

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. RAMON LOPEZ, DEFENDANT AND APPELLEE.

G. R. No. L-18766. May 20, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

At 10:00 A.M. of December 21, 1960, the Chief of Police of Bacuag, Surigao del Norte, apprehended three suspicious-looking strangers who were loitering in Pagao, a sitio of Bacuag. A bag which they were carrying was confiscated with the following contents: three carbines, caliber .30 M1; one revolver, caliber .22; three flashlights with batteries; two carbine ammunition magazines, fully loaded; twelve rounds of carbine ammunition; one balisong; a screw driver; seven false keys, one of which was a master key; trousers; shirts; and a pair of shoes.

After an investigation the aforesaid persons—Ramon Lopez, Manuel Buico and Arturo Caniete—were charged in the Justice of the Peace Court of Bacuag with the crime of illegal possession of firearms and, in a separate complaint, the crime of illegal possession of false keys. They pleaded guilty to illegal possession of firearms, not guilty to illegal, possession of false keys.

Following the transmittal of the record of the case on illegal possession of false keys to the Court of First Instance of Surigao del Norte, an information was filed therein against the three accused, thus.

"The undersigned Assistant Provincial Fiscal accuses Manuri, Buico, Ramon Lopez and Arturo Caniete of the crime of Illegal Possession or False Keys committed as follows:

"That on or about the 21st day of December, 1960 in the municipality of Bacuag, Province of Surigao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the said accused with deliberate and criminal intent and without lawful cause did then and there willfully, unlawfully and feloniously have in their possession, custody and control seven (7) false keys, one of which is a picklock or master key.

"Contrary to Law. (Article 301 in relation to Article 305, both of the Revised Penal Code), with the aggravating circumstance that the offenders have been previously punished for an offense to which the law attaches an equal or greater penalty, that is, same three accused were on 24 December 1960 convicted of Illegal Possession of Firearms by the Justice of the Peace Court of Bacuag, Surigao del Norte, and thereby sentenced 'to suffer imprisonment of three (3) years each and fine of P2,000.00 each' in Criminal Case No. 374."

This time, however, Buico and Caniete pleaded guilty. Lopez, pleading not guilty, stood trial. After the prosecution presented one witness, said accused moved to dismiss the case on the ground that the facts charged in the information do not constitute an offense. It was argued that an essential element of illegal possession of false was not alleged, namely, that the picklock or false in the possession of the accused were "specially Adapted to the commission of the crime of robbery". Thereupon, the trial court dismissed the case. The prosecution, with commendable sense of duty, appealed.

Article 304 of the Revised Penal Code provides:

"Art. 304. Possession of picklocks or similar tools.—Any person who shall without lawful cause have in his possession picklocks or similar tools specially adapted to the commission of the crime of robbery, shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period."

Such crime of illegal possession of picklocks or similar tools has, accordingly, two elements: (1) possession of picklocks or similar tools specially adapted to the commission of the crime of robbery; (2) such possession is without lawful cause.

The information alleged that the accused possessed, "without lawful cause . . . seven (7) false keys, one of which is a picklock or master key". (Italics supplied.)

A picklock—a tool used in picking locks—is in itself specially adapted to the commission of robbery of the kind provided for in Articles 299 (a) 3 and 302, par. 3 of the Revised Penal Code:

"ART. 299. Robbery in an inhabited house or public building or Office devoted to worship.—Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by *reclusion temporal*, if the value of the property taken shall exceed 250 pesos, and if—

"(a) The malefactors shall enter the house or building in which the robbery was committed, by any of the following means:

"3. By using false keys, picklocks or similar tools." supplied.)

Art. 302. Robbery in an uninhabited place or in a private building. - Any robbery committed in an uninhabited place or in a building other than those mentioned in the first paragraph of article 299, if the value of the property taken exceeds 250 pesos, shall be punished by *prision correccional* in its medium and maximum periods provided that any of the following circumstances is present:

"3. If the entrance has been effected through the use of keys, picklocks or other similar tools." (Italics supplied.)

Since picking of locks is one way to gain entrance to commit robbery, a picklock is *per se* specially adapted to the commission of robbery. The description in the information of a picklock as "specially adapted to the commission of robbery" is therefore unnecessary for its sufficiency. Notwithstanding the omission of such superfluous description, therefore, the charge of the offense of illegal possession of a picklock is valid. We find both elements of the crime clearly alleged in the information in question.

Furthermore, the information alleged illegal possession of "seven (7) false keys." The Revised Penal Code, in Article 306 defines "false keys" to include "the tools mentioned in the next preceding article." Article 304—"the next preceding article"—mentions "picklocks or similar tools specially adapted to the commission of the crime of robbery." It follows that the term "false keys" appearing in the information sufficiently describes such tools.

Wherefore, the order quashing the information is hereby set aside and the case is remanded for further trial, without costs. It is so ordered.

Bautista Angela, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

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