

## FIRST DIVISION

[ G.R. No. 209386, December 08, 2014 ]

### MEL CARPIZO CANDELARIA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

#### D E C I S I O N

##### PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated January 31, 2013 and the Resolution<sup>[3]</sup> dated September 3, 2013 rendered by the Court of Appeals (CA) in CA-G.R. CR. No. 34470 which affirmed the conviction of petitioner for the crime of Qualified Theft.

#### The Facts

In the morning of August 23, 2006, Viron Transit Corporation (Viron) ordered 14,000 liters of diesel fuel (diesel fuel) allegedly worth P497,000.00 from United Oil Petroleum Phils. (Unioil), a company owned by private complainant Jessielyn Valera Lao (Lao).<sup>[4]</sup> Petitioner Mel Carpizo Candelaria (Candelaria), a truck driver employed by Lao, was dispatched to deliver the diesel fuel in Laon Laan, Manila.<sup>[5]</sup>

However, at around 5 o'clock in the afternoon of the same day, Viron informed Lao through a phone call that it had not yet received its order. Upon inquiry, Lao discovered that Candelaria, together with his helper Mario Romano (Romano), also an employee of Unioil, left the company premises at 12:50 in the afternoon of the same day on board a lorry truck with plate number PTA-945 to deliver Viron's diesel fuel order. When Lao called Candelaria on his mobile phone, she did not receive any response.<sup>[6]</sup>

Thereafter, or at around 6 o'clock in the evening of the same day, Romano returned alone to Unioil's office and reported that Candelaria poked a *balisong* at him, prompting Lao to report the incident to the Anti-Carnapping Section of the Manila Police District (MPD), as well as to Camp Crame.<sup>[7]</sup>

After a few days, the National Bureau of Investigation (NBI) agents found the abandoned lorry truck in Calamba, Laguna, emptied of the diesel fuel.<sup>[8]</sup> Under the foregoing premises, Lao filed a complaint for Qualified Theft against Candelaria, docketed as Crim. Case No. 08-259004.<sup>[9]</sup>

Lita Valera (Valera), Lao's mother, and Jimmy Magtabo<sup>[10]</sup> Claro (Claro), employed as dispatcher and driver of Unioil, corroborated Lao's allegations on material points. More specifically, Claro verified that it was Candelaria who was tasked to deliver the diesel fuel to Viron on August 23, 2006, which likewise happened to be Candelaria's

last trip. <sup>[11]</sup>

In his defense, Candelaria demurred to the prosecution's evidence,<sup>[12]</sup> arguing that there was no direct evidence that linked him to the commission of the crime, as Lao had no personal knowledge as to what actually happened to the diesel fuel.<sup>[13]</sup> Moreover, the information relayed by Romano is considered hearsay due to his untimely demise.<sup>[14]</sup>

### **The RTC Ruling**

After trial, the Regional Trial Court of Manila, Branch 21 (RTC) convicted Candelaria of Qualified Theft in a Decision<sup>[15]</sup> dated June 21, 2011, having found a confluence of all the elements constituting the abovesaid crime, to wit: (a) there was a taking of personal property; (b) said property belonged to another; (c) the taking was done with intent to gain; (d) the taking was done without the consent of the owner; (e) the taking was accomplished without the use of violence against or intimidation of persons or force upon things; and (f) the theft was committed by a domestic servant with abuse of confidence.<sup>[16]</sup>

In convicting Candelaria, the RTC took the following circumstances into consideration: (a) on August 23, 2006, Candelaria was the driver of the truck with plate number PTA-945, loaded with 14,000 liters of diesel fuel valued at P497,000.00, for delivery to Viron in Laon Laan, Manila; (b) Viron did not receive the diesel fuel; (c) Lao reported the incident to Camp Crame and the MPD; and (d) the following day, August 24, 2006, the same truck was found abandoned and emptied of its load in Calamba, Laguna.<sup>[17]</sup> On the basis of the foregoing, the RTC concluded that Candelaria was guilty beyond reasonable doubt of the crime charged.

Consequently, it sentenced Candelaria to suffer the indeterminate penalty of fourteen (14) years and one (1) day of *reclusion temporal*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum, and ordered him to indemnify Lao the amount of P497,000.00 as the value of the stolen diesel fuel, without subsidiary imprisonment in case of insolvency, and the costs.<sup>[18]</sup>

Dissatisfied, Candelaria elevated his conviction to the CA.<sup>[19]</sup>

### **The CA Ruling**

In a Decision<sup>[20]</sup> dated January 31, 2013, the CA affirmed Candelaria's conviction, ruling that a finding of guilt need not always be based on direct evidence, but may also be based on circumstantial evidence, or "evidence which proves a fact or series of facts from which the facts in issue may be established by inference."<sup>[21]</sup> In this regard, and considering that the crime of theft in this case was *qualified* due to *grave abuse of confidence*, as Candelaria took advantage of his work, knowing that Lao trusted him to deliver the diesel fuel to Viron,<sup>[22]</sup> the CA affirmed the ruling of the RTC. Citing jurisprudence,<sup>[23]</sup> it observed that theft by a truck driver who takes the load of his truck belonging to his employer is guilty of Qualified Theft.<sup>[24]</sup>

However, while the CA affirmed Candelaria's conviction as well as the prison

sentence imposed by the RTC, it modified the amount which he was directed to indemnify Lao, fixing the same at P14,000.00 in the absence of any supporting documents to prove that the diesel fuel was indeed worth P497,000.00.<sup>[25]</sup>

Aggrieved, Candelaria filed a motion for reconsideration<sup>[26]</sup> which was eventually denied in a Resolution<sup>[27]</sup> dated September 3, 2013, hence, this petition.

### **The Issue Before the Court**

The main issue for the Court's resolution is whether or not the CA correctly found Candelaria guilty of the crime of Qualified Theft on the basis of circumstantial evidence.

### **The Court's Ruling**

The petition is bereft of merit.

The elements of Qualified Theft, punishable under Article 310<sup>[28]</sup> in relation to Article 309<sup>[29]</sup> of the Revised Penal Code (RPC), as amended, are: (a) the taking of personal property; (b) the said property belongs to another; (c) the said taking be done with intent to gain; (d) it be done without the owner's consent; (e) it be accomplished without the use of violence or intimidation against persons, nor of force upon things; and (f) it be done under any of the circumstances enumerated in Article 310 of the RPC, *i.e.*, with grave abuse of confidence.<sup>[30]</sup>

In this case, there is a confluence of all the foregoing elements. Through the testimony of the prosecution witnesses, it was sufficiently established that the 14,000 liters of diesel fuel loaded into the lorry truck with plate number PTA-945 driven by Candelaria for delivery to Viron on August 23, 2006 was taken by him, without the authority and consent of Lao, the owner of the diesel fuel, and that Candelaria abused the confidence reposed upon him by Lao, as his employer.

Candelaria maintains that he should be acquitted considering that his conviction was based merely on circumstantial evidence, as well as on hearsay evidence, *i.e.*, Lao's testimony with regard to the allegation of the deceased helper Romano that Candelaria poked a *balisong* at him on August 23, 2006.<sup>[31]</sup>

The Court is not convinced.

Circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.<sup>[32]</sup> Circumstantial evidence suffices to convict an accused only if the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person; the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and, at the same time, inconsistent with any other hypothesis except that of guilt. Corollary thereto, a conviction based on circumstantial evidence must exclude each and every hypothesis consistent with innocence.<sup>[33]</sup>

Here, the RTC, as correctly affirmed by the CA, found that the attendant circumstances in this case, as duly established by the prosecution's evidence, amply justify the conviction of Candelaria under the evidentiary threshold of proof of guilt beyond reasonable doubt. These circumstances are: **(a)** on August 23, 2006, Viron ordered 14,000 liters of diesel fuel from Lao's Unioil; **(b)** as driver of Unioil, Candelaria was given the task of delivering the same to Viron in Laon Laan, Manila; **(c)** Candelaria and his helper Romano left the company premises on the same day on board the lorry truck bearing plate number PTA-945 containing the diesel fuel; **(d)** at around 5 o'clock in the afternoon of the same day, Viron informed Lao that its order had not yet been delivered; **(e)** Candelaria failed to reply to Lao's phone calls; **(f)** later in the day, Romano returned to the Unioil office sans Candelaria and reported that the latter threatened him with a weapon; **(g)** Lao reported the incident to the MPD and Camp Crame; **(h)** the missing lorry truck was subsequently found in Laguna, devoid of its contents; and **(i)** Candelaria had not reported back to Unioil since then.<sup>[34]</sup>

Threading these circumstances together, the Court perceives a congruent picture that the crime of Qualified Theft had been committed and that Candelaria had perpetrated the same. To be sure, this determination is not sullied by the fact that Candelaria's companion, Romano, had died before he could testify as to the truth of his allegation that the former had threatened him with a *balisong* on August 23, 2006. It is a gaping hole in the defense that the diesel fuel was admittedly placed under Candelaria's custody and remains unaccounted for. Candelaria did not proffer any persuasive reason to explain the loss of said goods and merely banked on a general denial, which, as case law holds, is an inherently weak defense due to the ease by which it can be concocted.<sup>[35]</sup> With these, and, moreover, the tell-tale fact that Candelaria has not returned or reported back to work at Unioil since the incident, the Court draws no other reasonable inference other than that which points to his guilt. Verily, while it is true that flight *per se* is not synonymous with guilt,<sup>[36]</sup> unexplained flight nonetheless evinces guilt or betrays the existence of a guilty conscience,<sup>[37]</sup> especially when taken together with all the other circumstantial evidence attendant in this case. Thus, all things considered, Candelaria's conviction for the crime of Qualified Theft stands.

The imposable penalty for the crime of Qualified Theft depends upon the value of the thing stolen. To prove the value of the stolen property for purposes of fixing the imposable penalty under Articles 309 and 310 of the RPC, as amended, the Court explained in *People v. Anabe*<sup>[38]</sup> that the prosecution must present more than a mere uncorroborated "estimate."<sup>[39]</sup> In the absence of independent and reliable corroboration of such estimate, the courts **may either apply the minimum penalty under Article 309 or fix the value of the property taken based on the attendant circumstances of the case.**<sup>[40]</sup> In *Merida v. People (Merida)*,<sup>[41]</sup> which applied the doctrine enunciated in *People v. Dator (Dator)*,<sup>[42]</sup> the Court deemed it improper to take judicial notice of the selling price of *narra* at the time of the commission of its theft, as such evidence would be "unreliable and inconclusive considering the lack of independent and competent source of such information."<sup>[43]</sup>

However, in the more recent case of *Lozano v. People (Lozano)*,<sup>[44]</sup> the Court fixed the value of the stolen magwheels at P12,000.00 as the "reasonable allowable limit

under the circumstances,”<sup>[45]</sup> notwithstanding the uncorroborated testimony of the private complainant therein. *Lozano* cited, among others, the case of *Francisco v. People*<sup>[46]</sup> (*Francisco*) where the Court ruled that “the trial court can only take judicial notice of the value of goods which are matters of public knowledge or are capable of unquestionable demonstration,”<sup>[47]</sup> further explaining that the value of jewelry, the stolen items in the said case, is neither a matter of public knowledge nor is it capable of unquestionable demonstration.<sup>[48]</sup>

In this case, Candelaria has been found guilty of stealing diesel fuel. Unlike in *Francisco*, where the Court had no reference to ascertain the price of the stolen jewelry, or in *Merida* and *Dator*, where the Court refused to take judicial notice of the selling price of lumber and/or *narra* for “lack of independent and competent source” of the necessary information at the time of the commission of the theft, the value of diesel fuel in this case may be readily gathered from price lists published by the Department of Energy (DOE). In this regard, the value of diesel fuel involved herein may then be considered as a matter of public knowledge which falls within the purview of the rules on discretionary judicial notice.<sup>[49]</sup> To note, “judicial [notice], which is based on considerations of expediency and convenience, displace[s] evidence since, being equivalent to proof, it fulfills the object which the evidence is intended to achieve.”<sup>[50]</sup>

While it is true that the prosecution had only presented the uncorroborated testimony of the private complainant, Lao, to prove that the value of the diesel fuel stolen is P497,000.00, the Court – taking judicial notice of the fact that the pump price of diesel fuel in August 2006 (*i.e.*, the time of the commission of the crime) is within the range of P37.60 to P37.86 per liter<sup>[51]</sup> – nonetheless remains satisfied that such amount must be sustained. As the value of the goods may independently and competently be ascertained from the DOE’s price publication, adding too that the defense had not presented any evidence to contradict said finding nor cross-examined Lao anent her proffered valuation, the Court, notwithstanding the solitary evidence of the prosecution, makes this determination following the second prong set by case law – and that is, to **fix the value of the property taken based on the attendant circumstances of the case**. Verily, such circumstances militate against applying the alternative of imposing a minimum penalty and, more so, the CA’s arbitrary valuation of P14,000.00, since the basis for which was not explained. Therefore, for purposes of fixing the proper penalty for Qualified Theft in this case, the value of the stolen property amounting to P497,000.00 must be considered. Conformably with the provisions of Articles 309 and 310 of the RPC, the proper penalty to be imposed upon Candelaria is *reclusion perpetua*,<sup>[52]</sup> without eligibility for parole,<sup>[53]</sup> to conform with prevailing law and jurisprudence.<sup>[54]</sup>

A final word. Courts dealing with theft, as well as *estafa* cases, would do well to be mindful of the significance of determining the value of the goods involved, or the amounts embezzled in said cases as they do not only entail the proper resolution of the accused’s civil liability (if the civil aspect has been so integrated) but also delimit the proper penalty to be imposed. These matters, through the trial court’s judicious direction, should be sufficiently passed upon during trial and its finding thereon be amply explained in its verdict. Although an appeal of a criminal case throws the entire case up for review,<sup>[55]</sup> the ends of justice, both in its criminal and civil senses, demand nothing less but complete and thorough adjudication in the judicial