

FRANCISCO DE GUZMAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 166502. October 17, 2008*

Ponente: VELASCO JR., J.

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This is a Petition for Review on Certiorari under Rule 45 of the August 27, 2004 Decision[1] and November 30, 2004[2] Resolution of the Court of Appeals (CA) in CA-G.R. CR No. 25253 entitled *People of the Philippines v. Ramon Valdez, et al.* The assailed decision affirmed the September 15, 2000 Decision of the Regional Trial Court (RTC), Branch 67 in Bauang, La Union in Criminal Case No. 1214-BG, which found petitioner Francisco de Guzman guilty of the crime of robbery with force upon things, while the assailed resolution denied petitioner's Motion for Reconsideration.

The Facts

Private complainant Lucia Valdez married Agustin Valdez sometime in 1973, following the death of Agustin's first wife, Presentacion. The relationship of Lucia and Agustin, however, thereafter turned sour and the two separated. Agustin went to the United States of America and Lucia remained in the couple's house in Sobredillo, Caba, La Union.[3] But after the July 16, 1990 earthquake, Lucia and her children temporarily moved out of their residence and stayed in an apartment in Paringao, Bauang, La Union.[4]

During this time, Agustin learned that Lucia had been selling their personal properties. Alarmed, he asked Ramon Valdez, his son with Presentacion, to retrieve whatever was left in their house as those properties belonged to Ramon's mother. Ramon, who was also residing within Sobredillo, Caba, La Union, readily obeyed his father. Thus, sometime during the first week of September 1990, Ramon went to Lucia's house which was then closed and uninhabited. Consequently, Ramon demolished the north eastern portion of Lucia's kitchen to gain entry. He then solicited his neighbors' help in bringing out the properties from Lucia's house. Among those who assisted Ramon were Marlon Gatchalian, Elpidio Picazo, and petitioner Francisco de Guzman.

Agustin Mendegoria, the common-law husband of one of Lucia's daughters, witnessed the retrieval incident. He saw Ramon and petitioner bring out chairs, aparadors, mortars, a big frying pan, a wooden bench, and a bed from Lucia's house. Mendegoria immediately reported the matter to Lucia, who then went to the respective houses of Ramon and petitioner. She discovered that her properties were brought to Ramon's house, save for the wooden bench which was left just outside petitioner's house. Lucia took pictures of her personal belongings and then reported the matter to the police.[5]

Thereafter, Ramon and petitioner were charged with the crime of robbery with force upon things in the following Information:

That on or about the first week of September, 1990, in the Municipality of Caba, Province of La Union,

Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, and with intent of gain, did then and there willfully, unlawfully and feloniously enter the residential house of the private complainant, LUCIA VALDEZ, by hammering down the hollow-blocks of the house not intended for entrance or egress, at the northeastern portion of said house, did, then and there willfully, unlawfully and feloniously take, rob and carry away without the consent of the owner, personal properties worth P20,000.00 to the damage and prejudice of the complainant.[6]

Both petitioner and Ramon pleaded not guilty to the charge. In his defense, Ramon admitted taking the properties but without intending to gain from his act. After the earthquake in 1990, according to Ramon, he received instruction from his father to take the personal properties belonging to his mother. He maintained that the properties taken were owned by his father and mother, and not by Lucia.

On the other hand, petitioner denied taking the properties for gain. He claimed that he merely helped Ramon bring out the properties belonging to the latter's father from Lucia's house. He explained that since his house was relatively nearer to Lucia's house, he acceded to Ramon's request that the wooden bench be temporarily placed in his house. But before Ramon could transfer the bench to his own house, Lucia arrived and reported them to the police.

On September 15, 2000, the RTC rendered a Decision, the dispositive part of which reads:

In view thereof, the Court renders judgment:

- 1) [A]ccused Ramon Valdez is hereby acquitted of the crime charge[d] and is hereby directed to repair the wall destroyed thereat or to pay the amount of [PhP] 10,000.00;
- 2) [A]ccused Francisco de Guzman is hereby convicted of the crime charged and is hereby sentenced to suffer imprisonment of the indeterminate penalty of prision correccional in its medium period to prision mayor in its minimum period of two (2) years, four (4) months and one (1) day to eight (8) years and to pay the amount of [PhP] 3,700.00.

SO ORDERED.[7]

Petitioner appealed the case to the CA.

The Ruling of the CA

In a Decision dated August 27, 2004, the appellate court dismissed the appeal for lack of merit. It held that Ramon's acquittal cannot benefit petitioner because the defense of Ramon is based on his personal relationship with the private complainant. Further, it ruled that the prosecution established intent to gain when petitioner failed to satisfactorily explain how he was able to gain possession of Lucia's property.

In his Motion for Reconsideration, petitioner attached an affidavit executed by Lucia stating that petitioner was wrongfully charged of the crime. But the CA gave no probative value to Lucia's affidavit and denied the motion for reconsideration.

The Issues

Hence, petitioner comes to this Court with the following issues for our consideration:

- Whether or not the guilt of the petitioner in the crime charged was proved beyond reasonable doubt;
- Whether or not the Court of Appeals erred in not appreciating the Affidavit executed by the private complainant although belated when it truly gives rise to a reasonable doubt as to the guilt of the petitioner.[8]

In essence, the determinative issue revolves on the presence of the element of intent to gain.

The Ruling of the Court

The appeal has merit.

The instant petition involves a review of the factual findings of the trial and appellate courts. As a general rule, only questions of law may be raised in a petition for review on certiorari with this Court.[9] And we have always held that the factual findings of the trial court, when affirmed by the appellate court, are conclusive and binding on this Court; except when, as in this case, the judgment assailed is based on a misapprehension of facts.[10]

To constitute robbery, the following elements must be established: (1) the subject is personal property belonging to another; (2) there is unlawful taking of that property; (3) the taking is with the intent to gain; and (4) there is violence against or intimidation of any person or use of force upon things.[11]

In the present case, petitioner is imputed with intent to gain for his alleged failure to explain why Lucia's wooden bench was in his possession. Animus lucrandi or intent to gain is an internal act which can be established through the overt acts of the offender. The unlawful taking of another's property gives rise to the presumption that the act was committed with intent to gain. This presumption holds unless special circumstances reveal a different intent on the part of the perpetrator.[12] The term "gain" is not merely limited to pecuniary benefit but also includes the benefit which in any other sense may be derived or expected from the act which is performed. Thus, the mere use of the thing which was taken without the owner's consent constitutes gain.[13]

We are not convinced with moral certainty that petitioner had acted with intent to gain. Contrary to the findings of the trial and appellate courts, the records bear out that it was Ramon, under a claim of ownership, who had wanted the properties taken out from Lucia's house.[14] And he had asked his neighbors, petitioner among them, to assist him in recovering these properties.[15] To be sure, petitioner, like the others who helped Ramon, was an innocent person who merely acceded to a neighbor's request.

The only fact that perhaps raises doubt on petitioner's innocence was the presence of the wooden bench in his house. Petitioner, however, sufficiently explained that owing to the proximity of his house to that of Lucia's, Ramon had asked that the bench be temporarily left in petitioner's house until he could transfer it. Unfortunately, before Ramon could remove it, Lucia had already filed a complaint against them.[16] Noticeably, petitioner did not falsely claim ownership over the bench nor did he make any effort to conceal that the bench was in his possession as it was placed outside his house. To our mind, his acts were consistent with his assertion that he was merely helping Ramon, whom he honestly believed to be the owner, take out the properties from Lucia's home.

To stress, petitioner should not be held answerable for the act charged absent a felonious intent. Actus non facit reum, nisi mens sit rea. A crime is not committed if the mind of the person performing the act complained of is innocent.[17]

As regards the affidavit of desistance executed by Lucia, we could not fault the appellate court for not giving it persuasive value, it being settled that affidavits of recantation made by a witness after the conviction of the accused deserve only scant consideration.[18] Even without the said affidavit, the circumstances of the case do not, however, confirm the culpability of petitioner.

WHEREFORE, the petition is GRANTED. The assailed CA Decision dated August 27, 2004 and Resolution dated November 30, 2004 in CA-G.R. CR No. 25253 are REVERSED. Petitioner Francisco de Guzman is ACQUITTED of the crime charged. No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Brion, JJ., concur.

[1] Rollo, pp. 36-46. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Conrado M. Vasquez, Jr. (now Presiding Justice) and Josefina Guevara-Salonga.

[2] Id. at 59-60.

[3] Id. at 38.

[4] Id. at 36-37.

[5] Id. at 37.

[6] Id. at 38.

[7] Id. at 30-31.

[8] Id. at 180.

[9] RULES OF COURT, Rule 45, Sec. 1.

[10] Republic of the Philippines v. Estonilo, G.R. No. 157306, November 25, 2005, 476 SCRA 265, 276; International Finance Corporation v. Imperial Textile Mills, Inc., G.R. No. 160324, November 15, 2005, 475 SCRA 149, 162-163; Wooden v. Civil Service Commission, G.R. No. 152884, September 30, 2005, 471 SCRA 512, 525.

[11] Art. 293 of the REVISED PENAL CODE provides:

Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything, shall be guilty of robbery.

[12] People v. Reyes, G.R. No. 135682, March 26, 2003, 399 SCRA 528, 534.

[13] People v. Bustinera, G.R. No. 148233, June 8, 2004, 431 SCRA 284, 296.

[14] Rollo, p. 30.

[15] Id. at 28.

[16] Id. at 52.

[17] People v. Ojeda, G.R. Nos. 104238-58, June 3, 2004, 430 SCRA 436, 445.

[18] Villanueva v. People, G.R. No. 135098, April 12, 2000, 330 SCRA 695, 703.

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