

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE MORTERA Y FLORES, ACCUSED, CHRISTIAN ACALA Y MAGRAMO, ACCUSED-APPELLANT.

Ponente: PAREDES, J.

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PAREDES, J.:

THE CASE

THIS APPEAL[1], originally filed by accused-appellant CHRISTIAN ACALA y MAGRAMO (appellant) and accused RONNIE MORTERA y FLORES (Ronnie),[2] seeks to reverse and set aside the Decision[3] dated November 7, 2012 of the Regional Trial Court (RTC), Branch 263, Marikina City, in Criminal Case No. 09-11162-MK for Carnapping, the dispositive portion of which reads, as follows:

WHEREFORE, above premises considered, this court finds RONNIE MORTERA y FLORES and CHRISTIAN ACALA y MAGRAMO, GUILTY of the crime of carnapping beyond reasonable doubt.

They are hereby sentenced to suffer the penalty of imprisonment for not less than fourteen (14) years and eight (8) months to not more than seventeen (17) years and four (4) months.

Moreover, this court also holds BOTH accused solidarily liable in the amount of one hundred thousand pesos (P100,000.00) by way of civil liability for the damage sustained by the vehicle.

SO ORDERED.

THE ANTECEDENTS

On July 20, 2009, appellant and Ronnie were charged with the crime of carnapping, defined and penalized under Republic Act No. 6539[4], in an Information[5] which reads, as follows:

That on or about the 13[th] day of July, 2009, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, with intent to gain and without knowledge and against the consent of the owner thereof, did then and there willfully, unlawfully and feloniously carnapped and drive (sic) away one Mitsubishi Adventure bearing plate number WDC-673 belonging to complainant AUGUSTO ZANTUA y FLORES that is by taking/stealing said vehicle while it was parked inside complainant's garage and thereafter drove the same away from complainant's residence, to the damage and prejudice of the owner and complainant in an undetermined amount.

CONTRARY TO LAW.

Accused pleaded[6] not guilty to the charge and trial of the case ensued.

On July 13, 2009, at around 12:30 early in the morning, Augusto Zantua[7] (Augusto) was sleeping at home at 39 Starlight Street, SSS Village, Concepcion Dos, Marikina City, when his wife Carmen Zantua (Carmen)[8] woke him up because she heard a noise coming from their gate. She looked out the window and noticed that their

vehicle, a Mitsubishi Adventure[9], was no longer in their garage. They went to the police station in their village and reported the matter. Thereafter, a roving police patrol asked if they were the victims of a reported carnapping because a vehicle was found at Marikina Heights. They went to the site and found their vehicle damaged as it hit a post in front of a house. There were barangay tanods and policemen at the site who informed them that two (2) accused were already apprehended. They saw appellant and Ronnie at the police precinct.

PO3 Marvi Veloria[10] (PO3 Veloria) was on a roving patrol on board their patrol car in Barangay Concepcion Dos at around 12:33 in the morning of July 13, 2009 when they were informed through the radio, that there was a carnapping incident of a gray Mitsubishi Adventure with plate no. WDC-743 from Starlight Street. Subsequently, they were informed by the guard at Rancho 1 that the afore-described vehicle had been spotted entering the gate of Rancho 1 and headed toward Champaca Street. The police patrol immediately proceeded to the area and saw the Mitsubishi Adventure at a distance of about 150 meters moving in a zigzagging fashion. They turned on their siren and followed the vehicle for about ten (10) minutes. They saw the Mitsubishi Adventure car hit the wall of La Escuela Niño de Jesus. They alighted their patrol car and proceeded to the vehicle when they saw the two (2) accused alight from the vehicle. Appellant alighted from the driver's side while Ronnie came from the passenger side. The two hid under the vehicle. The Marikina Police immediately arrived at the site and arrested the accused. PO3 Veloria reported the damaged vehicle for investigation. Private complainants were also informed that their vehicle had been located.

Ronnie[11] denied the charges against him narrating that on the night of July 12, 2009, he and appellant were at the residence of their co-worker, Rodel Nares, at Dao Street, Marikina Heights, having a drinking spree. They stayed there until 1:30 in the morning of July 13, 2009. They were on their way home along Champaca Street, a mobile car suddenly stopped in front of them and arrested them. They asked why they were being arrested but received the reply, "Pinahirapan nyo pa kami." They were brought to the police precinct and told that they are being charged with carnapping.

Ronnie claimed that he does not know how to drive and he did not even see the Mitsubishi Adventure when they were arrested at Champaca Street. Appellant[12] corroborated Ronnie's testimony.

On November 7, 2012, the RTC rendered the assailed Decision. Hence, this appeal with the lone assigned error[13], as follows:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT CHRISTIAN ACALA GUILTY OF CARNAPPING DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

THE ISSUE

The issue to be resolved in this case is whether or not the RTC erred in convicting the appellant of carnapping.

THE COURT'S RULING

The appeal is without merit.

Section 2 of RA 6539 provides:

SECTION 2. Definition of Terms. — x x x

"Carnapping" is the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things.

"Motor vehicle" is any vehicle propelled by any power other than muscular power using the public highways,

but excepting road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles, which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.

The elements[14] of carnapping are, that: (1) there is an actual taking of the vehicle; (2) the vehicle belongs to a person other than the offender himself; (3) 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 (4) the offender intends to gain from the taking of the vehicle. We find that the elements of the crime were duly established.

Appellant argues that the elements of the crime were not proven beyond reasonable doubt as the RTC erred in upholding the credibility of the prosecution's witnesses, contending that: (1) private complainants did not witness the actual taking of the car; (2) the security guard of Rancho 1 who spotted the vehicle and informed PO3 Veloria that it was proceeding toward Champaca Street, was not presented; and (3) PO3 Veloria testified that when he saw the vehicle from a distance of 150 meters away, it was still dark but, amazingly, he insisted that he was able to read the plate number albeit he was unable to identify the color or make of the vehicle, or which of the two accused was driving it.

It was established that Augusto Zantua owned a gray Mitsubishi Adventure with plate no. WDC-673 evidenced his Owner's Certificate of Registration[15]; that the vehicle was missing from their garage; that this matter was reported to the police; that the vehicle was found at Champaca Street, Marikina; that the vehicle hit the wall of a school which damaged it; and that appellant and Ronnie were seen alighting therefrom.

Appellant sought to cast doubt on the credibility of the witnesses for the prosecution but, with regard to credibility of witnesses, it is settled that the findings of the RTC is conclusive. Such conclusiveness derives from the trial court's having the first-hand opportunity to observe the demeanor and manner of the victim when he/she testified at the trial. Undeniably, the calibration of the testimony of a witness, and the assessment of the probative weight thereof, are virtually left, almost entirely, to the trial court which has the opportunity to observe the demeanor of the witness at the stand. Unless there are substantial matters that might have been overlooked or discarded, generally, the findings of the trial court as to the credibility of a witness will not be disturbed on appeal[16].

Concomitantly, the rule that absent any evidence showing any reason or motive for prosecution witnesses to perjure, the logical conclusion is that no such improper motive exists, and their testimonies are thus worthy of full faith and credit[17]. The prosecution witnesses who testified as to the complicity of appellant were PO3 Veloria and barangay tanods Mario Orine[18] and Joseph Cabasug[19], on patrol at the time and saw appellant and Ronnie alighting from the vehicle. Their testimonies are bereft of signs of ill motive.

Moreover, even if We consider appellant's contention that there was no eyewitness to prove that it was he and Ronnie who took the vehicle, the convergence of circumstances are sufficient to sustain conviction. Circumstantial evidence under Rule 133, Section 4 of the Revised Rules of Court provides, that:

SECTION 4. Circumstantial evidence, when sufficient. — Circumstantial evidence is sufficient for conviction if;

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In *People of the Philippines vs. Joseph Evangelio*[20], it was held, that:

Circumstantial evidence, also known as indirect or presumptive evidence, refers to proof of collateral facts and circumstances whence the existence of the main fact may be inferred according to reason and common experience. Circumstantial evidence is sufficient to sustain conviction if (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; (c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. A judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator.

In the case at bar, the Mitsubishi Adventure owned by Augusto was discovered missing, and reported to the police; the roving mobile patrol received the report and information from a security guard of Rancho 1 that a gray Mitsubishi Adventure was in the vicinity; the mobile patrol went to the area and saw a vehicle moving in a zigzagging fashion; the patrol followed the vehicle and saw it bump the wall of a school; and, as the patrol approached the vehicle, they saw two men only, later identified as appellant and Ronnie, alight from the vehicle and attempt to hide under the front portion of the vehicle. Thus, were the appellant and Ronnie apprehended.

These circumstances taken as a whole is consistent with the conclusion that appellant and Ronnie were the perpetrators of the crime. These circumstances are inconsistent with the appellant's claim of innocence.

Since appellant is guilty of the crime of carnapping, the penalty is what is prescribed under Section 14 of RA 6539 which provides:

SECTION 14. Penalty for Carnapping. — Any person who is found guilty of carnapping, as this term is defined in Section two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things; and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of life imprisonment to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed in the commission of the carnapping (underscoring supplied).

Applying the Indeterminate Sentence Law on a crime penalized by a special law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same[21]. Thus, the RTC properly sentenced appellant to suffer imprisonment of not less than fourteen (14) years and eight (8) months to not more than seventeen (17) years and four (4) months which is the range of penalties prescribed by the law.

WHEREFORE, premises considered, the APPEAL is DISMISSED. The assailed Decision dated November 7, 2012, issued by the Regional Trial Court, Branch 263, Marikina City, in Criminal Case No. 2009-11162-MK finding accused-appellant CHRISTIAN ACALA y MAGRAMO guilty beyond reasonable doubt of the crime of carnapping is AFFIRMED.

SO ORDERED.

Dicdican, (Chairperson), and [**]Corales, JJ., concur.

[*] Acting Senior Member per Office Order No. 461-14-ABR, November 3, 2014.

[**] Acting Junior Member per Office Order No. 461-14-ABR, November 3, 2014.

- [1] The appellant's brief pertains to the appeal of Christian Acala only, rollo, pp. 35-45.
- [2] Ronnie Flores withdrew his appeal on May 29, 2013 which was granted by the Court in a Resolution dated September 5, 2013, rollo, pp. 32-4.
- [3] Records, pp. 266-70, 270.
- [4] Anti-Carnapping Act of 1972.
- [5] Records, pp. 1-2.
- [6] Order dated August 13, 2009, records, p. 20.
- [7] TSN dated October 7, 2009.
- [8] Ibid., pp. 27-37.
- [9] Ownership of the vehicle as shown by Owner's Certificate of Registration No. 47495147 and LTO Official Receipt No. 727282861 dated March 10, 2009, records, pp. 149-50.
- [10] TSN dated May 19, 2010. PO3 Veloria's testimony was corroborated by Barangay Tanod Mario Orine and Joseph Cabasug who were with him on patrol together with Barangay Tanod Alipio Ruga. See also TSN dated June 10, 2010 and August 11, 2010.
- [11] TSN dated September 29, 2010 and November 24, 2010.
- [12] TSN dated November 24, 2010, pp. 11-24.
- [13] Rollo, p. 40.
- [14] People of the Philippines vs. Renato Lagat et al., G.R. No. 187044, September 14, 2011.
- [15] See fn 9.
- [16] People of the Philippines vs. Aurelio Jastiva, G.R. No. 199268, February 12, 2014.
- [17] People of the Philippines vs. Christopher Bringas y Garcia et. al., G.R. No. 189093, April 23, 2010.
- [18] TSN dated June 10, 2010.
- [19] TSN dated August 11, 2010.
- [20] G.R. No. 181902, August 31, 2011.
- [21] People of the Philippines vs. Reyman Endaya y Laig, G.R. No. 205741, July 23, 2014.

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