



Republic of the Philippines
Supreme Court
 Manila

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WILFREDO V. LAPIDAN
 Division Clerk of Court
 Third Division

SEP 06 2017

THIRD DIVISION

S/SGT. CORNELIO PAMAN,
 Petitioner,

G.R. No. 210129

Present:

CARPIO, J.,*
 VELASCO, JR.,
Chairperson,
 BERSAMIN,
 REYES, and
 TIJAM, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

July 5, 2017

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RESOLUTION

REYES, J.:

This is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Decision² dated July 4, 2013 and Resolution³ dated October 30, 2013 issued by the Court of Appeals (CA) in CA-G.R. SP No. 04542.

On October 14, 2004, at about 1:20 p.m., Ursicio Arambala (Arambala) was on board a motorcycle traversing Roxas Street, Pagadian City towards the direction of the Southern Mindanao Colleges Main Campus. When he was nearing the intersection of Roxas and Broca Streets in Pagadian City, a multicab driven by S/Sgt. Cornelio Paman (Paman), a

* Designated additional Member per Raffle dated December 10, 2014 *vice* Associate Justice Francis H. Jardeleza.

¹ *Rollo*, pp. 8-28.

² Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Marie Christine Azcarraga-Jacob and Edward B. Contreras concurring; *id.* at 36-43.

³ *Id.* at 34-35.

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military personnel, crossed his path and collided with his motorcycle. Arambala was thrown from his motorcycle thus hitting his head on the road pavement. Ernilda Salabit, who was then standing beside the road, saw Arambala being thrown away after the collision; she went to Arambala and hailed a tricycle and rushed him to the hospital.⁴

A Computed Tomography Scan report shows that Arambala suffered hematoma at the cerebral portion of his brain. After his confinement at the Mercy Community Hospital on October 15, 2004, Arambala was again admitted on October 24, 2004 at the Zamboanga del Sur Provincial Hospital due to erratic blood pressure and slurring speech caused by the hematoma.⁵

On February 21, 2005, an Information for the crime of reckless imprudence resulting in serious physical injuries, docketed as Criminal Case No. 14034, was filed with the Municipal Trial Court in Cities (MTCC) of Pagadian City against Paman. Paman pleaded not guilty to the offense charged.⁶

After due proceedings, the MTCC, on February 11, 2010, rendered a Judgment finding Paman guilty beyond reasonable doubt of reckless imprudence resulting in serious physical injuries, *viz.*:

WHEREFORE, [PAMAN], after having been proven guilty beyond reasonable doubt for the crime charged against him in the instant case, the Court hereby CONVICTS [Paman] and after applying the Indeterminate Sentence Law, hereby imposes and sentences him to an imprisonment of ONE (1) MONTH AND ONE (1) DAY TO FOUR (4) MONTHS OF ARRESTO MAYOR IN ITS MINIMUM AND MEDIUM PERIODS, the same [to be] served by the accused at the Pagadian City Jail at Lenienza, Pagadian City.

With costs against the accused.⁷

On appeal, however, the Regional Trial Court (RTC) of San Miguel, Zamboanga del Sur, Branch 29 in its Decision⁸ dated July 12, 2011, reversed and set aside the MTCC's Decision dated February 11, 2010, to wit:

WHEREFORE, the foregoing premises considered, the MTCC's judgment of conviction is hereby REVERSED. Consequently, [Paman] is ACQUITTED.

⁴ Id. at 36-37.

⁵ Id. at 37.

⁶ Id.

⁷ Id. at 37-38.

⁸ Rendered by Presiding Judge Edilberto G. Absin; id. at 29-32.

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SO ORDERED.⁹

In acquitting Paman of the offense charged, the RTC pointed out that Arambala was the cause of the collision since he already saw the multicab driven by Paman ahead of time; that he had the opportunity to take precaution to avoid the accident, but he failed to do so.¹⁰ The City Prosecutor filed a motion for reconsideration, but it was denied by the RTC in its Order¹¹ dated August 16, 2011.

The People of the Philippines, through the Office of the Solicitor General (OSG), then filed a petition for *certiorari* with the CA against RTC Presiding Judge Edilberto G. Absin (Judge Absin) and Paman. The OSG claims that Judge Absin committed grave abuse of discretion in ruling that it was Arambala who was at fault and in finding that the prosecution's evidence was insufficient to convict Paman of the offense charged beyond reasonable doubt.

On July 4, 2013, the CA rendered the herein assailed Decision,¹² the decretal portion of which reads:

WHEREFORE, the Petition is GRANTED. The Decision of the [RTC], Branch 29, San Miguel, Zamboanga del Sur, is hereby SET ASIDE, and another one is rendered holding [PAMAN] guilty beyond reasonable doubt of reckless imprudence resulting in serious physical injuries, and sentencing him to suffer an indeterminate penalty of one (1) month and one (1) day of *arresto mayor*, as minimum, to 2 years and 4 months of *prision correccional*, as maximum.

SO ORDERED.¹³

Paman sought a reconsideration of the Decision dated July 4, 2013, but it was denied by the CA in its Resolution¹⁴ dated October 30, 2013.

In this petition for review on *certiorari*, Paman insists that Judge Absin did not commit any abuse of discretion in acquitting him of the offense charged. He claims that a petition for *certiorari* is not the proper remedy to assail the RTC's Decision dated July 12, 2011. He likewise maintains that the prosecution's evidence was insufficient to establish his guilt of the offense charged beyond reasonable doubt. He essentially alleges that the collision was the fault of Arambala. He points out that the RTC

⁹ Id. at 32.

¹⁰ Id. at 29-30.

¹¹ Id. at 33.

¹² Id. at 36-43.

¹³ Id. at 42.

¹⁴ Id. at 34-35.

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correctly observed that Arambala, based on his testimony, applied the brakes on his motorcycle when he saw the multicab; that he should have accelerated his speed instead of hitting the brakes to avoid the collision.

Ruling of the Court

The petition is denied.

Contrary to Paman's assertion, a petition for *certiorari* is the proper remedy to assail the RTC's Decision dated July 12, 2011, which acquitted him of the offense charged. A petition for *certiorari* under Rule 65, not appeal, is the remedy to question a verdict of acquittal whether at the trial court or at the appellate level. Indeed, in our jurisdiction, the Court adheres to the finality-of-acquittal doctrine, *i.e.*, a judgment of acquittal is final and unappealable.¹⁵ The rule barring an appeal from a judgment of acquittal is, however, not absolute. The following are the recognized exceptions thereto: (i) when the prosecution is denied due process of law; and (ii) when the trial court commits grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing a criminal case by granting the accused's demurrer to evidence.¹⁶

While *certiorari* may be availed of to correct an erroneous acquittal, the petitioner in such an extraordinary proceeding must clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.¹⁷ In this case, the OSG was able to clearly establish that the RTC blatantly and gravely abused its authority when it ruled that no liability can be attached to Paman solely based on its finding that it was Arambala who caused the collision. Tersely put, the RTC, in acquitting Paman of the offense charged, completely disregarded the evidence on record.

A perusal of the records of this case clearly shows that it was Paman who was at fault since he was driving at the wrong side of the road when the collision happened. On this point, the CA's observation is *apropos*, thus:

After going over the records of the case, this Court is unable to sustain the findings of fact and conclusion reached by the RTC. The assailed Decision noted that at the time private complainant Arambala was hit by S/Sgt. Paman's multicab, he was proceeding to SMC Main to log in for his attendance. Public respondent, as a consequence, concluded that Arambala may have been in a hurry so he had to over speed. Also, public

¹⁵ See *Castro v. People*, 581 Phil. 639 (2008); *People v. Uy*, 508 Phil. 637, 648 (2005); *Yuchengco v. Court of Appeals*, 427 Phil. 11, 20 (2002).

¹⁶ *People v. Sandiganbayan (1st Div.)*, *et al.*, 637 Phil. 147, 158 (2010).

¹⁷ See *People v. Hon. Asis, et al.*, 643 Phil. 462, 471 (2010).

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respondent correlated the presence of skid marks that Arambala was driving fast.

However, the evidence indubitably shows that before the collision, Arambala's motorcycle was cruising along its rightful lane when S/Sgt. Paman's multicab suddenly crossed his (Arambala) path coming from his left side along Broca Street using the wrong lane to cross the said intersection. The accident would not have happened had S/Sgt. Paman, the multicab driver, stayed on his lane and did not overtake the vehicle of the private complainant Arambala. x x x.¹⁸ (Citations omitted)

Even the position of the multicab driven by Paman after the incident supports the conclusion that Paman was indeed on the wrong side of the road, which eventually caused it to collide with Arambala's motorcycle. The MTCC thus correctly noted that:

Upon perusal and careful scrutiny of the sketch which was prepared by the said witness, the Court even found out that the vehicle of [Paman] after the incident was parked at the wrong side of the road which goes to show that the testimony of [Arambala] as well as that of his witness Ernilda Salabit was more plausible than that of [Paman] in this case was indeed cruising on the wrong side of the road when the accident happened. xxx

x x x x

In the instant case, to the mind of the Court, the proximate cause is the act of [Paman] in driving and using the wrong lane of Broca Street in order to cross the intersection of Roxas Street was employed recklessly by [Paman] in order to overtake the vehicle of [Arambala] which was already crossing and x x x at the middle portion of the intersection. Thus, it was the reckless act of [Paman] which caused the incident from which reason that, had it not been for the bumping incident caused by [Paman], [Arambala] could not have suffered the injuries that he had sustained, and the motorcycle involved would not have also incurred damages. Therefore, taking into further consideration the point of impact or the point of collision between the two (2) motor vehicles in the instant case, the Court is inclined towards the evidence presented by the prosecution and has determined the culpability of [Paman] in the instant case.¹⁹

Paman's act of driving on the wrong side of the road, in an attempt to overtake the motorcycle driven by Arambala, and suddenly crossing the path which is being traversed by the latter, is sheer negligence. It is a settled rule that a driver abandoning his proper lane for the purpose of overtaking another vehicle in an ordinary situation has the duty to see to it that the road is clear and he should not proceed if he cannot do so in safety. If, after attempting to pass, the driver of the overtaking vehicle finds that he cannot make the passage in safety, the latter must slacken his speed so as to avoid

¹⁸ *Rollo*, p. 40.

¹⁹ *Id.* at 41.

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the danger of a collision, even bringing his car to a stop if necessary.²⁰ This rule is consistent with Section 41(a) of Republic Act No. 4136, as amended, otherwise known as the Land Transportation and Traffic Code, which provides:

Sec. 41. *Restrictions on overtaking and passing.* (a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking or passing another vehicle proceeding in the same direction, unless such left side is clearly visible, and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking or passing to be made in safety.

Under Article 2185 of the Civil Code, unless there is proof to the contrary, a person driving a vehicle is presumed negligent if, at the time of the mishap, he was violating any traffic regulation. Here, Paman was violating a traffic regulation, *i.e.*, driving on the wrong side of the road, at the time of the collision. He is thus presumed to be negligent at the time of the incident, which presumption he failed to overcome. For failing to observe the duty of diligence and care imposed on drivers of vehicles abandoning their lane, Paman, as correctly held by the CA, must be held liable.

Nevertheless, there is a need to modify the penalty imposed by the CA. Article 365 of the Revised Penal Code (RPC), in part, provides that:

Article 365. *Imprudence and negligence.* – Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of *arresto mayor* in its maximum period to *prision correccional* in its medium period; **if it would have constituted a less grave felony, the penalty of *arresto mayor* in its minimum and medium periods shall be imposed;** if it would have constituted a light felony, the penalty of *arresto menor* in its maximum period shall be imposed.

x x x x (Emphasis ours)

Less grave felonies are those which the law punishes with penalties which in their maximum period are correctional.²¹ Correctional penalties include *prision correccional*, *arresto mayor*, suspension, and *destierro*.²² The MTCC considered the physical injuries suffered by Arambala as serious since he required medical attendance for more than a period of 30 days.²³

²⁰ See *Engada v. Court of Appeals*, 452 Phil. 587, 595-596 (2003), citing *Mallari, Sr. v. CA*, 381 Phil. 153, 160-161 (2000) and *Batangas Laguna Tayabas Bus Company v. Intermediate Appellate Court*, 249 Phil. 380, 384 (1988).

²¹ REVISED PENAL CODE, Article 9, paragraph (2).

²² REVISED PENAL CODE, Article 25.

²³ *Rollo*, p. 62.

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Under Article 263(4) of the RPC, the penalty for serious physical injuries, when the injuries inflicted caused incapacity for more than 30 days, is *arresto mayor* in its maximum period to *prision correccional* in its minimum period; the maximum period of the foregoing penalty – *prision correccional* in its minimum period – is merely a correctional penalty and, thus, should be considered a less grave felony.

Accordingly, pursuant to Article 365 of the RPC, Paman should be sentenced to suffer the penalty of *arresto mayor* in its minimum and medium periods or from one (1) month and one (1) day to four (4) months. Since the maximum term of imprisonment in this case, *i.e.*, four (4) months, does not exceed one (1) year, the provisions of the Indeterminate Sentence Law find no application and Paman should be meted a straight penalty taken from *arresto mayor* in its minimum and medium periods. In view of the lack of any mitigating or aggravating circumstances in this case, Paman should be made to suffer the straight penalty of imprisonment of two (2) months and one (1) day of *arresto mayor*.

WHEREFORE, in view of the foregoing disquisitions, the petition for review on *certiorari* is hereby **DENIED**. The Decision dated July 4, 2013 and Resolution dated October 30, 2013 issued by the Court of Appeals in CA-G.R. SP No. 04542 are **AFFIRMED with MODIFICATION** in that petitioner S/Sgt. Cornelio Paman is hereby sentenced to suffer the penalty of imprisonment of two (2) months and one (1) day of *arresto mayor*.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

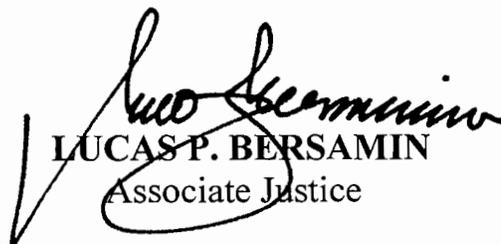
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



NOEL GIMENEZ TIJAM
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



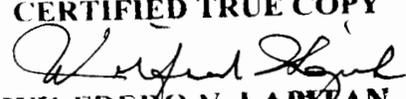
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPID
 Division Clerk of Court
 Third Division
 SEP 06 2017

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