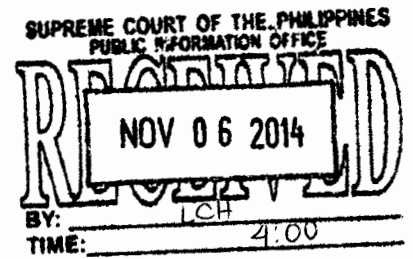




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 24, 2014** which reads as follows:*

**“G.R. No. 212438 (Roberto Gabot, petitioner v. People of the Philippines, respondent).** – The petitioner’s motion to admit the amended petition for review on certiorari is **GRANTED**, and his compliance with the Resolution dated June 9, 2014 is **NOTED** and **ACCEPTED**.

Petitioner Roberto Gabot was charged in an Information filed before the Municipal Circuit Trial Court, Branch 6, Mabalacat and Magalang, Pampanga with the crime of Reckless Imprudence Resulting to Homicide. The Information reads:

That on or about the 3<sup>rd</sup> day of November 2007, in Dau, Municipality of Mabalacat, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROBERTO GABOT y RAMOS, being then the driver and person-in-charge of an Isuzu Bus (PUB), Saulog Transit Inc., bearing Plate No. DWA-319, registered to Saulog Transit, Inc., Parañaque, Metro Manila, without due regard to traffic rules and regulations and without taking the necessary care and precaution to avoid accident to persons and damage to property, did then and there willfully, unlawfully, and feloniously drive, manage and operate the said vehicle in reckless, careless, and imprudent manner, causing as a result of such recklessness, carelessness and imprudence to hit and sideswipe Eduardo Carlos y Tiglao, as a result thereof said Eduardo Carlos y Tiglao sustained mortal and fatal injuries which cause his death thereafter.<sup>1</sup>

The evidence of the prosecution included the eyewitness testimony of Aris Sicat, a tricycle driver, who saw the victim, Eduardo Carlos, as the latter was crossing the McArthur highway, get run over by a Saulog bus driven at the time by Gabot. Sicat brought Carlos to the St. Rafael Hospital

<sup>1</sup> Rollo p. 40.

and relayed to the hospital's security guard and other medical personnel what had transpired.<sup>2</sup>

Prosecution witness SPO1 Alberto Mariano likewise testified that he saw Carlos cross the highway before he was hit by the Saulog bus. Thereafter, he flagged the bus, ordered Gabot to pull over, asked Sicat to bring the victim to the hospital, and referred the incident to the police who had jurisdiction. When the policemen arrived, they then arrested Gabot and impounded the Saulog bus involved in the incident.<sup>3</sup>

Another witness was Carlos' wife, Elena, who testified on her husband's occupation and earning capacity, and the expenses incurred resulting from the incident, including moral damages and legal fees.<sup>4</sup>

On the other hand, evidence for the defense consisted in the testimony of accused driver, herein petitioner Gabot, and his conductor Oliver Magpale.

Gabot testified that he left the Dau Bus Terminal at 2:00 a.m. At Gasdam Dau, he saw the victim, 10 meters away, coming from the right shoulder of the road, cross the highway. The victim was in the middle of the highway but suddenly returned to the right lane when the bus was only 3 meters away, such that, driving at the speed of 40 kph, and even attempting to avoid hitting the victim, Gabot sideswept and hit the victim at the driver's side of the bus below its window. On cross-examination, Gabot stated that his normal speed at nighttime is 80 to 90 kph, although at the time of the accident, he maintained that his speed was at 40 kph at 4<sup>th</sup> of 6 gears.<sup>5</sup>

The conductor, Magpale, testified that he was seated in the conductor's seat in front of the bus beside the entry door. He saw the victim 10 meters away in the middle of the highway. He cautioned Gabot about the victim who appeared intoxicated and who was swaying forward and backward in the highway. Gabot pressed on the brake to avoid hitting the victim, but still hit the latter.<sup>6</sup>

On July 7, 2010, the MCTC convicted Gabot of Reckless Imprudence resulting in Homicide, thus:

WHEREFORE, the Court finds [petitioner] accused Roberto Gabot y Ramos **GUILTY** beyond reasonable doubt of the crime of Reckless Imprudence Resulting to Homicide and hereby sentences him

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<sup>2</sup> Id. at 41.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id. at 42.

<sup>6</sup> Id. at 42-43.

to suffer an indeterminate penalty of imprisonment of from Two (2) years and Four (4) months of prision correccional, as minimum, to Four (4) years, Nine (9) months and Ten (10) days of prision correccional, as maximum; to indemnify the heirs of the victim Eduardo Carlos y Tiglao, as follows:

Civil Indemnity	Php	50,000.00
Actual damages	Php	160,000.00
Temperate damages	Php	25,000.00
Moral damages	Php	200,000.00
Exemplary damages	Php	25,000.00
Attorney's fees	Php	30,000.00
<b>TOTAL</b>	<b>Php</b>	<b>490,000.00</b>

and to pay the costs.<sup>7</sup>

On appeal, the Regional Trial Court of Angeles City affirmed with modification the ruling of the MCTC:

WHEREFORE, IN VIEW OF THE FOREGOING DISQUISITION, the Court affirms the decision of the 6<sup>th</sup> Municipal Trial Court of Mabalacat and Magalang in Criminal Case No. 07-158 with the following modifications:

Civil indemnity is increased to ₱75,000.00  
Actual damages is increased to ₱160,044.25  
Moral damages is reduced to ₱50,000.00  
Attorney's fees is increased to ₱50,000.00  
The award for temperate damage is deleted.<sup>8</sup>

On further appeal to the appellate court by Gabot, the Court of Appeals affirmed in *toto* the ruling of the RTC of Angeles City.

Hence, this appeal by *certiorari* arguing serious error by the Court of Appeals in affirming the lower courts' conviction of Gabot for reckless imprudence resulting in homicide.

The appeal is bereft of merit.

We subscribe to the lower courts' separate factual finding, and affirmed by the appellate court, that petitioner Gabot was guilty of Reckless Imprudence resulting in the death of the victim. The lower courts were all one in its factual finding that Gabot was driving the bus at a fast speed of 90kph. The totality of Gabot's actions on that fateful day demonstrate his imprudent behavior and the absence of ordinary care that would have enabled him to drive at a speed commensurate with the circumstances and conditions he encountered on the road to keep the bus under control and avoid injury to others.

<sup>7</sup> Id. at 52-53.

<sup>8</sup> Id. at 63.

We cannot overemphasize the principle that in petitions for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be put into issue.<sup>9</sup> Questions of fact are not cognizable by this Court. The finding of “reckless imprudence” by all three courts, including the Court of Appeals, is a question of fact which we desist from passing upon as it would entail delving into factual matters on which such finding was based. To reiterate, the rule is that factual findings of the trial court, especially those affirmed by the CA, are conclusive on this Court when supported by the evidence on record. More so in this case, when all three lower courts, concurred in the finding of reckless imprudence of Gabot while driving the Saulog bus.

Specifically, Gabot saw the victim at 10 meters away, and at 3 meters away, and instead of stopping, he merely swerved to the right and thus, still sideswept the victim.

Based on Article 365, paragraph 1,<sup>10</sup> of the Revised Penal Code and under the Indeterminate Sentence Law, the range of the penalty imposed on Gabot, “indeterminate penalty of imprisonment of from two (2) years and four (4) months of *prision correccional*, as minimum, to four (4) years, nine (9) months and ten (10) days of *prision correccional*, as maximum,” is correct.

The prescribed penalty for reckless imprudence resulting in homicide, the homicide constituting a grave felony had it been intentional, is *arresto mayor* in its maximum period to *prision correccional* in its medium period. Paragraph 5 of the same article specifies that “[i]n the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in article 64.” Thus, the lower courts’, affirmed by the appellate court’s, imposed penalty of imprisonment of from two (2) years and four (4) months of *prision correccional*, as minimum, to four (4) years, nine (9) months and ten (10) days of *prision correccional*, as maximum is well within the range of the prescribed penalty under Article 365, paragraph 1.

Likewise, the monetary awards of ₱75,000.00 for civil indemnity, ₱50,000.00 as moral damages and ₱25,000.00 as exemplary damages are correct considering that the crime committed by Gabot is deemed a quasi-crime. We further affirm the lower court’s uniform award of actual damages in the amount of ₱160,044.25 and attorney’s fees in the increased amount of ₱50,000.00

<sup>9</sup> *Philippine Health-Care Providers, Inc. (MAXICARE) v. Carmela Estrada/Cara Health Services*, 566 Phil. 603, 611 (2008).

<sup>10</sup> **ART. 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.


Finally, all the awards for civil indemnity, actual, moral, exemplary damages and attorney's fees shall earn interest of 6% per annum from date of finality of this Decision until full payment thereof.

**WHEREFORE**, the petition is **DENIED** there being no reversible error in the Decision of the Court of Appeals.

The petitioner is required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF files of the signed petition for review on certiorari and annexes, the signed motion to admit amended petition for review on certiorari, the signed amended petition for review on certiorari, and the signed compliance, all pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court

*me* 165

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(CA-G.R. CR No. 35100)

The Solicitor General (x)  
Makati City

The Hon. Presiding Judge  
Regional Trial Court, Br. 56  
2009 Angeles City, Pampanga  
(Crim. Case No. 10-6453)

The Hon. Presiding Judge  
Municipal Circuit Trial Court  
Mabalacat-Magalang  
2010 Mabalacat, Pampanga  
(Crim. Case No. 07-158)

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