



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ARIEL LOPEZ,
Petitioner,

G.R. No. 212186

Present:

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

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
29 JUN 2016

X-----*Atty. Catalina Perez*-----X

DECISION

LEONEN, J.:

To sustain a conviction for cattle-rustling, the identity of the stolen cattle must be proven with certainty. Otherwise, the accused must be acquitted on the ground of reasonable doubt.

Further, a "request for appearance" issued by law enforcers to a person identified as a suspect is akin to an "invitation." Thus, the suspect is covered by the rights of an accused while under custodial investigation. Any admission obtained from the "request for appearance" without the assistance of counsel is inadmissible in evidence.

* On official leave.

Petitioner Ariel Lopez (Lopez) was charged with violation of Presidential Decree No. 533.¹ The accusatory portion of the Information reads:

That on or about July 17, 2002, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, with intent to gain with grave abuse of confidence and without the knowledge and consent of the complainant, wilfully, unlawfully, and feloniously took, stole and carried away one (1) female carabao valued at **Five Thousand (P5,000.00) Pesos**, more or less, belonging to **Teresita D. Perez**, to the latter's damage and prejudice in the aforesaid amount.

CONTRARY TO LAW.² (Emphasis in the original)

Lopez pleaded not guilty during his arraignment.³

During trial, Mario Perez (Perez) testified that he purchased the female carabao from a certain Enrique Villanueva. The purchase was evidenced by a Certificate of Transfer of Large Cattle.⁴

Perez narrated that he tied his carabao to a coconut tree located inside the property of a certain Constancio Genosas.⁵

Around 5:00 a.m. on July 17, 2002, Perez discovered that the female carabao was missing.⁶

Perez claimed that he searched for his carabao for over a month. After, he went to the Barangay Captain of Wines to ask for assistance.⁷

Prosecution witness Felix Alderete (Alderete) testified that he worked as an errand boy for Lopez from 2000 to 2002.⁸

Alderete claimed that he slept at Lopez's house on July 17, 2002. Around 3:45 a.m. of the next day, Alderete and Lopez went to Constancio Genosas' property.⁹

Lopez untied the carabao and allegedly told Alderete that he would

¹ Anti-Cattle Rustling Law of 1974 (1974).

² *Rollo*, p. 34, Court of Appeals Decision.

³ *Id.*

⁴ *Id.* at 16–17, Petition.

⁵ *Id.* at 17.

⁶ *Id.* at 40, Court of Appeals Decision.

⁷ *Id.* at 17.

⁸ *Id.*

⁹ *Id.*

“bring the carabao to his boss named Boy Platan at Malagos.”¹⁰ He ordered Alderete to deliver the carabao to Malagos.¹¹

Alderete, not knowing whether the carabao was owned by Lopez, followed Lopez’s instructions.¹²

Lopez and Boy Platan met Alderete in Malagos. From there, the carabao was loaded on a vehicle headed to Davao City.¹³

The next day, Alderete learned that there was a commotion in Wines, Baguio District, regarding Perez’s lost carabao.¹⁴

Afraid of being accused for the loss of the carabao, Alderete sought help from the barangay police.¹⁵

Teresita Perez (Teresita) testified that Barangay Police Moralde informed her and Perez, her husband, that Lopez stole their carabao.¹⁶ Subsequently, a confrontation took place at the barangay police station.¹⁷ During the confrontation, Lopez admitted to taking the carabao and promised to pay indemnification.¹⁸

Police Officer III Leo Lozarito (PO3 Lozarito) corroborated Teresita’s testimony and stated that a request for Lopez’s appearance was issued, but no custodial investigation was conducted. He claimed that he simply allowed Lopez and Teresita to “confront each other.”¹⁹ He also stated that Lopez wanted to settle by paying for the carabao, but the parties were unable to agree on the price.²⁰

The defense presented Lopez as a witness during trial. Lopez denied stealing the carabao.²¹ He also denied knowing Alderete. He stated that he was a farmer,²² and that at the time the offense was committed, he was working at his home in Wines, Baguio District, Davao City.²³

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 17–18.

²¹ Id. at 88, Regional Trial Court Sentence.

²² Id.

²³ Id. at 18, Petition.

Lopez testified that he knew Teresita because she “used to borrow rice and feeds from his parents.”²⁴ He was surprised that she accused him of stealing her carabao.²⁵

Lopez also testified that he went to the police station where he denied stealing any carabao.²⁶ After his appearance at the police station, he went home.²⁷

The defense presented another witness, Marvin Bongato, who claimed to have seen a certain “Edoy” riding a carabao in the morning of July 17, 2002.²⁸ He denied seeing Alderete riding a carabao on the same date.²⁹

The trial court found Lopez guilty of cattle-rustling.³⁰ It gave credence to Alderete’s testimony that Lopez ordered him to bring the carabao to Malagos.³¹ The trial court also noted Alderete’s statement that “he knew Lopez was engaged in the buy and sell of large cattle.”³²

In addition, the trial court discussed that Lopez’s defense of denial had no credence because during the meeting at the police station, Lopez offered to reimburse the value of the carabao and even knelt in front of Teresita to ask for forgiveness.³³

The dispositive portion of the trial court’s ruling states:

In view of the foregoing, judgment is hereby rendered finding Ariel Lopez GUILTY of the crime charged. He is hereby sentenced to suffer an indeterminate penalty of from TEN (10) years and ONE (1) day of *prision mayor* maximum to FOURTEEN (14) years, EIGHT (8) months and ONE (1) day of *reclusion temporal* medium.

He is likewise ordered to pay Mario and Teresita Perez the sum of FIVE THOUSAND PESOS (P5,000.00) representing the value of the stolen carabao.

SO ORDERED.³⁴ (Emphasis in the original)

²⁴ Id. at 88.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id. at 18.

²⁹ Id.

³⁰ Id. at 86–90. The Sentence, promulgated on March 18, 2009, was penned by Judge Virginia Hofileña-Europa, Presiding Judge of Branch 11, Regional Trial Court of Davao City.

³¹ Id. at 88–89.

³² Id. at 88.

³³ Id. at 89.

³⁴ Id.

Lopez filed before the Court of Appeals an appeal arguing that the prosecution was unable to prove that the carabao allegedly stolen was the same carabao owned by Mario and Teresita Perez.³⁵ He argued that the “request for appearance . . . issued by PO3 Lozarito was in violation of his custodial rights.”³⁶

The Court of Appeals ruled³⁷ that the Certificate of Transfer of Large Cattle and Alderete’s testimony were sufficient to prove the ownership of the lost carabao.³⁸

Further, the Court of Appeals held that there was no violation of Lopez’s custodial rights.³⁹ PO3 Lozarito did not ask questions, and Lopez was not compelled to make any admissions.⁴⁰ Lopez negotiated for a settlement with Mario and Teresita Perez, which could not be considered as custodial investigation.⁴¹

However, the Court of Appeals modified the penalty imposed by the trial court. It discussed that Presidential Decree No. 533 is not a special law, but an amendment of Article 310 of the Revised Penal Code. Hence, Article 64 of the Revised Penal Code should apply.⁴²

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, the decision of the RTC is hereby **AFFIRMED**, with the modification that appellant Ariel G. Lopez is hereby **SENTENCED** to suffer an indeterminate prison term of four (4) years, two (2) months and one (1) day of *prision correccional* maximum, as *minimum*, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* medium, as *maximum*.

SO ORDERED.⁴³ (Emphasis in the original)

Lopez moved for reconsideration,⁴⁴ but the Motion was denied in the Resolution dated March 6, 2014.⁴⁵

³⁵ Id. at 39.

³⁶ Id. at 44.

³⁷ Id. at 33–49. The appeal, docketed as CA-G.R. CR No. 00673-MIN, was decided on August 12, 2013. The Decision was penned by Associate Justice Renato C. Francisco and was concurred in by Associate Justices Romulo V. Borja and Oscar V. Badelles of the Twenty-First Division, Court of Appeals, Cagayan de Oro City.

³⁸ Id. at 39–41.

³⁹ Id. at 44.

⁴⁰ Id.

⁴¹ Id. at 44–45.

⁴² Id. at 47–48.

⁴³ Id. at 48–49.

⁴⁴ Id. at 50–55.

⁴⁵ Id. at 57–62. The Resolution was penned by Associate Justice Renato C. Francisco and was concurred in by Associate Justices Romulo V. Borja and Oscar V. Badelles of the Twenty-First Division, Court of Appeals, Cagayan de Oro City.

Petitioner Ariel Lopez, through counsel, filed before this Court a Petition for Review on Certiorari⁴⁶ on April 30, 2014.

In the Resolution⁴⁷ dated July 28, 2014, this Court required respondent to comment and directed the Court of Appeals Clerk of Court to elevate the records of this case.

The Office of the Solicitor General filed its Comment⁴⁸ on December 1, 2014.

In the Resolution⁴⁹ dated February 2, 2015, this Court noted the Office of the Solicitor General's Comment and required petitioner to file a reply.

On July 7, 2015, counsel for petitioner filed a Manifestation⁵⁰ informing this Court that when he received a copy of the February 2, 2015 Resolution, he had yet to receive a copy of respondent's Comment. He subsequently realized that he might have received it, but it could have been among the documents that were burned when the Hall of Justice of Cagayan de Oro was razed by fire. In any case, petitioner would no longer file a reply because petitioner's arguments on why he should be acquitted were discussed in the appeal brief, in the Motion for Reconsideration, as well as in the Petition for Review.⁵¹

In his Petition for Review on Certiorari, petitioner reiterates the arguments raised in his appeal before the Court of Appeals. Petitioner argues that the prosecution failed to prove Mario and Teresita Perez's ownership of the lost carabao. Alderete had no personal knowledge of the lost carabao's appearance, or where it grazed.⁵²

Petitioner alleges that he is "engaged in raising livestock, like pigs, chickens and carabaos."⁵³ He also alleges that the area where the carabao was taken is "a rural and agricultural area, where the abundance of carabaos is not uncommon."⁵⁴

In addition, Alderete himself doubted whether theft was committed. Prosecution witness Urcesio Moralde testified:

⁴⁶ Id. at 13–27.

⁴⁷ Id. at 123.

⁴⁸ Id. at 156–176.

⁴⁹ Id. at 177.

⁵⁰ Id. at 184–187.

⁵¹ Id. at 184.

⁵² Id. at 21.

⁵³ Id. at 22.

⁵⁴ Id.

- Q: And, specifically, what Felix did say [sic] with respect to his participation in the alleged carabao theft? What did he say?
- A: He was doubtful if it was really theft, that he will not report to the other people because it was with me that he was comfortable with.⁵⁵ (Emphasis in the original)

Petitioner argues that Alderete's doubt shows that he was unsure who owned the carabao.⁵⁶

In addition, petitioner points out that there were inconsistencies in the testimonies of the prosecution's witnesses. Alderete testified "that the carabao he and petitioner allegedly untied and brought to Malagos was still pregnant[.]"⁵⁷ On the other hand, Perez testified "that the carabao had an offspring, indicating that the carabao was not pregnant."⁵⁸

Alderete also testified that the carabao was taken 3:45 a.m., while his affidavit states that the carabao was taken at night.⁵⁹

Further, Alderete claimed that he heard about a stolen carabao the following day; hence, "he immediately reported the incident to the barangay police."⁶⁰ He was allegedly told by the police that they would notify the Barangay Captain and the carabao's owner.⁶¹

However, Perez testified that he had been looking for his carabao for a month before he reported the loss to the Barangay Captain.⁶² This shows that Perez was not immediately informed by the barangay police regarding Alderete's statement.⁶³

Petitioner avers that the date when the carabao was allegedly stolen was not proven with certainty. Teresita was unable to cite what year the carabao was stolen. She only testified that the carabao was stolen at 5:00 a.m. of July 27. She explained that she learned of the loss from her husband.⁶⁴ Perez, Teresita's husband, testified "that the carabao was lost on July 17, 2002."⁶⁵

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id. at 22–23.

⁶⁰ Id. at 23.

⁶¹ Id. at 23–24.

⁶² Id. at 24.

⁶³ Id.

⁶⁴ Id. at 23.

⁶⁵ Id.

On the other hand, the police blotter states that the carabao was stolen on July 15, 2002, “at 5:30 in the morning.”⁶⁶

Petitioner further argues that his alleged admission is inadmissible in evidence.⁶⁷ He was summoned by the police because he was suspected of stealing a carabao.⁶⁸

Petitioner points out that custodial investigation includes:

the practice of issuing an “invitation” to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the “inviting” officer for any violation of law. And any uncounselled confession or admission obtained by the accused on such occasion shall be inadmissible against him.⁶⁹

On the other hand, respondent cites Perez’s testimony and argues that it established ownership over the carabao:

Q: You said the carabao was lost. How was it lost?

A: Ariel Lopez untied the rope tied at the coconut tree.

Q: When was it that this carabao was discovered to be lost?

A: At 5:00 a.m. on July 17, 2002.

Q: Who was the person who discovered that the carabao was lost at 5:00 a.m. on July 17, 2002?

A: Me.

Q: At what place?

A: There *where the carabao was tied at the coconut tree.*

....

Q: Who tied the carabao to the tree?

A: *Me, sir.*⁷⁰ (Emphasis supplied)

Respondent cites Alderete’s testimony stating that there were no other carabaos tied in the area and that the lost carabao was a “big female carabao with big horns.”⁷¹ Respondent claims that the Certificate of Transfer of Large Cattle is sufficient to prove that Mario and Teresita Perez owned the lost carabao.⁷²

⁶⁶ Id.

⁶⁷ Id. at 25.

⁶⁸ Id.

⁶⁹ Id. at 26.

⁷⁰ Id. at 163.

⁷¹ Id. at 164.

⁷² Id. at 165.

Respondent argues that the inconsistencies in Alderete's testimony pertain to minor matters.⁷³ Likewise, petitioner's statement during the meeting held at the police station was made spontaneously; thus, it is admissible in evidence.⁷⁴

Further, respondent avers that petitioner raises questions of fact, which are not allowed in a Rule 45 petition for review.⁷⁵

The issues for resolution are:

First, whether this Court should deny the Petition for raising questions of fact;

Second, whether all the elements of the crime of cattle-rustling were proven; and

Lastly, whether petitioner's uncounselled admission during the confrontation at the barangay police office is admissible in evidence.

Petitioner should be acquitted.

I

The general rule is that a Rule 45 petition for review on certiorari should only raise questions of law. As provided under Rule 45, Section 1 of the Rules of Court:

RULE 45 APPEAL BY CERTIORARI TO THE SUPREME COURT

SECTION 1. *Filing of petition with Supreme Court.* — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

⁷³ Id. at 166.

⁷⁴ Id. at 167.

⁷⁵ Id. at 171–172.

However, there are instances when this Court allows questions of fact in a Rule 45 petition for review. These instances include the following:

(1) when there is grave abuse of discretion; (2) when the findings are grounded on speculations; (3) when the inference made is manifestly mistaken; (4) when the judgment of the Court of Appeals is based on a misapprehension of facts; (5) when the factual findings are conflicting; (6) when the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of the parties; (7) when the Court of Appeals overlooked undisputed facts which, if properly considered, would justify a different conclusion; (8) when the findings of the Court of Appeals are contrary to those of the trial court; (9) when the facts set forth by the petitioner are not disputed by the respondent; and (10) when the findings of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.⁷⁶

There is a question of law “when there is doubt as to what the law is on a certain state of facts”⁷⁷ and there is a question of fact “when the doubt arises as to the truth or falsity of the alleged facts.”⁷⁸

In this case, petitioner asks this Court to review the evidence and argues that the prosecution was unable to prove his guilt beyond reasonable doubt.⁷⁹ Thus, petitioner raises a question of fact. Nevertheless, this Court gives due course to the Petition because it falls under the exceptions as to when this Court may entertain questions of fact. A review of the record shows that the trial court and the Court of Appeals misapprehended the facts, and their findings are contradicted by the evidence presented.

II

The prosecution failed to prove one of the elements of cattle-rustling, specifically, that the lost carabao of Mario and Teresita Perez is the same carabao allegedly stolen by petitioner.

Presidential Decree No. 533 defines cattle-rustling as:

Section 2. *Definition of terms* – The following terms shall mean and be understood to be as herein defined:

....

⁷⁶ *Benito v. People*, G.R. No. 204644, February 11, 2015, 750 SCRA 450, 459–460 [Per J. Leonen, Second Division], *citing Pagsibigan v. People*, 606 Phil. 233, 241–242 (2009) [Per J. Carpio, First Division].

⁷⁷ *Tongonan Holdings and Dev’t Corp. v. Atty. Escaña, Jr.*, 672 Phil. 747, 756 (2011) [Per J. Mendoza, Third Division], *citing Republic of the Philippines v. Malabanan*, 646 Phil. 631 (2010) [Per J. Villarama, Jr., Third Division].

⁷⁸ *Id.*

⁷⁹ *Rollo*, pp. 19–20.

c. Cattle rustling is the taking away by any means, method or scheme, without the consent of the owner/raiser, of any of the abovementioned animals whether or not for profit or gain, whether committed with or without violence against or intimidation of any person or force upon things. It includes the killing of large cattle, or taking the meat or hide without the consent of the owner/raiser.

The elements of cattle-rustling are:

(1) large cattle is taken; (2) it belongs to another; (3) the taking is done without the consent of the owner or raiser; (4) the taking is done by any means, method or scheme; (5) the taking is done with or without intent to gain; and (6) the taking is accomplished with or without violence or intimidation against persons or force upon things.⁸⁰

Not all of the elements of cattle-rustling were proven by the prosecution. The carabao transported by petitioner and Alderete was not sufficiently proven to be the same carabao owned by Mario and Teresita Perez.

During trial, Alderete testified as follows:

Q: Now it says here, that first art, (sic) “The next day, I heard rumors that the carabao with the same description as the carabao we got the night before, allegedly owned by Mrs. Teresita Perez was stolen, after confirming that it was the same carabao we delivered to Boy Platan, (sic) I immediately went to Montal.” Why do you say and why do you confirm that the carabao that you got that early morning of July 17 was also the same carabao that belonged to the private complainant in this case?

A: Because there were no other carabaos tied there. It was only a big carabao, the mother, and offspring of the carabao.

Q: Now, are you saying that in that place of Genosas, there was other carabao other than the one you and Lopez took?

.....

Q: And besides that, why do you say it is the same carabao meaning, (sic) the one you and Lopez took, being owned by the complainant? (sic)

A: Because the carabao we brought to Malagos was big female carabao with big horns.

Q: And the carabao belonging to the private complainant, how do you describe it?

⁸⁰ *Ernesto Pil-Ey v. People of the Philippines*, 553 Phil. 747, 755 (2007) [Per J. Nachura, Third Division].

A: It is her carabao because I went to the place where the carabao was tied and it was the same place where it was lost.⁸¹

Alderete's description of the carabao is too generic. Alderete did not mention any distinguishing mark on the carabao that petitioner allegedly stole. In other cases involving cattle-rustling, the identity of the stolen cattle was proven with certainty because of distinguishing marks on the cattle.

In *Pil-ey v. People*,⁸² the cow was specifically described as "white-and-black-spotted cow."⁸³

In *Canta v. People*,⁸⁴ the stolen cow was identified by all four (4) caretakers, "based on the location of its cowlicks, its sex, and its color."⁸⁵ In addition, the reverse side of the Certificate of Ownership of Large Cattle had a drawing of the cow, including the location of its cowlicks. Thus, the identity of the stolen cow was proven.⁸⁶

Perez claims that he owns the carabao allegedly taken by petitioner because he has a "*Katibayan ng Paglilipat ng Pagmamay-ari ng Malalaking Baka*."⁸⁷ However, the Certificate only proves that he owns a carabao. It does not prove that he owns the carabao allegedly stolen by petitioner.

In addition, Alderete had no personal knowledge of the appearance of the carabao owned by Mario and Teresita Perez. He himself doubted whether theft was committed.⁸⁸

The prosecution was unable to establish the date when the carabao was lost. Perez stated that the carabao was lost on July 17, 2002.⁸⁹ According to Teresita, the carabao was lost on July 27, without stating any year.⁹⁰ The written entry in the police blotter stated that the carabao was lost on July 15, 2002.⁹¹ While the date of commission of the offense is not an element of cattle-rustling, the inconsistencies in the testimonies of the prosecution's witnesses with regards the date of commission of the offense affected petitioner's right to prepare his defense intelligently.⁹²

⁸¹ *Rollo*, p. 21.

⁸² 553 Phil. 747 (2007) [Per J. Nachura, Third Division].

⁸³ *Id.* at 750.

⁸⁴ 405 Phil. 726 (2001) [Per J. Mendoza, Second Division].

⁸⁵ *Id.* at 733.

⁸⁶ *Id.*

⁸⁷ *Rollo*, p. 35.

⁸⁸ *Id.* at 22.

⁸⁹ *Id.* at 23.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *See People v. Pareja*, G.R. No. 202122, January 15, 2014, 714 SCRA 131 [Per J. Leonardo-De Castro, First Division].

Further, Alderete gave conflicting statements. He testified that when he heard about the lost carabao, “he immediately reported the incident to the barangay police.”⁹³ However, he also testified that “he did not actually reach the barangay.”⁹⁴

Alderete stated that he talked with the barangay police and the owner of the carabao. Yet, he also testified that “he did not know what happened after he was told by the police to stay out while the latter [called] the barangay captain and the owner of the carabao.”⁹⁵

Alderete’s testimony is also contradicted by Perez’s testimony. Perez stated that he had looked for his carabao for a month before he reported the matter to the Barangay Captain.⁹⁶ He never testified that he was able to talk to Alderete.⁹⁷ This leads us to doubt whether Alderete was indeed able to talk to the owner of the carabao.

III

Petitioner’s uncounselled admission during the confrontation at the police station is inadmissible in evidence.

The Court of Appeals held that “[t]he constitutional procedures on custodial investigation do not apply to a spontaneous statement, not elicited through questioning by the authorities, but given in an ordinary manner whereby the accused orally admits having committed the crime.”⁹⁸

However, the record shows that petitioner’s appearance before the police station was far from being voluntary. The transcript of stenographic notes during the January 30, 2006 hearing states:

Q: Sometime in the month of July 2002, have you come across with [sic] a reported theft of large cattle?

A: Yes, sir.

Q: And what did you list from that report?

A: It was told to me by the Desk Officer, sir, that a theft of large cattle was reported and the complainant is seeking assistance.

Q: And since the complainant sought assistance from the police, what did the Baguio Police District do to the request of the complainant?

⁹³ *Rollo*, p. 23.

⁹⁴ *Id.*

⁹⁵ *Id.* at 23–24.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 44.

- A: So, she identified the alleged suspect so I told my partner to issue a request from [sic] appearance so that the suspect will be confronted in the police station.
- Q: You said that you told your partner to invite the accused, what was that phrase again?
- A: Request for appearance.
- Q: You said that you asked your partner to issue request for appearance, do you know what happened to that request for appearance?
- A: It was sent by us sir, and the alleged accused appeared to [sic] our police station.⁹⁹

In this case, the so-called “request for appearance” is no different from the “invitation” issued by police officers for custodial investigation.

Section 2 of Republic Act No. 7438¹⁰⁰ provides:

SEC. 2. Rights of Persons Arrested, Detained or under Custodial Investigation; Duties of Public Officers. -

....

As used in this Act, “custodial investigation” shall include the practice of issuing an “invitation” to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the “inviting” officer for any violation of law.

Custodial investigation has also been defined as:

Custodial investigation commences when a person is taken into custody and is singled out as a suspect in the commission of a crime under investigation and the police officers begin to ask questions on the suspect's participation therein and which tend to elicit an admission.¹⁰¹

The circumstances surrounding petitioner’s appearance before the police station falls within the definition of custodial investigation. Petitioner was identified as a suspect in the theft of large cattle. Thus, when the request for appearance was issued, he was already singled out as the probable culprit.

⁹⁹ Id. at 25–26.

¹⁰⁰ An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof (1992).

¹⁰¹ *People v. Guting*, G.R. No. 205412, September 9, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/205412.pdf>> 5 [Per J. Leonardo-De Castro, First Division].

PO3 Lozarito testified that there was no custodial investigation because he did not ask questions. He “let Teresita and [petitioner] confront each other.”¹⁰² However, PO3 Lozarito’s explanation attempts to circumvent the law protecting the rights of the accused during custodial investigation.

*People v. Chavez*¹⁰³ discussed that the so-called Miranda rights “are intended to protect ordinary citizens from the pressures of a custodial setting.”¹⁰⁴ The confrontation between Teresita and petitioner can be considered as having been done in a custodial setting because (1) petitioner was requested to appear by the police; (2) the confrontation was done in a police station; and (3) based on his testimony, PO3 Lozarito was inside the police station during the confrontation. When petitioner appeared before Teresita at the police station, the “pressures of a custodial setting”¹⁰⁵ were present.

PO3 Lozarito testified that:

Q: You said that Ariel Lopez appeared in the police station, do you know what if anything transpired thereat between Ariel Lopez and Teresita Perez?

.....

A: No agreement. They will not enter an amicable settlement and the price.

Q: They were just arguing on the price but with respect to other matters, there was no conflict?

A: No conflict.¹⁰⁶

The Daily Record of Events of the Philippine National Police likewise states that:

[T]he persons of Ariel LOPEZ, Teresita Pere[z], and Mario Pere[z] appear to this station for confrontation and settlement for theft (sic) of large cattle (carabao), herein Ariel Lopez while at this office voluntarily admitted his fault. . . . After lengthly (sic) confrontation no settlement was reach[ed] between both parties[.]¹⁰⁷

¹⁰² *Rollo*, p. 17.

¹⁰³ G.R. No. 207950, September 22, 2014, 735 SCRA 728 [Per J. Leonen, Second Division].

¹⁰⁴ *Id.* at 750.

¹⁰⁵ *Id.*

¹⁰⁶ *Rollo*, p. 44.

¹⁰⁷ *Id.* at 45.

Hence, PO3 Lozarito's statement on what transpired between petitioner and Mario and Teresita Perez are inadmissible for being hearsay.

Hearsay evidence is defined as:

It is a basic rule in evidence that a witness can testify only on the facts that he knows of his own personal knowledge, *i.e.*, those which are derived from his own perception. *A witness may not testify on what he merely learned, read or heard from others because such testimony is considered hearsay and may not be received as proof of the truth of what he has learned, read or heard.* Hearsay evidence is evidence, not of what the witness knows himself but, of what he has heard from others; it is not only limited to oral testimony or statements but likewise applies to written statements, such as affidavits.¹⁰⁸ (Emphasis supplied, citations omitted)

PO3 Lozarito testified that he "let Teresita and [Lopez] confront each other."¹⁰⁹ He most likely overheard the conversation between Teresita and petitioner. Thus, he had no personal knowledge of what the parties had discussed.

*People v. Bio*¹¹⁰ has held that "the infractions of the so-called Miranda rights render inadmissible only the extrajudicial confession or admission made during custodial investigation."¹¹¹ With this rule applied and petitioner's uncounselled admission disregarded, petitioner should still be acquitted because the prosecution was unable to prove the identity of the lost carabao owned by Mario and Teresita Perez.

For the prosecution's failure to prove all the elements of cattle-rustling, and for the violation of petitioner's rights during custodial investigation, we hold that there is reasonable doubt that petitioner is guilty of cattle-rustling. Thus, he must be acquitted.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Decision dated August 12, 2013 of the Court of Appeals in CA-G.R. CR No. 00673-MIN is **REVERSED** and **SET ASIDE**. Petitioner Ariel Lopez is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. If detained, he is ordered immediately **RELEASED**

¹⁰⁸ *Miro v. Vda. de Erederos*, G.R. Nos. 172532 & 172544-45, November 20, 2013, 710 SCRA 371, 390 [Per J. Brion, Second Division].


¹⁰⁹ *Rollo*, p. 17.

¹¹⁰ G.R. No. 195850, February 16, 2015, 750 SCRA 572, 580-581 [Per J. Del Castillo, Second Division].

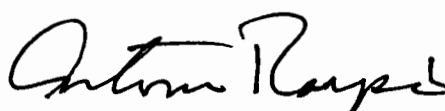
¹¹¹ *Id.* See also *People v. Chi Chan Liu*, G.R. No. 189272, January 21, 2015, 746 SCRA 476 [Per J. Peralta, Third Division].

unless he is confined for any other lawful cause. Any amount paid by way of a bailbond is ordered **RETURNED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

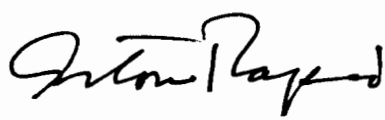

ARTURO D. BRION
Associate Justice

(On official leave)
MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

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