

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUSANO ARCENAL Y AGUILAN, ACCUSED-APPELLANT.

Ponente: SORONGON, E.D., J.

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SORONGON, E.D., J.

This is an appeal from the November 30, 2010 Decision[1] of the Regional Trial Court of Sta. Cruz, Laguna, Branch 27 in Criminal Case No. SC-8602 finding Jesusano Arcenal y Aguilan (accused-appellant) guilty beyond reasonable doubt of violation of Republic Act No. 6539, as amended by Republic Act No. 7659, also known as the Anti-Carnapping Act, and sentencing him to suffer the penalty of reclusion perpetua.

The Information alleged the following:

"That on or about April 11, 2000, in the Municipality of Pila, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, by means of force and violence and in the night time, which circumstances facilitated the commission of the offense, did then and there willfully, unlawfully and feloniously take, steal and drive away a motorized Yamaha tricycle with Plate No. DT-6680 valued at P22,000.00 owned and belonging to one RENATO DE RAMA, and which at the time was driven by one ALVIN DE RAMA, against their will and consent and to the damage and prejudice of the afore-named owner thereof in the said amount of TWENTY TWO THOUSAND (P22,000.00) PESOS, Philippine currency; that in the course of the commission of the aforesaid offense or on the occasion thereof, the same above-named accused, while conveniently armed with an unestablished deadly weapon/instrument, with intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, hit and strike with the said weapon/instrument the driver of the same motorized tricycle, ALVIN DE RAMA, thereby inflicting upon the latter gaping wounds with irregular edges on the right and occipital area of his head aside from the abrasions and hematomas on the different parts of his body which directly caused his instantaneous death, to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW."[2]

Upon arraignment, accused-appellant pleaded not guilty to the charge. Thereafter, trial on the merits ensued.

Version of the Prosecution

In their précis, the Office of the Solicitor General (OSG) presented the theory of the prosecution in this manner:

"On 11 April 2000, at around 11:00 in the evening, Alvin de Rama left the tricycle terminal at the corner of the National Highway, Barangay Labuin, Pila, Laguna, with appellant as his lone passenger (back rider).

Fifteen minutes after de Rama and appellant left, Jay Flores, another tricycle driver, left the terminal to bring a passenger at Linga, Pila, Laguna. After dropping off his passenger, en route to the terminal, Flores saw de Rama's tricycle being driven by appellant, speeding out from Forest Subdivision, Barangay Pinagbayanan, Pila, Laguna.

On 12 April 2000, at around 6:00 in the morning, the Pila, Laguna Philippine National Police (PNP) received a report that de Rama was found at a grassy area in Forest Subdivision. SPO4 Nelson Mero, SPO2 Morales and

SPO2 Pablo proceeded to the area to investigate. They took photographs of the slain body and blood stain samples, which they later brought to the crime laboratory for examination. Based on their investigation, they found out that de Rama was last seen with appellant. They were also told by witnesses that appellant was last seen driving de Rama's tricycle in the direction of Manila.

In the evening of 12 April 2000, the Pila, Laguna PNP received a radio call from the San Pedro, Laguna PNP that the barangay captain of San Antonio found in Woodville Subdivision an abandoned tricycle with plate number DT 6680. SPO3 Rufino Anterola and the deceased's father, Renato de Rama, assisted by members of the San Pedro Laguna PNP, went to the San Antonio barangay hall to identify the recovered tricycle. After Renato positively identified the tricycle, the same was surrendered to him and brought back to Pila, Laguna. SPO3 Rufino noticed that there were blood stains on the motorcycle and side car.

Upon request from the Pila, Laguna PNP, PO3 Jesus Agustin, a fingerprint technician from the PNP Regional Crime Laboratory, Camp Vicente Lim, Calamaba, Laguna, lifted fingerprint samples from the tricycle. He then prepared a report and submitted the same to NUP Reigel Allan Soria, Chief of the Fingerprint Section.

NUP Soria conducted a fingerprint examination. Of the eight lifted fingerprints, the print labeled "Q-3" matched appellant's standard fingerprint sample.

Appellant was not immediately apprehended, however, as he went into hiding. He was arrested only in 2002, after the police received information that appellant was in Pakil, Laguna."^[3]

Version of the Defense

The account of the defense as duly chronicled by the trial court are as follows:

"At around 9:00 o'clock in the evening of April 11, 2000, he was at Brgy. Aplaya, Pila, Laguna. He was at the national road of the said barangay. He was at said place as he has to give money to his parents to used (sic) for the injection of newly born piglets. His parents and siblings were present in the said place, specifically, in the house of one Nanay Alice Tope, who was sick. He was given food by his siblings and was told to sleep in the said house. He woke up at 3:00 o'clock in the morning and immediately left going to his work at San Juan, Batangas. He first took a jeepney going to San Pablo City. He arrived at San Juan, Batangas at around 5:00 o'clock in the morning. He was self-employed and engaged in electronics home repair service in Batangas. He was arrested at Brgy. Casa Real, Pakil, Laguna on April 12, 2002 by police officer Alvin Cornejo. He was brought to the Pila Municipal Police Station where he was interrogated and later on incarcerated. He was then transferred to the Laguna Provincial Jail while at the latter jail, he received visitors, the private complainant and a lawyer, who told him that his fingerprints taken at the Pila police station were blurred and requested for another set of fingerprints. He was asked by the lawyer to admit his crime, presented to him a blank bond paper with his name typed on the lower portion. As the paper contained nothing, he used it to wipe his fingers.

On cross-examination, he stated that around 9:00 o'clock in the evening of April 11, 2000, he left the house of Nanay Alice Tope to buy food at the corner of Brgy. Aplaya and Kaunlaran. The food was for his own consumption. He left the house of Nanay Alice Tope at 4:00 o'clock in the morning on his way to San Juan, Batangas. He lives there in the house of the uncle of his wife, one Romulo Mandocdoc.

He has not gone back to Pila, Laguna for about five (5) years and returned to the place only on April 11, 2000. He used to be a tricycle driver in the said municipality in the year 1994 and he is known to the tricycle drivers Jay Flores, Ferdinand Capucan and Mario Meras.

Prior to his arrest on April 12, 2002, he had been staying at Pakil, Laguna for about three (3) days. He stayed in the house of his sister Mildred Arcenal. He was there for a vacation as his sister's child was sick. He did not drop by his house in Pila, Laguna as they passed by Taguig, Rizal. That was the first time he returned to Laguna since he left on April 11, 2000. As of this latter date, his eldest child, who was ten (10) years old, was enrolled in at the Brgy. Labuin Elementary School in Pila, Laguna. His uncle Romulo Mandocdoc was the one

tending to his children. He then stated that his wife and children were in Batangas City. When he left Pila, Laguna on April 11, 2000, he was together with his wife and children. They then all stayed in Batangas City. He never returned to his place in Pila, Laguna.”

In the assailed Decision dated November 30, 2010, the trial court found accused-appellant guilty beyond reasonable doubt of the crime charged, thus:

"WHEREFORE, herein accused JESUSANO ARCENAL y AGUILAN is hereby sentenced to a penalty of reclusion perpetua and to pay to the heirs of Alvin de Rama the following;

- P50,000.00 as civil indemnity for the death of Alvin de Rama;
- P50,000.00 as exemplary damages.

Herein accused JESUSANO ARCENAL y AGUILAN is hereby ordered to pay Renato de Rama, tricycle owner, the following:

- P50,000.00 as exemplary damages.

SO ORDERED.”[4]

Hence, the present appeal raising this lone argument:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Basically, accused-appellant insists that the prosecution was not able to prove his guilt beyond reasonable doubt due to insufficiency of circumstantial evidence presented during trial.

The appeal is bereft of merit. Since accused-appellant was convicted on the basis of purely circumstantial evidence, this Court is therefore called upon to review the facts and to deliberate on the case with extra care, ever cognizant of the legal maxim that the prosecution cannot rely on the weakness of the defense, and that any conviction must rest on nothing less than moral certainty of the guilt of the accused[5].

The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt. The corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person, i.e., the circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent and with any other rational hypothesis except that of guilt[6].

In the case at bar, the court a quo enumerated several facts and circumstances which when taken together had led it to conclude that accused-appellant committed the crime, to wit

(1) “Witnesses Jay Flores and Mario Meras both testified that they saw the victim Alvin de Rama and the accused Jesusano Arcenal y Aguilan at around 11:00 o’clock in the evening of April 11, 2000 at the tricycle station located at the corner of the road going to Brgy. Linga, Pila and the highway at Brgy. Labuin, Pila, Laguna. Their testimonies pertain to the first circumstance- the presence of the accused Arcenal in the area prior the death of the victim de Rama and which was not controverted on cross examination by the defense.

(2) The second circumstance is the situation, as testified to by both witnesses Flores and Meras, which showed

that the accused Arcenal was together with the victim de Rama- with Arcenal riding on the tricycle seat behind de Rama- going towards the direction of Brgy. Labuin. Witness Jay Flores testified that he arrived in the tricycle terminal ahead of de Rama but the latter left Arcenal seated at the back of de Rama's tricycle. Witness Meras stated that de Rama left earlier from the tricycle terminal going to the direction of Brgy. Labuin, with Arcenal as the passenger.

(3) The third circumstance pertains to the situation wherein Arcenal was seen alone, as he sped out, driving the tricycle of the victim de Rama, from the direction of Forest Park Subdivision. Witness Flores testified that after bringing a passenger to the desired place, on his way back to Brgy. Labuin, he saw the tricycle of de Rama being driven by Arcenal. Herein witness was driving slowly and he was forced to apply his brakes when he saw Arcenal driving the vehicle at a very high speed.

(4) The fourth circumstance was the disappearance of the victim de Rama on the night of April 11, 2000. Flores, prosecution witness, testified that there was no passenger in the tricycle being driven by Arcenal. Witness Meras also testified that de Rama did not return to the terminal.

(5) The fifth circumstance was the presence of a fingerprint- pertaining to the right hand index finger of the accused Jesusano Arcenal y Aguilan, as found on the tricycle of the victim Alvin de Rama. Witness PO3 Agustin, the fingerprint technician of the PNP Crime Laboratory, testified that he was able to lift latent fingerprints on the said vehicle, using the prescribed techniques, which he submitted to NUP Reigel Allan Sorra, the Chief Officer of the Fingerprint Section, who then conducted the examination of the fingerprints. NUP Sorra testified that of the eight (8) fingerprints he examined, one matched the right hand index finger of the accused Jesusano Arcenal y Aguilan. xxx"[7]

Lest it be overlooked, accused-appellant went into hiding in Mindoro Island after the incident. As a matter of fact, a manhunt for his arrest was conducted by the PNP of Pila, Laguna and the case had to be suspended until his apprehension two (2) years later. His flight manifests guilt and fear for his life and freedom as well. His flight most especially if the same is unexplained, is a circumstance from which an inference of guilt may be drawn[8]. So said the trial court regarding the flight of the accused-appellant:

The cross examination of the accused Arcenal ultimately established that Arcenal's family was actually staying in Pila, Laguna and not in Batangas City prior to April 11, 2000. Thereafter, it was elicited that Arcenal took his family to Batangas City. That the accused had to bring his family with him to Batangas City after his visit to Pila, Laguna on April 11, 2000 indicated a sudden flight which could only be on account of an untoward incident and the liability thereof of which one sought to evade.

Likewise, it became apparent that the accused Arcenal was avoiding Pila, Laguna even as his parents and siblings were still residing therein. He visited his sister Mildred who was residing at Pakil, Laguna in April, 2002. He gave the excuse that he did not pass by Pila, Laguna as he initially came from Taguig, Rizal in going to Pakil, Laguna. He had been staying in Pakil, Laguna for three days and in the ordinary course of events, he could have taken time to visit his parents and siblings at Pila, Laguna – which is only about an hour away. After all, the last time he was in Pila, Laguna, which was on that fateful day of April 11, 2000, was merely to give money to his parents to buy medicines for a sow and its newly born piglets. A filial obligation to visit parents and siblings surely outweighs the latter concern. A deviation from this norm indicates a feeling of fear greater than the filial obligation – the fear of being arrested and to be held criminally liable.

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An indorsement from the PNP-Pila, Laguna dated January 15, 2001 stated that a manhunt was conducted.

Information given to the police authorities revealed that Arcenal was believed to be in hiding at Mindoro Island. Arcenal testified that he was staying at San Juan, Batangas or at Batangas City, specifically at the house of one Romulo Mandocdoc, uncle of his wife, as he was engaged in electrical appliance repair. It must also be recalled that in his testimony, he stated that he brought his family with him to Batangas City after April 11, 2000. If such was true at that time, that would have easily enabled the police authorities to locate him and to effect his arrest. It took two (2) years before Arcenal was finally arrested, meaning that he went in hiding and that he did not just stay in Batangas. That he was not always in the said place, that he was moving around obviously to elude arrest, was further supported by his testimony that before he went to his sister's place at Pakil, Laguna, he initially came from Taguig, Rizal (TSN, February 19, 2008, p. 11). (Decision, 30 November 2010, pp. 10-11)

All these circumstances sewn altogether result in an unbroken chain of events pointing to the guilt of the accused-appellant. His attempt to discredit the witnesses will not simply hold. Worthy of reiteration is the fundamental aphorism in law that the court's assessment on the credibility of the witnesses is highly respected on appeal since they are in the best position to observe the demeanor of these witnesses while testifying. Hence, on matters involving the credibility of witnesses, the trial court is in the best position to assess the credibility of witnesses since it has observed first hand their demeanor, conduct and attitude under grilling examination. Absent any showing of a fact or circumstance of weight and influence which would appear to have been overlooked and, if considered, could affect the outcome of the case, the factual findings and assessment on the credibility of a witness made by the trial court remain binding on an appellate tribunal[9]. In this matter, We cannot find any reason to veer away from the findings of the trial court.

True, no one directly saw accused-appellant killed the victim, however, the circumstances as clearly pointed out by the trial court lead Us too to the inevitable and reasonable conclusion that accused-appellant indeed committed the crime charged. Hence, his conviction based on circumstantial evidence is warranted.

That issue now settled, We go to the elements of the crime violated by the accused-appellant, i.e., Anti-Carnapping Act of 1972, as amended.

The elements of carnapping as defined and penalized under the Anti-Carnapping Act of 1972 are the following:

- That there is an actual taking of the vehicle;
- That the vehicle belongs to a person other than the offender himself;
- That the taking is without the consent of the owner thereof; or that the taking was committed by means of violence against or intimidation of persons, or by using force upon things; and
- That the offender intends to gain from the taking of the vehicle.[10]

As held by the trial court, the prosecution has already established the fact that accused-appellant was the last person seen with the deceased de Rama and was in possession of the subject vehicle. It is a settled doctrine that when a person is in possession of a thing unlawfully taken, the taker is presumed to have unlawfully took the same. In the same case quoted above, the Supreme Court cited the case of *Litton Mill, Inc. vs. Sales*[11], where it explained the presumption of unlawful taking under Section 3 (j), Rule 131 of the Rules of Court, thus:

"Section 3 (j), Rule 131 of the Rules of Court states that:

[A] person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act; otherwise, that thing which a person possesses, or exercises acts of ownership over, are

owned by him.

In *Litton Mills, Inc. v. Sales*, 46 we said that for such presumption to arise, it must be proven that: (a) the property was stolen; (b) it was committed recently; (c) that the stolen property was found in the possession of the accused; and (d) the accused is unable to explain his possession satisfactorily. 47 As mentioned above, all these were proven by the prosecution during trial."

The High Court further elucidated:

"In *People v. Bustinera*[12], this Court defined "unlawful taking," as follows:

Unlawful taking, or *apoderamiento*, is the taking of the motor vehicle without the consent of the owner, or by means of violence against or intimidation of persons, or by using force upon things; it is deemed complete from the moment the offender gains possession of the thing, even if he has no opportunity to dispose of the same."

In the case at bar, the prosecution was able to prove the elements of carnapping. Based on the testimony of the prosecution witnesses, de Rama conspicuously disappeared on the night of April 11, 2000 where on the same night, witness Flores testified that he saw the tricycle of de Rama driven by accused-appellant. The fact that accused-appellant was seen driving the tricycle shows that he took it from de Rama. Likewise, that fact that de Rama disappeared and later found dead is clear indication that he was killed while his tricycle was being taken from him.

Accordingly, the trial court had an ample discussion on this matter, viz:

"With respect to the death of the victim Alvin de Rama, it is true there was no eyewitness in relation to his death. However, in the case of "*People vs. Fernandez*: G.R. No. 132788: October 23, 2003 : J. Quisumbing, " it was held that: "In the absence of an explanation of how one has come into the possession of stolen effects belonging to a person shot, wounded and treacherously killed he must necessarily be considered the author of the aggression, the death of the person, as well as the robbery committed (emphasis ours) This presumption is consonant with Rule 131 (3) (j) of the Rules of Court and validly applies to a case of carnapping xxx. this presumption extends to cases where such possession is either unexplained or that the [proffered explanation is rendered implausible in view of independent evidence inconsistent thereto. appellant having failed to give a plausible explanation for his possession of the stolen Tamaraw FX, perforce, he is presumed to have taken the vehicle away from the rightful owner or possessor thereof."[13]

Based on the proven facts, the offense committed by accused-appellant is carnapping in its aggravated form under Section 14 of the R.A. No. 6539 or the Anti-Carnapping Act of 1992 in view of the death of de Rama. It becomes necessary that the fact of death is established because it affects the imposable penalty of the crime charged. It is settled under the Section 14 that carnapping is qualified when in the course of the commission or on occasion of the carnapping, the owner, driver or occupant of the carnapped vehicle is killed or raped. Therefore, the penalty imposable is reclusion perpetua to death.

In a bid to exculpate himself, accused-appellant interposed denial and alibi as defense. Unfortunately, it cannot at all free him from criminal liability, it being the weakest of all defenses. Records bear that the testimony of the accused-appellant has remained unsubstantiated and self-serving, thus, as between the positive testimony of the prosecution's witnesses and the negative denials of the accused-appellant, the former, perforce, deserves weight in law.

Finally, this Court will endeavor to elucidate on the award of damages.

The civil indemnity *ex delicto* stems from Art. 100 of the RPC which states, -

"Every person criminally liable for a felony is also civilly liable."

- hence, the trial court correctly awarded the same to the heirs of de Rama.

With respect to exemplary damages, We sustain the grant thereof pursuant to Arts. 2229 and 2230 of the Civil Code, viz.:

"Art. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party."

All told, the circumstantial evidence adduced against accused-appellant are enough to erase any cloud of doubt on the latter's guilt and sufficiently overcome the presumption of innocence accorded to him. To put it differently, resort to circumstantial evidence is essential since to insist on direct testimony would, in many cases, result in setting felons free and deny proper protection to community.[14]

WHEREFORE, the assailed decision is AFFIRMED IN TOTO.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the 1987 Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Carandang, R.S., Chairperson and Gonzales-Sison, JJ., concur.

[1] Rollo, pp. 11-23

[2] Records, p. 2

[3] Rollo, pp.69-81

[4] Supra at note 1

[5] Trinidad v. People 672 SCRA 486

[6] Ibid.

[7] Supra at note 1

[8] People vs. Castillo, G.R. No. 172695, June 29, 2007

[9] Bricenio vs. People, G.R. No. 157804, June 20, 2006

[10] People of the Philippines vs. Lagat, G.R. No. 187044, September 14, 2011

[11] G.R. No. 151400, September 1, 2004

[12] G.R. No. 148233, June 8, 2004

[13] Assailed decision, Supra at note 1

[14] People vs. Fuertes, G.R. No. 104067, January 17, 1994

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