

## THIRD DIVISION

[ G.R. No. 213913, September 02, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JULKIPLI ASAMUDDIN Y SALAPUDIN A.K.A."JUL" AND "REY",  
ACCUSED-APPELLANT.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

On appeal is the Decision<sup>[1]</sup> dated May 22, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05870, which affirmed with modification the Decision<sup>[2]</sup> dated October 15, 2012 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 212, in the consolidated Criminal Case Nos. MC08-11421 and MC08-11422.

The consolidated cases for violation of Republic Act (R.A.) No. 6539, the Anti-Carnapping Act of 1972, as amended, and Qualified Theft were filed on January 16, 2008 against accused Julkipli Asamuddin y Salapudin (appellant). The accusatory portions of the Informations alleged as follow:

**Criminal Case No. MCOS-11421:**

For Violation of R.A. No. 6539

That on or about the 11<sup>th</sup> day of July 2007, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, without the knowledge and consent of the owner thereof, did then and there, willfully, unlawfully and feloniously take, steal and carry away a motorcycle, Honda XRM with plate no. UU-9142 amounting to P49,000.00 belonging to EMELINA GLORIA Y UMALI without the latter's consent, to the damage and prejudice of the latter in the aforementioned sum of P49,000.00.

**CONTRARY TO LAW.**<sup>[3]</sup>

**Criminal Case No. MCOS-11422:**

For Qualified Theft

That on or about the 11<sup>th</sup> day of July 2007, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as a messenger of E. Gloria's Money Changer owned by Emelina Gloria y Umali, with grave abuse of confidence and taking advantage of the trust reposed upon him, with intent to gain, without the knowledge and consent of the owner thereof, did then and there, willfully, unlawfully and feloniously take, steal and carry away cash money of various denominations P800,000.00,

Yen 660,000.00, Pounds 50.00, Dirham 530.00, Brunei Dollar 100.00 and Singapore Dollar 467.00 with an aggregate amount of P1,077,995.00, to the damage and prejudice of the complainant in the aforementioned amount of P1,077,995.00.

CONTRARY TO LAW.<sup>[4]</sup>

The criminal cases were temporarily archived, but were revived with the arrest of appellant in Zamboanga City on February 25, 2009.

Assisted by a counsel *de officio* at his arraignment on August 19, 2009, appellant pleaded "Not Guilty" to both charges.<sup>[5]</sup>

In the ensuing trial, the prosecution presented Emelina Gloria y Umali (Emelina), proprietor of E. Gloria Money Changer where appellant works as a messenger; and Imee Gerbon<sup>[6]</sup> (Imee), domestic helper of Emelina. Among the documentary evidence presented by the prosecution were (1) the list of currencies Emelina entrusted to appellant that fateful day of July 11, 2007 (Exhibit "F"<sup>[7]</sup>); and (2) Sales Invoice Retail No. 16607 (Exhibit "I"<sup>[8]</sup>), Official Receipt (Exhibit "J"<sup>[9]</sup>), and certification (Exhibit "K"<sup>[10]</sup>), all issued by Triumph JT Marketing Corporation, which show that the Honda XRM motorcycle with plate number UU-9142 was purchased by Emelina's husband.

The defense presented appellant as its sole witness. He denied the charges against him.

## THE FACTS

Emelina hired appellant as messenger in E. Gloria Money Changer, Mandaluyong City, sometime in 2006, with the main function of delivering local or foreign currencies to clients or other money changers.<sup>[11]</sup> Assigned to appellant to be used in the performance of his work is a blue Honda XRM motorcycle with plate number UU-9142.<sup>[12]</sup>

At 12:30 in the afternoon of July 11, 2007, Emelina handed to appellant the cash amount of P800,000.00, and various foreign denominations consisting of 66 pieces of lapad,<sup>[13]</sup> 50 pounds, 530 dirhams, 467 Singaporean dollars, and 100 Brunei dollars,<sup>[14]</sup> with a peso value of P277,995.00.<sup>[15]</sup> She instructed appellant to bring the currencies to her friend Rina Rosalial, a money changer in Mabini, Manila.<sup>[16]</sup> After receiving the monies from Emelina, appellant left aboard his service motorcycle on his way to Manila.<sup>[17]</sup>

Imee, the domestic helper of Emelina, was then inside E. Gloria Money Changer, and saw Emelina hand to appellant currencies of various denominations,<sup>[18]</sup> and as appellant left his service motorcycle.<sup>[19]</sup>

By 1:30 p.m. of the same day, Emelina received a call from Rina Rosalial informing her that appellant has yet to arrive in her shop.<sup>[20]</sup> Emelina's calls to the cellular

phones of appellant and his wife were at naught,<sup>[21]</sup> prompting her to lodge a complaint against appellant at the Philippine National Police, Criminal Investigation and Detection Group (PNP-CIDG), Camp Crame.<sup>[22]</sup>

In August 2007, the blue Honda XRM motorcycle with plate number UU-9142 was found abandoned in Silang, Cavite, and was returned to Emelina.<sup>[23]</sup>

Appellant vehemently denied asporting currency totaling P1,077,995.00, and the subject motorcycle. He admitted working as a Messenger/Runner at the E. Gloria Money Changer starting October 2006 but he resigned from his job on July 10, 2007. Appellant asserted that the money he received from Emelina on July 11, 2007 was his last salary for the period July 1 to 10, 2007. His family's return to Zamboanga City on September 7, 2007 was due to the high cost of living in Metro Manila which he could no longer afford.<sup>[24]</sup>

Relying on the categorical and straightforward testimony of Emelina, and rejecting the defense of denial advanced by appellant, the RTC rendered a guilty verdict in both criminal cases, thus:

**WHEREFORE, IN VIEW OF THE FOREGOING**, the court finds the accused JULKIPI LI ASAMUDDIN Y SALAPUDIN @ "**Jul**" and "**Rey**" **GUILTY** beyond reasonable doubt of Violation of Republic Act No. 6539 (Anti-Carnapping Act of 1972)[,] as amended[,], and he is hereby sentenced to an indeterminate imprisonment of fourteen (14) years and eight (8) months, as minimum, to seventeen (17) years and four (4) months, as maximum. Likewise[,], the court finds **JULKIPI LI ASAMUDDIN Y SALAPUDIN @ "Jul" @ "Rey" GUILTY** beyond reasonable doubt of Qualified Theft and he is hereby sentenced to suffer the penalty of reclusion perpetua but with all the accessories of the penalty imposed under Article 40 of the Revised Penal Code. Accused is also condemned to pay the offended party, EMELINA GLORIA Y UMALI[,], the sum of Php1,877,995.00, as actual damages representing the total amount of the money entrusted to him by the said offended party.

Further, let a Commitment Order be issued for the transfer of accused **JULKIPI LI ASAMUDDIN Y SALAPUDIN @ "Jul" @ "Rey"** from Mandaluyong City Jail to the BBureau of Corrections, Muntinlupa City.

**SO ORDERED.**<sup>[25]</sup>

On November 6, 2012, appellant timely tiled his Notice of Appeal.<sup>[26]</sup> The consolidated cases were subsequently elevated to the CA, and was docketed as CA-G.R. CR-H.C. No. 05870. Before the CA, appellant ascribed to the RTC the following errors:

I.

THE COURT A QUO GRAVELY ERRED IN DISREGARDING [APPELLANT'S]

## TESTIMONY.

### II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING [APPELLANT] OF QUALIFIED THEFT AND CARNAPPING DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.<sup>[27]</sup>

In the Decision dated May 22, 2014, the appellate court dismissed the appeal but modified appellant's civil liability in Criminal Case No. MC08-11422 by reducing the awarded actual damages from P1,877,995.00 to P1,077,995.00.<sup>[28]</sup> The appellate court emphasized that the amount alleged in the Information for Qualified Theft, and established by Exhibit "F" was only P1,077,995.00.<sup>[29]</sup>

Appellant perfected his appeal to this Court with the timely filing of a Notice of Appeal on June 16, 2014.<sup>[30]</sup> The Solicitor General and appellant separately manifested to adopt their respective briefs filed before the CA as their supplemental briefs.<sup>[31]</sup>

The main issue for resolution is whether the CA correctly affirmed the conviction of the appellant for Qualified Theft and Carnapping.

The Court rules in the affirmative and finds the appeal without merit.

Appellant primarily assails the testimony of Emelina to be inadequate to anchor his conviction for the crimes charged. Branding Emelina's testimony to be self-serving, unsubstantiated, and uncorroborated by documentary and credible testimonial evidence, appellant asserted that no credible proof was presented by the prosecution to establish that he actually received from Emelina the subject peso and foreign currencies and that he used and unlawfully took away the service motorcycle.

When the credibility of the witness is in issue, the settled rule is that the trial court's assessment thereof is accorded great weight by appellate courts absent any showing that the trial court overlooked certain matters which, if taken into consideration, would have materially affected the outcome of the case.<sup>[32]</sup> And where the trial court's findings have been affirmed by the CA, these are generally binding and conclusive upon this Court.<sup>[33]</sup> The determination of the credibility of witnesses is best left to the trial court judge because of his untrammelled opportunity to observe directly the demeanor of a witness on the stand and, thus, to determine whether he or she is telling the truth.<sup>[34]</sup> After a circumspect scrutiny of the records of the case, we find no reason to modify, alter or reverse the factual finding of the lower court and affirmed by the CA that in the afternoon of July 11, 2007, appellant received money from Emelina; used his service motorcycle; and disappeared with the money and the motorcycle.

Moreover, appellant failed to establish the alleged ill-motive of Emelina in implicating him in the present case. No evidence was presented to show that the business of

Emelina incurred losses that needed to be concealed from her business partners. Absent any improper motive to falsely testify against the appellant, Emelina's declarations are worthy of full faith and credence.<sup>[35]</sup> In like manner, Imee's employment as the domestic servant of Emelina is not a ground to disregard her testimony. Relationship alone is not enough reason to discredit and label Imee's testimony as biased and unworthy of credence. It is settled that the witness' relationship to the victim does not automatically affect the veracity of his or her testimony.<sup>[36]</sup>

We now resolve the criminal liability of the appellant for the unlawful taking of the service motorcycle, and the peso and foreign currencies amounting to a total of P1,077,995.00.

### **I. Criminal Case No. MCOS-11421** (For Violation of R.A. No. 6539)

The elements of Carnapping as defined under Section 2 of R.A. No. 6539, as amended, are:

- (1) the taking of a motor vehicle which belongs to another;
- (2) the taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; and
- (3) the taking is done with intent to gain.<sup>[37]</sup>

All these elements were established by the prosecution beyond reasonable doubt.

Exhibits "I"<sup>[38]</sup> "J"<sup>[39]</sup> and "K",<sup>[40]</sup> proved that the blue Honda XRM motorcycle with plate number UU-9142 used as a service vehicle by appellant was acquired from Triumph JT Marketing Corporation by Manolito, Emelina's spouse, establishing the **first** element.

It is the **second** element that the appellant claimed was not proven because the prosecution's evidence failed to show that he took the motorcycle **without** the consent of Emelina. Indeed, Emelina herself tasked the appellant to proceed to Mabini, Manila, and permitted him to use the service motorcycle.

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.<sup>[41]</sup> In *Roque v. People*,<sup>[42]</sup> the Court ruled that qualified theft may be committed even when the personal property is in the lawful possession of the accused prior to the commission of the felony. The concept of unlawful taking in theft, robbery and carnapping being the same,<sup>[43]</sup> the holding in *Roque v. People*<sup>[44]</sup> equally applies to carnapping. Hence, in *People v. Bustinera*,<sup>[45]</sup> appellant, who was hired as taxi driver, was found guilty of carnapping under R.A. No. 6539 after he failed to return the Daewoo Racer taxi assigned to him by the cab company where he was employed.