

THIRD DIVISION

[CA-G.R. CR-H.C. NO. 00794, October 27, 2006]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY SANCHEZ Y CARLOS, ACCUSED-APPELLANT.

DECISION

ROMILLA-LONTOK, J.:

Accused-appellant was convicted in Criminal Case No. Q-99-81733, Branch 79, RTC, Quezon City in a Decision dated September 25, 2000, the dispositive portion of which states:

"WHEREFORE, it is hereby rendered in this case finding accused Jimmy Sanchez y Carlos a.k.a. Benito Puno, guilty beyond reasonable doubt of the crime of Qualified Theft punishable under Art. 310, and the Court hereby sentences him to suffer the penalty of reclusion perpetua.

"The accused shall be credited in full of his preventive imprisonment by reason of this case.

"SO ORDERED." (*Records, p. 92*)

An Information for Qualified Theft was filed against accused Jimmy Sanchez y Carlos a.k.a. Benito Puno y Roman and Jaime Sanchez y Teves, in the words as follows:

"The undersigned accuses JIMMY SANCHEZ Y CARLOS a.k.a. BENITO PUNO Y ROMAN a.k.a. JAIME SANCHEZ Y TEVES of the crime of QUALIFIED THIEF (ARTICLE 310 OF THE REVISED PENAL CODE) committed as follows:

"That on or about the 6th day of March 1999 in Quezon City Philippines, the said accused being then the second degree cousin of complainant Raquel Acuna and who lived in her residence located at 46 Zalazar St. BF Homes Brgy Holy Spirit, this city and as such has free access to the different rooms of the house with intent to gain and with grave abuse of confidence reposed upon him by his cousin 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, to wit:

"One pair of earrings (sic.)

"One bracelet

"Seven pcs of US Dollar in different denomination

"One Rolex wristwatch

"One necklace

"One diamond ring

"all in the total amount of P360,000.00 Philippines Currency belonging to Raquel Acuna y Carlos to the damage and prejudice of the owner thereof in the aforementioned amount of P360,000.00 Philippine Currency.

"CONTRARY TO LAW." (*Records, p. 1*)

Upon arraignment, accused entered a plea of not guilty.

Pre-trial was held and terminated.

Trial on the merits followed.

The prosecution presented three (3) witnesses: private complainant Racquel Acuña, Myrna Dagaang and Pedro Acuña.

Racquel Acuña testified that at 2:00 o'clock in the afternoon of March 6, 1999, her maid Myrna Dagaang, called from her BF Homes, Quezon City residence that Jimmy Sanchez entered her room and took her valuables. She found the drawer where she kept said valuables forcibly opened and one (1) Rolex watch (P160,000.00); two (2) necklaces (P50,000.00); two (2) gold necklaces with diamond pendants (P50,000.00); one (1) pair of diamond earrings (P60,000.00); and one (1) bracelet (P30,000.00) missing. Dollar bills were also stolen. When her father, Pedro Acuña, arrived at about 7:30 in the evening he reported the incident to the barangay authorities. A barangay official took Jimmy, brought him to the barangay hall and then to the police station. Jimmy admitted the stealing and told her father, Pedro, where he kept the items. Racquel recovered the earrings, necklace and ring buried in a neighbor's garden; the bracelets together with other items were found near a drainage and the stolen dollar bills in Jimmy's room. Jimmy, previously a detention prisoner, is Racquel's cousin whose family lived in the latter's house rent free. During the preliminary investigation, Jimmy admitted having stolen Racquel's valuables. (*TSN, August 16, 1999, pp. 2-16*)

Myrna Dagaang, Racquel's household help, also took the witness stand. She declared having seen Jimmy enter Racquel's room at about 2:00 o'clock in the afternoon of March 6, 1999. She followed, saw him surreptitiously go out of the backdoor and jump over the wall. The drawers of cabinets inside Racquel's room were already open. She called up Raquel (*TSN, August 26, 1999, pp. 5-11*). On cross-examination, she admitted that in her written statement she declared having seen accused already leaving Racquel's room. It was unusual for him to enter said room. He was not allowed to do so. At the time of the incident only Jimmy, his child and Myrna were in the house (*TSN, October 26, 1999, pp. 11-17*).

Pedro Acuña is Racquel's father. While in Pampanga on March 6, 1999 Racquel called to inform him that Jimmy entered her room and took her jewelry. He went home to Quezon City and reported the theft to their barangay. A barangay tanod took Jimmy and brought him to the Police Station where the latter was charged. The next day, he returned to the Police Station and told Jimmy that he found Racquel's dollar bills in his (Jimmy's) room. In the presence of SPO1 Roldan Dapat, accused admitted having taken the dollar bills. Jimmy also told them where he kept the jewelry. They were, thus, recovered. Jimmy is Pedro's nephew. (*TSN, October 26, 1999, pp. 17-21*)

After the prosecution rested its case, defense evidence was presented. Accused and his son, Noel, were presented for the defense.

Accused claimed being a metal craft artist. He denied having taken Racquel's jewelry. He, however, admitted having told Pedro Acuña where to find them on the claim that the latter entrusted said pieces of jewelry to him when Pedro left for the province on February 19, 1999. He did not know that the jewelry belonged to Racquel. He, together with his family, occupies a store adjacent to the Acuña residence. At about 2:00 o'clock in the afternoon of March 6, 1999, while in the garage, Dindin, the maid, asked him who last entered the house because Racquel's drawers were open. He told her he did not see anyone. Dindin entered. He followed. When Pedro Acuña arrived on March 6, he asked Jimmy about the jewelry entrusted to the latter when he left for the province. Racquel asked him to go with her and Dindin to the barangay hall where the two (2) were asked questions. They proceeded to Police Station No. 6 where a case was filed against him. Upon inquiry, he told Mr. Acuña where he kept the jewelry. The next day, Mr. Acuña informed Jimmy of the recovered dollar bills in his house. He was asked to produce the pieces of jewelry he claimed were entrusted to him. He was released on March 8. He gave the jewelry to Racquel. He returned to the police station. On March 9, he was informed that Racquel's jewelry were missing again. She said the bag which contained them was entrusted to her father. *(TSN, June 14, 2000, pp. 4-10)*

On cross-examination, Jimmy said that on March 6, he, the maid, his son and a nephew were the ones in the house. He had the same address with Racquel although they occupy separate houses. He did not pay rentals but provided for his family's sustenance. As a metal craftsman, he earned P15,000.00 a month. *(TSN, Aug. 7, 2000, pp. 3-8)*

Noel Buluran, Jimmy's son, thirteen years old, corroborated his father's defense. Noel said that at about 11:00 in the morning of February 6, 1999, his Lolo Pedro (Pedro Acuña) gave a bracelet and a necklace to his father to be kept. On March 6, his Lolo Pedro came to the store looking for his father. *(TSN, Aug. 23, 2000, pp. 3-15)*

On cross-examination, Noel declared that his Lolo Pedro's back was turned on him when he handed the jewelry to Jimmy. The necklace Racquel wore was the same necklace his Lolo Pedro handed to his father. *(TSN, Aug. 23, 2000, pp. 15-20)*

The trial court, in a Decision dated September 25, 2000, convicted the accused.

Accused appealed on the following assigned errors:

"I

"THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

"II

"ASSUMING ARGUENDO THAT ACCUSED-APPELLANT IS GUILTY, HE