

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JEANNA MARA MANANSALA Y CENTENO, ACCUSED-APPELLANT.

Ponente: GONZALES-SISON, M., J.

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GONZALES-SISON, M., J.:

This case is an appeal from the Decision[1] of the Regional Trial Court of Las Piñas City, Branch 255 convicting the herein accused-appellant Jeanna Mara Manansala y Centeno @ “Joana Wyles Centeno” guilty beyond reasonable doubt for Qualified Theft.

The indicting Information alleges:“That on or about the 12[th] day of May, 2011, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as domestic servant of complainant BERNADETTE AGAPITO y BATI, and as such enjoying the trust and confidence reposed upon her by complainant BERNADETTE AGAPITO y BATI, with grave abuse of confidence, did then and there willfully, unlawfully and feloniously take, steal and carry away two (2) pieces gold rings with diamonds worth Php70,000.00, one (1) gold pendant worth Php10,000.00, backpack containing thirteen (13) pieces of assorted T-shirt/Blouses, eighteen (18) pants and seven (7) shorts worth Php5,000.00 and Apple Ipod worth Php8,000.00 with a total amount of Php93,000.00 belonging to BERNADETTE AGAPITO y BATI to the damage and prejudice of the complainant in the said amount of Php93,000.00.

CONTRARY TO LAW.”[2]

Duly arraigned on 09 June 2011, accused, assisted by her counsel, pleaded "Not Guilty[3] to the crime charged. Meanwhile, at the pre-trial conference, the prosecution marked the following documents, to wit:

Exhibit "A", “A-1”to “A-13” - Fourteen (14) photographs depicting the items that were stolen

Exhibit "B" - Investigation Report dated 13 May 2011

Exhibit "C" -Sinumpaang Salaysay dated 13 May 2011 executed by Bernadette Agapito;

Exhibit "D" - Certificate of pawned item numbered 4018B3;

Exhibit "E" - Affidavit of Loss of pawnshop ticket executed by Jeanna Manansala;

Exhibit "F" - Affidavit of Ownership executed by the private complainant dated 14 May 2011.

and made reservation to mark additional documents during the course of the trial. For the defense, it has no documents marked but reserved its right to do so in the course of the trial.

Parties stipulated on the following facts: the identity of the accused and the jurisdiction of the trial court.

Trial ensued thereafter.

During the trial of the case, the prosecution presented the testimonies of the private complainant Bernadette Agapito and her husband Arnold Agapito while the defense, on the other hand, presented the lone testimony of the

accused.

From the evidence presented by the parties, the trial court culled the following facts:

"According to the prosecution, on May 1, 2011, private complainant Bernadette Agapito (Bernadette, for brevity) employed the accused as their domestic servant in their house located in Racasa Street, BF Resort Village, Las Piñas City. The accused was referred to Bernadette by the latter's mother's housemaid, a certain Mylene, who were then residing in San Pablo City, Laguna. As the accused was found to be hard-working during her first few days in Bernadette's home, she (accused) had gained the trust and confidence of Bernadette and the latter's family. On May 12, 2011, however, Bernadette, while in her office in Makati City, received a call from her daughter, Arneth, who was in their house in Las Piñas, telling her (Bernadette) that the accused had been missing for two (2) hours already and that she did not know where said accused had gone. Bernadette then instructed Arneth to look for the accused, and consequently called her mother in San Pablo City, to talk to Mylene (the maid who had referred the accused to be Bernadette's house helper) and to ask the latter to help them find the accused as she might have decided to go back to Laguna.

Later in the evening of the same day, or about between 6:30 p.m. and 7:00 p.m. of May 12, 2011, Bernadette and her husband, Arnold Agapito (Arnold, for brevity), arrived at their home in Las Piñas City. Upon checking their belongings, they learned that Bernadette's two (2) gold rings and pendant, her daughter's Apple Ipad and several of their clothes were missing. With this discovery, Arnold immediately went to their barangay in BF Resort, Talon 2, Las Piñas City, to make a blotter of the incident. Bernadette, for her part, again contacted her mother in San Pablo City to tell the latter that some pieces of her jewelry were missing and reiterated her plea for help to find the accused.

A few hours after, Bernadette received a call from San Pablo City telling her that the accused had been found. Arnold and Bernadette decided to ask the help of two (2) Barangay Tanods of Barangay Talon 2, Las Piñas City, a certain Joey and Lando, who went with them to San Pablo City, particularly in the house of Bernadette's mother, to confront the accused.

When Bernadette, Arnold and the two (2) Barangay Tanods arrived in the house of Bernadette's mother in San Pablo City, they saw the accused therein sitting, with Arneth's backpack beside her. Upon the instruction given by the Barangay Tanods, the accused took out one by one the contents of the backpack. As the accused removed the items from the backpack, Bernadette recognized that the clothings which were brought out belonged to her daughters. She also recognized her daughter Arneth's Apple Ipad and its charger. Bernadette then took pictures of the said items (Exhibits "A" to "A-9"). Thereafter, the accused also brought out from one of the pockets of the backpack a pawn ticket (Exhibit "H") which reflected a ring as the pawned item. The accused then admitted that she had also pawned the other ring of Bernadette but she however lost the pawn ticket therefor. Considering that the accused admitted stealing the said items, Bernadette and Arnold, together with the Barangay Tanods Joey and Lando, decided to bring the accused in Las Piñas City for her turn over to the police and eventually for inquest proceedings.

Later, Bernadette redeemed from Villarica Pawnshop in Sto. Tomas, Batangas the pawned item subject of Exhibit "H", i.e., her gold ring with diamond (Exhibit "A-12" and "A-13"), in the amount of Php3,500.00, as well as the other gold ring which was pawned with Tambunting Pawnshop located in Calamba, Laguna, after the execution of the required documents such as the Affidavit of Loss of Pawnshop Ticket (Exhibit "E") and an Affidavit of Ownership (Exhibit "F").

On the other hand, the defense, with the accused as its sole witness, admitted that the said accused was from San Pablo City, Laguna and had been referred by her neighbor, Mylene, to be the house helper of Bernadette. According to the accused, she was employed by Bernadette for less than a month ("Magwa-one month po) up to May 11, 2011. She left Bernadette's house (after eating lunch) without permission because the latter did not allow her to go home the first time she had asked and because Bernadette failed to advance her salary when she requested for it due to her child's illness. The accused however denied the charge against her and claimed that

the prosecution has no evidence against her.

During the hearing held on November 24, 2011, the prosecution and the defense stipulated on the following facts, to wit – 1. On May 13, 2011, SPO1 Richard Credo was a police officer assigned at the Las Piñas City Police Investigation and Detective Management Division; 2. He was the officer on case who helped prepare the complaint filed by Bernadette/Arnold Agapito against the accused; 3. In the course of the investigation, he recommended that the complaint be referred to the Office of the City Prosecutor of Las Piñas City for proper evaluation and disposition; 4. He prepared the Investigation Report dated May 13, 2011 marked as Exhibit “B; 5. He could identify said Investigation Report as well as the accused; and 6. He has no personal knowledge of the herein alleged offense.”[4]

After trial, the lower court, on 03 December 2011, rendered a decision[5], the dispositive portion of which reads as follows:

“WHEREFORE, in view of all the foregoing, the Court finds the accused JEANNA MARA MANANSALA y CENTENO GUILTY beyond reasonable doubt of the crime of Qualified Theft, and is hereby sentenced to an indeterminate imprisonment term of SIX (6) YEARS AND ONE (1) DAY OF PRISION MAYOR, as minimum, and TEN (10) YEARS, EIGHT (8) MONTHS AND ONE (1) DAY OF PRISION MAYOR, as maximum.

Further, the accused is directed to reimburse private complainant Bernadette Agapito the amount of Three Thousand Five Hundred Pesos (Php3,500.00) representing the redemption price the latter had paid to Villarica Pawnshop to get back her ring.

SO ORDERED.”

Hence, this appeal, submitting that the trial court erred[6] –

I

IN NOT FINDING THAT THE ACCUSED-APPELLANT'S RIGHTS UNDER REPUBLIC ACT NO. 7438 WERE VIOLATED.

II

IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

Appellant argues that she was never provided with a counsel during her custodial investigation and alleged extra-judicial confession in the presence of the barangay tanods, in violation of her rights under Republic Act No. 7438.

Appellant asserts that inasmuch as her alleged confession was not put into writing, or made upon a valid waiver, the same is inadmissible in evidence.

On the other hand, the People, through the Office of the Solicitor General, maintains that the trial court did not err in finding the appellant guilty beyond reasonable doubt and that all of the elements of qualified theft are present in this case.

Simply put, the Court is called upon to determine whether or not the guilt of appellant for the crime as charged has been established beyond reasonable doubt.

As a general rule, the trial court is in the best position to determine facts and to assess the credibility of witnesses as it is in a unique position to observe the witnesses' deportment while testifying, an opportunity denied the appellate court. Hence, the trial court's assessment of the credibility of witnesses is entitled to great respect and

will not be disturbed on appeal, unless: (1) it is found to be clearly arbitrary or unfounded; (2) some substantial fact or circumstance that could materially affect the disposition of the case was overlooked, misunderstood, or misinterpreted; or (3) the trial judge gravely abused his or her discretion.[7]

We have carefully scrutinized the records of the case and found that the trial court did not consider the alleged oral confession of the appellant before the barangay tanods. Moreover, the Investigation Report reveals that she “was apprised of her constitutional rights in the language that she fully understood however, she opted to remain silent”[8] and this fact was stipulated upon by the prosecution and the defense with regard to the regularity of the investigation conducted by SPO1 Richard Credo.[9]

At any rate, even without the extrajudicial confession of the accused, We are convinced that the culpability of appellant for qualified theft had been proven beyond reasonable doubt, as hereafter discussed.

The elements of qualified theft include the elements of theft and any of the circumstances enumerated in Article 310 of the Revised Penal Code[10] (RPC). The elements of theft, which is defined in Article 308 of the RPC,[11] are the following:

"xxx there are five essential elements which constitute the crime of theft, namely: (1) Taking of personal property; (2) that said property belongs to another; (3) that said taking be done with intent to gain; (4) that, further, it be done without the owner's consent; and (5) finally, that it be accomplished without the use of violence or intimidation against persons, nor of force upon things."[12]

The specific qualifying circumstance in Article 310 of the RPC which the information indicated was that the felony was committed with grave abuse of confidence. Hence, to warrant a conviction, the prosecution should have proven the following elements:

- 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.

In this case, the essential requisites of qualified theft were present: First, there was the taking of another's personal property, as the appellant took away the items belonging to the private complainant. Second, there was intent to gain. "Intent to gain" is said to be present when "by using things, we derive from them utility, satisfaction, enjoyment, pleasure, or what amounts to the same thing, real gain." By gain is meant not only the acquisition of a thing useful to the purposes of life but also the benefit which in any other sense may be derived or expected from the act which is performed.[13] Third, the taking of the subject items was without the consent of the owner thereof, as the appellant was not authorized to get hold of the said item. And fourth, the appellant, being the house helper of the private complainant, acted with abuse of the confidence.

In the case of Valenzuela vs. People,[14] the Supreme Court held:

"Indeed, we have, after all, held that unlawful taking, or apoderamiento, is deemed complete from the moment the offender gains possession of the thing, even if he has no opportunity to dispose of the same. And long ago, we asserted in *People v. Avila*:

x x x [T]he most fundamental notion in the crime of theft is the taking of the thing to be appropriated into the

physical power of the thief, which idea is qualified by other conditions, such as that the taking must be effected *animo lucrandi* and without the consent of the owner; and it will be here noted that the definition does not require that the taking should be effected against the will of the owner but merely that it should be without his consent, a distinction of no slight importance.”

We are in full accord with the findings of the trial court, thus:

“Furthermore, the Court finds it incredible that the accused had nothing to do with the pawning of the [sic] Bernadette's redeemed ring from Villarica Pawnshop. First, the address of the person who pawned the ring indicated in the Villarica Pawn Ticket (Exhibit “A-Rebuttal”) is exactly the same address on record of the accused. Second, the name of the person who pawned the said ring, a certain Joana Wyles Centeno, has a too close resemblance with the true name of the accused, “Jeanna” being her real first name and “Centeno” being her middle name. Third, even the strokes of the person who signed the said pawn ticket appear to be similar with the admitted genuine signature of the accused, particularly that appearing in the Booking and Information Sheet (Exhibit “B-Rebuttal”). And finally, the Court finds it too much of a coincidence that the ring was pawned on the day when the accused had stealthily left Bernadette's house, i.e., on May 12, 2011. With these, the Court finds that the accused had merely used aliases when she pawned Bernadette's rings after the former had stolen the herein subject items.

xxx In addition, had they not been telling the truth that the accused admitted to them about her (accused) stealing their belongings, how could have they (Bernadette and Arnold) known that Bernadette's other ring was pawned with Tambunting Pawnshop somewhere in Calamba, Laguna? With the testimonies given by the prosecution witnesses, the Court finds that the accused had been the one who gave out the information as to where exactly she had pawned the aforementioned other ring, thereby leading Bernadette to Tambunting Pawnshop located in the nearby town of Calamba, Laguna. The Court had moreover observed that Arnold's testimony was given in a straightforward and spontaneous manner, thus, given full credence. The bare allegation of the accused that she was not permitted by Spouses Bernadette and Arnold to go back to San Pablo, Laguna and was also not allowed to make an advance from her salary, did not in any way justify her taking of personal properties not belonging to her.”[15]

Likewise, appellant's defense of denial cannot stand in the face of the positive identification of the accused. It has been unfailingly held that alibi and denial, being inherently weak, cannot prevail over the positive identification of the accused as the perpetrator of the crime. It is facile to fabricate and difficult to disprove, and is generally rejected. Between the categorical identification of the accused by a prosecution witness and the accused's plain denial of participation in the commission of the crime, greater weight is always given to the former.[16]

Finally, for the proper penalty for the single crime of qualified theft, Articles 309 and 310 of the Revised Penal Code provide:

“Art. 309. Penalties. — Any person guilty of theft shall be punished by:

1. The penalty of *prisión mayor* in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prisión mayor* or *reclusión temporal*, as the case may be.
2. The penalty of *prisión correccional* in its medium and maximum periods, if the value of the thing stolen is more than 6,000 pesos but does not exceed 12,000 pesos.
3. The penalty of *prisión correccional* in its minimum and medium periods, if the value of the property stolen is

more than 200 pesos but does not exceed 6,000 pesos.

4. Arresto mayor in its medium period to prisión correccional in its minimum period, if the value of the property stolen is over 50 pesos but does not exceed 200 pesos.

5. Arresto mayor to its full extent, if such value is over 5 pesos but does not exceed 50 pesos.

6. Arresto mayor in its minimum and medium periods, if such value does not exceed 5 pesos.

7. Arresto menor or a fine not exceeding 200 pesos, if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed 5 pesos. If such value exceeds said amount, the provisions of any of the five preceding subdivisions shall be made applicable.

8. Arresto menor in its minimum period or a fine not exceeding 50 pesos, when the value of the thing stolen is not over 5 pesos, and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family.”

“Art. 310. Qualified theft. — The crime of qualified theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding articles, . . .”

In the present case, the total amount of Php5,650.00 was proven during the trial.

Accordingly, the prescribed penalty under Article 309 paragraph (3) of the Revised Penal Code is prisión correccional in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos. Considering, however, that the theft is qualified, the prescribed penalty shall be increased by two degrees, that is, to prision mayor in its medium and maximum periods which is eight (8) years and one (1) day to twelve (12) years.

Taking into account the Indeterminate Sentence Law, the minimum term shall be taken from anywhere within the range of four (4) years, 2 months and one (1) day to eight (8) years.

Hence, the trial court properly imposed the penalty of six (6) years and one (1) day of prision mayor, as minimum and ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum.

WHEREFORE, the instant appeal is DENIED. The decision of the Regional Trial Court of Las Piñas City, Branch 255, convicting appellant Jeanna Mara Manansala y Centeno of Qualified Theft, is hereby AFFIRMED in toto. Costs de oficio.

SO ORDERED.

Salazar-Fernando, R. A., Chairperson, and Cruz, R. A., JJ., concur.

[1] Penned by Judge Emily Reyes Aliño-Geluz in Crim. Case No. 11-0411 dated 03 December 2013, Rollo, Pp. 54-59.

[2] Records, p. 1.

[3] *ibid.*, p. 23.

[4] RTC Decision, pp. 1-3, Rollo, pp. 54-56.

[5] *Supra.*

[6] Appellant's Brief, p. 1, Rollo, p. 41.

[7] People v. Casela, et. al., G.R. 173243, 23 March 2007

[8] Records, p. 6.

[9] TSN, 24 November 2011, p. 2.

[10] Qualified Theft. – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.

[11] Who are liable for theft. – Theft is committed by any person who, with intent to gain but without violence against, or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent. xxx

[12] People v. Yusay, 50 Phil. 598 (1927).

[13] Reyes, The Revised Penal Code, Book II, Thirteenth Ed., 1993, p. 616.

[14] G.R. No. 160188, 21 June 2007.

[15] Rollo, p. 30.

[16] People v. Teston, G.R. No. 134938, 8 June 2000, 333 SCRA 404, 422.

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