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THIRD DIVISION

[G. R. No. 148233, June 08, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LUISITO D. BUSTINERA, APPELLANT.

D E C I S I O N

CARPIO MORALES, J.:

From the decision[1] of the Regional Trial Court, Branch 217, Quezon City finding appellant Luisito D. Bustinera guilty beyond reasonable doubt of qualified theft[2] for the unlawful taking of a Daewoo Racer GTE Taxi and sentencing him to suffer the penalty of reclusion perpetua, he comes to this Court on appeal.

In an information[3] dated June 17, 1997, appellant was indicted as follows:

> The undersigned accuses LUISITO D. BUSTINERA of the crime of Qualified Theft, committed as follows:
>
> That on or about the 25th day of December up to the 9th day of January, 1997, in Quezon City, Philippines, the said accused being then employed as one [of] the taxi Drivers of Elias S. Cipriano, an Operator of several taxi cabs with business address at corner 44 Commonwealth Avenue, iliman (sic), this City, and as such has free access to the taxi he being driven, did then and there willfully, unlawfully and feloniously with intent to gain, with grave abuse of confidence reposed upon him by his employer and without the knowledge and consent of the owner thereof, take, steal and carry away a Daewoo Racer GTE Taxi with Plate No. PWH-266 worth P303,000.00, Philippine Currency, belonging to Elias S. Cipriano, to the damage and prejudice of the said offended party in the amount of P303,000.00.
>
> CONTRARY TO LAW.

Upon arraignment[4] on March 27, 2000, appellant, assisted by counsel *de oficio,* entered a plea of not guilty. Thereafter, trial on the merits ensued.

From the evidence for the prosecution, the following version is established.

Sometime in 1996, Edwin Cipriano (Cipriano), who manages ESC Transport, the taxicab business of his father, hired appellant as a taxi driver and assigned him to drive a Daewoo Racer with plate number PWH-266. It was agreed that appellant would drive the taxi from 6:00 a.m. to 11:00 p.m, after which he would return it to ESC Transport's garage and remit the boundary fee in the amount of P780.00 per day.[5]

On December 25, 1996, appellant admittedly reported for work and drove the taxi, but he did not return it on the same day as he was supposed to.

Q: Now, Mr. Witness, on December 25, 1996, did you report for work?
A: Yes, sir.

Q: Now, since you reported for work, what are your duties and responsibilities as taxi driver of the taxi company?
A: **That we have to bring back the taxi at night with the boundary.**

Q: How much is your boundary?
A: P780.00, sir.

Q: **On December 25, 1996, did you bring out any taxi?**
A: **Yes, sir.**

Q: Now, when ever (sic) you bring out a taxi, what procedure [do] you follow with that company?
A: That we have to bring back the taxi to the company and before we leave we also sign something, sir.

Q: What is that something you mentioned?
A: On the record book and on the daily trip ticket, sir.

Q: You said that you have to return your taxi at the end of the day, what is then the procedure reflect (sic) by your company when you return a taxi?
A: To remit the boundary and to sign the record book and daily trip ticket.

Q: So, when you return the taxi, you sign the record book?
A: Yes, sir.

Q: **You mentioned that on December 25, 1996, you brought out a taxi?**
A: **Yes, sir.**

Q: **What kind of taxi?**
A: **Daewoo taxi, sir.**

Q: **Now did you return the taxi on December 25, 1996?**
A: **I was not able to bring back the taxi because I was short of my boundary, sir**.[6]

The following day, December 26, 1996, Cipriano went to appellant's house to ascertain why the taxi was not returned.[7] Arriving at appellant's house, he did not

find the taxi there, appellant's wife telling him that her husband had not yet arrived.[8] Leaving nothing to chance, Cipriano went to the Commonwealth Avenue police station and reported that his taxi was missing.[9]

On January 9, 1997, appellant's wife went to the garage of ESC Transport and revealed that the taxi had been abandoned in Regalado Street, Lagro, Quezon City.[10] Cipriano lost no time in repairing to Regalado Street where he recovered the taxi.[11]

Upon the other hand, while appellant does not deny that he did not return the taxi on December 25, 1996 as he was short of the boundary fee, he claims that he did not abandon the taxi but actually returned it on January 5, 1997;[12] and that on December 27, 1996, he gave the amount of P2,000.00[13] to his wife whom he instructed to remit the same to Cipriano as payment of the boundary fee[14] and to tell the latter that he could not return the taxi as he still had a balance thereof.[15]

Appellant, however, admits that his wife informed him that when she went to the garage to remit the boundary fee on the very same day (December 27, 1996),[16] Cipriano was already demanding the return of the taxi.[17]

Appellant maintains though that he returned the taxi on January 5, 1997 and signed the record book,[18] which was company procedure, to show that he indeed returned it and gave his employer P2,500.00[19] as partial payment for the boundary fee covering the period from December 25, 1996 to January 5, 1997.

Continuing, appellant claims that as he still had a balance in the boundary fee, he left his driver's license with Cipriano;[20] that as he could not drive, which was the only work he had ever known, without his driver's license, and with the obligation to pay the balance of the boundary fee still lingering, his wife started working on February 18, 1997 as a stay-in maid for Cipriano, with a monthly salary of P1,300.00,[21] until March 26, 1997 when Cipriano told her that she had worked off the balance of his obligation;[22] and that with his obligation extinguished, his driver's license was returned to him.[23]

Brushing aside appellant's claim that he returned the taxi on January 5, 1997 and that he had in fact paid the total amount of P4,500.00, the trial court found him guilty beyond reasonable doubt of qualified theft by Decision of May 17, 2001, the dispositive portion of which is quoted verbatim:

> **WHEREFORE,** judgment is hereby rendered finding accused guilty beyond reasonable doubt as charged, and he is accordingly sentenced to suffer the penalty of ***Reclusion Perpetua*** and to pay the costs.
>
> In the service of his sentence, accused is ordered credited with four-fifths (4/5) of the preventive imprisonment undergone by him there being no showing that he agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.
>
> **SO ORDERED.**[24] (Emphasis and italics in the original)

Hence, the present appeal anchored on the following assigned errors:

I.

THE COURT *A QUO* GRAVELY ERRED IN CONCLUDING WITHOUT CONCRETE BASIS THAT THE ACCUSED-APPELLANT HAS INTENT TO GAIN WHEN HE FAILED TO RETURN THE TAXI TO ITS GARAGE.

II.

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF QUALIFIED THEFT.[25]

It is settled that an appeal in a criminal proceeding throws the whole case open for review, and it becomes the duty of the appellate court to correct such errors as may be found in the judgment even if they have not been specifically assigned.[26]

Appellant was convicted of qualified theft under Article 310 of the Revised Penal Code, as amended for the unlawful taking of a motor vehicle. However, Article 310 has been modified, with respect to certain vehicles,[27] by Republic Act No. 6539, as amended, otherwise known as "AN ACT PREVENTING AND PENALIZING CARNAPPING."

When statutes are in pari materia[28] or when they relate to the same person or thing, or to the same class of persons or things, or cover the same specific or particular subject matter,[29] or have the same purpose or object,[30] the rule dictates that they should be construed together – *interpretare et concordare leges legibus, est optimus interpretandi modus.*[31] Every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence, [32] as this Court explained in City of Naga v. Agna,[33] viz:

> . . . When statutes are in pari materia, the rule of statutory construction dictates that they should be construed together. This is because enactments of the same legislature on the same subject matter are supposed to form part of one uniform system; that later statutes are supplementary or complimentary to the earlier enactments and in the passage of its acts the legislature is supposed to have in mind the existing legislation on the same subject and to have enacted its new act with reference thereto. Having thus in mind the previous statutes relating to the same subject matter, whenever the legislature enacts a new law, it is deemed to have enacted the new provision in accordance with the legislative policy embodied in those prior statutes unless there is an express repeal of the old and they all should be construed together. **In construing them the old statutes relating to the same subject matter should be compared with the new provisions and if possible by reasonable construction, both should be so construed that effect may be given to every provision of each. However, when the new provision and the old relating to the same subject cannot be reconciled the former shall prevail as it is the latter**

expression of the legislative will . . . [34] (Emphasis and underscoring supplied; citations omitted)

The elements of the crime of theft as provided for in Article 308 of the Revised Penal Code are: (1) that there be taking of personal property; (2) that said property belongs to another; (3) that the taking be done with intent to gain; (4) that the taking be done without the consent of the owner; and (5) that the taking be accomplished without the use of violence against or intimidation of persons or force upon things.[35]

Theft is qualified when any of the following circumstances is present: (1) the theft is committed by a domestic servant; (2) the theft is committed with grave abuse of confidence; (3) the property stolen is either a motor vehicle, mail matter or large cattle; (4) the property stolen consists of coconuts taken from the premises of a plantation; (5) the property stolen is fish taken from a fishpond or fishery; and (6) the property was taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.[36]

On the other hand, Section 2 of Republic Act No. 6539, 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 of persons, or by using force upon things." The elements of carnapping are thus: (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.[37]

Carnapping is essentially the robbery or theft of a motorized vehicle,[38] the concept of unlawful taking in theft, robbery and carnapping being the same.[39]

In the 2000 case of People v. Tan[40] where the accused took a Mitsubishi Gallant and in the later case of *People v. Lobitania*[41] which involved the taking of a Yamaha motorized tricycle, this Court held that the unlawful taking of motor vehicles is now covered by the anti-carnapping law and not by the provisions on qualified theft or robbery.

> **There is no arguing that the anti-carnapping law is a special law, different from the crime of robbery and theft included in the Revised Penal Code.** It particularly addresses 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 of persons, or by using force upon things. But a careful comparison of this special law with the crimes of robbery and theft readily reveals their common features and characteristics, to wit: unlawful taking, intent to gain, and that personal property belonging to another is taken without the latter's consent. **However, the anti-carnapping law particularly deals with the theft and robbery of motor vehicles**. Hence a motor vehicle is said to have been carnapped when it has been taken, with intent to gain, without the owner's consent, whether the taking was done with or without the use of force upon things. **Without the anti-carnapping law, such unlawful taking of a motor vehicle would fall within the purview of either theft or robbery which was certainly the case**