



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

**JULIUS ENRICO TIJAM y
 NOCHE and KENNETH BACSID
 y RUIZ,**

Petitioners,

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

G.R. No. 251732

Present:

CAGUIOA, J.,
 Chairperson,
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

Promulgated:
July 10, 2023

MisDcBatt

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DECISION

GAERLAN, J.:

An accused shall not be deprived of life and liberty on sheer conjectures, presumptions, or suspicions, but only on evidence that supports a conviction beyond reasonable doubt.

This resolves the Petition for Review on *Certiorari*¹ filed by petitioners Julius Enrico Tijam (Tijam) and Kenneth Bacsid (Bacsid) (collectively, petitioners), praying for the reversal of the November 20, 2019 Decision² and January 29, 2020 Resolution³ of the Court of Appeals in CA-G.R. CR No. 42347, which affirmed the July 31, 2018 Amended Decision⁴ of the Regional Trial Court (RTC), Branch 111, Pasay City convicting them of Theft.

¹ Rollo, pp. 24-38.

² Id. at 45-62; penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Danton Q. Bueser and Ronaldo Roberto B. Martin, concurring.

³ Id. at 64-65.

⁴ Id. at 80-89; penned by Presiding Judge Wilhelmina B. Jorge-Wagan.

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Antecedents

In an Information dated August 25, 2017, petitioners were charged with Theft under Article 308, in relation to Article 309 of the Revised Penal Code (RPC), as amended, to wit:

That on or about the 18[th] day of August 2017, in Pasay City Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with intent to gain and without the consent of the complainant KIM MUGOT Y MONJARDIN (Mugot), did then and there willfully, unlawfully, and feloniously take, steal and carry away one (1) unit Samsung A7 valued at Php25,000.00 owned by and belonging to aforesaid complainant, to the damage and prejudice of the latter in the amount of Php25,000.00.

Contrary to law.⁵

Petitioners pleaded not guilty to the charge. After the pre-trial, trial on the merits ensued.

At around 1:30 a.m. of August 18, 2017, Kim Mugot (Mugot) was waiting for a bus ride home at SM Mall of Asia, Pasay City. When the bus arrived, Mugot, along with other commuters, rushed inside the bus. Meanwhile, Mugot was pinned against the door of the bus. He later noticed that his Samsung Galaxy A7 cellular phone, which was in his right pocket, was missing. Immediately, he alighted from the bus and searched for the person who pinned him against the bus door, whom he later identified as Bacsid. He noticed that Bacsid headed to the passenger's unloading area of SM Mall of Asia.⁶

As Mugot approached the passenger's unloading area, he saw Tijam hand over his cellular phone to Bacsid. He shouted "*magnanakaw!*" and tried to recover his cellular phone from Bacsid. A struggle ensued between them, thereby causing the cellular phone to fall on the ground damaging it. Mugot picked up his cellular phone, and again screamed "*magnanakaw.*"⁷

Responding to the commotion, Romnick Sarmiento, SM Mall of Asia's security guard, apprehended the petitioners and reported the incident

⁵ Id. at 26.

⁶ Id. at 46.

⁷ Id. at 46-47.

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to the SM Mall of Asia Police Community Precinct. Thereafter, the case was referred to the Investigation Office of Pasay City Police Station.⁸

On the other hand, petitioners vehemently denied the charge levelled against them. Tijam related that he was on his way home after having dinner with his mother at the seaside, when he met Bacsid at the bus waiting area of SM Mall of Asia. They exchanged pleasantries and were about to part ways, when Tijam saw a cellular phone on the ground, which he picked up. He showed Bacsid the cellular phone. At that point, Mugot emerged and grabbed the cellular phone from Tijam causing it to fall on the ground. Then, Mugot vigorously hurled accusations against them, which led to a heated conversation among them.⁹

Ruling of the RTC

On July 12, 2018, the RTC found petitioners guilty of Theft.¹⁰ It noted that the prosecution established all the elements for Theft beyond reasonable doubt.¹¹ Likewise, it anchored its ruling on the disputable presumption that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act. Hence, it adjudged petitioners guilty since they were found in possession of the cellular phone moments after Mugot lost it. It further faulted petitioners for failing to proffer a clear and convincing explanation as to how they came into possession of the cellular phone.¹² Accordingly, it ruled as follows:

WHEREFORE, this court finds [petitioners] Julius Enrico Tijam y Noche and Kenneth Bacsid y Ruiz guilty beyond reasonable doubt of theft and accordingly, sentences each of them to suffer the indeterminate penalty of imprisonment ranging from Five (5) months of *arrestor mayor*, as minimum, to Two (2) years of *prision correccional*, as maximum. No award of civil liability.

SO ORDERED.¹³

However, on July 31, 2018, the RTC issued an Amended Decision¹⁴ to correct several typographical errors in the dispositive portion of its July 12, 2018 ruling.

⁸ Id. at 47.

⁹ Id. at 47.

¹⁰ Id. at 80-83.

¹¹ Id. at 84.

¹² Id. at 85.

¹³ Id. at 89.

¹⁴ Id. at 90-99.

Petitioners sought reconsideration, which was denied in the August 22, 2018 RTC Order.

Aggrieved, petitioners filed an appeal.

Ruling of the CA

On November 20, 2019, the CA affirmed the conviction meted by the RTC.¹⁵ It held that the prosecution established all the elements of Simple Theft beyond reasonable doubt. Moreover, it reasoned that Mugot positively identified Bacsid as the person on his left side as passengers rushed to board the bus on the night of the incident. It further noted that Mugot saw Tijam holding his cellular phone and handing the same to Bacsid. Finally, it rejected the petitioners' defense of denial. Thus, it disposed of the case as follows:

WHEREFORE, the trial court's Decision dated July 31, 2018 and Order dated August 22, 2018 are hereby **AFFIRMED**.

SO ORDERED.¹⁶ (Emphases in the original)

Dissatisfied with the ruling, petitioners filed a motion for reconsideration, which the CA denied in its January 29, 2020 Resolution.¹⁷

Undeterred, petitioners filed the instant Petition for Review on *Certiorari*.¹⁸

Issue

The crux of the case is whether or not the petitioners are guilty beyond reasonable doubt of Simple Theft.

Petitioners bewail that the prosecution failed to prove the element of unlawful taking. They lament that the CA simply relied on the presumption of possession of the stolen device to support the finding of guilt, when they thoroughly provided an explanation behind their possession.¹⁹ Likewise, they contend that there was never any direct evidence or even clear

¹⁵ Id. at 45-62.

¹⁶ Id. at 62.

¹⁷ Id. at 64-65.

¹⁸ Id. at 24-36.

¹⁹ Id. at 32.

circumstantial evidence proving their guilt.²⁰ Also, they attack Mugot's testimony as incredible and dubious. Finally, they maintain that their denial cannot be disregarded since the prosecution's evidence is insufficient to overcome the presumption of innocence accorded by the Constitution.²¹

On the other hand, the People of the Philippines, through the Office of the Solicitor General (OSG) points out that the petitioners raise questions of fact, which are improper in a petition for review on *certiorari*.²² Moreover, the OSG maintains that the prosecution established that petitioners took Mugot's cellular phone.²³ Furthermore, the OSG staunchly insists that Mugot's testimony sufficiently established the circumstances leading to the petitioners' guilt.²⁴

Ruling of the Court

The petition is impressed with merit.

Parameters of Judicial Review Under Rule 45 and the Exceptions Thereto

A determination of guilt hinges on how a court appreciates evidentiary matters in relation to the requisites of an offense, and is thus, fundamentally a factual issue.²⁵ As a general rule, factual matters are not the proper subject of an appeal by *certiorari*,²⁶ as it is not the Court's function to analyze or weigh the evidence which has been considered in the proceedings below.²⁷ Nonetheless, a review of the factual findings is justified under any of the following circumstances:

- (i) when the findings are grounded entirely on speculations, surmises or conjectures;
- (ii) when the inference made is manifestly mistaken, absurd or impossible;
- (iii) when there is grave abuse of discretion;
- (iv) when the judgment is based on a misapprehension of facts;

²⁰ Id. at 34.

²¹ Id. at 36.

²² Id. at 138.

²³ Id. at 140.

²⁴ Id. at 142.

²⁵ *Macayan, Jr. v. People*, 756 Phil. 202, 214 (2015).

²⁶ *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013).

²⁷ Id.

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- (v) when the findings of fact are conflicting;
- (vi) when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
- (vii) when the findings are contrary to that of the trial court;
- (viii) when the findings are conclusions without citation of specific evidence on which they are based;
- (ix) when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent;
- (x) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [or]
- (xi) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.²⁸

As will be shown, the findings of the RTC and the CA are based on speculations, surmises or conjectures, thereby warranting a review of the facts.

The prosecution failed to prove the petitioners' guilt for simple theft beyond reasonable doubt.

Article 308 of the RPC defines Theft as the physical taking of another's property without violence or intimidation against persons or force upon things.²⁹ To sustain a conviction for theft, the prosecution must prove the following elements beyond reasonable doubt, namely: (i) the taking of personal property; (ii) the property belongs to another; (iii) the taking was done with intent to gain; (iv) the taking was done without the consent of the owner; and (v) the taking is accomplished without violence or intimidation against person or force upon things.³⁰

The burden to overcome the presumption of innocence of the accused lies with the prosecution.³¹ In this regard, the evidence for the prosecution

²⁸ *De Leon v. Maunlad Trans Inc.*, 805 Phil. 531, 538-539 (2017).

²⁹ *Roque v. People*, 486 Phil. 288, 305 (2004).

³⁰ *Pit-Og v. People*, 268 Phil. 413, 420-421 (1990), citing *People vs. Rodrigo*, 123 Phil. 310, further citing *U.S. v. De Vera*, 43 Phil. 1000.

³¹ *People v. Molde*, G.R. No. 228262, January 21, 2019, citing *People v. Dacuma*, 753 Phil. 276, 287 (2015).

must stand or fall on its own weight and should not draw strength from the weakness of the defense.³²

In the absence of direct evidence, circumstantial evidence may be sufficient for conviction if: (i) there is more than one circumstance; (ii) the facts from which the inferences are derived are proven; and (iii) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. The inferences cannot be based on other inferences.³³

Likewise, the circumstances must constitute an unbroken chain that leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others as the guilty person. Moreover, the circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty, and inconsistent with any other hypothesis except that of guilt.³⁴

In this case, the prosecution relied on the following circumstances to prove the petitioners' liability for theft:

- (i) Mugot saw Bacsid pin him against the door of the bus while he was boarding;
- (ii) After entering the bus, Mugot noticed his mobile phone missing from his right pocket;
- (iii) Mugot alighted from the bus and saw Bacsid walking back to the bus waiting area of SM Mall of Asia; and
- (iv) Mugot saw Tijam hand over his (Mugot's) cellular phone to Bacsid.³⁵

The Court finds that the combination of the aforementioned circumstances, even if given full faith and credit, do not establish the elements of Theft.

It cannot be gainsaid that the only overt acts remotely connecting Bacsid to the purported Theft are Mugot's allegations that Bacsid pinned him against the bus door and thereafter, walked back to the waiting area. By

³² Id.

³³ Rule 133 NEW RULES OF EVIDENCE, A.M. No. 19-08-15-SC, Section 4.

³⁴ *People v. Bayon*, 636 Phil. 713, 722 (2010), citing *People v. Castro*, 587 Phil. 537 (2008).

³⁵ *Rollo*, p. 84.

no stretch of the imagination may the act of pinning someone establish the unlawful taking of property. Besides, it is strange that Mugot claimed that Bacsid pinned him to the bus door at his (Mugot's) left side, while the cellular phone was taken from his right pocket.

On the other hand, the only conspicuous deed hinting at Tijam's participation is the fact that he held Mugot's cellular phone and allegedly handed the same to Bacsid at the passenger waiting area. However, there is nothing in the records to indicate that Mugot saw Tijam inside the bus or show that the latter was there when his cellular phone was purportedly stolen.

Mugot further related that he was rushing inside the bus with other commuters. It was therefore not impossible for the purported Theft (if it indeed occurred), to have been committed by someone else. To stress, a conviction based on circumstantial evidence, must exclude the possibility that some other person committed the crime,³⁶ which does not obtain here.

At best, the circumstantial evidence presented merely arouses suspicion or gives room for conjecture, which is not sufficient to convict. Overall, the circumstances do not constitute an unbroken chain that points to the petitioners, to the exclusion of all others, as the guilty persons. Worse, the facts from which the inferences are derived have not been substantially proven and fail to engender a moral certainty of guilt. Thus, the petitioners' constitutional presumption of innocence must prevail.

Tijam's possession of the cellular phone was satisfactorily explained.

Section 3(j), Rule 131 of the Rules of Evidence lays the disputable presumption "that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act."³⁷ Latching on to said presumption, the RTC and the CA surmised that Tijam's possession of the cellular phone proves that he and Bacsid conspired with each other to steal it from Mugot.

Jurisprudence exhorts that courts should be mindful before applying said presumption and first undertake a thorough examination of the facts of

³⁶ *Zabala v. People*, 752 Phil. 59, 70 (2015), citing *People v. Anabe*, 644 Phil. 261 (2010).

³⁷ 2019 Proposed Amendments to the Revised Rules of Evidence, A.M. No. 19-08-15-SC.

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the case. Failure to do so may result to unjust convictions that will lead to the forfeiture of one's life, liberty, and property.³⁸

Significantly, in *Mabunga v. People*,³⁹ the Court stringently warned against the indiscriminate application of presumptions in criminal cases:

In criminal cases, however, presumptions should be taken with caution especially in light of serious concerns that they might water down the requirement of proof beyond reasonable doubt. As special considerations must be given to the right of the accused to be presumed innocent, there should be limits on the use of presumptions against an accused.

Although possession of stolen property within a limited time from the commission of the theft or robbery is not in itself a crime, it being possible to possess the same and remain innocent, such possession may be sufficient for the formation of an inference that the possessor is the thief **unless the evidence satisfactorily proves that the property was acquired by the accused by legal means.**

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Before an inference of guilt arising from possession of recently stolen goods can be made, however, the following basic facts need to be proven by the prosecution: (1) that the crime was committed; (2) that the crime was committed recently; (3) that the stolen property was found in the possession of the defendant; and (4) **that the defendant is unable to explain his possession satisfactorily.**

For purposes moreover of conclusively proving possession, the following considerations have to be emphasized: **(1) the possession must be unexplained by any innocent origin;** (2) the possession must be fairly recent; and (3) the possession must be exclusive.⁴⁰ (Emphases supplied; citations omitted)

In the same vein, *United States v. Catimbang*⁴¹ underscores that a reasonable explanation behind the accused's possession inconsistent with guilt, shall be sufficient to rebut the presumption:

The inference of guilt is one of fact and rests upon the common experience of men. But the experience of men has taught them that an apparently guilty possession may be explained so as to rebut such an inference and an accused person may therefore put witnesses on the stand or go on the witness stand himself to explain his possession, and any

³⁸ *Lopez v. People*, G.R. No. 249196, April 28, 2021.

³⁹ 473 Phil. 555 (2004).

⁴⁰ Id. at 565-567.

⁴¹ 35 Phil. 367 (1916).

reasonable explanation of his possession, inconsistent with his guilty connection with the commission of the crime, will rebut the inference as to his guilt which the prosecution seeks to have drawn from his guilty possession of the stolen goods.⁴²

In this case, Tijam satisfactorily explained that he saw the cellular phone lying on the pavement, and thus picked it up. Such explanation is plausible in view of Mugot's own narration that there was an onslaught of passengers rushing inside the bus, which could have caused him to drop his cellular phone. Significantly, records are bereft of proof that Mugot saw Tijam inside the bus or anywhere near it when his cellular phone was lost or stolen.

It is also worth noting that it was never established that Bacsid had possession of the cellular phone. Records show that after Tijam picked up the cellular phone, he showed it to Bacsid. At this point, Mugot stormed on them and haphazardly accused them of stealing said device.

It bears stressing that the fact of possession alone, wholly unconnected with any other circumstances, cannot be used as a ground to convict. Clearly, the disputable presumption cannot prevail over the petitioners' explanation. Tijam's possession having been explained, the legal presumption is disputed and thus, cannot be the sole basis for the conviction. To hold otherwise, will be a travesty of justice as criminal convictions necessarily require proof of guilt beyond reasonable doubt.

Furthermore, the equipoise rule in criminal cases ordains that when inculpatory facts are susceptible of two or more interpretations, one that is consistent with the innocence of the accused, and the other consistent with his/her guilt, then the evidence fails to hurdle the test of moral certainty required to support a conviction.⁴³ Consequently, where the evidence is evenly balanced, the constitutional presumption of innocence tilts the scales in favor of the accused.⁴⁴

Finally, the petitioners' defense of denial cannot be brushed aside in view of the weakness of the prosecution's evidence. Although a denial partakes of the nature of negative and self-serving evidence and is seldom given weight in law, still the defense of denial assumes significance when the prosecution's evidence fails to prove guilt beyond reasonable doubt.⁴⁵

⁴² Id. at 371-372, cited in *Mabunga v. People*, supra note 39.

⁴³ *Lopez v. People*, supra note 38; *People v. Urzais*, 784 Phil. 561, 579-580 (2016).

⁴⁴ *People v. Urzais*, id., citing *People v. Erguiza*, 592 Phil. 363, 388 (2008).

⁴⁵ *Franco v. People*, 780 Phil. 36, 53 (2016), citing *People v. Cañete*, 364 Phil. 423, 435 (1999) and *People v. Mejia*, 612 Phil. 668, 687 (2009).

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Here, the petitioners’ denial, which gave way to a sufficient explanation behind their possession engenders a reasonable doubt as to their guilt.

All told, the Court must judge the petitioners’ guilt or innocence based on facts and not on mere conjectures, presumptions, or suspicions.⁴⁶ The highest quantum of proof is required as the petitioners’ life and liberty are at stake.⁴⁷ In this case, the facts from which the inferences were derived were not proven; the totality of the circumstances miserably failed to point to the petitioners to the exclusion of all others as the malefactors; the disputable presumption conjecturally relied upon by the RTC and the CA was sufficiently rebutted; and the evidence presented was susceptible of two interpretations. Due to the prosecution’s failure to prove the petitioners’ guilt beyond reasonable doubt, their presumption of innocence, enshrined in the Constitution and stringently guarded by the Court, must be upheld. Accordingly, the petitioners must be acquitted of the charge.

WHEREFORE, the Petition for Review on *Certiorari* is **GRANTED**. The November 20, 2019 Decision and January 29, 2020 Resolution of the Court of Appeals in CA-G.R. CR No. 42347 are **REVERSED and SET ASIDE**. Petitioners Julius Enrico Tijam and Kenneth Bacsid are hereby **ACQUITTED** on the ground that their guilt was not proven beyond reasonable doubt.

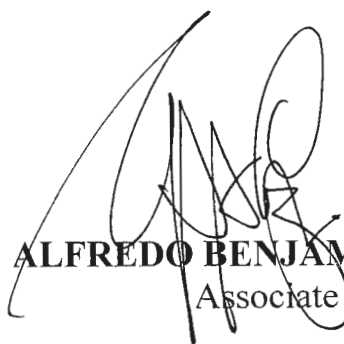
Let entry of judgment be issued immediately.

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

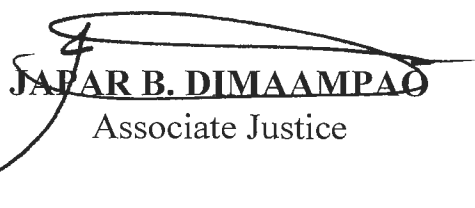
*See Concurring
Opinion*

⁴⁶ *Franco v. People*, supra note 45.

⁴⁷ *People v. Molde*, supra note 31.




HENRI JEAN PAUL B. INTING
Associate Justice



JAFAR B. DIMAAMPAO
Associate Justice

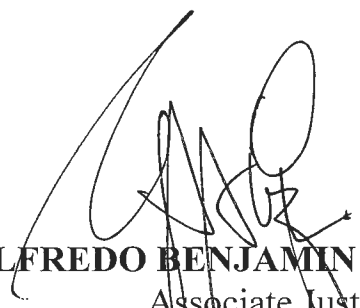
in Dissenting Opinion



MARIA FLOMENA D. SINGH
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.

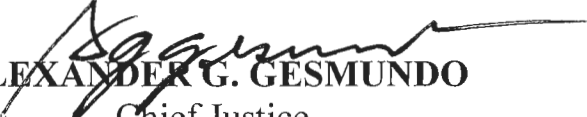


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

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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.


ALEXANDER G. GESMUNDO
Chief Justice

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