



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 232624

Present:

CARPIO, J.,  
Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

RENATO CARIÑO y GOCONG and  
ALVIN AQUINO y RAGAM\*,  
Accused-Appellants.

Promulgated:

09 JUL 2018

X-----X

DECISION

REYES, JR., J.:

This treats of the Notice of Appeal<sup>1</sup> under Rule 124 of the Rules of Criminal Procedure filed by Renato Cariño y Gocong (Cariño), and Alvin Aquino y Ragam (Aquino) (collectively referred as accused-appellants), seeking the reversal of the Decision<sup>2</sup> dated September 14, 2016, rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 06217, convicting them of Robbery with Homicide under Article 294 of the Revised Penal Code (RPC), and Carnapping under Republic Act (R.A.) No. 6539,<sup>3</sup> as amended.

\* Also referred/spelled as "RAGMA" in some parts of the *rollo*.

<sup>1</sup> CA *rollo*, pp. 235-236.

<sup>2</sup> Penned by Associate Justice Franchito N. Diamante, with Associate Justices Jane Aurora C. Lantion and Carmelita Salandanan-Manahan, concurring; *id.* at 200-222.

<sup>3</sup> AN ACT PREVENTING AND PENALIZING CARNAPPING. Approved on August 26, 1972.

### The Antecedents

An Information was filed against the accused-appellants, charging them with Robbery with Homicide under Article 294 of the RPC, committed as follows:

That on or about the 29<sup>th</sup> day of August, 2002, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, with intent of gain, by means of force, violence and/or intimidation against person, did then and there, willfully, unlawfully and feloniously rob one MIRKO MOELLER of the following personal items:

One (1) cellphone, wallet, small camera, video camera and VCD player, and by reason and on the occasion of the said robbery, said accused pursuant to their conspiracy, with intent to kill, attack, assault and employ personal violence upon the person of MIRKO MOELLER by then and there mauling him with the use of a dumbbell, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said victim.

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

Another Information was also filed against the accused-appellants for the crime of Carnapping as defined and penalized under R.A. No. 6539, as amended, committed as follows:

That on or about the 29<sup>th</sup> day of August, 2002, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, with intent to gain and without knowledge and consent of the owner thereof, did, then and there, willfully, unlawfully and feloniously take, steal and carry away one (1) Unit of Nissan Sentra with Plate No. PN-USD-666 colored silver/pink, of undetermined amount belonging to MIRKO MOELLER, to the damage and prejudice of the said owner thereof.

CONTRARY TO LAW.<sup>5</sup>

The accused-appellants pleaded not guilty to the charges. Trial ensued thereafter.<sup>6</sup>

---

<sup>4</sup> CA rollo, p. 32-33.

<sup>5</sup> Id. at 33.

<sup>6</sup> Id.



### Evidence of the Prosecution

On August 28, 2002, Leonardo Advincula (Advincula) was driving an R&E Taxi with plate number TVH 298, and traversing through East Avenue, Quezon City, when he was flagged down by Cariño in front of the Social Security System building. Cariño asked Advincula to take him to Ortigas. Upon arriving at Ortigas, Cariño asked Advincula to stop along the corner of Julia Vargas and Meralco Avenue. While parked thereat, a silver Nissan Sentra with plate number USD 666 arrived. Cariño alighted and approached the Nissan Sentra. Upon returning to the taxi, Cariño asked Advincula to follow the Nissan Sentra. After driving for a short distance, the Nissan Sentra entered Gate 1 of the Corinthian Gardens Subdivision in Quezon City.<sup>7</sup>

At around 10:39 p.m. of August 28, 2002, Jimmy Caporado (Caporado), a security guard at the Corinthian Gardens Subdivision was manning Gate 1 of the said subdivision. Caporado noticed a Nissan Sentra with plate number USD 666, pass through Gate 1. Trailing behind the Nissan Sentra was an R&E taxi with plate number TVH 298. Upon passing through the gate, the driver of the Nissan Sentra, who Caporado recognized as Mirko Moeller (Moeller), a resident of the said subdivision, opened the car window to inform the former that the passenger inside the taxi was his visitor. During this time, Caporado noticed that Moeller was with Aquino. Obeying Moeller's instructions, Caporado flagged down the taxi cab to take the driver's license, and then let the taxi pass.<sup>8</sup> Caporado identified the passenger of the taxi as Cariño, who he pointed to in open court.<sup>9</sup>

Meanwhile, Advincula dropped off Cariño at No. 11 Young Street, Corinthian Gardens Subdivision. Cariño alighted from the taxi and asked Advincula to wait for his payment. Moeller, the victim, alighted from the Nissan Sentra and approached the taxi to pay for Cariño's fare.<sup>10</sup> Advincula drove away without a passenger.

Subsequently, at around 7:30 a.m. of August 29, 2002, Nena Taro (Taro), the housemaid of Moeller arrived at the latter's home. Taro noticed that the main gate and the door of the house were unlocked. Upon entering the house, she was surprised to see dried blood on the wall beside the light switch. She walked to the backdoor leading to the swimming pool to look for Moeller. There, she was horrified to see him lying face down in front of the swimming pool. Shocked by what she had seen, she rushed out of the house to ask for help. Moments later, the security guards and the police arrived.<sup>11</sup>

---

<sup>7</sup> Id. at 36.

<sup>8</sup> Id.

<sup>9</sup> Id. at 208.

<sup>10</sup> Id. at 35-36.

<sup>11</sup> Id. at 35.

*Meyer*

Months after the incident, on September 4, 2002, Senior Police Officer 4 Celso Jeresano (SPO4 Jeresano), together with other police officers, arrested the accused-appellants in Bagaquin, Baguio City. They were tipped off by an informant about the whereabouts of the said accused-appellants. During the arrest, the police recovered a camera, video camera, and charger from the accused-appellants. The police also tracked down the stolen Nissan Sentra in Isabela, after Cariño pointed to its location.<sup>12</sup> Cariño also surrendered the keys of the Nissan Sentra.

During the trial, Dr. Jose Arnel Marquez (Dr. Marquez), Medico-Legal Officer, testified that the victim's cause of death was intracranial hemorrhage, as a result of traumatic injuries in the head.<sup>13</sup>

### Version of the Defense

The accused-appellants vehemently denied the charges leveled against them.

Aquino claimed that on September 4, 2002, while he was waiting for a jeepney bound for Manila, a tinted Tamaraw FX suddenly stopped in front of him. He was forced to board the said vehicle. While inside, he was handcuffed and shown a cartographic sketch, and was asked if the image was familiar. He said that he did know who the person in the sketch was. Suddenly, he was hit on his right temple and on the back of his head. This caused him to pass out. When he regained consciousness, he found himself inside an unfamiliar small house, with his t-shirt bearing blood stains. Thereafter, he was placed inside a van, where he was subjected to physical abuse. Later on, he was brought to Camp Karingal, where he was again physically abused by the police officers. He was later on brought for inquest proceedings, where he learned that he was being charged with Robbery with Homicide.<sup>14</sup>

In the same vein, Cariño claimed that on September 19, 2002, between 6:00 and 7:00 a.m., a group of police officers suddenly barged inside the house where he and his girlfriend were staying. He was arrested and brought to Isabela. He was photographed while seated in a car, and was told that he stole the same. Then, he was brought to Camp Karingal where he was accused of killing a German national. Cariño denied knowing Aquino.<sup>15</sup>

---

<sup>12</sup> Id. at 36.

<sup>13</sup> Id.

<sup>14</sup> Id. at 37.

<sup>15</sup> Id.

*Meyer*

### Ruling of the Trial Court

On April 29, 2013, the Regional Trial Court (RTC) rendered a Decision<sup>16</sup> convicting the accused-appellants for the crimes of Robbery with Homicide, and Carnapping. The RTC concluded that there was sufficient circumstantial evidence to convict them. In particular, the RTC noted that the prosecution witnesses confirmed that the accused-appellants were the last persons to be seen with the victim.<sup>17</sup> Added to this, the RTC observed that the victim's stolen properties were recovered from the accused-appellants.<sup>18</sup> Also, when the police officer asked them about the stolen car, they were able to pinpoint its exact location.<sup>19</sup> Finding these as sufficient proof of their guilt, the RTC sentenced them to a penalty of *reclusion perpetua* for the crime of robbery with homicide; and the maximum sentence of life imprisonment for the carnapping, considering that Moeller, the owner of the vehicle, was killed on the occasion of the carnapping.<sup>20</sup>

The dispositive portion of the RTC decision reads:

WHEREFORE, in Criminal Case No. Q-02-111947, judgment is hereby rendered finding [the accused-appellants] guilty beyond reasonable doubt of robbery with homicide, and imposing on said accused the penalty of *reclusion perpetua*.

The Court likewise adjudges [the accused-appellants] jointly and severally liable to pay the heirs of the victim Mirko Moller,<sup>21</sup> represented by Anthony Q. Paguio, the following amounts:

1. P75,000.00 as civil indemnity *ex delicto*.
2. P75,000.00 as moral damages.
3. P30,000.00 as exemplary damages.
4. 75,000.00 as temperate damages.
5. The costs of suit.

In Criminal Case No. Q-02-111948, judgment is also rendered finding [the accused-appellants] guilty beyond reasonable doubt of carnapping, in violation of [R.A.] No. 6539, and imposing on said accused the penalty of life imprisonment.

The accused shall be fully credited with their respective periods of preventive detention, pursuant to Article 29 of the [RPC]. They shall henceforth be committed to the National Penitentiary in Muntinlupa City to commence the service of their sentence.

SO ORDERED.<sup>22</sup>

<sup>16</sup> Rendered by Hon. Maria Filomena D. Singh; *id.* at 49-67.

<sup>17</sup> *Id.* at 54; 60.

<sup>18</sup> *Id.* at 60.

<sup>19</sup> *Id.* at 63.

<sup>20</sup> *Id.* at 67.

<sup>21</sup> Spelled as Moller in the RTC decision.

<sup>22</sup> *CA rollo*, p. 67.

Dissatisfied with the ruling, the accused-appellants filed an appeal with the CA.

### **Ruling of the CA**

On September 14, 2016, the CA rendered the assailed Decision,<sup>23</sup> affirming the RTC's conviction against the accused-appellants for Robbery with Homicide, and Carnapping. Echoing the trial court's findings, the CA affirmed that all the facts proven, and taken together, created an unbroken chain of circumstances proving their guilt beyond reasonable doubt.<sup>24</sup> The CA held that their defense of alibi was unavailing, and faltered against the positive identification of the prosecution witnesses.<sup>25</sup> Likewise, the CA found that the results of the police investigation revealed that violence was employed against the victim, which resulted to the latter's death. Also, the camera, video camera and charger, which all belonged to the victim, were found in the possession of the accused-appellants when they were arrested in Baguio City.<sup>26</sup> They were not able to explain the reason why they possessed the said items.<sup>27</sup> Added to this, they knew the location of the stolen vehicle.<sup>28</sup> Consequently, the CA concluded that all these established circumstances show that the accused-appellants conspired with each other to commit the crimes charged.<sup>29</sup>

As for the penalties, the CA affirmed the sentence of *reclusion perpetua* for the charge of Robbery with Homicide, but modified the amount of damages awarded by the RTC. Specifically, the CA deleted the award of exemplary damages finding that there were no aggravating circumstances that attended the commission of the crime. Also, the CA reduced the amount of temperate damages to Php 50,000.00, to conform with recent jurisprudence.<sup>30</sup>

As for the crime of Carnapping, the CA found that the RTC erred in imposing the maximum penalty for the said crime. The CA pointed out that the Information charging the accused-appellants of carnapping, failed to indicate that the victim was killed in the course of the commission of the carnapping or on the occasion thereof. Neither was there an allegation that the carnapping was committed with violence or intimidation of persons. The CA surmised that based on the attendant circumstances, the victim was presumably dead when the accused-appellants unlawfully took the vehicle as a means to escape the crime scene. Thus, there being no causal connection

---

<sup>23</sup> *Rollo*, pp. 2-24.

<sup>24</sup> *CA rollo*, p. 209.

<sup>25</sup> *Id.* at 208-209.

<sup>26</sup> *Id.* at 216.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 216-217.

<sup>29</sup> *Id.* at 217-218.

<sup>30</sup> *Id.* at 220.



between the carnapping and the killing, the accused-appellants should be meted with the lesser sentence of fourteen (14) years and eight (8) months and not more than seventeen (17) years and four (4) months, for the crime of carnapping.<sup>31</sup>

The decretal portion of the assailed CA decision reads:

**WHEREFORE**, in view of the foregoing, the appeal is **DENIED**. The Decision dated April 29, 2013 of the Quezon City [RTC], Branch 219, in Criminal Case Nos. Q-02-111947 and Q-02-111948 is **AFFIRMED with MODIFICATION**, in that:

1.) In Criminal Case No. Q-02-111947, the award of exemplary damages is **DELETED** and the award of temperate damages is hereby **REDUCED to Php 50,000.00**.

In addition, accused-appellants are jointly and severally **ORDERED to PAY** interest on all the damages imposed at the rate of six percent (6%) per annum from the date of finality of this decision until fully paid.

2.) In Criminal Case No. Q-02-111948, the accused-appellants are sentenced to suffer the indeterminate penalty of **Fourteen (14) years and Eight (8) months**, as minimum, to **Seventeen (17) years and Four (4) months**, as maximum.

All other aspects of the *fallo* of the assailed Decision **STAND**.

**SO ORDERED.**<sup>32</sup>

Aggrieved, the accused-appellants filed the instant Notice of Appeal under Rule 124 of the Rules on Criminal Procedure.

### **The Issue**

The main issue raised for the Court's resolution is whether or not the prosecution proved the guilt of the accused-appellants for the crimes of Robbery with Homicide, and Carnapping.

In a Manifestation<sup>33</sup> dated January 25, 2018, the accused-appellants dispensed with the filing of their Supplemental Brief, and prayed that their respective Appellant's Brief filed before the CA, be considered in lieu of their Supplemental Brief.

---

<sup>31</sup> Id. at 221.

<sup>32</sup> Id.

<sup>33</sup> *Rollo*, pp. 43-44.

*Meyer*

In support of their plea for exoneration, the accused-appellants assert that the trial court erroneously convicted them on the basis of insufficient circumstantial evidence. They point out that none of the prosecution witnesses specifically identified them as the ones who actually robbed and killed the victim, and carnapped the latter's vehicle.<sup>34</sup> In fact, they stress that no less than the trial court stated that no one witnessed the killing of the victim or the taking of the latter's properties.<sup>35</sup> They harp on the fact that the absence of any eyewitness engenders doubt on their culpability.<sup>36</sup>

Second, the accused-appellants claim that the trial court erred in concluding that they took the stolen articles, simply because they were found in possession thereof. Added to this, they point out that the ownership of the personal items was not even definitely determined.<sup>37</sup>

Third, anent their conviction for carnapping, they aver that the prosecution failed to prove the presence of all the elements of the said crime. The trial court erred in concluding that the act of changing the vehicle's plate number constitutes proof of intent to gain.<sup>38</sup> They posit that at most, the vehicle was merely used as a means to escape.<sup>39</sup> Also, they question how they could be convicted of carnapping with homicide, when the victim was already dead when the car was taken.<sup>40</sup>

Finally, the accused-appellants bewail that there was no evidence proving that they conspired to commit the crimes. There was no showing that they were in fact motivated by a common purpose to perpetrate the crimes.<sup>41</sup>

On the other hand, the People, through the Office of the Solicitor General, (OSG) counters that the prosecution sufficiently proved the guilt of the accused-appellants beyond reasonable doubt. The OSG avers that the trial court correctly found the nexus between the robbery and the killing of the victim. There is no doubt that Moeller was killed. The fact of death was established through the Medico-Legal Report, and the testimony of Dr. Marquez, who described the killing of Moeller as brutal and intentional. Likewise, the OSG points out that Aquino admitted to SPO4 Jeresano that he killed Moeller.<sup>42</sup>

---

<sup>34</sup> CA rollo, pp. 38-39; 145-147.

<sup>35</sup> Id. at 39; 146.

<sup>36</sup> Id. at 40.

<sup>37</sup> Id. at 42; 149-150.

<sup>38</sup> Id. at 44; 150-151

<sup>39</sup> Id. at 44; 151.

<sup>40</sup> Id. at 44.

<sup>41</sup> Id. at 44; 151.

<sup>42</sup> Id. at 83.

*Meyer*

In the same vein, the OSG maintains that the trial court also correctly found Aquino guilty beyond reasonable doubt of carnapping. Records show that all the elements of carnapping were present in the instant case. Aquino, in conspiracy with Cariño, without the consent of Moeller, and with intent to gain, and by means of violence against the person of the victim, took the latter's Nissan Sentra. The OSG posits that intent to gain is evident when one takes property belonging to another against the latter's will.<sup>43</sup>

### **Ruling of the Court**

***The instant appeal is bereft of merit.***

***The Prosecution Established  
Beyond Reasonable Doubt the Guilt  
of the accused-appellants for the  
Crime of Robbery with Homicide***

The RPC defines and penalizes the crime of robbery as follows:

**Article 293.** *Who are guilty of robbery.* - Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence or intimidation of any person, or using force upon anything shall be guilty of robbery.

**Article 295.** *Robbery with violence against or intimidation of persons; Penalties.* - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.

Parenthetically, to sustain a conviction for robbery with homicide under Article 294 of the RPC, the prosecution must prove the existence of the following elements, namely, (i) "the taking of personal property is committed with violence or intimidation against persons; (ii) the property taken belongs to another; (iii) the taking is [with] *animo lucrandi*; and (iv) by reason of the robbery or on the occasion thereof, homicide is committed."<sup>44</sup>

Notably, the phrase "by reason of the robbery," covers a situation where the killing of the person is committed either before or after the taking of personal property.<sup>45</sup> It is imperative to establish that "the intent to rob must precede the taking of human life but the killing may occur before,

---

<sup>43</sup> Id. at 84-85.

<sup>44</sup> *People v. Barra*, 713 Phil. 698, 705 (2013), citing *People v. Quemeggen, et al.*, 611 Phil. 487, 497 (2009).

<sup>45</sup> *People v. Diu, et al.*, 708 Phil. 218, 236 (2013).

*Meyer*

during or after the robbery.”<sup>46</sup> Remarkably, homicide is said to be committed by reason of, or on the occasion of robbery if for instance, it was committed: (i) “to facilitate the robbery or the escape of the culprit; (ii) to preserve the possession by the culprit of the loot; (iii) to prevent discovery of the commission of the robbery; or (iv) to eliminate witnesses in the commission of the crime.”<sup>47</sup> Thus, a conviction for robbery with homicide requires certitude that the robbery is the main purpose and objective of the malefactor and the killing is merely incidental to the robbery.<sup>48</sup> Consequently, once it has been established with certainty that a person was killed on the occasion of the robbery, the accused may be convicted of robbery with homicide.

It is equally important to note that a conviction for robbery with homicide need not be proven solely through direct evidence of the malefactor’s culpability. Rather, the offender’s guilt may likewise be proven through circumstantial evidence, as long as the following requisites are present: (i) there must be more than one circumstance; (ii) the inference must be based on proven facts; and (iii) the combination of all circumstances produces a conviction beyond doubt of the guilt of the accused.<sup>49</sup> Imperatively, all the circumstances taken together must form an unbroken chain of events leading to one fair reasonable conclusion pointing to the accused, to the exclusion of all others, as the author of the crime.<sup>50</sup> To rule otherwise, would lead to the pernicious situation wherein felons would be set free to the detriment of the judicial system, and thereby cause danger to the community.<sup>51</sup>

In the case at bar, the circumstances surrounding the fateful day of August 28, 2002, when the victim was robbed and killed, lead to an unbroken chain of facts, which establish beyond reasonable doubt the accused-appellants’ culpability, to wit:

- i. At 10:39 p.m. of August 28, 2002, security guard Caporado saw Moeller pass through Gate 1 of Corinthian Gardens Subdivision in his Nissan Sentra. Moeller was accompanied by Aquino, who Caporado recognized and identified in open court.
- ii. The Nissan Sentra was trailed by the R&E taxi driven by Advincula.
- iii. Caporado recognized Cariño as the passenger of the taxi.
- iv. Advincula, the driver of the taxi, confirmed that Cariño was his passenger. He testified that he dropped off Cariño at the house of a foreigner in Corinthian Gardens Subdivision.

<sup>46</sup> *People v. Torres*, 743 Phil. 553, 564 (2014), citing *Crisostomo v. People*, 644 Phil. 53, 61 (2010).

<sup>47</sup> *People v. Balute*, 751 Phil. 980, 986 (2015), citing *People v. Cachuela, et al.*, 710 Phil. 728, 743-744 (2013).

<sup>48</sup> *People v. Torres, et al.*, supra, at 561, citing *Crisostomo v. People*, supra.

<sup>49</sup> REVISED RULES ON EVIDENCE, Rule 133, Section 4.

<sup>50</sup> *People of the Philippines v. Hermie Paris y Nicolas and Ronel Fernandez y Dela Vega*, G.R. No. 218130, February 14, 2018, citing *Dungo v. People*, 762 Phil. 630, 679 (2015).

<sup>51</sup> *People v. Quitola*, 790 Phil. 75, 87-88 (2016), citing *People v. Uy*, 664 Phil. 483, 499-500 (2011).

*Meyer*

- v. Moeller's Nissan Sentra was seen to have exited Gate 4 of Corinthian Gardens Subdivision at around 12:00 midnight on August 29, 2002.
- vi. In the morning of August 29, 2002, Taro, the victim's housemaid, found the latter at the backyard of his home, lifeless.
- vii. A dumbbell was found near the body of the victim.
- viii. The Medico-Legal Report showed that Moeller died due to intra-cranial hemorrhage, which was caused by a blow inflicted using a hard and blunt object.
- ix. During their arrest, Cariño and Aquino were caught in possession of a camera, video camera and charger.
- x. Taro confirmed that the said items belonged to Moeller.
- xi. Cariño admitted to the police officers that the Nissan Sentra was in Isabela. True enough, the said vehicle was recovered in the said location.
- xii. SPO4 Jeresano testified that the accused-appellants admitted that the Nissan Sentra belonged to Moeller.
- xiii. Aquino even surrendered the keys of the Nissan Sentra to the police.

The fact that the accused-appellants were the last persons seen with Moeller prior to his demise was clearly confirmed through the testimony of the prosecution witnesses Caporado and Advincula.

Moreover, the accused-appellants' unexplained possession of the stolen articles gave rise to the presumption that they were the taker and the doer of the robbery.<sup>52</sup> This presumption applies considering that (i) the property was stolen; (ii) the crime was committed recently; (iii) the stolen property was found in their possession; and (iv) they were unable to explain their possession satisfactorily.<sup>53</sup> It must be noted that during their arrest, the police officers found Moeller's camera, video camera and charger in their hideout. They were unable to offer any satisfactory and believable explanation justifying their possession of the subject articles. All that they did to rebut this presumption was to question the ownership of the said articles. This defense fails considering that Taro identified the said items and confirmed that they indeed belonged to Moeller. Her familiarity with the said items cannot be doubted considering that she was the personal maid of the victim for several years, and had cleaned the said items on a regular basis.

---

<sup>52</sup> *People of the Philippines v. Enrile Donio y Untalan*, G.R. No. 212815, March 1, 2017; RULES OF COURT, Rule 131, Section 3(j).

<sup>53</sup> *People v. Lagat, et al.*, 673 Phil. 351, 367 (2011), citing *Litton Mills, Inc. v. Sales*, 481 Phil. 73, 90 (2004).

*Meyer*

***The accused-appellants are also  
Guilty Beyond Reasonable Doubt  
for the Crime of Simple Carnapping***

Carnapping is defined and penalized under Section 2 of R.A. No. 6539, or the Anti-Carnapping Act of 1972, as amended, 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.”

Notably, the elements of carnapping are: (i) the taking of a motor vehicle which belongs to another; (ii) 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 (iii) the taking is done with intent to gain. Essentially, carnapping is the robbery or theft of a motorized vehicle.<sup>54</sup>

Significantly, the taking of the motor vehicle 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>55</sup> The intent to gain or the *animus lucrandi*, being an internal act, is presumed from the unlawful taking of the motor vehicle.<sup>56</sup> Notably, “[a]ctual gain is irrelevant as the important consideration is the intent to gain.”<sup>57</sup> Likewise, the term gain is not limited to a 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 already constitutes gain.<sup>58</sup>

In the case at bar, the prosecution proved the existence of all the elements of carnapping beyond reasonable doubt. The Nissan Sentra, which was owned by Moeller, was stolen by the accused-appellants from the victim’s house, and brought to Isabela. To eradicate all traces of its previous ownership, the accused-appellants even changed the vehicle’s plate number. However, despite their attempt to conceal their crime, the police discovered that the retrieved vehicle bore the same engine and chassis number as the victim’s stolen vehicle.

Likewise, the police found the stolen vehicle in Isabela, no less from the information supplanted by Cariño himself. Certainly, Cariño’s knowledge about the vehicle’s exact location shows his complicity in its taking. Added to this, Cariño was in possession of the car keys, which he surrendered to the police.

---

<sup>54</sup> *People v. Bustinera*, 475 Phil. 190, 203 (2004).

<sup>55</sup> *People of the Philippines v. Enrile Donio y Untalan*, supra note 52, citing *People v. Lagat, et al.*, supra note 53.

<sup>56</sup> *People v. Bustinera*, supra, at 208 (2004), citing *People v. Obillo*, 411 Phil. 139, 150 (2001).

<sup>57</sup> *People v. Bustinera*, id., citing *Venturina v. Sandiganbayan*, 271 Phil. 33, 39 (1991).

<sup>58</sup> *People v. Bustinera*, id.

*Meyer*

***The accused-appellants Conspired and Confederated with Each Other to Commit the Said Crimes.***

It becomes all too apparent that all the interwoven circumstances form a chain of events that lead to the inescapable conclusion that the accused-appellants robbed and killed Moeller, and took his Nissan Sentra. It is evident that the accused-appellants conspired and confederated with each other to commit the said horrid crimes.

It bears stressing that direct proof of a previous agreement to commit a crime is not indispensable in conspiracy. Rather, conspiracy may be deduced from the mode and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves, when such point to a joint purpose and design.<sup>59</sup> Undoubtedly, from the moment the accused-appellants met in Ortigas, went to Moeller's home, took his valuables and car, up to the time when they were both arrested in possession of the said valuables, lead to no other conclusion than that they hatched a criminal scheme, synchronized their acts for unity in its execution, and aided each other for its consummation. Consequently, once a conspiracy has been established, the act of one malefactor, is the act of all.<sup>60</sup>

***The Defenses of Denial and Alibi are Weak and Easily Crumble Against the Positive Identification Made by Reliable and Credible Witnesses***

In seeking exoneration from the charges filed against them, the accused-appellants interpose the defenses of denial and alibi.

The Court is not convinced.

Time and again, the Court has consistently ruled that a denial and alibi cannot prevail over the positive identification of the assailants made by a credible witness.<sup>61</sup> In fact, a denial is often viewed with disfavor especially if it is uncorroborated.<sup>62</sup> Also, an alibi will only prosper, if the accused can show that it was physically impossible for him/her to be at the scene of the crime.<sup>63</sup> Thus, as between the categorical testimony which has a ring of

---

<sup>59</sup> *People v. Napalit*, 444 Phil. 793, 806 (2003), citing *People v. Pulusan*, 352 Phil. 953, 974-975 (1998).

<sup>60</sup> *People v. De Leon*, 608 Phil. 701, 720 (2009).

<sup>61</sup> *People v. Peteluna, et al.*, 702 Phil. 128, 141 (2013).

<sup>62</sup> *Id.*

<sup>63</sup> *People v. Ramos, et al.*, 715 Phil. 193, 203 (2013).

*Meyer*

truth on the one hand, and a mere denial and alibi on the other, the former is generally held to prevail.<sup>64</sup>

This said, the accused-appellants' defenses of denial and alibi falter in light of the positive identifications made by Caporado and Advincula, who saw them at the house of Moeller on the night that the latter was killed. It bears noting that Caporado confirmed that he saw Aquino riding with Moeller in his Nissan Sentra on the fateful night of August 28, 2002. Similarly, Caporado confirmed that he saw Cariño on board the taxi that trailed the Nissan Sentra. There was no reason for Caporado, a disinterested witness, to falsely testify against the accused-appellants.

Equally telling is the fact that Advincula corroborated Caporado's testimony, by affirming that he dropped off Cariño at the victim's home in Corinthian Gardens Subdivision. In fact, Advincula related that the driver of the Nissan Sentra was a foreigner, which fit the description of the victim.

Moreover, the Court finds that Cariño lied about not knowing the victim. Taro affirmed on the witness stand that she saw Cariño one month before the victim's death, at the latter's home.<sup>65</sup> This fact is significant because it established the relationship between Cariño and the victim, which the former denied. Clearly, Cariño's denial is nothing but a vain attempt to exculpate himself from liability.

All told, there was no reason for the prosecution witnesses to lie and falsely testify against the accused-appellants. Hence, absent any proof of ill-motive on their part, there can be no doubt that their testimonies certainly bear the earmarks of truth and candor.

### ***The Penalty for Robbery with Homicide***

The trial court correctly sentenced the accused-appellants with the penalty of *reclusion perpetua*, pursuant to Article 294, paragraph 1 of the RPC,<sup>66</sup> for their crime of robbery with homicide.

As for the amount of damages imposed, the Court affirms the awards of civil indemnity of Php 75,000.00, and moral damages of Php 75,000.00.<sup>67</sup> The Court likewise agrees that the victim's heirs should be awarded

<sup>64</sup> *People v. Piosang*, 710 Phil. 519, 527-528 (2013).

<sup>65</sup> CA rollo, p. 53.

<sup>66</sup> REVISED PENAL CODE.

Article 294. *Robbery with violence against or intimidation of persons; Penalties.* - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.

x x x x

<sup>67</sup> *People v. Jugueta*, 783 Phil. 807, 839 (2016).

*Meyer*

temperate damages of Php 50,000.00. Temperate damages may be recovered when some pecuniary loss has been suffered but definite proof of its amount was not presented in court.<sup>68</sup>

However, the Court finds that the CA erred in deleting the award of exemplary damages. Remarkably, exemplary damages should be granted as a punishment for the reprehensible act committed against the victim. This is in consonance with the Court's ruling in *People v. Jugueta*,<sup>69</sup> where exemplary damages worth to Php 75,000.00 was awarded to the victim's heirs.

### *The Penalty for Carnapping*

R.A. No. 6539, as amended by Section 20 of R.A. No. 7659, provides the penalties for carnapping, as follows:

**SEC. 14. *Penalty 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 and underscoring Ours)

It must be noted that the Information charging the accused-appellants with carnapping under R.A. No. 6539, as amended, failed to allege that the carnapping was committed by means of violence against, or intimidation of, any person, or force upon things. While these circumstances were proven at the trial, they cannot be appreciated because they were not alleged in the Information. Hence, pursuant to the strict constitutional mandate that an accused must always be informed of the nature and the cause of the accusation against him,<sup>70</sup> the accused-appellants may only be convicted of simple carnapping. Accordingly, the CA was correct in modifying the maximum sentence of life imprisonment originally imposed by the RTC, and reducing the same to fourteen (14) years and eight (8) months, as minimum, to seventeen (17) years and four (4) months, as maximum. This term of imprisonment imposed by the CA is likewise in consonance with Section 1 of the Indeterminate Sentence Law which ordains that if the offense committed is punishable by a special law, the court shall sentence

<sup>68</sup> Id. at 846-847.

<sup>69</sup> 783 Phil. 807 (2016).

<sup>70</sup> 1987 CONSTITUTION, Article III, Section 14, paragraph 2.

*Meyer*

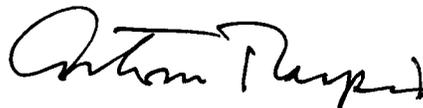
the accused to an indeterminate penalty expressed at a range whose maximum term shall not exceed the maximum fixed by the special law, and the minimum term not be less than the minimum prescribed.<sup>71</sup>

**WHEREFORE**, premises considered, the instant appeal is hereby **DISMISSED for lack of merit**. Accordingly, the Decision dated September 14, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06217, convicting accused-appellants Renato Cariño y Gocong and Alvin Aquino y Ragam of the crimes of Robbery with Homicide, and Carnapping, are hereby **AFFIRMED with MODIFICATION**. In Criminal Case No. Q-02-111947 for Robbery with Homicide, the accused-appellants are ordered to pay exemplary damages worth Php 75,000.00 to the heirs of victim Mirko Moeller. All the amounts due shall earn a legal interest of six percent (6%) *per annum* from the finality of this ruling until the full satisfaction thereof. The assailed decision is affirmed in all other respects.

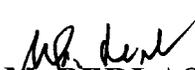
**SO ORDERED.**

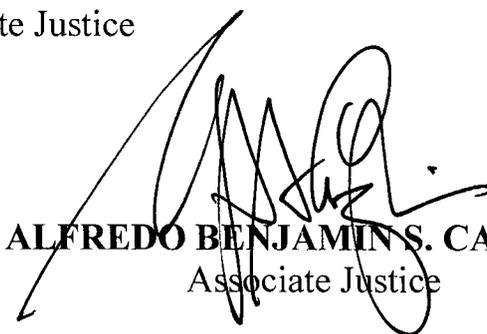
  
**ANDRES B. REYES, JR.**  
 Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
 Senior Associate Justice  
 Chairperson

  
**DIOSDADO M. PERALTA**  
 Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

  
**ALFREDO BENJAMINS S. CAGUIOA**  
 Associate Justice

<sup>71</sup> Act No. 4103, Section 1.

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. No. 296  
The Judiciary Act of 1948,  
as amended)