

FIRST DIVISION

[CA-G.R. CR No. 34791, May 20, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICHARD GAYO Y ABILADOR AND RENATO GAJO Y DE VERA,
ACCUSED-APPELLANTS.**

D E C I S I O N

BARRIOS, M. M., J.:

On appeal is the Decision dated 26 December 2011 of the Regional Trial Court (Branch 31, Agoo, La Union), wherein the accused-appellants were found guilty of the crime of Qualified Theft as follows:

"x x x

After a careful study of the evidence presented in this case, the court has come to the conclusion that both accused Richard Gayo and Renato Gajo are guilty of qualified theft, punished in Article 310 of the Revised Penal Code as principals (Article 17 of the Revised Penal Code), Richard Gayo by direct participation and Renato Gajo by inducement. They are both sentenced to suffer the penalty of imprisonment ranging from two years four months and one day of prision correccional minimum as the penalty's minimum to six years and one day of prision mayor minimum as the penalty's maximum.

They are civilly liable for the stealing of fishes in the fishpond of the Juloyas in the equivalent amount of P2,000.00.

SO ORDERED."

THE ANTECEDENT FACTS

An Information dated 11 August 2011 charged accused-appellants, as follows:

"x x x

That on or about the 19th day of May, 2011 in the Municipality of Agoo, Province of La Union, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring and mutually helping one another, with intent to gain, did then and there willfully, unlawfully and feloniously catch, take, steal and carry away fishes locally known as Bangus and Tilapia from the fishpond of Alicia Juloya amounting to one thousand [P1,000.00] pesos without Alicia Juloya's consent, to her damage and prejudice.

CONTRARY TO LAW."

Incidentally, two (2) other malefactors were originally charged along with herein accused-appellants; however, they were later dropped as accused on account of their minority. Eventually, they testified against accused-appellants.

From the prosecution's evidence, it is gathered that private complainants Spouses Anselmo and Alicia Juloya bought a parcel of land in Sta. Rita Central, Agoo, La Union from Spouses Floro and Corazon Gajo for the price of Three Million Five Hundred Thousand Pesos (P3,500,000.00). They initially gave a downpayment of Six Hundred Twenty Thousand Pesos (P620,000.00), while the remaining balance was to be paid in monthly installments of Twenty Thousand Pesos (P20,000.00) until fully paid. Pursuant to their Deed of Conditional Sale of Realty dated 17 October 2009, Spouses Juloya "can take over possession of the subject Properties and utilize the same in any manner which as the new owners thereof may decide; x x x."^[1] Subsequently, a Memorandum of Agreement (MOA) dated 05 July 2010 was executed by the parties upon the request of Spouses Gajo stipulating for the acceleration of the full payment of the purchase price. However, before the provisions of the MOA were fully consummated the relationship between the parties soured which resulted in the filing of several complaints against each other and their kin.

On 19 May 2011, accused-appellants Renato Gajo (son of Spouses Gajo) and Richard Gayo ordered the two (2) minors to catch fish from the fishpond situated within the parcel of land bought by Spouses Juloya. Appellant Richard Gayo accompanied the minors, harvesting therefrom around twenty-five (25) pieces of *bangus* and about fifty (50) pieces of *tilapia* and *bulan-bulan* without the consent of Spouses Juloya. As it happened, about twenty (20) kilos of fish with an estimated value of Two Thousand Pesos (P2,000.00) were taken by accused-appellants.

In defense, accused-appellants claimed that the fishpond is still owned by Spouses Gajo because Spouses Juloya have not paid in full the purchase price of the land. For his part, accused-appellant Renato Gajo argued that he is the eldest son of Spouses Gajo; hence, he cannot be considered to have stolen from the fishpond of his own parents. He also raised the alibi that he was with his wife at the time of the incident. With respect to accused-appellant Richard Gayo, he asserts that the fishpond from where they took the fishes was owned by Spouses Gajo.

As heretofore said, the trial court found accused-appellants guilty as charged. In this appeal, they raise the the following errors:

I.

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF QUALIFIED THEFT IN SPITE OF THE LACK OF CREDIBILITY OF THE PROSECUTION WITNESSES WHO TESTIFIED ON MATERIAL AND RELEVANT MATTERS PERTAINING TO THE COMPLAINED INCIDENT.

II.

THE HONORABLE REGIONAL TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS IN SPITE OF ITS FACTUAL FINDINGS THAT ACCUSED-APPELLANTS ACTED IN GOOD FAITH.