

THIRD DIVISION

[CA-G.R. CR No. 36172, March 16, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NANTE AQUINO Y ALEGRE A.K.A. COL. PEREZ, ACCUSED-APPELLANT.

DECISION

REYES-CARPIO, A., J.:

Accused-appellant NANTE AQUINO y ALEGRE a.k.a. COL. PEREZ^[1] appeals from the Decision^[2] dated June 25, 2013 rendered by the Regional Trial Court of Las Pinas City, Branch 275, in Criminal Case No. 08-0139, for the offense of Carnapping, defined under Section 2 and penalized under Section 14 of Republic Act No. 6539, as amended, committed as follows:

“That on or about the 24th day of August 2007, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without the consent and knowledge of the owner thereof, did then and there willfully, unlawfully and feloniously take and drive away a Toyota Innova, with Plate Number ZAC-761, worth P999,000.00, belonging to ELIAS R. MAUYAG, to the damage and prejudice of the said owner thereof in the aforementioned amount of P999,000.00.

CONTRARY TO LAW.”^[3]

When arraigned on May 30, 2012, appellant pleaded not guilty.^[4] Thereafter, trial on the merits ensued. The summary made by the court *a quo* regarding the evidence of the opposing parties is as follows:

“The prosecution presented Salma Mauyag who testified that: on 24 August 2007 at around 5:00 in the afternoon, while Salma was tending her stall in Metropolis Alabang, her maid Analyn Tapia sent her a text message stating that a male person went inside their house and introduced himself as the uncle of her children; Salma called Analyn to ask the identity of the said person but Analyn replied that the same person took their vehicle which is colored beige Innova with plate number ZAC-761 worth more than Php1 million; upon learning that somebody took their car, Salma immediately went home; when Salma reached their house, there were police officers already present conducting an investigation as the incident was reported by her in-laws to the authorities; Salma gave to the police copies of the certificate of registration (Exh. 'D') and official receipt (Exh. 'D-1') of the stolen vehicle under the name of Elias R. Mauyag, the husband of Salma; the children of Salma, namely, Johaim Mauyag 9 years old and Nizren Mauyag 5 years old were also taken by the fake uncle; when Salma and the police officers

proceeded to the Las Piñas City police station, Salma received the following text message 'your children is here at Burger Machine, come and get them' from a service crew of the Burger Machine located along Alabang-Zapote road; Salma and her brother-in-law went to the place stated in the text message after informing the police officers to follow them; Salma saw her two (2) children at the Burger Machine crying; they went back to the police station to report the incident (Exh. 'K') and to flash an alarm report; Analyn described the suspect to the police who prepared the cartographic sketch (Exh. 'I'); the sketch was shown to Salma after it was finished; after that, Salma and her family went home; when Salma and her brother Mamintal Rakim went on looking for the stolen vehicle, the caretaker of their townhouse sent a text message telling them that their vehicle was seen somewhere in Baclaran; Mamintal Rakim called up their cousin Mamintal Dabao to ask him where he was and when the latter answered that he was in Parañaque, Mamintal Rakim told him that the stolen vehicle was seen in Baclaran; Mamintal Rakim and Mamintal Dabao were not yet finished talking when the latter's wife suddenly saw the stolen vehicle nearby; Mamintal Dabao alighted from the vehicle and accosted Nante Aquino; Mamintal Dabao informed Nante that the vehicle he was driving belongs to his cousin and that it was stolen; Nante showed his driver's license and told Mamintal Dabao that he was mistaken because he is Col. Perez; Nante gave to Mamintal his driver's license and told him to hold it because his wife was frightened; Nante also gave to Mamintal the key of the vehicle and told the latter that he will return; thereafter, Nante ran away; Mamintal tried to chase him but he was not able to catch Nante; Mamintal Dabao called up Salma and told her that the vehicle was recovered; the Anti-Carnapping Office posted a Most Wanted Person. (TSN dated 13 November 2012)

Corroborating the testimony of Salma, Mamintal Dabao testified: on 27 August 2007, he was at his store in front of the Baclaran Church when his nephew SPO2 Mamintal Rakim called asking help regarding a stolen vehicle; after writing down the description of the vehicle, he went to 1734 Sta. Rita Extension, Baclaran, Parañaque City; while on his way, his wife saw the subject vehicle following them at the back; when the vehicle turned to Quirino Avenue, there was a traffic so Mamintal got a chance to go to the driver's side and knock on the window; the driver rolled down his window and shouted at Mamintal 'pare nakakagulat ka! (you frightened me)'; Mamintal told the driver that he was driving a carnapped vehicle; the driver responded by introducing himself as Col. Perez and uttering the following foul words 'putang ina mo pare! Napakalakas ng katok mo! Nakunan ang misis ko! (***** you knocked so hard my wife had miscarriage)'; Mamerto asked for his license so the driver alighted from the vehicle; the lady sitting on the passenger's seat also got out of the vehicle; when the driver handed to Mamerto his license, the driver again swore insisting that he was Col. Perez; when the driver stood in front of the vehicle, Mamerto called the two (2) police officers who were standing nearby informing them that the vehicle was carnapped; the driver ran following his wife who according to the driver had a miscarriage; Mamento learned from the license that the name of the driver is Nante Aquino y Alegre residing at No. 21 Kagandahan Street,

Kawilihan Village, Pasig City; the two (2) police officers chased Nante but they failed to catch him; Mamerto turned over the driver's license (Exh. 'H') and the recovered vehicle to the Las Piñas City police officers who arrived shortly thereafter; Mamerto positively identified Nante Aquino in open court as the same person who introduced himself to Mamerto as Col. Perez. (TSN dated 27 November 2012)

The defense presented accused Nante Aquino who claims that he has nothing to do with the accusation against him. On the date the subject vehicle was recovered, Nante was working in an advertising company as a marketing manager and he was reporting to Mr. Dondie Onate, VP for Operations. Nante met the prosecution witnesses Salma Mauyag and Mamintal Dabao only in court. According to Nante, his driver's license was lost so he executed an affidavit of loss and submitted the same to the LTO to secure another driver's license. Nante cannot think of any reason why Mamerto would point him as the person from whom he recovered the subject vehicle. Nante came to know of this case when he was in Albay. (TSN dated 19 February 2013)"[5]

On June 25, 2013, the court *a quo* rendered its assailed Decision, the decretal portion of which states:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused NANTE AQUINO y ALEGRE GUILTY beyond reasonable doubt of the crime of carnapping under Republic Act No. 6539, as amended and he is hereby sentenced to an indeterminate penalty of Fourteen (14) Years and Eight (8) Months, as minimum, to Seventeen (17) Years and Four (4) Months, as maximum.

SO ORDERED."[6]

Hence, the instant appeal, wherein accused-appellant asserts that the court *a quo* gravely erred in finding him guilty of the offense charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

Carnapping, as defined under Section 2 of Republic Act No. 6539, otherwise known as the Anti-Carnapping Act of 1972, is "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 the crime are as follows: (1) that there is an actual taking of the vehicle; (2) that the offender intends to gain from the taking of the vehicle; (3) that the vehicle belongs to a person other than the offender himself; and (4) 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. [7]

After a careful and judicious examination of the records of this case, We rule that all the elements of carnapping were present and proven during trial.

The subject vehicle, a Toyota Innova, which was definitively ascertained to belong to Elias R. Mauyag as evidenced by the registration papers,[8] was found in accused-appellant's possession on August 27, 2007 or three (3) days after it was reportedly

stolen. During the chance encounter of prosecution witness Mamintal Dabao and accused-appellant on the said date, the latter immediately fled but left his identification card behind when Dabao called the attention of nearby police officers. Worse, accused-appellant, who was apprehended later on, failed to give any reason why he was in possession of Mauyag's vehicle.

Accused-appellant's unexplained possession of the stolen vehicle raises the presumption that he is responsible for the unlawful taking thereof. As a matter of fact, the Supreme Court has uniformly adhered to the rule that a person in possession of a stolen article is presumed guilty of having illegally and unlawfully taken the same unless he/she can satisfactorily explain his/her possession thereof.^[9] This presumption is consonant with Section 3 (j), Rule 131 of the Rules of Court^[10] and validly applies to a case of carnapping for, indeed, the concept of unlawful taking in theft, robbery and carnapping is the same and, had it not been for the enactment of the Anti-Carnapping Act, the unlawful taking of the motor vehicle would certainly fall within the purview of either theft or robbery.^[11] As held in ***People vs. Tan***:^[12]

"There is no arguing that the anti-carnapping law is a special law, different from the crimes of robbery and theft included in the Revised Penal Code. It particularly addresses the taking, with intent of 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 violence or intimidation of persons or 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 before the enactment of said statute."

Accused-appellant having failed to give a plausible explanation for his possession of the stolen Toyota Innova, he is thus presumed to have unlawfully taken the vehicle away from the rightful owner or possessor thereof. As defined by the Supreme Court in ***People vs. Garcia***,^[13] "unlawful taking" is the taking of a 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.

Meanwhile, intent to gain, or *animus lucrandi*, as an element of the crime of carnapping, is an internal act and hence presumed from the unlawful taking of the vehicle.^[14] Actual gain is irrelevant as the important consideration is the intent to gain. The term "gain" is not merely limited to pecuniary benefit but also includes the benefit which in any other sense may be derived or expected from the act which is performed, thus the mere use of the thing which was taken without the owner's consent constitutes gain.^[15] In ***People vs. Calabroso***,^[16] the Supreme Court held