



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 221424

Present:

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,
LEONEN,* and
MARTIRES, JJ.

- versus -

Promulgated:

ROBELYN CABANADA y
ROSAURO,
Accused-Appellant.

19 JUL 2017

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DECISION

PERALTA, J.:

Before Us for review is the August 29, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05585, which affirmed the Decision² dated April 24, 2012 of the Regional Trial Court (RTC), Branch 214, Mandaluyong City in Criminal Case No. MC-09-12269 finding accused-appellant Robelyn Cabanada y Rosauro (*Cabanada*) guilty beyond reasonable doubt of the crime of Qualified Theft.

The antecedent facts are as follows:

* On wellness leave.
¹ Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Andres B. Reyes, Jr. (now a member of this Court) and Apolinario D. Bruselas, Jr., concurring, *rollo*, pp. 2-12.
² Penned by Acting Presiding Judge Ofelia L. Calo; CA *rollo*, pp. 22-28.

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Accused-appellant Cabanada was charged with the crime of Qualified Theft, the accusatory portion of the Information reads:

That on or about the 13th day of April 2009, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, being then employed as housemaid of complainant Catherine Victoria y Tulfo, with grave abuse of confidence and taking advantage of the trust reposed upon her with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carry away the following to wit:

- a) cash amounting to [P]20,000.00;
- b) one (1) Pierre Cardin lady's watch worth [P]10,000.00;
- c) one (1) white gold ring with diamonds and white gold earring with diamonds worth [P]90,000.00;
- d) one (1) Technomarine lady's watch worth [P]15,000.00;
- e) one (1) Santa Barbara [lady's] watch worth [P]6,000.00;
- f) one (1) Relic lady's watch worth [P]3,000.00;
- g) one (1) pair of white gold with brilliantitos earrings worth [P]10,000.00
- h) assorted ATM cards

in the aggregate amount of [P]154,000.00 belonging to one Catherine Victoria y Tulfo, without her knowledge and consent, to her damage and prejudice in the aforementioned amount.

Contrary to law."³

Cabanada pleaded not guilty at her arraignment. Subsequently, the trial on the merits ensued.

The prosecution established that: at about 9:00 a.m. on April 12, 2009, an Easter Sunday, private complainant Catherine Victoria (*Catherine*) and her family visited her mother in Bulacan. Cabanada was left at the house since she was not feeling well and would rather clean the house. The family returned at 9:30 p.m. of the same day.⁴

On April 13, 2009, Catherine asked her husband Victor Victoria (*Victor*) for the ₱47,000.00 he was supposed to give for their household expenses. Victor went to his service vehicle to get the money he kept in the glove compartment, and was surprised that ₱20,000.00 was missing. When Victor informed her, Catherine checked their room and discovered that several pieces of her jewelry were also missing. She immediately called the Mandaluyong Police Station to report the incident.⁵

³ CA rollo, pp. 13-14.

⁴ *Id.* at 23-24.

⁵ *Id.* at 24.

In the course of the interview at the Victoria's residence, Cabanada admitted to PO2 Maximo Cotoner, Jr. (*PO2 Cotoner*) that she took the money. She led them to her room and took a pouch (white envelope) containing ₱16,000.00 cash. She also showed a white leather wallet containing the missing master key of Victor's vehicle. Thereafter, Cabanada was brought at the Criminal Investigation Unit (*CIU*) for further investigation. Cabanada apologized to Catherine, and admitted that she still had some of the missing jewelry in her house at Panatag Compound, Welfareville, Mandaluyong City. The police went to her house and recovered the Technomarine, Pierre Cardin, Relic and Santa Barbara watches and a pair of earrings with diamonds placed in a tool box.⁶

On the other hand, the defense narrated a different set of events. At around 9:00 a.m. on April 12, 2009, Cabanada went to Catherine's house to work as a stay-out housemaid, and left around 9:00 p.m. upon arrival of the Victoria family. On the same date, the *plantsadora* came around 9:00 a.m. and left at 3:00 p.m. In the morning of April 13, 2009, Cabanada returned to the house to resume her work. She was washing clothes at around 9:00 a.m. when Catherine called her and asked about the missing items. She denied any knowledge of the same. The police came and asked her and her sister Rose to board the police mobile. For half an hour, Catherine was talking with the police, while Cabanada and her sister stayed in the mobile. Thereafter, they were brought to the police station, and while in a small room, she was asked thrice if she mortgaged the missing jewelry, to which she denied any knowledge. She was not assisted by a lawyer at the police station nor was allowed to call her relatives.

The RTC found Cabanada guilty beyond reasonable doubt of the crime of qualified theft. It held that the prosecution was able to establish the continuous series of events which undoubtedly point to Cabanada as the perpetrator of the crime charged. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the Court finds the accused Robelyn Cabanada y Rosauro GUILTY beyond reasonable doubt of the crime of Qualified Theft and is hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

SO ORDERED.⁷

On appeal, the CA affirmed the decision of the RTC. The CA ruled that Cabanada's admissions were not obtained under custodial investigation as it was established that she was not yet arrested at that time. The

⁶ *Id.*
⁷ *Id.* at 28.



“uncounselled admissions” were given freely and spontaneously during a routine inquiry. The CA considered the testimony of PO2 Cotoner that they contemplated that Cabanada might have been covering for someone else. The *fallo* of the decision states:

WHEREFORE, premises considered, the assailed Decision is hereby AFFIRMED.

SO ORDERED.⁸

Hence, the instant appeal was instituted.

The Office of the Solicitor General (*OSG*), in its Manifestation,⁹ informed this Court of its intention not to file a supplemental brief since its Brief¹⁰ dated July 23, 2013 has exhaustively discussed and refuted the issues in the case. For her part, Cabanada, through the Public Attorney’s Office, asserted that she adopts all her defenses and arguments in her Appellant’s Brief, and asks for the said Manifestation be considered as substantial compliance in lieu of supplemental brief.¹¹

Cabanada alleges that her alleged admissions cannot be considered as done in an ordinary manner, spontaneously, fully and voluntarily as it was elicited through the questions of PO2 Cotoner. She was patently treated as a suspect when she was being interviewed at the Victoria’s residence. Thus, her uncounselled admissions are inadmissible in evidence for having been obtained without a valid waiver on her part.¹²

On the other hand, the *OSG* argues that although Cabanada’s confession may have been obtained through PO2 Cotoner’s interview, the same was given freely and spontaneously during a routine inquiry and not while she was under custodial investigation. She made the said admission in her employer’s residence wherein she was neither deprived of her liberty nor considered a suspect. The *OSG* emphasizes that since the investigation had just begun, it was entirely within the authority and discretion of the police officers to question any person within the household who could have related any unusual events that occurred on the day the Victoria family went to Bulacan.¹³

This Court finds the appeal partly meritorious.

⁸ *Rollo*, p. 11.

⁹ *Id.* at 20.

¹⁰ *CA rollo* pp. 77-89.

¹¹ *Rollo* pp. 33-34.

¹² *CA rollo* pp. 53-54.

¹³ *Id.* at 84.



Section 12, paragraphs 1 and 3, Article III (Bill of Rights) of the 1987 Constitution provide that:

SEC. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

X X X X

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

The above provision in the Constitution embodies what jurisprudence has termed as "*Miranda rights*." The *Miranda* doctrine requires that: (a) any person under custodial investigation has the right to remain silent; (b) anything he says can and will be used against him in a court of law; (c) he has the right to talk to an attorney before being questioned and to have his counsel present when being questioned; and (d) if he cannot afford an attorney, one will be provided before any questioning if he so desires.¹⁴ The said rights are guaranteed to preclude the slightest use of coercion by the State as would lead the accused to admit something false, not to prevent him from freely and voluntarily telling the truth.¹⁵

The "investigation" in Section 12, paragraph 1 of the Bill of Rights pertains to "custodial investigation." 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.¹⁶

This Court expounded in *People v. Marra*:¹⁷

Custodial investigation involves any questioning initiated by law enforcement officers *after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way*. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, *the suspect is taken into custody, and the police carries out a process of interrogations that lends itself to eliciting incriminating statements* that the rule begins to operate.¹⁸

¹⁴ *People v. Mojello*, 468 Phil. 944, 952-953 (2004).

¹⁵ *People v. Andan*, 336 Phil. 91, 106 (1997).

¹⁶ *People v. Guting y Tomas*, G.R. No. 205412, September 9, 2015, 770 SCRA 334, 341.

¹⁷ 306 Phil. 586 (1994).

¹⁸ *People v. Marra*, *supra*, at 594. (Citation omitted).



Republic Act (R.A.) No. 7438 reinforced the constitutional mandate and expanded the definition of custodial investigation. This means that even those who voluntarily surrendered before a police officer must be apprised of their *Miranda rights*.¹⁹ The same pressures of a custodial setting exist in this scenario. A portion of Section 2 of R.A. No. 7438 reads:

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

x x x x

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.²⁰

Applying the foregoing, Cabanada was not under custodial investigation when she made the confession, without counsel, to PO2 Cotoner that she took the missing ₱20,000.00. The prosecution established that the confession was elicited during the initial interview of the police after Catherine called to report the missing money and personal effects. The investigation was still a general inquiry of the crime and has not focused on a particular suspect. Also, she admitted to the crime while at the residence of her employer, thus, she was not yet taken into custody or otherwise deprived of her freedom. As PO2 Cotoner’s testified:

- Q: **Why did you start your interview with accused Robelyn Cabanada?**
- A: **Because she’s only the person left in that house during that time, ma’am.**
- Q: You said that you started interview with Robelyn Cabanada, what was her reaction if you can remember when you started to interview her?
- A: At first she was crying and later she was talking and talking and admitted that she was the one who took the money, ma’am.
- Q: How according to her were she able to get the money, you mentioned earlier that private complainant in this case Catherine Victoria told you that she discovered [₱]20,000 out of [₱]47,000.00 inside a white envelope which white envelope was inside her car. How did accused tell you how she got the money?
- A: She said that she also stole the master key of the car prior to that time she stole the money, ma’am.
- Q: When you were interviewing accused Ms. Robelyn Cabanada, who were present?
- A: The complainant, ma’am.

¹⁹ *People v. Chavez*, G.R. No. 207950, September 22, 2014, 735 SCRA 728, 751.

²⁰ *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*, approved on May 15, 1992.

Q: Aside from the complainant who else were present?

A: PO3 Rodel Samaniego, ma'am.

Q: How did complainant react when accused told you or related information that she knows the stolen master key of the car, who open the same?

A: The complainant revealed that she lost the key several months ago, ma'am.

Q: What happened after this information was given to you?

A: Together the complainant the accused led us in her room and in a cabinet she took from there the white envelope which consists of [P]16,000.00 and after that she also get the leather wallet which contained the master key of the car which she stole several months ago, ma'am.

x x x²¹

The records of the case reveal that Cabanada was brought to the CIU office for further investigation after she admitted the crime and after Catherine expressed her desire to pursue the case against her. However, prosecution witness PO2 Cotoner admitted that Cabanada was not apprised of her constitutional rights. He insisted that their investigation has not yet concluded and that the accused was not yet arrested. Thus, in his direct testimony:

PROSEC. LALUCES:

x x x x

Q: How did the complainant react when the accused actually presented this [P]16,000.00 as well as the leather wallet which the wallet (*sic*) contained the key of the car?

A: **She was so angry and she told us that she would pursue the case and we brought the accused to our office together with the complainant, ma'am.**

Q: **For what purpose?**

A: **For further investigation, ma'am.**

Q: **After bringing the accused to the CIU for further investigation as you said, what happened next?**

A: **The accused continued talking, talking, crying and afterwards she told us that there were more pieces of jewelry in their house at Panatag Compound Welfareville, Mandaluyong City, ma'am.**

Q: Where did she actually tell you this?

A: Inside our office, ma'am.

²¹ TSN, August 25, 2009, pp. 6-7.

Q: Which particular part of your office, was she already inside the detention cell?

A: No, ma'am, office of our chief, ma'am.

x x x x²²

Q: The accused practically admitted to you while she was still in the house of Catherine Victoria who having taken the cash belonging to the complainant and reported to you by said Catherine Victoria. **Why did you not give her the rights at that time she made the admission so that she can secure the services of counsel?**

A: **Because at that time she was not arrested yet, ma'am.**

Q: **Why did you not arrest her at that time when she practically admitted to you of this thing?**

A: **Because we thought that the accused was covering up for someone we have not yet finished our investigation, ma'am.**

Q: You have not concluded your investigation?

A: Yes, ma'am.

x x x²³

This Court elucidated that the *Miranda rights* are intended to protect ordinary citizens from the pressure of custodial setting.²⁴ In the case of *Luz v. People*²⁵ citing *Berkemer v. McCarty*,²⁶ it was explained that:

The purposes of the **safeguards prescribed by Miranda** are to ensure that the police do not coerce or trick captive suspects into confessing, **to relieve the "inherently compelling pressures" "generated by the custodial setting itself," "which work to undermine the individual's will to resist,"** and as much as possible to free courts from the task of scrutinizing individual cases to try to determine, after the fact, whether particular confessions were voluntary. Those purposes are implicated as much by in-custody questioning of persons suspected of misdemeanors as they are by questioning of persons suspected of felonies.²⁷

The circumstances surrounding Cabanada's appearance before the police station falls within the definition of custodial investigation. Despite the claim that she was not considered as a suspect at that time, the fact remains that she confessed to having committed the crime and was able to produce the money from her room. The investigation, therefore, ceased to be a general inquiry even if they contemplated that she was covering for someone.

²² *Id.* at 7-8.

²³ *Id.* at 12-13.

²⁴ *People v. Chavez*, *supra* note 19, at 750.

²⁵ 683 Phil. 399 (2012).

²⁶ 468 U.S. 420 (1984).

²⁷ *Luz v. People*, *supra* note 25, at 410. (Emphasis ours).

The subsequent confession of Cabanada at the CIU office can be considered as having been done in a custodial setting because (1) after admitting the crime, Cabanada was brought to the police station for further investigation; (2) the alleged confession happened in the office of the chief; (3) PO2 Cotoner was present during Cabanada's apology and admission to Catherine. The compelling pressures of custodial setting were present when the accused was brought to the police station along with Catherine.

In *People v. Javar*,²⁸ it was ruled that any statement obtained in violation of the constitutional provision, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence. Even if the confession contains a grain of truth, if it was made without the assistance of counsel, it becomes inadmissible in evidence, regardless of the absence of coercion or even if it had been voluntarily given.²⁹ Cabanada's confession without counsel at the police station, which led to the recovery of the other items at her house, is inadmissible.

Nevertheless, the inadmissibility of Cabanada's admission made in CIU does not necessarily entitle her to a verdict of acquittal. Her admission during the general inquiry is still admissible.

Theft is qualified under Article 310 of the RPC, when it is, among others, committed with grave abuse of confidence, thus:

ART. 310. *Qualified Theft*. – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, **or with grave abuse of confidence**, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance. (Emphasis supplied.)

The elements of Qualified Theft committed with grave abuse of confidence are as follows:

1. Taking of personal property;
2. That the said property belongs to another;
3. That the said taking be done with intent to gain;
4. That it be done without the owner's consent;
5. That it be accomplished without the use of violence or intimidation against persons, nor of force upon things;
6. **That it be done with grave abuse of confidence.**³⁰

²⁸ 297 Phil. 111 (1993).

²⁹ *People v. Javar, supra*, at 118.

³⁰ *People v. Mirto*, 675 Phil. 895, 906 (2011). (Emphasis supplied)

The following circumstances are established during the trial: Victor, who had the habit of leaving valuables inside his car, left ₱47,000.00 in the glove compartment; he hid the car keys in the filing cabinet; Catherine's car keys were missing since 2005; Cabanada worked as Victoria's housemaid for several years; she has unrestricted access to all parts of the house including the master bedroom; on April 12, 2009, she was left alone at the house when the family went to Bulacan; the *plantsadora*, who only reported for work every Sunday, had no access to the house and the car; Cabanada was alone from 3:00 p.m. until 9:00 p.m. after the *plantsadora* left at 3:00 p.m.; the next day, on April 13, 2009, Victor discovered that the money was missing; and there was no sign of forced entry or of an intruder entering the house. In addition to the said circumstances, Cabanada admitted to the police in the presence of Catherine that she stole the money and led them to her room where they recovered the ₱16,000.00 cash and white leather wallet containing the master key of Victor's car.

The above circumstances and Cabanada's admission, coupled with presentation of the money, albeit less than the missing amount, establish the presence of the element of unlawful taking. The fact that the money was taken without authority and consent of Victor and Catherine, and that the taking was accomplished without the use of violence or intimidation against persons, nor force upon things, were also proven during the trial. Intent to gain or *animus lucrandi* is an internal act that is presumed from the unlawful taking by the offender of the thing subject of asportation. Actual gain is irrelevant as the important consideration is the intent to gain.³¹ The taking was also clearly done with grave abuse of confidence. Cabanada was working as a housemaid of the Victoria family since 2002.³²

From the foregoing, a modification is called for as regards the imposable penalty. Article 310 of the Revised Penal Code provides that Qualified Theft "shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article," while Article 309 of the RPC states:

Art. 309. *Penalties.* – Any person guilty of theft shall be punished by:
1. The penalty of *prision mayor* in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may

³¹ *Matrido v. People*, 610 Phil. 203, 212 (2009).

³² TSN, December 13, 2011, p. 4. Victor Victoria

Q: If you can remember, sir, when did she start to work for your family as part of your household?

A: It was sometime I think in year 2002, ma'am.



be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

The case of *Cruz v. People*³³ is instructive as to the proper penalty for qualified theft if the value of the property stolen is more than ₱12,000.00 but does not exceed ₱22,000.00. Thus:

x x x In this case, the amount stolen was ₱15,000.00. Two degrees higher than *prision mayor* minimum and medium is *reclusion temporal* in its medium and maximum periods. Applying the Indeterminate Sentence Law, the minimum shall be *prision mayor* in its maximum period to *reclusion temporal* in its minimum period or within the range of 10 years and 1 day to 14 years and 8 months. There being neither aggravating nor mitigating circumstance in the commission of the offense, the maximum period of the indeterminate sentence shall be within the range of 16 years, 5 months and 11 days to 18 years, 2 months and 20 days. The minimum penalty imposed by the RTC is correct. However, the maximum period imposed by RTC should be increased to 16 years, 5 months and 11 days.³⁴

In this case, the value of the property stolen is ₱20,000.00. Applying the above pronouncement, Cabanada should be sentenced to suffer the penalty of ten (10) years and one (1) day of *prision mayor*, as minimum, to sixteen (16) years, five (5) months and eleven (11) days of *reclusion temporal*, as maximum.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 05585, affirming the Decision dated April 24, 2012 of the Regional Trial Court, Branch 214, Mandaluyong City in Criminal Case No. MC-09-12269, which found accused-appellant Robelyn Cabanada y Rosaura guilty beyond reasonable doubt of the crime of Qualified Theft, is hereby **AFFIRMED with MODIFICIATION**. Cabanada is **SENTENCED** to suffer the penalty of Ten (10) years and One (1) day of *prision mayor*, as minimum, to Sixteen (16) years, Five (5) months and Eleven (11) days of *reclusion temporal*, as maximum.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

³³ 586 Phil. 89 (2008).

³⁴ *Cruz v. People, supra*, at 102-103.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

On wellness leave
MARVIC M.V.F. LEONEN
Associate Justice



SAMUEL R. MAITRES
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