

## **SPECIAL ELEVENTH DIVISION**

**[ CA-G.R. CR No. 35447, November 25, 2014 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RONNIE MORTERA Y FLORES, ACCUSED, CHRISTIAN ACALA Y  
MAGRAMO, ACCUSED-APPELLANT.**

### **DECISION**

**PAREDES, J.:**

#### **THE CASE**

THIS APPEAL<sup>[1]</sup>, originally filed by accused-appellant CHRISTIAN ACALA y MAGRAMO (appellant) and accused RONNIE MORTERA y FLORES (Ronnie),<sup>[2]</sup> seeks to reverse and set aside the Decision<sup>[3]</sup> dated November 7, 2012 of the Regional Trial Court (RTC), Branch 263, Marikina City, in Criminal Case No. 09-11162-MK for *Carnapping*, the dispositive portion of which reads, as follows:

WHEREFORE, above premises considered, this court finds RONNIE MORTERA y FLORES and CHRISTIAN ACALA y MAGRAMO, GUILTY of the crime of carnapping beyond reasonable doubt.

They are hereby sentenced to suffer the penalty of imprisonment for not less than fourteen (14) years and eight (8) months to not more than seventeen (17) years and four (4) months.

Moreover, this court also holds BOTH accused solidarily liable in the amount of one hundred thousand pesos (P100,000.00) by way of civil liability for the damage sustained by the vehicle.

SO ORDERED.

#### **THE ANTECEDENTS**

On July 20, 2009, appellant and Ronnie were charged with the crime of carnapping, defined and penalized under *Republic Act No. 6539*<sup>[4]</sup>, in an Information<sup>[5]</sup> which reads, as follows:

That on or about the 13<sup>th</sup> day of July, 2009, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another, with

intent to gain and without knowledge and against the consent of the owner thereof, did then and there willfully, unlawfully and feloniously carnapped and drive (*sic*) away one Mitsubishi Adventure bearing plate number WDC-673 belonging to complainant AUGUSTO ZANTUA y FLORES that is by taking/stealing said vehicle while it was parked inside complainant's garage and thereafter drove the same away from complainant's residence, to the damage and prejudice of the owner and complainant in an undetermined amount.

CONTRARY TO LAW.

Accused pleaded<sup>[6]</sup> not guilty to the charge and trial of the case ensued.

On July 13, 2009, at around 12:30 early in the morning, Augusto Zantua<sup>[7]</sup> (Augusto) was sleeping at home at 39 Starlight Street, SSS Village, Concepcion Dos, Marikina City, when his wife Carmen Zantua (Carmen)<sup>[8]</sup> woke him up because she heard a noise coming from their gate. She looked out the window and noticed that their vehicle, a Mitsubishi Adventure<sup>[9]</sup>, was no longer in their garage. They went to the police station in their village and reported the matter. Thereafter, a roving police patrol asked if they were the victims of a reported carnapping because a vehicle was found at Marikina Heights. They went to the site and found their vehicle damaged as it hit a post in front of a house. There were barangay tanods and policemen at the site who informed them that two (2) accused were already apprehended. They saw appellant and Ronnie at the police precinct.

PO3 Marvi Veloria<sup>[10]</sup> (PO3 Veloria) was on a roving patrol on board their patrol car in Barangay Concepcion Dos at around 12:33 in the morning of July 13, 2009 when they were informed through the radio, that there was a carnapping incident of a gray Mitsubishi Adventure with plate no. WDC-743 from Starlight Street. Subsequently, they were informed by the guard at Rancho 1 that the afore-described vehicle had been spotted entering the gate of Rancho 1 and headed toward Champaca Street. The police patrol immediately proceeded to the area and saw the Mitsubishi Adventure at a distance of about 150 meters moving in a zigzagging fashion. They turned on their siren and followed the vehicle for about ten (10) minutes. They saw the Mitsubishi Adventure car hit the wall of La Escuela Niño de Jesus. They alighted their patrol car and proceeded to the vehicle when they saw the two (2) accused alight from the vehicle. Appellant alighted from the driver's side while Ronnie came from the passenger side. The two hid under under the vehicle. The Marikina Police immediately arrived at the site and arrested the accused. PO3 Veloria reported the damaged vehicle for investigation. Private complainants were also informed that their vehicle had been located.

Ronnie<sup>[11]</sup> denied the charges against him narrating that on the night of July 12, 2009, he and appellant were at the residence of their co-worker, Rodel Nares, at Dao Street, Marikina Heights, having a drinking spree. They stayed their until 1:30 in the morning of July 13, 2009. They were on their way home along Champaca Street, a mobile car suddenly stopped in front of them and arrested them. They asked why they were being arrested but received the reply, "*Pinahirapan nyo pa kami.*" They were brought to the police precinct and told that they are being

charged with carnapping.

Ronnie claimed that he does not know how to drive and he did not even see the Mitsubishi Adventure when they were arrested at Champaca Street. Appellant<sup>[12]</sup> corroborated Ronnie's testimony.

On November 7, 2012, the RTC rendered the assailed Decision. Hence, this appeal with the lone assigned error<sup>[13]</sup>, as follows:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT CHRISTIAN ACALA GUILTY OF CARNAPPING DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

### **THE ISSUE**

The issue to be resolved in this case is whether or not the RTC erred in convicting the appellant of carnapping.

### **THE COURT'S RULING**

***The appeal is without merit.***

*Section 2 of RA 6539* provides:

SECTION 2. Definition of Terms. — x x x

"Carnapping" 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.

"Motor vehicle" is any vehicle propelled by any power other than muscular power using the public highways, but excepting road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles, which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.

The elements<sup>[14]</sup> of carnapping are, that: (1) there is an actual taking of the vehicle; (2) the vehicle belongs to a person other than the offender himself; (3) the taking is without the consent of the owner thereof, or that the taking was committed