

## SECOND DIVISION

[ G.R. No. 212186, June 29, 2016 ]

**ARIEL LOPEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

### DECISION

**LEONEN, J.:**

To sustain a conviction for cattle-rustling, the identity of the stolen cattle must be proven with certainty. Otherwise, the accused must be acquitted on the ground of reasonable doubt.

Further, a "request for appearance" issued by law enforcers to a person identified as a suspect is akin to an "invitation." Thus, the suspect is covered by the rights of an accused while under custodial investigation. Any admission obtained from the "request for appearance" without the assistance of counsel is inadmissible in evidence.

Petitioner Ariel Lopez (Lopez) was charged with violation of Presidential Decree No. 533.<sup>[1]</sup> The accusatory portion of the Information reads:

That on or about July 17, 2002, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, with intent to gain with grave abuse of confidence and without the knowledge and consent of the complainant, wilfully, unlawfully, and feloniously took, stole and carried away one (1) female carabao valued at **Five Thousand (P5,000.00) Pesos**, more or less, belonging to **Teresita D. Perez**, to the latter's damage and prejudice in the aforesaid amount.

CONTRARY TO LAW.<sup>[2]</sup> (Emphasis in the original)

Lopez pleaded not guilty during his arraignment.<sup>[3]</sup>

During trial, Mario Perez (Perez) testified that he purchased the female carabao from a certain Enrique Villanueva. The purchase was evidenced by a Certificate of Transfer of Large Cattle.<sup>[4]</sup>

Perez narrated that he tied his carabao to a coconut tree located inside the property of a certain Constancio Genosas.<sup>[5]</sup>

Around 5:00 a.m. on July 17, 2002, Perez discovered that the female carabao was missing.<sup>[6]</sup>

Perez claimed that he searched for his carabao for over a month. After, he went to

the Barangay Captain of Wines to ask for assistance.<sup>[7]</sup>

Prosecution witness Felix Alderete (Alderete) testified that he worked as an errand boy for Lopez from 2000 to 2002.<sup>[8]</sup>

Alderete claimed that he slept at Lopez's house on July 17, 2002. Around 3:45 a.m. of the next day, Alderete and Lopez went to Constancio Genosas' property.<sup>[9]</sup>

Lopez untied the carabao and allegedly told Alderete that he would "bring the carabao to his boss named Boy Platan at Malagos."<sup>[10]</sup> He ordered Alderete to deliver the carabao to Malagos.<sup>[11]</sup>

Alderete, not knowing whether the carabao was owned by Lopez, followed Lopez's instructions.<sup>[12]</sup>

Lopez and Boy Platan met Alderete in Malagos. From there, the carabao was loaded on a vehicle headed to Davao City.<sup>[13]</sup>

The next day, Alderete learned that there was a commotion in Wines, Baguio District, regarding Perez's lost carabao.<sup>[14]</sup>

Afraid of being accused for the loss of the carabao, Alderete sought help from the barangay police.<sup>[15]</sup>

Teresita Perez (Teresita) testified that Barangay Police Moralde informed her and Perez, her husband, that Lopez stole their carabao.<sup>[16]</sup> Subsequently, a confrontation took place at the barangay police station.<sup>[17]</sup> During the confrontation, Lopez admitted to taking the carabao and promised to pay indemnification.<sup>[18]</sup>

Police Officer III Leo Lozarito (PO3 Lozarito) corroborated Teresita's testimony and stated that a request for Lopez's appearance was issued, but no custodial investigation was conducted. He claimed that he simply allowed Lopez and Teresita to "confront each other."<sup>[19]</sup> He also stated that Lopez wanted to settle by paying for the carabao, but the parties were unable to agree on the price.<sup>[20]</sup>

The defense presented Lopez as a witness during trial. Lopez denied stealing the carabao.<sup>[21]</sup> He also denied knowing Alderete. He stated that he was a farmer,<sup>[22]</sup> and that at the time the offense was committed, he was working at his home in Wines, Baguio District, Davao City.<sup>[23]</sup>

Lopez testified that he knew Teresita because she "used to borrow rice and feeds from his parents."<sup>[24]</sup> He was surprised that she accused him of stealing her carabao.<sup>[25]</sup>

Lopez also testified that he went to the police station where he denied stealing any carabao.<sup>[26]</sup> After his appearance at the police station, he went home.<sup>[27]</sup>

The defense presented another witness, Marvin Bongato, who claimed to have seen

a certain "Edoy" riding a carabao in the morning of July 17, 2002.<sup>[28]</sup> He denied seeing Alderete riding a carabao on the same date.<sup>[29]</sup>

The trial court found Lopez guilty of cattle-rustling.<sup>[30]</sup> It gave credence to Alderete's testimony that Lopez ordered him to bring the carabao to Malagos.<sup>[31]</sup> The trial court also noted Alderete's statement that "he knew Lopez was engaged in the buy and sell of large cattle."<sup>[32]</sup>

In addition, the trial court discussed that Lopez's defense of denial had no credence because during the meeting at the police station, Lopez offered to reimburse the value of the carabao and even knelt in front of Teresita to ask for forgiveness.<sup>[33]</sup>

The dispositive portion of the trial court's ruling states:

In view of the foregoing, judgment is hereby rendered finding Ariel Lopez GUILTY of the crime charged. He is hereby sentenced to suffer an indeterminate penalty of from TEN (10) years and ONE (1) day of *prision mayor* maximum to FOURTEEN (14) years, EIGHT (8) months and ONE (1) day of *reclusion temporal* medium.

He is likewise ordered to pay Mario and Teresita Perez the sum of FIVE THOUSAND PESOS (P5,000.00) representing the value of the stolen carabao.

SO ORDERED.<sup>[34]</sup> (Emphasis in the original)

Lopez filed before the Court of Appeals an appeal arguing that the prosecution was unable to prove that the carabao allegedly stolen was the same carabao owned by Mario and Teresita Perez.<sup>[35]</sup> He argued that the "request for appearance . . . issued by PO3 Lozarito was in violation of his custodial rights."<sup>[36]</sup>

The Court of Appeals ruled<sup>[37]</sup> that the Certificate of Transfer of Large Cattle and Alderete's testimony were sufficient to prove the ownership of the lost carabao.<sup>[38]</sup>

Further, the Court of Appeals held that there was no violation of Lopez's custodial rights.<sup>[39]</sup> PO3 Lozarito did not ask questions, and Lopez was not compelled to make any admissions.<sup>[40]</sup> Lopez negotiated for a settlement with Mario and Teresita Perez, which could not be considered as custodial investigation.<sup>[41]</sup>

However, the Court of Appeals modified the penalty imposed by the trial court. It discussed that Presidential Decree No. 533 is not a special law, but an amendment of Article 310 of the Revised Penal Code. Hence, Article 64 of the Revised Penal Code should apply.<sup>[42]</sup>

The dispositive portion of the Court of Appeals Decision reads:

**WHEREFORE**, the decision of the RTC is hereby **AFFIRMED**, with the modification that appellant Ariel G. Lopez is hereby **SENTENCED** to suffer an indeterminate prison term of four (4) years, two (2) months and one (1) day of *prision correccional* maximum, as *minimum*, to

fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* medium, as maximum.

**SO ORDERED.**<sup>[43]</sup> (Emphasis in the original)

Lopez moved for reconsideration,<sup>[44]</sup> but the Motion was denied in the Resolution dated March 6, 2014.<sup>[45]</sup>

Petitioner Ariel Lopez, through counsel, filed before this Court a Petition for Review on Certiorari<sup>[46]</sup> on April 30, 2014.

In the Resolution<sup>[47]</sup> dated July 28, 2014, this Court required respondent to comment and directed the Court of Appeals Clerk of Court to elevate the records of this case.

The Office of the Solicitor General filed its Comment<sup>[48]</sup> on December 1, 2014.

In the Resolution<sup>[49]</sup> dated February 2, 2015, this Court noted the Office of the Solicitor General's Comment and required petitioner to file a reply.

On July 7, 2015, counsel for petitioner filed a Manifestation<sup>[50]</sup> informing this Court that when he received a copy of the February 2, 2015 Resolution, he had yet to receive a copy of respondent's Comment. He subsequently realized that he might have received it, but it could have been among the documents that were burned when the Hall of Justice of Cagayan de Oro was razed by fire. In any case, petitioner would no longer file a reply because petitioner's arguments on why he should be acquitted were discussed in the appeal brief, in the Motion for Reconsideration, as well as in the Petition for Review.<sup>[51]</sup>

In his Petition for Review on Certiorari, petitioner reiterates the arguments raised in his appeal before the Court of Appeals. Petitioner argues that the prosecution failed to prove Mario and Teresita Perez's ownership of the lost carabao. Alderete had no personal knowledge of the lost carabao's appearance, or where it grazed.<sup>[52]</sup>

Petitioner alleges that he is "engaged in raising livestock, like pigs, chickens and carabaos."<sup>[53]</sup> He also alleges that the area where the carabao was taken is "a rural and agricultural area, where the abundance of carabaos is not uncommon."<sup>[54]</sup>

In addition, Alderete himself doubted whether theft was committed. Prosecution witness Urcesio Moralde testified:

Q: And, specifically, what Felix did say [sic] with respect to his participation in the alleged carabao theft? What did he say?

A: He was doubtful if it was really theft, that he will not report to the other people because it was with me that he was comfortable with.<sup>[55]</sup> (Emphasis in the original)

Petitioner argues that Alderete's doubt shows that he was unsure who owned the carabao.<sup>[56]</sup>

In addition, petitioner points out that there were inconsistencies in the testimonies of the prosecution's witnesses. Alderete testified "that the carabao he and petitioner allegedly untied and brought to Malagos was still pregnant[.]"<sup>[57]</sup> On the other hand, Perez testified "that the carabao had an offspring, indicating that the carabao was not pregnant."<sup>[58]</sup>

Alderete also testified that the carabao was taken 3:45 a.m., while his affidavit states that the carabao was taken at night.<sup>[59]</sup>

Further, Alderete claimed that he heard about a stolen carabao the following day; hence, "he immediately reported the incident to the barangay police."<sup>[60]</sup> He was allegedly told by the police that they would notify the Barangay Captain and the carabao's owner.<sup>[61]</sup>

However, Perez testified that he had been looking for his carabao for a month before he reported the loss to the Barangay Captain.<sup>[62]</sup> This shows that Perez was not immediately informed by the barangay police regarding Alderete's statement.<sup>[63]</sup>

Petitioner avers that the date when the carabao was allegedly stolen was not proven with certainty. Teresita was unable to cite what year the carabao was stolen. She only testified that the carabao was stolen at 5:00 a.m. of July 27. She explained that she learned of the loss from her husband.<sup>[64]</sup> Perez, Teresita's husband, testified "that the carabao was lost on July 17, 2002."<sup>[65]</sup>

On the other hand, the police blotter states that the carabao was stolen on July 15, 2002, "at 5:30 in the morning."<sup>[66]</sup>

Petitioner further argues that his alleged admission is inadmissible in evidence.<sup>[67]</sup> He was summoned by the police because he was suspected of stealing a carabao.<sup>[68]</sup>

Petitioner points out that custodial investigation includes:

the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law. And any uncounselled confession or admission obtained by the accused on such occasion shall be inadmissible against him.<sup>[69]</sup>

On the other hand, respondent cites Perez's testimony and argues that it established ownership over the carabao:

Q: You said the carabao was lost. How was it lost?

A: Ariel Lopez untied the rope tied at the coconut tree.

Q: When was it that this carabao was discovered to be lost?

A: At 5:00 a.m. on July 17, 2002.

Q: Who was the person who discovered that the carabao was lost at 5:00 a.m. on July 17, 2002?

A: Me.

Q: At what place?

A: There *where the carabao was tied at the coconut tree.*