784 Phil. 561

THIRD DIVISION

[G.R. No. 207662, April 13, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FABIAN URZAIS Y LANURIAS, ALEX BAUTISTA, AND RICKY BAUTISTA ACCUSED.

FABIAN URZAIS Y LANURIAS, ACCUSED-APPELLANT.

D E C I S I O N

PEREZ, J.:

Before us for review is the Decision[1] of the Court of Appeals (CA) in C.A. G.R. CR.-H.C. No. 04812 dated 19 November 2012 which dismissed the appeal of accused-appellant Fabian Urzais y Lanurias and affirmed with modification the Judgment[2] of the Regional Trial Court (RTC) of Cabanatuan City, Branch 27, in Criminal Case No. 13155 finding accused-appellant guilty beyond reasonable doubt of the crime of carnapping with homicide through the use of unlicensed firearm.

Accused-appellant, together with co-accused Alex Bautista and Ricky Bautista, was charged with Violation of Republic Act (R.A.) No. 6539, otherwise known as the Anti-Carnapping Act of 1972, as amended by R.A. No. 7659, with homicide through the use of an unlicensed firearm. The accusatory portion of the Information reads as follows:

> That on or about the 13th day of November, 2002, or prior thereto, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating with and abetting one another, with intent to gain and by means of force, violence and intimidation, did then and there, wilfully, unlawfully and feloniously take, steal and carry away, a Isuzu Highlander car, colored Forest Green, with Plate No. UUT-838 of one MARIO MAGDATO, valued at FIVE HUNDRED THOUSAND PESOS (P500,000.00) Philippine Currency, owned by and belonging to said MARIO MAGDATO, against his will and consent and to his damage and prejudice in the aforestated amount of P500,000.00, and on the occasion of the carnapping, did assault and use personal violence upon the person of one MARIO MAGDATO, that is, by shooting the latter with an unlicensed firearm, a Norinco cal. 9mm Pistol with Serial No. 508432, thereby inflicting upon him gunshot wound on the head which caused his death. [3]

At his arraignment, accused-appellant pleaded not guilty. The trial proceeded against him. His two co-accused remain at large.

The prosecution presented as witnesses Shirley Magdato (Shirley), Senior Police

Officer 2 Fernando Figueroa (SPO2 Figueroa) and Dr. Jun Concepcion (Dr. Concepcion).

Shirley, the widow of the victim, testified mainly regarding her husband's disappearance and discovery of his death. She narrated that her husband used to drive for hire their Isuzu Highlander with plate number UUT-838 from Pulilan, Bulacan to the LRT Terminal in Metro Manila. On 12 November 2002, around four o'clock in the morning, her husband left their house in Pulilan and headed for the terminal at the Pulilan Public Market to ply his usual route. When her husband did not return home that day, Shirley inquired of his whereabouts from his friends to no avail. Shirley went to the terminal the following day and the barker there told her that a person had hired their vehicle to go to Manila. Shirley then asked her neighbors to call her husband's mobile phone but no one answered. At around 10 o'clock in the morning of 13 November 2002, her husband's co-members in the drivers' association arrived at their house and thereafter accompanied Shirley to her husband's supposed location. At the Sta.Rosa police station in Nueva Ecija, Shirley was informed that her husband had passed away. She then took her husband's body home.[4] Shirley retrieved their vehicle on 21 November 2002 from the Cabanatuan City Police Station. She then had it cleaned as it had blood stains and reeked of a foul odor.[5]

SPO2 Figueroa of the Philippine National Police (PNP), Cabanatuan City, testified concerning the circumstances surrounding accused-appellant's arrest. He stated that in November 2002, their office received a "flash alarm" from the Bulacan PNP about an alleged carnapped Isuzu Highlander in forest green color. Thereafter, their office was informed that the subject vehicle had been seen in the AGL Subdivision, Cabanatuan City. Thus, a team conducted surveillance there and a checkpoint had been set up outside its gate. Around three o'clock in the afternoon of 20 November 2002, a vehicle that fit the description of the carnapped vehicle appeared. The officers apprehended the vehicle and asked the driver, accused-appellant, who had been alone, to alight therefrom. When the officers noticed the accused-appellant's waist to be bulging of something, he was ordered to raise his shirt and a gun was discovered tucked there. The officers confiscated the unlicensed 9mm Norinco, with magazine and twelve (12) live ammunitions. The officers confirmed that the engine of the vehicle matched that of the victim's. Found inside the vehicle were two (2) plates with the marking "UUT-838" and a passport. Said vehicle contained traces of blood on the car seats at the back and on its flooring. The officers detained accused-appellant and filed a case for illegal possession of firearm against him. The subject firearm was identified in open court.[6]

Dr. Concepcion testified about the wounds the victim sustained and the cause of his death. He stated that the victim sustained one (1) gunshot wound in the head, the entrance of which is at the right temporal area exiting at the opposite side. The victim also had several abrasions on the right upper eyelid, the tip of the nose and around the right eye. He also had blisters on his cheek area which could have been caused by a lighted cigarette.[7]

Accused-appellant testified in his defense and interposed the defense of denial.

Accused-appellant testified that he had ordered in October 2002 from brothers Alex and Ricky Bautista, an owner-type jeepney worth P60,000.00 for use in his

business. The brothers, however, allegedly delivered instead a green Isuzu Highlander around half past three o'clock in the afternoon of 13 November 2002. The brothers told accused-appellant that his P60,000.00 would serve as initial payment with the remaining undetermined amount to be paid a week after. Accused-appellant agreed to this, amazed that he had been given a new vehicle at such low price. Accused-appellant then borrowed money from someone to pay the balance but the brothers never replied to his text messages. On 16 November 2002, his friend Oscar Angeles advised him to surrender the vehicle as it could be a "hot car." Accused-appellant was initially hesitant to this idea as he wanted to recover the amount he had paid but he eventually decided to sell the vehicle. He removed its plate number and placed a "for sale" sign at the back. On 18 November 2002, he allegedly decided to surrender the vehicle upon advice by a certain Angie. But when he arrived home in the afternoon of that day, he alleged that he was arrested by Alex Villareal, a member of the Criminal Investigation and Detection Group (CIDG) of Sta. Rosa, Nueva Ecija.[8] Accused-appellant also testified that he found out in jail the owner of the vehicle and his unfortunate demise.[9] On cross-examination, accused-appellant admitted that his real name is "Michael Tapayan y Baguio" and that he used the name Fabian Urzais to secure a second passport in 2001 to be able to return to Taiwan.[10]

The other defense witness, Oscar Angeles (Angeles), testified that he had known the accused-appellant as Michael Tapayan when they became neighbors in the AGL subdivision. Accused-appellant also served as his computer technician. Angeles testified that accused-appellant previously did not own any vehicle until the latter purchased the Isuzu Highlander for P30,000.00 from the latter's friends in Bulacan. Angeles advised accused-appellant that the vehicle might have been carnapped due to its very low selling price. Angeles corroborated accused-appellant's testimony that he did not want to surrender the car at first as he wanted to recover his payment for it.[11]

On 18 October 2010, the RTC rendered judgment finding accused-appellant guilty of the crime charged. The RTC anchored its ruling on the disputable 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.[12] It held that the elements of carnapping were proven by the prosecution beyond reasonable doubt through the recovery of the purportedly carnapped vehicle from the accused-appellant's possession and by his continued possession thereof even after the lapse of one week from the commission of the crime.[13] The dispositive portion of the RTC Decision reads:

> **WHEREFORE**, in view of all the foregoing, the Court finds accused Fabian Urzais alias Michael Tapayan y Lanurias **GUILTY** beyond reasonable doubt of the crime of carnapping as defined and penalized by Republic Act 6539 (Anti-Carnapping Act of 1972) as amended by R.A. 7659 with homicide thru the use of unlicensed firearm. Accordingly, he is hereby sentenced to suffer imprisonment of forty (40) years of *reclusion perpetua*.
>
> In the service of the sentence, accused shall be credited with the full time of his preventive detention if he agreed voluntarily and in writing to abide by the disciplinary rules imposed upon convicted prisoners pursuant to Article 29 of the Revised Penal Code.

> Accused is further sentenced to indemnify the heirs of Mario Magdato the sum of Php50,000.00 as death indemnity, Php50,000.00 as moral damages, and Php672,000.00 as loss of earning capacity.[14]

Accused-appellant filed a Notice of Appeal on 22 December 2010.[15]

On 19 November 2012, the CA rendered the assailed judgment affirming with modification the trial court's decision. The CA noted the absence of eyewitnesses to the crime yet ruled that sufficient circumstantial evidence was presented to prove accused-appellant's guilt, solely, accused-appellant's possession of the allegedly carnapped vehicle.

Accused-appellant appealed his conviction before this Court. In a Resolution[16] dated 12 August 2013, accused-appellant and the Office of the Solicitor General (OSG) were asked to file their respective supplemental briefs if they so desired. Accused-appellant filed a Supplemental Brief[17] while the OSG manifested[18] that it adopts its Brief[19] filed before the CA for the purpose of the instant appeal.

Before the Court, accused-appellant vehemently maintains that there is no direct evidence that he robbed and murdered the victim; and that the lower courts erred in convicting him based on circumstantial evidence consisting only of the fact of his possession of the allegedly carnapped vehicle. Accused-appellant decries the appellate court's error in relying on the disputable presumption created by law under Section 3 (j), Rule 131 of the Rules of Court to conclude that by virtue of his possession of the vehicle, he is considered the author of both the carnapping of the vehicle and the killing of its owner. Accused-appellant asserts that such presumption does not hold in the case at bar.

The Court agrees.

Every criminal conviction requires the prosecution to prove two (2) things: 1. The fact of the crime, *i.e.* the presence of all the elements of the crime for which the accused stands charged; and (2) the fact that the accused is the perpetrator of the crime. The Court finds the prosecution unable to prove both aspects, thus, it is left with no option but to acquit on reasonable doubt.

R.A. No. 6539, or the Anti-Carnapping Act of 1972, as amended, defines carnapping as 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 against persons, or by using force upon things.[20] By the amendment in Section 20 of R.A. No. 7659, Section 14 of the Anti-Carnapping Act now reads:

> SEC. 14. *Penally 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 the 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 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)

Three amendments have been made to the original Section 14 of the Anti-Carnapping Act: (1) the penalty of life imprisonment was changed to *reclusion perpetua*, (2) the inclusion of rape, and (3) the change of the phrase "*in the commission of the carnapping*" to "*in the course of the commission of the carnapping or on the occasion thereof*." This third amendment clarifies the law's intent to make the offense a special complex crime, by way of analogy vis-a-vis paragraphs 1 to 4 of the Revised Penal Code on robbery with violence against or intimidation of persons. Thus, under the last clause of Section 14 of the Anti-Carnapping Act, 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*." Consequently, where the elements of carnapping are not proved, the provisions of the Anti-Carnapping Act would cease to be applicable and the homicide or murder (if proven) would be punishable under the Revised Penal Code. [21]

In the instant case, the Court finds the charge of carnapping unsubstantiated for failure of the prosecution to prove all its elements. For one, the trial court's decision itself makes no mention of any direct evidence indicating the guilt of accused-appellant. Indeed, the CA confirmed the lack of such direct evidence.[22] Both lower courts solely based accused-appellant's conviction of the special complex crime on **one** circumstantial evidence and that is, the fact of his possession of the allegedly carnapped vehicle.

The Court notes that the prosecution's evidence only consists of the fact of the victim's disappearance, the discovery of his death and the details surrounding accused-appellant's arrest on rumors that the vehicle he possessed had been carnapped. Theres is absolutely **no** evidence supporting the prosecution's theory that the victim's vehicle had been carnapped, much less that the accused-appellant is the author of the same.

Certainly, it is not only by direct evidence that an accused may be convicted, but for circumstantial evidence to sustain a conviction, following are the guidelines: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is as such as to produce a conviction beyond reasonable doubt.[23] Decided cases expound that the circumstantial evidence presented and proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person. All the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rationale except that of guilt.[24]

In the case at bar, notably there is only one circumstantial evidence. And this sole