



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

EDUARDO MAGSUMBOL,
Petitioner,

G.R. No. 207175

Present:

- versus -

CARPIO, J., Chairperson,
DEL CASTILLO,
MENDOZA,
REYES,* and
LEONEN, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

NOV 26 2014

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DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the December 14, 2012 Decision¹ and the May 6, 2013 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 34431 filed by Eduardo Magsumbol (*Magsumbol*), questioning his conviction for Theft.

The Facts

Petitioner Magsumbol, together with Erasmo Magsino (*Magsino*), Apolonio Inanoria (*Inanoria*), and Bonifacio Ramirez (*Ramirez*), was charged with the crime of Theft in the Information, dated August 30, 2002,

* Designated Acting Member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1881, dated November 25, 2014.

¹ Penned by Associate Justice Ramon R. Garcia, with Associate Justice Amelita G. Tolentino and Associate Justice Danton Q. Bueser, concurring; *rollo* pp. 18-30.

² *Id.* at 31-32.

filed before the Regional Trial Court of Lucena City, Branch 55 (*RTC*) and docketed as Criminal Case No. 2002-1017. The Information indicting Magsumbol and his co-accused reads:

That on or about the 1st day of February 2002, at Barangay Kinatihan I, in the Municipality of Candelaria, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with seven (7) John Does whose true names and real identities are still unknown and whose physical descriptions were not made known by available witnesses, and who are all still at large, and mutually helping one another, with intent to gain and without the consent of the owner, Menandro Avanzado, did then and there willfully, unlawfully and feloniously cut, take, steal and carry away with them thirty three (33) coconut trees from the coconut plantation of the said owner, valued at FORTY FOUR THOUSAND FOUR HUNDRED PESOS (₱44,400.00), Philippine currency, belonging to said Menandro Avanzado, to his damage and prejudice in the aforesaid amount.³

Culled from the testimonies of prosecution witnesses Ernesto Caringal (*Caringal*), private complainant Engr. Menandro Avanzado (*Menandro*), and SPO1 Florentino Manalo (*SPO1 Manalo*), it appears that at around 11:00 o'clock in the morning of February 1, 2002, Caringal, the overseer of a one-hectare unregistered parcel of land located in Candelaria, Quezon, and co-owned by Menandro, saw the four accused, along with seven others, cutting down the coconut trees on the said property. Later, the men turned the felled trees into coco lumber. Caringal did not attempt to stop the men from cutting down the coconut trees because he was outnumbered. Instead, Caringal left the site and proceeded to San Pablo City to inform Menandro about the incident.

On February 3, 2002, Menandro and Caringal reported the incident to the police. Thereafter, the two, accompanied by SPO1 Manalo, went to the coconut plantation only to discover that about thirty three (33) coconut trees (*subject trees*) had been cut down. The coco lumber were no longer in the area. They took photographs of the stumps left by the men.

The defense, on the other hand, presented Atanacio Avanzado (*Atanacio*), accused Ramirez, petitioner Magsumbol, Barangay Captain Pedro Arguelles (*Brgy. Captain Arguelles*) and accused Inanoria, to substantiate its claim of innocence for all the accused.

³ Id. at 19.

Atanacio testified that he authorized his brothers-in-law, Magsino and Magsumbol, to cut down the coconut trees within the boundary of his property, which was adjacent to the land co-owned by Menandro. Atanacio admitted that he had never set foot on his property for about 20 years already and that he was not present when the cutting incident happened.

Defense witness Brgy. Captain Arguelles testified that on January 28, 2002, Magsumbol, Magsino, Ramirez, and Inanoria came to his office seeking permission to cut down the coconut trees planted on the land of Atanacio.

All the accused vehemently denied the charges against them. Ramirez and Magsumbol claimed that only the coconut trees which stood within the land owned by Atanacio, a relative of the private complainant, were cut down on that morning of February 1, 2002. Ramirez added that he was a coco lumber trader and that Atanacio offered to sell the coconut trees planted on his lot. Magsumbol claimed that he took no part in the felling of the coconut trees but merely supervised the same. He claimed that he did not receive any remuneration for the service he rendered or a share from the proceeds of the coco lumbers sale. Inanoria likewise denied participation in the cutting down of the coconut trees but confirmed the presence of Magsumbol and Magsino at the site to supervise the accomplishment of the work being done thereat. Inanoria corroborated the narration of Magsumbol and Ramirez that all the felled trees were planted inside the lot owned by Atanacio. Inanoria intimated that Menandro included him in the complaint for theft due to his refusal to accede to latter's request for him to testify against his co-accused in relation to the present criminal charge.⁴

Ruling of the RTC

On March 15, 2011, the RTC rendered its decision⁵ stating that the prosecution was able to establish with certitude the guilt of all the accused for the crime of simple theft. The RTC rejected the defense of denial invoked by the accused in the face of positive identification by Caringal pointing to them as the perpetrators of the crime. It did not believe the testimony of Atanacio and even branded him as biased witness on account of his relationship with accused Magsino and Magsumbol. The trial court adjudged:

WHEREFORE, judgment is hereby rendered finding all the accused Erasmo Magsino, Apolonio Inanoria, Eduardo Magsumbol and Bonifacio Ramirez guilty as charged and applying the Indeterminate sentence law, the court hereby sentences them to

⁴ Id. at 20-21.

⁵ Penned by Judge Bienvenido A. Mapaye; record, pp. 488-499.

suffer an imprisonment of 2 years, 4 months and 1 day of Prison Correccional as minimum to 6 years and 1 day of Prison Mayor as maximum.

The accused are likewise directed to pay jointly and severally Engr. Menandro Avanzado and the other heirs of Norberto Avanzado the sum of ₱13,200.00 representing the value of the 33 coconut trees they have cut and sold to accused Ramirez.

SO ORDERED.

Aggrieved, the accused appealed from the March 15, 2011 judgment of the RTC before the CA insisting that the prosecution evidence did not meet the quantum of proof necessary to warrant their conviction of the crime charged. They posited that the RTC erred in failing to appreciate the lack of criminal intent on their part to commit the crime of simple theft. They claimed that not a scintilla of evidence was presented to prove the element of intent to gain.⁶

Ruling of the CA

In its assailed Decision, dated December 14, 2012, the CA sustained the findings of facts and conclusions of law by the RTC and upheld the judgment of conviction rendered against the accused. The CA was of the view, however, that the crime committed in this case would not fall under the general definition of theft under Article 308 of the Revised Penal Code (*RPC*), but rather under paragraph (2) of the same provision which penalizes *theft of damaged property*. The CA ruled that the RTC was correct in giving full faith and credence to the testimony of Caringal who was not shown to have been motivated by any ill will to testify falsely against the accused. It agreed with the RTC that Atanacio's testimony should not be given any evidentiary weight in view of his relationship with Magsino and Magsumbol, which provided sufficient reason for him to suppress or pervert the truth. Anent the element of intent to gain, the CA stated that the mere fact that the accused cut the coconut trees on Menandro's land and made them into coco lumber, gave rise to the presumption that it was done with intent to gain. The *fallo* reads:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Decision dated March 15, 2011, of the Regional Trial Court, Branch 55, Lucena City is AFFIRMED with MODIFICATION in that the accused-appellants Erasmo Magsino, Apolonio Inanoria, Eduardo Magsumbol and Bonifacio Ramirez are sentenced to suffer imprisonment of two (2) years, four (4) months and one (1) day as

⁶ Id. at 24.

minimum, to seven (7) years, four (4) months and one (1) day, as maximum; and to pay jointly and severally private complainant Menandro Avanzado the amount of Thirteen Thousand Two Hundred Pesos (₱13,200.00).

SO ORDERED.⁷

The accused moved for reconsideration of the December 14, 2012 Decision but their motion was denied by the CA on May 6, 2013.

Issues:

Bewailing his conviction, Magsumbol filed the present petition before this Court and imputes to the CA the following

ERRORS:

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERRORS OF LAW WHEN IT FOUND THE ACCUSED GUILTY OF THE CRIME OF THEFT UNDER ARTICLE 308 OF THE REVISED PENAL CODE, IN THAT:

I

NO COMPETENT EVIDENCE WAS ADDUCED BY THE PROSECUTION TO PROVE THAT THE COCONUT TREES THAT WERE CUT WERE BEYOND THE PROPERTY OWNED BY ATANACIO AVANZADO; and

II

MALICE AND INTENT TO GAIN, AS ELEMENTS OF THE CRIME OF THEFT, ARE NOT PRESENT IN THE CASE AT HAND.⁸

The Court's Ruling

The petition is impressed with merit.

It is a time-honored rule that the assessment of the trial court with regard to the credibility of witnesses deserves the utmost respect, if not finality, for the reason that the trial judge has the prerogative, denied to appellate judges, of observing the demeanor of the declarants in the course of their testimonies. Though it is true that the trial court's evaluation of the credibility of witnesses and their testimonies is entitled to great respect and

⁷ *Rollo*, p. 29.

⁸ *Id.* at 5.

will not be disturbed on appeal, this rule, however, is not a hard and fast one. The exception is observed if there is a showing that the trial judge overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have cast doubt on the guilt of the accused.⁹ The said exception apparently exists in the case at bench.

It is the statutory definition that generally furnishes the elements of each crime under the RPC, while the elements in turn unravel the particular requisite acts of execution and accompanying criminal intent. In the case at bench, petitioner Magumbol and his co-accused were convicted by the CA of the crime of theft of damaged property under paragraph (2) of Article 308 of the RPC which provides:

Art. 308. Who are liable for theft. –: xxxx

Theft is likewise committed by:

1. xxxxx;
2. Any person who, after having **maliciously damaged** the property of another, shall remove or make use of the fruits or object of the damage caused by him; and xxx.

[Emphasis Supplied]

To warrant a conviction under the aforecited provision for theft of damaged property, the prosecution must prove beyond reasonable that the accused maliciously damaged the property belonging to another and, thereafter, removed or used the fruits or object thereof, with intent to gain. Evidently, theft of damaged property is an intentional felony for which criminal liability attaches only when it is shown that the malefactor acted with criminal intent or malice. Criminal intent must be clearly established with the other elements of the crime; otherwise, no crime is committed.¹⁰ Was criminal intent substantiated to justify the conviction of Magumbol and his co-accused?

It does not so appear in this case.

There is no dispute that the land co-owned by Menandro is adjacent to the land owned by Atanacio. The prosecution claimed that the thirty three (33) cut coconut trees were planted within the land co-owned by Menandro. The defense, on the other hand, averred that only the coconut trees found within the land of Atanacio were felled by Magumbol and his co-accused.

⁹ *People v. Alvarado*, 429 Phil. 208, 219 (2002).

¹⁰ *Garcia v. Court of Appeals*, 519 Phil. 591, 596 (2006).

Menandro testified that there were muniments that delimit the boundaries between the adjacent lots¹¹ while Atanacio claimed that there were none and that “x” marks were just etched on the trunk of the trees to delineate the boundary of his land.¹² Apart from the bare allegations of these witnesses, no concrete and competent evidence was adduced to substantiate their respective submissions. In view of such conflicting claims and considering the meager evidence on hand, the Court cannot determine with certainty the owner of the 33 felled coconut trees. The uncertainty of the exact location of the coconut trees negates the presence of the criminal intent to gain.

At any rate, granting *arguendo* that the said coconut trees were within Menandro’s land, no malice or criminal intent could be rightfully attributed to Magsumbol and his co-accused. The RTC and the CA overlooked one important point in the present case, to wit: Magsumbol and his co-accused went to Barangay Kinatihan I, Candelaria, Quezon, to cut down the coconut trees belonging to Atanacio upon the latter’s instruction.

Such fact was confirmed by Atanacio who narrated that due to financial reversals, he sold all the coconut trees in his land to Ramirez, a coco lumber trader; that since he could not go to the site due to health reasons, he authorized Magsumbol and Magsino to cut down his trees and to oversee the gathering of the felled trees; that he informed Menandro about this and even offered to pay for the damages that he might have sustained as some of his (Menandro’s) trees could have been mistakenly cut down in the process; that Menandro refused his offer of compensation and replied that a case had already been filed against the four accused; and that he tried to seek an audience again from Menandro, but the latter refused to talk to him anymore.¹³

Both the RTC and the CA chose to brush aside the foregoing un rebutted testimony of Atanacio for being unreliable and considered him a biased witness simply because he is related by affinity to Magsumbol and Magsino. Family relationship, however, does not by itself render a witness’ testimony inadmissible or devoid of evidentiary weight.¹⁴ To warrant rejection of the testimony of a relative or friend, it must be clearly shown that, independently of the relationship, the testimony was inherently improbable or defective, or that improper or evil motives had moved the witness to incriminate the accused falsely.¹⁵

¹¹ TSN, dated September 17, 2003, p. 30.

¹² TSN, dated June 7, 2006, p. 7.

¹³ TSN, dated February 8, 2006, pp. 6-7.

¹⁴ *People v. Manambit*, 338 Phil. 57, 96 (1997).

¹⁵ *People v. Lusabio, Jr.*, G.R. No. 186119, October 27, 2009, 604 SCRA 565, 585.

The relationship of Atanacio to the accused, per se, does not impair his credibility. It bears stressing that while Magsumbol and Magsino are Atanacio's brothers-in-law, Menandro is his cousin. Considering that both the accused and the accuser are Atanacio's relatives, and purportedly both have bearing with regard to his decision, why would then Atanacio support one over the other? The logical explanation could only be that Atanacio had indeed ordered Magsumbol and Magsino to cut the trees on his land. The Court is convinced that Atanacio was telling the truth.

If, indeed, in the course of executing Atanacio's instructions, Magsumbol and his co-accused encroached on the land co-owned by Menandro, because they missed the undetectable boundary between the two lots, and cut down some of Menandro's trees, such act merely constituted mistake or judgmental error. The following pronouncement in the case of *Lecaroz vs. Sandiganbayan*¹⁶ may serve as a guidepost, to wit:

If what is proven is mere judgmental error on the part of the person committing the act, no malice or criminal intent can be rightfully imputed to him. x x x. Ordinarily, evil intent must unite with an unlawful act for a crime to exist. *Actus non facit reum, nisi mens sit rea*. **There can be no crime when the criminal mind is wanting.** As a general rule, ignorance or mistake as to particular facts, honest and real, will exempt the doer from felonious responsibility. The exception of course is neglect in the discharge of duty or indifference to consequences, which is equivalent to criminal intent, for in this instance, the element of malicious intent is supplied by the element of negligence and imprudence.¹⁷

[Emphasis supplied]

The criminal mind is indeed wanting in the situation where Magsumbol and his co-accused even sought prior permission from Brgy. Captain Arguelles to cut down the coconut trees which was done openly and during broad daylight effectively negated malice and criminal intent on their part. It defies reason that the accused would still approach the barangay captain if their real intention was to steal the coconut trees of Menandro. Besides, criminals would usually execute their criminal activities clandestinely or through stealth or strategy to avoid detection of the commission of a crime or a wrongdoing.

¹⁶ 364 Phil. 890 (1999).

¹⁷ Id. at 905.

The findings of this Court in this case should not create the mistaken impression that the testimonies of the prosecution witnesses should always be looked at with askance. The point is that courts should carefully scrutinize the prosecution evidence to make sure that no innocent person is condemned. An allegation, or even a testimony, that an act was done should never be hastily accepted as proof that it was really done. Evidence adduced must be closely examined under the lens of a judicial microscope to ensure that conviction only flows from moral certainty that guilt has been established by proof beyond reasonable doubt.

Here, that quantum of proof has not been satisfied. The prosecution miserably failed to establish proof beyond reasonable doubt that Magsumbol, together with his co-accused, damaged the property of Menandro with malice and deliberate intent and then removed the felled coconut trees from the premises.

Hence, we must reckon with a *dictum* of the law, *in dubilis reus est absolvendus*. All doubts must be resolved in favor of the accused.

WHEREFORE, the petition is **GRANTED**. The assailed December 14, 2012 Decision and the May 6, 2013 Resolution of the Court of Appeals in CA-G.R. CR No. 34431 are **REVERSED** and **SET ASIDE**. Petitioner Eduardo Magsumbol is **ACQUITTED** on reasonable doubt.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Chairperson



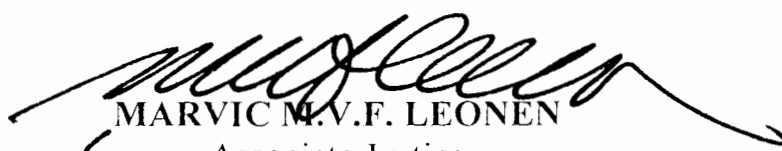
MARIANO C. DEL CASTILLO

Associate Justice



BIENVENIDO L. REYES

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice