605 Phil. 422

SECOND DIVISION

[G.R. No. 147437, May 08, 2009]

LARRY V. CAMINOS, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

TINGA, J.:

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 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: