

SPECIAL FOURTH DIVISION

[CA-G.R. CR NO. 35995, November 26, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE V. ORTEGA, ACCUSED-APPELLANT.**

DECISION

GONZALES-SISON, M., J.:*

Accused-appellant Vicente B. Ortega ("appellant") appeals before this Court the 14 August 2013 Decision^[1] of the Regional Trial Court ("RTC") of Valenzuela City, Branch 172 in Criminal Case No. 389-V-06^[2], finding appellant guilty beyond reasonable doubt of reckless imprudence resulting to slight physical injuries and reckless imprudence resulting to damage to property.

The assailed Decision disposes:

"WHEREFORE, the court finds the accused guilty beyond reasonable doubt as principal of the crime of reckless imprudence resulting to slight physical injuries and reckless imprudence resulting to damage to property and he is hereby sentenced to suffer the penalty of:

- 1) Public Censure for reckless imprudence resulting to slight physical injuries; and
- 2) Fine in the amount of P183,875.00 for reckless imprudence resulting to damage to property.

The accused is likewise ordered to pay Winston Carillo the amount of P13,645.80 for hospitalization expenses, P183,875.00 as reparation of the damage caused to the vehicle of complainant Winston Carillo and P5,000.00 for each of the victims as moral damages.

SO ORDERED."

The antecedents are as follows:

In an Information^[3] dated 27 February 2006, the appellant was charged with reckless imprudence resulting in damage to property, less serious physical injuries and serious physical injuries, to wit:

"That on or about October 23, 2005 in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, being

then the driver and person-in-charge of a Toyota RAV-4 with Plate No. JVS-333, did then and there unlawfully and feloniously drive, manage and operate the same along North Luzon Expressway, km 17+860 Lawang Bato, Valenzuela City, in a reckless, negligent and imprudent manner, without taking the necessary precautions to avoid accident to persons and damage to property, and as a result of such recklessness, negligence and imprudence, said vehicle driven by the accused, hit and bumped a right front door of Toyota Tamaraw FX wagon with Plate No. WHK-660 driven by Winston Carillo y Nuelan causing said Toyota Tamaraw FX wagon to spin around and roll over and said Winston Carillo y Nuealn (*sic*) and passengers Remedios Carillo, Annaliza de Leon, Evangeline Santiago, and Ricardo Umlas all sustained physical injuries which injuries required medical attendance for a period of less than thirty (30) days and incapacitated said victims from performing their habitual work for the same period of time and Mc Laren S. Duma-Os, 6 years old and Camille S. Carillo 11 years old also passengers of said Toyota Tamaraw FX wagon sustained physical injuries which injuries would render them ill or incapacitated for labor for more than 30 days and ISIDRA SAN DIEGO sustained serious physical injuries and causing the said Toyota Tamaraw FX wagon to be damaged in the amount of P183,837.00.

CONTRARY TO LAW.”

Appellant pleaded not guilty when arraigned, and no settlement was reached.

The RTC summarized the undisputed facts as follows:

“ Winston Carillo was the driver of Toyota Revo bearing Plate No. WHJ-660 while Vicente B. Ortega, the accused, was the driver of the Toyota RAV4 with Plate No. JVS-333.

On October 23, 2005 at around 7 o' clock in the evening, the Toyota Revo and Toyota RAV4 driven by Winston and the accused respectively were both cruising North Luzon Expressway (NLEX) going South.

On board the Toyota Revo with Winston and his wife Remedios Carillo; his daughter Camille Carillo, 11 years old (Exh. K); his son Charles Carillo; his mother-in-law Isidra San Diego; his sister-in-law Analiza De Leon; his nephew Mc Laren Dumo-os, who is only 5 years old (Exh. J); his niece Evangeline Santiago; and his nephew Ricardo Umlas. They came from Bocaue going to Valenzuela.

On board the Toyota RAV4 with the accused was his wife and daughter, his brother -in-law Edgardo Santos and the latter's wife and 11-year old daughter. They came from San Rafael, Bulacan going to Quezon City.

While the two vehicles were at km 17+ 860 Lawang Bato, Valenzuela City, the left headlight portion of the Toyota RAV 4 bumped the right front

passenger side of the Toyota Revo.

As a result, the Toyota Revo turned turtle, turned around and continued to run upside-down. On the other hand, the Toyota RAV 4 driven by the accused fell on the canal at the right side of the highway.

Winston and his wife Remedios suffered multiple abrasions (Exh. G & G-1); Ricardo Dumlas suffered lacerated wound about 15 cm, right frontal area (Exh. G-2), Annaliza de Leon suffered contusion hematoma, right parieto-occipital area (Exh. G-3) and she was not able to do household chores for one (1) week; Camille Carillo suffered multiple abrasions on her face, right shoulder, lower back, right lateral thigh, right dorsal foot, left medial leg, contusion hematoma upper lip, myofascial pain syndrome, left medial leg (Exh. G-4, I-3 to I-4) and she was not able to go to school after the incident for one week; Evangeline Santiago suffered Myofascial Pain Syndrome, nape, right (Exh. G-5); Mc Laren S. Dumo-os suffered closed complete fracture, middle one-third clavicle, left (Exh. G-6 & I); and Isidra San Diego suffered contusion hematoma, frontal area (Exh. G-7, I-1 & I-2).

Winston and his wife spent the total amount of P13,645.80 for medical expenses of the victims (Exh. N, N-1, N-2). The Toyota Revo incurred damages in the amount of P183,857.00 (Exh. M&M-1).

Romeo Calventas, Accident Investigator of Tollways Management Corporation (TMC) who received a call about a traffic accident at Km. 17+800 proceeded to the site and took pictures. He also prepared a sketch of the scene and Traffic Accident Report. He turned over the drivers as well as the vehicles involved in the accident and the documents he prepared to the Valenzuela Police Station.

SPO1 Benjamin Valenzuela was the police investigator assigned in the case. The case was turned over to him around 10:00 o'clock in the evening of October 23, 2005. He prepared the Traffic Accident Report. He took the statements of the two drivers."

The version of the prosecution blamed appellant for the accident^[4], viz:

"On October 23, 2005, at around 7:10 in the evening, Winston Carillo was driving the Toyota Revo along NLEX coming from Bocaue going to Valenzuela City.

While he was at Lawang Bato occupying the 3rd lane from the right, the right front passenger side of the Toyota Revo was bumped by the Toyota RAV4 driven by the accused. As a result, Winston lost control of the Toyota Revo. He tried to control the Toyota Revo because it would hit a barrier but when he stepped on the brake, the Toyota Revo turned turtle, turned around and continued to run upside-down. On the other hand, the Toyota RAV4 driven by the accused fell in the canal at the right side of

the highway.

According to Winston, prior to the actual collision, the accused was behind a white car on his right side. The accused overtook the white vehicle using the shoulder road and when the accused returned to the main road, the left headlight portion of the RAV 4 driven by the accused bumped the right front passenger side of the Toyota Revo.

The recklessness of the accused was witnessed by Francis Belo, a motorist. According to Francis Belo, around the same time on the date of the incident, he was driving his car at the NLEX. On board his vehicle was his wife who is a pediatrician. While he was entering the NLEX coming from Meycauayan Exit going to Manila, the Toyota RAV 4 which was running fast suddenly cut his path. Then he suddenly saw a Toyota RAV 4 was rushing and was swerving all over the place. Then he suddenly saw a Toyota Revo that tipped over and the Toyota RAV 4 on the ditch at the right side of the highway. He and his wife helped carry the victims, an old lady and a boy to the side of the highway.”.

On the other hand, the appellant raised the defense^[5] that complainant Winston Carillo caused the accident:

” According to the accused, Winston was occupying Lane 2 from the center while he was occupying Lane 3 from the center of NLEX. He was behind the Toyota Revo by ten (10) meters. Suddenly, the Toyota Revo swerved to the right and blocked his path. Due to the proximity and the distance, he was not able to do anything except to step on his brakes but it was too late, because it was almost simultaneous with the impact or collision. The Toyota RAV 4 was thrown few meters (*sic*) obliquely facing the shoulder.”.

The RTC stated the issue as whether or not the accused was guilty of the offense charged.

After trial, the RTC rendered the assailed Decision convicting the appellant.

According to the RTC, the prosecution successfully established that appellant was guilty of reckless imprudence. It noted that appellant had admitted “bumping” the Toyota Revo. It also held that appellant's defense that the collision was pure accident – allegedly caused by complainant Winston's abrupt cutting into his lane – was untenable.

The RTC discussed that the proximate cause of the injuries and damages was the appellant, who had the “last clear chance” to avoid the collision, and which chance he ignored by driving fast (faster than the Revo) and recklessly, which a witness, Belo, corroborated.

With respect to the penalty, the RTC held that the injuries suffered by those aboard the Toyota Revo, there being no doctor's testimony on their extent and gravity, can only be considered slight. It affirmed that the Revo's damages amounted to Php183,857.00^[6].

The RTC then ruled that damage to property and slight physical injuries cannot be complexed, both being light felonies. It then treated both as separate felonies, and correspondingly penalized appellant for each offense; as a result, appellant was sentenced to public censure, fine, hospitalization expenses, actual damages and moral damages, as patent in the dispositive portion quoted above.

Hence this appeal.

Appellant assigns the following errors:

THE TRIAL COURT ERRED IN FINDING THAT THE PROXIMATE CAUSE OF THE COLLISION IS THE RECKLESS DRIVING OF THE ACCUSED-APPELLANT.

THE TRIAL COURT ERRED IN SENTENCING ACCUSED TO SUFFER THE PENALTY OF FINE IN THE AMOUNT OF PHP183,857.00 FOR RECKLESS IMPRUDENCE RESULTING IN DAMAGE TO PROPERTY.

THE TRIAL COURT ERRED IN AWARDING COMPENSATORY DAMAGES IN THE AMOUNT OF PHP13,645.80 FOR HOSPITALIZATION EXPENSES AND PHP183,857.00 AS REPARATION FOR THE DAMAGE CAUSED TO THE VEHICLE OF COMPLAINANT WINSTON CARILLO.

Appellant first insists on his version of the events. He maintains that it was the Revo which cut into his lane. Moreover, that he had collided with the Revo in the manner alleged by the complainant can only be described as "incredible"; appellant posits that if indeed he had overtaken the white car which was on the same lane (the second lane from the shoulder) as the Revo, he would have hit a vehicle on the third or fourth lane from the center of the expressway, and not a vehicle in the same (second) lane.

Appellant bewails that even as the RTC adopted his version of the facts, he contends that the trial court erred when it found that he was driving too fast, and faster than the Revo. He urges this Court to depart from the RTC's findings by discounting the testimony of Belo, whose Salaysay^[7] arrived six weeks after the incident. Appellant pointed out too that in the Salaysay, Belo had alleged he was also on the Revo, which clashes with his testimony during trial, i.e., that he was on a separate car.

Appellant contends that the parties have admitted that their speed at the point of collision was at approximately ninety (90) kilometers per hour, which was well within the speed limit. At that rate, they were traveling 25 meters per second and the collision, resulting from complainant's sudden swerving, would have been impossible to avoid. This being the case, appellant insists that the collision was just an accident.