

NOLI MARQUEZ, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 116689. April 03, 2000

Ponente: BUENA, J.

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BUENA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of court seeking to annul and set aside the decision[1] dated July 29, 1994 of the Court of Appeals in CA-G.R. CR No. 13277 which partially affirmed the decision[2] dated February 5, 1992 of the Regional Trial Court of Cauayan, Isabela, Branch 19, in Criminal Case No. 19-452, for violation of Republic Act No. 6539, otherwise known as the "Anti-Carnapping Act of 1972." The dispositive portion of the decision of the Court of Appeals reads:

"WHEREFORE, we hereby AFFIRM in toto the decision appealed from as regards the conviction of accused-appellant Noli Marquez, but ACQUIT accused-appellant Melchor Marquez on reasonable doubt; consequently, the sentence imposed on Noli Marquez shall stand. Costs de officio.

SO ORDERED."[3]

The factual and procedural antecedents which gave rise to this petition are as follows.

Petitioner Noli Marquez and his co-accused Melchor Marquez were charged with violation of Republic Act No. 6539, otherwise known as the "Anti-Carnapping Act of 1972," before the Regional Trial Court of Cauayan, Isabela Branch 19. The information alleged:

"That on or about the 10th day of September 1990, in the municipality of Cauayan, Province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, did then and there willfully, unlawfully and feloniously, with intent to gain and without the knowledge and consent of the owner thereof, take, steal, drive and bring away one (1) unit motor vehicle, Toyota owner type jeep, bearing plate No. NHB-952 valued at P90,500.00, belonging to Sergio Gonzalez y dela Merced, to the damage and prejudice of the said owner in the aforementioned amount of P90,500.00.

CONTRARY TO LAW."[4]

Upon the arraignment, both accused pleaded not guilty to the offense charged in the information.[5] After the marking of certain documents during pre-trial, trial ensued. In the course of the trial, it was ascertained that private complainant Sergio Gonzales was the owner of a red Toyota Willys (owner-type) jeep with motor no. 12R-0663422, chasis no. 37620 and plate no. NHB-952, registered under the name of Alejandro Bernardino Reyes.[6] On September 10, 1990, the said jeep was parked in front of Gonzales' grocery store in Cauayan, Isabela, but the following morning, it was already gone. Gonzales immediately reported the matter to the PNP, Alicia; PNP, Echague; PNP, Santiago (all in Isabela); and the Constabulary Highway Patrol Group (CHPG). However, the search for the lost jeep was initially unsuccessful. On March 19, 1991,[7] a son of Gonzales saw the jeep while it was parked in front of the Zenith Auto Supply in Cauayan, Isabela. The matter was reported to the

PNP, Cauayan, which immediately responded and brought the jeep to the police headquarters. Accused Noli Marquez and Melchor Marquez, who were in possession of the jeep, were invited to the police headquarters for investigation. At the police headquarters, Gonzales informed the authorities that the recovered jeep was his, claiming that a reserve tire which he kept in his bodega was the same as the tires of the recovered jeep[8] and had the same rim as the other tires;[9] the key to the tool box, which remained in his possession, was shown to be capable of opening the toolbox;[10] and the seat and steering wheel were the same. Gonzales presented to the trial court a picture of the jeep which was taken before it was lost on September 10, 1990.[11] Gonzales produced the key to the tool box to the trial court and showed that it could open the tool box of the recovered jeep.[12] Gonzales also presented to the trial court the spare tire which he kept in his bodega and showed that it had the same rim, red lining, width and trade name as the tires of the recovered jeep.[13] The embedded words "6-ply rating" were also found on all tires.[14] While the color of the recovered jeep was blue, after scratching a portion of the jeep, it was revealed that the jeep was painted red, and previously, painted yellow.[15] Gonzales also presented to the trial court a damaged back seat which allegedly formed part of the recovered jeep and was left in his bodega before the jeep was stolen.[16] Compared with a picture of the jeep which was taken before it was stolen, Gonzales testified that the rubberized mudguard cover at the left tire, the steering wheel, the white rubber lining of the windshield, the canvass cover of the jeep, and the hole at the two (2) roll bars parallel to the driver's place were all the same.[17] Gonzales also attached the spare tire holder which remained in his possession to the rear side of the recovered jeep and the four bolts were shown to fit the holes of the spare tire holder.[18]

The prosecution also presented Nelson Lazo, special identification technician of the PNP Crime Laboratory at Echague, Isabela, who testified that on April 1, 1991, he received a request from the Cauayan Police Station for verification of a Toyota owner-type jeep with plate number BBL 915.[19] He examined the engine and chassis numbers by using a hydrochloric acid solution, and discovered a welding sign where the chassis number was located.[20] Upon examination of the engine, Lazo found no signs of tampering.[21] The Crime Laboratory Report No. PI-004-91 revealed the following findings:

"Physical and macro-etching examination conducted on the above-mentioned specimen revealed the following results:

1. The engine revealed original number.
2. There was a welding sign around the portion where the original chassis is located. The replaced chassis number is not the original number.

CONCLUSION:

The number 327217 is not the original chassis number."[22]

Orencio Orlyn Lelina III, a member of the PNP, Cauayan, testified that on September 10, 1990, his office received a carnap report on a Toyota owner-type jeep owned by Sergio Gonzales.[23] They conducted an investigation and flashed an alarm of the incident to all police stations in the province of Isabela. After several months, they received information that the jeep was parked in front of Zenith Auto Supply.[24] They proceeded to the area where the vehicle was parked and invited the jeep's possessors, accused Noli Marquez and Melchor Marquez, to the headquarters for verification. After finding out that the chassis number of the jeep was tampered, they issued a confiscation receipt for further investigation and verification,[25] and asked the crime laboratory in Echague and the LTO for further verification.[26] The jeep was subsequently impounded by the Station Commander of the PNP, Cauayan for a micro-etching examination of the engine and chassis at the PNP Crime Laboratory Service in Camp dela Cruz, Echague, Isabela.

Edwin Pascua, a member of the PNP, Cauayan, Isabela corroborated Pfc. Lelina's testimony.[27]

At the course of the trial, the trial court discovered that the jeep had already been released to Sergio Gonzales, thus, the trial court ordered Gonzales to bring the jeep to the court premises for an ocular inspection.[28]

In his defense, accused Noli Marquez (herein petitioner) testified that he started to assemble the jeep in 1989 by buying the parts piece by piece and finished assembling it in 1990. According to petitioner, he bought the motor engine from the Bulanadi Auto Supply at Cauayan, Isabela, as shown by an invoice;[29] the chassis from Ceferino Agni, evidenced by a deed of sale;[30] the body of the jeep from Dr. Loreto Manzanilla, evidenced by an affidavit executed by Dr. Manzanilla;[31] the four (4) tires from a certain Dino in Novaliches, Quezon City;[32] and the driver's seat from a junk dealer.[33] Petitioner used the jeep as a service jeep in his farm and duck-raising project.[34] He allegedly registered the jeep in January, 1991 at the LTO, Ilagan.[35] He further claimed that he was told at the LTO to replace the chassis number with another number because the chassis number was already eaten by rust.[36] He allegedly waited for a new chassis number which was later given to him, dropped by a machine shop at Ilagan and ordered the fabrication of the new chassis number, went home to Delfin Albano and welded the new number on the chassis.[37] Petitioner presented an official receipt showing the payment of the registration fees of the jeep. The defense counsel, however, admitted the lack of a certificate of registration for the jeep and offered instead a confirmation certificate of the motor engine and the deeds of sale covering the parts of the jeep.[38] According to petitioner, he was told that the certificate of registration of the jeep would be given to him when he got the sticker of the jeep. On cross-examination, petitioner admitted that he never went to the Philippine Constabulary to secure a certificate of clearance before he assembled the jeep.[39] He further clarified that he detached a portion of the old chassis number using an acetylene torch[40] and welded therein the new number using an electric welding tool.[41] He smoothened the surface of the chassis using an electric sanding machine.[42] Also, he allegedly bought all the accessories of the jeep in Manila but lost the receipts to them.[43]

Melchor Marquez,[44] a co-accused, in his defense, testified that the registration papers are in his name because his father, Noli Marquez, his co-accused, placed them in his name.[45]

Ceferino Agni, testifying for the accused, recalled that on January 1, 1989, he made a receipt for the chassis which petitioner bought from him.[46] However, he did not know the serial number of the chassis which he sold to petitioner.[47] Neither did he know if there was a chassis number on the chassis which he sold to petitioner.[48]

Dr. Loreto Manzanilla testified that sometime in 1990, petitioner asked him to execute an affidavit regarding a jeep's body that petitioner bought from him in May 1990.[49] When he bought the body of the jeep in 1986, it was painted yellow but he repainted it red.[50]

On rebuttal, the prosecution presented among others Emilio Pineda, an LTO Regulation Officer, who testified on the requirements for the registration of a newly assembled motor vehicle. According to Pineda, if the chassis number of a motor vehicle sought to be registered is not visible, they advise the owner to request for a re-stamping of the chassis number,[51] that is, to cause the stamping of another chassis number on another portion of the chassis and not on the place where the old chassis number was embedded.[52] He also testified that the LTO could issue an official receipt for the payment of the registration of a motor vehicle even if the registration papers were not complete; that the LTO could assign a plate number for the motor vehicle even without the certificate of registration;[53] and that if the registrant could not comply with the requirements for registration, the LTO would not issue a certificate of registration.[54]

Julio Maluyo, assistant District Station Officer of LTO, Ilagan, Isabela, testified that they could not issue a certificate of registration to petitioner because he did not secure a clearance from the Constabulary Highway Patrol Group (CHPG).[55]

On February 5, 1992, the trial court rendered a decision finding both accused, Noli Marquez and Melchor

Marquez, guilty beyond reasonable doubt of the crime of carnapping as defined and penalized under Republic Act No. 6539. The dispositive portion of the said decision reads:

"WHEREFORE, in view of the foregoing considerations, and finding both accused guilty beyond reasonable doubt of the crime of carnapping defined and penalized under Rep. Act No. 6539, the Court hereby sentences them to suffer an imprisonment of FOURTEEN (14) YEARS and EIGHT (8) MONTHS as minimum to SIXTEEN (16) YEARS and FOUR (4) MONTHS as maximum.

Costs taxed against the accused.

SO ORDERED." [56]

On appeal, the Court of Appeals affirmed the decision of the trial court insofar as the conviction of Noli Marquez is concerned but acquitted Melchor Marquez on reasonable doubt.

Hence, this petition. Petitioner raises the following errors: [57]

I

THAT THE RESPONDENT COURT DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT IN THAT IT PRESUMED THE ACCUSED GUILTY AND NOT INNOCENT;

II

THAT THE RESPONDENT COURT OF APPEALS LIKEWISE DECIDED A QUESTION OF SUBSTANCE IN MAKING A CONCLUSION GROUNDED MAINLY ON SPECULATIONS, SURMISES, AND CONJECTURES.

Petitioner contends that the trial court "...did not anymore appreciate the evidence presented and adduced by the petitioner because (sic) the Court presumed him to be guilty, which is contrary to the constitutional mandate that an accused is presumed innocent until proven otherwise and that an accused should be judged on the strength of the evidence of the prosecution and not on the weakness of the defense evidence," citing the trial court's ruling that "[t]he only question to be decided in this case is whether or not it is the same vehicle recovered from the accused on March 19, 1991. If it is, the accused are presumed to be the thieves in the absence of a satisfactory explanation (U.S. vs. Unoak, 37 PHIL 835; People vs. Ponciano, G.R. No. 86453, Dec. 5, 1991; Sec. 3(j), Rule 131, Revised Rules on Evidence)." [58]

Petitioner further asserts that the documents he presented before the trial court to prove his ownership of the jeep, particularly, the retail invoice confirming the purchase of the engine, [59] the deed of sale covering the motor chassis, [60] the affidavit executed by Dr. Loreto Manzanilla stating that he sold a motor vehicle (jeep) body to Melchor Marquez, [61] and the confirmation certificate issued by the LTO involving the motor engine [62] should have created sufficient doubt to overturn the presumption relied upon by the trial court.

Finally, in support of his allegation that the trial court erred in concluding that the jeep found in the possession of petitioner was that of Sergio Gonzales, petitioner asserts that the engine mounted on the recovered jeep was not the engine owned by Sergio Gonzales because the former had Motor No. 4K-518254, while the latter had Motor No. 12R-0663422. [63]

We find no merit in the petition.

This Court has consistently and emphatically declared that a review of the factual findings of the lower courts is not a function that is normally undertaken in petitions for review on certiorari under Rule 45 of the Rules of Court. Factual findings of the Court of Appeals are conclusive on the parties and carry even more weight when

said court affirms the factual findings of the trial court.[64] Thus, our jurisdiction in petitions for review on certiorari under Rule 45 is limited only to reviewing errors of law. A reevaluation of the factual issues by this Court is justified only when the findings complained of are totally devoid of support in the records or that they are so glaringly erroneous as to constitute serious abuse of discretion.

After a careful and thorough scrutiny of the records of this case, particularly the evidence for the prosecution and the defense, we find no substantial reason to overturn the findings and conclusions of the trial court. As aptly observed by the trial court, a distinct similarity exists between the picture of the jeep taken prior to its loss and the recovered jeep with the exception of the paint. According to the trial court:

"[t]he most tell-tale resemblances (sic) are the dents in the rear left fender of the recovered vehicle and the one appearing in the picture. The Court observed in the ocular inspection that the plastic fender above the rear left wheel is not only old but it is also not perfectly round. There are slight dents. These could not have been capture (sic) in the picture (Exh. F) had the jeep recovered from the accused been [a] different vehicle. It was further proven during the trial that the whole right front seat, spare tire holder and the reserved (sic) tire of the jeep were kept by the complaining witness in his bodega before the vehicle was stolen. Conspicuously, the vehicle recovered has no right front seat. The four old holes on the floor where the right front seat could be installed with bolts coincided with the four holes of the steel legs of the seat presented by Gonzales, not to mention the fact that the right upholstered front seat is similar to that of the driver's seat at the left. The three old holes at the rear of the body exactly fit to the three bolts of the spare tire holder (Exh. J). The reserve tire together with the paint of the rim where it was mounted is similar to the four tires and rims attached to the jeep. The key (Exh. G) of the tool box in the possession of Gonzales fits to the lock of [the] said box. While the accused Noli Marquez demonstrated that he could open the tool box with his bare hands, the Court observed that to do so, he must forcibly open it which is not natural for an owner to do. After scratching the first blue layer of paint at the outer front fender (beside the engine) Gonzales showed to the Court that the former red color of the jeep come (sic) out. These similarities cannot be merely coincidental. Furthermore, the Court observed that the canvass roofing of the jeep is already old. If it is true, as what Noli Marquez declared that after rebuilding the jeep, he caused the installation of its canvass roof, then said roof ought to be still new considering his allegation that the jeep was rebuilt only in January, 1991." [65]

The trial court appropriately rejected petitioner's assertion that he bought the body of the jeep from Dr. Loreto Manzanilla and the chassis from Ceferino Agni, after noting that the sketch (Exh. K) drawn by Dr. Manzanilla of the body of the jeep sold by him did not resemble the body of the recovered jeep, and the serial number of the chassis bought from Agni was not specified in the deed of sale.[66] In addition, the trial court rightly pointed out that the said deed of sale "...directly contradicts the affidavit (Exh. H) submitted by his son [and co-accused] Melchor Marquez to the LTO [Land Transportation Office] to support his application for registration wherein he declared that he bought the chassis with Serial No. 3272171 from CRM Commercial (See Exh. N)."[67] The trial court further found that "[w]hile the body [of the jeep] allegedly sold by him [Dr. Manzanilla] was bare, the one recovered has right and left rear plastic fenders which are already old and iron pipe roll guards." [68] The trial court denounced what it perceived to be an "attempt to mislead the Court" through the documentary evidence presented by the accused.[69] According to the trial court, "[w]hile they claim that they purchased the chassis from Ceferino Agni, the number of the chassis which is 3272171 appears in the invoice submitted by them (Exh. 3) but the original of said invoice on file with the LTO shows that no chassis was sold by the CRM Commercial (Exh. Q)."[70] The trial court discarded the confirmation receipt issued by the LTO and presented by the accused after noting that "...a comparison of the document submitted by them to the LTO at Ilagan (Exh. Q-1) shows that what was confirmed is (sic) only the engine with Serial No. 4K-5182504 but not the chassis." [71] Lastly, the trial court properly rejected the alleged registration of the recovered jeep with the LTO, Ilagan, Isabela as being "anomalous." The trial court noted that contrary to sections 5, 6 and 10 of Republic Act 6539, no certificate of

clearance from the Philippine Constabulary was secured by the accused before the recovered jeep was registered; and the complete invoices of the spare parts installed in the jeep were not submitted by the accused to the LTO.[72] Conceding that a "confirmation certificate of the motor number"[73] was secured from the LTO, the trial court declared that "...no such confirmation was secured with respect to the chassis." [74] Furthermore, the trial court stressed that no officer of the LTO, Ilagan, Isabela corroborated accused Noli Marquez's testimony that he was instructed by the examiner of the said office to create a new chassis number to replace the allegedly illegible old chassis number.[75] Even the person who made the steel plate with the new chassis number was not presented by the accused in court.[76]

The foregoing disquisition by the trial court demonstrates the implausibility of petitioner's contention that the respondent court's conclusion is grounded mainly on speculations, surmises and conjectures.

In addition to the above factual considerations, we are guided by the rule that a person in possession of a stolen article is presumed guilty of having illegally and unlawfully taken the same unless he can satisfactorily explain his possession thereof.[77] In this case, petitioner was found in possession of the stolen jeep and his explanation as to how he came to possess the same is not satisfactory, thus we find no compelling reason to arrive at a different conclusion.

WHEREFORE, the decision of the respondent Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Penned by Associate Justice Jesus M. Elbinias and concurred in by Associate Justices Lourdes K. Tayo-Jaguros and Bernardo Ll. Salas. Rollo, pp. 48-63.

[2] Penned by Judge Artemio R. Alivia. Rollo, pp. 34-46.

[3] Rollo, p. 62.

[4] RTC Records, p. 52.

[5] Ibid. p. 57.

[6] Exhibit C-1, RTC Records, p. 9; TSN, September 25, 1991, pp. 30-34.

[7] Based on the Confiscation Receipt issued by the Philippine National Police command, Cauayan Police Station, Cauayan, Isabela, RTC Records, p. 6.

[8] TSN, September 25, 1991, p.37; TSN, September 26, 1991, p. 13.

[9] TSN, September 25, 1991, p. 40.

[10] TSN, September 25, 1991, pp. 37-38.

[11] TSN, September 25, 1991, pp. 39-40.

[12] TSN, September 26, 1991, pp. 2-4.

[13] TSN, September 26, 1991, p. 5.

[14] TSN, September 26, 1991, p. 5.

[15] TSN, September 26, 1991, p. 7.

[16] TSN, September 26, 1991, p. 5.

[17] TSN, September 26, 1991, pp. 7-8.

[18] TSN, September 26, 1991, p.8.

[19] TSN, September 25, 1991, p. 9.

- [20] TSN, September 25, 1991, pp. 10-11.
- [21] TSN, September 25, 1991, pp. 16-17.
- [22] Exhibit D-1; RTC Records, p. 15.
- [23] TSN, September 26, 1991, p. 23.
- [24] TSN, September 26, 1991, p. 24.
- [25] TSN, September 26, 1991, p. 25.
- [26] TSN, September 26, 1991, p. 29.
- [27] TSN, September 26, 1991, p.38.
- [28] TSN, October 2, 1991, pp. 41-42.
- [29] TSN, October 2, 1991, pp. 12-13.
- [30] TSN, October 2, 1991, p. 14.
- [31] TSN, October 2, 1991, p. 15.
- [32] TSN, October 2, 1991, p. 14.
- [33] TSN, October 2, 1991, p. 16.
- [34] TSN, October 2, 1991, p. 17.
- [35] TSN, October 2, 1991, p.17.
- [36] TSN, October 2, 1991, p. 18.
- [37] TSN, October 2, 1991, pp. 18-19.
- [38] TSN, October 2, 1991, p. 20.
- [39] TSN, October 2, 1991, p. 29.
- [40] TSN, October 2, 1991, p. 31.
- [41] TSN, October 2, 1991, p. 31.
- [42] TSN, October 2, 1991, p. 31.
- [43] TSN, October 2, 1991, p.36.
- [44] Melchor Marquez was later acquitted by the Court of Appeals on reasonable doubt.
- [45] TSN, October 2, 1991, pp. 43-44.
- [46] TSN, October 3, 1991, p. 4.
- [47] TSN, October 3, 1991, p. 7.
- [48] TSN, October 3, 1991, p. 7.
- [49] TSN, October 9, 1991, p. 4.
- [50] TSN, October 9, 1991, p. 7.
- [51] TSN, October 9, 1991, p. 28.
- [52] TSN, October 9, 1991, p. 30.
- [53] TSN, October 9, 1991, pp. 31-32.
- [54] TSN, October 9, 1991, p. 33.
- [55] TSN, October 28, 1991, p. 5.
- [56] RTC Record, p. 114; Rollo, p. 35.
- [57] Rollo, p. 4.
- [58] Ibid. p. 40.
- [59] Exhibit Q.
- [60] Exhibit 5, RTC Records, p. 26.
- [61] Exhibit 4, RTC Records, p. 25.
- [62] Exhibit Q-1.
- [63] Rollo, pp. 5-6.
- [64] Boneng vs. People, 304 SCRA 252, 257 (1999)

[65] Rollo, pp. 40-41.

[66] Ibid. pp. 41-42.

[67] Ibid. p. 42.

[68] Ibid.

[69] Ibid.

[70] Ibid.

[71] Ibid.

[72] Ibid. pp. 42-44.

[73] Ibid. p.44.

[74] Ibid.

[75] Ibid.

[76] Ibid.

[77] People vs. Zafra, 237 SCRA 664, 667 (1994)

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