

THIRD DIVISION

[G.R. No. 139250, August 15, 2000]

**GABRIEL CAPILI, PETITIONER, VS. COURT OF APPEALS, ET. AL.,
RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

This Petition for Review on Certiorari seeks the reversal of the Decision of the Court of Appeals^[1] in CA G.R. CR No. 19336 entitled "People of the Philippines vs. Gabriel Capili, et. al." affirming the Decision of the Regional Trial Court^[2] of the National Capital Judicial Region, Branch 34, finding Gabriel Capili guilty beyond reasonable doubt of violation of Presidential Decree 1612.

Gabriel Capili y Recto (GABRIEL) together with his wife Ferma Capili y Inot were charged with violation of Presidential Decree 1612, otherwise known as the Anti-Fencing Law, in an information that reads:

"That on or about November 5, 1993, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other. With intent to gain for themselves or for another, did then and there willfully and knowingly receive, possess, keep, acquire and sell or dispose of the following, to wit:

Assorted pieces of jewelry
Several pieces of old coins (U.S. dollar)

all valued at P3,000,000.00, which they knew or should have known to have been derived from the proceeds of a (sic) crime of theft.

Contrary to law."^[3]

On December 3, 1993, both accused entered a plea of not guilty to the offense charged with the assistance of counsel.^[4] Thereafter, trial ensued.

The trial court summarized the testimonies of the witnesses as follows:

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Christine Diokno testified that at 4:00 P.M. on November 4, 1993, when she went home from her office, she discovered that some of her (sic) items at (sic) her closet and the jewelries (sic) and money at (sic) her mother's room were taken. Upon call, two Makati police responded and surveyed the room where the robbery took place. The police officer took her statement (Exhs. "F", "F-1" and "F-2") and then investigated the theft case. Police prepared the police report and concluded that Michael Manzo, her former houseboy, committed the offense so a case against Manzo

was filed. She described all the properties that were taken as those reflected in the police report because according to her she gave the police a list of the items and is part of her statement (tsn, p. 11, May 11, 1994). Allegedly the value is about 3 Million pesos, some were of 20 years and some were of 30 years vintage, acquired by her parents since their wedding in 1945. Some from abroad, States or Hongkong acquired during trips.

On November 27, 1993, Quiapo sub-station informed her that Michael Manzo was there. She talked to Michael Manzo who admitted the commission of the stealing and that he sold the items to Gabriel Capili and his wife for P50,000.00. Likewise Michael Manzo admitted that on two occasions Gabriel Capili returned some of the items. The first was before he went to Isabela. That Capili returned to him (Manzo) the memorabilia taken from her room consisting of (sic) school ring, bracelets, key chain and some custom jewelries (sic) and some other items. That three days before the apprehension Gabriel returned the Raymond Wiel watch and two cast rings with diamonds. The first ring is valued at P3,000.00 the second watch was (sic) cost P20,000.00 to P60,000.00 and the two cast rings about P80,000.00. Then Manzo informed her that he sold those items returned to other buyers, near Claro M. Recto, who paid P1,500.00 and P1,000.00 for the ring which police officer (sic) failed to recover because the stand was no longer there. She was shown by the police officer the items recovered from Gabriel Capili and his wife which she identified as her property. Shown with Exhs. "A", "B", "C", she said those are her properties and that the coins (sic) were acquired during the trips to the States. She kept John F. Kennedy dollar coins contained in a small box. She further relayed that the coins, Exh. "A" came from a brooch owned by her mother. The chain with medal of our Lady was bought by her mother and was given to her together with other belongings.

That before the discovery of the incident her mother had the list of all the items by counting them physically because her mother used to check the jewelry every week in her presence. That all is worth three (3) Million Pesos because the jewelries (sic) were sometimes brought to a jeweler for a change or for removal of stones or replacement that is why she considered that all the jewelries (sic) were appraised. She does not know, however, what exactly were brought by her mother. That she was present during the last inventory of the items and the land titles by her mother, presenting the alleged inventory on August 1, 1993 (Exh. "S"), after her father died on July 15, 1993. While her mother was checking them, she was in the room writing the description of the jewelries (sic), the cost and date when bought. That the corresponding value stated came from her mother kept inside the vault.

That on November 2, 1993, she took out all the items because November 9 was her mother's birthday and would like to select the items she and her mother were going to wear for the occasion then check the jewelries (sic) against the prepared list. The list included the items lost but did not include the box of memorabilia which was taken from her room. She claimed that the records including the receipts from where the list was taken were lost together with the jewelries (sic) that were taken.

To support the allegation in the Information Michael Manzo testified that after he asked his friend Emilio Benitez where he can sell his jewelries (sic) he was brought to Boy Recto's (accused) house at 1260 Carola St., Sampaloc, Manila, to whom he gave one bag of jewelries (sic) with the information that he stole them while he was a house boy. Recto agreed to pay him P50,000.00 (p. 3, tsn, March 3, 1994). He left and went back after a week or on November 5, as he needed the money. He was paid P1,500.00. He left again and went back after two weeks and was paid again P6,000.00. He left again but in his return he was not paid anymore.

When he visited his friend Emilio Benitez at the precinct, having been charged with vagrancy, he was caught by the police asking him where he brought the jewelries (sic), so he pointed to Boy Recto, who was picked-up and brought to the station and investigated. During the frisking and searching at the station, police officers found pearls and old coins from Gabriel Capili. The following day, Mrs. Ferma Capili was investigated at sub-station 3, Quiapo, WPD.

He identified the pearl earring with copper (sic) with diamond (Exh. "A"). He likewise identified the old coin 4 pieces of dollars marked as Exhs. "B-1", "B-2", "B-3" and "B-4"; "B-1", "B-2" dimes, "B-3" and "B-4" quarter cents; pendant with inscription Boy Recto, Exh. "C". He admitted that the statement marked as Exh. "D" and sub-markings is his.

Describing the contents of the bag, he said that there were more or less 20 pieces of rings, some with pearls and some with diamonds and birthstones; more or less 20 pairs of earrings, diamond with pearls; more or less 10 pieces of necklaces of plain gold with pendant with the replica of God and cast with diamond. There were Quartz watches; 3 pieces Bulova watches; 5 pieces of Seiko watches, Raymond Wiel. That per complainant's information, all of them costs (sic) 3 Million Pesos which he merely gave to the accused without counting them. He however, claims that they will cost only one to two million pesos. Despite which value, he entrusted them to Boy Recto without counting the pieces.

Defense adopted Exhibit "B" as Exhibit "1" and sub-markings, Exhibit "D" as their Exhibit "2" and "2-a".

That during the investigation, when he was given another lawyer, he stated that he told the accused to sell the jewelries (sic) he stole. (p. 6, tsn, March 16, 1994)

That witness explained that only the fancy ones were returned to him.

That three days after he left the jewelries (sic) to (sic) Recto, they had drinking session somewhere at Recto, on which occasion, he did not ask for the jewelries (sic).

That the P1,500.00 was given to him near the bus terminal at Sampaloc near UST and when the fancies (sic) were returned, which he came to know as such because he had it appraised in a pawnshop when they

arrived from Roxas, Isabela. When the jewelries (sic) were returned contained in the bag, he accepted, opened (sic) for a couple of minutes without counting. That Emilio Benitez glanced on (sic) them because the bus was about leave. Recto gave the instruction that he can come back within two weeks because Boy Recto will pay.

The witness admitted that he is facing a charge of Qualified Theft in Makati pending before a court where he posted his bail. That he is testifying before this Court out of his own volition. He explained that they went to Isabela per instruction of Gabriel Capili that they should lie low because the police were hunting for them and that Emilio Benitez is from Roxas, Isabela.

After more or less two weeks when (sic) they arrived from Isabela, he was requested by Boy Recto (Gabriel Capili) to sign a blank document somewhere at Espana (Document Exh. "3" to "3-A"). He was not, however, forced. That upon arrival from Isabela, they went to the house of the accused then proceeded to wait at a hotel in Sta. Cruz. After three hours of waiting, the accused arrived and gave him P6,000.00 in the presence of Emilio Benitez without receipt. He declared that he himself is not sure whether all the jewelries (sic) inside the bag are (sic) genuine or not.

Having admitted to the police that he is Michael Manzo, he was asked where he brought the jewelries (sic) so he pointed to Boy Recto. He admitted to have signed a blank document, Exhibit "4" and "3", his signature, Exh. "4-1" and Exh."3-A", but do (sic) not know where the originals were, but later said that the originals are in the hands of the police officers.

SPO3 Ernesto Ramirez testified that as police officer of Station 3, on November 27, 1993 he investigated Michael Manzo who was accused of Qualified Theft at Makati and who admitted to him having committed said offense and pointed to the house of Gabriel Capili at Sampaloc, Manila where he sold the jewelries (sic). Thereafter, he and his companions SPO2 Reyes, SPO3 Salalia and SPO3 Fuentes with Michael Manzo went to the place and saw the wife of Gabriel Capili wearing the pair of earrings, one of the jewelries (sic) stolen. They were allowed by Gabriel Capili to get (sic) inside the residence where Gabriel Capili showed him the signed document of Michael Manzo, Exh. "4" and said he returned the jewelries (sic). It was however, denied by Manzo although he admitted the signature. Gabriel Capili went with them to the police precinct where he (Gabriel Capili) was referred to the investigator and found (sic) from his pockets 4 pieces of coins. Allegedly while the wife was then being investigated, Manzo pointed to the earrings worn by the (sic) wife as part of those stolen properties. The same was taken by the investigator. He pointed to both accused inside the courtroom.

SPO1 Eduardo San Diego also from Station 3, Quiapo, Manila, investigator, investigated the case of Qualified Theft that happened at the house of Cristine Diokno. Both accused were positively identified by Michael Manzo so he took the latter's statement. That during his investigation he recovered a necklace with pendant, US dollar coins with

different denominations and one pair of earrings (Exh. "A", "B" and "C"). In their investigation they tried to recover the other items but failed because the establishment of the other buyer pointed to them by Michael Manzo was no longer existing. He prepared the booking sheet and arrest report Exhs. "D" and "E" and sub-markings.

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Gabriel Capili denied any knowledge about the charge against him and declared that what Michael Manzo stated in court that he agreed to pay P50,000.00 but paid only P1,800.00 is not true. He was at home on November 10, 1993 selling junk foods (sic) when he was called by Emil, companion of Michael Manzo, through the phone which number he gave to Emil when the latter bought something on credit from him a week before that date. Emil asked him if he would like to buy jewelry to whom he relayed if he will see the jewelry. Emil arrived at 2:00 o'clock P.M. together with Michael Manzo, the first time he saw the latter and showed him two (2) pieces of jewelry, one birthstone and an old coin with a price of P2,000.00. He inquired from (sic) where the jewelries (sic) came from and was answered by Michael Manzo that it came from and (sic) being sold by his mother. He declined because he cannot pay for it. Michael Manzo handed to Emil something wrapped of which he was asked to appraise. Michael Manzo asked him if he knew somebody who can buy. He said he has but hard to see because he seldom see the man already but was invited to see the person at Recto. After boarding the taxi they did not proceed immediately to the place. Michael Manzo ordered the taxi cab to go back to Sta. Mesa Love Hotel where he was told to wait. Michael Manzo went up the hotel while Emil went towards Aurora Boulevard walking carrying some items but did not know what happened. After one hour of waiting at the taxicab and worried about the taxi fare, he went inside the hotel and after inquiring from the counter where his companion was, Michael Manzo went down with two women companions. Fifteen minutes after the two women left, Emil arrived and said he went to Cubao selling the jewelries (sic). Thereafter, they went to Recto at (sic) a business establishment near the Galaxy Theater. He was offered to drink from almost dark until dawn asking him if he had already find (sic) his friend buyer. They parted ways and went home.

On November 15, Manzo and Emil called him up again asking if it was possible to see him which he positively answered. He went to UST somewhere near Mambusco station where he saw Emil with Michael Manzo about 5 meters from Emil standing talking to someone. He asked Emil if he was able to sell the jewelries (sic) and was answered "not yet". Emil was borrowing P700.00 but he has no such amount, so Emil gave him the jewelries (sic) formerly offered to him, the birthstone and watch allegedly as a gift from Michael Manzo. Emil informed him that he and Michael Manzo together with two others were going to Isabela so he gave the P700.00. After they (Emil and his friend) boarded the bus he went home.

On November 21, he was fetched by Emil, brought to a place near the UST along Dapitan Street where he found Michael Manzo retrieving the gift given to him. Because of Manzo's insistence, he returned them but