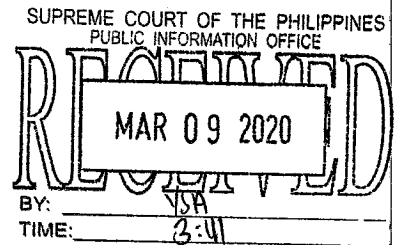




Republic of the Philippines  
Supreme Court  
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated January 29, 2020 which reads as follows:*

**“G.R. No. 233658 (People of the Philippines v. Rolando Talban y Mendoza a.k.a. Eduardo Fernandez y Lopez)**

**The Case**

This appeal assails the Decision<sup>1</sup> dated March 30, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07494 affirming the conviction of appellant Rolando Talban y Mendoza a.k.a. Eduardo Fernandez y Lopez for violation of Republic Act (RA) 6539,<sup>2</sup> otherwise known as the Anti-Carnapping Act of 1972.

**The Proceedings Before the Trial Court**

*The Charge*

Appellant Rolando Talban y Mendoza a.k.a. Eduardo Fernandez y Lopez was charged with carnapping with homicide under the following Information:

That on or about the 15<sup>th</sup> day of June, 2011, in Quezon City, Philippines, the above-named accused, with force and intimidation, intent [to] gain, and without the consent of the owner thereof, conspiring, confederating with two other persons, whose true names, identities and whereabouts have

<sup>1</sup> Penned by Associate Justice Sasinado E. Villon, with Retired Justice Ma.Luisa C. Quijano-Padilla and now Justice Rodil V. Zalameda (now a member of this Court), concurring; *Rollo*, pp. 2-18.

<sup>2</sup> As amended by RA 7659 otherwise known as “An Act to Impose the Death Penalty on Certain Heinous Crimes, amending for that Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, and for Other Purposes.”

not as yet been ascertained and mutually helping one another, did, then and there, willfully, unlawfully and feloniously take, steal and carry away a motor vehicle described as follows:

MAKE	-	HYUNDAI
MODEL	-	2011
TYPE OF BODY	-	ACCENT CVVT 1.4 GLMT
CONDUCTION STICKER NO.	-	MG 3541
ENGINE	-	G 4 FABU211068
SERIAL/CHASIS (sic) NO.	-	KM HCT41CABUO53614
COLOR	-	P9R (VELOSTER RED)

in the amount of ₱588,000.00, Philippine Currency, belonging to and driven by MARIE TERESITA TEANO, and on the occasion and by reason of said carnapping, with intent to kill and with treachery and evident premeditation, the accused attacked, assaulted and shot the said MARIE TERESITA TEANO thereby inflicting gunshot wound on the chest of said MARIE TERESITA TEANO, which caused her untimely death.

CONTRARY TO LAW.<sup>3</sup>

The case was raffled to the Regional Trial Court (RTC) – Branch 87, Quezon City.

On arraignment, appellant pleaded “not guilty”.<sup>4</sup> Trial ensued.

#### *Version of the Prosecution*

On June 15, 2011, around 6:00 in the morning, Rosemarie Quintos had just arrived at her employer’s house after bringing the latter’s child to school when she heard someone shouting. When she turned her back, she saw a man and a woman in front of Brahma Kumaris Meditation Center located at No. 34 T. Gener Street, Barangay Kamuning, Quezon City.<sup>5</sup> She did not personally know the woman but she usually parks her red car there.<sup>6</sup> The man was initially facing sideward but he faced her at one point while struggling to get the woman’s bag. When the woman finally broke free, the man shot her on the chest. He approached the woman and shot her again. Thereafter, he boarded the red car parked in front of Brahma Kumaris. Two (2) men followed him and also boarded the car. They drove away

<sup>3</sup> Rollo, pp. 2-3.

<sup>4</sup> Id. at 3.

<sup>5</sup> CA rollo, pp. 65-66.

<sup>6</sup> Rollo, p. 11.

towards Tomas Morato Avenue. She reported what she saw to Kagawad Julius Duenas.<sup>7</sup>

When SPO1 Gregory Maramag, Jr. and PO3 Tigno responded to the crime scene, Rosemarie came forward and volunteered to be a witness. They invited her to the police station and got her statement. A cartographic sketch of the shooter was made based on Rosemarie's description. They then coordinated with the CIDG which provided them with the Rogues Gallery containing photographs of carnapping suspects. When Rosemarie saw appellant's picture in the Rogues Gallery, she positively identified him as the man who shot the victim and boarded the red car.<sup>8</sup> Appellant's police records revealed he was a member of the Dominguez Group and several warrants were already issued against him.<sup>9</sup>

The victim was later identified to be Marie Teresita Teano. Medico-Legal Officer Dr. Ravell Baluyot autopsied her body and found she had died due to a gunshot wound on the chest.<sup>10</sup> She was the owner of the Hyundai Accent 2011 model with conduction sticker number MG3541 - the red car driven away by appellant and two (2) other unidentified suspects.<sup>11</sup>

*Version of the Defense*

Appellant alone testified for the defense. On June 15, 2011, he was working in a sugarcane plantation in Balayan, Batangas. His working hours were from 6:00 a.m. to 5:00 p.m.<sup>12</sup> From 2008 to June 15, 2011 he had never visited Metro Manila. He denied taking Teano's car and killing her.<sup>13</sup> He presented a "Pagpapatunay" issued by the Punong Barangay of San Diego, Lian, Batangas to prove he was living in Barangay San Diego at the time of the incident and "Isang Pagpapatunay" issued by the Punong Barangay of Dalig, Balayan, Batangas to prove he has no criminal record in said barangay.<sup>14</sup>

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<sup>7</sup> CA rollo, pp. 65-66.

<sup>8</sup> *Id.* at 66-67.

<sup>9</sup> *Id.* at 69.

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

<sup>11</sup> Rollo, p. 4.

<sup>12</sup> *Id.* at 5.

<sup>13</sup> CA rollo, p. 72.

<sup>14</sup> *Id.* at 73

### The Trial Court's Ruling

By Decision<sup>15</sup> dated April 20, 2015, the trial court found appellant guilty of qualified carnapping, *viz*:

WHEREFORE, premises considered, the Court finds ROLANDO TALBAN Y MENDOZA A.K.A. EDUARDO FERNANDEZ Y LOPEZ GUILTY beyond reasonable doubt of the crime of Violation of Republic Act 6539 as amended (Qualified Carnapping) and hereby sentences him to suffer the penalty of RECLUSION PERPETUA. He is also ordered to pay the heirs of the victim the amounts of Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, moral damages in the amount of Seventy-Five Thousand Pesos (₱75,000.00) and One Hundred Thousand Pesos (₱100,000.00) as temperate damages.

SO ORDERED.<sup>16</sup>

The trial court found that the prosecution was able to establish all the elements of carnapping and homicide. It ruled that Rosemarie's consistent and positive identification of appellant as the perpetrator of the crime prevails over his defense of denial and alibi.

### The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court when it gave full credence to Rosemarie's testimony. He argued it was rather curious that Rosemarie was able to describe how he looked like even though she claimed she only saw him on the day of the incident.<sup>17</sup> Too, it was physically impossible for him to be at the crime scene since he was in Balayan, Batangas on June 15, 2011 working from 6:00 a.m. to 5:00 p.m.<sup>18</sup>

The Office of the Solicitor General (OSG) through Assistant Solicitor General Rex Bernardo L. Pascual and Associate Solicitor Lorene A. Pe defended the verdict of conviction. Rosemarie categorically identified appellant as the one who shot the victim and took away the latter's red Hyundai Accent car.<sup>19</sup> Thus, appellant's

<sup>15</sup> Penned by Judge Aurora A. Hernandez-Calledo; CA *rollo*, pp. 64-80.

<sup>16</sup> CA *rollo*, p. 79.

<sup>17</sup> Brief for the Accused-Appellant, pp. 11-12; CA *rollo*, pp. 47-63.

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

<sup>19</sup> CA *rollo*, pp. 106-109.

defense of denial and uncorroborated alibi cannot prevail over Rosemarie's positive identification.<sup>20</sup>

### The Court of Appeals' Ruling

By Decision<sup>21</sup> dated March 30, 2017, the Court of Appeals affirmed with modification, thus:

**WHEREFORE**, the Decision dated April 20, 2015 of the Regional Trial Court of Quezon City, Branch 87, is hereby **AFFIRMED with the MODIFICATION** in that the Temperate Damages awarded is reduced to Fifty Thousand Pesos (₱50,000.00). In addition, however, to the damages awarded by the court *a quo*, Exemplary Damages amounting to Seventy-Five Thousand Pesos (₱75,000.00) are also hereby awarded to the heirs of the victim.

Interest is hereby imposed on the total amount of damages awarded, at the legal rate of six percent (6%) *per annum*, until the same are fully paid.

In all other respects, the appealed decision is hereby **AFFIRMED**.<sup>22</sup>

The Court of Appeals found the prosecution to have proven appellant's guilt to a moral certainty, giving full faith and credit to Rosemarie's testimony. It clarified though that since appellant killed Teano in the course of the commission of the crime of carnapping, the offense committed was the special complex crime of carnapping with homicide under Section 14 of RA 6539, or the Anti-Carnapping Act of 1992, as amended by Section 20 of RA 7659.<sup>23</sup>

### The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

In compliance with Resolution dated December 13, 2017,<sup>24</sup>

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<sup>20</sup> *Id.* at 110.

<sup>21</sup> Penned by Associate Justice Sesinado E. Villon, with Retired Justice Ma.Luisa C. Quijano-Padilla and Associate Justice Rodil V. Zalameda (now a member of this Court), concurring; *Rollo*, pp. 2-18.

<sup>22</sup> *Rollo*, p 17.

<sup>23</sup> Otherwise known as "An Act to Impose the Death Penalty on Certain Heinous Crimes, amending for that Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, and for Other Purposes."

<sup>24</sup> *Rollo*, pp. 24-25.

appellant and the Office of the Solicitor General (OSG) manifested<sup>25</sup> that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

### Issue

Did the Court of Appeals err when it affirmed appellant's conviction for the special complex crime of carnapping with homicide?

### Ruling

The appeal is devoid of merit.

RA 6539, or the Anti-Carnapping Act of 1972 as amended, 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 against persons, or by using force upon things.<sup>26</sup> Section 14 of the Anti-Carnapping Act now reads:

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.** (emphasis supplied)

The elements of carnapping are:

1. There is an actual taking of the vehicle;
2. The vehicle belongs to a person other than the offender himself;

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<sup>25</sup> *Id.* at 26-27 and 38-39.

<sup>26</sup> 811 Phil. 610, 618 (2017).

3. 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. The offender intends to gain from the taking of the vehicle.<sup>27</sup>

To prove the special complex crime of carnapping with homicide, however, 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>28</sup>

All these elements are present here.

It is undisputed that the red Hyundai Accent car was owned by the victim Marie Teresita Teano. This was evidenced by the proof of purchase and delivery receipt issued in her name by Prince Motors Corporation.<sup>29</sup>

Eyewitness Rosemarie positively identified appellant as the one who grappled to forcibly get Teano's bag, shot her on the chest, and took away her red Hyundai Accent car. She executed two (2) affidavits and affirmed to the truthfulness of their contents before the trial court.<sup>30</sup> She thus narrated:

T: Maari mo bang isalaysay ang buong pangyayari?

S: Opo. Ganito po yon, noong oras na iyon at kadadating ko lang sa bahay naming nang marinig may sumisigaw. Lumingon ako at nakita kong may nagaaway na inakala kong mag asawa. Nakatingin ako sa kanila at parang may inaagaw nong lalaki sa kamay ng babae at nakita kong niyakap nong lalaki yung babae. Nakahulagpos yung babae at tumakbo subalit binaril siya ng lalaki at bumagsak. Nilapitan siya ng lalaki at hinawakan sa leeg at binaril pa uli. Pagkapatos sumakay yung lalaki sa driver seat nuong kotseng pula na nakaparada sa harap ng Brhama Kumaris at sumunod namang sumakay yung dalawang lalaki, Umatras yung kotse at tumakbo na po patungong Tomas Morato Avenue.<sup>31</sup>

<sup>27</sup> *People v. Donio y Untalan*, 806 Phil. 578, 590 (2017).

<sup>28</sup> *People v. Arcenal y Aguilan*, 808 Phil. 50, 61 (2017).

<sup>29</sup> *CA rollo*, p. 77.

<sup>30</sup> *Rollo*, p. 3.

<sup>31</sup> *CA rollo*, 75.

She further testified:

Q: In this affidavit that you identified, Madam Witness, you said that you saw an incident and I quote, 'pamamaril' in front of Kumare's (sic) Meditation Center located at No. 34 P. Madel Street, Barangay Kamuning, Quezon City?

A: Yes, ma'am.

Q: You also mentioned here that you saw the person who shot the girl. If you see that person again whom you saw shot the girl, you be able to identify him?

A: Yes, ma'am.

Q: Please take (sic) around the court room and tell us if he is in court and if he is (here) please point to him?

ACTING INTERPRETER (mms):

Witness pointed to a detention prisoner seated at the second row and when he was asked of his name he answered...

ROLANDO TALBAN: Rolando Talban

xxx xxx xxx

Q: How far were you, Madam Witness, from the place[d] where you saw that person shot the girl?

A: Ten meters, ma'am.

xxx xxx xxx

COURT:

What time was that?

A: Six o'clock in the morning, Your Honor.

COURT:

So, you clearly saw the incident?

A: Yes, Your Honor.

ACP OCO-DICTADO

Now, Madam Witness, you said that you were about ten meters away (from) the accused when you saw him shot the girl. Looking at him now, is there any doubt at all in your mind that the person that you identified a while ago is the same person whom you saw shot the girl on June 15, 2011?

A: None, ma'am. He is really the one.



COURT:

Do you know the accused before the incident?

A: No, Your Honor.

COURT:

So, that was the first time that you saw him?

A: Yes, Your Honor.

xxx xxx xxx

Q: And when you saw that incident what did you immediately do Madam Witness?

A: I was nervous at that time but after that I told the incident to my boss, ma'am.

xxx xxx xxx

CROSS-EXAMINATION

ATTY. ROBLEDO:

Okay, Your Honor, I would go to another point then. You said in your affidavit that the accused allegedly was trying to grab something and you claim you were just ten meters away from the incident. What was that thing that the accused allegedly trying to grab?

A: What I saw during the incident after I brought my ward to the school is that, all the while I thought they were just couple having a quarrel.

Q: But the question is, what is that thing that the accused is allegedly trying to grab from the victim?

A: He was trying to grab a bag, sir.

xxx xxx xxx

COURT:

Was there any instance when the accused faced you?

A: When they were struggling the accused happened to face me, Your Honor.

COURT:

So, you actually saw his face?

A: Yes, Your Honor.<sup>32</sup>

<sup>32</sup> Rollo, pp. 9-12.

Rosemarie's testimony was positive and straightforward. She actually saw appellant struggled with Teano to get her bag. When Teano broke free, appellant shot her. But appellant did not stop there. He approached the helpless Teano, grabbed her by the neck, and shot her again. Assured that Teano would no longer be able to fight back, appellant boarded Teano's red Hyundai Accent car with two (2) other unidentified men and drove away from the crime scene.

It is thus clear that appellant's original criminal design was the taking of Teano's car without the latter's consent and by means of violence against her person. Unfortunately, Teano was shot for resisting appellant's criminal act. The gunshot wound she sustained on her chest instantly resulted to her death. The unbroken chain of events here indubitably show that Teano was killed in the course of the commission of the crime of carnapping or on the occasion thereof.

"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. *Animus lucrandi* or intent to gain is an internal act which is presumed from the unlawful taking of the motor vehicle.<sup>33</sup>

In *People v. Donio*,<sup>34</sup> the Court ruled that 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.

Here, intent to gain can reasonably be presumed from appellant's act of taking Teano's red Hyundai Accent car by means of violence against her person. Thus, appellant's feeling with Teano's car already showed his intent to gain.

Verily, all the elements of the special complex crime of carnapping with homicide are sufficiently established here: (1) appellant took the red Hyundai Accent car owned by Marie Teresita Teano; (2) his original criminal design was carnapping; (3) he killed the driver-owner Teano to gain access to her car; and (4) the killing

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<sup>33</sup> Supra note 28.

<sup>34</sup> G.R. No. 212815, March 1, 2017, 806 PHIL 578-601.

was perpetrated “in the course of the commission of the carnapping or on the occasion thereof.”

Against Rosemarie’s positive testimony, appellant only offered denial and alibi. Appellant presented two (2) documents denominated as “Pagpapatunay” issued by the Punong Barangay of San Diego, Lian, Batangas which stated he was born therein and once lived in said barangay; and “Isang Pagpapatunay” issued by the Punong Barangay of Dalig, Balayan, Batangas stating appellant was a law abiding citizen thereat. Neither of these documents, however, stated that appellant was in Balayan, Batangas on June 15, 2011 and never left the place on said date.<sup>35</sup>

We have pronounced time and again that these are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that it was appellant who committed the crime.<sup>36</sup> Too, the Court gives the highest respect to the trial court’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>37</sup>

The factual findings of the appellate court are generally conclusive, and carry even more weight when said court affirms the findings of the trial court, as here.

All told, the Court of Appeals did not err when it affirmed the trial court’s verdict of conviction against appellant for violation of RA 6539.<sup>38</sup> The penalty of *reclusion perpetua* was correctly imposed considering there was no alleged nor proven aggravating circumstance here. Too, in cases of special complex crimes like carnapping with homicide where the imposable penalty is *reclusion perpetua*, civil indemnity, moral damages, and exemplary damages are awarded in the amount of P75,000.00 each. The award of P50,000.00 temperate damages was also proper.<sup>39</sup> Finally, the Court of Appeals correctly imposed interest at the rate of six percent (6%) per annum on these amounts from date of finality of the Decision until fully paid.<sup>40</sup>

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<sup>35</sup> *Rollo*, pp. 13-14.

<sup>36</sup> *People v. Batalla*, G.R. No. 234323, January 07, 2019.

<sup>37</sup> *Supra* note 27.

<sup>38</sup> As amended by RA 7659 otherwise known as “An Act to Impose the Death Penalty On Certain Heinous Crimes, amending for That Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, And for Other Purposes.”

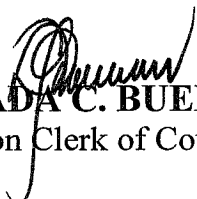
<sup>39</sup> *Supra* note 27.

<sup>40</sup> *Id.*

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated March 30, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07494 is hereby **AFFIRMED**.

**SO ORDERED.**"

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court *ff 2/21* **82**

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UR

RIA

