

## SECOND DIVISION

[ G.R. No. 170415, September 19, 2008 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS CASTRO, ACCUSED-APPELLANT.**

### DECISION

**CARPIO MORALES, J.:**

Appellant, Jesus Castro (Castro), was charged and found guilty of Qualified Theft by the Regional Trial Court (RTC) of Baguio City, Branch 60 in Criminal Case No. 13963-R.

The accusatory portion of the Information filed against appellant reads:

That sometime in the month of August 1993, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the Shop Supervisor of the complainant ROMAN CRUZ and hence, has access to the shop of the latter, with grave abuse of trust and confidence, with the intent of gain and without the knowledge and consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, steal and carry away the following:

- one (1) crank shaft (used for 0.9 liter)
- one (1) cylinder head (used)
- 8 pieces piston (one set and brand new)
- one (1) set over hauling gasket
- one (1) main bearing
- one (1) set piston ring
- one (1) set connecting rod bearing

all having a total value of P64,000.00, belonging to ROMAN CRUZ, to the damage and prejudice of the owner thereof, in the aforementioned amount of SIXTY FOUR THOUSAND PESOS (P64,000.00), Philippine Currency.

CONTRARY TO LAW.<sup>[1]</sup>

The private complainant Roman Cruz (Cruz) has, for decades, been operating a trucking business under the firm name Romy's Freight Services, with principal office and repair shop at Km. 3, Naguilian Road, Irisan, Baguio City. He hired appellant as a tinsmith-mechanic in 1975. In 1995, he promoted appellant to the position of shop supervisor whose duties included purchasing spare parts during emergencies, receiving deliveries of spare parts, and supervising the mechanics. As shop supervisor, appellant had access to the storeroom.

At the time material to the present case, Cruz maintained 28 trucks.

Cruz gave the following version of events that led to the filing of the information against appellant:[2]

On March 22, 1993, July 27, 1993, and August 23, 1993, Cruz purchased truck spare parts. In December 1993, he conducted an inventory of the spare parts in the storeroom and discovered that the following were missing: one crank shaft, one cylinder head assembly for a 0.9 liter engine, one set of eight brand new pistons for a 0.9 liter engine, one set of connecting rod bearings, one set of main bearings, one set of piston rings, and one set of overhauling gasket for a 0.9 liter engine, all of which were valued at P64,000.

When Cruz confronted appellant about the loss, the latter gave a "dubious remark" [3] and "an incredible explanation"[4] denying knowledge about those missing spare parts. The other workers denied too any knowledge about any such loss.

Sometime in November 1994, Cruz requested appellant to convey, and appellant complied therewith, two workers to his (Cruz's) house to do some repair work. As Cruz left his house on his way to the office, he saw appellant's service vehicle parked in front of the store of his (Cruz's) neighbor, Delfin Torres (Torres). On arrival at the office, Cruz inquired from appellant why his service vehicle was parked in front of Torres' house, to which appellant replied that he was collecting a \$2,000 loan.

Cruz later talked with Torres about his reported loan from appellant. Torres denied, however, having secured any loan from appellant; instead, he informed Cruz that appellant was trying to collect the payment of spare parts supplied to him in August 1993. When Cruz asked what those spare parts were, Torres "was not cooperative" as he gave no answer.

In January 1995, Cruz discovered that appellant, without his knowledge and consent, ordered and obtained 150 bags of cement from Bacnotan Marketing Corporation worth P14,200 which appellant charged to Cruz's overhauling fee due the said corporation. Cruz thus confronted appellant but discussion on the matter was not concluded at the close of office hours. Appellant, who had worked for him for 19 years, never reported for work thereafter.

Subsequently or on June 9, 1995, Cruz discovered that appellant had authorized the hauling of two truckloads of cement from Bacnotan to Mangaldan, Pangasinan without him remitting the overhauling fee of P10,000. Remembering the spare parts lost in 1993, Cruz spoke with Torres again and asked about the spare parts appellant had supplied to him. This time, Torres divulged that appellant supplied him in 1993 a crank shaft, one cylinder head assembly, one set of pistons, one set of piston rings, one overhauling gasket, one set of main bearings, and one set of connecting rod bearings which his (Torres') business associate Romeo Inso (Inso) delivered to Rosita Crispin (Rosita), an operator and part-owner of a "Greenland" bus.

Inso admitted to Cruz having delivered those spare parts to Rosita, and Rosita confirmed that she had bought them, she adding that in September 1993, appellant

negotiated with her the price of the spare parts; that after negotiation, she gave him a downpayment of P10,000; that in June 1994, she gave appellant's wife P500; and that as she was unable to pay the balance of the purchase price, appellant retrieved all of the spare parts in February 1995 from the bus, No. 888, to which they were installed together with one lumber pulley and six nozzles.

Hence, Cruz's accomplishing of an Affidavit-Complaint on August 2, 1995<sup>[5]</sup> charging appellant of Qualified Theft. Torres and Inso also executed a Joint Affidavit<sup>[6]</sup> dated July 10, 1995 stating that appellant supplied them spare parts which were delivered to Rosita in August 1995 and that appellant had told them that the spare parts were ordered from a supplier of Cruz' firm, "a certain Doming."

For his part, appellant, admitting having sold spare parts to Rosita through Inso and Torres but claiming that the same did not come from Cruz's storeroom, gave the following version:<sup>[7]</sup>

In August 1993, Cruz asked him to help repair Torres' heavily damaged vehicle,<sup>[8]</sup> a 0.9 Series, International Harvester (IH). The spare parts needed for the repair were one cylinder head assembly with bulb, one set of eight pistons, one set connecting rod bearings, one set main bearings, and a head gasket.

As Torres requested him to look for secondhand spare parts, he contacted a supplier, Dominador Uson, if he had the needed spare parts, but Uson advised him days later that he had none.

In the first week of October 1993, he went to the shop of Angel Boleyley (Boleyley), a licensed contractor of the Department of Public Works and Highways, and inquired from him if he was selling the 0.9 series engine of his IH truck. Since Boleyley answered in the affirmative, he inquired from Torres if he wanted to buy the engine and the latter told him that he wanted to buy only the needed spare parts as it would be expensive to buy the whole engine, hence, he bought only the cylinder assembly, the connecting rod bearings, the main bearings, eight pistons, the piston rings, and the head gasket, as well as the crank shaft from the disassembled engine. The parts cost P47,000, P20,000 of which were given by Torres and Inso, the balance to be paid in December 1993. In December 1993, Torres paid only P6,000, however.

As shop supervisor, he was in charge of dispatching the IH trucks of Cruz which were transporting cement.<sup>[9]</sup> On receiving a report from any of the mechanics that a truck needed repair, he would prepare a list of the needed parts which he brought to Cruz and Cruz would thereafter order them from suppliers. And after the ordered parts were delivered, he would turn them over to the mechanics who would install them and place the replaced/damaged or scrap parts in a drum.

Appellant went on to claim as follows:

There had been no inventory of any spare parts in Cruz's storeroom during his years of employment because any spare parts purchased were immediately installed in vehicles under repair. What were stocked were those which were immediately needed such as filter, spring and "undersize parts of motor," and it was only he (appellant) who conducted inventory thereof.

He stopped working for Cruz in January 1995 because he was treated at the St. Louis University Hospital of the Sacred Heart for what was later diagnosed to be "C5-6 Nerve root irritation."<sup>[10]</sup> Upon returning for work, he discovered that he had already been terminated from his job, drawing him to file a case in May 1995<sup>[11]</sup> against Cruz for illegal dismissal<sup>[12]</sup> before the National Labor Relations Commission (NLRC).

His complaint for illegal dismissal against Cruz was decided by the NLRC Baguio in his favor but, at the time he took the witness stand, was under appeal.

Boyley and Dominador Vilorio (Viloria), a mechanic who had worked as such with Cruz from 1977 to March 3, 1995,<sup>[13]</sup> executed separate Affidavits dated August 12, 1995 in defense of appellant. Boyley corroborated at the witness stand appellant's testimony respecting his (Boyley's) sale to him of those spare parts on or about the time claimed by appellant.<sup>[14]</sup> Viloria corroborated too appellant's testimony respecting the procedure in the purchase of spare parts and in the immediate installation thereof in Cruz's trucks.<sup>[15]</sup>

By Decision of December 23, 1999, Branch 60 of the Baguio City RTC found appellant guilty of qualified theft, disposing as follows:

WHEREFORE, this Court finds the accused, Jesus Castro, GUILTY of the crime of qualified theft as defined and penalized under Article 310 of the Revised Penal Code and hereby sentences him to suffer an indeterminate penalty of 10 years and 1 day of prision mayor as minimum, to 14 years and 8 months of reclusion temporal as maximum. He is further ordered to pay Roman Cruz the amount of P64,000.00 plus interests at the legal rate from the filing of the Information for actual damages.<sup>[16]</sup>

Before the Court of Appeals, appellant assigned the errors of the trial court as follows:

#### FIRST ASSIGNMENT OF ERROR

. . . IN GIVING FULL FAITH AND CREDENCE TO THE INTERESTED, PARTIAL AND BIAS[ED] TESTIMONIES OF THE PROSECUTION WITNESSES NAMELY DELFIN TORRES, ROMEO INSO AND ROSITA CRISPIN.

#### SECOND ASSIGNMENT OF ERROR

. . . IN GIVING FULL FAITH AND CREDENCE TO THE IMPROBABLE AND CONTRADICTORY TESTIMONY OF THE PRIVATE COMPLAINANT, ROMAN CRUZ.

#### THIRD ASSIGNMENT OF ERROR

. . . IN REFUSING TO GIVE FULL FAITH AND CREDENCE AND IN COMPLETELY **DISREGARDING THE EVIDENCE PRESENTED BY THE DEFENDANT** JESUS CASTRO PROVING HIS INNOCENCE OF THE CRIME