

SECOND DIVISION

[G.R. No. 232624, July 09, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO CARIÑO Y GOCONG AND ALVIN AQUINO Y RAGAM* ,
ACCUSED-APPELLANTS.**

DECISION

REYES, JR., J:

This treats of the Notice of Appeal^[1] under Rule 124 of the Rules of Criminal Procedure filed by Renato Cariño y Gocong (Cariño), and Alvin Aquino y Ragam (Aquino) (collectively referred as accused-appellants), seeking the reversal of the Decision^[2] dated September 14, 2016, rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 06217, convicting them of Robbery with Homicide under Article 294 of the Revised Penal Code (RPC), and Carnapping under Republic Act (R.A.) No. 6539,^[3] as amended.

The Antecedents

An Information was filed against the accused-appellants, charging them with Robbery with Homicide under Article 294 of the RPC, committed as follows:

That on or about the 29th day of August, 2002, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, with intent of gain, by means of force, violence and/or intimidation against person, did then and there, willfully, unlawfully and feloniously rob one MIRKO MOELLER of the following personal items:

One (1) cellphone, wallet, small camera, video camera and VCD player, and by reason and on the occasion of the said robbery, said accused pursuant to their conspiracy, with intent to kill, attack, assault and employ personal violence upon the person of MIRKO MOELLER by then and there mauling him with the use of a dumbbell, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said victim.

CONTRARY TO LAW.^[4]

Another Information was also filed against the accused-appellants for the crime of

Carnapping as defined and penalized under R.A. No. 6539, as amended, committed as follows:

That on or about the 29th day of August, 2002, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, with intent to gain and without knowledge and consent of the owner thereof, did, then and there, willfully, unlawfully and feloniously take, steal and carry away one (1) Unit of Nissan Sentra with Plate No. PN-USD-666 colored silver/pink, of undetermined amount belonging to MIRKO MOELLER, to the damage and prejudice of the said owner thereof.

CONTRARY TO LAW.^[5]

The accused-appellants pleaded not guilty to the charges. Trial ensued thereafter.^[6]

Evidence of the Prosecution

On August 28, 2002, Leonardo Advincula (Advincula) was driving an R&E Taxi with plate number TVH 298, and traversing through East Avenue, Quezon City, when he was flagged down by Cariño in front of the Social Security System building. Cariño asked Advincula to take him to Ortigas. Upon arriving at Ortigas, Cariño asked Advincula to stop along the corner of Julia Vargas and Meralco Avenue. While parked thereat, a silver Nissan Sentra with plate number USD 666 arrived. Cariño alighted and approached the Nissan Sentra. Upon returning to the taxi, Cariño asked Advincula to follow the Nissan Sentra. After driving for a short distance, the Nissan Sentra entered Gate 1 of the Corinthian Gardens Subdivision in Quezon City.^[7]

At around 10:39 p.m. of August 28, 2002, Jimmy Caporado (Caporado), a security guard at the Corinthian Gardens Subdivision was manning Gate 1 of the said subdivision. Caporado noticed a Nissan Sentra with plate number USD 666, pass through Gate 1. Trailing behind the Nissan Sentra was an R&E taxi with plate number TVH 298. Upon passing through the gate, the driver of the Nissan Sentra, who Caporado recognized as Mirko Moeller (Moeller), a resident of the said subdivision, opened the car window to inform the former that the passenger inside the taxi was his visitor. During this time, Caporado noticed that Moeller was with Aquino. Obeying Moeller's instructions, Caporado flagged down the taxi cab to take the driver's license, and then let the taxi pass.^[8] Caporado identified the passenger of the taxi as Cariño, who he pointed to in open court.^[9]

Meanwhile, Advincula dropped off Cariño at No. 11 Young Street, Corinthian Gardens Subdivision. Cariño alighted from the taxi and asked Advincula to wait for his payment. Moeller, the victim, alighted from the Nissan Sentra and approached the taxi to pay for Cariño's fare.^[10] Advincula drove away without a passenger.

Subsequently, at around 7:30 a.m. of August 29, 2002, Nena Taro (Taro), the housemaid of Moeller arrived at the latter's home. Taro noticed that the main gate

and the door of the house were unlocked. Upon entering the house, she was surprised to see dried blood on the wall beside the light switch. She walked to the backdoor leading to the swimming pool to look for Moeller. There, she was horrified to see him lying face down in front of the swimming pool. Shocked by what she had seen, she rushed out of the house to ask for help. Moments later, the security guards and the police arrived.^[11]

Months after the incident, on September 4, 2002, Senior Police Officer 4 Celso Jeresano (SPO4 Jeresano), together with other police officers, arrested the accused-appellants in Bagaquin, Baguio City. They were tipped off by an informant about the whereabouts of the said accused-appellants. During the arrest, the police recovered a camera, video camera, and charger from the accused-appellants. The police also tracked down the stolen Nissan Sentra in Isabela, after Cariño pointed to its location.^[12] Cariño also surrendered the keys of the Nissan Sentra.

During the trial, Dr. Jose Arnel Marquez (Dr. Marquez), Medico-Legal Officer, testified that the victim's cause of death was intracranial hemorrhage, as a result of traumatic injuries in the head.^[13]

Version of the Defense

The accused-appellants vehemently denied the charges leveled against them.

Aquino claimed that on September 4, 2002, while he was waiting for a jeepney bound for Manila, a tinted Tamaraw FX suddenly stopped in front of him. He was forced to board the said vehicle. While inside, he was handcuffed and shown a cartographic sketch, and was asked if the image was familiar. He said that he did know who the person in the sketch was. Suddenly, he was hit on his right temple and on the back of his head. This caused him to pass out. When he regained consciousness, he found himself inside an unfamiliar small house, with his t-shirt bearing blood stains. Thereafter, he was placed inside a van, where he was subjected to physical abuse. Later on, he was brought to Camp Karingal, where he was again physically abused by the police officers. He was later on brought for inquest proceedings, where he learned that he was being charged with Robbery with Homicide.^[14]

In the same vein, Cariño claimed that on September 19, 2002, between 6:00 and 7:00 a.m., a group of police officers suddenly barged inside the house where he and his girlfriend were staying. He was arrested and brought to Isabela. He was photographed while seated in a car, and was told that he stole the same. Then, he was brought to Camp Karingal where he was accused of killing a German national. Cariño denied knowing Aquino.^[15]

Ruling of the Trial Court

On April 29, 2013, the Regional Trial Court (RTC) rendered a Decision^[16] convicting the accused-appellants for the crimes of Robbery with Homicide, and Carnapping. The RTC concluded that there was sufficient circumstantial evidence to convict them. In particular, the RTC noted that the prosecution witnesses confirmed that the

accused-appellants were the last persons to be seen with the victim.^[17] Added to this, the RTC observed that the victim's stolen properties were recovered from the accused-appellants.^[18] Also, when the police officer asked them about the stolen car, they were able to pinpoint its exact location.^[19] Finding these as sufficient proof of their guilt, the RTC sentenced them to a penalty of *reclusion perpetua* for the crime of robbery with homicide; and the maximum sentence of life imprisonment for the carnapping, considering that Moeller, the owner of the vehicle, was killed on the occasion of the carnapping.^[20]

The dispositive portion of the RTC decision reads:

WHEREFORE, in Criminal Case No. Q-02-111947, judgment is hereby rendered finding [the accused-appellants] guilty beyond reasonable doubt of robbery with homicide, and imposing on said accused the penalty of *reclusion perpetua*.

The Court likewise adjudges [the accused-appellants] jointly and severally liable to pay the heirs of the victim Mirko Moller,^[21] represented by Anthony Q. Paguio, the following amounts:

1. P75,000.00 as civil indemnity *ex delicto*.
2. P75,000.00 as moral damages.
3. P30,000.00 as exemplary damages.
4. 75,000.00 as temperate damages.
5. The costs of suit.

In Criminal Case No. Q-02-111948, judgment is also rendered finding [the accused-appellants] guilty beyond reasonable doubt of carnapping, in violation of [R.A.] No. 6539, and imposing on said accused the penalty of life imprisonment.

The accused shall be fully credited with their respective periods of preventive detention, pursuant to Article 29 of the [RPC]. They shall henceforth be committed to the National Penitentiary in Muntinlupa City to commence the service of their sentence.

SO ORDERED.^[22]

Dissatisfied with the ruling, the accused-appellants filed an appeal with the CA.

Ruling of the CA

On September 14, 2016, the CA rendered the assailed Decision,^[23] affirming the RTC's conviction against the accused-appellants for Robbery with Homicide, and Carnapping. Echoing the trial court's findings, the CA affirmed that all the facts proven, and taken together, created an unbroken chain of circumstances proving their guilt beyond reasonable doubt.^[24] The CA held that their defense of alibi was

unavailing, and faltered against the positive identification of the prosecution witnesses.^[25] Likewise, the CA found that the results of the police investigation revealed that violence was employed against the victim, which resulted to the latter's death. Also, the camera, video camera and charger, which all belonged to the victim, were found in the possession of the accused-appellants when they were arrested in Baguio City.^[26] They were not able to explain the reason why they possessed the said items.^[27] Added to this, they knew the location of the stolen vehicle.^[28] Consequently, the CA concluded that all these established circumstances show that the accused-appellants conspired with each other to commit the crimes charged.^[29]

As for the penalties, the CA affirmed the sentence of *reclusion perpetua* for the charge of Robbery with Homicide, but modified the amount of damages awarded by the RTC. Specifically, the CA deleted the award of exemplary damages finding that there were no aggravating circumstances that attended the commission of the crime. Also, the CA reduced the amount of temperate damages to Php 50,000.00, to conform with recent jurisprudence.^[30]

As for the crime of Carnapping, the CA found that the RTC erred in imposing the maximum penalty for the said crime. The CA pointed out that the Information charging the accused-appellants of carnapping, failed to indicate that the victim was killed in the course of the commission of the carnapping or on the occasion thereof. Neither was there an allegation that the carnapping was committed with violence or intimidation of persons. The CA surmised that based on the attendant circumstances, the victim was presumably dead when the accused-appellants unlawfully took the vehicle as a means to escape the crime scene. Thus, there being no causal connection between the carnapping and the killing, the accused-appellants should be meted with the lesser sentence of fourteen (14) years and eight (8) months and not more than seventeen (17) years and four (4) months, for the crime of carnapping.^[31]

The decretal portion of the assailed CA decision reads:

WHEREFORE, in view of the foregoing, the appeal is **DENIED**. The Decision dated April 29, 2013 of the Quezon City [RTC], Branch 219, in Criminal Case Nos. Q-02-111947 and Q-02-111948 is **AFFIRMED with MODIFICATION**, in that:

1.) In Criminal Case No. Q-02-111947, the award of exemplary damages is **DELETED** and the award of temperate damages is hereby **REDUCED** to **Php 50,000.00**.

In addition, accused-appellants are jointly and severally **ORDERED** to **PAY** interest on all the damages imposed at the rate of six percent (6%) per annum from the date of finality of this decision until fully paid.

2.) In Criminal Case No. Q-02-111948, the accused-appellants are sentenced to suffer the indeterminate penalty of **Fourteen (14) years and Eight (8) months**, as minimum, to **Seventeen (17) years and Four (4) months**, as maximum.