

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO BAYON Y RAMOS, APPELLANT.

G.R. No. 168627. July 02, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This an appeal from the Decision[1] dated May 31, 2005 of the Court of Appeals in CA-G.R. CR No. 28161. The Court of Appeals affirmed the Decision of the Regional Trial Court (RTC) of Quezon City, Branch 104 in Criminal Case No. Q-03-116291, finding appellant Reynaldo Bayon guilty beyond reasonable doubt of the crime of qualified theft.

On March 31, 2003, appellant Reynaldo Bayon was charged with theft in an Information[2] that reads:

Criminal Case No. Q-03-116290

That on or about the 29[th] day of March 2003, in Quezon City, Philippines, the said accused did then and there willfully, unlawfully and feloniously with intent of gain and without the knowledge and consent of the owner thereof, take, steal and carry away the following, to wit:

one (1) Rado Diastar wrist watch worth ----- P12,000.00
one (1) Seiko Diver's watch worth -----P 2,000.00
one (1) bolo of undetermined value
Total -----P14,000.00

belonging to EDUARDO CUNANAN Y CANDELARIA to the damage and prejudice of the said owner in the aforesaid amount of P14,000.00 Philippine Currency.

CONTRARY TO LAW.

On the same day, appellant was also charged with qualified theft in another Information[3] that reads:

Criminal Case No. Q-03-116291

That on or about the 29[th] day of March 2003, in Quezon City, Philippines, the said accused, being, then a stay-in helper of ARTURO LIMOSO Y LOOT at his residence located at No. 45 Belmonte Street, New Manila, this City, and as such has free access to the different rooms of the said house, with grave abuse of confidence, with intent to gain and without the knowledge and consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, steal and carry away the following items, to wit:

one (1) white gold Rolex wrist watch worth ----- P300,000.00
one (1) Jordan gold wrist watch worth ----- 65,000.00
five (5) pcs. gold ring worth ----- 125,000.00
two (2) pcs. gold necklace worth P25,000.00 each -- 50,000.00

Total ----- P540,000.00

all in the total amount of P540,000.00 Philippine Currency, belonging to ARTURO LIMOSO Y LOOT, to his damage and prejudice in the amount aforementioned.

CONTRARY TO LAW.

When arraigned on May 6, 2003, appellant pleaded not guilty to both charges.[4] The pre-trial was terminated without stipulations. Thereafter, joint trial of the cases ensued.

The prosecution presented three witnesses, namely, private complainants Atty. Arturo Limoso and Eduardo Cunanan, and Police Officer Paul Greg Esparta. It dispensed with the testimonies of Police Officers Marmando Pallasigue and Edmund Rizon, in view of the stipulation of the parties as follows: (1) the police officer recovered a Rolex watch from a person in Bulacan; (2) the complainant was never present in all the stages of the search for the watch; (3) the police officer turned over the watch to the complainant; and (4) the accused was not assisted by counsel during the search for the watch.[5] The parties also stipulated on the existence of the Affidavit[6] of Police Officer Marmando Pallasigue.

The defense presented the -appellant as its lone witness.

The evidence of the prosecution established that on February 10, 2002, private complainant Atty. Arturo Limoso, after suffering a stroke, hired appellant as his masseur and stay-in helper in his house located at No. 45 Belmonte Street, San Jose Compound, New Manila, Quezon City.[7]

At about 7:30 a.m. of March 29, 2003, private complainant Eduardo Cunanan, who was a tenant in one of the rooms of Atty. Limoso's house, reported to Atty. Limoso the loss of his two wristwatches: a Seiko Diver's watch worth P2,000.00 and a Rado Diastar watch worth P12,000.00. Atty. Limoso assured Cunanan that he would investigate the matter. Thereafter, Atty. Limoso asked his household helpers, including appellant, regarding the missing wristwatches. When confronted by Atty. Limoso, appellant denied any involvement in the loss of Cunanan's wristwatches.[8]

A few hours later, Atty. Limoso suspected that he could also be a victim of theft. So he went to his locker, and discovered that the key to his vault was missing. He placed the said key on the wall with his other keys. However, he was able to open his vault using his duplicate key. He then found that his Rolex watch worth P300,000.00, Jordan gold watch worth P65,000.00, five gold rings worth P125,000.00 and two pieces of gold necklace worth P50,000.00 that were all kept inside the vault were missing.[9]

Atty. Limoso became suspicious that appellant was the one responsible for the theft after he made an inquiry from the security guards of the compound. He was informed that appellant used to leave his house at 10:00 p.m. and returned at around 4:00 a.m. the following day; that appellant used to borrow money from the household helpers of the neighboring houses; and that most of the time appellant was nowhere to be found. Moreover, as the one massaging him (Atty. Limoso), appellant had access to his room.[10]

Atty. Limoso again confronted appellant and told him to just return the stolen things with no questions asked. Appellant replied that he was not the one responsible for the theft. Atty. Limoso then reported the incident to the police.[11]

At about 4:00 p.m. of March 29, 2003, the police arrived at Atty. Limoso's house. Appellant could not be found, and all his clothes were gone. The police stayed in the house until the evening. At about 10:00 p.m., the police were tipped off that appellant was at the guardhouse. They immediately proceeded to the guardhouse, apprehended appellant, and brought him to the police station.[12]

At the police station, appellant was investigated without the assistance of a counsel. Through the investigation, the police was able to trace Atty. Limoso's Rolex watch to a sidewalk jeweler, who, upon being investigated, told the police that the watch was already sold to another person. Atty. Limoso recovered the stolen Rolex watch after paying P20,000.00 to the buyer who lived in Bulacan. Atty. Limoso, however, did not recover his Jordan gold watch, rings and necklaces.[13]

Appellant interposed the defense of denial. He testified that, at about 7:00 p.m. of March 29, 2003, he was at the house of his employer, private complainant Atty. Arturo Limoso, at No. 45 Belmonte Street, San Jose Compound, New Manila, Quezon City. At about 8:00 p.m., while he was at the guardhouse of the compound and talking to the security guards assigned there, he was suddenly arrested by the police and was brought to the police station. He did not know the reason for his arrest. Although he was informed of his rights, he did not know what they meant.[14]

On February 17, 2004, the trial court rendered a Decision[15] finding appellant guilty beyond reasonable doubt of the crime of qualified theft in Criminal Case No. Q-03-116291, but he was acquitted of the same crime in Criminal Case No. Q-03-116290 on the ground of reasonable doubt. The dispositive portion of the Decision reads:

WHEREFORE, the Court finds the accused, REYNALDO BAYON Y RAMOS, guilty beyond reasonable doubt in Criminal Case No. Q03-116291 of the crime of QUALIFIED THEFT defined and penalized in Article 310, in relation to Article 309, paragraph 1 of the Revised Penal Code and sentences him to an indeterminate penalty of ten years and one day of prision mayor, as minimum, to twenty (20) years of reclusion temporal, as maximum, as well as orders him to return the Jordan gold watch worth P65,000.00, the five gold rings worth P125,000.00 and two pieces of gold necklace worth P25,000.00 [each] to Atty. Arturo Limoso or pay the value thereof.

In Criminal Case No. Q03-116290, judgment is hereby rendered acquitting Reynaldo Bayon y Ramos of the offense charged on ground of reasonable doubt.

SO ORDERED.[16]

The trial court stated that the prosecution did not offer any direct evidence that appellant stole the missing items belonging to complainants Eduardo Cunanan and Atty. Limoso. It held that appellant's statement of admission during the custodial investigation was inadmissible against him, because he was not assisted by counsel; hence, there is doubt as to appellant's guilt in Criminal Case No. Q-03-116290 for theft of the watches and bolo owned by private complainant Eduardo Cunanan.

However, in Criminal Case No. Q-03-116291 for theft of the valuables of Atty. Limoso, the trial court found that appellant's culpability was proven by the prosecution through the following pieces of circumstantial evidence: (1) as a stay-in helper of Atty. Limoso, appellant had access to Atty. Limoso's room, where his vault containing the missing pieces of jewelry were kept, and where the key to the vault was placed; and (2) upon discovery of the loss of the missing items, the police could no longer find appellant's clothes in Atty. Limoso's house.

Appellant appealed the trial court's decision to the Court of Appeals, contending that the trial court erred in convicting him in Criminal Case No. Q-03-116291. He asserted that the circumstantial evidence presented against him by the prosecution was insufficient to prove his guilt beyond reasonable doubt, and that there was nothing whatsoever that would link him to the commission of the crime of theft.[17]

In its Decision[18] dated May 31, 2005, the Court of Appeals affirmed the decision of the trial court with modification in the penalty imposed. The dispositive portion of the Decision reads:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the Decision appealed from is AFFIRMED, subject to

the MODIFICATION that the accused-appellant is sentenced to suffer the penalty of reclusion perpetua, with all the accessories of the penalty imposed under Article 40 of the Revised Penal Code.[19]

Hence, this appeal by appellant.

The main issue is whether or not the Court of Appeals erred in finding appellant Reynaldo Bayon guilty beyond reasonable doubt of the crime of qualified theft in Criminal Case No. Q-03-116291.

The petition is granted.

Article 308 of the Revised Penal Code defines the crime of theft as follows:

Art. 308. 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.

The elements of the crime of theft are: (1) that there be taking of personal property; (2) that said property belongs to another; (3) that the taking be done with intent to gain; (4) that the taking be done without the consent of the owner; and (5) that the taking be accomplished without the use of violence against or intimidation of persons or force upon things.[20]

Under Article 310[21] of the Revised Penal Code, theft becomes qualified "if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is a motor 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."

In this case, the Court of Appeals affirmed the trial court's conviction of appellant based on circumstantial evidence.

For circumstantial evidence to be sufficient for conviction, the following conditions must be satisfied:

- (a) There is more than one circumstance;
- (b) The facts from which the circumstances are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[22]

Circumstantial evidence suffices to convict an accused only if the circumstances proved constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others as the guilty person; the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty.[23]

In this case, appellant was convicted of the crime of qualified theft based on these pieces of circumstantial evidence:

- (1) As a stay-in helper of Atty. Arturo Limoso, the [accused-appellant] had access to the latter's room where his vault containing the missing items was kept and where the key to the vault was placed;
- (2) Upon discovery by Atty. Limoso of the loss of the missing items, the police could no longer find in Atty. Limoso's house the clothes of the [accused-appellant.][24]

The Court finds that the pieces of circumstantial evidence relied upon by the appellate court are insufficient to convict appellant of the crime of qualified theft. In the first circumstance, the Court notes that appellant was not the only stay-in helper of Atty. Limoso, as the latter testified that he had two housemaids.[25] Although Atty. Limoso testified that only appellant, as his masseur, had access to his room, this is doubtful, considering the

Filipino lifestyle, in which a household helper is normally tasked to clean the room of his/her employer. Further, in the second circumstance, the disappearance of appellant's clothes from Atty. Limoso's house after the discovery of the loss of the aforementioned valuables cannot be construed as flight by appellant, since appellant was talking with the guards in the compound where Atty. Limoso's residence was located when he was arrested by the police.

The two pieces of circumstantial evidence cited by the trial court and affirmed by the appellate court do not form an unbroken chain that point to appellant as the author of the crime; hence, their conclusion becomes merely conjectural. Notably, the prosecution failed to establish the element of unlawful taking by appellant. Since appellant's statement during the custodial investigation was inadmissible in evidence as he was not assisted by counsel,[26] the prosecution could have presented the person to whom appellant allegedly sold the pieces of jewelry as witness, but it did not do so. It could have been the missing link that would have strengthened the evidence of the prosecution.

The general rule is that factual findings of the trial court, when affirmed by the Court of Appeals, are not to be disturbed by this Court. However, the Court may disregard such findings of the trial and appellate courts (1) when they are grounded on speculation, surmises or conjectures; (2) when there is grave abuse of discretion in the appreciation of facts; and (3) when the findings of fact are conclusions without mention of the specific evidence on which they are based or are premised on the absence of evidence.[27]

The Court finds the circumstantial evidence relied upon by the trial and appellate courts in convicting appellant to be insufficient in proving his guilt beyond reasonable doubt absent any substantial evidence of unlawful taking by appellant.

The burden of proving the guilt of the accused rests on the prosecution; the accused need not even offer evidence in his behalf.[28] The constitutional mandate of innocence prevails, unless the prosecution succeeds in proving by satisfactory evidence the guilt beyond reasonable doubt of the accused.[29] It failed to do so in this case.

WHEREFORE, the appeal is GRANTED. The Decision of the Court of Appeals dated May 31, 2005 in CA-G.R. CR No. 28161, convicting appellant Reynaldo Bayon y Ramos of the crime of qualified theft, is REVERSED and SET ASIDE. Appellant Reynaldo Bayon is ACQUITTED of the crime charged on reasonable doubt. The City Warden of the Quezon City Jail, EDSA, Kamuning, is DIRECTED to cause the release of Reynaldo Bayon from confinement without DELAY, unless he is being lawfully held for another cause, and to INFORM the Court of his release or the reasons for his continued confinement within ten (10) days from notice of this Decision.

No costs.

SO ORDERED.

Carpio, (Chairperson), Bersamin,[*] Abad, and Mendoza, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Raffle dated June 1, 2009.

[1] Penned by Associate Justice Renato C. Dacudao, with Associate Justices Edgardo F. Sundiam and Rosalinda Asuncion-Vicente, concurring; rollo, pp. 2-14.

[2] Records, pp. 2-3.

[3] Id. at 4-5.

[4] Id. at 29.

[5] Id. at 64.

[6] Exhibit "D," id. at 13.

[7] TSN, June 16, 2003, pp. 4-5.

[8] Id. at 6-7; TSN, August 26, 2003, pp. 3-4.

[9] TSN, June 16, 2003, pp. 7-8, 12-13; TSN, July 28, 2003, p. 4.

[10] TSN, June 16, 2003, p. 10.

[11] Id. at 9, 11.

[12] Id. at 11-12.

[13] TSN, June 16, 2003, pp. 12-13; TSN, September 3, 2003, pp. 9-10; TSN, September 8, 2003, pp. 5-6.

[14] TSN, January 6, 2004, pp. 2-4.

[15] CA rollo, pp. 30-39.

[16] Id. at 38-39.

[17] CA Decision, rollo, p. 10.

[18] Rollo, pp. 2-14.

[19] Id. at 14.

[20] *Astudillo v. People*, G.R. Nos. 159734 & 159745, November 30, 2006, 509 SCRA 302, 324.

[21] Art. 310. 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 motor 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.

[22] *People v. Castro*, G.R. No. 170415, September 19, 2008, 566 SCRA 92, 100.

[23] Id.

[24] CA Decision, rollo, p. 11.

[25] TSN, July 28, 2003, p. 4.

[26] The Philippine Constitution, Art III. Sec. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived, except in writing and in the presence of counsel.

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(2) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him. (Emphasis supplied.)

[27] *Arce v. People*, 429 Phil. 328, 334 (2002).

[28] Id. at 335.

[29] Id. at 336.

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