

SECOND DIVISION

[G.R. No. 141176, May 27, 2004]

ELI LUI AND LEO ROJAS, PETITIONERS, VS. SPOUSES EULOGIO AND PAULINA MATILLANO, RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 44768 which reversed and set aside the decision of the Regional Trial Court of Bansalan, Davao del Sur, Branch 21.^[2]

The Antecedents

Sometime in September 1987, then seventeen-year-old Elenito Lariosa visited his aunt, his father's older sister, Paulina Lariosa Matillano, at Lily Street, Poblacion Bansalan, Davao del Sur. On May 2, 1988, Lariosa was employed as a laborer at the Davao United Products Enterprise store, with a monthly salary of P800.00. The store was owned by Leong Shiu Ben and King Kiao and was located at the corner of Monteverde and Gempesaw Streets, Davao City. Lariosa was tasked to close the store during lunchtime and after store hours in the afternoon. Ben himself opened the store in the mornings and after lunchtime. Adjacent to the said store was another store owned by Kiao's son, Eli Lui, who also happened to be Ben's nephew. Aside from Lariosa, Ben and Kiao employed Maximo Pagsa and Rene Malang.

Lariosa chose to live in the house of Kiao. Lariosa fed the dogs of his employer every morning before going to work and in the afternoon, in exchange for free meals and lodging. There were occasions when Lariosa stayed in the house of Pagsa and Malang and left some of his things with them. Lariosa deposited his savings with the Mindanao Savings Bank in Bansalan.

On October 17, 1988, Lariosa was taken ill and was permitted to take the day off. He went to the house of his aunt, Paulina Matillano, and her husband Eulogio Matillano in Bansalan City, where he rested until the next day, October 18, 1988. Lariosa reported for work the day after, or on October 19, 1988, but Kiao told him that his employment was terminated. Lariosa was not paid his salary for the month of October. Kiao warned Lariosa not to report the matter to the Department of Labor. Lariosa decided to return to Bansalan without retrieving his things from Kiao's house.

On October 27, 1988, Lariosa returned to Davao City and was able to collect his backwages from Ben in the amount of P500.00. Lariosa withdrew his savings from the Mindanao Savings Bank in Bansalan City and on November 1, 1988, applied for a job at his cousin's place, at Quimpo Boulevard, Davao City. He bought a radio cassette for P2,500.00 and a pair of Rayban sunglasses for P900.00.

On November 3, 1988, Lariosa went to the house of his fiancée, Nancy, at New Matina, Davao City, but returned to Bansalan on the same day. On November 4, 1988, he returned to Nancy's house and stayed there until the next day, November 5, 1988.

That day, Ben informed his nephew, Eli Lui, that he had lost P45,000.00 in cash at the store. Ben reported the matter to NBI Senior Agent Ruperto Galvez, and forthwith executed an affidavit wherein he alleged that after Lariosa's employment was terminated on October 19, 1988, he discovered that he had lost P45,000.00 in cash. He suspected that Lariosa was the culprit because the latter, as a former employee, had a duplicate key to the side door of the United Products Enterprise Store.

At 9:00 a.m. on November 6, 1988, a Sunday, Lariosa went to the house of Pagsa and Malang to retrieve his things. The two invited Lariosa to go with them to the beach, and when Lariosa agreed, they borrowed Lui's Ford Fierra for their transportation. The vehicle stopped at the Almendras Hall where Pagsa alighted on the pretext that he was going to buy fish. Lariosa, Rene, and his wife remained in the Fierra. Pagsa contacted Lui and informed the latter that Lariosa was with him.

After about an hour, Lui arrived on board a vehicle. With him were Pagsa and two others, Alan Mendoza and Henry Tan. Lui told Lariosa that he wanted to talk, and asked the latter to go with him. Pagsa urged Lariosa to go along with Lui. Lariosa agreed and boarded Lui's vehicle. The car stopped in front of Lui's house, where the latter alighted and went inside, while his companions and Lariosa remained in the car. When Lui returned, he was armed with a 9 mm. caliber gun and poked Lariosa with the weapon. He warned Lariosa not to run, otherwise, he would be killed. The group went to Ben's house to get the keys to the store. Ben joined them as they drove towards the store.

Lui mauled Lariosa and tried to force the latter to admit that he had stolen Ben's money. Lariosa refused to do so. Lui then brought Lariosa to the comfort room of the store and pushed his face into the toilet bowl, in an attempt to force him into confessing to the crime. Lariosa still refused to admit to anything. Lui then made a telephone call to the Metrodiscom (PNP) based in Davao City.

Sgt. Alberto Genise of the Metrodiscom (PNP) issued Mission Order No. MRF-A-004-88 dated November 6, 1988, directing Pat. Leo Rojas "to follow up a theft case committed in Davao City from 12:30 p.m. to 5:00 p.m." Rojas was directed to coordinate with the nearest PNP headquarters and/or stations. He was authorized to carry his firearm for the mission. He then left the police station on board a police car and proceeded to the corner of Magsaysay and Gempesaw Streets.

In the meantime, a police car arrived at the store with two policemen on board. One of them handcuffed Lariosa at gunpoint and ordered him to open the store with the use of the keys. As Lariosa opened the lock as ordered, one of Lui's companions took his picture. Another picture was taken as Lariosa held the door knob to open the door. Lariosa was then boarded in the police car and brought to the corner of Magsaysay and Gempesaw Streets where he was transferred to the police car driven by Rojas. He was brought to the Metrodiscom headquarters. Lui once more mauled Lariosa, still trying to force the latter to confess that he stole P45,000.00

from his uncle and to reveal what he did with the money. When a policeman asked him where he slept the night before, Lariosa replied that he spent the night in the house of his girlfriend's parents at New Matina, Davao City. The policemen brought Lariosa there, where they asked Nancy if Lariosa had left anything while he slept thereat. Nancy replied that Lariosa had left a radio cassette and a pair of sunglasses. The policemen took these and brought Lariosa back to the Metrodiscom headquarters where Lui and his two companions were waiting.

Lui asked Lariosa where he stayed when he went to Bansalan, and Lariosa replied that he used to stay in the house of his aunt and uncle, the Spouses Matillano, in Lily Street, Poblacion Bansalan. Rojas and Lui then brought Lariosa, with his hands still handcuffed, to a car. Lui's companions, Alan Mendoza and Henry Tan boarded another car and proceeded to the Matillano residence.

Without prior coordination with the Bansalan PNP, Rojas, who was in civilian clothes, Lui, Tan and Mendoza arrived at the house of the Spouses Matillano at about 3:00 p.m, with the handcuffed Lariosa in tow. With handguns drawn, they kicked the door to the kitchen and gained entry into the house. They then proceeded to the sala where they found Lariosa's aunt, Paulina Matillano. In the adjacent room were Julieta, Lariosa's sister, Paulina's daughter-in-law, Virginia, the latter's sister, Erlinda, and a seven-month-old baby. Paulina was shocked. Rojas told Paulina, "Mrs., we are authorities. We are here to get something." Paulina remonstrated, "Why are you meddling (*manghilabot*)?"

Lui poked his gun at Paulina and warned her not to talk anymore because something might happen. He then said, "All right, where is your *aparador* because we are getting something." Paulina told Lui to wait for her husband Eulogio. Lui ignored her protest and told her that they were in a hurry. Paulina was then impelled to bring Lui and his two companions, Mendoza and Tan, to the second floor where her *aparador* was located. Rojas and the handcuffed Lariosa remained in the sala. Lui and his two companions then took two mats and two pairs of ladies' shoes belonging to Paulina and Eulogio, two pairs of pants, leather shoes, two t-shirts and two polo shirts which belonged to the latter's children. They also ordered Paulina to open a chest and when she did, Lui and his companions took her old Bulova wristwatch, necklace, ring and old coins. Lui and his two companions then went down to the ground floor. When Julieta went out of the room, one of Lui's companions recognized her as Lariosa's sister. Lui and his companions brought her along with them as they left the house.

Paulina was so unnerved by the incident. Her vision blurred, her stomach ached and she was on the verge of losing consciousness. Concerned, Erlinda massaged Paulina's stomach. However, Erlinda had to leave because she was worried about her mother. Paulina then went to the kitchen, prepared hot water and put a soothing ointment on her stomach to relieve the pain.

In the meantime, Lui and his companions proceeded to the Bansalan Police Station and caused an entry in the police blotter at 3:20 p.m. that he had recovered the following items from the Matillano residence -- one pair of colored blue pants valued at P89.00; one floor mat costing P290.00; a pair of black ladies' shoes worth P126.00; and another pair of ladies' shoes worth P69.00.

At 4:30 p.m., Paulina reported to the barangay captain that persons identifying

themselves as policemen had gained entry into their house and took the following: two polo shirts; two t-shirts; two pairs of pants; two floor mats; two pairs of ladies shoes; one Bulova wristwatch; one necklace; one ring; and old coins.^[3]

At 7:35 p.m., Eulogio Matillano made an entry in the Bansalan police blotter that earlier that day, at 4:00 p.m., Rojas took the following from his house: two polo shirts; two t-shirts; 2 pairs of pants; two floor mats; two pairs of ladies' shoes; 1 Bulova wristwatch; 1 necklace; one ring; and, old coins, without his and his wife's consent and without a search warrant.^[4] In the meantime, Doroteo Barawan, officer-in-charge of the Office of the Barangay Captain, filed a complaint against Kim Kiao, *et al.*, based on the complaint of Paulina, docketed as Barangay Case No. 168.^[5]

On November 8, 1988, Lariosa executed an uncounselled confession where he stated that he stole P40,000.00 on October 15, 1988 from the Davao United Products, and that he used part of the money to buy appliances, a Sony cassette tape-recorder, two pairs of ladies' shoes, a Seiko wristwatch, two pairs of maong pants, Rayban sunglasses and floor mats.^[6]

On November 16, 1988, an Information was filed in the Regional Trial Court of Davao City, charging Lariosa with robbery with force upon things. The case was docketed as Criminal Case No. 17,136,88.^[7] The trial court rendered judgment on June 14, 1989, acquitting Lariosa of the crime charged on reasonable doubt. The trial court held that Lui procured Lariosa's confession through force and intimidation, in connivance with police authorities.^[8] The trial court, likewise, found that Lui had an ulterior motive for charging Lariosa of robbery:

What would have been the possible motive of complainant in putting the burden of this charged against the accused despite want of any appreciable evidence, can be gathered in the record, as indicating the fear of complainant, that the accused will file a complaint against him in the Department of Labor for illegally dismissing him in his employment, without any sufficient legal grounds and basis. This unfounded complaint was intended to support complainant's ground against any possible complaint, the accused might file against him with the Department of Labor by way of anticipation.^[9]

On motion of Lariosa, the trial court ordered the return of the following exhibits:

Accordingly and conformably with the judgment of this court dated June 14, 1989, one Eulogio Matillano, accused's uncle, is hereby allowed to get or to retrieve exhibits "H," "I," "J," "K," "L," and "M," consisting of Sony Cassette with serial no. W3658; Rayban sunglasses; two (2) bundles of floor mat; two (2) pairs of pants; two (2) pairs of ladies' shoes; and Seiko Actus wristwatch.^[10]

Meanwhile, Paulina Matillano filed a criminal complaint for robbery against Lui, Peter Doe, John Doe and Alan Mendoza. An Information was, thereafter, filed against them in the Municipal Circuit Trial Court of Bansalan, Davao del Sur, and the case was docketed as Criminal Case No. 880-B. On December 13, 1988, the court issued a warrant for the arrest of the accused therein. Upon reinvestigation, however, the Provincial Prosecutor issued a Resolution dated March 31, 1989, recommending that

the case be dismissed for insufficiency of evidence, but that the charges be forwarded to the Judge Advocate General's Office for possible administrative sanctions against Rojas.

WHEREFORE, in view of the foregoing, it is respectfully recommended that the complaint against the respondents Eli Lui be dismissed for insufficiency of evidence. Considering that Pat. Leo Rojas is a member of the Integrated National Police, this office is without jurisdiction to entertain the complaint against him pursuant to Presidential Decree No. 1850. Therefore, let the complaint against Pat. Leo Rojas, together with its annexes, including a copy of the resolution of the undersigned, be forwarded to the Judge Advocate General's Office at Camp Catitipan, Davao City, for whatever action it may take.^[11]

The complaint was docketed as Administrative Case No. 92-0020. The National Police Commission, thereafter, rendered a decision exonerating Rojas of administrative liability for the complainant's failure to substantiate the charges.^[12] The Commission held that Rojas was merely complying with the mission order issued to him when he accompanied Lui and the latter's two companions to the Matillano residence.

In a Resolution dated August 25, 1989, then Secretary of Justice Silvestre H. Bello III dismissed the petition for review of the Provincial Prosecutor's resolution filed by Paulina Matillano. The Secretary of Justice, likewise, denied a motion for reconsideration thereon.

In a parallel development, Lariosa's parents, as well as Paulina Matillano, filed a complaint for robbery, violation of domicile, unlawful arrest and/or arbitrary detention against Leo Rojas, Eli Lui, et al., with the Commission of Human Rights docketed as CHR Case No. RFO No. 88-0207-DS. In a Resolution dated December 4, 1989, the Regional Office of the Commission recommended, thus:

WHEREFORE, premises considered, we are recommending that there is sufficient *prima facie* evidence:

1. to indict Eli Lui for unlawful arrest as defined under Art. 369 of the Revised Penal Code, as amended; and
2. to indict both Eli Lui and Pat. Leo Rojas liable for Violation of Domicile, as defined under Art. 128 of the same code.^[13]

The Proceedings in the Trial Court

On January 11, 1990, the spouses Eulogio and Paulina Matillano filed a civil complaint for damages in the Regional Trial Court of Davao del Sur against Eli Lui, Leo Rojas, Alan Mendoza and Henry Tan. The case was docketed as Civil Case No. G-XXI-47(90). The plaintiffs therein alleged the following:

3. That plaintiffs are merchants by occupation and have been residing in Bansalan, Davao del Sur, for several years now. They are law-abiding and peaceful citizens in the community;