EN BANC

G.R. No. 240337 – FRANCIS O. MORALES, *Petitioner*, *v.* **PEOPLE OF THE PHILIPPPINES,** *Respondent.*

Promulgated:

January 4, 2022

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CONCURRING AND DISSENTING OPINION

PERLAS-BERNABE, *J.*:

I concur in the *ponencia* insofar as it found petitioner Francis O. Morales (petitioner) guilty beyond reasonable doubt of the crime of Reckless Imprudence resulting in Multiple Slight Physical Injuries and Damage to Property, as defined and penalized under Article 365 of the Revised Penal Code (RPC). In so ruling, the *ponencia* correctly: (*a*) upheld *Ivler v. Modesto-San Pedro* (*Ivler*)[1] wherein reckless imprudence, as defined and penalized under Article 365 of the Revised Penal Code (RPC), was characterized as a crime in itself and not as a mere modality or a way of committing a crime, and hence, should not be complexed under Article 48 thereof; and (*b*) abandoned *People v. De los Santos*[2] wherein it was instructed that reckless imprudence may be "complexed" with its multiple resulting consequences, unless one consequence amounts to a light felony.[3]

However, I dissent against the *ponencia* insofar as it meted an additional penalty of fine in the amount of ₱150,000.00 against petitioner. In this regard, the *ponencia* posits that the penalty of fine under paragraph 3, Article 365 of the RPC finds application where – as in this case – the reckless imprudence resulted in both damage to property as well as some other act which would have been deemed a felony had it been intentional, *e.g.*, physical injuries.[4]

As pointed out by the *ponencia*, there is conflicting jurisprudence on the matter.

Particularly, in the 1954 case of *Angeles v. Jose* (*Angeles*),[5] the Court *en banc* first ruled that paragraph 3, Article 365 of the RPC "simply means that if there is only damage to property the amount fixed therein shall be

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1 649 Phil. 478 (2010).
2 407 Phil. 724 (2001).
3 See *ponencia*, pp. 12-14.
4 See id. at 24-25; and 17-18.
5 96 Phil. 151 (1954).

imposed, but if there are also physical injuries there should be an additional penalty for the latter."[6]

However, in the 1998 case of *Reodica v. Court of Appeals* (*Reodica*)[7] resolved by the Court's First Division, it was held that paragraph 3 finds application **only in instances where the reckless imprudence results in *damage to property only*; hence, paragraph 1 will apply if such reckless imprudence also resulted in other acts which would have constituted another felony had it been intentional.**

Later, the Court reverted to the *Angeles* application of paragraph 3, Article 365 of the RPC in the 2010 Second Division case of *Ivler*. Nonetheless, the Court, in the 2015 case of *Gonzaga v. People*[8] and the 2016 case of *Senit v. People*,[9] applied paragraph 3, Article 365 of the RPC concordant with *Reodica*, but contrarily adhered to *Angeles* and *Ivler* in the 2017 case of *Esteban v. People*,[10] which was notably disposed through an unsigned resolution.

After a survey of these cases, the *ponencia* then opted to uphold the *Angeles* and *Ivler* pronouncements, opining that their interpretation of paragraph 3 of Article 365 "conform/dovetail with the second approach that quasi-crimes should be prosecuted in one charge, regardless of their number and severity, and each consequence should be penalized separately."[11]

I disagree.

Pertinent portions of Article 365 of the RPC read:

> 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.**
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> Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of *arresto mayor* in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of *arresto mayor* in its minimum period shall be imposed.

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6 Id.
7 354 Phil. 90 (1998).
8 751 Phil. 218 (2015).
9 776 Phil. 372 (2016).
10 G.R. No. 209597, April 26, 2017.
11 *Ponencia*, p. 20.

> **When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three (3) times such value, but which shall in no case be less than Five thousand pesos (P5,000).**
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> A fine not exceeding Forty thousand pesos (P40,000) and censure shall be imposed upon any person who, by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.
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> x x x x (emphases and underscoring supplied)

As plainly and unambiguously worded, paragraph 3, Article 365 of the RPC applies "[w]hen the execution of the act covered by this article shall have ***only*** resulted in damage to property to another[.]" Thus, it does not apply when the reckless imprudence also resulted in an act which would have been deemed as a felony had it been intentional.

"A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation[,]"[12] as in the case of paragraph 3, Article 365 of the RPC.

More significantly, it should be pointed out that "it is a well-entrenched rule that **penal laws are to be construed strictly against the State and liberally in favor of the accused**. They are not to be extended or enlarged by implications, intendments, analogies or equitable considerations. They are not to be strained by construction to spell out a new offense, **enlarge the field of crime or multiply felonies**. Hence, in the interpretation of a penal statute, the tendency is to subject it to careful scrutiny and to construe it with such strictness as to safeguard the rights of the accused. If the statute is ambiguous and admits of two reasonable but contradictory constructions, that which operates in favor of a party accused under its provisions is to be preferred."[13]

To my mind, the restrictive application of paragraph 3, Article 365 of the RPC, *i.e.*, that it exclusively applies to cases where only damage to property results, is congruent with the foregoing key principle since to impose an additional penalty of a fine beyond such cases – as what the *ponencia* did in this case – would be to "enlarge the field of the crime," and in a sense, effectively "multiply the felony" of reckless imprudence by pronouncing an additional punishable result.

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12 *Bolos v. Bolos*, 648 Phil. 630, 635 (2010); citations omitted.

13 *Centeno v. Villalon-Pornillos*, 306 Phil. 219, 230 (1994).

At this juncture, it must be clarified that such restrictive reading of paragraph 3, Article 365 of the RPC does not contradict the *ponencia*'s discourse on the nature of reckless imprudence as a crime in itself pursuant to *Ivler*. Said conceptualization of reckless imprudence is maintained but the imposition of the consequential penalties must conform to the clear wording of the statute. As worded, reckless imprudence: (*a*) shall be penalized with a fine if the result of such imprudence is damage to property only; and (*b*) if the damage to property is accompanied by other acts which would constitute a felony had they been intentional, then only the latter resulting acts (excluding the damage to property) shall be punished accordingly. As I see it, the palpable rationale for the variation in the imposition of penalties is as follows: ***the lawmakers must have intended to forego the punishment of the reckless imprudence relative to the damage to property and instead, penalize only the reckless imprudence resulting in an act/s which would have been deemed a felony had it been intentional.*** While indeed reckless imprudence is not a complex crime, and the resulting effects are punished, ***the wording of paragraph 3 evinces that the penalization of the damage to property no longer deserve an additional penalty as it is already subsumed by the greater punishment reserved for the negligent acts resulting in a felony***. The other resulting effects not constitutive of the damage to property, however, remain penalized.

To illustrate, if an accused commits reckless imprudence resulting in damage to property ***only***, then he shall be fined in accordance with paragraph 3 of Article 365. However, if the reckless imprudence results not only in damage to property, but also in – let us say – three (3) counts of slight physical injuries, as in this case, then the penalties to be imposed correspond to the three (3) counts of slight physical injuries – as in this case, three (3) public censures.[14] Indeed, as correctly held in *Reodica*, "***the third paragraph of Article 365, which provides for the penalty of fine, does not apply since the reckless imprudence in this case did not result to damage to property only***. What applies [in cases where damage to property coincides with other act/s which would have been deemed felony/ies had it/they been intentional] is the first paragraph of Article 365 x x x."[15]

Finally, it must be borne in mind that, in every instance, the accused will not be civilly exculpated from whatever damage to property he may have caused due to his reckless imprudence. He must still pay the aggrieved party actual or temperate damages (as what the *ponencia* also directed in this case[16]), but the imposition of a fine should have been dispensed with. In this relation, it is well to emphasize that fine is a criminal penalty and is payable to the State; whereas actual or temperate damages are civil in nature and are payable to the owner of the property damaged by the accused's reckless act.

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14 See *ponencia*, p. 25.

15 *Reodica v. Court of Appeals*, supra note 7, at 104.

16 See *ponencia*, p. 26.

ACCORDINGLY, petitioner Francis O. Morales (petitioner) should be held **GUILTY** beyond reasonable doubt of the crime of Reckless Imprudence resulting in Multiple Slight Physical Injuries and Damage to Property, as defined and penalized under Article 365 of the Revised Penal Code. However, petitioner should only be **SENTENCED** to suffer the penalty of public censure for each of the resulting slight physical injuries to private complainants Rico Mendoza, Leilani Mendoza, and Myrna Cunanan. The additional penalty of fine in the amount of ₱150,000.00 imposed by the *ponencia* should be **DELETED**.

Finally, petitioner should be **ORDERED** to pay: (*a*) ₱8,000.00 as temperate damages to Spouses Rico and Leilani Mendoza; (*b*) ₱2,000.00 as temperate damages to Myrna Cunanan; and (*c*) ₱150,000.00 as temperate damages to Noel G. Garcia or his authorized representative/s. All monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from finality of the ruling until full payment.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice