

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO G. ROA III, ACCUSED-APPELLANT.

Ponente: BUESER, J.

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BUESER, J.:

This is an appeal by accused-appellant Bonifacio Roa III y Gonos (“appellant”) from the Decision[1] dated October 21, 2013, of the Regional Trial Court, Branch 196, Paranaque City (“trial court”), the dispositive portion of which reads -

“WHEREFORE, premises considered:

1. Accused FREDDIE L. MAMAWAG and BONIFACIO G. ROA III are hereto found GUILTY beyond reasonable doubt for the crime of THEFT as penalized under Article 308 in relation to 309 of the Revised Penal Code and are sentence to serve, without any mitigating or aggravating circumstance, the penalty of four years two months and one day of prision correccional as minimum to six years and one day of prision mayor minimum period as maximum, with all the accessory penalties imposed to the service of his sentence;
2. Accused FREDDIE L. MAMAWAG and BONIFACIO G. ROA III are hereto ordered to indemnify jointly and severally private complainant Deonito G. Rosaldes the amount of forty-seven thousand (P47,000.00) pesos as civil indemnity ex delicto as a consequence of the felony of the theft, with cause for subsidiary imprisonment in failing to pay for the same.
3. Without pronouncement as to cost.

SO ORDERED.”

The charged against the appellant stemmed from the following Information[2] -

“That on or about the 19[th] day of December 2010, in the City of Paranaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another with intent to gain and by means of force upon things, entered the house of complainant DEONITO ROSALDES y GUIJARNO, by scaling the fence and destroying the padlock of the main gate of the house of complainant, and once inside, did then and there willfully, unlawfully and feloniously take, rob and carry away the following:

- one (1) Philips colored television in the amount of P16,000.00
- one (1) Pioneer DVD in the amount of P25,000.00
- one (1) Nokia cellular phone in the amount of P16,000.00
- one (1) College ring gold in the amount of P22,000.00
- one (1)one Necklace gold in the amount of P38,000.00
- one(1) Seiko watch in the amount of P11,000.00
- one (1) Ladies watch in the amount of P3,000.00
- one (1) Nokia cellular phone in the amount of P4,000.00
- one (1) Pleener in the amount of P7,000.00
- one (1) Grinder in the amount of P6,000.00

one (1) Bag with notebook in the amount of P10,000.00
one (1) Small back pack in the amount of P2,000.00
eight(8) Pieces of caps in the amount of P9,000.00
four (4)Bottles of champagne in the amount of P6,000.00
one (1) Mag lite (small) in the amount of P2,500.00
one (1) Cellphone charger in the amount of P600.00
one (1) Perfume (eternity) in the amount of P2,500.00
one (1) US\$1,000 or 46,000 more or less

with the total amount of P226,600.00 belonging to the said complainant, to the damage and prejudice of the latter, in the aforementioned amount of P226,600.00 more or less.

CONTRARY TO LAW.”

Upon arraignment, appellant and his co-accused pleaded not guilty and trial on the merits ensued.

The Facts

Prosecution evidence tend to establish that -

On December 19, 2010, at around 1:00 o'clock in the morning, Deonito G. Rosaldes (“complainant”) was at home, peacefully sleeping in his room at the second floor, when he was awakened by noises coming from the first floor. He got up from bed and decided to check. From the stairs, three (3) meters away, he saw two (2) men, who turned out to be appellant and his co-accused, going over certain items and getting it. Since the area where appellant and his co-accused were at was illuminated by the light coming from the neighbor's garage, he saw the appellant's co-accused carrying with him a duty free bag, which he filled up with four (4) bottles of champagne, while appellant took with him the school bag of complainant's son.

Fearful, complainant remained hidden and did not move until the intruders left. When appellant and his co-accused went out of complainant's house, the latter immediately followed and saw the two (2) men load the stolen items in their vehicle and sped away. Complainant checked on his son and after finding out that the boy was alright, went to his next door neighbor and asked for help. Complainant then listed all the items that were taken from his house. He discovered that appellant and his co-accused were able to enter the house, through the main gate by removing the padlock with a use of a bolt cutter. After the inventory, complainant reported the incident to barangay officials.

At the barangay hall, complainant was presented with pictures of men involved or suspected to be involved in recent robberies in the locality. From those pictures, complainant was able to identify appellant and his co-accused. Complainant knows the father of the appellant.

Appellant's co-accused denied liability. He was at the wake of a friend from 8:00 o'clock in the evening until 4:00 o'clock in the morning the following day, when the incident took place.

Appellant on the other hand claimed he was sleeping at home on December 19, 2010.

The Trial Court's Ruling

After due proceedings, the trial court rendered the assailed Decision and found appellant and his co-accused guilty beyond reasonable doubt of the crime of theft, to wit -

“The weight of evidence presented by the prosecution thru the chief witness far outweigh the bare denial by the accused, as the former springs from a higher evidence which stand belief and expectation from a victim of a thievery, while the latter remains a simple statement by a felon who has all but a simple reason to simply

deny a fact.

If at all, that claimed by either accused that they were within the vicinity of the house of the complainant which was located within the 4th Estate Subdivision in Paranaque only bolsters the line of accessibility of either of both accused to be there at the scene of the crime. And their relative accessibility, which is not an absolute defense of being completely inaccessible, would bring them in the stream of possibility to even commit the crime. Thus, rather than having a defense, would even aid the possibility to the commission of a crime, as the case at bar. Accused individuals' line of defense of being in a wake or at home will not overturn neither negate the fact that they were seen by the complainant carting away the personal properties inside his house in the wee morning of December 19, 2010."

Hence, this appeal.

Appellant raises the sole -

Assignment of Error

THE TRIAL COURT GRAVELY ERRED IN CONVICTING APPELLANT OF THE CRIME OF THEFT DESPITE THE FACT THE HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

This Court's Ruling

Factual findings of the trial court should be given full faith and credit unless there is a showing of a misinterpretation of material facts or grave abuse of discretion.[3]

In the present case, in giving weight to the prosecution's testimonies, there is not a slight indication that the trial court acted with grave abuse of discretion, or that it overlooked any material fact. In fact, no allegation to that effect ever came from the defense. There is therefore no reason to disturb the findings of fact made by the trial court and its assessment of the credibility of the witnesses. It has been held time and again that the trial court's assessment of the credibility of a witness is entitled to great weight, sometimes even with finality.[4]

No improper motive can be attributed to herein eyewitness who, testified clearly, coherently and in a forthright manner as to the taking of his personal properties. Appellant testified -

Q

In your affidavit, you narrated a certain particular incident December 19, 2010. Where did this incident happen, Sir?

A

This incident happen in Lot 15 Block 4 Phase 1 El Fuentebello Subdivision, Paranaque City.

Q

And at around what time did it transpire?

A

At around not more or less than 1:00 o'clock in the morning.

Q

And where were you at that time of the incident?

A

I am sleeping in the master bedroom in second floor of my house.

xxx xxx xxx

A

When I heard the noise, nagising ako ng nakarinig ako ng parang kaluskus ng pusa. Ang ginawa ko binuksan ko ang ilaw hanggang gumapang ako sa hagdanan papunta doon sa ground floor ng bahay namin.

Q

This light which you turned on, at what portion of the second floor does this light illuminate?

A

Malapit sa hagdanan po pababa.

Q

And what happened next after you turned on the light at that particular portion of the second floor?

A

Noong pina-ilaw ko iyong ilaw, gumapang ako doon sa hagdanan pababa. Nakita ko itong dalawa.

xxx xxx xxx

A

Noong sumilip na ako sa baba, kasi iyong bintana ko sa side ng bahay ng kapatid ko walang kurtina, so maliwanag rin ang ilaw na pumapasok galing sa garahe galing sa kabilang bahay. Doon ko sila nakita na dalawa.

Q

Where were they?

A

Nakita ko sila doon sa salas ng bahay namin sa ground Floor. Mayroon kami ditong dining table. Dito ko sila nakita malapit sa dining table.

xxx xxx xxx

Q

And you mentioned you saw them at the portion of the dining table?

A

Yes.

Q

What are their positions are they standing up or sitting down at that time?

A

Itoong si Mamawag bitbit na iyong... Nakatayo na sila palabas na. Balak na nilang lumabas dahil nakaramdam na sila ng ilaw.

Q

And you mentioned that somebody carrying something. What Freddie Mamawag carrying at that time?

A

Iyong dala ni Freddie Mamawag iyong plastic ng Duty Free na may lagay na apat na bote ng Champagne. Si Bonifacio Roa dala na iyong bag ng anak ko na nag aaral sa elementary. Libro, notebook, at saka mga lapis.

Q

It's a school bag, sir.

A

Yes.

Q

Are you saying from this angle of the staircase and from this vantage point, you could see the dining table?

A

(Witness nodded.)

Q

Now, approximately how long did you stay at that position crawled on top of your stairs from the moment you saw them?

A

Note more than five minutes or less than five minutes

Q

Then what were you doing then? Why you not asked for help?

A

Natakot din akong sumigaw ng magnanakaw baka may baril, mabaril ako madisgrasya pa ako.[5]

Against the testimony of the prosecution's eyewitness, the appellant could only rely on the defense of denial. This defense, however, deserves scant consideration since denial cannot prevail over the positive testimony of a witness. A mere denial, just like alibi, is a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters.[6]

Moreso, appellant lived within the vicinity of complainant's house. Surely, there is no physical impossibility for the appellant to be present at the scene of the crime. The mere fact, therefore, that he was at home, sleeping, did not preclude his presence at complainant's house at the time the crime happened. Moreover, he was positively identified by the complainant who was even familiar with appellant's father because the latter is a drinking buddy of the complainant.

By the foregoing standards we concur with the trial court's decision and finds no reason to overturn the same.

As to appellant's contention that complainant failed to establish and prove the existence of all the items listed in his complaint, it is well to note that the trial court did not make appellant and his co-accused liable for all those items listed but only for the three (3) personal properties that were identified through receipts. We quote -

“However, only three personal items were identified thru receipts or instruction manuals to prove that they really existed, particularly, the DVD player, television set and liquor bottles. Such positive line of evidence

was never refuted successfully by accused as private complainant ha scrutinized his residence and reported the said personal items and effects to have been missing from his household immediately after the robbery incident, thus conclude three items of personal belongings of complainant were indeed owned and existed at his house. As a fact alone, only three identified personal items amounting to forty-seven thousand (P47,000.00) to comprise of electronic appliances and liquor bottles as owned by complainant at the time of the incident involved in this case.”

All told, no reversible error was committed by the Regional Trial Court, Branch 196, Paranaque City in its Decision dated October 21, 2013.

WHEREFORE, the APPEAL is hereby DENIED. IT IS SO ORDERED.

Bruselas, JR., A.D., Chairman and [*]Paredes, V.I., A., JJ., concur.

[*] Acting Junior Member for 15 working days only from February 24, 2015 per Office Order No. 55-15-ABR dated February 23, 2015.

[1] Rollo pp.12-19.

[2] Records, p.2.

[3] People vs. Bautista, G.R. No. 191266, June 6, 2011.

[4] Id.

[5] TSN dated May 30, 2011, pp. 9; 11-12; 17; 19-21.

[6] Crisostomo vs. People , G.R. No. 171526, September 1, 2000.

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