



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 11, 2023** which reads as follows:*

**“G.R. No. 257476 (Glicerio Canoy alias “Ricky,” Petitioner v. People of the Philippines, Respondent).** — This Court resolves a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals (*CA*), which affirmed the Decision<sup>4</sup> of Regional Trial Court (*RTC*) finding Glicerio Canoy guilty beyond reasonable doubt of reckless imprudence resulting in homicide.

**Antecedents**

Glicerio Canoy alias “Ricky” (*Canoy*) was charged with reckless imprudence resulting in homicide in an Information<sup>5</sup> dated August 2, 2011 filed before the Municipal Trial Court (*MTC*), San Fernando, Cebu City. The accusatory portion reads:

That on the 2<sup>nd</sup> day of April 2011, at 10:00 o’clock in the morning, more or less, in Barangay Magsico, Municipality of San Fernando, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while driving a **Motorcycle [MOTORSTAR], color red bearing Plate No. 5406-TR**, voluntarily but without malice, failed to observe extra ordinary (*sic*) diligence expected of him under all circumstance (*sic*) and as a consequence thereof, the herein accused, did then and there willfully, unlawfully and feloniously drive, and operate said vehicle in a great speed in a negligent, careless and imprudent manner, without taking due regard of the traffic rules and regulations and to prevent accident to persons causing by such negligence, recklessness and imprudence as a result thereof, **bump and hit JUAN PAYPA OBAOB**, and

<sup>1</sup> *Rollo*, pp. 10–32.

<sup>2</sup> *Id.* at 79–94. The February 23, 2021 Decision in CA-G.R. CR No. 03496 was penned by Associate Justice Pamela Ann Abella Maxino, and concurred in by Associate Justices Lorenza Redulla Bordios and Bautista G. Corpin, Jr. of the Nineteenth Division, Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 104–110. The July 5, 2021 Resolution in CA-G.R. CR No. 03496 was penned by Associate Justice Pamela Ann Abella Maxino, and concurred in by Associate Justices Lorenza Redulla Bordios and Bautista G. Corpin, Jr. of the Former Nineteenth Division, Court of Appeals, Cebu City.

<sup>4</sup> Records, vol. II, pp. 107–113. The April 25, 2018 Decision in Criminal Case No. CBU-102342 was penned by Presiding Judge Alexander N.V. Acosta, Branch 9, Regional Trial Court, Cebu City.

<sup>5</sup> Records, vol. I, p. 1.

**after hitting him fled from the incident** without helping him [**hit and run**], thus, causing his death on April 13, 2011.

CONTRARY TO LAW.<sup>6</sup> (Emphasis in the original)

Upon arraignment, Canoy entered a plea of not guilty.<sup>7</sup> Pretrial and, afterwards, trial on the merits ensued.

The prosecution presented the following witnesses: (1) Julieta Tubalado (*Julieta*); (2) Jerome Obaob (*Jerome*); and (3) Irene Obaob Bacalso (*Irene*).

Julieta testified that on April 2, 2011 at around 10 a.m., she was chopping wood on the side of the provincial road in Magsico, San Fernando<sup>8</sup> when she saw a motorcycle pass by, moving downhill at a fast speed. The motorcycle was driven by Canoy, who had two passengers with him. She suddenly heard a loud noise followed by some screams. When she turned around, she saw Juan Obaob (*Juan*) lying face down on the ground, about 10 meters away from where she stood.<sup>9</sup> About two meters away from Juan, Canoy and the two passengers were lying on the ground.<sup>10</sup> When she approached Juan, Julieta noticed that he was bleeding. She immediately called Juan's son, Jerome, and asked Canoy to bring Juan to the hospital. However, Canoy expressed that he had no means to transport Juan because his motorcycle was damaged.<sup>11</sup> However, moments later, Canoy was able to start his motorcycle, and fled the scene, abandoning Juan and his passengers.<sup>12</sup> In an attempt to help, Julieta flagged the next approaching vehicle and requested the driver to report the incident to the barangay. Juan was brought to the hospital by a barangay councilor. After 11 days in the hospital, Juan died.<sup>13</sup>

Jerome confirmed that he was the son of the victim, Juan. He narrated that on April 2, 2011, at around 10:00 a.m., he was working at the Magsico Cemetery together with his uncle, Edgardo Pantoja. During such time, his father, Juan, visited them.<sup>14</sup> Shortly after Juan left, Jerome heard a loud sound. He rushed outside the cemetery and into the street, where he saw Juan bloodied, lying face down on the ground. He also saw a motorcycle, Canoy, and two other persons on the ground.<sup>15</sup> Corroborating Julieta's testimony, Jerome urged Canoy to take his father to the hospital. While

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 71.

<sup>8</sup> TSN, June 22, 2012, p. 3.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 8-9.

<sup>13</sup> *Id.* at 9.

<sup>14</sup> TSN, August 10, 2012, p. 4.

<sup>15</sup> *Id.* at 5-6.

Canoy explained that he could not do so as his motorcycle was not working, he was still able to start the motorcycle to leave the scene.<sup>16</sup> Desperate, Jerome asked for assistance from the barangay. Eventually, a barangay councilor arrived and brought Juan to the hospital, where he died 11 days later.<sup>17</sup>

Irene, Juan's daughter, affirmed the latter's death after spending 11 days in the hospital.<sup>18</sup> For the duration of his stay, they had incurred a total of PHP 387,565.21 in medical treatment and other hospital expenses,<sup>19</sup> exclusive of funeral, burial, and other miscellaneous expenses.

During the prosecution's formal offer of exhibits, the defense stipulated that at the time of the incident, Canoy was driving with a student permit and not a driver's license.<sup>20</sup>

On June 7, 2013 the prosecution filed an Urgent Motion to Withdraw Information,<sup>21</sup> as the case was inadvertently filed before the MTC instead of the RTC, alleging that it was the RTC that had jurisdiction over the offense. The MTC granted the prosecution's Motion in an Order.<sup>22</sup> The MTC explained that an objection based on lack of jurisdiction may be raised or considered *motu proprio* by the court at any stage of the proceedings.<sup>23</sup>

On November 13, 2013, an Information<sup>24</sup> was filed anew before the RTC, charging Canoy with reckless imprudence resulting in homicide, committed as follows:

That on the 2<sup>nd</sup> day of April, 2011, at 10:00 o'clock in the morning, more or less, in Barangay Magsico, Municipality of San Fernando, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while driving a motorcycle (MOTORSTAR) color red bearing Plate No. 5406-TR, voluntarily but without malice, failed to observe extra ordinary (sic) diligence expected of him under all circumstance (sic) and as a consequence thereof, the herein accused, did then and there willfully, unlawfully and feloniously drive and operate said vehicle in a great speed in a negligent, careless and imprudent manner, without taking due regard of the traffic rules and regulations and to prevent accident to persons causing by negligence, recklessness and imprudence as a result thereof, bump and hit **JUAN PAYPA OBAOB**, and after hitting him

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<sup>16</sup> *Id.* at 7.

<sup>17</sup> *Id.* at 8.

<sup>18</sup> TSN, September 14, 2012, p. 5.

<sup>19</sup> TSN, October 12, 2012, p. 2.

<sup>20</sup> TSN, March 15, 2013, p. 1.

<sup>21</sup> Records, vol. I, pp. 287-288.

<sup>22</sup> *Id.* at 292-293. The August 30, 2013 Order in Crim. Case No. 3491 was penned by Presiding Judge Glenda C. Go, Municipal Trial Court, San Fernando, Cebu.

<sup>23</sup> *Id.* at 292.

<sup>24</sup> Records, vol. II, p. 1.

fled from the incident without helping him (hit and run), thus causing his death on April 13, 2011.

CONTRARY TO LAW.<sup>25</sup> (Emphasis in the original)

Upon arraignment, Canoy entered a plea of “not guilty.”<sup>26</sup>

During pretrial, the parties similarly stipulated that at the time of the incident, Canoy was not in possession of a driver’s license. Instead, he was holding a student’s permit issued by the Land Transportation Office. They also agreed to adopt the entire proceedings before the MTC.<sup>27</sup>

The defense denied the version of the prosecution and presented the testimonies of the following witnesses: (1) Francisco Esguerra (*Francisco*), and the accused himself, (2) Canoy.

Francisco claimed that on the day of the incident, he was one of the passengers aboard Canoy’s motorcycle and that they were headed to a fiesta in Bolawan. While riding, he recalled that Canoy hit Juan, who was having second thoughts while crossing the street. When Juan fell to the ground, he, along with Canoy and several others, carried him to the side of the road.<sup>28</sup> Francisco asked Canoy to seek help, as the latter’s motorcycle was severely damaged. Canoy acquiesced and left the scene with his motorcycle. When a multicab passed by, Francisco sought assistance from the driver. Juan was loaded into the vehicle and was brought to the hospital. Just before Francisco was about to board another vehicle bound for the fiesta, he saw Canoy returning to the scene to help Juan.<sup>29</sup>

For his defense, Canoy conceded that he was indeed driving a motorcycle with two other passengers on the day of the incident. He affirmed that while he was driving on the right side of the street, he saw Juan some 30 meters away while the latter was crossing. When he was approaching Juan, he purposely tried to avoid him by swerving to the right. While Canoy was able to avoid Juan, he was still hit by a box of ice *buko* that one of his passengers was carrying.<sup>30</sup> When Juan fell to the ground, Canoy rushed to help him, carrying him to the side of the road. Despite his inclination to bring Juan to the doctor, he was unable to do so due to his damaged motorcycle.<sup>31</sup> Still wanting to help, Canoy set out to find an alternative vehicle. When he returned to the scene, Juan and his other passengers had already left. Thus, he decided to return home. Upon arriving,

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.* at 15.

<sup>28</sup> TSN, March 10, 2016, pp. 4–5.

<sup>29</sup> *Id.* at 6–7.

<sup>30</sup> TSN, February 22, 2018, p. 5.

<sup>31</sup> *Id.* at 7.

he asked his wife to look for Juan, as he feared for his life because he had heard some threats against him due to the incident.<sup>32</sup> When his wife learned that Juan was confined in the hospital, Canoy gave her money which she offered to Juan's family as assistance.<sup>33</sup>

The RTC rendered a Decision<sup>34</sup> convicting Canoy of the crime of reckless imprudence resulting in homicide. The dispositive portion reads:

**WHEREFORE**, the Court finds the accused, **GLICERIO CANOY**, guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide, defined and penalized under Art. 365 of the Revised Penal Code, as amended by Republic Act No. 1790 and imposes upon him an indeterminate sentence from **SEVEN (7) YEARS, FOUR (4) MONTHS and ONE (1) DAY TO EIGHT (8) YEARS AND EIGHT (8) MONTHS**; and to pay the heirs of the deceased Juan Obaob, the sum of:

- (1) P308,926.28 for actual compensatory damages;
- (2) P100,000.00 for moral damages;
- (3) P50,000.00 for exemplary damages;
- (4) P10,000.00 for attorney's fees; and costs.

**SO ORDERED.**<sup>35</sup> (Emphasis in the original)

The RTC held that all the elements of the crime charged were satisfactorily established.<sup>36</sup> More, the prosecution witnesses positively identified Canoy as the driver of the motorcycle that hit Juan while moving at a fast speed. It was likewise proven that by reason of Canoy's failure to observe due care, he failed to see Juan on the street and hit him. The incident caused Juan to sustain physical injuries which led to his death.<sup>37</sup>

Aggrieved, Canoy appealed to the CA.<sup>38</sup>

In the Decision,<sup>39</sup> the CA affirmed the RTC ruling, modifying the same only with regard to the award of damages. The dispositive portion provides:

IN LIGHT OF ALL THE FOREGOING, the Decision dated February 14, 2019, of the Regional Trial Court, Branch 9, Cebu City, in Criminal Case No. CBU-102342, convicting accused-appellant GLICERIO CANOY, also known as "RICKY," for Reckless Imprudence resulting in

<sup>32</sup> *Id.* at 8.

<sup>33</sup> *Id.* at 9.

<sup>34</sup> Records, vol. II, pp. 107-113.

<sup>35</sup> *Id.* at 113.

<sup>36</sup> *Id.* at 110.

<sup>37</sup> *Id.* at 111.

<sup>38</sup> *Id.* at 120.

<sup>39</sup> *Rollo*, pp. 79-94.

Homicide, is AFFIRMED with MODIFICATIONS as to the award of damages.

Accused-Appellant GLICERIO CANOY, also known as "RICKY," is sentenced to suffer the indeterminate penalty of seven (7) years, four (4) months and one (1) day of *prision mayor*, as minimum, to eight (8) years and eight (8) months of *prision mayor*, as maximum.

Accused-Appellant GLICERIO CANOY, also known as "RICKY," is further ordered to pay the heirs of Juan P. Obaob, the following:

1. Three Hundred Twenty One Thousand Nine Hundred Fifty Pesos and Twenty Three Centavos (PhP 321,951.23) as actual damages;
2. Fifty Thousand Pesos (PhP 50,000.00) as civil indemnity;
3. Fifty Thousand Pesos (PhP50,000.00) as moral damages; and
4. Ten Thousand Pesos (PhP 10,000.00) as attorney's fees.

All monetary awards for damages shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

The bail bond posted by accused-appellant GLICERIO CANOY, also known as "RICKY," for his provisional liberty in the amount of One Hundred Twenty Thousand Pesos (PhP 120,000.00), Bond No. JCR (2) 13-33127, undertaken by Milestone Guaranty and Assurance Corp., is cancelled.

Let the Regional Trial Court, Branch 9, Cebu City, issue a warrant of arrest to accused-Appellant GLICERIO CANOY, also known as "RICKY," at his last known address in Barangay Bugho, San Fernando, Cebu.

Let a copy of this Decision be furnished to Milestone Guaranty and Assurance Corp. at its office address at 2654 Leveriza Street, Malate, Manila, 1004 P.O. Box 3692 Manila.

SO ORDERED.<sup>40</sup> (Emphasis in the original)

In denying the appeal, the CA affirmed the RTC's finding that Canoy was driving his motorcycle at a fast speed. Thus, he lost control of the vehicle, causing him to hit Juan while he was crossing the street. The CA further observed that had Canoy not driven his motorcycle at such speed, he could have easily stopped his motorcycle or changed to another direction to avoid hitting Juan, or at least minimize the impact to avoid his death.<sup>41</sup>

Canoy moved for reconsideration, but it was denied in a Resolution.<sup>42</sup>

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<sup>40</sup> *Id.* at 93-94.

<sup>41</sup> *Id.* at 89.

<sup>42</sup> *Id.* at 104-110.

In seeking that his conviction be overturned, Canoy filed the instant Petition before this Court.

Canoy submits that the prosecution failed to prove beyond reasonable doubt that he drove his motorcycle in a wanton and willful manner, and in utter disregard to the consequences of his acts. Cognizant of the rules, he explains that he was driving on the proper side of the road and moving at a slow speed of 30 to 40 kilometers per hour.<sup>43</sup> He also points out that he and his passengers did not sustain any minor or even grave injuries in relation to the incident, thereby negating the prosecution's version that they had stumbled to the ground.<sup>44</sup> Given his supposedly careful actions, he theorizes that his actions were not the proximate cause of Juan's death, especially that the latter did not die immediately and had died in the hospital 11 days later. Finally, he highlights that there was no medical expert or doctor that was presented to prove that the death of the victim was the direct and natural consequence of his allegedly negligent act.<sup>45</sup>

Contrary to Canoy's suppositions, the Office of the Solicitor General asserts that he failed to take the necessary precautions which led to Juan's untimely demise. In fact, Canoy had every opportunity to avoid any incident from happening. Here, the speeding motorcycle was heading towards a specific area with a clear view of a pedestrian crossing the street.<sup>46</sup> Plainly, if he had indeed been driving at a reasonable speed, he could have easily stopped and allowed Juan to cross the street without any incident. Militating against Canoy is his admission that the handle bar of his motorcycle was twisted and that the victim was thrown on the road and landed face down.<sup>47</sup> Worse, Canoy's negligence was manifest in his act of abandoning his victims and his passengers.<sup>48</sup>

The sole issue advanced for this Court's resolution is whether the CA correctly upheld the conviction of Glicerio Canoy alias "Ricky" for reckless imprudence resulting in homicide.

### **This Court's Ruling**

This Court denies the Petition.

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<sup>43</sup> *Id.* at 23.

<sup>44</sup> *Id.* at 24.

<sup>45</sup> *Id.* at 25.

<sup>46</sup> CA *rollo*, p. 62.

<sup>47</sup> *Id.* at 63.

<sup>48</sup> *Id.* at 67.

This Court is well aware that the issue raised by Canoy is essentially factual in nature, the determination of which is best left to the courts below. Inarguably, the finding of reckless imprudence by the RTC and the CA is a question of fact that would justify the outright rejection of the instant Petition.

Established is the principle that in petitions for review on *certiorari* under Rule 45, only questions of law may be put into issue, and not questions of fact, which are not cognizable by this Court. Elsewise stated, this Court refrains from further scrutinizing the factual findings of trial courts, more so when such findings have been affirmed by the CA.<sup>49</sup> As clearly established in *Deepak Kumar v. People of the Philippines*,<sup>50</sup> petitions that fail to raise pure questions of law and questions of substance as to be of distinctly significant consequence and value may be denied due course and disposed without further action by this Court.<sup>51</sup>

Certainly, while the rule admits of certain exceptions, there is none that proves applicable in the instant case.<sup>52</sup> Absent the existence of such recognized exceptions, this Court is bound to respect the findings of the lower courts.

In this case, there appears no reason to deviate from the findings of fact by the RTC and the CA. Consequently, this Court holds that their meticulous review and analysis of the facts and evidence is noteworthy, resulting in the conviction of Canoy of the crime charged.

To summarize, Canoy was charged with the crime of reckless imprudence resulting in homicide. As defined by this Court in *People v. Agliday*,<sup>53</sup> reckless imprudence “consists of voluntarily doing or failing to do, without malice, an act from which material damage results by reason of an inexcusable lack of precaution on the part of the person performing or failing to perform such act.”<sup>54</sup> In determining the rationale behind this crime, this Court draws from the early case of *United States v. Maleza*:<sup>55</sup>

A man must use common sense, and exercise due reflection in all his acts; it is his duty to be cautious, careful, and prudent, if not from instinct, then through fear of incurring punishment. He is responsible for such results as anyone might foresee and for acts which no one would have performed except through culpable abandon. Otherwise his own person, rights and

<sup>49</sup> *Gepulle-Garbo v. Sps. Garabato*, 750 Phil. 846, 855 (2015). [Per J. Villarama, Jr., Third Division]

<sup>50</sup> G.R. No. 247661, June 15, 2020 [Per J. Leonen, Third Division].

<sup>51</sup> *Id.* at 1. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

<sup>52</sup> *Remalante v. Tibe*, 241 Phil. 930, 935–936 (1988). (Citations omitted)

<sup>53</sup> 419 Phil. 555 (2001). [Per J. Panganiban, Third Division].

<sup>54</sup> *Id.* at 555.

<sup>55</sup> 14 Phil. 468 (1909). [Per J. Torres]



property, and those of his fellow-beings, would ever be exposed to all manner of danger and injury.<sup>56</sup>

In contrast to intentional crimes where the act itself is punished, what is principally penalized in negligence or imprudence is “the mental attitude or condition behind the act, the dangerous recklessness, lack of care or foresight, the *imprudencia punible*.”<sup>57</sup>

The elements constitutive of reckless imprudence are: “(1) that the offender does or fails to do an act; (2) that the doing or the failure to do that act is voluntary; (3) that it be without malice; (4) that material damage results from the reckless imprudence; and (5) that there is inexcusable lack of precaution on the part of the offender, taking into consideration his employment or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time, and place.”<sup>58</sup>

In *Caminos, Jr. v. People*,<sup>59</sup> this Court elaborated that what is most central to a finding of guilt is the conclusive determination that “the accused has exhibited, by his [or her] voluntary act without malice, an inexcusable lack of precaution because it is that which supplies the criminal intent so indispensable as to bring an act of mere negligence and imprudence under the operation of the penal law.”<sup>60</sup>

Pertinent to this case, *Gonzaga v. People*<sup>61</sup> instructs that in order to establish a motorist’s liability for the negligent operation of a vehicle, it must be shown that there was a “direct causal connection between such negligence and the injuries or damages complained of.”<sup>62</sup>

Guided by the foregoing, the prosecution was able to successfully prove that Canoy was indeed negligent in driving his motorcycle, causing Juan to sustain physical injuries that inevitably led to his death.

In the instant case, there is no argument that Canoy bumped into Juan. The categorical statements of all the witnesses for both the defense and the prosecution attest to such fact. In a bid to exonerate himself, Canoy justified that he was running at a slow speed. He even avers that it was a box of ice *buko* belonging to one of his passengers that hit Juan, and not his motorcycle.

<sup>56</sup> *Id.* at 470.

<sup>57</sup> *Quizon v. The Justice of the Peace of Pampanga*, 97 Phil. 342, 345 (1955). [Per J. Reyes, J.B.L.]

<sup>58</sup> *Dr. Cabugao v. People, et. al.*, 740 Phil. 9, 21–22 (2014). [Per J. Peralta, Third Division]. (Citation omitted)

<sup>59</sup> 605 Phil. 422 (2009). [Per J. Tinga, Second Division]

<sup>60</sup> *Id.* at 435. (Citation omitted)

<sup>61</sup> 751 Phil. 218 (2015). [Per J. Perlas-Bernabe, First Division]

<sup>62</sup> *Id.* at 227.

lend help to Juan and his injured passengers was a clear demonstration that he acted recklessly and imprudently. Such a behavior was the proximate cause of the fatal incident that cost Juan his life.

Equally damning for Canoy was his own admission that during the time of the incident, he was traversing the streets with only a student's permit and not a driver's license. Section 30 of Republic Act No. 4136<sup>69</sup> relevantly provides:

Section 30. *Student-driver's permit.* - Upon proper application and the payment of the fee prescribed in accordance with law, the Director or his deputies may issue student-driver's permits, valid for one year to persons not under sixteen years of age, who desire to learn to operate motor vehicles.

A student-driver who fails in the examination on a professional or non-professional license shall continue as a student-driver and shall not be allowed to take another examination at least one month thereafter. **No student-driver shall operate a motor vehicle, unless possessed of a valid student-driver's permit and accompanied by a duly licensed driver.**

The licensed driver duly accredited by the Bureau, acting as instructor to the student-driver, shall be equally responsible and liable as the latter for any violation of the provisions of this Act and for any injury or damage done by the motor vehicle on account or as a result of its operation by a student-driver under his direction.<sup>70</sup> (Emphasis supplied)

Canoy was in clear transgression of such provision at the time of the incident. In the first place, he should not have been driving alone, as the law clearly requires that a holder of a student's permit should be accompanied by a duly licensed driver when operating a motor vehicle. Further, there appears no reason to deviate from the finding of the RTC and the CA that he was speeding. To make matters worse, evidence on record proves that he failed to render help to Juan and his passengers by abandoning them at the *situs criminis* and left posthaste. Other than his bare assertions, there is nothing on record to show that he returned to the scene after supposedly borrowing a vehicle. Such circumstances only lend credence to the conclusion that petitioner was negligent. As stressed by Article 2185 of the Civil Code:

Art. 2185. Unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation.

Finally, this Court finds a need to modify the penalty imposed.

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<sup>69</sup> An Act to Compile the Laws Relative to Land Transportation and Traffic Rules, to Create a Land Transportation Commission and for Other Purposes, June 20, 1964.

<sup>70</sup> *Id.*

Such assertion deserves scant consideration. Notably, none of the witnesses, even Francisco, who testified in behalf of Canoy, corroborated such claim. Of equal significance, none of the adduced pieces of evidence substantiate that a box of ice *buko* was even found at the scene of the incident. Assuming *arguendo* that Juan was indeed hit by a box of ice *buko*, the state of his injuries which caused his death belies such version of the facts.

As instructed in *Caminos, Jr.*,<sup>63</sup> the “rate of speed, in connection with other circumstances, is one of the principal considerations in determining whether a motorist has been reckless in driving an automobile, and evidence of the extent of damage caused may show the force of the impact from which the rate of speed of the vehicle may be modestly inferred.”<sup>64</sup>

Here, this Court is convinced with the uniform finding of both the RTC and the CA that Canoy was driving at a very fast speed. While it may be conceded that Canoy was driving on the right side of the road, the latter admitted that he already saw Juan crossing the street 30 meters away.<sup>65</sup> If Canoy had indeed been moving at a reasonable speed, there would have been no occasion for Juan to have been injured, much less suffer physical injuries so severe that would result in his demise. Having anticipated that a person was already crossing the street, Canoy, as a motorist, had every opportunity to exercise ordinary care to avoid the occurrence of the incident. Moreover, it remains uncontroverted that there was no obstruction on the road, nor was there any other vehicle present, that could hamper Canoy’s ability to avoid any endangerment to the life and limb of innocent pedestrians.

Also militating is the extent of damages suffered by the parties involved in the incident. As correctly declared by the CA, “[t]he fact that Juan, and even [Canoy’s] own passengers were thrown off the motorcycle, and hurled to the ground clearly demonstrate that the force of the collision had been created by a speed way beyond what [Canoy] claims.”<sup>66</sup>

*Apropos* is the ruling in *Gabriel v. Court of Appeals*,<sup>67</sup> where this Court held that “the very fact of speeding is indicative of imprudent behavior, as a motorist must exercise ordinary care and drive at a reasonable rate of speed commensurate with the conditions encountered, which will enable him or her to keep the vehicle under control and avoid injury to others using the highway.”<sup>68</sup> Invariably, Canoy’s failure to slow down and to

<sup>63</sup> *Caminos, Jr. v. People*, *supra* note 59.

<sup>64</sup> *Id.* at 436. (Citations omitted)

<sup>65</sup> TSN, February 22, 2018, p. 5.

<sup>66</sup> *Rollo*, p. 89.

<sup>67</sup> 483 Phil. 142 (2004) [Per J. Tinga, Second Division].

<sup>68</sup> *Id.* at 157. (Citation omitted)

Under Article 365 of the RPC, when reckless imprudence in the use of a motor vehicle results in the death of a person, the accused shall be punished with the penalty of *prision correccional* in its medium and maximum periods, *i.e.*, two years, four months, and one day to six years. However, as in this case, if the offender fails to lend on the spot such help as may be in his hands to give to the injured parties, the penalty for the crime is increased to one degree higher, or *prision mayor* in its minimum and medium period, *i.e.*, six years and one day to 10 years.

Applying the Indeterminate Sentence Law, the minimum period of the indeterminate penalty shall be taken from the range of the penalty next lower in degree or *prision correccional* in its medium and maximum periods, *i.e.*, two years, four months, and one day to six years. On the other hand, the maximum of the indeterminate penalty shall be taken from the penalty imposed by law for the crime, that is, *prision mayor* in its minimum and medium periods. There being no modifying circumstances in the commission of the crime, the maximum of the indeterminate penalty shall be taken from the medium period of *prision mayor* in its minimum and medium periods, *i.e.*, seven years, four months, and one day to eight years and eight months.

Hence, the proper penalty to be imposed on Canoy should be the indeterminate penalty of four years, nine months, and 10 days of *prision correccional*, as minimum, to seven years, four months, and one day of *prision mayor*, as maximum.

As for the monetary awards, this Court sustains the award of PHP 50,000.00 as civil indemnity and PHP 50,000.00 as moral damages, in conformity to *People of the Philippines v. Jugueta*.<sup>71</sup> This Court likewise affirms the award of attorney's fees and actual expenses incurred. Finally, pursuant to *Nacar v. Gallery Frames, et al.*,<sup>72</sup> the damages awarded shall earn 6% interest per annum from the finality of this Resolution until full payment.

**FOR THESE REASONS**, the instant Petition is **DENIED**. The Decision dated February 23, 2021 and the Resolution dated July 5, 2021 of the Court of Appeals CA-G.R. CR No. 03496 are **AFFIRMED WITH MODIFICATION**.

<sup>71</sup> 783 Phil. 806, 856 (2016) [Per J. Peralta, *En Banc*].

<sup>72</sup> 716 Phil. 267 (2013) [Per J. Peralta, *En Banc*].

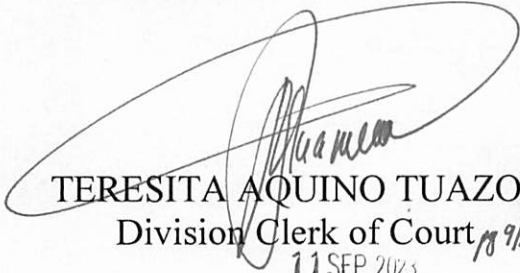
Petitioner Glicerio Canoy alias "Ricky" is hereby found **GUILTY** beyond reasonable doubt of reckless imprudence resulting in homicide and is **SENTENCED** to suffer the indeterminate penalty of four years, nine months, and 10 days of *prision correccional*, as minimum, to seven years, four months, and one day of *prision mayor*, as maximum.

He is likewise **ORDERED** to **PAY** the heirs of Juan P. Obaob the following amounts: PHP 50,000.00 as civil indemnity; PHP 50,000.00 as moral damages; PHP 321,951.23 as actual expenses; and PHP 10,000.00 as attorney's fees.

All damages awarded shall earn interest at the rate of 6% per annum from the finality of this Resolution until fully paid.

**SO ORDERED."**

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
 Division Clerk of Court *ps 9/8*  
 11 SEP 2023

\*PUBLIC ATTORNEY'S OFFICE (reg)  
 Regional Special & Appealed Cases Unit  
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 Makati City

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 9  
 6000 Cebu City  
 (Crim. Case No. CBU-102342)

COURT OF APPEALS (reg)  
 Visayas Station  
 Cebu City  
 CA-G.R. CR No. 03496

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OFFICE OF THE CHIEF ATTORNEY (x)  
 PHILIPPINE JUDICIAL ACADEMY (x)  
 Supreme Court, Manila

\*with a copy of the CA Decision dated February 23, 2021  
*Please notify the Court of any change in your address.*  
 GR257476. 1/11/2023(504)URES