



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **15 March 2021** which reads as follows:*

“G.R. No. 249163 (*People of the Philippines v. Jerome Bugarin y Sevilla*). – Considering the failure of the parties to file their respective supplemental briefs required in the Resolution¹ dated December 10, 2019 within the period which expired on March 13, 2020 and March 19, 2020, the Court resolves to **DISPENSE WITH** the filing of the aforesaid supplemental briefs.

We affirm.

Section 3 of Republic Act No. 10883 (RA 10883) or the “New Anti-Carnapping Act of 2016”² defines Carnapping, thus:

SECTION 3. Carnapping; Penalties.— 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. x x x x

To sustain a conviction, the prosecution must establish the following elements:

- (a) the taking of a motor vehicle which belongs to another;

¹ *Rollo*, p. 20.

² New Anti-Carnapping Act of 2016, Republic Act No. 10883, July 17, 2016.

15/21

(b) 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

(c) the taking is done with intent to gain.³

The prosecution had sufficiently established all these elements.

Senior Police Officer 3 Roland Brecio (PO3 Brecio) positively identified accused-appellant as the person they saw pushing a tricycle along the national highway. Rommel Eblacas (Eblacas) reported that the same tricycle owned by her sister and entrusted to him was stolen just less than an hour ago, thus:

Q You stated that you and other members of the Candelaria police conducted a follow-up?

A Yes, sir.

Q You were one among the Candelaria police officers who actually conducted follow-up?

A Yes, sir.

Q And, you stated that you were able to intercept a tricycle which is similar to the reported missing tricycle of Rommel Eblacas?

A Yes, sir.

Q When you first saw this, what was the accused doing with the tricycle?

A He pushed the tricycle along the national highway of Brgy. Malabon, sir.

x x x x

Q The person pushing the tricycle, is he here?

A Yes, sir.

Q Will you please point to him?

A That second man seated at the bench, sir. (when called upon answered the name Jerome Bugarin)⁴

Accused-appellant failed to justify his possession of the stolen tricycle, let alone, produce proof of ownership. Thus, per Section 3(j), Rule 131 of the Rules of Court, the presumption that a person found in possession of a thing wrongfully taken from another is the taker and the doer of the whole act⁵ pointedly applies to him.

³ See *People v. Calabroso*, 394 Phil. 658, 672 (2000).

⁴ TSN, December 7, 2017, pp. 64-65.

⁵ (j) That a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act; otherwise, that things which a person possesses, or exercises acts of ownership over, are owned by him; (Rules of Court, July 1, 1997).

Meanwhile, accused-appellant's intent to gain is presumed from his unexplained possession just less than an hour after it was reported missing. Intent to gain or *animus lucrandi*, which is an internal act, is presumed from the unlawful taking of a motor vehicle. 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. As here, the mere use of the thing which was taken without the owner's consent, constitutes gain.⁶

Accused-appellant nonetheless counters that he did not personally take the tricycle from Eblacas' compound as the same was allegedly just handed to him and his friends by a person named "Infinity," thus:

Q And as maybe gathered from your counter-affidavit, you are confirming to this court that you were found by the police with the tricycle, subject matter of this case, correct?

A Yes, sir.

Q What are you telling the court now is that it was not you who took the tricycle from the possession of the private complainant?

A Yes, sir.

Q And you alleged a friend named "Infinity" as the person who brought you this tricycle?

A Yes, sir.

Q What is the full name of "Infinity"?

A I do not know his real name because I came to know this person only thru facebook, sir.

Q And when the police approached you, you were told that the tricycle you were in control and in possession at that time, was stolen, is that correct?

A Yes, sir, and I was surprised when I was told by the police officers that the tricycle was allegedly the subject of theft, sir.⁷

As to who "Infinity" was, accused-appellant could not even give his full name, much less, his personal circumstances or whereabouts. Accused-appellant, too, failed to disclose the respective identities of his so called friends. Indeed, it is utterly against human experience to accept a thing of value from a stranger without even asking where it came from and why so suddenly the giver became generous to people he did not even know. Against accused-appellant's incredible story coupled with his denial and alibi, SPO3 Breccio's positive identification must prevail.

Penalty

⁶ See *People v. Donio*, 806 Phil. 578, 593 (2017).

⁷ TSN, April 10, 2018, p. 101.

Section 3 of RA 10883 provides that when Carnapping is committed without violence against or intimidation of persons, or force upon things, the person found guilty thereof shall, regardless of the value of the motor vehicle taken, be punished by imprisonment for not less than twenty (20) years and one (1) day but not more than thirty (30) years.⁸

The Indeterminate Sentence Law provides that if the offense is punished by a special law, the court shall impose a prison term, the minimum of which shall not be less than the minimum term provided by law for the offense, and the maximum term not to exceed the maximum fixed by law.⁹

The Court of Appeals, therefore, correctly upheld the trial court's imposition of imprisonment of twenty (20) years and one (1) day as minimum, to twenty-three (23) years as maximum.

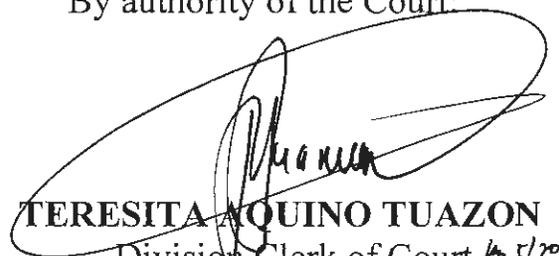
All told, the Court of Appeals correctly affirmed accused-appellant's conviction for the crime of Carnapping.

WHEREFORE, the appeal is **DISMISSED** and the Decision dated May 31, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11562, **AFFIRMED**.

Accused-appellant **JEROME BUGARIN y SEVILLA** is found guilty of violation of Republic Act No. 10883 otherwise known "The Anti-Carnapping Act of 2016." He is sentenced to twenty (20) years and one (1) day as minimum, to twenty-three (23) years as maximum.

SO ORDERED.

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 5/20*
21 MAY 2021

⁸ New Anti-Carnapping Act of 2016, Republic Act No. 10883, July 17, 2016.

⁹ Indeterminate Sentence Law, Act No. 4103, December 5, 1933.

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HON. PRESIDING JUDGE (reg)
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Please notify the Court of any change in your address.
GR249163. 3/15/2021A(99)URES *R/D*