA) in CA-G.R. CR No. 00390-MIN which affirmed with modification the Decision^[4] dated April 26, 2006 of the Regional Trial Court (RTC) of Malaybalay City, Bukidnon, Branch 10, in Criminal Case No. 10717-00 convicting Napoleon D. Senit (petitioner) guilty beyond reasonable doubt of Reckless Imprudence resulting to Multiple Serious Physical Injuries and Damage to Property.

The Antecedents

The facts as narrated are culled from the Comments^[5] of the Office of the Solicitor General (OSG) and from the assailed decision of the CA:

In the morning of September 2, 2000, private complainant Mohinder Toor, Sr. was driving north along Aglayan from the direction of Valencia on board his Toyota pick-up with his wife Rosalinda Toor, their three-year-old son Mohinder Toor, Jr., and househelper Mezelle Jane Silayan. He turned left and was coming to the center of Aglayan when a speeding Super 5 bus driven by petitioner and coming from Malaybalay headed south towards Valencia, suddenly overtook a big truck from the right side. Petitioner tried to avoid the accident by swerving to the right towards the shoulder of the road and applying the brakes, but he was moving too fast and could not avoid a collision with the pick-up. The bus crashed into the right side of private complainant's pick-up at a right angle.

All passengers of the pick-up were injured and immediately brought to Bethel Baptist Hospital, Sumpong, Malaybalay City. However, because of lack of medical facilities, they were transferred to the Bukidnon Doctor's Hospital in Valencia City, Bukidnon. Rosalinda Toor sustained an open fracture of the humerus of the right arm and displaced, closed fracture of the proximal and distal femur of the right lower extremity which required two surgical operations. She was paralyzed as a result of the accident and was unable to return to her job as the Regional Manager of COSPACHEM Product Laboratories. Mohinder Toor, Sr. spent about

P580,000.00 for her treatment and P3,000.00 for Mezelle Jean Silayan, who suffered frontal area swelling as a result of the accident. Mohinder Toor, Sr. suffered a complete fracture of the scapular bone of his right shoulder while his son Mohinder Toor, Jr. sustained abdominal injury and a wound on the area of his right eye which required suturing. The damage sustained by the pick-up reached P106,155.00.

Thus, on May 30, 2001, Carlo B. Mejia, City Prosecutor of Malaybalay City, charged petitioner with Reckless Imprudence Resulting to Multiple Serious Physical Injuries and Damage to Property in an Amended Information which was filed with Branch 10 of the [RFC] in Malaybalay City. The information reads:

"That on or about September 2, 2000 in the morning at [sic] Barangay Aglayan, Malaybalay City, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and criminally in violation of the Land Transportation and Traffic Code, in negligent, careless, imprudent manner and without precaution to prevent accident [to] life and property, drive a Super Five Nissan Bus, color white/red bearing plate No. MVD-776

owned by PAUL PADAYHAG of Rosario Heights, Iligan City, as a result hit and bumped the [sic] motor vehicle, Toyota Pick-up color blue with plate No. NEF-266 driven and owned by MOHINDER S. TOO[R,] SR., and with his wife Rosalinda Toor, son Mohinder Toor, Jr., 3 years old and househelp Mezelle Jane Silayan, 17 years old, riding with him. The Toyota pick-up was damaged in the amount of [P] 105,300.00 and spouses Mohinder Toor[,] Sr. and Rosalinda Toor, Mohinder Toor[,] Jr[.] and Mezelle Jane Silayan sustained the following injuries to wit:

MOHINDER TOORM SR.

= complete fracture of superior scapular bone right shoulder

MOHINDER TOORM JR.

= MPI secondary to MVA r/o Blunt abdominal injury
= Saturing [sic] right eye area

ROSALINDA TOOR

= Fracture, open type 11, supracondylar, humerus right
= Fracture, closed, Complete, displaced, subtrochanter
= and supracondylar femur right

MEZELLE JANE SILAYAN

= Frontal area swelling 20 vehicular accident

to the damage and prejudice of the complainant victim in such amount that they are entitled to under the law.

CONTRARY TO and in Violation of Article 365 in relation to 263 of the Revised Penal Code. *IN RELATION TO THE FAMILY CODE.*"^[6] (Citations omitted)

Upon being arraigned on June 21, 2001, the petitioner, with the assistance of his counsel, pleaded not guilty to the Information in this case.^[7]

Trial ensued. However, after the initial presentation of evidence for the petitioner, he resigned from his employment and transferred residence. His whereabouts allegedly became unknown so he was not presented as a witness by his new counsel.^[8]

On April 26, 2006, the RTC rendered its Decision *in absentia* convicting the petitioner of the crime charged. The *fallo* of the decision reads:

WHEREFORE, premises considered and finding the accused NAPOLEON SENIT y Duhaylungsod guilty beyond reasonable doubt of the crime as charged, he is hereby sentenced to an imprisonment of an indeterminate penalty of Four [4] months and One [1] day of Arresto Mayor maximum as minimum and to Four [4] years and Two [2] months Prison Correctional medium as maximum. The accused is further ordered to indemnify the private complainant the amount of Fifty Thousand [P50,000.00] Pesos as moral damages, the amount of Four Hundred Eighty Thousand [P480,000.00] [Pesos] for the expenses incurred in the treatment and hospitalization of Rosalinda Toor, Mohinder Toor, Jr.[.] and Mezelle Jean Silayan and the amount of Eighty Thousand [P80,000.00] [Pesos] for the expenses incurred in the repair of the damaged Toyota pick-up vehicle.

SO ORDERED.^[9]

The RTC issued a Promulgation^[10] dated August 4, 2006, which included an order for the arrest of the petitioner.

The petitioner then filed a motion for new trial via registered mail on the ground that errors of law or irregularities have been committed during trial that are allegedly prejudicial to his substantial rights. He claimed that he was not able to present evidence during trial because he was not notified of the schedule. Likewise, he mistakenly believed that the case against him has been dismissed as private complainant Mohinder Toor, Sr. (Toor, Sr.) purportedly left the country.^[11]

On September 22, 2006, the public prosecutor opposed the motion for new trial filed by the petitioner.^[12]

On October 26, 2006, the motion for new trial was denied by the lower court

pronouncing that notices have been duly served the parties and that the reason given by the petitioner was self-serving.^[13]

Dissatisfied with the RTC decision, the petitioner filed his Notice of Appeal dated November 6, 2006 by registered mail to the CA, on both questions of facts and laws.^[14]

Ruling of the CA

On November 20, 2009, the CA affirmed the decision of the RTC with modification as to the penalty imposed, the dispositive portion thereof reads:

ACCORDINGLY, with MODIFICATION that [the petitioner] should suffer the penalty of three (3) months and one (1) day of *arresto mayor*, the Court AFFIRMS in all other respects the appealed 26 April 2006 Decision of the [RTC] of Malaybalay City, Branch 10, in Criminal Case No. 10717-00.

No pronouncement as to costs.

SO ORDERED.^[15]

In affirming with modification the decision of the RTC, the CA ratiocinated as follows: *first*, the evidence presented by OSG overwhelmingly points to the petitioner as the culprit. A scrutiny of the records further reveals that the pictures taken after the accident and the Traffic Investigation Report all coincide with the testimonies of the prosecution witnesses, which are in whole consistent and believable thus, debunking the claim of the petitioner that he was convicted on the mere basis of allegedly biased and hearsay testimonies which do not establish his guilt beyond reasonable doubt. In addition, there was no existing evidence to show that there was an improper motive on the part of the eyewitnesses.^[16]

Second, it found the arguments of the petitioner to move for a new trial as baseless.^[17]

Lastly, it rendered that the proper imposable penalty is the maximum period of *arresto mayor* in its minimum and medium periods that is -imprisonment for three (3) months and one (1) day of *arresto mayor* since the petitioner has, by reckless imprudence, committed an act which, had it been intentional, would have constituted a less grave felony, based on the first paragraph of Article 365 in relation to Article 48 of the Revised Penal Code(RPC).^[18]

The petitioner filed a motion for reconsideration which was denied by the CA, in its Resolution^[19] dated June 17, 2010.

As a final recourse, the petitioner filed the petition for review before this Court, praying that the applicable law on the matter be reviewed, and the gross misappreciation of facts committed by the court *a quo* and by the CA be given a

second look.

The Issues

I. WHETHER OR NOT THE RTC AND THE CA ERRED IN DENYING THE MOTION FOR NEW TRIAL OR TO RE-OPEN THE SAME IN ORDER TO ALLOW THE PETITIONER TO PRESENT EVIDENCE ON HIS BEHALF; AND

II. WHETHER OR NOT THE RTC ERRED IN CONVICTING THE PETITIONER DESPITE THE APPARENT FAILURE ON THE PART OF THE PROSECUTION TO PROVE THE GUILT OF THE PETITIONER BEYOND REASONABLE DOUBT.^[20]

Ruling of the Court

The petition lacks merit.

The RTC and CA did not err in denying the petitioner's motion for new trial or to re-open the same.

The Court finds that no errors of law or irregularities, prejudicial to the substantial rights of the petitioner, have been committed during trial.

The petitioner anchors his motion for new trial on Rule 121, Section 2(a) of the Revised Rules of Criminal Procedure, to wit:

Sec. 2. *Grounds for a new trial.* - The Court shall grant a new trial on any of the following grounds:

(a) **That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;**

(b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment.
(Emphasis ours)

To sum up the claims of the petitioner, he theorizes that there was an error of law or irregularities committed when the RTC promulgated a decision *in absentia* and deemed that he had waived his right to present evidence resulting to denial of due process, a one-sided decision by the RTC, and a strict and rigid application of the Revised Rules of Criminal Procedure against him.

First, it must be noted that the petitioner had already been arraigned and therefore, the court *a quo* had already acquired jurisdiction over him. In fact, there was already an initial presentation of evidence for the defense when his whereabouts