

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

G.R. No. 216015. March 27, 2017

Ponente: PERALTA, J.

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PERALTA, J.:

Before Us for review is the May 12, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05000, which affirmed the Decision[2] dated November 30, 2010 of the Regional Trial Court (RTC), Branch 27, Santa Cruz, Laguna in Criminal Case No. SC-8602.

The antecedent facts are as follows:

Accused-appellant Jesusano Arcenal y Aguilan (Arcenal) was charged with violation of Republic Act (R.A.) No. 6539 otherwise known as Anti-Carnapping Act of 1972, as amended by R.A. No. 7659. The accusatory portion of the Information reads:

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 [P]22,000.00 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 ([P]22,000.00) 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 (sic) 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.[3]

Arcenal pleaded not guilty at his arraignment on May 17, 2000 wherein the Information was read and translated in Tagalog, a language he knew and understood. Thereafter, the trial on the merits ensued.

The prosecution established that: around 11:00 p.m. on April 11, 2000, the victim Alvin de Rama (Alvin) was waiting behind Jay Flores (Flores) and the other drivers at the tricycle terminal at the corner of the road going to Barangay Linga and the highway at Barangay Labuin.[4] Mario Meras (Meras) was inside the sidecar of his tricycle which was about three vehicles behind Alvin in the tricycle line. Although there were other drivers waiting in line before him, Alvin left ahead with his lone passenger and backrider, Arcenal. Fifteen minutes later, Flores was en route to the terminal after dropping his passenger when he saw Arcenal driving Alvin's tricycle alone coming from the direction of Forest Park Subdivision (Forest Park), Barangay Linga. Flores had to apply

brakes as Arcenal was speeding towards the direction of Barangay Labuin.

At 6:05 a.m. on April 12, 2000, Alvin was found dead at the Forest Park.[5] Flores heard from the other drivers about Alvin's death. Meras also heard the news and went to Forest Park where he saw Alvin's body at the side of the road.[6]

On April 13, 2000, the Pila, Laguna Philippine National Police (PNP) received a radio call from San Pedro, Laguna PNP that the barangay captain of San Antonio reported about an abandoned tricycle with plate number DT 6680 found in Woodville Subdivision.[7]

With assistance from the elements of San Pedro PNP, Alvin's father Renato de Rama (Renato) and SPO3 Rufino Anterola (SPO3 Anterola) went to the San Antonio barangay hall to identify the recovered vehicle. Renato confirmed that it was indeed his tricycle driven by his son.[8] SPO3 Anterola noted the bloodstains on the motorcycle and the sidecar. The police officers were not able to locate Arcenal, who, according to witnesses, was the last person seen with the victim.

Dr. Daissan M. Alagon (Dr. Alagon), Municipal Health Officer of Pila, Laguna, performed the autopsy on the cadaver of Alvin at 9:00 a.m. on April 12, 2000. A portion of the medico-legal necropsy report reads:

PERTINENT FINDINGS:

-

Pallor

-

Rigor Mortis

-

4 cm x 1.5 cm x 3mm gaping wound with irregular edges on the right occipital area, head

-

5 cm x 1.5 cm x 3 mm gaping wound with irregular edges on the right occipital area, head about 1.5 cm above the first wound mentioned above.

-

4 cm x 2.0 cm x 3 mm gaping wound with irregular edges on the left occipital area, head

-

confluent abrasions, left forehead

-

contusion hematoma, periorbital area, left

-

contusion hematoma, entire posterior neck area.

-

1 cm in diameter abrasion, right lower quadrant of abdomen

-

3 cm x 2 cm confluent abrasion on both knees

-

1 cm in diameter multiple abrasions on the right popliteal area

-

Multiple 0.5 cm abrasions on the level of third lumbar vertebra

-

1 cm in diameter abrasion on the level of first lumbar vertebra

On opening up:

-

Contusion hematoma of anterior SCALP, frontal area, with laceration of aponeurosis.

-

Contusion hematoma of posterior SCALP, entire occipital area, with lacerations of aponeurosis.

-

Intra-cranial hemorrhage with clotted blood noted on the intra-cranial cavity

-

Contusion hematoma, cerebral hemispheres, bilateral

CAUSE OF DEATH:

Shock secondary to Intra-cranial Hemorrhage, secondary to Trauma

x x x.[9]

On the other hand, the defense chronicled a different set of events. On April 11, 2000, Arcenal was in Barangay Aplaya, Pila, Laguna to give money to his parents for the medicine of the newly-born piglets.[10] He and his family were at the house of one Nanay Alice Tope who was then sick. His siblings fed him and told him to sleep at the house. He left for work at 3:00 a.m. the next day, and arrived at San Juan, Batangas about two hours later. He left Pila, Laguna with his wife and children and resided in Batangas City on April 11, 2000. He returned to Laguna for the first time since leaving in 2000 three days prior to his arrest on April 12, 2002. He was staying at his sister Mildred Arcenal's house in Pakil for a vacation as her child was sick.[11]

The RTC convicted accused-appellant Arcenal of the crime of carnapping with homicide. The dispositive portion of the decision reads:

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

- [P]50,000.00 as civil indemnity for the death of Alvin de Rama;

- [P]50,000.00 as exemplary damages.

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

owner, the following:

- [P]50,000.00 as exemplary damages.

SO ORDERED.[12]

The RTC found that the uncontroverted presence of his fingerprint on the tricycle established that he took possession of the same. It rejected his defense of denial and alibi for being uncorroborated and riddled with inconsistencies. Arcenal did not bother to visit his parents and siblings at Pila, about an hour away from Pakil since 2000. The trial court opined that this deviation from the norm manifested a feeling of fear greater than said filial obligation — the fear of being arrested and to be held criminally liable.[13] That he came from Taguig, Rizal before he went to his sister's house in Pakil supported the trial court's conclusion that he was not always in Batangas as he claimed and was moving around obviously to elude arrest.[14]

On appeal, the CA affirmed the decision of the RTC in toto. In affirming Arcenal's conviction, the CA ruled that while no one saw Arcenal in the act of killing Alvin, the pieces of circumstantial evidence result in an unbroken chain of events leading to the inevitable and reasonable conclusion that Arcenal indeed committed the crime. Arcenal was the last person seen with Alvin, and was driving the latter's tricycle alone thereafter. When a person is in possession of a thing unlawfully taken, the taker is presumed to have unlawfully taken the same. The fallo of the decision states:

WHEREFORE, the assailed Decision is AFFIRMED IN TOTO.

SO ORDERED.[15]

Hence, the instant appeal was instituted.

The Office of the Solicitor General, in its Manifestation in Lieu of Supplemental Brief,[16] informed this Court that it opted not to file a supplemental brief since its Brief[17] dated February 28, 2012 has already exhaustively discussed the issues in the case, and the same would result in a repetition of the same arguments. For his part, Arcenal, through the Public Attorney's Office, manifested his intention to adopt his Appellant's Brief as his supplemental brief.[18]

Basically, the issue to be resolved by this Court in this appeal is whether the prosecution has successfully proven beyond reasonable doubt that Arcenal is guilty of the crime of carnapping with homicide.

In every criminal conviction, the prosecution is required to prove two things beyond reasonable doubt: first, the fact of the commission of the crime charged, or the presence of all the elements of the offense; and second, the fact that the accused was the perpetrator of the crime.[19]

The elements of carnapping as defined and penalized under Republic Act (R.A.) No. 6539, as amended, 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.[20]

To prove the special complex crime of carnapping with homicide, there must be proof not only of the essential elements of carnapping, but also that it was the original criminal design of the culprit and the killing was

perpetrated in the course of the commission of the carnapping or on the occasion thereof.[21]

In this case, there was no eyewitness to the act of killing. However, this Court finds that the pieces of circumstantial evidence presented before the trial court, which are consistent with one another, establishes Arcenal's guilt beyond reasonable doubt. Circumstantial, indirect or presumptive evidence, if sufficient, can replace direct evidence to warrant the conviction of an accused, provided that: (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived have been proven; and (c) the combination of all these circumstances results in a moral certainty that the accused, to the exclusion of all others, is the one who committed the crime.[22] Thus, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in such a way as to leave no reasonable doubt as to the guilt of the accused.[23]

First. The tricycle was definitely ascertained to belong to Renato, as evidenced by a Deed of Absolute Sale[24] in his favor.

Second. Alvin was last seen alive at the tricycle terminal at 11:00 p.m. on April 11, 2000, as stated in the direct testimonies of Flores and Meras:

PROS. RODRIGO:

Q: Now, in the evening of April 11, 2000, Mr. Witness, did you see Alvin de Rama driving his tricycle?

A: Yes, sir.

Q: Where did you specifically see this Alvin de Rama, Mr. Witness?

A: At the corner, sir.

Q: The place [where] you were parked at that time?

A: Yes, sir.

Q: And who arrived ahead, Mr. Witness, you or Alvin de Rama?

A: I, sir.

x x x x[25]

PROS. RODRIGO:

Q: Now Mr. Witness, on April 11, 2000, at about 11:00 o'clock in the evening, do you still recall where you were?

A: During that time, I was then at the tricycle terminal at Brgy. Labuin, Pila, Laguna, sir.

Q: Are you referring to the tricycle terminal located at Brgy. Labuin at the corner of the national highway?

A: Yes, sir.

Q: Do you know Alvin de Rama?

A: Yes, sir.

x x x x

Q: Mr. Witness, while you were at the tricycle terminal at Brgy. Labuin, Pila, Laguna that evening of April 11, 2000, did you see this Alvin de Rama?

A: Yes, sir.

Q: Where was he at that time?

A: He was then at Brgy. Labuin, sir.

Q: What was he doing at that time?

A: We were both parked, sir.

Q: [Were] you waiting for passengers at that time?

A: Yes, sir.

Q: Who parked ahead, you or Alvin de Rama?

A: Alvin de Rama parked ahead of me, sir.

x x x[26]

Third. Alvin left the terminal with Arcenal, his lone passenger and back rider. Flores, who knew Arcenal personally since the latter was also a resident of Pila, and had once been a tricycle driver, positively identified Arcenal. In his direct testimony, Flores stated:

PROS. RODRIGO:

Q: And when this Alvin de Rama left, Mr. Witness, did he have any passenger or passengers?

A: There is, sir.

Q: And do you know or could you identify that passenger or passengers of Alvin de Rama when he left that terminal?

A: I know, sir.

Q: And who is that passenger of Alvin de Rama, Mr. Witness, when he left the terminal?

A: Jessie, sir.

Q: What is the family name of Jessie?

A: Arcenal, sir.

Q: Do you personally know this Jessie Arcenal?

A: Yes, sir.

x x x x

Q: When you saw this Arcenal on board the tricycle being driven by Alvin de Rama, where was he seated?

A: Jessie Arcenal was then seated at the back of the motorcycle, sir.

Q: So you mean to say, Mr. Witness, that this Jessie Arcenal was a back rider?

A: Yes, sir.

Q: And under what circumstances, Mr. Witness, did you come to know this Jessie Arcenal?

A: I personally know this Jessie Arcenal because he had also been a tricycle driver and in fact, he is also residing in our place, sir.

x x x[27]

Fourth. About 15 minutes after they left the terminal, Arcenal was scurrying on board Alvin's tricycle coming from the Forest Park's direction. Flores was en route to the terminal after he brought a passenger to Linga when he saw Arcenal driving the vehicle alone towards the direction of Barangay Labuin.

Fifth. At 6:05[28] a.m. on April 12, 2000, Alvin was found dead on the side of the road on Forest Park with his tricycle patently missing. According to the autopsy report, his cause of death was shock secondary to intra-cranial hemorrhage, secondary to trauma. Notably, there were three gaping wounds on the right and left occipital area (at the back of the head), and contusion hematoma on the entire posterior neck area.

Sixth. When the vehicle was recovered, bloodstains were noted on the motorcycle and the sidecar.

Seventh. The fingerprints lifted from the tricycle matched with Arcenal's right hand index finger. According to the supplemental report, Dactyloscopy Report No. F-051-00-A,[29] eleven (11) ridges of the fingerprints were

identical in both the questioned and standard fingerprints. It proved that the lifted fingerprint labeled as "Q-3" is identical with the right fingerprint of Arcenal.[30]

"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.[31] Section 3 (j), Rule 131 of the Rules of Court provides the presumption 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. The prosecution was able to prove that there was unlawful taking of the vehicle. The fingerprints, which was confirmed as identical with Arcenal's, found on the vehicle not only substantiated the testimonies of Flores and Meras that he was indeed Alvin's passenger but also established that he had possession of the said vehicle.

Intent to gain, or *animus lucrandi*, which is an internal act, is presumed from the unlawful taking of the motor vehicle. Actual gain is irrelevant as the important consideration is the intent to gain. The term "gain" is not merely limited to pecuniary benefit but also includes the benefit, which in any other sense may be derived or expected from the act which is performed. Thus, the mere use of the thing which was taken without the owner's consent constitutes gain.[32] Arcenal's fleeing with Alvin's tricycle showed his intent to gain. That it was later abandoned does not negate his intent.

Arcenal alleges that the prosecution's only evidence to prove that he was in possession of Alvin's tricycle was the testimony of Flores. He further claims that there is a possibility that when Flores allegedly saw him driving Alvin's tricycle, Alvin was alive and well and the killing had not yet taken place considering that it was not established whether the killing was committed before or after he was supposedly seen fleeing on board the tricycle.[33]

Such contentions fail scrutiny. The pieces of evidence - the gaping wounds and hematoma at the back of Alvin's head and neck, Arcenal who was Alvin's back rider passenger fled with the tricycle, and the bloodstains on the motorcycle and its side car — inevitably lead this Court to conclude that the assault happened while Alvin was in the vehicle or was within its vicinity. These belied Arcenal's allegation that the killing could have been committed after he gained possession of the vehicle. The only logical conclusion that can be drawn from the totality of the foregoing facts and circumstances is that Arcenal, to the exclusion of others, is guilty of carjacking the tricycle and of killing Alvin in the course thereof.

Furthermore, the police failed to locate Arcenal after learning from witnesses that the latter was last seen with Alvin and was driving the vehicle alone thereafter. The police even received information that Arcenal was hiding in Mindoro. The Pila, Laguna PNP indorsed on January 15, 2001 the conduct of a manhunt. However, it was a year later, or in 2002 that they were able to arrest Arcenal following a tip that he was in Pakil, Laguna.[34] Flight is an indication of his guilt or of a guilty mind. Indeed, the wicked man flees though no man pursueth, but the righteous are as bold as a lion.[35]

Anent Arcenal's defense, he argues that his alibi must not be viewed with outright disfavor. He claims that he left the house on the night of the incident to buy food and returned home to eat, and that the same was not inconsistent with his earlier claim that his siblings gave him food.

This Court is not persuaded. No jurisprudence in criminal law is more settled than that alibi is the weakest of all defenses, for it is easy to contrive and difficult to disprove, and for which reason, it is generally rejected. For the alibi to prosper, the accused must establish the following: (1) he was not at the locus delicti at the time the offense was committed; and (2) it was physically impossible for him to be at the scene at the time of its commission.[36] It must be supported by credible corroboration from disinterested witnesses, and if not, is fatal to the accused.[37]

In this case, Arcenal vehemently denied the accusations. However, aside from his bare allegations, he failed to present convincing evidence of the physical impossibility for him to be at the scene at the time of the crime. He did not present any evidence or testimony to corroborate the same.

The prosecution, on the other hand, ascertained Arcenal's identity as the perpetrator. Jurisprudence teaches that positive identification pertains essentially to proof of identity and not per se to that of being an eyewitness to the very act of commission of the crime. There may be instances where, although a witness may not have actually seen the very act of commission of a crime, he may still be able to positively identify a suspect or accused as the perpetrator of a crime as for instance when the latter is the person or one of the persons last seen with the victim immediately before and right after the commission of the crime. This type of positive identification forms part of circumstantial evidence, which, when taken together with other pieces of evidence constituting an unbroken chain, leads to only one fair and reasonable conclusion, which is that the accused is the author of the crime to the exclusion of all others.[38]

Here, the testimonies of Flores and Meras pointing to Arcenal as Alvin's back rider that night, coupled with the other circumstances, sufficiently establish the identity of the accused as the author of the crime to the exclusion of all others. Arcenal harps on the supposed inconsistencies on Flores's testimonies. Flores claimed that he saw Arcenal at Barangay Linga, however, Forest Park is in fact situated in Barangay Pinagbayanan. We find that such inconsistencies involve trivial matters that do not involve the essential elements of the crime. "Inaccuracies may in fact suggest that the witnesses are telling the truth and have not been rehearsed. Witnesses are not expected to remember every single detail of an incident with perfect or total recall." [39]

This Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.[40] Absent any showing that the trial judge acted arbitrarily, or overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, his assessment of the credibility of witnesses deserves high respect by the appellate court.[41] After a judicious examination of the records of this case, this Court finds no cogent reason to doubt the veracity of the findings and conclusions made by the trial court on the credibility of the prosecution witnesses' testimonies.

As to the imposable penalty, Section 14 of RA No. 6539, as amended, provides that:

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 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 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. (Emphasis supplied)

The RTC is correct in imposing the penalty of reclusion perpetua, considering that there is no proven aggravating circumstance that would warrant the imposition of the penalty of Death. In cases of special complex crimes like carnapping with homicide, among others, where the imposable penalty is reclusion perpetua, the amounts of civil indemnity, moral damages, and exemplary damages are pegged at P75,000.00 each.[42] Thus, Arcenal is ordered to pay the heirs of Alvin civil indemnity, moral damages, and exemplary damages in the amount of P75,000.00 each. Additionally, Arcenal is ordered to pay P50,000.00 as temperate damages, and pay interest on all damages

awarded at the legal rate of six percent (6%) per annum from the date of finality of this Decision.

WHEREFORE, the appeal is DISMISSED. The May 12, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05000, affirming the Decision dated November 30, 2010 of the Regional Trial Court, Branch 27, Santa Cruz, Laguna in Criminal Case No. SC-8602, which found accused-appellant Jesusano Arcenal y Aguilan guilty beyond reasonable doubt of the crime of Carnapping with homicide, sentencing him to suffer the penalty of reclusion perpetua, with all the accessory penalties, is hereby AFFIRMED with MODIFICATIONS: Arcenal is ORDERED to PAY the heirs of Alvin de Rama the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P50,000.00 as temperate damages, and P75,000.00 as exemplary damages, plus interest at the rate of six percent (6%) per annum from date of finality of this Decision until fully paid.

SO ORDERED.

Carpio, (Chairperson), Leonen, and Martires, JJ., concur.

Mendoza, J., on wellness leave.

[1] Penned by Associate Edwin D. Sorongon, with Associate Justices Rosmari D. Carandang and Marlene Gonzales-Sison, concurring, rollo, pp. 2-15.

[2] Penned by (Former) Acting Presiding Judge Jaime C. Blancaflor; CA rollo, pp. 11-23.

[3] Id. at 11.

[4] Id. at 12.

[5] Records p. 20.

[6] CA rollo p. 13.

[7] Id. at 14.

[8] Id.

[9] Records pp. 20-21.

[10] CA rollo p. 17.

[11] Id. at 18.

[12] Id. at 23.

[13] Id. at 20-21.

[14] Id. at 21.

[15] Rollo, p. 15. (Emphasis in the original)

[16] Id. at 24-25.

[17] CA rollo, pp. 69-81.

[18] Rollo, pp. 33-34.

[19] *People v. Santos*, 388 Phil. 993, 1004 (2000).

- [20] *People v. Bernabe and Garcia*, 448 Phil. 269, 280 (2003).
- [21] *People v. Aquino*, 724 Phil. 739, 757 (2014).
- [22] Section 4, Rule 133 of the Rules of Court; *People v. Randy Bañez y Baylon, et al.*, G.R. No. 198057, September 21, 2015.
- [23] *People v. Lagat*, 673 Phil. 351, 368 (2011).
- [24] Records, p. 22.
- [25] TSN, July 29, 2002, pp. 9-10.
- [26] TSN, January 22, 2003, pp. 6 and 8-9.
- [27] TSN, July 29, 2002, pp. 12-13.
- [28] Records p. 20; Medico-Legal Necropsy Report.
- [29] Records, p. 62.
- [30] CA rollo p. 15.
- [31] *People v. Lagat*, *supra* note 23, at 367.
- [32] *Id.* at 368.
- [33] CA rollo p. 43.
- [34] *Id.* at 21.
- [35] *People v. Dela Cruz*, 459 Phil. 130, 137 (2003).
- [36] *People v. Andy Regaspi*, G.R. No. 198309, September 7, 2015.
- [37] *People v. Mallari*, 101 Phil. 267, 281 (2013).
- [38] *People v. Gallarde*, 382 Phil. 718, 733 (2000). (Emphasis supplied).
- [39] *People v. Alas*, 340 Phil. 423, 432 (1997).
- [40] *People v. Abut*, 731 Phil. 304, 311 (2014).
- [41] *People v. Christopher Elizalde y Sumagdon, et al.*, G.R. No. 210434, December 5, 2016.
- [42] *People v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

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