

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OSCAR DOON Y FRANCISCO, ACCUSED-APPELLANT.

Ponente: CORALES, J.

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CORALES, J.:

This is an appeal[1] from the April 11, 2012 Decision[2] of the Regional Trial Court (RTC), Branch 269, Valenzuela City in Criminal Case No. 396-V-11 finding accused-appellant Oscar Doon (Doon) guilty of carnapping as defined and penalized under Section 2 of Republic Act (R.A.) No. 6539, otherwise known as the Anti-Carnapping Act of 1972.

The Antecedents

Doon was charged under an Information[3] which reads:

The undersigned Asst. City Prosecutor accused OSCAR F. DOON, of the crime of VIOLATION OF R.A. 6539, committed as follows:

That on or about the January 29, 2011, in Valenzuela City, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, did then and there willfully, unlawfully and feloniously take and carry away with one (1) Suzuki Sky Drive with plate no. 5489-UG, with Engine No. F4C9209290, with chassis no. CF48X109290 belonging to VIRGINIA DE GUIA y GALANG (complainant), to the damage and prejudice of the said complainant in the amount of P128,356.00.

Contrary to Law.

On the strength of the warrant of arrest[4] issued by Presiding Judge Emma C. Matammu, Doon was arrested on May 23, 2011.[5] However, he was released on May 25, 2011[6] after posting a reduced surety bond[7] of P135,000.00.

When arraigned, Doon pleaded not guilty to the crime charged.[8]

The facts of the case were aptly summarized by the Office of the Solicitor General (OSG) as follows:[9]

Private complainant Virginia de Guia is the owner of a Suzuki Skydrive motorcycle with plate number 5498-UG which she purchased on October 16, 2010 from Motortrade, Caloocan City. Virginia bought the subject motorcycle on installment basis in the total amount of P71,482.00.

On January 29, 2011, around 1:00 p.m., Edgardo de Guia, son of Virginia, was invited by his high school classmates, Melvin Gebaga and Rexson Lacamento to go to the house of Melvin at Santolan Road, Barangay Parada, Valenzuela City. Edgardo agreed and proceeded to the house of Melvin riding on his mother's motorcycle, while Melvin and Rexson rode on board the Sniper motorcycle. Edgardo arrived at Melvin's house around 2:30 p.m. and found Melvin, Rexson and another high school classmate, herein appellant, and joined the group in their drinking spree. They drank until 4:30 p.m. consuming almost one (1) case of Red Horse beer. Appellant borrowed Edgardo's motorcycle and returned the same to Edgardo around 5:00 p.m. of the same day.

Around 5:15 p.m., appellant, Melvin, Rexson and Edgardo went to Edgardo's house, but Melvin immediately

left. Subsequently, appellant, Edgardo and Rexson proceeded to the house of another high school classmate, Ian Sayede. For the second time, appellant borrowed Edgardo's motorcycle. According to appellant, he will use Edgardo's motorcycle to go home and get the bag of Rexson which the latter left thereat. Appellant, however, failed to return.

Around 8:00 p.m., Edgardo borrowed his brother-in-law's motorcycle and, together with Rexson, tried to find appellant. At that time, Rexson was also looking for his bag. Edgardo and Rexson saw the subject motorcycle parked at appellant's house. When Edgardo and Rexson asked appellant to return the motorcycle and Rexson's bag, appellant reasoned out that his cousin has kept the said bag. Instead of returning the subject motorcycle, appellant invited Edgardo and Rexson to go and eat first. Around 9:30 p.m., appellant brought Edgardo and Rexson to his sister's videoke bar where they resumed drinking. Around 9:40 p.m., appellant left the bar on board Edgardo's motorcycle. Edgardo and Rexson stayed at the bar until 10:30 p.m. waiting for appellant, but the latter did not return.

Rexson and Edgardo went to the houses of the appellant's relatives to locate appellant. Unfortunately, while Edgardo and Rexson were looking for appellant, they met an accident.

While confined at the hospital from January 31, 2011 to February 3, 2011, Edgardo asked his siblings to report the accident and retrieve the motorcycle from appellant. On February 2, 2011, Edgardo's mother, his aunt and younger sister talked to appellant's mother and they were informed that said motorcycle has been mortgaged by appellant for P2,000.00. Appellant's mother requested that they be given enough time to return the motorcycle.

On February 3, 2011, Virginia proceeded to the Valenzuela Police Station to report the incident. The report was recorded in the police blotter. Virginia also requested a flash alarm for she feared that her motorcycle may be used in a wrongdoing. On February 4, 2011, appellant's relatives asked Edgardo's brother-in-law to retrieve the subject motorcycle from appellant's house.

The Ruling of the RTC

In its April 11, 2012 Decision,[10] the RTC ruled that the prosecution sufficiently proved all elements of carnapping; the motorcycle belongs to Virginia de Guia (Virginia), Doon's possession of the vehicle became unlawful when he failed to return it to Virginia despite demand, and intent to gain was presumed from the act of taking. The court a quo did not give credence to Doon's bare and uncorroborated testimony that he was not able to return the vehicle because he was too drunk and stressed that there is no reason to doubt the testimonies of the prosecution's witnesses considering that there is no showing of malicious intent or ill motive on their part.

The dispositive portion of the Decision reads:

WHEREFORE, accused OSCAR F. DOON is hereby found GUILTY beyond reasonable doubt of carnapping, as defined under Section 2 of Republic Act No. 6539; and hereby imposed an indeterminate prison sentence of 14 years and eight months, as minimum, to 16 years, as maximum. The accused may be credited with the period that he has served under preventive imprisonment, in accordance with Article 29 of the Revised Penal Code, as amended, and applicable rules.

Cost against the accused.

SO ORDERED.

Unconvinced, Doon filed the present appeal with the following assignment of errors:

I. THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF CARNAPPING AND SENTENCING HIM TO SUFFER IMPRISONMENT OF 14 YEARS AND 8 MONTHS TO 16 YEARS CONSIDERING THAT THE ACCUSATORY PORTION OF THE INFORMATION FOR CARNAPPING DOES NOT CONSTITUTE

THE CRIME OF CARNAPPING AS ONE ELEMENT OF THIS CRIME IS LACKING, THUS, ACCUSED CANNOT BE CONVICTED OF THE CRIME OF CARNAPPING, OTHERWISE, IT IS VIOLATIVE OF HIS BASIC CONSTITUTIONAL RIGHT TO BE INFORMED OF THE NATURE AND CAUSE OF ACCUSATION AGAINST HIM.

II. ASSUMING BUT WITHOUT ADMITTING THAT THE ACCUSATORY PORTION OF THE INFORMATION CONTAINS ALL THE ELEMENTS OF THE CRIME OF CARNAPPING, THE HONORABLE REGIONAL TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF CARNAPPING SINCE THE PROSECUTION FAILED TO PROVE THE PRESENCE OF THE ELEMENTS OF INTENT TO GAIN AND TAKING WITHOUT CONSENT OR BY MEANS OF VIOLENCE AGAINST OR INTIMIDATION OF PERSON, OR BY USING FORCE UPON THINGS.

Doon argues that the Information failed to state how the taking of the motorcycle became unlawful, an essential element in carnapping, thus, it failed to apprise him of the nature and cause of the accusation against him. He further insists that the prosecution failed to prove his guilt beyond reasonable doubt because the elements of taking a motor vehicle without consent of its owner and intent to gain have not been established.[11]

On the other hand, the OSG maintains that the indictment against Doon alleges every element of carnapping and the prosecution was able to prove the same. Citing the case of *People v. Bustinera*,[12] the OSG contends that the nature of Doon's possession was initially lawful as he was allowed by Edgardo to borrow the motorcycle but his failure to return the vehicle and mortgaging it against or without the consent of the owner transformed the character of the possession into an unlawful one.[13]

This Court's Ruling

The appeal is meritorious.

The Facts Charged in the Information Do Not Constitute an Offense

Section 14, Article III of the Constitution[14] guarantees to an accused the right to be informed of the nature and cause of accusation against him. In implementing this right, the Rules of Court specifically require that the acts or omissions complained as constituting the offense, must be stated in ordinary and concise language or in terms sufficient to enable a person of common understanding to know what offense is being charged so that the accused can properly defend himself and the court can pronounce judgment. Thus, Information must allege clearly and accurately the elements of the crime charged. Otherwise, the Information should be quashed for failure to allege the acts constituting the offense.[15]

In carnapping under Section 2 of R.A. No. 6539, the following elements must be present:

- 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.[16]

The indictment in this case merely stated that the “accused, with intent to gain, did then and there willfully, unlawfully and feloniously take and carry away with one (1) Suzuki Sky Drive with plate no. 5489-UG, with Engine No. F4C9209290, with chassis no. CF48X109290 belonging to VIRGINIA DE GUIA y GALANG (complainant), to the damage and prejudice of the said complainant in the amount of P128,356.00”. Obviously,

the factual or material allegations in the Information against Doon do not charge an offense because the element of taking without consent of the owner or that the taking was committed by means of violence against or intimidation of persons, or by force upon things was absent.

As held in *Burgos v. Sandiganbayan*,^[17] two requirements must be met in order that the complaint or Information may be said to be sufficient. The first requirement refers to substance, the second to form. The substantial matter is the allegation of facts constituting the offense charged and the jurisdiction of the court, and the other matters are merely of form. The first is not waivable, however the second is, by failure to move to quash on the ground that it does not conform substantially to the prescribed form. Accordingly, Doon's failure to file a motion to quash the Information against him cannot amount to a waiver of his constitutional right to be informed as explicitly mandated by Section 9, Rule 117 of the Rules of Court, viz.:

SEC. 9. Failure to move to quash or to allege any ground therefor. - The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

At any rate, the prosecution's evidence was likewise insufficient to overcome the quantum of proof necessary to convict an accused, which is proof beyond reasonable doubt.^[18]

Taking Without Owner's Consent Not Proven

The RTC and the OSG's reliance on the *Bustinera* case is highly misplaced. The factual milieu in that case is not in all fours herein. In the *Bustinera* case, the driver of the taxi was only given a specified period of time to possess the taxi, after which, he has the obligation to return the vehicle to the garage and remit the boundary fee. Thus, the Supreme Court held that the failure of the driver to return the taxi was contrary to company practice and against the owner's consent transforming his initially lawful possession into an unlawful one. In contrast to this case, Doon gained possession of the motorcycle through Edgardo's consent as he had stated in his testimony, viz.:

Q.

What happened next when Oscar Doon borrowed your motorcycle for the second time?

A.

He did not returned (sic) the motorcycle and then at around 8 he left and then I looked for him and then I borrowed the motorcycle of my brother in law to look for him.

xxx

Q.

Were you able to locate Oscar Doon in that evening after 8 p.m. of January 29, 2011?

A.

In their house.

xxx

Q.

What happened when you arrived at the house of Oscar Doon?

A.

I saw my motorcycle there and I am getting it from Oscar Doon and then Oscar Doon replied that the bag of Rexson was with his cousin because during that time Rexson was looking for his bag containing gadgets.

Q.

What happened next when Oscar Doon told you that?

A.

We bought chicken because he told us that we should eat first.

xxx

Q.

What happened next after Oscar Doon bought chicken?

A.

They brought us to Canumay in his sister's videoke.

Q.

Did you go to this videoke?

A.

Yes, sir.

xxx

Q.

What time did you arrive in this videoke?

A.

9:30 p.m.

Q.

And what did you drink if any?

A.

Red Horse.

Q.

And what happened after 9:30 p.m. of January 29, 2011?

A.

He did not show up anymore.

Q.

Who did not show himself anymore to you?

A.

Oscar Doon.

Q.

What time did Oscar Doon left the videoke?

A.

9:40 p.m., sir

Q.

When he left what mode of transportation did he take?

A.

My motorcycle, sir.[19]

On cross-examination, Edgardo admitted that Doon borrowed the motorcycle in order to get Lacamento's bag from his cousin, thus:

Q.

What was the reason given to you by Oscar Doon in borrowing the motor vehicle the second time?

A.

That he will get the bag of Rexson.

Q.

Did he informed (sic) you where?

A.

To (sic) his cousin, sir.[20]

From the foregoing testimonial evidence, the Court is not morally convince to convict Doon of carnapping. Edgardo's testimony clearly evinced his assent to Doon's taking of the motorcycle not only at the time he gave the physical possession thereof for the purpose of getting Lacamento's bag. The records are bereft of any indication that such consent has been withheld or withdrawn thereafter by Edgardo. The Court notes that Virginia immediately went to the police station and reported that the motorcycle was missing without even demanding from Doon the return of the vehicle which his son lent to the former.

Doon's act after the actual transfer of possession would not also constitute unlawful taking. He did not deny that the motorcycle was in his possession and return the same on February 2, 2011. Given these circumstances, We cannot agree with the RTC's conclusion that Doon refused to return the motorcycle upon demand. Edgardo's bare assertion that Doon's mother refused to return the vehicle because it was mortgaged for P2,000.00 does not also inspire belief. Notably, Edgardo did not talk to Doon's mother; it was Virginia who had a conversation with Doon's mother but in her testimony, Virginia never mentioned anything about the mortgage. Moreover, the fact that his siblings brought back the vehicle to Virginia does not, by itself, signify Doon's intent to unlawfully take the motorcycle. Based on human experience, such is the natural reaction of family members in avoiding any further commotion between the parties considering that there was already a misunderstanding as to how the vehicle was taken and the accident which befell on Edgardo on the night that Doon borrowed the motorcycle.

Since the taking did not become unlawful, it cannot give rise to the presumption of intent to gain.[21] Doon should not be held liable for the alleged unlawful act absent a felonious intent. "Actus non facit reum, nisi mens sit rea. A crime is not committed if the mind of the person performing the act complained of is innocent." [22]

It bears emphasis that in every criminal prosecution, the accused is presumed innocent until the contrary is established by the prosecution. Thus, if the prosecution fails, it fails utterly, even if the defense is weak, or indeed, even if there is no defense at all. The prosecution, at all times, bears the burden of establishing an accused's guilt

beyond reasonable doubt. No matter how weak the defense may be, it is not and cannot be the sole basis of conviction if, on the other hand, the evidence for the prosecution is even weaker. The principle has been dinned into the ears of the bench and the bar that in this jurisdiction, accusation is not synonymous with guilt. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment.[23]

Thus, if the evidence is susceptible of two interpretations, one consistent with the innocence of the accused and the other consistent with his guilt, the accused must be acquitted. The overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt. If there exist even one iota of doubt, like in the present case, this Court is “under a long standing injunction to resolve the doubt in favor of herein accused-appellant.” Accused-appellant may offer no more than a feeble denial but We are enjoined to proclaim him innocent in the light of insufficient evidence proving his guilt.[24]

We emphasize that the great goal of our criminal law and procedure is not to send people to jail but to do justice. When the evidence of the prosecution is not enough to sustain conviction, it must be rejected and the accused absolved at once.[25]

WHEREFORE, the appeal is GRANTED. Accordingly, the April 11, 2012 Decision of the Regional Trial Court, Branch 269, Valenzuela City in Criminal Case No. 396-V-11 is hereby REVERSED and SET ASIDE. Oscar Doon is ACQUITTED of carnapping on reasonable doubt. The bail bond for accused-appellant's provisional liberty is cancelled and his surety is relieved of the said undertaking.

Let entry of judgment be immediately made pursuant to Section 1, Rule VII of the 2009 Internal Rules of the Court of Appeals.

SO ORDERED.

Villon (Chairperson) and Macalino, JJ., concur.

[1] See Notice of Appeal relation to April 24, 2012 Order of the RTC giving due course to said appeal, records, pages 213-215 and 218, respectively.

[2] Penned by Presiding Judge Emma C. Matammu, rollo, pages 37-43.

[3] Records, page 1.

[4] Ibid., page 78.

[5] See Arrest Report Form, *ibid.*, page 80.

[6] See Order of Release dated May 25, 2011, *ibid.*, page 108.

[7] See May 24, 2011 Order in relation to the May 25, 2011 Order, *ibid.*, pages 86 and 107, respectively.

[8] See RTC Order dated May 30, 2011, *ibid.*, page 111.

[9] See pages 3-5 of Appellee's Brief, rollo, pages 66-68.

[10] *Supra*, at note 2.

[11] See Appellant's Brief, rollo, pages, 17-33.

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

[13] See Appellee's Brief, *ibid.*, pages 62-83.

[14] Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.

xxx

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

[15] See *Go v. Bangko Sentral ng Pilipinas*, G.R. No. 178429. October 23, 2009.

[16] See *People v. Lagat*, G.R. No. 187044. September 14, 2011.

[17] G.R. No. 123144. October 15, 2003.

[18] *Ibid.*

[19] TSN, *Edgardo de Guia II*, July 11, 2011, records, pages 128-130.

[20] *Ibid.*, page 137.

[21] See *Sy v. Secretary of Justice*, G.R. No. 171579. November 14, 2012.

[22] *Sy v. Secretary of Justice*, *ibid.*, citing *De Guzman v. People*, G.R. No. 166502. October 17, 2008.

[23] *People v. Salidaga*, G.R. No. 172323. January 29, 2007. (Citations omitted)

[24] *Ibid.*

[25] *People v. Mamalias*, G.R. No. 128073. March 27, 2000.

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