

SECOND DIVISION

[G.R. No. 212815, March 01, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ENRILE DONIO Y UNTALAN, ACCUSED-APPELLANT.

D E C I S I O N

PERALTA, J.:

This is an appeal from the November 4, 2013 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05418, which affirmed the Decision^[2] dated January 24, 2012 of the Regional Trial Court (RTC), Branch 59, Angeles City in Criminal Case No. 04-594.

The facts are as follows:

Accused-appellant Enrile Donio y Untalan (*Donio*) 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. Co-accused Val Paulino (*Paulino*) and one @Ryan (*Ryan*), both remains at-large, were similarly charged. The accusatory portion of the Information reads:

That on or about the 26th day of November 2003, in the Municipality of Mabalacat, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with intent of gain and without the knowledge and consent of the owner, did then and there willfully, unlawfully and feloniously take, steal and carry away with them one (1) Honda TMX 155 tricycle, colored black and with Body [No.] 817, valued at Ninety-Six Thousand ([P]96,000.00) Pesos, Philippine Currency, and on the occasion thereof, Raul L. Layug, being the driver and owner of the said Honda TMX 155 tricycle, was killed with the use of a mini jungle bolo.

Contrary to law.^[3]

Pending Donio's arraignment, PO1 Ernessito N. Bansagan and the National Bureau of Investigation, Central Luzon Regional Office submitted the returns on the Warrant of Arrest against Ryan and Paulino, respectively, stating that the said persons could not be located at the given addresses, and requested for alias warrants against them. The trial court issued the Alias Warrant of Arrest against accused Ryan on September 4, 2004 and against Paulino on November 4, 2004.^[4]

At his arraignment, Donio, assisted by his counsel *de officio*, pleaded not guilty to the offense charged. During the pre-trial conference, it was stipulated that Donio is the same person whose name appears in the Information and was arraigned before

that court.

Thereafter, the trial on the merits ensued.

On November 26, 2003, six police officers of the Concepcion Police Station, Tarlac City, headed by SPO4 Leodegario Taberdo (*SPO4 Taberdo*), conducted a checkpoint along the junction of MacArthur Highway in relation to the campaign of the Philippine National Police against hijacking, carnapping, and kidnapping, hailing cargo trucks and closed vans, and issuing cards to southbound vehicles.^[5]

At 2:30 in the morning on November 26, 2003, a speeding tricycle abruptly stopped a few meters from the checkpoint and caught the attention of the police officers. SPO4 Taberdo and two others approached the vehicle. The driver, later identified as Donio, was noticeably agitated while repeatedly kicking the starter of the tricycle. When asked for his identity, he introduced himself as Raul Layug (*Raul*) and then handed to SPO4 Taberdo a temporary license bearing the said name. The police officers asked the driver and his companions, co-accused Paulino and Ryan, to bring the vehicle, a Honda TMX 155 tricycle with Body No. 817, to the checkpoint when they failed to produce its certificate of registration and the official receipt.^[6]

Upon visual search of the vehicle, they discovered a bloodstained mini jungle bolo inside. They seized the tricycle and the bolo, and then brought the three to the police station. At 9 o'clock in the morning, Donio asked permission to leave in order to get the registration papers. The officers allowed him, however, he did not return.^[7]

Meanwhile, around 6:30 in morning of the same date, Rodrigo Layug (*Rodrigo*) was searching for his brother Raul, the victim, who has not returned home since last night. Raul was the driver of Rodrigo's Honda TMX 155 tricycle with Body No. 817. Rodrigo met with his tricycle driver cousin from Mawaque to ask him if he saw his brother. His cousin accompanied him to Barangay Madapdap where they found the remains of Raul. Words spread about his death. Thereafter, a tricycle driver informed them that he saw a vehicle similar to Rodrigo's at the Concepcion Police Station. Rodolfo, Raul and Rodrigo's other brother, went to the station where he learned that Paulino and Ryan were released.^[8]

Sometime in December 2003, the brothers returned to the station upon learning that Donio was apprehended. On December 7, 2003, the Chief of Police summoned SPO4 Taberdo to identify the driver who asked permission to retrieve the registration papers but did not return at the Concepcion Police Station. Upon seeing Donio, the disgruntled SPO4 Taberdo asked him, "Why did you do that?" He was referring to the incident when Donio did not return. It was also that same day that he learned Donio's real identity.^[9]

Dr. Reynaldo C. Dizon (*Dr. Dizon*) conducted the post-mortem examination of Raul's body and determined that he sustained stab wounds caused by a sharp instrument.

Defense's sole witness, Donio, a 35-year-old grass cutter and a resident of Madapdap, Mabalacat, Pampanga, denied the accusations. As a sugarcane plantation worker, he has a long palang for harvesting and cutting. It was not similar to the sharp and pointed mini jungle bolo. As a stay-in plantation worker, he does not

leave the workplace for six months. His wife visits him instead.

On November 24, 2003, he was harvesting sugarcane in Capas, Tarlac. However, from the evening of November 25, 2003 until the next day, he was at home after his wife fetched him to tend to their sick child. He first learned of the carnapping charge when the police officers came to his house looking for a certain Val Paulino. He was taken to the municipal hall where he was investigated and detained for five days. Three officers beat and electrocuted him for three hours forcing him to admit the crime.^[10]

The RTC convicted Donio of the crime of carnapping with homicide. The dispositive portion of the decision reads:

WHEREFORE, the Court finds the accused ENRILE U. DONIO guilty beyond reasonable doubt of the offense of Carnapping as defined in Section 2 and penalized under Section 14 of Republic Act No. 6539, as amended by Republic Act No. 7659, and hereby sentences him to suffer the penalty of *reclusion perpetua*, with credit of his preventive imprisonment.

Accused ENRILE U. DONIO is further ordered to pay the heirs of the victim Raul L. Layug the following amounts: Fifty thousand pesos ([P]50,000.00) as civil indemnity and Twenty-five thousand pesos ([P]25,000.00) as actual damages.

No costs.

SO ORDERED.^[11]

The trial court ruled that the prosecution established all the elements of the crime. Donio failed to substantiate his presence at another place at the time of the perpetration of the offense or the physical impossibility of his presence at the *locus criminis* or its immediate vicinity at the time of the incident.^[12] Under the Rules, SPO4 Taberdo's action as police officer enjoys the presumption of regularity. In the absence of evidence showing that he was motivated by bad faith or ill-will to testify against Donio, SPO4 Taberdo's categorical identification of the accused stands.^[13]

In a Decision dated November 4, 2013, the CA denied Donio's appeal and affirmed the decision of the RTC. The CA found his averment that he was taken from his house, tortured and made to sign a blank sheet of paper as highly implausible. His sworn affidavit was replete with details which were unlikely the product of creative imagination of the police. There was no proof that the police singled him out, or was impelled by an evil or ulterior motive. The said affidavit was voluntarily and freely executed with the assistance of counsel.^[14] The *fallo* of the decision states:

WHEREFORE, the appealed Decision is **AFFIRMED**.

SO ORDERED.^[15]

Hence, the instant appeal was instituted.

In its Manifestation and Motion in Lieu of Supplemental Brief,^[16] the Office of the

Solicitor General (OSG) informed this Court that it opted not to file a supplemental brief for the same would only be a repetition of the raised arguments considering that all relevant matters regarding Donio's guilt for the crime of carnapping with homicide were extensively argued and discussed in the People's Brief^[17] dated July 9, 2013.

Likewise, Donio, through the Public Attorney's Office, manifested his intention not to file a supplemental brief and prayed that the case be deemed submitted for decision.^[18]

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

After a judicious review of the records and the submissions of the parties, this Court finds no cogent reason to reverse Donio's conviction.

At the outset, the CA noted that the prosecution should have filed an Information for the special complex crime of qualified carnapping in aggravated form.^[19] While it is necessary that the statutory designation be stated in the information, a mistake in the caption of an indictment in designating the correct name of the offense is not a fatal defect as it is not the designation that is controlling but the facts alleged in the information which determines the real nature of the crime.^[20] Recently, it was held that failure to designate the offense by the statute or to mention the specific provision penalizing the act, or an erroneous specification of the law violated, does not vitiate the information if the facts alleged therein clearly recite the facts constituting the crime charged.^[21] The recital of the ultimate facts and circumstances in the complaint or information determines the character of the crime and not the caption or preamble of the information or the specification of the provision of the law alleged to have been violated.^[22] In the case at bar, the acts alleged to have been committed by Donio are averred in the Information, and the same described the acts defined and penalized under Sections 2 and 14 of R.A. 6539, as amended.

The elements of catnapping as defined and penalized under the R.A. No. 6539, as amended are the following:

1. That there is an actual taking of the vehicle;
2. That the vehicle belongs to a person other than the offender himself;
3. 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
4. That the offender intends to gain from the taking of the vehicle.^[23]

Under the last clause of Section 14 of the R.A. 6539, as amended, the prosecution has to prove the essential requisites of carnapping and of the homicide or murder of the victim, and more importantly, it must show that the original criminal design of

the culprit was carnapping and that the killing was perpetrated "*in the course of the commission of the carnapping or on the occasion thereof.*"^[24] In other words, 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.^[25]

Records show that all the elements of carnapping in the instant case are present and proven during the trial.

The tricycle was definitely ascertained to belong to Rodrigo, as evidenced by a Deed of Conditional Sale in his favor.^[26] Donio was found driving the vehicle in the early morning of November 26, 2003, the same day Rodrigo was looking for his missing brother Raul. Also, SPO4 Taberdo positively identified Donio as the driver he flagged down at the checkpoint in his testimony, viz.:

x x x x

Q - On or about that time 2:45 early in the morning of November 26, 2003, could you recall if there was any unusual incident that required your attention as Police Officers manning the check-point?

A - Yes, sir.

Q - What is that incident?

A - During that time, we are issuing pass card among vehicles going to South when suddenly a speeding tricycle approaching our PCP its engine suddenly stop.

Q - Who was driving the tricycle when the engine suddenly stop[s]?

A - The one who gave me the Driver's License was Raul Layug.

Q - If this person who gave his license as Raul Layug is here present today, will you be able to identify him?

A - Yes, sir.

Q - Will you please look around the premises of the Court and point to him.

A - This one, sir. We came to know later on that his real name is Enrile Donio.

INTERPRETER:

Witness pointed to accused Enrile Donio.

x x x^[27]

"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.

^[28] Section 3 (j), Rule 131 of the Rules of Court provides the presumption that a