

HOT NEWS – RECEIVING STOLEN GOODS AND OBSTRUCTION OF PUBLIC OFFICIAL

Legal Analysis of the Offence of Receiving Stolen Goods and Violent Resistance Against Public Officials

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There is a case scenario in which “A” purchased a vehicle from “B” that had been stolen from another person. “A” was aware that the vehicle originated from theft, yet still proceeded with the purchase. Furthermore, “A” engaged in this conduct repeatedly, as such vehicles were offered at prices lower than the market rate.

On another scenario, the police found the offender and proceeded to arrest “B” for committing a criminal offence (theft). However, “C” intervened and resisted the police by placing iron bars around the police vehicle, puncturing its tires, and damaging the police’s car, with the intention of obstructing the police in the execution of their duties (arrest of the offender).

(1) Whether the conduct of “A” who knowingly purchased stolen goods and did so as a habitual practice; and (2) Whether the conduct of “C” who violently resisted the police, constitutes as criminal offence?

We kindly recall that in order to establish a criminal liability, there are 3 (three) essential elements of an offence must be satisfied: Legality (the act must be defined as an offence under the law); Criminal Acted (the physical act or conduct constituting the offence); and Intention (the intent or will to commit the offence). Therefore, this article will interpret on **1. The Act of Purchasing Goods Obtained Through Theft** and **2. The Act of Violent Resistance Against Police Officers**.

1. The Act of Purchasing Goods Obtained Through Theft

The conduct of “A” who purchased a vehicle while “Knowing” that it had been stolen from another person, constitutes the offence of Receiving Stolen Goods as provided under the Criminal Code of the Kingdom of Cambodia 2009 (“CCC”).

Referring to **Article 399** and **Article 400 of CCC**, stated that:

“Receiving stolen goods is the receiving, concealment, retention, or transfer of an item, knowing that item was obtained by a felony or misdemeanour.

Receiving stolen goods shall also mean:

- (1) Serving as intermediary in order to transfer an item, knowing that that item was obtained by a felony or misdemeanour;*
- (2) Knowingly benefiting from the proceeds of a felony or misdemeanour.*

Receiving stolen goods shall be punishable by imprisonment from two to five years and a fine from four million to ten million riels.”

This means that receiving stolen goods refers to any conduct involving the possession of such property (e.g., through purchase, lease, or transfer), concealing it to assist the offender, storing it in a residence, warehouse, or personal custody, or facilitating its transportation from one place to another, with “knowledge” that the property originates from a criminal offence, such as theft, breach of trust, or fraud. The phrase “**obtained by a felony or misdemeanour**” indicates that the underlying act must

constitute an offence punishable under the law as either a felony or a misdemeanor. Property derived from minor offences (petty offences) does not fall within the scope of this crime. The classification of offences depends on the severity of the penalty prescribed by law including Petty offences refers to any offense punishable by the maximum sentence of imprisonment under or up to 6 (six) days; Misdemeanors refers to any offense punishable by the maximum sentence of imprisonment exceeding 6 (six) days and up to 5 (five) years; and Felonies refers to any offense punishable by the maximum sentence of imprisonment exceeding 5 (five) years up to 30 (thirty) years, or life imprisonment.

EXAMPLE: if the law provides that the theft of low-value items (such as food or daily necessities) is punishable only by a fine and short-term imprisonment of 1 to 3 days (a petty offence), then a person receiving such property cannot be charged with receiving stolen goods, regardless of whether they knew its origin. However, under the current CCC, theft is generally classified as a misdemeanor, punishable by imprisonment ranging from 6 (six) months to 3 (three) years and a monetary fine. Therefore, any person who knowingly receives property obtained through theft may be prosecuted for the offence of receiving stolen goods.

Furthermore, **Article 401 of CCC** provides for aggravating circumstances, under which the penalty is increased from **5 (five) to 10 (ten) years' imprisonment**, if the offence is committed under any of the following conditions:

1. habitually;
2. by using the facilities conferred by the exercise of a profession;
3. by an organised criminal enterprise.

In the present case, "A" who knowingly purchased a stolen vehicle, has fulfilled all three essential elements of a criminal offence by the law explicitly criminalizes receiving property derived from theft (legality), the act of purchasing the stolen vehicle (Criminal Acted), and knowledge that the vehicle was stolen, coupled with the intention to acquire it (Intention). Moreover, since "A" engaged in such conduct as a habitual practice, this constitutes an aggravating circumstance.

Therefore, the conduct of "A" can be constituted as a criminal offence of receiving stolen goods and may be subject to prosecution and increase penalties under Article 401 of CCC.

2. The Act of Violent Resistance Against Police Officers

The conduct of "C" who violently resisted the police officers by placing iron bars around the police vehicle, puncturing its tires, and damaging the vehicle in order to obstruct the performance of their duties, constitutes the offence of Obstruction of Public Official, which is likewise a criminal offence under CCC.

Referring to **Article 503 of CCC**, stated that:

"Obstruction consists of violent resistance against a public official acting in the discharge of his or her office for the enforcement of laws, orders from a public authority or judicial decision.

Obstruction of public officials shall be punishable by imprisonment from one month to three months and a fine from one hundred thousand to five hundred thousand riels."

A public official here refers to any individual serving within state institutions, including civil servants, contractual civil servants, elected representatives (such as members of the National Assembly or Senate), as well as local authorities at the provincial, district, and commune levels. The term "**violent**

resistance” encompasses acts such as pushing, striking, using weapons, or any activities form of opposition intended to prevent officials from carrying out their lawful duties. In essence, resistance against public officials involves the use of force or violence to obstruct an officer who is performing duties in accordance with the law. In according to the above article, a mere shout or verbally against the official with a non-violent does not meet the legal threshold for this offence.

In the present case, the conduct of “C” satisfies all three essential elements of a criminal offence: the law explicitly criminalizes violent resistance against public officials (Legality), the physical acts of surrounding the police vehicle with iron bars, puncturing its tires, and damaging the vehicle (Criminal Acted), and the intent to obstruct the police from carrying out the arrest of an offender (Intention).

Therefore, the conduct of “C” can be constituted as a criminal offence of Obstruction of Public Official and may be subject to prosecution and penalties under Article 503 of the Criminal Code.

CONCLUSION

Based on the foregoing analysis, it can be concluded that “A” who knowingly purchased a vehicle obtained through theft and engaged in such conduct as a habitual practice, may be subject to prosecution and penalties for the offence of receiving stolen goods with aggravating circumstances, pursuant to Article 401 of CCC. Meanwhile, “C” who violently resisted the police with the intent and will to obstruct them from carrying out their lawful duties, may likewise be subject to prosecution and penalties for the offence of obstruction of public official, in accordance with Article 503 of CCC.

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