

FIRST DIVISION

[G.R. No. 128517, September 10, 1998]

**JOEBERT SANTIAGO, PETITIONER, VS. THE COURT OF APPEALS
AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

The prosecution has the burden of proof. It must rely on the strength of its own evidence, not upon the weakness of the evidence submitted by the defense. Failure of the prosecution to discharge this obligation will result in the mandatory acquittal of the accused.

The Case

Before us is a petition for review on certiorari seeking to reverse and set aside the September 27, 1996 Decision and the March 11, 1997 Resolution of the Court of Appeals in CA-GR No. 17646, affirming petitioner's conviction for cattle rustling.

Petitioner Joebert Santiago -- together with Nonilon Waquez, Roger Lozada and John Dagohoy^[1] - was charged with violating Presidential Decree 533, the Anti-Cattle Rustling Law of 1974. On June 24, 1991, Provincial Prosecutor Romeo S. Fernandez filed before the Regional Trial Court of Mambusao, Capiz the Information, the accusatory portion of which reads:

"That in or about the evening of March 17 and early morning of March 18, 1991 in Brgy. Maninang, Sapiang, Capiz, Philippines, in the jurisdiction of this Court, the above named accused conspiring, confederating and helping one another, with intent to gain, willfully and [feloniously] [stole] and [carried] away one male carabao valued at [t]en [t]housand [p]esos (P10,000.00) belonging to and without the knowledge and consent of Rodrigo Belorio^[2] to the damage and prejudice of the said owner in the amount aforementioned."^[3]

The petitioner, together with Waquez and Lozada, entered a plea of not guilty when arraigned^[4] on August 6, 1991.^[5] After trial on the merits, the trial court rendered its April 25, 1994 Decision which disposed:

"WHEREFORE, in the light of the foregoing and finding the evidence of the prosecution to have sufficiently established the guilt of the accused beyond reasonable doubt, the court hereby imposes upon the accused Joebert Santiago, Nonilon Waquez and Roger Lozada an indeterminate sentence of TEN (10) YEARS and ONE (1) DAY of prision mayor in its maximum as the minimum to FOURTEEN (14) YEARS, TEN (10) MONTHS and TWENTY-ONE (21) DAYS of reclusion temporal in its medium as the

maximum, and to pay the private offended party Rodrigo Beloria the sum of P10,000.00 by way of moral damages and P5,000.00 as exemplary damages, and to pay the costs of the proceedings, with subsidiary imprisonment in case of insolvency.

"The case of accused John Dogohoy is hereby ordered archived and can be revived only upon proper motion."^[6]

On appeal, Respondent Court^[7] affirmed the Decision of the lower court thus:

"WHEREFORE, the appealed decision of the trial court in Criminal Case No. 1862 is hereby AFFIRMED by this Court, with costs against accused-appellants."^[8]

In its March 11, 1997 Resolution, the appellate court denied, for lack of merit, the separate Motions for Reconsideration^[9] filed by the petitioner and his co-accused.^[10]

Undaunted, Joebert Santiago filed this petition before us.

Through Counsel Luis C. A. Sillano, Nonilon Waquez and Roger Lozada belatedly filed their Petition for Review on October 1, 1997.^[11] On October 15, 1997, this Court issued a Resolution denying their petition for the following reasons: (1) the prescribed legal fees were not paid within the reglementary period; (2) the certification against forum-shopping was signed by counsel instead of Waquez or Lozada; (3) Section 11, Rule 13 of the Rules of Court was not complied with; (4) the petition was filed late on October 1, 1997 the due date being August 27, 1997; and (5) said petition was improperly verified in violation of Section 4, Rule 7 in relation to Section 1, Rule 45 of the said Rules.^[12]

Noting that the clerk of court erroneously accepted the deposit for costs paid on February 11, 1998 by Atty. Sillano, the Court in a Resolution dated April 11, 1998 directed the refund of such amount, "considering that the petition was denied on October 15, 1997."

In its July 1, 1998 Resolution, the Court denied with finality the Motion for Reconsideration of Waquez and Lozada. Hence, only Joebert Santiago's Petition remains to be resolved.

The Facts **According to the Prosecution**

The prosecution presented the following witnesses: (1) Pfc. Efren Felizardo, a member of the Philippine National Police stationed in Sapan;^[13] (2) Police Sergeant Sergio Urdelas, who intercepted the jeep driven by Lozada and thereupon arrested him;^[14] and November 17, 1992, pp. 2-4; records, pp. 341-344 and 400-402, respectively.¹⁴ (3) Pat. Gualberto Salomeo, administrative officer and police blotter clerk;^[15] and (4) Rodrigo Veloria, the owner of the stolen carabao.^[16]

Adopted by the Court of Appeals in its Decision and by the Office of Solicitor General

in its Comment was the trial court's summary of the above witnesses' testimonies, which we quote:

"The evidence of the prosecution has established the fact that on the evening of March 17, 1991, until the early morning of March 18, 1991, at around 2:30 in the morning, Pfc. Efren Felizardo, Pfc. McArthur dela Cruz and Patrolman Victoriano were on foot patrol inside the town proper of Sapián, Capiz, because of the rampant cattle rustling in the area when they tried to flag down a suspected passenger jeepney with Plate No. UVH-PFH-406, owned b[y] Elizane Waquez, but instead of st[o]pping, the driver stepped on the gas pedal where Pfc. McArthur dela Cruz was almost hit by the accelerating jeepney; that they radioed the Ivisan Police Station where the latter intercepted the passenger jeepney and apprehended inside the driver Roger Lozada, one of the herein accused, who, when investigated, told the police that his companions were Nonilon Waquez, John Dagohoy and Joebert Santiago; Waquez and Santiago admitted that they were with their co-accused when they were flagged down by the Sapián PNP[;] and when their jeepney was intercepted by the Ivisan PNP, they e[s]caped.

"The prosecution further solidif[ied] its position when it presented Rodrigo Veloria who reported to the Sapián Police Station in the morning of March 18, 1991, that his male carabao was stolen and [that] when they proceeded to the Ivisan Police Station, he identified his male carabao and showed his Creden[t]ial No. 836465-A, Exhibit 'B' signed by Sapián Mayor Rodel Obordo, Exhibit 'B-1'."^[17]

According to the Defense

Consistent with his avowal of innocence, Petitioner Santiago in his Petition for Review^[18] offered a different story:^[19]

"In the early morning of March 18, 1991 at [about] 2:30 o'clock in the morning some members of the Sapián, Capiz Police Force were on foot patrol inside the poblacion of the said town because of the rampant cattle rustling in the area. While patrolling the said area the police officers composed of Pfc. Efren Felizardo, Pfc. McArthur dela Cruz and Patrolman Victoriano tried to flag down or stop a passenger jeepney, suspected of transporting stolen carabaos, with Plate No. UVH-PFH-406 owned by a certain Lizanie Waquez. But instead of stopping, the driver of the said jeepney accelerated going to the direction of Ivisan, Capiz. (pp. 4-5, 9, t.s.n., September 23, 1991).

"Thereafter, the police officers immediately informed the Ivisan Police Force thru two way radio about the incident with the request to intercept the said jeepney. At around 3:30 [a].m. of the said morning, the Ivisan Police Force radioed back the Sapián Police Force informing them that they ha[d] intercepted the subject jeepney and apprehended its driver, one of the herein accused-appellant, Roger Lozada. During that time, the jeepney was transporting one (1) male carabao which was found out later to be stolen. (p. 12, t.s.n., Ibid.).

"During that same morning of [March] 18, 1991, Pfc. Efren Felizardo of the Sapián Police Department, together with Rodrigo Veloria, the owner of the stolen carabao, proceeded to the Ivisan Police Station. Rodrigo Veloria after identifying the carabao, showed his proof of ownership of the same. Roger Lozada, the jeepney and the carabao were thereafter brought to the Sapián Police Station. Later, on the same morning, the other occupants of the jeepney, herein other co-accused, Nonilon Waquez and John Dagohoy surrendered to the Sapián Police Force. (p. 5, t.s.n., Ibid; pp. 6-7, t.s.n., September 24, 1991).

"During their investigation, accused-appellants Roger Lozada and Nonilon Waquez both claimed that on the early morning of March 18, 1991, while on board the subject jeepney going to Bilao, Sapián, Capiz, they were stopped by petitioner Joebert Santiago who together with a certain Ledonio offered P1,500.00 for them to transport a carabao to Roxas City. (pp. 3-5, t.s.n., May 20, 1991).

"Petitioner Joebert Santiago testified that at around 8:00 o'clock in the morning of March 17, 1991 while he was at Poblacion, Sapián, Capiz, Rolando Ledonio approached him and asked him, if he was going to Roxas City. After he answered in the affirmative, Ledonio requested him to tell Roger Lozada that he (Ledonio) [would] load something in the latter's jeepney. He further testified that at about 10:00 o'clock of the same morning, he saw Roger Lozada and Nonilon Waquez in Roxas City and therefore told them of the request of Ledonio. (pp. 3-4, t.s.n., July 23, 1992). Thereafter, he and his employer went home to Sapián from Roxas City[;] after washing the car of his employer they had an accounting because he had earlier told his employer that he was going to Mindanao to work as a driver for a certain Roblito Cenica. (p. 4, t.s.n., Ibid). After their accounting at about 3:00 o'clock p.m., petitioner proceeded to his house at Barangay Dapdapan, Sapián, Capiz. From the time he arrived at this house up to 3:30 p.m. he packed his clothes and other things to be brought to Mindanao. (p. 5, t.s.n., Ibid). At about 6:30 p.m. to 10:00 p.m., he played domino in his house with Santiago Andaya, Romarico Dalmacio and Ramon Bonales. (p. 5, t.s.n., Ibid). After playing domino, petitioner went to sleep. However, the above-mentioned co-players of the petitioner continued playing domino. The wife of petitioner woke him up at about 4:00 a.m. the following morning of March 18, 1991. Thereafter, at about 4:30 p.m., petitioner and his cousin were able to ride a vehicle going to Sitio Talaba, Sapián, Capiz, and eventually were able to ride a bus from Talaba to Iloilo City. They arrived [in] Iloilo City at about 7:30 a.m. of March 18, 1991 [from where] they proceeded to Marbel, (Koronadal) South Cotabato (pp. 3-6, t.s.n., Ibid.).

"Romarico Dalmacio, a co-player of petitioner in the game of domino, attested that at about 10:00 p.m. of March 17, 1991, he saw petitioner Santiago [go] upstairs to the second floor of their house (his father-in-law's) to sleep and did not leave the said house until 4:00 a.m. of March 18, 1991 whe[n] appellant and his cousin left the house and rode a bus to the direction of Talaba, Sapián (pp. 3-4 and 9-10, t.s.n., September 17, 1992). In fact, he further stated that before petitioner left, he served them coffee while they continued playing domino. (p. 4, t.s.n., Ibid.)."

The Rulings of the Trial and the Appellate Courts

Giving credence to the testimonies of the prosecution witnesses, the trial court convicted petitioner, together with his co-accused, of cattle rustling. It disbelieved his defense of alibi, as (1) he was "positively identified," and (2) he failed to prove that it was physically impossible for him to have been at the crime scene while the offense was being committed. The trial court concluded:

"Accused Joebert Santiago was one of the persons inside the jeepney with the carabao and his other co-accused when the jeep they were riding [in] was flagged down by the Sapien PNP[;] they continued at high speed proceeding to the Municipality of Ivisan, Capiz, where they were intercepted by the Ivisan PNP in the early morning of March 18, 1991."

[20]

Further, in ruling that petitioner acted in concert with Lozada and Waquez, the RTC held:

"Conspiracy need not be established by direct proof as it can be inferred from the acts of the appellants. It is enough that at the time the offense was committed participants had the same purpose and were united in its execution as maybe [sic] inferred from the attendant circumstances.'

(People vs. Montealegre, G.R. 67948, 31 May 1988)"[21]

In affirming the trial court, the Court of Appeals held that: first, Santiago failed to prove with convincing evidence his defense of alibi; second, he was positively identified by his cohorts; and last, he fled after the incident took place.

Assignment of Errors

In his Memorandum, Santiago sets forth the following issues:

"I. Whether or not the Honorable Court of Appeals as well as the trial court erred in declaring that Petitioner Joebert Santiago conspired with the other accused in committing the crime charged.

"II. Whether or not the Honorable Court of Appeals as well as the trial court erred in outrightly disregarding Petitioner Joebert Santiago's defense of alibi and denial.

"III. Whether or not the Honorable Court of Appeals as well as the trial court erred in considering Petitioner Joebert Santiago's departure [for] Mindanao an indication of petitioner's guilt.

"IV. Whether or not the prosecution's evidence against Petitioner Joebert Santiago failed to stand the crucible test of reasonable doubt to overthrow the constitutionally guaranteed presumption of innocence petitioner has in his favor."[22]

Briefly stated, the issue in this case is whether there is sufficient evidence to prove the guilt of the petitioner beyond reasonable doubt.