

LORETA SERRANO, PETITIONER, VS. COURT OF APPEALS AND LONG LIFE PAWNSHOP, INC., RESPONDENTS.*G.R. No. L-45125. April 22, 1991*

Ponente: FELICIANO, J.

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Sometime in early March 1968, petitioner Loreta Serrano bought some pieces of jewelry for P48,500.00 from Niceta Ribaya. On 21 March 1968, petitioner, then in need of money, instructed her private secretary, Josefina Rocco, to pawn the jewelry. Josefina Rocco went to private respondent Long Life Pawnshop, Inc. ("Long Life"), pledged the jewelry for P22,000.00 with its principal owner and General Manager, Yu An Kiong, and then absconded with said amount and the pawn ticket. The pawnshop ticket issued to Josefina Rocco stipulated that it was redeemable "on presentation by the bearer."

Three (3) months later, Gloria Duque and Amalia Celeste informed Niceta Ribaya that a pawnshop ticket issued by private respondent was being offered for sale. They told Niceta the ticket probably covered jewelry once owned by the latter which jewelry had been pawned by one Josefina Rocco. Suspecting that it was the same jewelry she had sold to petitioner, Niceta informed the latter of this offer and suggested that petitioner go to the Long Life pawnshop to check the matter out. Petitioner claims she went to private respondent pawnshop, verified that indeed her missing jewelry was pledged there and told Yu An Kiong not to permit anyone to redeem the jewelry because she was the lawful owner thereof. Petitioner claims that Yu An Kiong agreed.

On 9 July 1968, petitioner went to the Manila Police Department to report the loss, and a complaint first for qualified theft and later changed to estafa was subsequently filed against Josefina Rocco. On the same date, Detective Corporal Oswaldo Mateo of the Manila Police also claims to have gone to the pawnshop, showed Yu An Kiong petitioner's report and left the latter a note asking him to hold the jewelry and notify the police in case someone should redeem the same. The next day, on 10 July 1968, Yu An Kiong permitted one Tomasa de Leon, exhibiting the appropriate pawnshop ticket, to redeem the jewelry.

On 4 October 1968, petitioner filed a complaint with the then Court of First Instance of Manila for damages against private respondent Long Life for failure to hold the jewelry and for allowing its redemption without first notifying petitioner or the police. After trial, the trial judge, Hon. Luis B. Reyes, rendered a decision in favor of petitioner, awarding her P26,500.00 as actual damages, with legal interest thereon from the date of the filing of the complaint, P2,000.00 as attorney's fees, and the costs of the suit.

Judge L.B. Reyes' decision was reversed on appeal and the complaint dismissed by the public respondent Court of Appeals in a Decision promulgated on 26 September 1976.

The Court of Appeals gave credence to Yu An Kiong's testimony that neither petitioner nor Detective Mateo ever apprised him of the misappropriation of petitioner's loan, or obtained a commitment from him not to permit redemption of the jewelry, prior to 10 July 1968. Yu An Kiong claims to have become aware of the loan's misappropriation only on 16 August 1968 when a subpoena duces tecum was served by the Manila Fiscal's Office

requiring him to bring the record of the pledge in connection with the preliminary investigation of the estafa charge against Josefina Rocco. Consequently, the appellate court ruled, there could have been no negligence, much less a grave one amounting to bad faith, imputable to Yu An Kiong as the basis for an award of damages.

In this Petition for Review, petitioner seeks reversal of the public respondent's findings relating to the credibility of witnesses and the restoration of the trial court's decision.

Deliberating on the present Petition for Review, the Court considers that the public respondent Court of Appeals committed reversible error in rendering its questioned Decision.

It is a settled principle of civil procedure that the conclusions of the trial court regarding the credibility of witnesses are entitled to great respect from the appellate courts because the trial court had an opportunity to observe the demeanor of witnesses while giving testimony which may indicate their candor or lack thereof.[1] While the Supreme Court ordinarily does not rule on the issue of credibility of witnesses, that being a question of fact not properly raised in a petition under Rule 45, the Court has undertaken to do so in exceptional situations where, for instance, as here, the trial court and the Court of Appeals arrived at divergent conclusions on questions of fact and the credibility of witnesses.[2]

The Court of Appeals rejected what it considered to be the incredible testimony of petitioner and Detective Mateo. It faulted petitioner for failing to report to the police authorities the loss of her jewelry immediately on 21 March 1968 when Josefina Rocco failed to return to her either the loan proceeds or the jewelry. But it must be noted that Josefina Rocco simply disappeared without a trace on said date. Petitioner had no way of knowing if Josefina had misappropriated her jewelry, or had first pledged the jewelry as instructed and then misappropriated the proceeds of the loan. In the latter case, which was in fact what had occurred, petitioner could have had no idea as to the identity of the pawnbroker. Moreover, this Court has several times recognized that different people may have diverse reasons for failing to report promptly to the police their having been victimized by some criminal or fraudulent scheme and that such failure does not by itself render their subsequent testimony unworthy of credence.[3] The Court of Appeals also found it hard to believe that Detective Mateo had failed to obtain a written acknowledgment from Yu An Kiong of the receipt of the note as corroboration for his testimony. However, absent evidence that it was an established practice for police officers to obtain such acknowledgment in situations like the one here, it is difficult to see why Detective Mateo's behavior should be considered unbelievable. On the other hand, as the trial court pointed out, it would not have been sensible for Detective Mateo to leave a note reminding Yu An Kiong to hold unto the jewelry if the latter had in fact then told the policeman that the jewelry had already been redeemed.

The public respondent apparently believed petitioner had failed to establish her ownership of the jewelry pledged by Josefina Rocco, such failure purportedly engendering doubt that Tomasa de Leon may have redeemed jewelry different from that owned by petitioner. This is curious and untenable because the record on appeal indicates that Yu An Kiong had admitted in his answer and memorandum before the trial court that he received pledged jewelry from Josefina Rocco and, in his memorandum, that such jewelry had been entrusted to Josefina by petitioner as the latter's employer. It is clear from these judicial admissions that he considered petitioner to have been the true owner of the jewelry.

Finally, the Court of Appeals did not believe petitioner's testimony because of a claimed material inconsistency therein. On direct examination, petitioner said she "immediately" went to the private respondent's establishment upon being informed by Niceta Ribaya of the possible whereabouts of her jewelry. On cross-examination, she said she went to the establishment "a few days later." If this is an inconsistency, it relates to an unimportant detail. What is clear is that in any event, petitioner testified that she went to the respondent's pawnshop to meet Yu An

Kiong and notify him of the misappropriation before anyone had redeemed the jewelry.

We must also note that the Court of Appeals apparently overlooked a fact of substance which did not escape the attention of the trial court. Petitioner's version of events was corroborated by Police Detective Mateo and by Niceta Ribaya. These were two (2) individuals who had nothing to gain from the outcome of the case. Certainly, their disinterested testimony should have been accorded more probative weight than the negative, uncorroborated and self-serving testimony of Yu An Kiong, which presented a diametrically opposed version of events calculated to show that in permitting redemption of the jewelry, he was acting in good faith.[4] The testimony of Detective Mateo was moreover supported by the presumption that he had acted in the regular performance of his official duty as a police officer, a presumption that Yu An Kiong did not try to rebut.

This being a civil case, it was enough for petitioner to show, by a preponderance of evidence, that her version of events did in fact occur. We agree with the trial court that this burden of proof had been discharged by petitioner because her evidence was direct and more credible and persuasive than that propounded by Yu An Kiong,[5] and corroborated by disinterested witnesses.

Turning to the substantive legal rights and duties of the parties, we believe and so hold that, having been notified by petitioner and the police that jewelry pawned to it was either stolen or involved in an embezzlement of the proceeds of the pledge, private respondent pawnbroker became duty bound to hold the things pledged and to give notice to petitioner and the police of any effort to redeem them. Such a duty was imposed by Article 21 of the Civil Code.[6] The circumstance that the pawn ticket stated that the pawn was redeemable by the bearer, did not dissolve that duty. The pawn ticket was not a negotiable instrument under the Negotiable Instruments Law nor a negotiable document of title under Articles 1507 et seq. of the Civil Code. If the third person Tomasa de Leon, who redeemed the things pledged a day after petitioner and the police had notified Long Life, claimed to be owner thereof, the prudent recourse of the pawnbroker was to file an interpleader suit, impleading both petitioner and Tomasa de Leon. The respondent pawnbroker was, of course, entitled to demand payment of the loan extended on the security of the pledge before surrendering the jewelry, upon the assumption that it had given the loan in good faith and was not a "fence" for stolen articles and had not conspired with the faithless Josefina Rocco or with Tomasa de Leon. Respondent pawnbroker acted in reckless disregard of that duty in the instant case and must bear the consequences, without prejudice to its right to recover damages from Josefina Rocco.

The trial court correctly held that private respondent was liable to petitioner for actual damages which corresponded to the difference in the value of the jewelry (P48,500.00) and the amount of the loan (P22,000.00), or the sum of P26,500.00. Petitioner is entitled to collect the balance of the value of the jewelry, corresponding to the amount of the loan, in an appropriate action against Josefina Rocco. Private respondent Long Life in turn is entitled to seek reimbursement from Josefina Rocco of the amount of the damages it must pay to petitioner.

ACCORDINGLY, the Petition is GRANTED. The Decision of the Court of Appeals dated 23 September 1976 is hereby REVERSED and SET ASIDE. The Decision of the Court of First Instance dated 22 May 1970 is hereby REINSTATED in toto. No pronouncement as to costs.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Davide, Jr., JJ., concur.

[1] Vda. de Alberto v. Court of Appeals, 173 SCRA 436 (1989).

[2] Robleza v. Court of Appeals, 174 SCRA 354 (1989).

[3] E.g., People v. Pacabes, 137 SCRA 158 (1985); People v. Coronado, 145 SCRA 250 (1986).

[4] Vda. de Alberto v. Court of Appeals, *supra*.

[5] Stronghold Insurance Co., Inc. v. Court of Appeals, 173 SCRA 619 (1989).

[6] Article 21 of the Civil Code provides:

"Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

The problems exemplified in this case are now addressed by P.D. No. 114 entitled the "Pawnshop Regulation Act," dated 29 January 1973. Section 13 of this statute grants the pawner an automatic grace period of ninety (90) days from the date of maturity of the obligation, within which to redeem the pawn by payment of the principal of the debt with interest, principal and interest being compounded at the time the obligation matured. Under Section 15 of the same statute, the pawnbroker is expressly forbidden to sell or otherwise dispose of things received in pawn or pledge to anyone other than the pawner, except at public auction, under the control and direction of a licensed auctioneer, and then only after publication of notice in at least two (2) daily newspapers during the week preceding the date of such public auction sale. Section 14 expressly requires the pawnbroker to notify the pawner of the date, hour and place of the sale.

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