464 Phil. 125

FIRST DIVISION

[G.R. No. 152160, January 13, 2004]

VIRGILIO BON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

PANGANIBAN, J.:

Testimony of what one heard a party say is not necessarily hearsay. It is admissible in evidence, not to show that the statement was true, but that it was in fact made. If credible, it may form part of the circumstantial evidence necessary to convict the accused.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to nullify the August 22, 2001 Decision[2] and the February 15, 2002 Resolution[3] of the Court of Appeals (CA) in CA - GR CR No. 15673. The dispositive part of the assailed Decision reads as follows:

> "**WHEREFORE**, the Decision dated August 23, 1993 convicting [Petitioner] Virgilio Bon is hereby **AFFIRMED with modification** on the penalty in that [petitioner] is sentenced to suffer an indeterminate penalty of imprisonment ranging from ten (10) years of *prision mayor*, as minimum to fourteen (14) years [and] eight (8) months of *reclusion temporal*, as maximum. Accused-appellant Alejandro Jeniebre, Jr. is hereby **ACQUITTED**."[4]

The assailed Resolution, on the other hand, denied petitioner's Motion for Reconsideration.

The Antecedents

The antecedents are summarized by the CA as follows:

> "[Petitioner] Virgilio Bon and Alejandro Jeniebre, Jr. were charged for violating Section 68 of PD 705, as amended[,] together with Rosalio Bon under an Information, the accusatory portion of which reads as follows:
>
> > 'That sometime in the month of January or February, 1990, at Barangay Basud, Municipality of Sorsogon, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, conspiring, confederating and mutually helping one another, cut, gather and manufacture into lumber four (4) narra trees, one (1)

> cuyao-yao tree, and one (1) amugis tree, with an approximate volume of 4,315 bd. ft. and valued at approximately P25,000.00, without the knowledge and consent of the owner Teresita Dangalan-Mendoza and without having first obtained from proper authorities the necessary permit or license and/or legal supporting documents, to the damage and prejudice of the Government and the owner in the aforementioned amount of P25,000.00.
>
> 'Contrary to law.'

"Upon arraignment on May 16, 1991, [Petitioner] Virgilio Bon[,] Alejandro Jeniebre, Jr. and Rosalio Bon entered a plea of 'Not Guilty' to the crime charged. Thereafter, the trial of the case proceeded. The prosecution presented Nestor Labayan[e], [Private Complainant] Teresita Dangalan-Mendoza, [Barangay] Tanod Julian Lascano, Alexander Mendones [and] Manuel Dangalan as its witnesses. The defense, on the other hand, presented accused Alejandro Jeniebre, Jr., Rosalio Bon and Virgilio Bon.

"The evidence for the prosecution [w]as synthesized by the trial court, as follows:

> 'Prosecution's evidence was supplied by Julian Lascano, Oscar Narvaez, Alexander Mendones, Manuel Dangalan, Nestor Labayan[e] and Teresita [Dangalan-Mendoza] which shows that Teresita [Dangalan-Mendoza] owns a titled agricultural land under Title No. 6666 located in Basud, Sorsogon, Sorsogon, administered by Virgilio Bon. Receiving information that trees inside the land were being stolen, cut [and] sawed into lumber by her administrator and/or workers, she sent her brother Manuel Dangalan to investigate the report. On February 7, 1990, Manuel Dangalan sought the help of Barangay Captain Nestor Labayane, who in turn wrote a letter to one of the [b]arangay [t]anod[s], Julian Lascano, to assist and investigate Teresita [Dangalan-Mendoza's] complaint of Illegal Cutting of Trees. On February 12, 1990, together with Julian Lascano, Manuel Dangalan, Ricardo Valladolid, Natividad Legaspi and Virgilio Bon repaired to the land of Teresita [Dangalan-Mendoza]. During their investigation, the group discovered six (6) stumps of trees[:] four (4) Narra trees, one cuyao-yao tree and one am[u]gis tree. Pictures were taken of the stumps x x x. On the land, Virgilio Bon admitted ordering the cutting and sawing of the trees into lumber. Oscar Narvaez testified that sometime in January, 1990, he sawed the trees into six flitches upon instruction of Alejandro Jeniebre, Jr.; Alexander Mendones, CENRO Officer, upon complaint of Teresita [Dangalan-Mendoza] for Illegal Cutting of Trees repaired to the land on July 17, 1990, and found four stumps of trees. Scaling the four stumps, it was his estimate that the lumber produced was 11.97 cubic meters o[r] 4,315 board feet, with a value of P25,376.00 x x x.'

"In their defense, all the three accused took the witness stand and denied the accusation. Their testimonies were summarized by the trial court, as follows:

> 'All the accused testified in their defense. Rosalio Bon, the son of Virgilio Bon denied the charge[.] [He said] that he was in Manila from December 1989 and returned to Sorsogon on March 21, 1990. He mentioned that the purpose of filing this case was to eject his father as tenant of the land.
>
> 'Virgilio Bon testified that he is the tenant of the land of Teresita [Dangalan-Mendoza] [and was] instituted [as such] by Teresita's father. He developed the land[,] planting coconuts, abaca and fruit trees. Teresita [Dangalan-Mendoza] wanted to eject him as tenant. He and the private complainant [have] an agrarian case. Since Teresita [Dangalan-Mendoza] refused to receive the landowner's share of produce, he deposited the money in the Rural Bank of Sorsogon in the name of Teresita [Dangalan-Mendoza] x x x. He denied cutting and gathering the trees in the land and pointed to Teresita [Dangalan-Mendoza] as the one who ordered the trees [to be cut] and sawed by Oscar Narvaez. Teresita [Dangalan-Mendoza] upon being confronted about the cutting of trees, ignored his complaint.
>
> 'Alejandro Jeniebre, Jr., son-in-law of Virgilio Bon, denied that he hired Oscar Narvaez to saw the lumber. Oscar Narvaez [indicted] him of the crime because the former had a grudge against him. In a drinking spree, he happened to box Oscar Narvaez[,] after [which he] heard [the latter threaten him with] revenge.'

"On August 23, 1993, the trial court rendered its decision convicting [Petitioner] Virgilio Bon and Alejandro Jeniebre, Jr. for the crime charged. Co-accused Rosalio Bon was acquitted. Aggrieved by the said decision, [Petitioner] Virgilio Bon and Alejandro Jeniebre, Jr. interposed [an] appeal [to the CA]."[5]

In their appeal to the CA, petitioner and Jeniebre questioned the prosecution witnesses' credibility and the sufficiency of the evidence proving their guilt.

Ruling of the Court of Appeals

The CA sustained the trial court's assessment of the credibility of Prosecution Witnesses Julian Lascano and Manuel Dangalan. Both testified that petitioner had admitted to having ordered the cutting of trees on Teresita Dangalan-Mendoza's land.

Furthermore, the appellate court held that despite the absence of direct evidence in this case, the circumstantial evidence was sufficient to convict petitioner. It ruled that the requirements for the sufficiency of the latter type of evidence under Section 4 of Rule 133[6] of the Rules of Court were amply satisfied by the following

established facts: 1) in the presence of Dangalan, Lascano and Natividad Legaspi, petitioner admitted that he had ordered the cutting of the trees; 2) on February 12, 1990, he and his son Rosalio went to Dangalan-Mendoza, demanding that she pay the value of the trees cut; and 3) on February 13, 1990, petitioner asked her to forgive him for cutting the trees.

The CA held, however, that the same circumstances did not support the conviction of Jeniebre. Aside from the testimony of Oscar Narvaez that Jeniebre hired him to cut the trees into flitches, no other evidence was presented to show the latter's participation in the offense charged. Moreover, the appellate court held that the *res inter alios acta* rule under Section 28 of Rule 130[7] of the Rules of Court would be violated by binding Jeniebre to petitioner's admission, which did not constitute any of the exceptions[8] to this provision. It thus acquitted him.

As to petitioner, the CA modified the penalty imposed, pursuant to Section 68 of the Revised Forestry Code as amended, Articles 309 and 310 of the Revised Penal Code, and Section 1 of the Indeterminate Sentence Law.

Hence, this Petition.[9]

Issues

Petitioner submits the following issues for our consideration:

"I

> Whether hearsay testimony[,] which is denied by the alleged author under oath in open court, is admissible in evidence against him.

"II

> Whether hearsay testimony allegedly made to potential prosecution witnesses who are not police operatives or media representatives is admissible in evidence against the author because what a man says against himself[,] if voluntary, is believable for the reason that it is fair to presume that [it] correspond[s] with the truth and it is his fault if they do not (U.S. v. Ching Po, 23 Phil. 578, 583 (1912).

"III

> Whether or not x x x the [testimonies of the] prosecution witnesses x x x that x x x petitioner Bon admitted his guilt to them should be given high credence by the courts of justice considering that x x x many people who are being quoted in media today x x x have been found to be x x x lying. In other words, how much probity should we give a lying witness?

"IV

> Assuming arguendo that petitioner Bon ma[d]e the extra-judicial admission to the prosecution witnesses, [whether or not] x x x the same [is constitutionally] admissible in evidence against him?"[10]

Simply put, the points challenged by petitioner are as follows: 1) the admissibility of his purported extrajudicial admission of the allegation, testified to by the prosecution witnesses, that he had ordered the cutting of the trees; and 2) the credibility and the sufficiency of the testimonies of those witnesses.

The Court's Ruling

The Petition has no merit.

First Issue:
Admissibility of the Extrajudicial Admission

At the outset, it must be emphasized that the present Petition is grounded on Rule 45 of the Rules of Court. Under Section 1 thereof, "only questions of law which must be distinctly set forth" may be raised. A reading of the pleadings reveals that petitioner actually raised questions of fact --the credibility of the prosecution witnesses and the sufficiency of the evidence against him. Nonetheless, this Court, in the exercise of its sound discretion and after taking into account the attendant circumstances, opts to take cognizance of and decide the factual issues raised in the Petition, in the interest of the proper administration of justice.[11]

In the main, petitioner contends that Lascano's and Dangalan's separate testimonies[12] regarding his alleged extrajudicial admission constitute hearsay evidence and are, therefore, inadmissible. He also argues that his supposed admission should not have been admitted, because it had been taken without the assistance of counsel at a time when he was already regarded as a suspect.

We disagree.

Section 36 of Rule 130 of the Rules of Court states the rule on hearsay evidence as follows:

> "Sec. 36. *Testimony generally confined to personal knowledge; hearsay excluded*. - A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules."

Under the above rule, any evidence -- whether oral or documentary -- is hearsay if its probative value is not based on the personal knowledge of the witness, but on that of some other person who is not on the witness stand.[13] Hence, information that is relayed to the former by the latter before it reaches the court is considered hearsay.[14]

In the instant case, Lascano and Dangalan testified that on February 12, 1990, they had heard petitioner admit to having ordered the cutting of the trees. Their testimonies cannot be considered as hearsay for three reasons. *First*, they were indisputably present and within hearing distance when he allegedly made the admission. Therefore, they testified to a matter of fact that had been derived from their own perception.

Second, what was sought to be admitted as evidence was the fact that the utterance was actually made by petitioner, not necessarily that the matters stated therein