

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RAFAEL TABADA, JR. Y MELES A.K.A. “PAENG”; ACCUSED-APPELLANT.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

We are confronted with the accused-appellant's Motion for Reconsideration,[1] vis-a-vis the plaintiff-appellee's Comment thereto,[2] of our Decision promulgated on 10 March 2014.

In said motion, the accused-appellant insists that the Court erred when: (1) it gave full weight and credence to the testimony of prosecution witness Marilyn Yamzon and totally disregarded his defense of denial; (2) it relied on the factual findings of the lower court recognizing its superior competence to assess the credibility of the witnesses through examination; (3) it failed to recognize the prosecution's lack of positive identification of the accused-appellant as the one who took Aldrin's laptop; 4) it failed to find Marilyn's testimony to be insufficient to categorically attribute the authorship of the purported crime to the accused-appellant; and (5) it relied on the bare allegations of Aldrin and Marilyn as to the value of the supposed missing laptop without any supporting evidence.

What the accused-appellant effectively now demands from the Court is to take a second look at its earlier findings, which all have been extensively discussed and resolved in the decision sought to be reconsidered.

We find it worthy to highlight the important rulings in our Decision,

"We must be reminded of the elements constituting the crime of theft: (1) that there be taking of personal property; (2) that said property belongs to another; (3) that the taking be done with intent to gain; (4) that the taking be done without the consent of the owner; and (5) that the taking be accomplished without the use of violence against or intimidation of persons or force upon things.

In the case under review, we hold that the testimonies of the prosecution witnesses were sufficiently conclusive to convict Tabada beyond reasonable doubt for simple theft. Based on the accounts of the prosecution witnesses, the totality of the evidence presented, all the elements of the offense and the identity of the perpetrator were duly established.

Anent the court a quo's imposition of Tabada's penalty, which was based on the value of the stolen property, Tabada argues that the court a quo erred when it accepted hook, line and sinker the bare claim of Aldrin and Marilyn that the value of his stolen laptop was Twenty Two Thousand Pesos (P 22,000.00), despite the failure of the prosecution to prove the same with the production of an official receipt. We find, however, that the testimonies of Marilyn and Aldrin given in open court, with respect to the value of the stolen laptop, to be admissible and sufficient to establish the value of the stolen item. The testimonies of the owner, Aldrin, as well as that of Marilyn, that the value of the thing stolen was P 22,000.00 cannot be said to be self-serving. Self-serving statements are those made by a party out of court advocating his own interest; they do not include a party's testimony as a witness in court. This cannot be said of a party's testimony in court made under oath, with full opportunity for cross-examination on the part of the opposing party.

Neither can it be said that the testimony of the owner of the thing stolen is a mere allegation. It is evidence of the value of the thing given by the very owner himself. The value stated by the owner, P 22,000.00, is not totally bereft of credence. It is in fact a reasonable sum of the current price of laptops."

We therefore find no valid reason to disturb our earlier decision. The accused-appellant's motion contains merely a reiteration or rehash of arguments already submitted to and determined to be without merit by the Court. We are not convinced that a modification of the latter is warranted.

WHEREFORE, for lack of merit, the accused-appellant's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

Salazar-Fernando (Chairperson) and Gaerlan, JJ., concur.

[1] Rollo, pp. 105-109.

[2] Ibid, pp. 114-117.

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