

THIRD DIVISION

[G.R. No. 218969, January 18, 2021]

FERNANDO PANTE Y RANGASA PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

Hernando, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assails the February 6, 2015 Decision^[2] and June 9, 2015 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CR No. 36219 affirming the January 23, 2013 Judgment^[4] of the Regional Trial Court (RTC), Branch 33 of Pili, Camarines Sur in Criminal Case No. P-3806 which found petitioner Fernando Pante y Rangasa (Pante) guilty beyond reasonable doubt of the crime of Theft. **The Factual Antecedents:** An Information^[5] dated June 1, 2005 was filed before the RTC of Pili, Camarines Sur against petitioner Pante and his two minor co-accused, charging them with the crime of Theft under Article 308, par. 2, subparagraph (1) of the Revised Penal Code (RPC) as follows:

That [sometime] on December 11, 2004, in barangay Palestina, Pili, Camarines Sur, Philippines, and within the jurisdiction of the Honorable Court, the said accused, conspiring, confederating and helping one another, without the consent of the owner, nor force, violence or intimidation, after having found the amount of US\$4,550.00 or (P254,800.00) and P27,000.00, belonging to Dawson D. Word, and without delivering the same to its owner or authority, and once in possession of said amount, with intent to gain, did then and there willfully, unlawfully and feloniously, convert the said amount for their own personal use and benefits, to the damage and prejudice of Dawson D. Word. ACTS CONTRARY TO LAW.^[6]

Upon arraignment, Pante and his two co-accused entered separate pleas of "not guilty." **Version of the Prosecution:** On December 10, 2004, Dawson Word (Word) dropped by the People's Mart in Naga City, Camarines Sur with his househelper, Angie Beroño (Beroño), to buy fish. He was carrying US\$4,550.00 and P27,000.00 bundled together in a rubber band placed on his lap. Word gave Beroño P1,000.00 to buy fish and arranged his remaining money while waiting inside the car. When Beroño returned, Word placed the bundle of money on his lap between his legs and drove back to his apartment.^[7] He parked his car in front of his residence and forgot the money that he placed on his lap.^[8] Apparently, upon alighting from the car, the bundled money fell on the road near his vehicle. At about 5:30 a.m. the following morning, a bakery worker noticed a bundle of money lying on the ground near Word's car. Meanwhile, one of Pante's co-accused, who was riding his bike outside, also noticed the bundle of money and picked it up before going inside his

house.^[9] At around 8:00 a.m., Word realized that the money that he had placed on his lap was missing.^[10] He began searching for it in his car but could no longer find it. With the help of his landlord, Word learned that Pante's minor co-accused picked up the bundled money near his car.^[11] On December 21, 2004, Word sought the help of the police in the recovery of his money. Upon investigation, it was found that Pante's minor co-accused was indeed the finder of the money. The police headed to the minor's residence where accused-minor admitted that he found the bundle of money under Word's car.^[12] He also averred that the money was shared among his other co-accused, who is a cousin and also a minor, Pante, and himself. His parents returned the US\$1,300.00 to Word, as evidenced by the receipt^[13] signed by his father. On the same day, the police went to the house of the other accused- minor, who admitted getting US\$500.00 but could no longer return the same because he already spent it.^[14] Thereafter, the police proceeded to the house of Pante, who also admitted that he received US\$1,700.00. He was able to return US\$300.00, P4,660.00, one unit of JVC component, and a gas stove with a tank. Pante also gave a receipt^[15] from Monton Hardware, where he bought construction materials. Seeing that some of the materials were already used, the police did not retrieve them anymore. Thereafter, all the money and items recovered from the three accused were returned to Word. **Version of the Defense:** The accused-minor testified that while riding his bike in the morning of December 11, 2004, he found 30 pieces of US\$100 bills near Word's car, but no Philippine currency.^[16] He kept the money in his pocket and proceeded to deliver bread. Afterwards, he went to his co-accused cousin to ask him what to do with the money. While they were talking, Pante overheard their conversation. Being the only adult among them, Pante told them to get the money and proceed to the tree house. On their way to the tree house, Pante grabbed the money and counted it. Thereafter, he got 17 pieces of US\$100 dollar bills for himself. His co-accused cousin received US\$500.00 while he kept US\$2,350.00. Pante went home with his share and never returned.^[17] The other accused-minor admitted that his cousin gave him US\$500.00 on the same day Word lost his money. However, he gave it back to his cousin so he could return it to Word. On the other hand, Pante testified that on December 11, 2004 at around 6:30 p.m., he saw his two co-accused pass by the back of the bakery where he was working. They were carrying items like Playstation and new shoes. He asked them where they got the money to buy those things and learned that one of them found a bundle of dollar bills. He admitted receiving 10 dollar bills from his co-accused as his "*balato*." He kept the money for a few days then exchanged them to Philippine currency. He used the money to buy a JVC component, a gas stove with a tank, and a CD cassette.^[18] When police authorities came to his house on December 21, 2004 demanding return of the money, he told his wife to get the remaining US\$300.00 and P4,660.00 and turned it over to them.^[19] **Ruling of the Regional Trial Court:** In its January 23, 2013 Judgment, the RTC found all three accused guilty beyond reasonable doubt of the crime of Theft. The evidence submitted by the prosecution proved that Word lost his money and that the accused-minor was the finder thereof, and who shared the cash he found with his co-accused cousin and Pante, the latter both knowing where the money came from. While the trial Court was convinced that Word lost dollar bills in the amount of US\$4,450, the prosecution failed to prove that he also lost money in Philippine currency. It found that Pante got US\$1,700.00, while the two accused-minor netted US\$500.00 and US\$2,350.00 each. The trial court noted that Pante even instructed the two minors not to return the money. Instead of encouraging them to return the cash, Pante got a portion for himself and

headed home. Thus, the trial court did not give credence to Pante's position that he did not have any interest in keeping the money. Neither can his act of returning the money be considered voluntary since he already knew that Word was looking for his lost money and he only returned it upon the arrival of police authorities in his house. The dispositive portion of the RTC's Judgment^[20] insofar as petitioner Pante is concerned, reads:

WHEREFORE, in view of all the foregoing judgment, judgment is hereby rendered as follows: x x x x 3. Finding the accused **FERNANDO PANTE, "GUILTY"** beyond reasonable doubt of the crime of theft under Article 308, par. 1 of the Revised Penal Code and imposing the penalty of imprisonment ranging from *2 years 4 months and 1 day of prision correccional as minimum to 9 years and 1 day of prision mayor as maximum*. He is ordered to pay the private complainant Dawson Word the sum of P59,120.00 as actual damages. SO ORDERED.^[21] (Emphasis in the original)

Aggrieved, Pante appealed^[22] the judgment of conviction before the CA, arguing that the prosecution did not prove his guilt beyond reasonable doubt. First, the prosecution did not present any proof of ownership over the money that Word had allegedly lost.^[23] Moreover, he argued that Word's knowledge of Pante's participation in the crime was based solely on his co-accused's averments^[24] which are only circumstantial evidence that cannot warrant his conviction. Lastly, Pante posited that there was no unlawful taking of the money on his part because the finder of the lost money was his co-accused and not himself. Not knowing where it came from, he averred that he did not have any intent to take money belonging to another.^[25] On the other hand, the People, through the Office of the Solicitor General (OSG), maintained that Pante's guilt was clearly established beyond reasonable doubt. No less than the petitioner himself admitted in open court that he knowingly received US\$1,000.00 from the lost money.^[26] His co-accused also testified that Pante actually took US\$1,700.00 and insisted they keep the money to themselves.^[27] In fact, Pante's act of returning the items purchased using Word's money, and the remaining cash amounting to US\$300.00 and P4,660.00, support such allegations. The OSG further contended that Pante is considered a "finder in law" and guilty of Theft even if the original finder of the money was his co-accused because he failed to return the same despite knowledge that it was lost property.^[28]

Ruling of the Court of Appeals: The CA, in its assailed February 6, 2015 Decision,^[29] affirmed the RTC's ruling. The dispositive portion thereof reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Judgment dated January 23, 2013 of the Regional Trial Court, Branch 33, Pili, Camarines Sur finding accused-appellant Fernando Pante y Rangasa guilty beyond reasonable doubt of the crime of Theft defined and penalized under Article 308, par. 2, subpax. (1) of the Revised Penal Code and to pay private complainant Dawson Word the sum of P59,120.00 as actual damages is **AFFIRMED WITH MODIFICATION** in that appellant is ordered to suffer the penalty of imprisonment of 2 years 4 months and 1 day of *prision correccional*, as minimum to 13 years of *reclusion temporal*, as maximum. **SO ORDERED.**^[30] (Emphasis in the original)

Undeterred, Pante filed the instant the Petition for Review on *Certiorari*^[31] raising the following –

Issues:

(A) WHETHER THE [CA] ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER FOR THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. (B) WHETHER THE [CA] ERRED IN CONVICTING THE PETITIONER FOR THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THAT HE CONSPIRED WITH [HIS CO-ACCUSED] IN THE COMMISSION OF THE CRIME OF THEFT.^[32]

Our Ruling

The Petition is unmeritorious. The CA correctly found that the prosecution sufficiently established Pante's guilt beyond reasonable doubt of the crime of Theft. Under Article 308, par. 2 (1) of the RPC, Theft is also committed by one's failure to deliver lost property to its owner or local authorities.^[33] In this kind of Theft, it is essential to prove: 1) the finding of lost property; 2) the failure of the finder to deliver the same to the local authorities or its owner.^[34] In the case at bar, both the trial court and the appellate court found that the prosecution witnesses were able to prove that Word lost his bundled money after alighting from his car in front of his residence and forgetting that he had placed them in between his legs. Such fact was corroborated by the prosecution witness who testified that he positively saw the accused-minor pick up the bundle of money under Word's car. In the same vein, all three accused admitted that it was the accused-minor who found the bundle of money in front of the bakery, which they later divided among themselves in the following manner: US\$1,700.00 for Pante; and US\$500.00 and US\$2,350.00 for each of the two accused-minor. Despite knowing that the money did not rightfully belong to them, Pante encouraged the two minor accused to keep the money for themselves. He also appropriated the money for himself by buying various items such as a JVC component, gas tank, and construction materials. He only returned the remainder of the money to Word when police authorities showed up in his house.^[35] Time and again, this Court has held that greater weight is given to the positive identification of the accused by the prosecution witness than the accused's denial and explanation concerning the commission of the crime.^[36] Mere denials are only self-serving evidence whose evidentiary weight cannot outweigh the declaration of credible witnesses who testified on affirmative matters.^[37] In relation thereto, findings of facts of the trial court, its calibration of the testimonial evidence of the parties as well as its conclusion on its findings, are accorded high respect if not conclusive effect.^[38] This is because of the unique advantage of the trial court to observe, at close range, the conduct, demeanor and deportment of the witness as they testify. ^[39] This rule applies even more when such findings are affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court.^[40] Anent Pante's argument that he cannot be convicted for Theft because he is not the finder of the lost property, we are not persuaded. The question of whether criminal appropriation of found property can be committed by a person other than the one by whom the property is first found has been lengthily discussed and answered in the affirmative in *People v. Avila*,^[41] viz.:

From a comparison of the definitions given above it is obvious that the most fundamental notion in the crime of theft is taking of the thing to be appropriated into the physical power of the thief, which idea is qualified by other conditions, such as that taking must be effected *animo lucrandi* and without the consent of the owner; and it will be here noted that the definition does not require that the taking should be effected against the will of the owner but merely that it should be without consent, — a distinction of no slight no sight importance. Upon these considerations it is evident that the taking and appropriation of a thing by one who finds it, knowing the same to have been misplaced or lost by the true owner, and with acknowledge of his identify, is legitimately within to the second subsection article 517 of the Penal Code the authors of the code have merely extended the general definition to a special case about which otherwise some doubt might have existed; and we cannot impute to them the clumsy mistake of having imported into the law of theft a form of offense foreign to that conception and which should properly have been incorporated in the chapter dealing with *estafa*. What has been said is of the greatest practical importance in dealing the problem now in hand, for it determines the proper point of view for the correct interpretation of the provision relating to the theft of found property; namely, the provision should be interpreted according to its true spirit and conformably with the doctrines that inform it. If we had discovered that this form of theft is really a species of *estafa* wrenched from its proper associations and artificially placed under a heading where it does not belong, much could be said in favor of a strict and literal interpretation; but when it is made to appear that the criminal misappropriation of found property is theft upon general principles of jurisprudence and not some other crime, it becomes obvious that the provision in question should be applied in accordance with its true spirit. What then is the meaning of the second subsection of article 517, in so far as it affects the case before us? The words used in the law are literally these: "Those are guilty of theft: ... 2. Who, finding a lost thing, and knowing who the owner is, appropriate it with intent to gain." **The gist of this offense is the furtive taking and misappropriation of the property found, with knowledge of its true ownership; and the word "finding" (in Spanish, *encontrandose*) must not be treated as a cabalistic or sacramental first finder. The furtive appropriation of the found property, under the conditions stated, is the principal thing. In the case before us, the accused if not the actual finder, occupied towards the purse, from the time he took it into his hands, precisely the same relation as if he had picked it up himself. The purpose of the law is to protect the owner of the lost thing from appropriation by the person into whose hands it may come, with knowledge of its ownership. The accused was a finder in law, if not in fact; and his act in appropriating the property was of precisely the same character as if it had been originally found by him.**^[42] x x x x The same writer then passes on to a proposition more directly connected with the case now before us, since it relates to the act of misappropriation by one who receives the property by voluntary substitution from the actual finder. Upon this the rule there formulated is this: "**One who receives property from the finder thereof assumes, in legal contemplation, by voluntary**