

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ENRIQUE GATDULA Y GUALBERTO AND ARIEL VALDERAMA Y VELENO, ACCUSED- APPELLANTS.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal from the decision[1] of the Regional Trial Court of Lipa City, Branch 13 dated December 7, 2010 in Criminal Case No. 0068-2006 finding accused-appellants Enrique Gatdula y Gualberto and Ariel Valderama y Veleno guilty beyond reasonable doubt of violation of Republic Act No. 6539, otherwise known as the Anti-Carnapping Act of 1972.

Accused Enrique Gatdula and Ariel Valderama were charged in an information[2] which reads:

“That on or about the 3rd day of November, 2005 at about 2:00 o'clock in the morning at Brgy. Inosluban, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, acting in common accord and mutually aiding one another, with intent to gain and without the consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, carnap and carry away a Honda XRM 10-034-007761 valued at P84,000.00 and owned by one Moises Manguiat to the damage and prejudice of the latter.

Contrary to law.”

The two accused were separately arraigned and they pleaded not guilty to the crime charged. During the trial, the prosecution presented the private complainant as witness. The testimony of the representative of Motortrade was dispensed with, in view of the admission by the defense that the photocopy of the Certificate of Registration and the official receipt of the subject motorcycle are faithful reproduction of the original. Further, the testimony of the desk officer was dispensed with considering the admission of the due execution and authenticity of the police blotter of the recovery of the subject motorcycle.

The prosecution's version of the facts as found by the trial court is as follows:

On November 3, 2005 at around 2:00 in the morning, complainant Moises Manguiat was lying in bed when he heard a motorcycle stop in front of their house in Barangay Inosluban, Lipa City, Batangas. He went out of their house and saw somebody riding on his motorcycle and bringing it out of the garage. He tried to run after the thieves but he was not able to catch any of them. He reported the incident to the Lipa City Police later that morning.[3]

On November 8, 2005, Manguiat was accompanied by members of PNP Lipa City to the police station of Tanauan, Batangas where recovered stolen motorcycles are kept. Manguiat saw his motorcycle there at the municipal building of Tanauan, Batangas. Some of the parts of his motorcycle were replaced including the

muffler. The plate number was lost and it was covered with a red cloth. He identified his motorcycle by the K-9 sticker placed on it. The police officers of Tanauan, Batangas showed him pictures of carnapping suspects and he recognized from among the pictures accused-appellants Ariel Valderama and Enrique Gatdula as the persons who stole his motorcycle.[4]

For his defense, accused-appellant Gatdula narrated that on November 3, 2005, he was at home in Reaville Subdivision, Tanauan City, Batangas taking care of his cousins. He stated that he was arrested on November 8, 2005 as a suspect in a carnapping case filed by John Paul Uy but the case was dismissed; that he was not aware of the instant case against him because he did not receive subpoena from the Office of the City Prosecutor, Lipa City; that on August 16, 2006 he was arrested in his home by virtue of a warrant of arrest implemented by the members of the CIDG, Canlubang, Laguna; and that he did not know his co-accused Valderama whom he met only inside the jail.[5]

For his part, accused-appellant Valderama denied knowing his co-accused Gatdula and asserted that on November 3, 2005 he was at home in San Roque, Sto. Tomas, Batangas with his wife and children; that he was arrested by police officers on April 19, 2006 and detained at the PNP station of Sto. Tomas, Batangas and was transferred to Tanauan, Batangas police station.[6]

On December 7, 2010, the trial court rendered a decision[7], the dispositive portion of which reads:

“WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding both accused Enrique Gatdula y Gualberto and Ariel Valderama y Veleno GUILTY beyond reasonable doubt, as principal, for the crime of Carnapping under Section 2 in relation to Section 14 of Republic Act 6539, otherwise known as the Anti-Carnapping Act of 1972, as amended by Republic Act 7659 and hereby imposes on each of the accused the penalty of imprisonment of Fourteen (14) years, Eight (8) months and One (1) day as minimum to Seventeen (17) years and Four (4) months as maximum.

The period which both accused have undergone preventive imprisonment during the pendency of this case shall be credited to them provided they agreed in writing to abide by and comply strictly with the rules and regulations imposed upon convicted prisoners.

The Jail Warden of the Bureau of Jail Management and Penology (BJMP), Lipa City is hereby directed to commit both accused to the National Penitentiary, Muntinlupa City, for them to serve their sentence.

SO ORDERED.”

Hence, this appeal by accused-appellants assigning to the trial court the following errors:

“I

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE PRIVATE COMPLAINANT POSITIVELY IDENTIFIED THE ACCUSED-APPELLANTS AS THE CARNAPPERS.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT.”[8]

The appeal has no merit.

Accused-appellants contend that the trial court erred in convicting them of the crime charged despite the failure of the prosecution to establish their identities as the ones who stole Manguiat's motorcycle; that it was impossible for Manguiat to recognize and identify them since the carnapping incident happened very fast; and that their identification was a mere product of the suggestion and coaching of the policemen.[9]

The above contentions must fail. Records clearly show that Manguiat positively identified accused-appellants as the carnappers of his motorcycle because he had all the opportunity to recognize them during the incident; that the garage where the motorcycle was taken was well-lighted and the road and house fronting the garage were also lit.[10] Contrary to accused-appellants' allegation, Manguiat positively identified them without prior suggestion from the policemen. He identified accused-appellant Gatdula after seeing him at the Talisay detention cell,[11] where the latter was being held for another carnapping case. On the other hand, he identified accused-appellant Valderama from the pictures shown to him by Tanauan Police.[12] The procedure showing mug shots of suspects is one of the established methods of identifying criminals. In the instant case, the photographic identification procedure was proper because series of photographs were shown to the private complainant and not merely that of the suspect. Further, the photographs were not arranged and displayed in a manner to suggest which one of the pictures pertains to the suspect.[13]

Both accused-appellants interposed the defense of denial and alibi. Both denied having taken private complainant's motorcycle. They claimed that on the date and time of the incident, they were not at the crime scene. Accused-appellant Gatdula narrated that he was at home taking care of his cousins while accused-appellant Valderama was sleeping at home with his wife and children. However, it was established that Gatdula and Valderama's houses are just fifteen (15) kilometers and around twenty-five (25) kilometers away respectively, from the scene of the incident. It was not physically impossible for both accused-appellants to be in Barangay Inosluban, Lipa City, Batangas in the early morning of November 3, 2005. Both accused-appellants failed to show convincing evidence to support their claims that they were really at home at the time the offense was committed. The defense of alibi is always considered with suspicion or caution, not only because it is inherently weak and unreliable but also because it can be fabricated easily to suit the ends of those who propound it. Denial and alibi, if not substantiated by clear and convincing evidence, are negative and self-serving evidence and bear no weight in law.[14] In the absence of any improper motive to incriminate accused-appellants, the positive identification made by the complainant must prevail over accused-appellants' mere denial and alibi.[15]

Republic Act No. 6539, defines carnapping, as follows:

“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” (Emphasis ours).

The elements of carnapping therefore are: (a) the taking of a motor vehicle which belongs to another; (b) the taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; and, (c) the taking is done with intent to gain.[16]

Intent to gain, or animus lucrandi, as an element of the crime of carnapping, is an internal act and hence presumed from the unlawful taking of the vehicle. Unlawful taking or apoderamiento, is the taking of the 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.[17]

All the elements of carnapping are present in the instant case. The evidence of the prosecution clearly established that the Honda XRM 110 motorcycle with plate no. WA-2137, which is owned by Manguiat based on the Certificate of Registration[18] and official receipt no. 3339717-3[19], was unlawfully taken without his consent by accused-appellants. The intent to gain, as an element of carnapping, was presumed from the unlawful taking of the motorcycle by accused-appellants. Hence, the prosecution was able to establish that accused-appellants committed carnapping in this case.

With regard to the penalty for carnapping, Section 14 of the Anti-Carnapping Act of 1972 (R.A. No. 6539), provides:

“Sec. 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 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 carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof.”

In the instant case, the offense of carnapping was committed without violence or intimidation of persons or force upon things; hence, under Section 14 of the law, the applicable penalty shall be 14 years and 8 months to 17 years and 4 months.

Record shows that complainant Manguiat testified that he cannot state the estimate amount of the subject motorcycle because it was bought on a monthly installment basis of Two Thousand Thirty-Seven Pesos (P2,037.00) per month payable in three years.[20] However, he was able to recover the motorcycle from accused-appellants. Although complainant testified that when he recovered the motorcycle, the muffler and the plate number were replaced[21] he was not able to present the receipts of payment of expenses for the damage he allegedly incurred. The rule is that every pecuniary loss must be established by credible evidence before it may be awarded.[22] Thus, complainant cannot recover actual damages.

WHEREFORE, the appeal is DENIED. The decision of the Regional Trial Court of Lipa City, Branch 13 dated December 7, 2010 in Criminal Case No. 0068-2006 finding accused-appellants Enrique Gatdula y Gualberto and Ariel Valderama y Veleno guilty of Violation of Republic Act No. 6539, otherwise known as the Anti-Carnapping Act of 1972 and imposing upon each of them the indeterminate penalty of fourteen (14) years and eight (8) months as minimum to seventeen (17) years and four (4) months as maximum is AFFIRMED. There is no evidence of civil liability in this case.

SO ORDERED.

Lampas Peralta, (Chairperson), and Acosta, JJ., concur

[1] Rollo, pp. 13-21.

[2] Records, pp. 1-2.

[3] TSN dated March 5, 2008, pp. 4-8.

[4] TSN dated March 5, 2008, pp. 9-12.

[5] TSN dated July 21, 2009, pp. 3-6; TSN dated October 12, 2009, pp. 3-11; TSN dated November 12, 2009, pp. 3-4.

[6] TSN dated December 14, 2009, pp. 4-9; TSN dated February 16, 2010, pp. 3-6.

[7] Rollo, pp. 13-21.

[8] Rollo, p. 36.

[9] Rollo, pp. 36-38.

[10] TSN dated March 5, 2008, p. 6.

[11] TSN dated March 5, 2008, pp. 9-10.

[12] TSN dated March 5, 2008, pp. 11-12.

[13] People vs. Rolando Pineda y Manalo, G.R. No. 141644, May 27, 2004.

[14] People of the Philippines vs. SPO1 Danilo Lobitania, G.R. No. 142380, September 5, 2002.

[15] People of the Philippines vs. Glenford Samoy and Leodigario Israel, G.R. No. 193672, January 18, 2012.

[16] People of the Philippines vs. Johnny Calabroso, Sonny Boy Matos, Richard Sata And Leonardo Dumrique, G.R. No. 126368, September 14, 2000.

[17] People of the Philippines vs. Sonny Obillo, G.R. No. 139323, June 6, 2001.

[18] Records, p. 6.

[19] Ibid.

[20] TSN dated August 6, 2008, p. 5.

[21] TSN dated August 6, 2008, p. 9.

[22] People of the Philippines vs. Narciso Bayang Y Leypos, Danilo Domdom Y Congolo, And Pedro Penza Y Cantilla, G.R. No. 134402, February 5, 2001.

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