

MEL CARPIZO CANDELARIA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 209386. December 08, 2014

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated January 31, 2013 and the Resolution[3] dated September 3, 2013 rendered by the Court of Appeals (CA) in CA-G.R. CR. No. 34470 which affirmed the conviction of petitioner for the crime of Qualified Theft.

The Facts

In the morning of August 23, 2006, Viron Transit Corporation (Viron) ordered 14,000 liters of diesel fuel (diesel fuel) allegedly worth P497,000.00 from United Oil Petroleum Phils. (Unioil), a company owned by private complainant Jessielyn Valera Lao (Lao).[4] Petitioner Mel Carpizo Candelaria (Candelaria), a truck driver employed by Lao, was dispatched to deliver the diesel fuel in Laon Laan, Manila.[5]

However, at around 5 o'clock in the afternoon of the same day, Viron informed Lao through a phone call that it had not yet received its order. Upon inquiry, Lao discovered that Candelaria, together with his helper Mario Romano (Romano), also an employee of Unioil, left the company premises at 12:50 in the afternoon of the same day on board a lorry truck with plate number PTA-945 to deliver Viron's diesel fuel order. When Lao called Candelaria on his mobile phone, she did not receive any response.[6]

Thereafter, or at around 6 o'clock in the evening of the same day, Romano returned alone to Unioil's office and reported that Candelaria poked a balisong at him, prompting Lao to report the incident to the Anti-Carnapping Section of the Manila Police District (MPD), as well as to Camp Crame.[7]

After a few days, the National Bureau of Investigation (NBI) agents found the abandoned lorry truck in Calamba, Laguna, emptied of the diesel fuel.[8] Under the foregoing premises, Lao filed a complaint for Qualified Theft against Candelaria, docketed as Crim. Case No. 08-259004.[9]

Lita Valera (Valera), Lao's mother, and Jimmy Magtabo[10] Claro (Claro), employed as dispatcher and driver of Unioil, corroborated Lao's allegations on material points. More specifically, Claro verified that it was Candelaria who was tasked to deliver the diesel fuel to Viron on August 23, 2006, which likewise happened to be Candelaria's last trip. [11]

In his defense, Candelaria demurred to the prosecution's evidence,[12] arguing that there was no direct evidence that linked him to the commission of the crime, as Lao had no personal knowledge as to what actually happened to the diesel fuel.[13] Moreover, the information relayed by Romano is considered hearsay due to his untimely demise.[14]

The RTC Ruling

After trial, the Regional Trial Court of Manila, Branch 21 (RTC) convicted Candelaria of Qualified Theft in a Decision[15] dated June 21, 2011, having found a confluence of all the elements constituting the abovesaid crime, to wit: (a) there was a taking of personal property; (b) said property belonged to another; (c) the taking was done with intent to gain; (d) the taking was done without the consent of the owner; (e) the taking was accomplished without the use of violence against or intimidation of persons or force upon things; and (f) the theft was committed by a domestic servant with abuse of confidence.[16]

In convicting Candelaria, the RTC took the following circumstances into consideration: (a) on August 23, 2006, Candelaria was the driver of the truck with plate number PTA-945, loaded with 14,000 liters of diesel fuel valued at P497,000.00, for delivery to Viron in Laon Laan, Manila; (b) Viron did not receive the diesel fuel; (c) Lao reported the incident to Camp Crame and the MPD; and (d) the following day, August 24, 2006, the same truck was found abandoned and emptied of its load in Calamba, Laguna.[17] On the basis of the foregoing, the RTC concluded that Candelaria was guilty beyond reasonable doubt of the crime charged.

Consequently, it sentenced Candelaria to suffer the indeterminate penalty of fourteen (14) years and one (1) day of reclusion temporal, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum, and ordered him to indemnify Lao the amount of P497,000.00 as the value of the stolen diesel fuel, without subsidiary imprisonment in case of insolvency, and the costs.[18]

Dissatisfied, Candelaria elevated his conviction to the CA.[19]

The CA Ruling

In a Decision[20] dated January 31, 2013, the CA affirmed Candelaria's conviction, ruling that a finding of guilt need not always be based on direct evidence, but may also be based on circumstantial evidence, or "evidence which proves a fact or series of facts from which the facts in issue may be established by inference." [21] In this regard, and considering that the crime of theft in this case was qualified due to grave abuse of confidence, as Candelaria took advantage of his work, knowing that Lao trusted him to deliver the diesel fuel to Viron,[22] the CA affirmed the ruling of the RTC. Citing jurisprudence,[23] it observed that theft by a truck driver who takes the load of his truck belonging to his employer is guilty of Qualified Theft.[24]

However, while the CA affirmed Candelaria's conviction as well as the prison sentence imposed by the RTC, it modified the amount which he was directed to indemnify Lao, fixing the same at P14,000.00 in the absence of any supporting documents to prove that the diesel fuel was indeed worth P497,000.00.[25]

Aggrieved, Candelaria filed a motion for reconsideration[26] which was eventually denied in a Resolution[27] dated September 3, 2013, hence, this petition.

The Issue Before the Court

The main issue for the Court's resolution is whether or not the CA correctly found Candelaria guilty of the crime of Qualified Theft on the basis of circumstantial evidence.

The Court's Ruling

The petition is bereft of merit.

The elements of Qualified Theft, punishable under Article 310[28] in relation to Article 309[29] of the Revised Penal Code (RPC), as amended, are: (a) the taking of personal property; (b) the said property belongs to another; (c) the said taking be done with intent to gain; (d) it be done without the owner's consent; (e) it be accomplished without the use of violence or intimidation against persons, nor of force upon things; and (f) it be done under any of the circumstances enumerated in Article 310 of the RPC, i.e., with grave abuse of confidence.[30]

In this case, there is a confluence of all the foregoing elements. Through the testimony of the prosecution witnesses, it was sufficiently established that the 14,000 liters of diesel fuel loaded into the lorry truck with plate number PTA-945 driven by Candelaria for delivery to Viron on August 23, 2006 was taken by him, without the authority and consent of Lao, the owner of the diesel fuel, and that Candelaria abused the confidence reposed upon him by Lao, as his employer.

Candelaria maintains that he should be acquitted considering that his conviction was based merely on circumstantial evidence, as well as on hearsay evidence, i.e., Lao's testimony with regard to the allegation of the deceased helper Romano that Candelaria poked a balisong at him on August 23, 2006.[31]

The Court is not convinced.

Circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[32] Circumstantial evidence suffices to convict an accused only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion pointing 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 guilt. Corollary thereto, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with innocence.[33]

Here, the RTC, as correctly affirmed by the CA, found that the attendant circumstances in this case, as duly established by the prosecution's evidence, amply justify the conviction of Candelaria under the evidentiary threshold of proof of guilt beyond reasonable doubt. These circumstances are: (a) on August 23, 2006, Viron ordered 14,000 liters of diesel fuel from Lao's Unioil; (b) as driver of Unioil, Candelaria was given the task of delivering the same to Viron in Laon Laan, Manila; (c) Candelaria and his helper Romano left the company premises on the same day on board the lorry truck bearing plate number PTA-945 containing the diesel fuel; (d) at around 5 o'clock in the afternoon of the same day, Viron informed Lao that its order had not yet been delivered; (e) Candelaria failed to reply to Lao's phone calls; (f) later in the day, Romano returned to the Unioil office sans Candelaria and reported that the latter threatened him with a weapon; (g) Lao reported the incident to the MPD and Camp Crame; (h) the missing lorry truck was subsequently found in Laguna, devoid of its contents; and (i) Candelaria had not reported back to Unioil since then.[34]

Threading these circumstances together, the Court perceives a congruent picture that the crime of Qualified Theft had been committed and that Candelaria had perpetrated the same. To be sure, this determination is not sullied by the fact that Candelaria's companion, Romano, had died before he could testify as to the truth of his allegation that the former had threatened him with a balisong on August 23, 2006. It is a gaping hole in the defense that the diesel fuel was admittedly placed under Candelaria's custody and remains unaccounted for. Candelaria did not proffer any persuasive reason to explain the loss of said goods and merely banked on a general denial, which, as case law holds, is an inherently weak defense due to the ease by which it can be concocted.[35] With these, and, moreover, the tell-tale fact that Candelaria has not returned or reported back to work at Unioil since the incident, the Court draws no other reasonable inference other than that which points to his guilt. Verily, while it is true that flight per se is not synonymous with guilt,[36] unexplained flight nonetheless evinces guilt or betrays the existence of a guilty conscience,[37] especially when taken together with all the other circumstantial evidence attendant in this case. Thus, all things considered, Candelaria's conviction for the crime of Qualified Theft stands.

The imposable penalty for the crime of Qualified Theft depends upon the value of the thing stolen. To prove the value of the stolen property for purposes of fixing the imposable penalty under Articles 309 and 310 of the RPC,

as amended, the Court explained in *People v. Anabe*[38] that the prosecution must present more than a mere uncorroborated “estimate.”[39] In the absence of independent and reliable corroboration of such estimate, the courts may either apply the minimum penalty under Article 309 or fix the value of the property taken based on the attendant circumstances of the case.[40] In *Merida v. People (Merida)*,[41] which applied the doctrine enunciated in *People v. Dator (Dator)*,[42] the Court deemed it improper to take judicial notice of the selling price of narra at the time of the commission of its theft, as such evidence would be “unreliable and inconclusive considering the lack of independent and competent source of such information.”[43]

However, in the more recent case of *Lozano v. People (Lozano)*,[44] the Court fixed the value of the stolen magwheels at P12,000.00 as the “reasonable allowable limit under the circumstances,”[45] notwithstanding the uncorroborated testimony of the private complainant therein. *Lozano* cited, among others, the case of *Francisco v. People*[46] (*Francisco*) where the Court ruled that “the trial court can only take judicial notice of the value of goods which are matters of public knowledge or are capable of unquestionable demonstration,”[47] further explaining that the value of jewelry, the stolen items in the said case, is neither a matter of public knowledge nor is it capable of unquestionable demonstration.[48]

In this case, *Candelaria* has been found guilty of stealing diesel fuel. Unlike in *Francisco*, where the Court had no reference to ascertain the price of the stolen jewelry, or in *Merida* and *Dator*, where the Court refused to take judicial notice of the selling price of lumber and/or narra for “lack of independent and competent source” of the necessary information at the time of the commission of the theft, the value of diesel fuel in this case may be readily gathered from price lists published by the Department of Energy (DOE). In this regard, the value of diesel fuel involved herein may then be considered as a matter of public knowledge which falls within the purview of the rules on discretionary judicial notice.[49] To note, “judicial [notice], which is based on considerations of expediency and convenience, displace[s] evidence since, being equivalent to proof, it fulfills the object which the evidence is intended to achieve.”[50]

While it is true that the prosecution had only presented the uncorroborated testimony of the private complainant, *Lao*, to prove that the value of the diesel fuel stolen is P497,000.00, the Court – taking judicial notice of the fact that the pump price of diesel fuel in August 2006 (i.e., the time of the commission of the crime) is within the range of P37.60 to P37.86 per liter[51] – nonetheless remains satisfied that such amount must be sustained. As the value of the goods may independently and competently be ascertained from the DOE’s price publication, adding too that the defense had not presented any evidence to contradict said finding nor cross-examined *Lao* anent her proffered valuation, the Court, notwithstanding the solitary evidence of the prosecution, makes this determination following the second prong set by case law – and that is, to fix the value of the property taken based on the attendant circumstances of the case. Verily, such circumstances militate against applying the alternative of imposing a minimum penalty and, more so, the CA’s arbitrary valuation of P14,000.00, since the basis for which was not explained. Therefore, for purposes of fixing the proper penalty for Qualified Theft in this case, the value of the stolen property amounting to P497,000.00 must be considered. Conformably with the provisions of Articles 309 and 310 of the RPC, the proper penalty to be imposed upon *Candelaria* is reclusion perpetua, [52] without eligibility for parole,[53] to conform with prevailing law and jurisprudence.[54]

A final word. Courts dealing with theft, as well as estafa cases, would do well to be mindful of the significance of determining the value of the goods involved, or the amounts embezzled in said cases as they do not only entail the proper resolution of the accused’s civil liability (if the civil aspect has been so integrated) but also delimit the proper penalty to be imposed. These matters, through the trial court’s judicious direction, should be sufficiently passed upon during trial and its finding thereon be amply explained in its verdict. Although an appeal of a criminal case throws the entire case up for review,[55] the ends of justice, both in its criminal and civil senses,

demand nothing less but complete and thorough adjudication in the judicial system's every level. Truth be told, the peculiar nature of these cases provides a distinctive opportunity for this ideal to be subserved.

WHEREFORE, the petition is DENIED. The Decision dated January 31, 2013 and the Resolution dated September 3, 2013 of the Court of Appeals in CA-G.R. CR. No. 34470 are hereby AFFIRMED with MODIFICATIONS in that petitioner Mel Carpizo Candelaria is: (a) sentenced to suffer the penalty of reclusion perpetua without eligibility for parole; and (b) ordered to indemnify private complainant Jessielyn Valera Lao the amount of ₱497,000.00 representing the value of the stolen property.

SO ORDERED.

Sereno, C.J., (Chairperson,) Carpio,[*] Leonardo-De Castro, Reyes,**] and Perlas-Bernabe, JJ., concur.

[*] Designated Acting Member per Special Order No. 1899 dated December 3, 2014.

[**] Designated Acting Member per Special Order No. 1892 dated November 28, 2014.

[1] Rollo, pp. 12-27.

[2] Id. at 33-44. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Stephen C. Cruz and Myra V. Garcia-Fernandez, concurring.

[3] Id. at 46-47.

[4] Id. at 34-35.

[5] Id. at 35.

[6] Id.

[7] Id.

[8] Id.

[9] Id. at 34 and 63.

[10] "Montalbo" in some parts of the records.

[11] Rollo, p. 36.

[12] Id. at 36 and 64.

[13] Id. at 56.

[14] Id. at 56-57.

[15] Id. at 63-65. Penned by Judge Amor A. Reyes.

[16] Id. at 64-65.

[17] Id. at 65. In the Petition, Accused-Appellant's Brief, and CA Decision, it was mentioned that the abandoned lorry truck was found 3-4 days after the incident. (Id. at 15, 35, and 53.)

[18] Id.

[19] Through a Notice of Appeal dated September 14, 2011. (CA rollo, p. 12.)

[20] Rollo, pp. 33-44.

[21] Id. at 39.

[22] Id. at 41.

[23] Cariaga v. CA, 411 Phil. 214 (2001).

[24] Id. at 230.

[25] Rollo, pp. 42-43.

[26] On March 13, 2011; id. at 81-84.

[27] Id. at 46-47.

[28] Art. 310. Qualified theft. — The crime of qualified 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 the 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.

[29] Art. 309. Penalties. — Any person guilty of theft shall be punished by:

- The penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be.
- The penalty of prision correccional in its medium and maximum periods, if the value of the thing stolen is more than 6,000 pesos but does not exceed 12,000 pesos.
- The penalty of prision correccional in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos.
- Arresto mayor in its medium period to prision correccional in its minimum period, if the value of the property stolen is over 50 pesos but does not exceed 200 pesos.
- Arresto mayor to its full extent, if such value is over 5 pesos but does not exceed 50 pesos.
- Arresto mayor in its minimum and medium periods, if such value does not exceed 5 pesos.
- Arresto menor or a fine not exceeding 200 pesos, if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed 5 pesos. If such value exceeds said amount, the provisions of any of the five preceding subdivisions shall be made applicable.
- Arresto menor in its minimum period or a fine not exceeding 50 pesos, when the value of the thing stolen is not over 5 pesos, and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family.

[30] Zapanta v. People, G.R. No. 170863, March 20, 2013, 694 SCRA 25, 33-34.

[31] Rollo, pp. 20-22.

[32] See Section 4, Rule 133 of the Rules of Court.

[33] *People v. Anabe*, G.R. No. 179033, September 6, 2010, 630 SCRA 10, 21, citing *People v. Castro*, 587 Phil. 537, 544-545 (2008).

[34] Rollo, pp. 63-64.

[35] See *People vs. Watiwat*, 457 Phil. 411, 425 (2003).

[36] Cf. *People v. Villareal*, G.R. No. 201363, March 18, 2013, 693 SCRA 549, 560.

[37] *People v. Turtoga*, 432 Phil. 703, 720 (2002); citation omitted.

[38] *Supra* note 33.

[39] See *id.* at 31-32, citing *Merida v. People*, 577 Phil. 243, 258-259 (2008).

[40] *Id.* at 32.

[41] *Supra* note 39.

[42] 398 Phil. 109 (2000).

[43] *Supra* note 39, at 259 (see footnote 43 therein).

[44] G.R. No. 165582, July 9, 2010, 624 SCRA 596.

[45] *Id.* at 613.

[46] 478 Phil. 167 (2004).

[47] *Id.* at 187, citing *People v. Marcos*, 368 Phil. 143, 167-168 (1999).

[48] *Id.*

[49] Section 2, Rule 129 of the Rules of Court provides:

SEC. 2. Judicial notice, when discretionary. — A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions.

[50] *People v. Martinez*, 340 Phil. 374 (1997).

[51] See *Prevailing Retail Prices of Petroleum Products in Metro Manila As of August 8, 2006* (visited November 4, 2014). At the very least, therefore, the value of the 14,000 liters of diesel fuel stolen from Lao amounted to P526,400.00, pegged from the minimum price of P37.60 per liter.

[52] *People v. Mirto*, G.R. No. 193479, October 19, 2011, 659 SCRA 796, 814, citing *People v. Mercado*, 445 Phil. 813, 828 (2003).

[53] “[U]nder Resolution No. 24-4-10, those convicted of offenses punished with reclusion perpetua are disqualified from the benefit of parole.” (See *People v. Manicat*, G.R. No. 205413, December 2, 2013) See also Rule 2.2 of Resolution No. 24-4-10 entitled “RE: AMENDING AND REPEALING CERTAIN RULES AND SECTIONS OF THE RULES ON PAROLE AND AMENDED GUIDELINES FOR RECOMMENDING EXECUTIVE CLEMENCY OF THE 2006 REVISED MANUAL OF THE BOARD OF PARDONS AND

PAROLE.”

[54] [P]ursuant to Section 3 of Republic Act No. 9346 [entitled AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES] which states that ‘persons convicted of offenses punished with reclusion perpetua, or whose sentence will be reduced to reclusion perpetua by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the “Indeterminate Sentence Law,” as amended’.” (See *People v. Gunda*, G.R. No. 195525, February 5, 2014.)

[55] “[A]n appeal in criminal cases throws open the entire case for review and it becomes the duty of the appellate court to correct any error, as may be found in the appealed judgment, whether assigned as an error or not.” (*People v. Balacano*, 391 Phil. 509, 525-526 [2000], citing *People v. Reñola*, 367 Phil. 415, 436 [1999] and *People v. Medina*, 360 Phil. 281, 299 [1998].)

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