



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 212815

Present:

CARPIO, J., *Chairperson*,  
PERALTA,  
DEL CASTILLO,\*  
MENDOZA, and  
LEONEN,\*\* JJ.

- versus -

ENRILE DONIO y UNTALAN,  
Accused-Appellant.

Promulgated:

01 MAR 2017

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DECISION

PERALTA, J.:

This is an appeal from the November 4, 2013 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05418, which affirmed the Decision<sup>2</sup> dated January 24, 2012 of the Regional Trial Court (RTC), Branch 59, Angeles City in Criminal Case No. 04-594.

The facts are as follows:

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 1, 2014. (On official leave)

\*\* On official leave.

<sup>1</sup> Penned by Associate Justice Danton Q. Bueser, with Associate Justices Amelita G. Tolentino and Rodil V. Zalameda, concurring, *rollo*, pp. 2-12.

<sup>2</sup> Penned by Presiding Judge Ma. Angelica T. Paras-Quiambao, CA *rollo*, pp. 42-61.

Accused-appellant Enrile Donio y Untalan (*Donio*) was charged with violation of Republic Act (*R.A.*) No. 6539, otherwise known as Anti-Carnapping Act of 1972, as amended by R.A. No. 7659. Co-accused Val Paulino (*Paulino*) and one @Ryan (*Ryan*), both remains at-large, were similarly charged. The accusatory portion of the Information reads:

That on or about the 26<sup>th</sup> day of November 2003, in the Municipality of Mabalacat, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with intent of gain and without the knowledge and consent of the owner, did then and there willfully, unlawfully and feloniously take, steal and carry away with them one (1) Honda TMX 155 tricycle, colored black and with Body [No.] 817, valued at Ninety-Six Thousand ([P]96,000.00) Pesos, Philippine Currency, and on the occasion thereof, Raul L. Layug, being the driver and owner of the said Honda TMX 155 tricycle, was killed with the use of a mini jungle bolo.

Contrary to law.<sup>3</sup>

Pending Donio's arraignment, PO1 Ernessito N. Bansagan and the National Bureau of Investigation, Central Luzon Regional Office submitted the returns on the Warrant of Arrest against Ryan and Paulino, respectively, stating that the said persons could not be located at the given addresses, and requested for alias warrants against them. The trial court issued the Alias Warrant of Arrest against accused Ryan on September 4, 2004 and against Paulino on November 4, 2004.<sup>4</sup>

At his arraignment, Donio, assisted by his counsel *de officio*, pleaded not guilty to the offense charged. During the pre-trial conference, it was stipulated that Donio is the same person whose name appears in the Information and was arraigned before that court.

Thereafter, the trial on the merits ensued.

On November 26, 2003, six police officers of the Concepcion Police Station, Tarlac City, headed by SPO4 Leodegario Taberdo (*SPO4 Taberdo*), conducted a checkpoint along the junction of MacArthur Highway in relation to the campaign of the Philippine National Police against hijacking, carnapping, and kidnapping, hailing cargo trucks and closed vans, and issuing cards to southbound vehicles.<sup>5</sup>



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<sup>3</sup> *Id.* at 42.

<sup>4</sup> *Id.* at 43.

<sup>5</sup> *Id.* at 46.

At 2:30 in the morning on November 26, 2003, a speeding tricycle abruptly stopped a few meters from the checkpoint and caught the attention of the police officers. SPO4 Taberdo and two others approached the vehicle. The driver, later identified as Donio, was noticeably agitated while repeatedly kicking the starter of the tricycle. When asked for his identity, he introduced himself as Raul Layug (*Raul*) and then handed to SPO4 Taberdo a temporary license bearing the said name. The police officers asked the driver and his companions, co-accused Paulino and Ryan, to bring the vehicle, a Honda TMX 155 tricycle with Body No. 817, to the checkpoint when they failed to produce its certificate of registration and the official receipt.<sup>6</sup>

Upon visual search of the vehicle, they discovered a bloodstained mini jungle bolo inside. They seized the tricycle and the bolo, and then brought the three to the police station. At 9 o'clock in the morning, Donio asked permission to leave in order to get the registration papers. The officers allowed him, however, he did not return.<sup>7</sup>

Meanwhile, around 6:30 in morning of the same date, Rodrigo Layug (*Rodrigo*) was searching for his brother Raul, the victim, who has not returned home since last night. Raul was the driver of Rodrigo's Honda TMX 155 tricycle with Body No. 817. Rodrigo met with his tricycle driver cousin from Mawaque to ask him if he saw his brother. His cousin accompanied him to Barangay Madapdap where they found the remains of Raul. Words spread about his death. Thereafter, a tricycle driver informed them that he saw a vehicle similar to Rodrigo's at the Concepcion Police Station. Rodolfo, Raul and Rodrigo's other brother, went to the station where he learned that Paulino and Ryan were released.<sup>8</sup>

Sometime in December 2003, the brothers returned to the station upon learning that Donio was apprehended. On December 7, 2003, the Chief of Police summoned SPO4 Taberdo to identify the driver who asked permission to retrieve the registration papers but did not return at the Concepcion Police Station. Upon seeing Donio, the disgruntled SPO4 Taberdo asked him, "Why did you do that?" He was referring to the incident when Donio did not return. It was also that same day that he learned Donio's real identity.<sup>9</sup>

Dr. Reynaldo C. Dizon (*Dr. Dizon*) conducted the post-mortem examination of Raul's body and determined that he sustained stab wounds caused by a sharp instrument.



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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 45.

<sup>9</sup> *Supra* note 5.

Defense's sole witness, Donio, a 35-year-old grass cutter and a resident of Madapdap, Mabalacat, Pampanga, denied the accusations. As a sugarcane plantation worker, he has a long palang for harvesting and cutting. It was not similar to the sharp and pointed mini jungle bolo. As a stay-in plantation worker, he does not leave the workplace for six months. His wife visits him instead.

On November 24, 2003, he was harvesting sugarcane in Capas, Tarlac. However, from the evening of November 25, 2003 until the next day, he was at home after his wife fetched him to tend to their sick child. He first learned of the carnapping charge when the police officers came to his house looking for a certain Val Paulino. He was taken to the municipal hall where he was investigated and detained for five days. Three officers beat and electrocuted him for three hours forcing him to admit the crime.<sup>10</sup>

The RTC convicted Donio of the crime of carnapping with homicide. The dispositive portion of the decision reads:

WHEREFORE, the Court finds the accused ENRILE U. DONIO guilty beyond reasonable doubt of the offense of Carnapping as defined in Section 2 and penalized under Section 14 of Republic Act No. 6539, as amended by Republic Act No. 7659, and hereby sentences him to suffer the penalty of *reclusion perpetua*, with credit of his preventive imprisonment.

Accused ENRILE U. DONIO is further ordered to pay the heirs of the victim Raul L. Layug the following amounts: Fifty thousand pesos ([P]50,000.00) as civil indemnity and Twenty-five thousand pesos ([P]25,000.00) as actual damages.

No costs.

SO ORDERED.<sup>11</sup>

The trial court ruled that the prosecution established all the elements of the crime. Donio failed to substantiate his presence at another place at the time of the perpetration of the offense or the physical impossibility of his presence at the *locus criminis* or its immediate vicinity at the time of the incident.<sup>12</sup> Under the Rules, SPO4 Taberdo's action as police officer enjoys the presumption of regularity. In the absence of evidence showing that he was motivated by bad faith or ill-will to testify against Donio, SPO4 Taberdo's categorical identification of the accused stands.<sup>13</sup>



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<sup>10</sup> *Id.* at 49.

<sup>11</sup> *Id.* at 61.

<sup>12</sup> *Id.* at 56.

<sup>13</sup> *Id.* at 57.

In a Decision dated November 4, 2013, the CA denied Donio's appeal and affirmed the decision of the RTC. The CA found his averment that he was taken from his house, tortured and made to sign a blank sheet of paper as highly implausible. His sworn affidavit was replete with details which were unlikely the product of creative imagination of the police. There was no proof that the police singled him out, or was impelled by an evil or ulterior motive. The said affidavit was voluntarily and freely executed with the assistance of counsel.<sup>14</sup> The *fallo* of the decision states:

**WHEREFORE**, the appealed Decision is **AFFIRMED**.

**SO ORDERED**.<sup>15</sup>

Hence, the instant appeal was instituted.

In its Manifestation and Motion in Lieu of Supplemental Brief,<sup>16</sup> the Office of the Solicitor General (*OSG*) informed this Court that it opted not to file a supplemental brief for the same would only be a repetition of the raised arguments considering that all relevant matters regarding Donio's guilt for the crime of carnapping with homicide were extensively argued and discussed in the People's Brief<sup>17</sup> dated July 9, 2013.

Likewise, Donio, through the Public Attorney's Office, manifested his intention not to file a supplemental brief and prayed that the case be deemed submitted for decision.<sup>18</sup>

In essence, the issue to be resolved by this Court in this appeal is whether the prosecution has successfully proven beyond reasonable doubt that Donio is guilty of the crime of carnapping with homicide.

After a judicious review of the records and the submissions of the parties, this Court finds no cogent reason to reverse Donio's conviction.

At the outset, the CA noted that the prosecution should have filed an Information for the special complex crime of qualified carnapping in aggravated form.<sup>19</sup> While it is necessary that the statutory designation be stated in the information, a mistake in the caption of an indictment in designating the correct name of the offense is not a fatal defect as it is not the designation that is controlling but the facts alleged in the information which

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<sup>14</sup> *Rollo* p. 8.  
<sup>15</sup> *Id.* at 12. (Emphasis in the original)  
<sup>16</sup> *Id.* at 22-24.  
<sup>17</sup> *CA rollo* pp. 71-91.  
<sup>18</sup> *Rollo* pp. 27-28.  
<sup>19</sup> *Supra* note 16.



determines the real nature of the crime.<sup>20</sup> Recently, it was held that failure to designate the offense by the statute or to mention the specific provision penalizing the act, or an erroneous specification of the law violated, does not vitiate the information if the facts alleged therein clearly recite the facts constituting the crime charged.<sup>21</sup> The recital of the ultimate facts and circumstances in the complaint or information determines the character of the crime and not the caption or preamble of the information or the specification of the provision of the law alleged to have been violated.<sup>22</sup> In the case at bar, the acts alleged to have been committed by Donio are averred in the Information, and the same described the acts defined and penalized under Sections 2 and 14 of R.A. 6539, as amended.

The elements of carnapping as defined and penalized under the R.A. No. 6539, as amended are the following:

1. That there is an actual taking of the vehicle;
2. That the vehicle belongs to a person other than the offender himself;
3. 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; and
4. That the offender intends to gain from the taking of the vehicle.<sup>23</sup>

Under the last clause of Section 14 of the R.A. 6539, as amended, the prosecution has to prove the essential requisites of carnapping and of the homicide or murder of the victim, and more importantly, it must show that the original criminal design of the culprit was carnapping and that the killing was perpetrated "*in the course of the commission of the carnapping or on the occasion thereof.*"<sup>24</sup> In other words, to prove the special complex crime of carnapping with homicide, there must be proof not only of the essential elements of carnapping, but also that it was the original criminal design of the culprit and the killing was perpetrated in the course of the commission of the carnapping or on the occasion thereof.<sup>25</sup>

Records show that all the elements of carnapping in the instant case are present and proven during the trial.

The tricycle was definitely ascertained to belong to Rodrigo, as evidenced by a Deed of Conditional Sale in his favor.<sup>26</sup> Donio was found driving the vehicle in the early morning of November 26, 2003, the same day Rodrigo was looking for his missing brother Raul. Also, SPO4 Taberdo

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<sup>20</sup> *People v. Bali-balita*, 394 Phil. 790, 814 (2000).

<sup>21</sup> *People v. Victor Padit*, G.R. No. 202978, February 1, 2016.

<sup>22</sup> *Id.*

<sup>23</sup> *People v. Bernabe and Garcia*, 448 Phil. 269, 280 (2003).

<sup>24</sup> *People v. Fabian Urzais y Lanurias*, G.R. No. 207662, April 13, 2016.

<sup>25</sup> *People v. Aquino*, 724 Phil. 739, 757 (2014).

<sup>26</sup> CA rollo p. 44.

positively identified Donio as the driver he flagged down at the checkpoint in his testimony, viz.:

x x x x

Q – On or about that time 2:45 early in the morning of November 26, 2003, could you recall if there was any unusual incident that required your attention as Police Officers manning the check-point?

A – Yes, sir.

Q – What is that incident?

A – During that time, we are issuing pass card among vehicles going to South when suddenly a speeding tricycle approaching our PCP its engine suddenly stop.

Q – Who was driving the tricycle when the engine suddenly stop[s]?

A – The one who gave me the Driver's License was Raul Layug.

Q – If this person who gave his license as Raul Layug is here present today, will you be able to identify him?

A – Yes, sir.

Q – Will you please look around the premises of the Court and point to him.

A – This one, sir. We came to know later on that his real name is Enrile Donio.

INTERPRETER:

Witness pointed to accused Enrile Donio.

x x x<sup>27</sup>

"Unlawful taking" or *apoderamiento* is the taking of the motor 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.<sup>28</sup> Section 3 (j), Rule 131 of the Rules of Court provides the presumption 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.

The presumption that a person found in possession of the personal effects belonging to the person robbed and killed is considered the author of the aggression, the death of the person, as well as the robbery committed, has been invariably limited to cases where such possession is either unexplained or that the proffered explanation is rendered implausible in view of independent evidence inconsistent thereto.<sup>29</sup> The said principle may be applied in this case as the concept of unlawful taking in theft, robbery and

<sup>27</sup> TSN, May 11, 2006, pp. 8-9.

<sup>28</sup> *People v. Lagat, et al.*, 673 Phil. 351, 367 (2011).

<sup>29</sup> *People v. Geron*, 346 Phil. 14, 25 (1997). (Emphasis supplied).

carnapping being the same.<sup>30</sup> Here, Donio failed to produce the vehicle's papers at the checkpoint. He impersonated the victim before the police officers when his identity was asked, and left under the guise of getting the said documents. It was also established that he and the others were strangers to Rodrigo. Donio's unexplained possession, coupled with the circumstances proven in the trial, therefore, raises the presumption that he was one of the perpetrators responsible for the unlawful taking of the vehicle and Raul's death.

Intent to gain or *animus lucrandi*, which is an internal act, is presumed from the unlawful taking of the 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. Thus, the mere use of the thing which was taken without the owner's consent constitutes gain.<sup>31</sup> Donio's intent to gain from the carnapped tricycle was proven as he and his companions were using it as means of transportation when they were confronted by the Concepcion police officers.

Having established that the elements of carnapping are present in the instant case, We now discuss the argument that the circumstantial evidence presented by the prosecution are insufficient to convict Donio of the crime of carnapping with homicide.

He alleges that while it is true that criminal conviction may be predicated on a series of circumstantial evidence, the same must be convincing, plausible and credible. It cannot be discounted that SPO4 Taberdo testified only on the circumstances after the alleged carnapping. He failed to establish his alleged participation prior to or during the actual taking of the vehicle. The facts established by SPO4 Taberdo's testimony – the Concepcion police operatives caught him in possession of the stolen tricycle on November 26, 2003; the tricycle was registered under the name of Rodrigo; and he was in possession of Raul's license – are insufficient bases and do not lead to an inference exclusively consistent with his guilt beyond reasonable doubt.

Such contention fails scrutiny. The lack or absence of direct evidence does not necessarily mean that the guilt of the accused can no longer be proved by any other evidence. Circumstantial, indirect or presumptive evidence, if sufficient, can replace direct evidence as provided by Section 4, Rule 133 of the Rules of Court, which, to warrant the conviction of an accused, requires that: (a) there is more than one (1) circumstance; (b) the facts from which the inferences are derived have been proven; and (c) the combination of all these circumstances results in a moral certainty that the

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<sup>30</sup> *People v. Bustinera*, G.R. No. 148233, June 8, 2004, 431 SCRA 284.

<sup>31</sup> *Id.*

accused, to the exclusion of all others, is the one who committed the crime.<sup>32</sup> Hence, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in such a way as to leave no reasonable doubt as to the guilt of the accused.<sup>33</sup>

After a careful perusal of the records, this Court finds that the confluence of the following pieces of circumstantial evidence, consistent with one another, establishes Donio's guilt beyond reasonable doubt:

*First*, Donio was driving the tricycle when he, Paulino and Ryan were accosted during a checkpoint at the junction of the MacArthur Highway by elements of the Concepcion Police Station at around 2:30 in the morning on November 26, 2003;

*Second*, his possession of the vehicle was not fully explained as he failed to produce its registration papers;

*Third*, he was in possession of the victim's temporary license. He even presented it and introduced himself as Raul to the police;

*Fourth*, a bloodstained mini jungle bolo was found inside the tricycle;

*Fifth*, Rodrigo ascertained that Raul was the driver of his tricycle, and that he was looking for him on the same day that Donio and the others were flagged down;

*Sixth*, Raul was last seen driving the tricycle at 10:00 in the evening on November 25, 2003 when he passed by at the Mawaque Terminal at the corner of MacArthur Highway and Mawaque Road.<sup>34</sup>

*Seventh*, the Bantay Bayan of Madapdap Resettlement found Raul's body at around 6:30 in the morning on November 26, 2003 at a vacant lot towards the road to Sta. Lucia Resettlement corner Barangay Dapdap.

*Eighth*, Raul sustained multiple stab wounds caused by a sharp instrument as depicted in the post-mortem examination sketch by Dr. Dizon and reflected in the Certificate of Death, which states:

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<sup>32</sup> *People v. Bañez y Baylon*, G.R. No. 198057, September 21, 2015.

<sup>33</sup> *People v. Lagat, et al.*, *supra* note 28.

<sup>34</sup> Records, p. 11, Advance Information Report, Mabalacat Municipal Police Station.



## 17. CAUSES OF DEATH:

- I. Immediate Cause: Cardio respiratory arrest  
Antecedent Cause: Hemo-pneumothorax L  
Underlying Cause: Penetrating Stab Wounds, Multiple.<sup>35</sup>

*Ninth*, Donio was subsequently apprehended and SPO4 Taberdo positively identified him as the driver they flagged down at the checkpoint.<sup>36</sup>

Likewise, the victim's lifeless body was found sprawled with multiple stab wounds and was noted in a state of rigor mortis. *Rigor mortis*, which consists in the stiffening of the muscular tissues and joints of the body setting in at a greater or less interval after death, may be utilized to approximate the length of time the body has been dead. In temperate countries, it usually appears three to six hours after death but in warmer countries, it may develop earlier. In tropical countries, the usual duration of *rigor mortis* is twenty-four to forty-eight hours during cold weather and eighteen to thirty-six hours during summer. When *rigor mortis* sets in early, it passes off quickly and vice-versa.<sup>37</sup>

From the foregoing, it was established that Raul was last seen driving the tricycle at 10:00 in the evening on November 25, 2003, and that his body was discovered at 6:30 in the morning the next day. Considering the condition of the body upon discovery, he could have been killed between 10:00 in the evening and 3:30 in the morning on the next day. Donio and his companions were hailed at the checkpoint at around 2:30<sup>38</sup> in the morning on November 26, 2003 aboard the missing tricycle. Taking into account the distance of the Mawaque Terminal area or of the vacant lot near Barangay Dapdap from the junction of the MacArthur Highway in Concepcion, Tarlac and the time they were hailed at the checkpoint, it can be logically concluded that Donio and the others were in contact with Raul during the approximate period of the latter's time of death. Also, it was during that period that they gained possession of the vehicle. Thus, the only rational conclusion that can be drawn from the totality of the foregoing facts and circumstances is that Donio and his companions, to the exclusion of others, are guilty of carnapping the tricycle and of killing Raul in the course thereof.

Moreover, when Donio was brought to the police station, he asked permission from the officers to get the registration papers but never returned. Undoubtedly, Donio's flight is an indication of his guilt or of a guilty mind.

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<sup>35</sup> CA rollo p. 52.

<sup>36</sup> *Id.* at 53-54.

<sup>37</sup> *People v. Dulay*, G.R. No. 92600, January 18, 1993, 217 SCRA 103, 119, citing Solis, *Legal Medicine* 127 [1987 ed.] (underscoring supplied).

<sup>38</sup> 2:45 in other parts of Records.



Indeed, the wicked man flees though no man pursueth, but the righteous are as bold as a lion.<sup>39</sup>

This Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.<sup>40</sup> The factual findings of the appellate court generally are conclusive, and carry even more weight when said court affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the records, or that they are so glaringly erroneous as to constitute grave abuse of discretion.<sup>41</sup> In the case at bar, the RTC, as affirmed by the CA, gave credence to the testimony of the prosecution witness. Records are bereft of evidence which showed ill-will or malicious intent on the part of SPO4 Taberdo. In absence of evidence to the contrary, this Court finds that the RTC and the CA did not err in the findings of facts and the credibility of the witnesses.

As for Donio's defense of alibi, he argues that it must not be looked with disfavor, as there are instances when the accused may really have no other defense but denial and alibi which, if established to be truth, may tilt the scales of justice in his favor, especially when the prosecution evidence is inherently weak. He insists that he was tortured and subjected to harsh treatment during arrest. He insinuates that the police arrested the first person they suspected without conducting any in-depth investigation.

Donio maintained that he first learned of the carnapping charge when the police came to his house in Madapdap, Mabalacat, Pampanga on December 6, 2003. However, he also alleged that as a stay-in sugarcane plantation worker in Capas, Tarlac with a six-month work period ending in January, he never left the workplace and that his wife visited him instead. Donio testified during direct and cross examination as follows:

x x x x

ATTY. LOPEZ

Q: Mr. Witness, prior to your incarceration at the Angeles District Jail, where were you residing?

A: Madapdap, Mabalacat, Pampanga, sir.

Q: On November 25, 2003 at around 10:00 o'clock in the evening to November 26, 2003, do you remember where [you were] on the said dates?

A: Yes, sir.

<sup>39</sup> *People v. Dela Cruz*, 4459 Phil. 130, 137 (2003).

<sup>40</sup> *People v. Abat*, G.R. No. 202704, April 2, 2014, 720 SCRA 557, 564.

<sup>41</sup> *Corpuz v. People*, 734 Phil. 353, 391 (2014).



Q: Where were you, Mr. Witness?

A: At home, sir.

Q: Who were your companions there?

A: My family, sir, my wife and child.

x x x x<sup>42</sup>

PROS. HABAN

Q: Where are you working again?

A: Capas

x x x

Q: How about on November 27, 2003, where were you then?

A: At work.

Q: How about on November 25 and 26?

A: At work.

Q: During the whole day?

A: Stay-in.

Q: So you never left work?

A: No, sir.

Q: Never, not even Saturday and Sunday?

A: No, sir.

Q: The whole year of 2003 you never left work?

A: We stayed there for six (6) months.

Q: When is the end of six months period?

A: January.

x x x x<sup>43</sup>

No jurisprudence in criminal law is more settled than that alibi is the weakest of all defenses, for it is easy to contrive and difficult to disprove, and for which reason, it is generally rejected. For the alibi to prosper, the accused must establish the following: (1) he was not at the *locus delicti* at the time the offense was committed; and (2) it was physically impossible for him to be at the scene at the time of its commission.<sup>44</sup> It must be supported by credible corroboration from disinterested witnesses, and if not, is fatal to the accused.<sup>45</sup>

When he was confronted with his inconsistency, Donio clarified that he was in Capas, Tarlac and was fetched by his wife in the evening to attend to his sick child. We note, however, the proximity of the area of Donio's

<sup>42</sup> TSN, September 24, 2009, p. 6.

<sup>43</sup> TSN, August 3, 2010, pp. 3 and 5.

<sup>44</sup> *People v. Regaspi*, G.R. No. 198309, September 7, 2015.

<sup>45</sup> *People v. Mallari*, 707 Phil. 267, 281 (2013).



residence with the Barangay Dapdap and Sta. Lucia Resettlement area where the victim was found dead. To buttress his defense of alibi, Donio could have presented the testimony of a fellow plantation worker or any disinterested witness who could have substantiated the same. Aside from his bare allegations, he failed to present convincing evidence of the physical impossibility for him to be at the scene at the time of carnapping. Similarly, this Court is unconvinced of his insistence that he was tortured in view of lack of any evidence to validate the same. Thus, the uncorroborated alibi and denial of Donio must be brushed aside in light of the fact that the prosecution has sufficiently and positively ascertained his identity. It is only axiomatic that positive testimony prevails over negative testimony.<sup>46</sup>

In sum, the prosecution established through sufficient circumstantial evidence that the accused was indeed one of the perpetrators of the crime of carnapping with homicide.

As to the imposable penalty, Section 14 of RA No. 6539, as amended, provides that:

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 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 against 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.**<sup>47</sup>

The RTC is correct in imposing the penalty of *reclusion perpetua* considering that there was no alleged and proven aggravating circumstance. However, in line with the recent jurisprudence,<sup>48</sup> in cases of special complex crimes like carnapping with homicide, among others, where the imposable penalty is *reclusion perpetua*, the amounts of civil indemnity, moral damages, and exemplary damages are pegged at ₱75,000.00 each. This Court orders Donio to pay ₱50,000.00 as temperate damages in lieu of the award of ₱25,000.00 as actual damages. Also, Donio is ordered to pay the heirs of Raul interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of the Decision.

<sup>46</sup> *People v. Torres, et al.*, G.R. No. 189850, September 22, 2014, 735 SCRA 687, 704.

<sup>47</sup> Emphasis supplied.

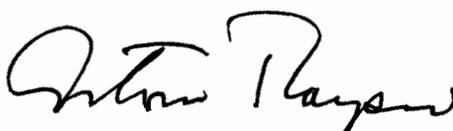
<sup>48</sup> *People v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

**WHEREFORE**, the Decision dated November 4, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05418, finding accused-appellant Enrile Donio y Untalan guilty beyond reasonable doubt of the crime of Carnapping with homicide and sentencing him to suffer the penalty of *reclusion perpetua* with all the accessory penalties, is hereby **AFFIRMED with MODIFICATIONS**: accused-appellant Donio is **ORDERED to PAY** the heirs of Raul L. Layug the amount of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱50,000.00 as temperate damages, and ₱75,000.00 as exemplary damages, plus interest at the rate of six percent (6%) *per annum* from date of finality of the Decision until fully paid.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

On official leave  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

On official leave  
**MARVIC M.V.F. LEONEN**  
Associate Justice

**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**  
Acting Chief Justice

