

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUSA MALAGA, ACCUSED-APPELLANT.

Ponente: HERNANDO, J.

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HERNANDO, J.:

This is an appeal filed by accused-appellant Jesusa Malaga seeking the reversal of the January 9, 2013 Decision[1] of the Regional Trial Court (RTC), Branch 23, of Iloilo City finding her guilty beyond reasonable doubt of the crime of Qualified Theft in Criminal Case No. 08-65800.

The Antecedents:

On June 16, 2008, an Information[2] was filed charging accused-appellant with the crime of Qualified Theft, allegedly committed as follows:

That on or about the March 19, 2008, in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, as employee of Supercare Shell Service Station owned by Carmen P. Santos, taking advantage of her position as in charge of “daily credit” or “bayad-utang” promotion extended by their service station and with the duty and obligation as such, to promote the sale of its products, and at the same time secure the inventory and money of the service station, with grave abuse of confidence and with intent to gain, did then and there willfully, unlawfully and, criminally fail to turn over to the service station the purchases made by the customer Mr. Leodevico Formacion in the amount of Php 16,740.00 covered by Charge Invoices No. 150583 and 148109, both dated March 19, 2008, but instead pocketed it for her personal use and benefit, to the damage and prejudice of the complainant Carmen P. Santos in the afore-mentioned amount of Php 16,740.00.

Contrary to law.

On July 31, 2008, accused-appellant was arraigned. She registered a negative plea of guilt at said arraignment. Thereafter, trial on the merits ensued.]

The facts of the case according to the prosecution are summarized as follows:

Carmen P. Santos is the proprietor of Supercare Shell Service Station (Supercare) and President of Iloilo Santos Truckers, Inc. (ISTI), a wholesale distributor of petroleum products. On the other hand, accused was a former and long-time employee of ISTI. However, sometime in 1996, she was assigned at Supercare to handle, among others, the bayad-utang or daily credit facility of said service station. The bayad-utang arrangement allows privileged customers to purchase their bulk orders on credit with the condition that they settle the same within 24 hours from the time of purchase. Moreover, said customers are entitled to a discount of sixty centavos per liter of fuel purchased.

On March 19, 2008, Leodevico Formacion, one of Supercare’s privileged customers, purchased in two separate transactions a total of 440 liters of diesel fuel worth Php17,248.00. Initially, Formacion purchased 320 liters of fuel (worth Php12,544.00) which was covered by Invoice No. 148109. Subsequently, he procured additional liters of fuel (120 liters), worth Php4,704.00, which was covered by Invoice No. 150583.

Later that day, after deducting the fuel discount granted by Supercare, Formacion gave accused the amount of Php16,764.00 as payment for the fuel he purchased. Accused then acknowledged the payment with a receipt, which was handwritten on a one-eighth piece of yellow pad paper. The receipt reflected the amount of “Php16,764.00” and the date “3/19/08” as well as accused-appellant’s signature. Unfortunately, Formacion’s payment that day was not fully remitted by accused. Instead, only the amount of Php12,636.00 was remitted which accused allegedly applied to Formacion’s unpaid purchases last January 17, 2008 and February 10, 2008.

On April 15, 2008, after the conduct of an audit and inventory, it was discovered that Formacion had several unpaid accounts totaling to around Php800,000.00. When Formacion was confronted with these unpaid balances, he asserted that he had faithfully paid all his purchases with Supercare. Thereafter, Formacion showed several handwritten receipts issued by accused, including the transaction dated March 19, 2008.

To exculpate herself from liability, accused interposed denial as her defense. She asserted that the amount paid by Formacion on March 19, 2008 was only Php12,636.00, which covered his purchases on January 17, 2008 and February 10, 2008. Accordingly, accused issued Charge Invoice Nos. 143829 and 140988 for said payments. Accused stressed that the one-eighth piece of yellow pad paper, dated March 19, 2008, which she gave to Formacion was not a receipt of payment but merely reflected his outstanding balance for the day less the fuel discount. Moreover, she contended that the instant criminal complaint is baseless and was only filed by Carmen P. Santos in order to gain leverage against her in the illegal dismissal case which she filed against her with the Department of Labor and Employment on April 17, 2008.

After trial, the court a quo found accused guilty for the crime charged as she deliberately failed to remit a portion of the payment made by Leodevico Formacion on March 19, 2008 to the damage and prejudice of Carmen P. Santos. The trial court found credible the testimony of Formacion concerning his payment of Php16,764.00. However, it ruled that accused should only be held liable for the amount of Php4,128.00 since she had already remitted the amount of Php12,636.00 to Santos as evidenced by Charge Invoice Nos. 143829 and 140988, the dispositive portion of which reads:[3]

WHEREFORE, the prosecution having proven beyond reasonable doubt the guilt of the accused, but not in the amount of P16,764.00 as alleged in the Information, but only on a lesser amount, this Court finds the accused Jesusa Malga GUILTY as charged but only to the extent of the amount of P4,128.00 qualified by grave abuse of confidence, and applying the Indeterminate Sentence Law, sentences the accused to suffer an imprisonment ranging from Four (4) Years and Two (2) Months of Prison Correccional as the Minimum to Six (6) Years and One (1) Day of Prison Mayor as the Maximum.

The accused is further ordered to pay the complainant Carmen P. Santos the amount of P4,128.00 at the legal interest from March 20, 2008, until the amount is fully paid.

SO ORDERED.

Hence, the current appeal before Us by accused-appellant.

The Issue:

The main issue here is whether or not the trial court gravely erred in convicting the accused-appellant based on the evidence presented by the prosecution.

The Court’s Ruling

The appeal is impressed with merit.

The elements of Qualified Theft committed with grave abuse of confidence are as follows:[4]

- Taking of personal property;
- That the said property belongs to another;
- That the said taking be done with intent to gain;
- That it be done without the owner's consent;
- That it be accomplished without the use of violence or intimidation against persons, nor of force upon things;
- That it be done with grave abuse of confidence.

Regarding the first element, which is the taking of personal property, the prosecution was not able to present direct evidence that appellant took Leodevico Formacion's payment, which was due to complainant Carmen P. Santos, on March 19, 2008. One of the pieces of evidence that the prosecution adduced and the trial court relied on heavily for the conviction was Formacion's testimony that he gave appellant Php16,764.00 as payment for the fuel he purchased on March 19, 2008 and that only Php12,636.00 was remitted to Santos as evidenced by Charge Invoice Nos. 143829 and 140988.

Concededly, the findings of the trial court in criminal prosecution are given weight and respect because the latter is in a better position to decide the question, having heard the witnesses in person and observed their deportment and manner of testifying during the trial. However, when the lower court clearly overlooked substantial facts and circumstances, which if considered, would change the result of the case, then this Court may depart from the trial court's appreciation of the facts and reassess the credibility of the prosecution witnesses.[5] Here, We find that the trial court erred in readily believing Formacion's testimony regarding his payment. Indubitably, the trial court overlooked the fact that Formacion's testimony was essentially self-serving since it would relieve him of his obligation with Supercare. Verily, he would willingly testify that he fully paid his obligation rather than admit that he still owes Supercare money for the unpaid fuel he purchased. It is not uncommon for a witness to admit a falsehood that is favorable to his interest. Thus, Formacion's testimony is not entirely credible and free from doubt. Had the trial court found Formacion's testimony doubtful, the result of the case would surely shift in favor of appellant.

Along the same vein, the one-eighth piece of yellow pad paper plainly bearing the amount of "Php16,764.00", the date "3/19/08" and appellant's signature, which the trial court considered as a receipt of payment, is definitely susceptible to different interpretations. The prosecution asserts that said piece of paper is customarily issued by appellant to Formacion as a receipt for his payments. Conversely, appellant claims that it merely reflected Formacion's outstanding balance for the day less the fuel discount. As between the two, We are more inclined to believe appellant's version. It bears stressing that nothing in the piece of paper would give the impression that it is actually a receipt for payment. There are no words therein indicating that the amount reflected therein was received in payment for purchased fuel or that appellant inscribed her signature to acknowledge Formacion's payment. Thus, We agree with appellant that it is but a mere statement of the amount which Formacion must settle with Supercare and nothing more.

Corollarily, if said piece of paper was really a receipt customarily issued by appellant to Formacion and that the latter had several of these "receipts", then why was the one dated March 19, 2008 the only receipt presented in court? In order to establish its veracity and that indeed it was customary for appellant to issue the pieces of paper to Formacion as a receipt for his payments, more than one of these pieces of paper is required. For a practice to be customary, it must be generally followed and consistently observed. Hence, it requires more than just one incident or, as applied to this case, more than one of these pieces of paper to establish the fact that the same was a receipt customarily issued by appellant to Formacion as an acknowledgment for the payments he made. Here, the

prosecution only presented one of these supposed receipts issued by appellant. Consequently, the prosecution's evidence is evidently found wanting as to satisfactorily establish beyond doubt that this one-eighth piece of yellow pad paper is in fact a receipt as the prosecution purports it to be.

All told, the trial court gravely erred in finding that Formacion actually paid the amount of Php16,764.00 to the appellant on March 19, 2008 and that the piece of paper given by the latter was in fact a receipt acknowledging Formacion's payment. Furthermore, it hastily brushed aside appellant's alibi that Formacion paid only the amount of Php12,636.00 to her and that the piece of paper she gave him was only to apprise him of his balance for the day less the fuel discount. Although alibi is known to be the weakest of all defenses, nevertheless, where the evidence for the prosecution is weak, as in the instant case, the defense of alibi assumes importance and becomes crucial in negating criminal liability.[6] Evidently, appellant's alibi merits a second look as the evidence on record also supports it. Appellant's allegation concerning Formacion's actual payment and the piece of paper given to the latter is certainly worthy of belief in view of the fact that the prosecution miserably failed to adequately controvert it.

Parenthetically, it is also worth noting that the inculpatory facts and circumstances in this case are capable of two or more explanations and point to different conclusions. Thus, the equipoise rule finds application. Under the equipoise rule, where the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, the party having the burden of proof loses for the evidence does not suffice to produce a conviction.[7] Hence, all doubts should be resolved in favor of the appellant's innocence and the preservation of his freedom. It is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence.[8]

Assayed from the foregoing disquisitions, the acquittal of the appellant is proper. A discussion of the other elements of qualified theft mentioned above is no longer necessary. Granting that the other elements were sufficiently proven, the first and most indispensable element of the crime charged was not established. Therefore, the prosecution failed to prove beyond reasonable doubt that appellant committed the crime of qualified theft.

WHEREFORE, in view of the foregoing, the appeal is GRANTED. The January 9, 2013 Decision of the Regional Trial Court, Branch 23, of Iloilo City in Criminal Case No. 08-65800 is REVERSED and SET ASIDE. Accused-appellant Jesusa Malaga is hereby ACQUITTED for failure of the prosecution to prove her guilt beyond reasonable doubt.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Penned by Hon. Edgardo L. Catilo, Rollo, pp. 35-52.

[2] Original Records, p. 1.

[3] Rollo, p. 52.

[4] People v. Bernard Mirto, G.R. No. 193479, October 19, 2011.

[5] Anita Miranda v. People, G.R. No. 176298, January 25, 2012.

[6] People v. Enemesio and Crisanto Abellanos, G.R. No. 121195, November 27, 1996.

[7] Vergara v. People, G.R. No. 160328, February 4, 2005.

[8] People v. Buenaflor, G.R. No. 140001, June 27, 2001.

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