361 Phil. 585

SECOND DIVISION

[G.R. No. 125134, January 22, 1999]

XERXES ADZUARA Y DOTIMAS, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS

D E C I S I O N

BELLOSILLO, J.:

XERXES ADZUARA Y DOTIMAS was found guilty by the trial court of reckless imprudence resulting in damage to property with less serious physical injuries. His conviction was affirmed by the Court of Appeals. Through this petition for review on certiorari he seeks the reversal of his conviction.

On 17 December 1990, at half past 1:00 o'clock in the morning, petitioner Xerxes Adzuara y Dotimas, then a law student, and his friends Rene Gonzalo and Richard Jose were cruising in a 4-door Colt Galant sedan with plate number NMT 718 along the stretch of Quezon Avenue coming from the direction of EDSA towards Delta Circle at approximately 40 kilometers per hour.[1] Upon reaching the intersection of 4th West Street their car collided with a 1975 4-door Toyota Corona sedan with plate number PMD 711 owned and driven by Gregorio Martinez. Martinez had just attended a Loved Flock meeting with his daughter Sahlee[2] and was coming from the eastern portion of Quezon Avenue near Delta Circle. He was then executing a U-turn at the speed of 5 kph at the north-west portion of Quezon Avenue going to Manila when the accident occurred.

The collision flung the Corona twenty (20) meters southward from the point of impact causing it to land atop the center island of Quezon Avenue. The Galant skittered southward on Quezon Avenue's western half leaving its left rear about four (4) meters past the Corona's right front side. The principal points of contact between the two (2) cars were the Galant's left front side and the Corona's right front door including its right front fender.

Both petitioner and Martinez claimed that their lanes had green traffic lights[3] although the investigating policeman Marcelo Sabido declared that the traffic light was blinking red and orange when he arrived at the scene of the accident an hour later.[4]

Sahlee Martinez, who was seated on the Corona's right front seat, sustained physical injuries which required confinement and medical attendance at the National Orthopaedic Hospital for five (5) days. As a result she missed classes at St. Paul's College for two (2) weeks.[5] Petitioner and his friends were treated at the Capitol Medical Center for their injuries.

On 12 July 1991 petitioner was charged before the Regional Trial Court of Quezon

City[6] with reckless imprudence resulting in damage to property with less serious physical injuries under Art. 365 of the Revised Penal Code. He pleaded not guilty to the charge.[7]

On 11 December 1991, before the presentation of evidence, private complainant Martinez manifested his intention to institute a separate civil action for damages against petitioner.[8]

The Regional Trial Court of Quezon City, Branch 95, convicted petitioner Xerxes Adzuara after trial and sentenced him to suffer imprisonment of two (2) months and fifteen (15) days of *arresto mayor* and to pay a fine of P50,000.00, with subsidiary imprisonment in case of insolvency.[9]

The Court of Appeals affirmed the decision of the trial court but deleted the fine of P50,000.00.[10] On 23 May 1996[11] the appellate court denied petitioner's motion for reconsideration hence, this petition for review on certiorari under Rule 45 of the Rules of Court charging that (a) petitioner's post-collision conduct does not constitute sufficient basis to convict where there are no factual circumstances warranting a finding of negligence, and (b) the medical certificate by itself and unsubstantiated by the doctor's testimony creates doubt as to the existence of the injuries complained of.

We find no merit in the petition. A perusal of the decision of the trial court shows that there are factual circumstances warranting a finding of negligence on the part of petitioner. Thus -

> Having carefully examined the evidence adduced, the Court finds that the defense version cannot prevail against the prosecution version satisfactorily demonstrating that the subject accident occurred because of Xerxes' reckless imprudence consisting in his paying no heed to the red light and making V-1 (Galant car) proceed at a fast clip as it approached and entered the intersection. Gregorio's basic claim, substantially corroborated by Sahlee's testimony - in sum to the effect that when he made V-2 (Corona car) proceed to turn left, the left-turn arrow was lighted green or go for V-2 and it was red light or stop for V-1 - is the same basic version he gave in his written question-and-answer statement to the police investigator on 13 December 1990; certainly, the clear consistency of Gregorio's posture respecting such crucial, nay decisive, material circumstance attending the subject accident underscores the veracity of the prosecution version, even as it tends to indicate the scant measure of faith and credence that can be safely reposed on the defense version x x x x (*emphasis ours*).[12]

This is further elaborated upon by the Court of Appeals in its decision -

> Gregorio testified that when the arrow of the traffic light turned green, he turned left at the speed of five kilometers per hour (TSN, August 11,1992, pp.11-12). While he was already at the middle of the western half of Quezon Avenue, his car was smashed by appellant's vehicle (id.,p.13). This was corroborated by the testimony of Sahlee Martinez (TSN, August 12,1992, pp. 3-4). Their declarations were confirmed by

> physical evidence: the resulting damage on Gregorio's car as shown by exhibits A, A-1 and A-2. The dent on the main frame of Gregorio's car (Exh. A) attests to the strong impact caused by appellant's car. Such impact proves that appellant must have been running at high speed.
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> At the time of the collision, the trial court found that the arrow for left turn was green and the traffic light facing appellant was red. Given these facts, appellant should have stopped his car as Gregorio had the right of way. There could be no debate on this legal proposition.
>
> Appellant testified that he was driving slow(ly), about 40 kilometers per hour (TSN, August 31,1992, p. 13). This is refuted by the fact that the colliding vehicles were thrown 20 meters away from the point of impact (TSN, August 11,1992, p. 14); in fact, Gregorio's car rested on top of the center island of Quezon Avenue, while appellant's car stopped at the middle of the lane of Quezon Avenue facing towards the general direction of Quiapo (id., pp. 13-14; *emphasis supplied*).[13]

Despite these findings, petitioner, maintaining that his conviction in the courts below was based merely on his post-collision conduct, asks us to discard the findings of fact of the trial court and evaluate anew the probative value of the evidence. In this regard, we reiterate our ruling in *People v. Bernal*[14] -

> x x x x It has thus become a persistent monotony for the Court to hold, since more often than not the challenge relates to the credibility of witnesses, that it is bound by the prevailing doctrine, founded on a host of jurisprudential rulings, to the effect that the matter is best determined at the trial court level where testimonies are "first hand given, received, assessed and evaluated" (*People v. Miranda*, 235 SCRA 202). The findings of the trial court on the credulity of testimony are generally not disturbed on appeal since "significant focus is held to lie on the deportment of, as well as the peculiar manner in which the declaration is made by, the witness in open court" (People v. Dado, 244 SCRA 655) which an appellate court would be unable to fully appreciate, in the same way that a trial court can, from the mere reading of the transcript of stenographic notes. It is only when strong justifications exist that an appellate court could deny respect to the trial court's findings when, quite repeatedly said, it is shown that the trial court has clearly overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could affect the results of the case (*People v. Flores*, 243 SCRA 374; *People v. Timple*, 237 SCRA 52).

In the instant case, nothing on record shows that the facts were not properly evaluated by the court *a quo.* As such, we find no reason to disturb their findings. It bears to stress that the appreciation of petitioner's post-collision behavior serves only as a means to emphasize the finding of negligence which is readily established by the admission of petitioner and his friend Renato that they saw the car of Martinez making a U-turn but could not avoid the collision by the mere application of the brakes.[15] Negligence is the want of care required by the circumstances. It is a relative or comparative, not an absolute, term and its application depends upon the situation of the parties and the degree of care and vigilance which the circumstances reasonably require.[16]