



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 12, 2023** which reads as follows:*

“**G.R. No. 255592 (PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee v. ROMMEL JOSEPH GUEVARRA y MATEL, Accused-Appellant).** — The present appeal seeks the reversal of the Court of Appeals’ (CA) August 27, 2020 Decision¹ in CA-G.R. CR-HC No. 10787, which affirmed the Decision² of the Regional Trial Court, Branch 143, Makati City (RTC) dated February 2, 2018 in Criminal Case No. R-MKT-17-01693-CR, finding the accused-appellant guilty of Carnapping.

ANTECEDENTS

Rommel Joseph Guevarra y Matel (Rommel) was charged with carnapping under the following Information:

On or about the 19th day of May 2017 or subsequent thereto, in the City of Makati, the Philippines, accused, with intent to gain but without violence against or intimidation of persons, or force upon things, and without the knowledge and consent of complainant Firepoint Holdings Inc., did then and there willfully, unlawfully and feloniously take, steal, carnap and drive away a Toyota Landcruiser bearing plate number ZRL 424 and with engine no. IVD-0025128 and chassis no. JTMHV09J684013250 belonging to the complainant, to the latter’s damage and prejudice.

CONTRARY TO LAW.³

When arraigned, Rommel pleaded “not guilty.” At the trial, the prosecution established that on May 19, 2017, upon the instruction of

¹ *Rollo*, pp. 4-16; penned by Associate Justice Ronaldo Roberto B. Martin with the concurrence of Associate Justices Manuel M. Barrios and Tita Marilyn B. Payoyo-Villordon of the Thirteenth Division, Court of Appeals, Manila.

² *CA rollo*, pp. 43-48. Penned by Presiding Judge Maximo M. De Leon.

³ *Id.* at 55.

Firepoint Holdings, Inc. (Firepoint) Chairman Pedro E. Roxas (Pedro), Security Guard Rogelio Tigranes (Rogelio) ordered Rommel, who was then Pedro's family driver, to get a sticker at Greenfield Subdivision, Sta. Rosa, Laguna, for a silver 2008 Toyota Land Cruiser with plate number ZRL 424. The next day, Rogelio noticed that Rommel and the vehicle were nowhere to be found. He tried to contact Rommel, but the latter could not be reached. Rogelio reported the incident to Pedro, who was abroad then. Following Pedro's instruction, Rogelio called the Radio Frequency Identification (RFID) office. He discovered that from May 19, 2017 to May 23, 2017, the vehicle passed through San Pedro, Skyway, Susana Heights, Ninoy Aquino International Airport, and Airport Road tollgates as ingress and/or egress.⁴ Pedro subsequently told Rogelio that someone had informed him that Rommel was planning to mortgage the vehicle at the Okada Hotel and Casino for PHP 500,000.00. On May 23, 2017, at 4:30 p.m., Rommel returned to Pedro's house with the car and asked Rogelio for copies of the Official Receipt and the Certificate of Registration (OR/CR). Instead of handing the OR/CR, Rogelio confiscated the car key, sought the assistance of the *barangay* officials, and brought Rommel to the police station.⁵

The prosecution presented two written explanations of Rommel. In the first letter, Rommel explained that he had an accident along Sta. Rosa Highway. He went to Carmona, Cavite, and had the vehicle fixed for four days. In his second letter, Rommel begged for Pedro's forgiveness and claimed he was only influenced by gambling.⁶

In his defense, Rommel insisted that the vehicle was involved in an accident on his way to Greenfield Subdivision. However, he failed to get the details of the other car since it was raining when the accident occurred. Furthermore, he claimed to have had difficulty searching for a mechanic to fix the vehicle. Rommel asserted that he sent a text message to Rogelio, informing him of the accident and the car's whereabouts, but he never responded. He also called Pedro after he returned the vehicle.⁷

⁴ *Rollo*, pp. 12-13.

May 19, 2017	10:25:32	Skyway Main Toll Plaza	San Pedro South Entry
May 21, 2017	14:48:44	Susana Heights Nor/Sth	Skyway Main Toll Plaza
May 21, 2017	15:02:37	NAIA, LN 3	NAIA, LN 3
May 21, 2017	15:04:29	NAIA Main B, LN 6	NAIA Main B, LN 6
May 21, 2017	17:21:08	Airport Road LN 1	Airport Road LN 1
May 21, 2017	17:40:46	Skyway Main Toll Plaza	San Pedro South Entry/Exit
May 21, 2017	23:35:02	Susana Heights Nor/Sth Ext, LN 0	Skyway Main Toll Plaza B, LN 1
May 21, 2017	23:35:41	NAIA MAIN B, LN 6	NAIA Main B, LN 6
May 22, 2017	02:10:41	NAIA MAIN A, LN 6	NAIA Main A, LN 6
May 22, 2017	02:26:48	Skyway Main Toll Plaza	San Pedro South Entry/Exit
May 22, 2017	16:11:19	San Pedro South Entry, Exit LN 0	Calamba South Exit/North Entry LN 15
May 22, 2017	16:16:16	Ayala TR3, LN 8	Ayala TR3, LN 8
May 23, 2017	16:05:20	Susana Heights Nor/Sth Ent/Ext LN 0	Skyway Main Toll Plaza B, LN 2

⁵ *Id.* at 13.

⁶ *CA rollo*, pp. 29-30.

⁷ *Id.* at 30.

On February 2, 2018, the RTC convicted Rommel of carnapping, thus:⁸

WHEREFORE, viewed in the light of the foregoing considerations, this court finds accused **ROMMEL JOSEPH GUEVARRA y MATEL GUILTY** beyond reasonable doubt of the crime of violation of RA 10883 or the New Anti-Carnapping Act of 2016 and he is hereby sentenced to suffer the penalty of after applying the Indeterminate Sentence Law, imprisonment of Twenty (20) Years and One (1) Day, as the minimum period to Twenty Three (23) Years and Four (4) Months, as the maximum period.

Cost against the accused.

SO ORDERED.⁹ (Emphasis in the original)

Dismayed, Rommel elevated the case to the CA.¹⁰ Rommel maintained that all the elements of carnapping were not proven. Rommel mainly averred that the information regarding his intention to mortgage the subject vehicle is inadmissible for being hearsay.¹¹ In contrast, the People of the Philippines (People), through the Office of the Solicitor General (OSG), countered that Rommel's unexplained possession of the vehicle for several days and his letter of apology proved his guilt.¹²

On August 27, 2020, the CA affirmed the RTC's findings and convicted Rommel of Carnapping, *viz.*:¹³

WHEREFORE, the appeal is **DISMISSED** for lack of merit. The Decision dated 2 February 2018 of the Regional Trial Court, Branch [1]43, Makati City, in Criminal Case No. R-MKT-17-01693-CR finding appellant Rommel Joseph Guevarra y Matel guilty of the crime for Violation of R.A. 10883 sentencing him to an indeterminate sentence of Twenty (20) years and One (1) Day, as the minimum period to Twenty Three (23) Years and Four (4) Months, as the Maximum period is **AFFIRMED**.

SO ORDERED.¹⁴ (Emphasis in the original)

Hence, this appeal.¹⁵ Both parties manifested to adopt their respective appeal briefs filed with the CA as their supplemental briefs.¹⁶

RULING

⁸ *Id.* at 43-48.

⁹ *Id.* at 48.

¹⁰ *Id.* at 10-11.

¹¹ *Id.* at 25-40. Appellant assigns the following errors of the trial court: I. The court *a quo* gravely erred convicting the accused-appellant for the crime of carnapping under R.A. No. 10883 notwithstanding the fact that the elements for its commission are lacking; and II. The court *a quo* gravely erred disregarding the accused-appellant's defense of denial.

¹² *Id.* at 55-62.

¹³ *Rollo*, pp. 4-16.

¹⁴ *Id.* at 27-29.

¹⁵ *CA rollo*, pp. 101-103

¹⁶ *Rollo*, pp. 26-29 and 31-33.

To begin with, Rommel committed a procedural mistake in elevating the case before the Court by a notice of appeal. In general, appeals of criminal cases shall be brought to the Court by filing a petition for review on *certiorari* under Rule 45 of the Rules of Court.¹⁷ An exception to the rule is when the CA imposes a penalty of *reclusion perpetua* or life imprisonment, in which case, the appeal shall be made by filing a notice of appeal before the CA.¹⁸ Here, the penalty imposed by the CA is neither *reclusion perpetua* or life imprisonment. Therefore, Rommel should have filed a petition for review on *certiorari*. Nonetheless, in the interest of justice, the Court will treat the ordinary appeal as an appeal by *certiorari* as the accused's liberty is at stake.

Accused-appellant is guilty of carnapping

Section 3 of Republic Act (RA) No. 10883¹⁹ 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 (1) the taking of a motor vehicle that 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. Essentially, carnapping is the robbery or theft of a motorized vehicle.²⁰

The prosecution positively established all these elements.

First, it is undisputed that the subject vehicle belongs to Firepoint, as evidenced by Certificate of Registration No. 261616272 issued under its name. A certificate of registration of a motor vehicle in one's name creates a strong presumption of ownership. The person in whose favor it has been issued is the owner unless proved otherwise.²¹ In any event, Firepoint's ownership of the subject vehicle was sufficiently alleged in the Information and admitted by both parties.

Second, the element of unlawful taking is present. Unlawful taking is deemed complete from the moment the offender gains possession of the thing, even if he has no opportunity to dispose of the same.²² In this case, Rogelio positively declared that Rommel took the vehicle upon Pedro's order to secure a sticker. The possession of the car was initially lawful since it was freely

¹⁷ Section 3. *How appeal taken.* —

x x x x

(e) Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rules 45.

¹⁸ Section 13 (c), Rule 124 of the 2000 Revised Rules of Court, as amended by A.M. No. 00-5-03-SC, provides:

SECTION 13. Certification or Appeal of Cases to Supreme Court. —

x x x x

(c) In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals.

¹⁹ Entitled "NEW ANTI-CARNAPPING ACT OF 2016," effective July 17, 2016.

²⁰ *People v. Cariño*, 835 Phil. 1041, 1057–1058 (2018) [Per J. Reyes, Jr., Second Division].

²¹ *Uy, et al. v. Sergio, Jr. and Jacalon*, G.R. No. 232814, February 3, 2021 [Per J. Inting, Third Division].

²² *People v. Donio*, 806 Phil. 578, 592 (2017) [Per J. Peralta, Second Division].

conveyed to Rommel by the registered owner. However, the possession became unlawful when Rommel retained the vehicle in his possession for several days despite the lack of authority and repeated demands by Firepoint to return it.

In *People v. Bustinera (Bustinera)*,²³ the nature of the accused's possession of the taxi was initially lawful since he was hired as a taxi driver and was entrusted to its possession. However, the Court explained that the failure of the accused to return the vehicle to its owner, contrary to company practice and against the owner's consent, transformed the character of the possession into an unlawful one.²⁴ In that case, the accused admits that he was aware his possession of the taxi was no longer with the owner's consent as the latter was already demanding its return. As in *Bustinera*, the company only allowed Rommel to use the vehicle for a specific purpose, *i.e.*, to obtain a car sticker. There is nothing else to show that Rommel was permitted to divert the use of the vehicle for other purposes and that his action was considered regular company practice. In addition, the records are bereft of evidence that Pedro knew the vehicle's whereabouts from May 19, 2017 to May 23, 2017 and that its taking was with his authorization. Verily, Rommel's continued use and possession of the vehicle without Firepoint's knowledge and consent constitutes an unlawful taking.

Third, intent to gain on the part of Rommel was established. Intent to gain or *animus lucrandi* is an internal act presumed from the unlawful taking of the motor vehicle. To overcome this presumption, the defense bears the burden to prove that intent to gain was absent despite the actual taking of the car.²⁵ 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 performed. The mere use of the thing taken without the owner's consent constitutes gain.²⁶

Here, intent to gain is reasonably presumed from Rommel's admitted taking and unexplained possession of the vehicle. In addition, Rommel explained that the vehicle figured in an accident and that it took several days to repair it. However, these bare excuses cannot rebut the presumption of intent to gain absent evidence to justify his claims, such as the description of the errant vehicle, photographs, police report, or receipt for the cost of repair of the subject vehicle. Moreover, the vehicle's RFID Statement of Account showed that it actively travelled and passed through SLEX, Skyway, Susana Heights, NAIA, and Airport Road toll gates on those dates it was supposedly at the repair shop.

That the vehicle was returned several days after Rommel was instructed to secure a sticker will not entitle him to an acquittal. In *Bustinera*, citing

²³ 475 Phil. 190 (2004) [Per J. Carpio Morales, Third Division].

²⁴ *Id.* at 206-207.

²⁵ *People v. Mejares*, 823 Phil. 459 (2018) [Per J. Leonen, Third Division].

²⁶ *People v. Bustinera*, 475 Phil. 190, 208 (2004) [Per J. Carpio, Third Division]

*Villacorta v. Insurance Commission*²⁷ and *Association of Baptists for World Evangelism, Inc. v. Fieldmen's Insurance Co, Inc.*,²⁸ the Court explained that even if the motor vehicle that was taken without the owner's consent is later returned, there is theft, there being intent to gain as the use of the thing unlawfully taken constitutes gain, viz.:

Assuming, despite the totally inadequate evidence, that the taking was "temporary" and for a "joy ride", the Court sustains as the better view that which holds that when a person, either with the object of going to a certain place, or learning how to drive, or enjoying a free ride, takes possession of a vehicle belonging to another, without the consent of its owner, he is guilty of theft because by taking possession of the personal property belonging to another and using it, **his intent to gain is evident since he derives therefrom utility, satisfaction, enjoyment and pleasure.** Justice Ramon C. Aquino cites in his work Groizard who holds that the use of a thing constitutes gain and Cuello Calon who calls it "hurt de uso."²⁹ (Emphasis supplied)

Besides, the un rebutted testimony of the prosecution witnesses that Rommel was planning to mortgage the vehicle, his act of asking for its OR/CR, and his admission in his letter of apology that he was hooked on gambling are clear manifestations of his intent to gain. The CA aptly held:

Moreover, the defense was not able to refute the prosecution's allegation that appellant attempted to mortgage the subject vehicle at the Okada Hotel and Casino. **In fact, the second letter of appellant shows that he was asking for forgiveness from Mr. Roxas for the wrong he had committed as he was driven by his gambling vice. Thus, the said letter of appellant admitting his involvement in gambling and asking for forgiveness coupled with Tigranes' testimony that appellant had asked for the subject OR CR are circumstantial evidence proving that appellant indeed attempted to mortgage the subject vehicle at the casino.** Apparently, appellant was unsuccessful at completely mortgaging the subject vehicle because he did not have with him the OR CR of the subject vehicle which was why he even asked for it from Tigranes.³⁰ (Emphases supplied)

Against the overwhelming evidence of the prosecution, Rommel denies that he attempted to mortgage the vehicle. However, the uncorroborated defense of denial cannot prevail over the positive testimony of the prosecution witnesses identifying Rommel as the perpetrator of the crime. These negative defenses are self-serving and undeserving of weight in law, absent clear and convincing proof.³¹

²⁷ 188 Phil. 497 (1980) [Per Acting C.J. Teehankee, First Division].

²⁸ 209 Phil. 505 (1983) [Per J. Melencio-Herrera, First Division].

²⁹ Supra note 21 at 208-209.

³⁰ *Rollo*, p. 13.

³¹ *People v. Laguda*, G.R. No. 244843, October 7, 2020 [Per J. Lopez, J., Third Division]; *People v. Togahan*, 551 Phil. 997 (2007) [Per J. Tinga, Second Division].

All told, we affirm the conviction of Rommel for the crime of Carnapping.

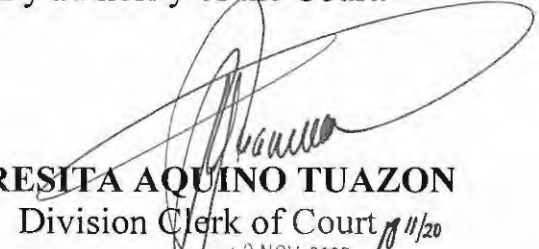
Penalty

Section 3 of RA No. 10883 provides that when carnapping is committed without violence against or intimidation of persons, or force upon things, the person found guilty of the crime 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.³² Under the Indeterminate Sentence Law, as applied to an offense punishable 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. Accordingly, Rommel is sentenced to suffer the indeterminate penalty of twenty (20) years and one (1) day, as minimum, to twenty-three (23) years, as maximum.³³

FOR THESE REASONS, the Appeal is **DENIED**. The Decision dated August 27, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 10787 is **AFFIRMED** with **MODIFICATION** in that accused-appellant Rommel Joseph Guevarra y Matel is **GUILTY** beyond reasonable doubt of carnapping and is sentenced to suffer the indeterminate penalty of twenty (20) years and one (1) day, as minimum, to twenty-three (23) years, as maximum.

SO ORDERED." (Leonen, *SAJ*, on official business)

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court 11/20
 20 NOV 2023

³² 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.

Any person who is found guilty of carnapping 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, when the carnapping is committed without violence against or intimidation of persons, or force upon things; and by imprisonment for not less than thirty (30) years and one (1) day but not more than forty (40) years, when the carnapping is committed by means of violence against or intimidation of persons, or force upon things; and the penalty of life imprisonment shall be imposed when the owner, driver, or occupant of the carnapped motor vehicle is killed or raped in the commission of the carnapping.

x x x

³³ *People v. Bugarin*, G.R. No. 249163, March 15, 2021 [Per Notice, Second Division].

*PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

*OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

*ROMMEL JOSEPH GUEVERRERA y MATEL (reg)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR GENERAL (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 143
Makati City
(Crim. Case No. R-MKT-17-01693-CR)

JUDGMENT DIVISION (x)
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OFFICE OF THE CHIEF ATTORNEY (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 10787

*with a copy of the August 27, 2020 CA Decision
Please notify the Court of any change in your address.
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