

THIRD DIVISION

[G.R. No. 146481, April 30, 2003]

**ARTURO G. RIMORIN SR., PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

PANGANIBAN, J.:

Corpus delicti in its legal sense refers to the fact of the commission of the crime, not to the physical body of the deceased or to the ashes of a burned building or -- as in the present case -- to the smuggled cigarettes. The *corpus delicti* may be proven by the credible testimony of a sole witness, not necessarily by physical evidence such as those aforementioned.

The Case

Before the Court is a Petition for Review^[1] under Rule 45 of the Rules of Court, seeking to reverse the December 22, 2002 Decision^[2] of the Court of Appeals (CA) in CA-GR CR No. 17388. The assailed Decision modified the February 18, 1994 Judgment^[3] of the Regional Trial Court (RTC)^[4] of Manila (Branch 46) in Criminal Case Nos. CCC-VI-137 (79) and CCC-VI-138 (79), finding Arturo Rimorin Sr. guilty of smuggling under the Tariff and Customs Code. The dispositive portion of assailed CA Decision reads as follows:

"WHEREFORE, the assailed Decision is hereby MODIFIED as follows:

(a)The Court AFFIRMS the decision of the trial court finding Felicisimo Rieta, Arturo Rimorin, Pacifico Teruel and Carmelo Manaois GUILTY BEYOND REASONABLE DOUBT of the crime charged.

(b)Appellants Ernesto Miaco, Guillermo Ferrer, Fidel Balita, Robartolo Alincaestre and Ernesto de Castro are ACQUITTED as recommended by the Solicitor General."^[5]

@In an Information docketed as CCC-VI-137 (79), petitioner and his co-accused Felicisimo Rieta, Fidel Balita, Gonzalo Vargas, Robartolo Alincaestre, Guillermo Ferrer and Ernesto Miaco were charged in these words:

"That on or about October 15, 1979, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another with the evident intent to defraud the government of the Republic of the Philippines of the legitimate duties accruing to it from merchandise imported into this country, did then and there [willfully,]

unlawfully [and] fraudulently import or bring into the Philippines or assist in so doing contrary to law, three hundred five (305) cases of assorted brands of blue seal cigarettes which are foreign articles valued at P513,663.47 including duties and taxes, and/or buy, sell transport or assist and facilitate the buying, selling and transporting of the above-named foreign articles after importation knowing the same to have been imported contrary to law which was found in the possession of said accused and under their control which articles said accused fully well knew have not been properly declared and that the duties and specific taxes thereon have not been paid to the proper authorities in violation of said Sec. 3601 of the Tariff and Customs Code of the Philippines, as amended by Presidential Decree No. 34, in relation to Sec. 3602 of said Code and Sec. 184 of the National Internal Revenue Code.”^[6]

With the assistance of his counsel *de parte*,^[7] petitioner pleaded not guilty when arraigned on May 5, 1980.^[8] After trial in due course, the latter was found guilty of smuggling under the Tariff and Customs Code.

The Facts

The Office of the Solicitor General (OSG)^[9] presents the prosecution’s version of the facts thus:

“On October 12, 1979, Col. Panfilo Lacson, then Chief of the Police Intelligence Branch of the Metrocom Intelligence and Security Group (MISG for brevity), received information that certain syndicated groups were engaged in smuggling activities somewhere in Port Area, Manila. It was further revealed that the activities [were being] done at nighttime and the smuggled goods in a delivery panel and delivery truck [were] being escorted by some police and military personnel. He fielded three surveillance stake-out teams the following night along Roxas Boulevard and Bonifacio Drive near Del Pan Bridge, whereby they were to watch out for a cargo truck with Plate No. T-SY-167 bound for Malabon. Nothing came out of it. On the basis of his investigation, [it was discovered that] the truck was registered in the name of Teresita Estacio of Pasay City.

“At around 9:00 o’clock in the evening of October 14, 1979, Col. Lacson and his men returned to the same area, with Col. Lacson posting himself at the immediate vicinity of the 2nd COSAC Detachment in Port Area, Manila, because as per information given to him, the said cargo truck will come out from the premises of the 2nd COSAC Detachment in said place. COSAC stands for Constabulary Off-Shore Anti-Crime Battalion. The night watch lasted till the wee hours of the following morning. About 3:00 a.m. an Isuzu panel came out from the place of the 2nd COSAC Detachment. It returned before 4:00 a.m. of same day.

“At around 5 minutes before 4:00 o’clock that morning, a green cargo truck with Plate No. T-SY-167 came out from the 2nd COSAC Detachment followed and escorted closely by a light brown Toyota Corona car with Plate No. GR-433 and with 4 men on board. At that time, Lt. Col. Panfilo Lacson had no information whatsoever about the car, so he gave an order by radio to his men to intercept only the cargo truck. The cargo truck

was intercepted. Col. Lacson noticed that the Toyota car following the cargo truck suddenly made a sharp U-turn towards the North, unlike the cargo truck which was going south. Almost by impulse, Col. Lacson's car also made a U-turn and gave chase to the speeding Toyota car, which was running between 100 KPH to 120 KPH. Col. Lacson sounded his siren. The chase lasted for less than 5 minutes, until said car made a stop along Bonifacio Drive, at the foot of Del Pan Bridge. Col. Lacson and his men searched the car and they found several firearms, particularly: three (3) .45 cal. Pistol and one (1) armalite M-16 rifle. He also discovered that T/Sgt. Ernesto Miaco was the driver of the Toyota car, and his companions inside the car were Sgt. Guillermo Ferrer, Sgt. Fidel Balita and Sgt. Robartolo Alincaestre, the four of them all belonging to the 2nd COSAC Detachment. They were found not to be equipped with mission orders.

"When the cargo truck with Plate No. T-SY-167 was searched, 305 cases of blue seal or untaxed cigarettes were found inside said truck. The cargo truck driver known only as 'Boy' was able to escape while the other passengers or riders of said truck were apprehended, namely: Police Sgt. Arturo Rimorin of Pasay City Police Force, Pat. Felicisimo Rieta of Kawit Police Force, and Gonzalo Vargas, a civilian."^[10]

On the other hand, petitioner's version of the facts is summarized by the CA^[11] as follows:

"Accused Pasay City Policeman Arturo Rimorin, was assigned at Manila International Airport (MIA for brevity) Detachment, Pasay City. He tried to show that in the [latter] part of 1978 during the wake of a fellow police officer, he met a man named Leonardo [a.k.a.] Boy. After that occasion, Boy would see him at Pasay City Police Station asking for some assistance. Once Boy told him he will get rice at Sta. Maria, Bulacan and he asked him to just follow him. He consented. A truckload of rice was brought from Sta. Maria to Quezon City. Boy gave him a sack of rice for providing company.

"In the afternoon of October 14, 1979 while he was at his Station at MIA, Boy came and requested that he [accompany] him to Divisoria to haul household fixtures. By arrangement, they met at the gasoline station near Cartimar in Pasay City not later than 2:30 a.m. of October 15. At the gasoline station, Boy introduced him to Gonzalo Vargas, a mechanic and who is his co-accused herein. After boarding the truck, they went to the other gasoline station where he was introduced to Felicisimo Rieta [a.k.a.] Sonny, who also boarded the truck. When he came to know that Rieta is a policeman from Kawit, he started entertaining the thought that Leonardo had plenty of policemen friends.

"They passed Roxas Boulevard on their way to Divisoria. But he [noted] something unusual. Boy, who was on the wheels, turned right before reaching Del Pan Bridge and proceeded to pass under the bridge, a route that will take them to Port Area and not Divisoria. So he commented that it [was] not the route to Divisoria. Boy replied that there [would] be some cargo to be loaded. At a small carinderia fronting the Delgado

Bros., Boy pulled over after Rieta commented that he was hungry. So Rieta alighted and Rimorin joined him. Rimorin asked Rieta what [would] be loaded in the truck but Rieta professed ignorance. After about an hour, the truck arrived. Rimorin and Rieta boarded the truck and they drove towards Roxas Boulevard-Bonifacio Drive. Rimorin noted one more unusual thing. He expected Boy to have driven towards Rotonda so they can go back to Divisoria but Boy drove straight ahead at the corner of Aduana to Roxas Boulevard. So he asked why they x x x [weren't] going to Divisoria, but Boy replied 'that there's no more space in the truck' and they'll just go the next day. But then, they were ordered to pull over by men in a vehicle who upon alighting[,] poked guns at them. They introduced themselves as Metrocom [agents]. He noticed some back-up vehicles. They were made to alight, lie on their belly x x x on the road and they were frisked. They were ordered to board a Land Cruiser, one of the vehicles used by the Metrocom [agents] and they drove towards Bonifacio Drive. The Metrocom [agents] intercepted another vehicle.

"Rimorin claims that he did not see the Metrocom men open their truck. They were hauled later to Camp Crame. There he asked: 'What's this?' But a certain Barrameda, while pointing to a truck different from what they used, told them 'that's the reason why you'll be jailed.' So he thought they were being framed up. It was only two to three days later that he saw the alleged smuggled cigarettes at the office of the MISG when it was presented by the investigator. They were not present when these alleged smuggled cigarettes were taken from the truck they rode in. On inquiry from the Metrocom men where their driver Boy [was], the Metrocom men said he escaped. He thought there [was] something fishy in that claim. He also thought there was something fishy in their apprehension. He wondered that they were the only persons during the apprehension, so how could have Boy escaped? There was no possibility for escape when they were intercepted. Yet, out of the four, only three of them were apprehended."^[12]

Ruling of the Court of Appeals

In affirming the RTC, the CA ruled that the defense of denial interposed by petitioner paled in comparison with the overwhelming testimonial and documentary evidence against him. In particular, it noted that while he and his co-accused raised questions of fact in their appeal, they failed to show that the trial court had significantly erred in assessing the credibility of the testimonies of witnesses for respondent.

Moreover, the CA held that the non-presentation in court of the seized blue seal cigarettes was not fatal to respondent's cause, because the crime was established by other competent evidence.

The appellate court, however, found no sufficient evidence against the other co-accused who, unlike petitioner, were not found to be in possession of any blue seal cigarettes.

Hence, this Petition.^[13]

Issues

Petitioner raises the following issues for our consideration:

"I

That the Court of Appeals has decided a question of substance not yet determined by the Supreme Court.

"II

That the Court of Appeals gravely erred when it misapprehended and sanctioned the following glaring and fatal errors committed by the lower court[:]

- (a) In not dismissing the charge for the prosecution's failure to produce the corpus delicti of the crime;
- (b) In concluding, even without evidence, that the petitioner knew that what was loaded in the intercepted truck were contraband cigarettes;
- (c) In including in its appreciation with inculpatory effects the notice of sale and the results of the auction sale which were made without the benefit of court order, much less, notice to the accused;
- (d) In merely relying on the photographs of the contraband as a substitute for the seized goods;
- (e) In not acquitting the petitioner on ground of reasonable doubt."^[14]

In sum, the issues boil down to the following: (1) whether it was necessary to present the seized goods to prove the *corpus delicti*; (2) whether petitioner knew that the cargo being transported was illegal; and (3) whether, in the sale of the seized cargo, a notice to petitioner was required.

The Court's Ruling

The Petition has no merit.

First Issue:

Corpus Delicti Established by Other Evidence

Petitioner argues that he cannot be convicted of smuggling under the Tariff and Customs Code, because respondent failed to present the seized contraband cigarettes in court. Equating the actual physical evidence -- the 305 cases of blue seal cigarettes -- with the *corpus delicti*, he urges this Court to rule that the failure to present it was fatal to respondent's cause.