

## SECOND DIVISION

[ G.R. No. 221424, July 19, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.  
ROBELYN CABANADA Y ROSAURO, ACCUSED-APPELLANT.**

### D E C I S I O N

**PERALTA, J.:**

Before Us for review is the August 29, 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05585, which affirmed the Decision<sup>[2]</sup> 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:

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

That on or about the 13<sup>th</sup> 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."<sup>[3]</sup>

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.<sup>[4]</sup>

On April 13, 2009, Catherine asked her husband Victor Victoria (*Victor*) for the P47,000.00 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 P20,000.00 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.<sup>[5]</sup>

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 P16,000.00 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.<sup>[6]</sup>

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.<sup>[7]</sup>

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 "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 *falla* of the decision states:

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

SO ORDERED.<sup>[8]</sup>

Hence, the instant appeal was instituted.

The Office of the Solicitor General (OSG), in its Manifestation,<sup>[9]</sup> informed this Court of its intention not to file a supplemental brief since its Brief<sup>[10]</sup> 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.<sup>[11]</sup>

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.<sup>[12]</sup>

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.<sup>[13]</sup>

This Court finds the appeal partly meritorious.

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.<sup>[14]</sup> 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.<sup>[15]</sup>

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.<sup>[16]</sup>

This Court expounded in *People v. Marra*:<sup>[17]</sup>

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.<sup>[18]</sup>

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*.<sup>[19]</sup> 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.<sup>[20]</sup>

Applying the foregoing, Cabanada was not under custodial investigation when she made the confession, without counsel, to PO2 Cotoner that she took the missing P20,000.00. 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 [P]20,000 out of [P]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.

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 x<sup>[21]</sup>

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