

## THIRD DIVISION

[ G.R. No. 148226, July 14, 2008 ]

**PEOPLE OF THE AND SPOUSES MARILYN AND FRANCISCO GARCIA, PETITIONERS, VS. JOSEPH TERRADO, AND HONORABLE SALVADOR P. VEDAÑA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 68, LINGAYEN, PANGASINAN, RESPONDENTS.**

### DECISION

**NACHURA, J.:**

#### The Case

Before the Court is a Petition for *Certiorari*<sup>[1]</sup> assailing the April 6, 2001 Decision<sup>[2]</sup> of Honorable Judge Salvador P. Vedaña of the Regional Trial Court (RTC), Branch 68, of Lingayen, Pangasinan in Criminal Case No. L-5813, *People v. Joseph Terrado, a.k.a. "Hapon,"* finding the accused "Hapon" not guilty of Carnapping (punished under Republic Act 6538, otherwise known as the "Anti-Carnapping Act of 1972").

Accused Joseph Terrado was charged with Carnapping in the Information filed by 4<sup>th</sup> Assistant Prosecutor Abraham L. Ramos II, dated March 9, 1998, to wit:

That on or about 8<sup>th</sup> day of August, 1997 in the afternoon, in barangay Malindong, Municipality of Binmaley, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a fan knife (balisong), by means of force and intimidation, did then and there threaten with fan knife, Leoncio Dalmacio driver of motorized tricycle with Plate No. AE-8082 and thereafter with intent to gain, willfully, unlawfully and feloniously took and carted away said motorized tricycle without the consent and against the will of Leoncio Dalmacio and/or Marilyn Garcia.

Contrary to R.A. 6538 [sic], as amended.<sup>[3]</sup>

The case was originally raffled to Judge Nicodemo T. Ferrer of Branch 37, RTC. On May 14, 1998, the accused was arraigned and pleaded not guilty to the crime charged.

On July 22, 1998, the prosecution, through 3<sup>rd</sup> Asst. City Prosecutor Borromeo R. Bustamante, filed a Motion to Dismiss,<sup>[4]</sup> and prayed for the provisional dismissal of the case. In an Affidavit of Desistance<sup>[5]</sup> executed by private complainant, Marilyn Garcia, the latter stated that they were leaving for the US and would not be able to pursue the case. The trial court granted the Motion in its Order<sup>[6]</sup> dated August 19, 1998.

On November 16, 1998, a Motion to Revive the Case<sup>[7]</sup> was filed by the private complainant through Prosecutor I Marlon Meneses, which was granted by the court in an Order<sup>[8]</sup> dated November 17, 1998. A Motion for Reconsideration and/or to Lift/Set Aside Order of Revival was filed by the accused. On January 14, 1999, the trial court denied the motion<sup>[9]</sup> for reconsideration and set the case for hearing on January 26, 1999. However, the accused sought the inhibition of Judge Nicodemo T. Ferrer from trying the case, which the latter granted. The case was re-raffled and was assigned to the sala of Judge Salvador Vedaña, Branch 68, RTC.

On March 5, 1999, the accused reiterated his Motion for Reconsideration and/or to Lift/Set Aside Order of Revival. Acting on the above motion, the court denied the same for lack of merit in its Resolution<sup>[10]</sup> dated March 9, 1999, and set the case for hearing on April 5, 1999.

The accused then filed a petition for *certiorari* with the CA assailing the orders of the trial court. Then, on April 5, 1999, he filed with the trial court a Motion to Archive the case. On April 12, 1999, the complainant through the private prosecutor, under the direct control and supervision of the public prosecutor, filed her Comment/Opposition to the motion. In a Resolution<sup>[11]</sup> dated June 30, 1999, the trial court denied the Motion to Archive filed by the defense in order not to unduly delay the proceedings, considering that the petition for *certiorari* filed by the defense was not yet given due course by the Court of Appeals (CA).

On July 31, 2000, the trial court issued a warrant of arrest against the accused which was returned unserved because "accused person could not be located at his given address."<sup>[12]</sup>

On March 27, 2001, the trial court received from the CA the entry of judgment of the resolution dismissing the petition for *certiorari* filed by the accused.<sup>[13]</sup>

Trial of the case thereafter ensued.

For the prosecution, the following witnesses were presented: Leoncio Dalmacio, PO1 Mardy delos Santos, PO1 Ferdinand Ferrer, Marilyn Garcia and Marcelino Flores.

The version of the prosecution states that in the afternoon of August 8, 1997, while Leoncio Dalmacio (Dalmacio) was driving a tricycle owned by Spouses Marilyn and Francisco Garcia, the accused hailed him, boarded the tricycle, and then asked to be brought to *Barangay* Libsong, Lingayen, Pangasinan. When they reached the place, the accused alighted from the sidecar and suddenly picked up a stone and struck the tricycle.<sup>[14]</sup> Dalmacio dismounted from the tricycle and tried to pacify the accused but he noticed that Terrado was armed with a fan knife (*balisong*). The accused then took the tricycle, drove away and left Dalmacio behind. Dalmacio reported the incident to the Binmaley Police Station and, subsequently, to the Lingayen Police Station. He then executed a Sworn Statement<sup>[15]</sup> before the municipal judge of the Binmaley Municipal Trial Court (MTC).

For the defense, the accused claimed that he was on his way to his parents-in-law at Libsong when he met Dalmacio and asked him if he could borrow the tricycle. Dalmacio answered in the affirmative and even told him: "Please put some gasoline

in it and I will go to my in-law."<sup>[16]</sup> One of the witnesses, Joseph Estrada, testified that on the day of the alleged incident, he saw the accused speaking with Dalmacio. Afterwards, he saw Dalmacio alight from the tricycle, then the accused took over the driver's seat and left in the direction of Lingayen. Dalmacio then boarded a jeepney bound for Dagupan. Estrada testified that during the conversation of the accused and Dalmacio, he heard no shouts or altercation between the two.<sup>[17]</sup> The defense claimed that the accused merely borrowed the tricycle from Dalmacio. However, when accused was about to return the same, he hit a stone, lost control of the tricycle and bumped a tree.<sup>[18]</sup> Three persons came and helped him bring the tricycle back to the roadside.<sup>[19]</sup> The accused returned the tricycle at around 11:00 pm of the same day to the Spouses Garcia. The defense did not deny that the tricycle, when returned, was damaged and, in fact, the accused voluntarily paid the amount of P8,000.00 as partial remuneration for the repair which was estimated to cost P25,000.00.<sup>[20]</sup>

In its Decision dated April 6, 2001, the trial court acquitted accused Joseph Terrado for failure of the prosecution to establish intent to take the tricycle and intent to gain from the same. Thus, the court held that the prosecution failed to prove the guilt of the accused beyond reasonable doubt. The dispositive portion of the trial court's decision reads:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment ACQUITTING the accused Joseph Terrado for violation of R.A. 6538 otherwise known as the "Anti-Carnapping Act of 1972."

However, as regard the civil liability of accused Joseph Terrado, the [court] hereby orders him to pay the complainant Marilyn Garcia the following: 1) Actual damages amounting to P25,000.00 - P8,000.00 = P17,000.00 and 2) Moral damages amounting to P20,000.00.

SO ORDERED.

The prosecution filed a Motion for Reconsideration<sup>[21]</sup> which the trial court denied in a Resolution<sup>[22]</sup> dated May 21, 2001.

Aggrieved, the complainants come to this Court *via* a Petition for *Certiorari* seeking to annul and set aside the Decision dated April 6, 2001.

The issues which the petitioners raise before the Court may be summarized as follows:

1. WHETHER THE ACCUSED IS GUILTY OF VIOLATION OF RA 6538 OTHERWISE KNOWN AS "ANTI-CARNAPPING ACT OF 1972;
2. WHETHER THE PUBLIC RESPONDENT IN RENDERING THE QUESTIONED DECISION ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION.

The petitioners allege that there was misapprehension of facts, and that the trial court reached its conclusion based entirely on speculation, surmises and conjectures, and acted with grave abuse of discretion amounting to lack of jurisdiction as the judgment of acquittal was rendered on dubious factual and legal