

SPECIAL TWENTIETH DIVISION

[CA-G.R. CEB-CR No. 00860, February 28, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUNA SAPONG AND ROLANDO S. CASUSULA, ACCUSED-APPELLANTS.

D E C I S I O N

LAGURA-YAP, J.:

On appeal is the Judgment^[1] dated 30 January 2008 in Criminal Case No. 12561 of the Regional Trial Court (RTC) of the City of Tagbilaran, Branch 1, adjudging both accused Juna Sapong and Rolando Casusula guilty beyond reasonable doubt of violating Section 10 (a) of Republic Act No. 7610. The decretal portion thereof, reads:

"WHEREFORE, premises considered, this Court finds JUNA SAPONG y Belano and ROLANDO CASUSULA y Sombrio both GUILTY beyond reasonable doubt of violating letter (a), Section 10 of Republic Act No. 7610 for committing other acts of neglect, abuse, cruelty or exploitation and other conditions prejudicial to the development of Juvy Peñosa y Ladica which debased, degraded and demeaned her intrinsic worth and dignity as a child and a human being and are hereby each imposed, appreciating in their favor the beneficial provisions of the Indeterminate Sentence Law, the penalty of imprisonment of FOUR (4) YEARS and TWO (2) MONTHS of prision correccional as minimum to EIGHT (8) YEARS of prision mayor as maximum, the accessory penalties provided by law and to pay the costs. In addition to the penalty of imprisonment imposed on each accused, a fine of ONE THOUSAND PESOS (P1,000) each is imposed on them pursuant to letter F, Section 31 of RA 7160. The Court orders both accused to pay Juvy Peñosa y Ladica the sum of TEN THOUSAND PESOS (P10,000) each by way of civil liability by the mere fact of committing the offense against the complainant.

SO ORDERED."

Accused-appellants were charged in the Information^[2] dated January 4, 2005, which reads as follows:

"That on or about the 25th day of September, 2004, in the City of Tagbilaran, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one other, did then and there willfully, unlawfully and feloniously charge Juvy Ladica Peñosa, 12 years old, minor of stealing a nylon bracelet from Alturas Supermarket when she did not steal the same, and thereby causing psychological abuse or emotional maltreatment, to her damage and prejudice, in the amount to be proved during the trial of the case.

Acts committed constitute a violation under Art. VI, Section 10 par. (a) in relation to Art. I, Sec. 3 par. B (1) and (2) or R.A. 7610.”

On arraignment, both accused, Juna Sapong and Rolando Casusula, pleaded not guilty to the charge against them.^[3]

The prosecution presented three (3) witnesses, namely: the private complainant Juvy Ladica Peñosa, Dolores Ocio Peñosa and Adelaida Paredes-Barafon. The prosecution’s version of the facts, as culled from the records, is as follows:

Private complainant Juvy Peñosa, twelve (12) years old, testified that on September 25, 2004, about four o'clock in the afternoon, she was at Alturas Supermarket with her aunt, Dolores Peñosa. She was given a list of items to buy in the school supplies section, while her aunt went to the pharmacy. The list included a Manila paper, yellow paper, intermediate pad, fasteners and bracelets. Her aunt returned and handed her money to pay for the items. The items were placed in a plastic bag and a receipt^[4] was issued to her with the following details:

“S.O.D. Intermediate Pad	15.95
P.PLS P. Fastener	3.00
P.PLS P. Fastener	3.00
Chucherias	9.40
Manila Paper 3's	
4 x 5.85 23.	40
Swallow Yellow Pad	19.00
Swallow Yellow Pad	19.00
Swallow Yellow Pad	19.00
C.F. Folder Long Col	
4 x 3.95 23.70	
Total	135.45
CASH	500.00
CHANGE	364.55”

Before leaving Alturas Supermarket, they had snacks in the fastfood area and did their groceries at the grocery section. Thereafter, they proceeded to the exit door. Her Aunt Dolores went out ahead of her. As she was about to follow her aunt out, she was stopped by the security guard who held her and told her that she had an unpaid item with her. Accused-appellant Juna Sapong was also there and asked about an unpaid bracelet. Then, accused-appellant Sapong and the security guard brought her to the SSD Office located near the fastfood area,^[5] with the guard's arm on her shoulders.^[6]

At the SSD Office, accused-appellant Juna Sapong frisked Juvy and found a cellular phone and a ten peso coin (P10.00).^[7] Juvy claims that the nylon bracelet was found inside the plastic bag together with the other school supplies.^[8] Meanwhile, accused-appellant Rolando Casusula was also in the SSDO. Juvy was told that she had to pay the sum of Ninety Four Pesos (P94.00) or ten times the amount of the bracelet or she would be taken to the police station.^[9] Juvy told them she had to ask money from her aunt Dolores, who was outside the supermarket waiting for her. Rolando asked her to leave her cellular phone and the ten pesos to guarantee that she would come back to the office.^[10]

Juvy went outside to look for her aunt Dolores. When she found her aunt, she dragged her aunt back inside the supermarket towards the SSDO, crying all the while. At the SSD office, her aunt asked Rolando Casusula what happened. After informing her aunt of the unpaid item, her aunt paid the amount of ninety-four pesos. Thereafter, the cellular phone and the ten pesos was returned to them and they went home; Juvy was crying the whole time. In their house, her Aunt Dolores checked the items inside the plastic bag against the receipt when they were home.

[11]

The next day, Juvy and her Aunt Dolores, went back to Alturas Supermarket accompanied by Deodora Sarabia (Mama Neneng) and Adelaida Paredes-Barafon (Ate Aida). They went to the fastfood section to look for Rolando Casusula; but he was not there. So they went to the school supplies section. There, they verified with Lilibeth Aparicio if the bracelet was paid. Lilibeth confirmed that the bracelet was paid.[12]

Adelaida suggested that they go to the police station. They went and they reported the incident. The police called Rolando Casusula and Jona Samong for a confrontation. Juvy claims that Jona Samong asked her for forgiveness; but she refused to give it because it was insincere.[13]

Due to the incident, Juvy's grades decreased as she can no longer concentrate on her studies. She always felt afraid. She cannot sleep.

Dolores Peñosa, 59 years old, a public school teacher and a resident of Bool District, Tagbilaran City testified that on September 25, 2004, she and her niece Juvy Peñosa went to Alturas Supermarket to buy school supplies, have snacks and do their groceries. After doing their errands, she and her niece proceeded to the exit door. She went out ahead and when she looked back, Juvy did not follow her out. Because she was used to her niece meeting up with friends inside the supermarket, she just waited for Juvy to come out.[14]

About thirty minutes later, Juvy arrived and dragged her back inside the supermarket, towards the fastfood section. She saw a man (accused-appellant Rolando Casusula) who told her that her niece had stolen a nylon bracelet. She asked where the bracelet was found; her niece answered that it was found inside the plastic bag. She wanted to verify with the cashier if the bracelet was paid; but Rolando said that the item was not in the receipt and someone saw Juvy placing the bracelet in the nylon bag. Rolando Casusula told them of the policy of the store that if someone is caught stealing, they would have to pay ten times the value of the stolen item. Since she was embarrassed that people were looking at them already, she paid the amount to Rolando Casusula. Rolando handed a cellular phone back to her. Thereafter, they went home.[15]

In the house, she comforted Juvy who was still crying. She also cross-checked the items they bought against the receipt. She discovered that the bracelet was paid already but the item listed in the receipt was "Chucherias".[16]

The next day, Dolores, her niece Juvy, her sister Deodora, and her sister's neighbor Aida Barafon went back to Alturas Supermarket to have the items rechecked against

the receipt. Lilibeth Aparicio, who was at the school supply cashier area, rechecked the items and told them that the bracelet was paid. Lilibeth Aparicio encircled the item "chucherias" in the receipt and signed it. After learning that the bracelet was paid, they went to look for Rolando Casusula; but he was not there. They tried to look for the manager and the owner, but they were not there. So they went to the police station to have the incident blotted.^[17]

Adelaida Paredes-Barafon, 48 years old, a police officer and a resident of Dampas District, Tagbilaran City testified that on September 26, 2004, Dolores Peñosa and her niece requested her assistance regarding an incident involving Dolores' niece who was accused of stealing some item in Alturas. She accompanied Juvy, Dolores and her sister to Alturas Supermarket. When they arrived in Alturas, they told the guard that they were there to get clarification. They went to the counter where Juvy paid for the school supplies.^[18] They approached the cashier, whose name was Lilibeth Aparicio, and showed to the latter the plastic bag and the receipt. Adelaida said that Lilibeth checked the item and the receipt and told them that the bracelet was already paid. Lilibeth encircled the item listed as "Chucherias" in the receipt and signed the receipt. Then, they went to look for the person who collected the penalty payment (Rolando Casusula) but he was not there. She then suggested that they go to the police station to have the incident recorded.^[19]

On the other hand, the accused-appellants presented four (4) witnesses; namely: accused-appellant Rolando Casusula, accused-appellant Jona Samong, Cirena Aparicio and Lilibeth Aparicio.

Accused-appellant Rolando Casusula, 32 years old, a resident of Sta. Fe, Danao, Bohol, testified that he is the Detachment Commander of JADDS Security Agency and he holds office at the Safety and Security Department (SSD) of Alturas Supermarket. He heads the security guards and watchers provided by his agency to Alturas Supermarket. The watchers are in civilian attire who watch the goods for sale inside the supermarket. If a watcher sees a person to have an unpaid item, the watcher would hold the person at the exit door and invite him/her politely to the SSD Office. In proceeding to the SSD Office, the security guard would accompany the person from a distance to avoid embarrassing the latter and to watch for items that would be thrown by the person.^[20] His co-accused-appellant Juna Samong is one of the watchers.^[21]

On September 25, 2004, at about three o'clock in the afternoon, he was at the SSD Office when he saw accused-appellant Juna Samong, one of the watchers in Alturas, accompanying a girl (Juvy Peñosa) and approaching the office. They were followed by a certain Security Guard Asterio Fullido. Accused-appellant Juna Samong told him to investigate the girl as the girl got a bracelet without paying. Accused-appellant Samong frisked the girl and found the bracelet in the girl's right pocket. The bracelet was handed over to accused-appellant Casusula.^[22] Accused-appellant Casusula also checked, verified and matched the items inside the plastic bag against the receipt. He claimed that the item listed as "chucherias" in the receipt refers to food items.^[23]

The girl told them that she would just pay for the bracelet. However, accused-appellant Casusula told the girl that she would have to be brought to the police. But

the girl started to cry and taking pity on her, he informed the girl that she could just pay for the bracelet at ten times its value. The girl said she could get the money from her aunt. To assure them that the girl will return, the girl left her cellular phone and ten peso with them.^[24]

The girl returned with her aunt. The aunt paid the compromised price which is ten times of the value of the stolen item. He had a shoplifting form prepared and the payment was logged in a notebook. After receiving the payment, he returned the cellular phone, ten pesos and the bracelet to the girl. Then the girl and her aunt left, without signing the shoplifting form.^[25]

Accused-appellant Juna Sapong, 26 years old and a resident of Manga District, Tagbilaran City, testified that on September 25, 2004, she was assigned as a watcher of Alturas Supermarket, particularly in the school supplies section. At about three o'clock in the afternoon, she saw a young girl wearing cargo pants accompanied by an elderly woman. She noticed the girl getting two (2) paper fasteners and inserting these in her upper right pocket. She followed the girl wherever she went. She noticed the girl picking up a bracelet and insert it in her pocket. The girl and the elderly woman lined up at the counter to pay. She checked if all the items would be paid. She saw the girl taking the two (2) paper fastener from her pocket; but she didn't see the bracelet. She continued following the girl and her aunt as they went to the grocery section to shop for groceries. After paying for the items, the girl and the elderly woman proceeded to the exit door.^[26]

At the exit door, accused-appellant Sapong invited the girl to the SSD Office. The girl was alone because the elder woman went out of the exit door ahead of the girl. She asked the girl if the bracelet was still in the pocket, and the girl answered in the affirmative. She frisked the girl and found the bracelet at the upper right pocket of the cargo pants.^[27] The girl said she would just pay for the bracelet but accused-appellant Sapong informed her that she would have to pay ten times the amount of the bracelet. Accused-appellant Sapong turned over the bracelet to accused-appellant Rolando Casusula. The girl told them that she would just go to her aunt for the money. To guarantee that the girl will return, they asked that something be left behind. The girl left her cellular phone and her ten pesos behind. When the girl went to get her aunt, accused-appellant also left the SSD Office.^[28]

Cerena Aparicio, 30 years old and a resident of Dagnawan, Sagbayan testified that part of her work was to remit payments by those caught stealing and to prepare the logbook. However, she did not personally witness the incident.

Lilibeth Aparicio, 25 years old, single, resident of Contebaud, Jetafe, Bohol testified that on September 26, 2004 at about seven o'clock in the morning, four angry-looking persons came near her area counter. Since the supervisor was not there, she entertained them. She was told that the girl was accused of taking a bracelet from the store. She checked the receipt against the items inside the plastic bag brought by the persons. She told the persons that the bracelet was not covered by the receipt. The four persons insisted that the "chucherias" and the bracelet was the same as they have the same price. Because the persons looked angry, she told them that if they insist then it must be paid.^[29]