

LEONARDO MENDOZA, PETITIONER, VS. PEOPLE OF THE PHILIP-PINES AND COURT OF APPEALS, RESPONDENTS.

G.R. No. L-46484. January 29, 1988

Ponente: FERNAN, J.

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FERNAN, J.:

On November 28, 1965, three hundred ten [310] bags of American rice valued at P5,908.60 belonging to the Rice and Corn Administration [RCA] were unloaded from a vessel at Pier 5, South Harbor, Manila to a truck bearing plate No. TH-2296 owned by the Yellow Ball Freight Lines. The driver of the truck was Ponciano Reponte with Wilfredo Escopin as helper ["pahinante"].

The cargo was intended for delivery to RCA warehouse No. 3 at Pureza Street, Manila under the accountability of Emilio Rosella. However, instead of delivering it to its proper destination, Reponte and Escopin, together with one named Frank, diverted the cargo to the grocery store of Leonardo Mendoza at 160 A. Bonifacio, Balintawak, Quezon City.

Several bags of rice had already been unloaded thereat when police operatives arrived and arrested Reponte, Escopin and Mendoza. Frank eluded arrest and has not been apprehended.

After due investigation, the Assistant City Fiscal of Quezon City filed in the then Court of First Instance of Rizal at Quezon City, an information for qualified theft naming Reponte, Escopin and John Doe alias Frank as principals, and Leonardo Mendoza as accessory after the fact for "purchasing and re-ceiving from the principal the said bags of rice thereby aiding the accused to profit from the effects of the crime." [1]

On arraignment, Reponte and Escopin pleaded not guilty to the crime charged.[2] However, before the trial, Reponte withdrew his plea of not guilty. The Assistant City Fiscal not having objected thereto, Reponte was rearraigned. He voluntarily pleaded guilty of simple theft for which reason the lower court sentenced him to imprisonment of one [1] year of prision correccional and to pay the costs. The lower court did not order the payment of an in-demnity as the stolen goods had been recovered.[3]

During the trial of the case Escopin moved to dismiss the charge against him. Said motion was denied by the lower court but on September 14, 1966, it rendered a decision acquitting Escopin of quali-fied theft. The lower court held that there was no evidence of conspiracy between Reponte and Escopin.[4]

Trial of the case with respect to Leonardo Mendoza thereafter proceeded. On July 7, 1968, the lower court promulgated a decision finding Mendoza guilty beyond reasonable doubt as accessory after the fact of the crime of qualified theft. The lower court imposed on him the indeterminate penalty of four [4] months and twenty [20] days of arresto mayor, as minimum, to one [1] year, eight [8] months and twenty-one [21] days of prision correccional, as maximum, "without indemnity in view of the recovery of the goods stolen and to pay the costs." [5]

On appeal, the Court of Appeals found the judgment of the lower court to be fully supported by the evidence and

the applicable law and affirmed it in toto with costs against the accused-appellant[*]. Hence, the instant petition for review on certiorari.

In his petition, Mendoza contends that the Court of Appeals erred in concluding that the pro-secution adequately established the commission of the crime of qualified theft and in affirming his conviction as accessory after the fact. He asserts that his guilt as such accessory could not be sustained "in the absence of evidence that he had knowledge of the alleged commission of the crime, the finding being based solely on presumption and suspicion, in total disregard and violation of [his] constitutional right to be presumed innocent until the contrary is proved".[6] However, he concedes to the Solicitor General's recommendation that should the quantum of evidence presented by the prosecution warrant his conviction, he should be held liable only as accessory to the crime of simple theft.[7]

Under Article 19 of the Revised Penal Code, accessories are "those who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission" in any of the three ways enumerated therein. One manner of participation which is pertinent to this case is "by profiting themselves or assisting the offenders to profit by the effects of the crime".

Based on said article, We find Mendoza an accessory to the crime committed by the asportation of RCA rice. One reason for such finding is the testimony of Reponte that there was a previous understanding among the accused to sell the stolen RCA rice to Mendoza.[8] The latter's admission that the RCA rice was brought to his store merely for deposit[9] does not negate Reponte's testimony. Neither does it exonerate him. Rather, it proves his complicity to the crime. In this connection, the observations of the lower court, which, contrary to Mendoza's contention, are not mere presumptions based as they are on facts proven at the trial, are worth quoting. It said:

"It is impossible for a person to accept the responsibility of having in custody for one night 310 bags of rice valued approximately at P5,908.60 without ascertaining the real ownership of the same. And being an outlet or retailer of the RCA he knows that the RCA rice are supposed to be placed in the bodega of the RCA and that they are distributed to the retailers not in big quantities such as in the instant case. It is surprising why he will accept from a person whom he does not even know the full name, such a big quantity of rice if he is not interested in buying the said rice. If he were not an RCA retailer he would not know the conditions of how RCA rice are distributed, but being a retailer of the RCA he is of full knowledge how RCA rice are distributed and sold to the public. The court cannot believe in his defense that he received that rice only for storing purposes."[10]

In its decision, the Court of Appeals added:

"We are convinced from the facts and circumstances before Us that the appellant agreed to buy this stolen rice from Frank that is why the same was being unloaded at the time the policemen apprehended them. It should not have been unloaded merely for deposit as he hardly knew Frank whose complete identity he could not attest to. He was not a duly licensed warehouseman nor does it appear that he has a bodega for storage of rice. And he knew the RCA had enough bodegas for storage. The inescapable conclusion is that he agreed to buy the goods which he knew was stolen for certainly its price must be much lower. And even if he did not agree to buy but merely to have it deposited in his premises, the obvious fact is that he knew that it was pilfered and he agreed to assist in keeping the same and in profiting thereby. x x x."[11]

Hence, while there is no direct proof that Mendoza knew that the rice had been stolen, the totality of circumstantial evidence point to the fact that he knew that the rice he was receiving from Frank was stolen. Circumstantial evidence may be the basis for conviction if there is more than one circumstance, the facts from which the inferences may be derived are proven, and the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.[12] All these requirements are satisfied in this case.

In the same manner, the aforecited web of circumstantial evidence plus the fact that the police caught him red-handed, prove beyond reasonable doubt that Mendoza assisted the offenders in profiting from the crime. Said pieces of evidence are strengthened by Mendoza's own admission that he agreed with Frank that the rice be deposited ("ipakilagak") in his house.[13]

However, We are unprepared to convict Mendoza as an accessory to qualified theft. There is proof beyond reasonable doubt that the crime committed is theft under Article 308 of the Revised Penal Code but there is insufficient proof that the illegal taking is qualified under Article 310 of said Code. The situation may have been different had Frank, who, allegedly, is actually Rogelio Suba y Gamboa and a security guard of the RCA [14], been arrested and put on trial.

The crime proven being simple theft, Mendoza should be held liable as accessory to said crime. In the absence of both aggravating and mitigating circumstances, the penalty of one [1] month and one [1] day of arresto mayor should be imposed on him.[15]

WHEREFORE, Leonardo Mendoza is hereby convicted as accessory to the crime of theft under Article 308 of the Revised Penal Code. The penalty of one [1] month and one [1] day of arresto mayor is accordingly imposed on him. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Record, p. 1

[2] Record, p. 9

[3] Record, p. 18

[4] Record, pp. 49-54

[5] Record, pp. 100-104

[*] Emilio A. Gancayco, J., ponente, with Venicio Escolin and Rafael C. Climaco, JJ., concurring. Rollo, pp. 25-33.

[6] Petition, p. 2

[7] Petitioner's Brief, p. 22

[8] Decision of September 14, 1966, p. 2; Record, p. 50

[9] Exhibit 1

[10] Decision of July 7, 1968, p. 3

[11] Decision, pp. 8-9

[12] Sec. 5, Rule 133, Rules of Court; people v. Cruz, G.R. No. 54183, February 25, 1985, 134 SCRA 512, 522.

[13] Exhibit 1

[14] Exhibit C

[15] People v. Marquez, L-20913, May 19, 1965, 14 SCRA 10

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