

## FIRST DIVISION

[ G.R. No. 233033, July 23, 2018 ]

**ROMEO IGDALINO AND ROSITA IGDALINO, PETITIONERS, VS.  
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**TIJAM, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assails the Decision<sup>[2]</sup> dated February 23, 2017 and Resolution<sup>[3]</sup> 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 Decision<sup>[4]</sup> 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 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 29<sup>th</sup> 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.<sup>[5]</sup>

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.<sup>[6]</sup>

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.<sup>[7]</sup> Upon Francisco's death, his children, one of who is Avertino, inherited the property.<sup>[8]</sup> A caretaker in the person of Felicisimo Bacarra (Felicisimo) was hired by Avertino to oversee the land beginning 1985.<sup>[9]</sup>

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.<sup>[10]</sup> Avertino's sister, 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.<sup>[11]</sup>

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.<sup>[12]</sup> 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.<sup>[13]</sup>

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 Dacutan, 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.<sup>[14]</sup>

Supporting the foregoing was the testimony of Rowel, testifying that since he was born, no one else tilled the land except their family.<sup>[15]</sup>

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 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 oficio*.

SO ORDERED.<sup>[16]</sup>

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, 8<sup>th</sup> 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.**<sup>[17]</sup>

### **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.

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

### **The Ruling of the Court**