



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

ROMEO IGDALINO AND ROSITA IGDALINO, **G.R. No. 233033**

Petitioners, Present:

LEONARDO-DE CASTRO, *J.**
Acting Chairperson,
 DEL CASTILLO,
 JARDELEZA,
 TIJAM, and
 GISMUNDO, *JJ.***

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

JUL 23 2018

X-----X

DECISION

[Signature]

TIJAM, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Decision² dated February 23, 2017 and Resolution³ dated June 29, 2017 of the Court of Appeals (CA) in CA-G.R. CEB CR. No. 02642 entitled "*People of the Philippines, v. Romeo Igdalino and Rosita Igdalino*" which affirmed the Decision⁴ dated December 2, 2014 of the Regional Trial Court (RTC), Branch 28 of Catbalogan City, finding herein petitioners spouses Romeo Igdalino (Romeo) and Rosita Igdalino (Rosita) (collectively, Igdalinos) both guilty of the crime of qualified theft for having

* Designated as Acting Chairperson of the First Division per Special Order No. 2559, dated May 11, 2018.

** Designated as Acting Member per Special Order No. 2560, dated May 11, 2018.

¹ *Rollo*, pp. 9-26.

² Penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Marilyn B. Lagura-Yap and Gabriel T. Robeniol. Id. at 88-102.

³ Id. at 110-111.

⁴ Id. at 43-66.

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harvested 2,500 pieces of nuts of coconut fruits valued at Php4,000.00 from the coconut plantation of Avertino Jaboli (Avertino).

The Antecedents

The Igdalinos, together with their sons Rowel Igdalino (Rowel) and Romeo Igdalino, Jr. (son Romeo, Jr.), were charged in an Information for the crime of qualified theft defined and punished under Article 310 of the Revised Penal Code in relation to Article 308 thereof, as follows:

That on or about the 29th day of June 2000, at about 8:00 o'clock, more or less, in the morning, at Barangay Camarubo-an, Municipality of Jiabong, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping and aiding one another, with deliberate intent to gain, did then and there wilfully, unlawfully and feloniously pick, harvest, gather and carry away with them Two Thousand Five Hundred (2,500) pieces of nuts of the coconut fruits valued at Four Thousand Pesos (P4,000.00), from the coconut plantation of Avertino Jaboli without the knowledge and consent of the latter to the damage and prejudice of the above-named owner, in the aforementioned sum of P4,000.00, Philippine Currency.

CONTRARY TO LAW.⁵

When arraigned, petitioners pleaded not guilty. The case against the son Romeo, Jr. was dismissed considering that he was below fifteen (15) years of age at the time of the alleged commission of the crime.⁶

The evidence for the prosecution tends to establish that Lot No. 1609, the land on which the subject coconut trees were planted, is registered in the name of Francisco Jaboli (Francisco) and covered by Transfer Certificate of Title No. T-7296. Said land was allegedly acquired by Francisco through sale from one Mauricio Gabejan.⁷ Upon Francisco's death, his children, one of who is Avertino, inherited the property.⁸ A caretaker in the person of Felicisimo Bacarra (Felicisimo) was hired by Avertino to oversee the land beginning 1985.⁹

In the morning of June 29, 2000, Felicisimo saw the Igdalinos together with their two sons picking nuts from the coconut trees. The men climbed the trees while Rosita was on the ground gathering the coconuts. Allegedly, the Igdalinos gathered a total of 2,500 pieces of coconuts which were piled, with the husks removed and shells broken.¹⁰ Avertino's sister,

⁵ Id. at 10-11, 43 and 72.

⁶ Id. at 73.

⁷ Id. at 125.

⁸ Id.

⁹ Id. At 11.

¹⁰ Id.

Lilia Dabuet (Lilia), identified TCT No. T-7296 registered under her late father Francisco's name. Lilia was not personally aware that her father acquired lands.¹¹

For the defense, Rosita testified that the parcel of land was owned by her father Narciso Gabejan as shown in the Original Certificate of Title No. 1068 covering Lot No. 1609. She testified that her father tilled the land and harvested coconuts from the plantation every three months without anybody preventing him from doing it. She further testified that her father continued to till the land until she married Romeo. When her father died in 1985, she inherited the said property.¹² She admitted having known Avertino because the latter had filed a case against them, the status of which she had no knowledge of until she inquired from the Register of Deeds sometime in 2002 and while the criminal case for qualified theft was already pending.

Romeo also testified that he lived on the land beginning 1981 when he and Rosita got married. Since then, he helped on the farm and started planting coconut trees around 100 in all. By the time the coconut trees were already fruit-bearing, he started harvesting the coconuts.¹³

The testimony of Pedro Labay, a former barangay captain since 1987, was also offered to establish that for about twenty years already, the Igdalinos were into farming, including the planting of coconut trees on the land they own. Ruben Dacutanán, a resident of the same barangay, also testified that the Igdalinos were living on the land since their marriage and that Narciso personally cultivated the land and planted coconut trees thereon until his death.¹⁴

Supporting the foregoing was the testimony of Rowel, testifying that since he was born, no one else tilled the land except their family.¹⁵

The RTC convicted the Igdalinos, the dispositive portion of which reads:

WHEREFORE, premises considered, Rowel Igdalino is hereby ACQUITTED of the crime of qualified theft for failure of the prosecutor to prove that he acted with discernment at the time he committed the crime charged. Romeo Igdalino and Rosita Igdalino are hereby found GUILTY beyond reasonable doubt for the crime of qualified theft. Thus, by applying the Indeterminate Sentence Law, this Court hereby sentences each of them to suffer an imprisonment of FOUR (4) years, TWO (2) months and 1 day of *prision correccional* as minimum to TEN (10) years of *prision mayor* as maximum term. Likewise, the accused Romeo

¹¹ Id. at 12.

¹² Id.

¹³ Id. at 13.

¹⁴ Id. at 13-14.

¹⁵ Id. at 14.

Igdalino and Rosita Igdalino are directed to pay, jointly and severally, the heirs of complainant Avertino Jaboli actual damages of Four Thousand Pesos (P4,000.00) and moral damages of Twenty Thousand Pesos (P20,000.00). With costs *de officio*.

SO ORDERED.¹⁶

The Igdalinos appealed to the CA and maintained that they merely exercised their rights as owners of the land and the cultivators of the coconut trees.

The CA, however, rejected the Igdalinos' appeal. The CA held that the belief of the accused of their ownership over the property must be honest and in good faith. It held that this requirement was lacking supposedly because at the time the coconuts were taken, the subject lot had already been adjudicated in favor of Francisco in a separate civil action for quieting of title and damages. Thus, the CA upheld the RTC's conviction of the Igdalinos but deleted the award of moral damages for not having been substantiated.

In disposal, the CA held:

WHEREFORE, the appeal is **DENIED**. The Decision dated December 2, 2014, of the regional Trial Court, 8th Judicial Region, Branch 28, in Criminal Case No. 5094, is **AFFIRMED with MODIFICATION** in that:

(1) Applying the Indeterminate Sentence Law, [the Igdalinos] are sentenced to suffer than [sic] imprisonment of Four (4) years, Two (2) months and One (1) day [sic] prision correccional as minimum to Ten (10) years of prision mayor as maximum;

(2) [The Igdalinos] are ordered to pay the amount of P4,000.00 as actual damages which must earn 6% *per annum* computed from finality of the Court's Decision until satisfied.

(3) The award of moral damages is deleted.

SO ORDERED.¹⁷

The Issue

Through the present appeal, the Igdalinos argue that the prosecution failed to establish Avertino's ownership over the disputed parcel of land and that the testimony of the caretaker Felicisimo thereon was merely hearsay. The Igdalinos also argue that the intent to gain, as an element of the crime of qualified theft, was not established since the harvesting of the coconuts was made by them based on their honest belief that they owned the lot where the coconut trees were planted.

¹⁶ Id. at 65-66.

¹⁷ Id. at 102.

Essentially, the issue to be resolved is whether the Igdalinos' guilt beyond reasonable doubt has been established.

The Ruling of the Court

There is merit in the appeal.

We reverse the assailed Decision of the CA and acquit the Igdalinos of the charge of qualified theft. While the determination of guilt necessitates the appreciation of evidentiary matters – a province beyond the Court's review function under Rule 45 of the Rules of Court – an evaluation of the factual findings of the lower courts is permitted in exceptional circumstances, as when the lower courts overlooked certain material and relevant matters.¹⁸

Defining the crime of theft, Article 308 of the RPC provides:

ART. 308. *Who are liable for theft.* Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent.

Theft is likewise committed by:

1. Any person who, having found lost property, shall fail to deliver the same to the local authorities or to its owner;
2. Any person who, after having maliciously damaged the property of another, shall remove or make use of the fruits or objects of the damage caused by him; and
3. Any person who shall enter an enclosed estate or a field where trespass is forbidden or which belongs to another and without the consent of its owner, shall hunt or fish upon the same or shall gather cereals, or other forest or farm products.

Oft-cited, the elements of the crime of theft are: (1) there was a taking of personal property; (2) the property belongs to another; (3) the taking was without the consent of the owner; (4) the taking was done with intent to gain; and (5) the taking was accomplished without violence or intimidation against the person or force upon things.¹⁹

On the other hand, theft becomes qualified if attended by any of the circumstances enumerated under Article 310 of the RPC, thus:

¹⁸ *People v. Esteban*, 735 Phil. 663, 671 (2014).

¹⁹ *Cruz v. People*, 586 Phil. 89, 99 (2008).

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 the plantation or 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 ours)

Following the above provision, when coconuts are stolen while they are still in the tree or on the ground within the premises of the plantation, the theft is qualified. Heavier penalty is imposed for theft of coconuts for purposes of encouraging and protecting the development of the coconut industry considering that coconut groves are rendered more difficult to watch over due to the nature of the growth of coconut trees, making it more prone to theft.²⁰

Be that as it may, for the crime of theft to prosper, it must be established beyond doubt that the accused had the intent to steal personal property. This *animus furandi* pertains to the intent to deprive another of his or her ownership or possession of personal property, apart from but concurrent with the general criminal intent which is an essential element of *dolo malus*.²¹

The intent to steal is presumed from the taking of personal property without the consent of the owner or its lawful possessor. As in all presumptions, this may be rebutted by evidence showing that the accused took the personal property under a *bona fide* belief that he owns the property.²²

*Gaviola v. People*²³ explains:

In *Black v. State*, the State Supreme Court of Alabama ruled that **the open and notorious taking, without any attempt at concealment or denial, but an avowal of the taking, raises a strong presumption that there is no *animus furandi*. But, if the claim is dishonest, a mere pretense, taking the property of another will not protect the taker:**

xxx“In all cases where one in **good faith** takes another's property under claim of title in himself, he is exempt from the charge of larceny, **however puerile or mistaken the claim may in fact be.** And the same is true where the taking is on behalf of another, believed to be the true

²⁰*Empelis, et al. v. Intermediate Appellate Court, et al.*, 217 Phil. 377 (1984) citing *People v. Isnain*, 85 Phil. 648 (1950).

²¹*Gaviola v. People*, 516 Phil. 228, 237 (2006).

²²Supra at 238.

²³Id.

owner. Still, if the claim is dishonest, a mere pretense, it will not protect the taker.”

The gist of the offense is the intent to deprive another of his property in a chattel, either for gain or out of wantonness or malice to deprive another of his right in the thing taken. This cannot be where the taker honestly believes the property is his own or that of another, and that he has a right to take possession of it for himself or for another, for the protection of the latter.

In *Charles v. State*, the State Supreme Court of Florida ruled that the belief of the accused of his ownership over the property must be honest and in good faith and not a mere sham or pretense. (Citations omitted, emphasis ours)

Clearly, jurisprudence has carved out an instance when the act of taking of personal property defeats the presumption that there is intent to steal – when the taking is open and notorious, under an honest and in good faith belief of the accused of his ownership over the property.

In the instant case, the un rebutted testimonial evidence for the defense shows that the Igdalinos had been cultivating and harvesting the fruits of the coconut trees from the plantation since the time of their predecessor, Narciso. Narciso, in turn, had been cultivating and harvesting said coconut trees from the same plantation since Rosita was still a child. The harvesting of the coconuts were made by the Igdalinos openly and notoriously, as testified to by the other barangay residents.

Contrary to the CA's observations, the Court finds that the Igdalinos' open and notorious harvesting of coconuts was made under their belief that they, in fact, owned the land where the plantation is situated. This belief is honest and in good faith considering that they held, in their favor, OCT No. 1068 covering the disputed land under Narciso's name. We find that this honest belief was not tarred by the adjudication in Avertino's favor of the civil case for quieting of title over the same land. Knowledge that the land was finally adjudicated in favor of Avertino came to the Igdalinos only when Rosita inquired from the Register of Deeds in 2002, or long after the complained harvest was made.²⁴ Neither was there any showing that the civil court had already rendered a final decision in Avertino's favor at the time the coconuts were harvested by the Igdalinos. All these tend to show that the Igdalinos' claim of ownership over the disputed land is *bona fide*. In sum, the prosecution failed to establish the elements of unlawful taking and thus, reasonable doubt persists.

WHEREFORE, the appeal is **GRANTED**. The Decision dated February 23, 2017 and Resolution dated June 29, 2017 of the Court of Appeals in CA-G.R. CEB CR. No. 02642, convicting petitioners Romeo Igdalino and Rosita Igdalino of the crime of qualified theft are **REVERSED**

²⁴ *Rollo*, p. 52.

and **SET ASIDE**. Romeo Igdalino and Rosita Igdalino are **ACQUITTED** of the crime charged on reasonable doubt. If detained, they are ordered immediately **RELEASED**, unless confined for any other lawful cause. If bail bond has been paid, said amount is ordered immediately **RETURNED**.

SO ORDERED.

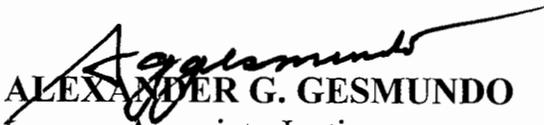

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

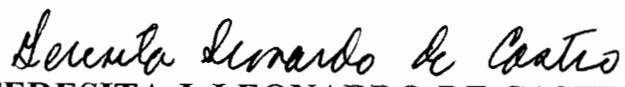

MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



ANTONIO T. CARPIO

Senior Associate Justice

(Per Section 12, R.A. 296

The Judiciary Action of 1948, as amended)