

DOMINGO ILETO, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 76583. December 14, 1988

Ponente: PARAS, J.

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PARAS, J.:

For review on certiorari is respondent appellate court's decision[1] in AC-G.R. NO. CP-00590 which affirmed the Regional Trial Court's decision[2] appealed from holding the accused Domingo Ileta (petitioner herein) guilty of the crime of Qualified Theft.

The facts of this case as found by the then Intermediate Appellate Court and which are generally not disputed by petitioner (except as to identification) are as follows:

“At about 11:00 p.m. of June 28, 1979, Leonilo Venturina, referred to herein as complainant was asleep with his family at the second floor of his house located at San Pedro, Sta. Rosa, Nueva Ecija (p. 18, tsn. 3/23/81). Awakened by the barking of his dog, complainant went downstairs, switched on the 50-watt bulb and peeped through the half-opened window of his house.

He saw three persons, two of whom he recognized as his barriomate, herein appellant, and one Victor Ensela, whom he saw earlier in the day at the house of the son of the barangay captain of San Pedro.

"Complainant recognized these persons as their faces were illumined by the light passing through the half-opened window. Appellant was squatting beside the fence fronting complainant's house (pp. 8-10, supra) pointing something towards said door (p. 22, supra) which complainant later on ascertained to be a "long gun". Victor Ensela proceeded to the place where complainant's carabao was tied, about 5 meters away from the house. Thereafter, Ensela towed the carabao towards the back of the house followed by appellant and his unidentified companion. Since appellant was armed, complainant did nothing (pp. 10-12 supra).

“The following day, complainant went to the house of his barriomate, Felix dela Cruz, to enlist the latter's assistance in going to Pitak, Jaen, Nueva Ecija. Complainant told dela Cruz that his carabao was taken by appellant's companion, Ensela, who is from Pitak, Jaen, Nueva Ecija (pp. 5-6, tsn, June 3, 1981). Arriving thereat, they informed two barangay policemen of their purpose but were advised to return the following day.

“Returning thereto, complainant and dela Cruz conferred with Bonifacio Manalo, the chief of the Barangay Tanod of Pitak and Ensela who was summoned by Manalo. Complainant pleaded with Ensela to return his (complainant's) carabao but the latter vigorously denied having taken the former's carabao. Thereafter, complainant was advised by Manalo to file the necessary case in court (pp. 3-7, tsn, Sept. 17, 1980).

"When this case was being investigated in the office of the Provincial Fiscal of Nueva Ecija, one Eusebio dela Cruz, testified in complainant's favor. Thereafter, dela Cruz' life was threatened by appellant and if the latter persists in testifying against him, "to prepare his (dela Cruz) way to heaven". Subsequently, dela Cruz was found dead in his hut (p. 14, March 23, 1981).

"Also, Felix dela Cruz' life was threatened by appellant if the former did not desist from testifying against the latter. Thereafter, dela Cruz was shot while working in the field by one, Mamerto Cunanan, a gangmate of appellant. This incident prompted dela Cruz to transfer his residence to Laur, Nueva Ecija (p. 8, tsn, Sept. 17, 1980)." (pp. 2-4, Annex E, Petition).

After trial, the court rendered its decision on September 27, 1983 convicting petitioner of the crime of Qualified Theft. Victor Ensela on the other hand, was reported to have been dead although no death certificate was submitted.

On appeal, the appellate court, after observing that said appeal hinged primarily on the issue of credibility, refused to disturb the factual findings of the lower court and, save for a slight modification increasing the maximum imposable penalty, accordingly affirmed, in all other respects, the appealed decision.

In the present petition, petitioner presents the following issues for resolution:

I

WHETHER OR NOT PETITIONER'S CONSTITUTIONAL RIGHT TO BE PRESUMED INNOCENT HAS BEEN VIOLATED.

II

WHETHER OR NOT THE CONVICTION OF THE PETITIONER IS IN ACCORDANCE WITH LAW AND EXISTING APPLICABLE JURISPRUDENCE. (p. 12, Rollo)

We do not find the petition impressed with merit.

Petitioner failed to show an error that would warrant a reversal. Moreover, contrary to his allegation, his constitutional right to be presumed innocent has been overcome upon his conviction by the trial court. As We have previously ruled in *People vs. Nabluna, et al*, G.R. NO. 60087, July 17, 1986, the determination by the trial judge who weighs and appraises the testimony as to the facts fully proved is entitled to the highest respect, unless it could be shown that he ignored or disregarded circumstances of weight and influence sufficient to call for a different finding.

In the case at bar, it is the contention of the petitioner that the findings of facts relied upon by the appellate court to establish his identity as the perpetrator of the crime are allegedly based on speculations, surmises, and conjectures. This issue necessarily involves the determination of what evidence is entitled to belief and the weight that should be assigned to it. The findings of facts of the Court of Appeals should generally bind Us.

Petitioner assails complainant's testimony that complainant recognized petitioner through the light that illuminated his face when complainant switched on a 50-watt bulb. Petitioner argues that such is not the normal reaction of a thief who would have hidden or concealed his identity upon a glimpse of a light coming his way. But petitioner was not an ordinary thief in the night, as he wants to impress upon this Court. As aptly observed by the Court of Appeals, appellant was then holding a long gun aimed at the door of the complainant's house. This demonstrates that the appellant was determined to perpetrate the crime at any cost by threatening the life or limb of any one who should try to frustrate the criminal design. This was the reason why petitioner "threw all cautions to the wind." He found no need to conceal his identity since he was determined to "silence" anybody who would denounce him. There was no need for petitioner to leave his place of residence during the investigation and trial of the case. (Rollo, p. 103-104).

Petitioner likewise aims to put a cloud on complainant's credibility by alleging the latter's failure to immediately seek the assistance of the authorities. This may easily be explained. Firstly, he was afraid of repercussions,

secondly, the accused was a guest of the son of the barangay captain.

WHEREFORE, premises considered, the instant, petition is hereby DENIED. The questioned decision of the then Intermediate Appellate Court is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Justice Emilio A. Gancayco (ponente) and concurred in by Justices Juan A. Sison and Lorna S. Lombos-De La Fuente.

[2] Penned by Judge Leticia Morales.

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