

**PEDRO CASTANEDA, PETITIONER, VS. THE SANDIGANDAYAN,
SECOND DIVISION, RESPONDENT.***G.R. No. 61243. March 16, 1989*

Ponente: GUTIERREZ, JR., J.

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This is a petition to review on certiorari the decision of the Sandiganbayan finding petitioner Pedro Castañeda and accused Sancho Gapasin guilty beyond reasonable doubt as co-principals of violating section 3, paragraph (e) of Republic Act No. 3019 as amended (Anti-Graft and Corrupt Practices Act) and sentencing each of them to suffer an indeterminate penalty of imprisonment ranging from four years as minimum to six years as maximum, to suffer from perpetual special disqualification from public office, to indemnify, jointly and severally, Alfredo Cales and Rivera Camacho the amounts of P6,000.00 and P5,500.00 respectively, representing the value of the carabaos of which they were illegally deprived, and P1,946.60 as actual expenses which were incurred by the latter in prosecuting their complaint and to pay their proportionate share of the costs.

The information filed against the accused alleged:

"That on or about the 14th day of December, 1979, at Barrio Bulala, Municipality of Sablan, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the accused SANCHE G. GAPASIN, a Deputy Sheriff of the Province of La Union, taking advantage of his public and official position and through manifest partiality, evident bad faith and/or gross inexcusable negligence in the discharge of his official and administrative functions in the execution of the Writ of Execution in Civil Case No. 300 of the Municipal Court of Naguilian, La Union, conspiring, cooperating and confederating, as well as colluding and conniving, with the accused ALEJANDRO CASILLA and with the accused PEDRO CASTANEDA, who are private individuals, levied, took and placed under his control and custody two (2) pregnant female carabaos, one of them belonging to RIVERA CAMACHO with value of Five Thousand Five Hundred (P5,500.00) PESOS and the other to ALFREDO CALES with value of Six Thousand (P6,000.00) PESOS, which were directly brought to the residence of accused Pedro Castaneda at Romas, Paringa, Bauang, La Union and, with undue haste, abuse or excess of authority, serious misconduct and irregularity and flagrant disregard of the elementary requirements of justice and fairness by having openly and wantonly neglected to give a Notice of Sale and conduct a public auction, directly sold and transferred to accused Pedro Castaneda these said carabaos for Three Thousand Three Hundred (P3,300.00) Pesos, thereby wilfully, unlawfully and feloniously causing undue injury, damage and prejudice to RIVERA CAMACHO and ALFREDO CALES, as owners thereof, all to the total sum of ELEVEN THOUSAND FIVE HUNDRED (P11,500.00) PESOS, Philippine Currency.

CONTRARY TO LAW."

(Rollo, pp. 32-33).

The prosecution evidence upon which the Sandiganbayan based its finding of guilt is summarized by it as follows:

On December 14, 1979, accused Sancho Gapasin, was the Deputy Sheriff of the Court of First Instance, Branch IV, La Union. Civil Case No. 300 was filed in the Municipal Court of Naguilian, La Union, presided

over by Judge Jose Quesada, wherein the plaintiff was Alejandro Casilla and the defendant therein was Tranquilino Soriano, for a sum of money. On September 14, 1979, Judge Quesada rendered a decision in said case and ordered the defendant to pay the sum of P300.00 as surveyor's fee, to respect the boundaries of their respective lands as relocated by the surveyor and to pay P3,000.00 for actual expenses and moral as well as exemplary damages (Exhibit A). By virtue of said decision, Judge Quesada issued a writ of execution and ordered one policeman from the Naguilian INP Station to escort Deputy Sheriff Gapasin to enforce said writ of execution and to seize the goods and properties of defendant Tranquilino Soriano (Exhibits B and C). After accused Gapasin had effected said writ of execution, he executed an affidavit stating among others that the writ of execution was properly served (Exhibit D). Among the properties levied upon were two (2) carabaos ages 5 and 8, which were later sold to accused Pedro Castañeda, being the highest bidder. Considering that said carabaos had no papers of ownership, accused Gapasin executed an Affidavit of Sale on December 17, 1979 which was used as a basis for the transfer of said carabaos to Castañeda who, in turn, paid the amount of P3,300.00 to Gapasin and which the latter duly receipted (Exhibits E and F). On 18, 1979, accused Gapasin wrote a letter to Atty. Cirilo Cawed, counsel for plaintiff Casilla, of the Citizens Legal Assistance Office of San Fernando, La Union, informing him that the writ of execution was already accomplished (Exhibit G). Accused Gapasin had also hired a jeep in loading said carabaos for which he paid the amount of P300.00 duly acknowledged by its driver Loreto Gundran and which amount was also used in paying persons who helped in the transportation and delivery of said carabaos (Exhibit H).

Alfredo Cales, a resident of Bayabas, Sablan, Benguet, was the owner of a carabao with its corresponding brand, as evidenced by a Certificate of Ownership of Large Cattle (Exhibits I, I-1 to I-1-a). On December 14, 1979, a messenger of his uncle, Batanes Otong, the latter being the caretaker of his carabao, came to his house to inform him that said carabao was taken by accused Gapasin while it was being pastured in his land at Bayabas, Sablan. He and his wife proceeded to the house of Tranquilino Soriano at Naguilian, La Union, and later went to see Pat. Lito Picazo because they learned that the latter was one of those who transported said carabao. Picazo, however, told them that he had nothing to do with said carabao. The following morning, Cales, Camacho, Otong and Soriano went to the police station of Sablan and reported the matter, resulting in the filing of a complaint against accused Gapasin and Picazo, wherein Cales' statement was taken (Exhibit J). Accompanied by three (3) policemen, two (2) barangay captains and several persons, the group went to Bauang, La Union, to look for the carabaos. In Bauang, they met accused Gapasin and they pleaded with him to return their carabaos but Gapasin told them that even if they will sue him he cannot do anything anymore as he had already sold the carabaos. It was only during the trial of this case when Cales came to know that Gapasin had sold the carabaos to accused Pedro Castañeda.

Rivera Camacho, likewise, took the witness stand and declared that he was the owner of a female carabao about 7 months pregnant with its corresponding brand as evidenced by certificate of Ownership of Large Cattle (Exhibits K and K-1). On December 14, 1979, Tranquilino Soriano, the caretaker of his carabao, informed him that accused Gapasin had taken said carabao while being pastured near the land of Cales. They went to Naguilian to look for said carabao and when they met Gapasin thereat, the latter told him that he has nothing to do with said carabao as he had already sold the same. Camacho reported the matter to the police station of Sablan where his statement was taken (Exhibit L).

Cales and Camacho were later recalled to the witness stand and both declared that in the course of their several attempts to recover their carabaos from accused Gapasin, they had incurred expenses, and when this case was tried in Manila, they had to shoulder their expenses equally such as hotel accommodations, meals, bus fares and other miscellaneous expenses in going back and forth to Manila (Exhibits M, M-1 to M-20, N, N-1 to N-10 and O, O-1 to O-5). All in all, their expenses amounted to P1,946.60.

Batanes Otong, 71 years old, farmer and resident of Bulala, Sablan, Benguet, was called to the witness stand and testified that on December 14, 1979, while pasturing a carabao belonging to Alfredo Cales which was then under his care and custody, he met Tranquilino Soriano and the latter informed him that he had seen several

persons take both of their carabaos while being pastured. They followed the persons who took their carabaos and when they reached Angcaway, they saw accused Gapasin and two (2) companions resting in a store with the carabaos. They approached Gapasin and told him not to take away said carabaos, but Gapasin told them that it is none of their business. They went home and informed the owners of said carabaos as to what had happened and later reported the matter to the police station of Sablan where Otong's statement was taken (Exhibits P and P-1). (Rollo, pp. 35 - 39).

The charge against Alejandro Casilla, the judgment creditor in Civil Case No. 300 and one of the accused, was dismissed by the Sandiganbayan on a demurrer to evidence. Gapasin did not raise the judgment against him to this Court.

Pedro Castañeda filed this petition questioning his conviction. He raises the following assignment of errors:

I

THE HONORABLE SANDIGANBAYAN ERRED IN FINDING PEDRO CASTAÑEDA A CO-CONSPIRATOR OF ACCUSED SANCHO GAPASIN.

II

THE HONORABLE SANDIGANBAYAN ERRED IN FINDING PEDRO CASTAÑEDA GUILTY AS CO-PRINCIPAL OF ACCUSED SANCHO GAPASIN.

III

THE HONORABLE SANDIGANBAYAN ERRED IN RULING THAT THE PROSECUTION WAS ABLE TO ESTABLISH THE GUILT OF PEDRO CASTAÑEDA BEYOND REASONABLE DOUBT.

IV

THE HONORABLE SANDIGANBAYAN ERRED IN NOT ACQUITTING PEDRO CASTAÑEDA.

V

THE HONORABLE SANDIGANBAYAN ERRED IN NOT ORDERING ACCUSED ALEJANDRO CASILLA TO RETURN TO THE COURT FOR PROPER DISPOSITION THE AMOUNT OF P3,000.00 HE RECEIVED FOR THE SALE OF THE TWO CARABAOS. (Rollo, pp. 8 - 9)

The only issue to be resolved is whether or not a conspiracy existed between the appellant Castañeda and his co-accused Gapasin in the irregular sale of the carabaos.

The finding of conspiracy by the respondent court is based on the following:

- "1) Castañeda is an experienced buyer of carabaos. He should have been aware of the requirement that large cattle are covered by Certificates of Ownership of Large Cattle. He did not check the certificates.
- 2) Castañeda became aware that the carabaos did not belong to Soriano when the latter objected to the irregular levy. Yet, he held on to the possession of the carabaos.
- 3) Castañeda advanced the P300.00 to pay the jeepney hired by Gapasin to transport the carabaos from the place where they were seized.
- 4) Castañeda never bothered to check and verify the real ownership of the carabaos.
- 5) The price paid for the carabaos sold through the Sheriff's affidavit of sale was clearly inadequate. (See

Rollo, pp. 54-55)

There are exceptions to the rule that findings of a trial court are generally accorded great respect and, therefore, should be followed. When the court ignored, overlooked or failed to properly appreciate matters of substance or importance likely to affect the results of the case [Centino v. Court of Appeals, G.R. No. 77298, January 13, 1989; People v. Ale, 145 SCRA 50 (1986)], this Court carefully weighs the evidence found in the records.

A careful review of the records indicates some misapprehensions of facts which constrain us to grant this petition and to acquit the accused-appellant.

As held in the case of People v. Elizaga, (G.R. No. 78794, November 21, 1988):

Time and again, We have held that conspiracy, like any other ingredient of the offense, must be established by clear and convincing evidence, not by mere conjectures. It is also a well-entrenched rule that proof beyond reasonable doubt is required to establish a finding of criminal conspiracy.

This rule is similarly expressed in the cases of People v. Pugay, (G.R. No. 74324, November 17, 1988) and People v. Pardilla, (G.R. No. 45266, November 24, 1988).

There is nothing in the records to show that Castañeda and Gapasin had come to an agreement concerning the commission of the offense and thereafter decided to commit it.

The fact that Castañeda was a buyer of carabaos and, therefore, should know that they are covered by Certificates of Ownership registered in the Local Civil Registry does not indicate conspiracy in a crime. The carabaos were sold to him by the Sheriff.

The court said that he did not even bother to verify the real owners of the carabaos. This is inaccurate as Castañeda demanded from Gapasin the said certificates. Gapasin, however, informed him that he could not show the papers as he (Gapasin) could not locate them among the voluminous records kept in the Local Civil Register of Naguilian, La Union. (tsn, May 27, 1982, p. 15).

Instead, Gapasin issued him an Affidavit of Sale duly signed by the former with Judge Josue M. Quezada as the subscribing officer. (Exhibits 2, 2-A, 2-B).

There is no evidence to show that the appellant did not act on the reasonable belief that Gapasin was engaged in the regular performance of his duty as Deputy Sheriff, (See Rule 131, sec. 5(m) of the Rules of Court) or that the Judge would not administer the oath to something irregular or illegal.

The second fact relied upon by the lower court was that Castañeda was present at the time Soriano was objecting to the levy being made by Gapasin and therefore he knew that the carabaos were not owned by Soriano.

Although Castañeda was present at that time, he only witnessed Soriano telling Gapasin not to take the two carabaos or else something will happen to him. Soriano did not reveal at that time that he was not the real owner of the carabaos. Gapasin informed Soriano then that if he wanted the carabaos back, he had only to pay back his obligation. (tsn, March 4, 1982, pp. 37-38). It is not unusual for owners of property being levied upon or seized to tell the sheriff that the property does not belong to them. For a buyer of property being sold by the sheriff not to pay much attention to said protestations cannot prove conspiracy in the scheme to commit a crime.

Rivera Camacho and Alfredo Cales presented themselves to Gapasin as the real owners of the carabaos only after Gapasin was already alone and the carabaos had already been sold to Castaneda.

If Castaneda advanced or loaned money to the sheriff for the hire of a jeepney to transport seized goods or items, this is not necessarily an indication of awareness that the sheriff was up to no good, much less positive conspiracy

in the act. Regarding the alleged inadequacy in price, we have to bear in mind that the appellant was not buying property from the owners but from the sheriff. The judgment debt was only P3,300.00 and that was all about which Sheriff Gapasin appeared to be concerned.

WHEREFORE, the petition is hereby GRANTED. Appellant Castaneda is ACQUITTED on grounds of reasonable doubt. The judgment of the respondent court is accordingly modified to the extent of the appellant's acquittal.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

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