Supreme Court E-Library

SO ORDERED.

Antonio (Acting Chairman), Aquino, Santos, and *Abad Santos, JJ.*, concur.

Barredo, J., is on leave.

FIRST DIVISION

[G.R. No. L-30271. June 15, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LEONARDO DAHIL,** *defendant-appellant.*

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; APPEAL; WITHDRAWAL THEREOF WILL NOT BE ALLOWED IF IT WOULD MEAN THAT THE ERRONEOUS PENALTY IMPOSED BY THE TRIAL COURT WOULD STAND.**— The Court, however, could not give due course to appellant's proposed withdrawal of his appeal because such withdrawal, if given due course, would mean that the erroneously excessive penalty of *reclusion perpetua* imposed by the lower court would be allowed to stand. Defendant-appellant is entitled to the Court's judgment imposing the appropriate penalty.

2. **CRIMINAL LAW; PENALTIES; HOW TO RAISE BY TWO DEGREES THE PENALTY OF *PRISION MAYOR* IN ITS MINIMUM AND MEDIUM PERIODS.**— While the trial court correctly stated that under Article 310 of the Revised Penal Code, the crime committed was qualified theft (of a motor vehicle) and the imposable penalty of *prision mayor* in its minimum and medium periods has to be raised by two degrees, it imposed an erroneously excessive penalty in two particulars: The penalty higher by two degrees would be *reclusion temporal* in its medium and maximum periods, not *reclusion perpetua.*

Supreme Court E-Library

APPEARANCES OF COUNSEL

Solicitor General Felix Q. Antonio for plaintiff-appellee.
Salvador San Juan (Counsel de Oficio) for defendant-appellant.

D E C I S I O N

TEEHANKEE, *J.*:

This is an appeal from the decision of the Court of First Instance of Rizal, Branch XI, in Criminal Case No. 15893, convicting the defendant-appellant Leonardo Dahil of the crime of qualified theft and sentencing him to suffer the penalty of *reclusion perpetua.*[1]

The record discloses that in the morning of October 6, 1966, former Assistant City Fiscal, now Municipal Judge, Benjamin Abalos discovered that his 4-door sedan, Toyota Crown de Luxe, Model 1966 with a value then of ₱15,400.00 was not on the driveway of his house in Mandaluyong, Rizal, where he had parked it the day before. Realizing that his car had been stolen, he immediately reported the matter to the Mandaluyong Police Department. Benjamin Abalos also sought the assistance of the Police Departments of Pasay City, Pateros, Taguig and Manila. Benjamin Abalos personally searched for his car with the help of one Sgt. Eusebio of the Pasay City Police Department.[2]

Finally, through the assistance of said Sgt. Eusebio, the complainant, Benjamin Abalos, was able to locate and recover his car somewhere in Malate, Manila in the yard of Virgilio Apolinario who was prosecuted and convicted of the crime of qualified theft in Criminal Case No. 15893 of the Court of First Instance of Rizal.

---

[1] *Rollo*, pp. 7-12.

[2] *Rollo*, pp. 112-113.

Supreme Court E-Library

After the arrest of Virgilio Apolinario, he executed an affidavit on November 8, 1966, the pertinent portion of which reads:

"4. *Maaari mo bang isalaysay sa akin ang mga pangyayari kung bakit ikaw ay nasangkot sa pagnanakaw ng isang auto na iyong sinasabi?*

Nuong pong humigit kumulang sa 1:00 ng umaga petsa ika-29, 1966 ako po at si Kamlon (the affiant does not know the real name of said KAMLON) ay nakaupo sa isang banko sa daang San Juan, sakop ng Lungsod ng Pasay, at noon ay dumaan noon si Nardo (Leonardo Dahil) na nakasakay sa isang taxi, at nuon ay tinawag niya si Kamlon at sila ay nag-usap, makaraan ang ilang sandali ay tinawag nila ako at sinabi sa aking sumama lang daw ako sa kanila, kung kaya ako ay sumakay din at kami ay nagpunta sa Mandaluyong, Rizal at ako ay ibinaba sa panulukan ng Gen. Kalentong at daang Shaw Blvd., Mand., Rizal. Samantalang sila ay lumipat sa ibang taksi at sinabing mayroon lamang silang pupuntahan. Wala pang kalahating oras ay naghalik si Nardo doon sa panulukan ng Gen. Kalentong at Shaw Blvd. at ako ay tinawag at ako ay sumakay na rin sa kanyang taksing sinasakyan at kami ay nagpunta sa isang lugar na di ko alam ngunit alam ko pong sakop pa rin ng Mandaluyong, at doon ay nakita ko si Kamlon na nagiintay sa harap ng Apartment. At nuon ay bumaba na kami at ako ay naiwan sa harap ng nasabing apartment at si Nardo at Kamlon ay pumasok sa bukas ng tarangkan ng 'Carport' at sumakay si Nardo sa kotseng nakagarahe doon (the affiant pointing to the Toyota Car, painted white, Model-66 with plate No. Temp-4527) at si Kamlon ay itinulak ng papalabas ang nasabing kotse, at ng ito ay nasasa labas na ay pinaandar na ni Nardo, at ng umandar na ang nasabing kotse ay sumakay na kami at dito ay minaneho ni Nardo hanggang doon sa amin at ang ginawa ko ay binuksan ko ang garahe namin at ipinasok na roon ang kotse at ang ginawa ko ay isinara ko na. At nuon ay sinabi sa amin ni Nardo na 'Tatlong araw lamang ay maypera na tayo.' At kami ay naghiwahiwalay na.

5. *Hindi mo ba alam ang tunay na pangalan ni Kamlon?*

Supreme Court E-Library

Hindi po, sa tawag na Kamlon ko lamang nakilala yon.

6. *Alam mo ba kung saan umuuwi si Nardo (Leonardo Dahil) at si Kamlon?*

Si Kamlon po at si Leonardo Dahil ay sa panulukan ng Harrison at San Juan naninirahan. (San Juan and Harrison St., Pasay City)"[3]

Thereafter defendant-appellant Leonardo Dahil was charged with the crime of qualified theft before the Court of First Instance of Rizal in the following:

"INFORMATION

The undersigned Assistant Fiscal accuses Leonardo Dahil of the crime of Qualified Theft, committed as follows:

That on or about the 29th day of October, 1966, in the Municipality of Mandaluyong, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, together with Virgilio Apolinario *y* Tagorda, who has already been convicted and sentenced by this Court, and John Doe *alias* 'Kamlon,' whose true identity and whereabouts is still unknown, conspiring and confederating together and mutually helping and aiding one another, with intent of gain, with grave abuse of confidence and without the knowledge and consent of the owner thereof, did, then and there willfully, unlawfully and feloniously take, steal and carry away a motor vehicle, a four-door sedan Toyota Crown de Luxe, Model 1966, then with temporary license plate No. 4527 (Philippines, 1966), with original white paint, and valued at ₱15,400.00, belonging to one Benjamin Abalos, to the latter's damage and prejudice in the aforestated amount of ₱15,400.00.

Contrary to law.

Pasig, Rizal, August 4, 1967.

(Sgd.) JOSE P. SANTOS
Assistant Fiscal"[4]

Defendant-appellant pleaded not guilty and denied any participation in the commission of the crime.

---

[3] Exhibit A-Dahil, p. 1.

Supreme Court E-Library

The lower court after trial rendered under date of July 25, 1968 its judgment of conviction, finding defendant-appellant guilty of qualified theft and sentencing him to *reclusion perpetua*, as follows:

"The crime committed by the accused Leonardo Dahil, *alias* Nardo, carries with it the penalty of *prision mayor* in its minimum and medium periods, considering that the value of the car stolen is ₱15,400.00 (Art. 309, par. 1). But since the crime is qualified theft because the property stolen is a motor vehicle, the penalty must be higher by two degrees (See Art. 310, Revised Penal Code). The penalty to be imposed on the accused must therefore be *reclusion perpetua*."

The trial court rejected defendant-appellant's raising of the question of his identity as a defense and refused to believe the disclaimer of the witness Virgilio Apolinario, who had previously been convicted and sentenced as a co-principal with the defendant-appellant for the theft of the same vehicle, that the defendant-appellant was not the same person who in company with a third co-principal, Kamlon, had brought the stolen Toyota car to his yard, analyzing the evidence of the parties, as follows:

"On the other hand, the evidence of the defense is merely a denial of the imputation against him. x x x.

"On cross-examination, the accused Leonardo Dahil, *alias* Nardo, admitted that he is at present answering for the crime of Frustrated Murder he allegedly committed before the Pasay Court of First Instance. Also, he admitted that he was accused of robbery with physical injuries, but because the accused Leonardo Dahil, *alias* Nardo, went into hiding, the offended party's interest to prosecute the case waned, and the case has been dismissed. Further, Leonardo Dahil, *alias* Nardo, admitted that there were so many warrants of arrest issued against him which he had signed and the contents of which he does not know.

"The Court, after analyzing the evidence, finds that the herein accused Leonardo Dahil, *alias* Nardo, raised the question of his identity as a defense. It must be remembered, however, that in the

---

[4] Record of Criminal Case No. 15893, Court of First Instance of Rizal, p. 1.

Supreme Court E-Library

affidavit, Exhibit A-Dahil, which has been introduced during the trial of Virgilio Apolinario, Virgilio stated that one Kamlon and Leonardo Dahil went to his house between 1:00 and 2:00 o'clock a.m. to invite him and left the car in question in the yard of his house. However, while testifying in the instant case, Virgilio Apolinario states that Leonardo Dahil who is now in court on trial is not the same person who, in company with Kamlon, brought the Toyota car to his yard. The Court refuses to believe him. The law presumes that identity of name is identity of person. Besides, in Crim. Case No. 15893 for the theft of the same car where Virgilio Apolinario has been prosecuted and convicted, his defense was that his affidavit, Exhibit A-Dahil, wherein he admitted that the Toyota car of Fiscal Abalos has been left in his yard by Kamlon and the accused Leonardo Dahil, has been extracted from him by means of force and threats. However, in the instant case, when Virgilio Apolinario was called by the prosecution to testify, he admits what has been stated in his affidavit, 'Exhibit A-Dahil,' 'that Kamlon and Leonardo Dahil, *alias* Nardo, have brought the Toyota car of Fiscal Abalos in his yard,' but that Leonardo Dahil, alias Nardo, named in his said affidavit, is not the same person now in Court. He has two versions of his affidavit to suit his convenience and the convenience of his friend, Leonardo Dahil, *alias* Nardo.

"This squid tactic of Virgilio is the *modus operandi* of criminals. They deny or pretend not to know their companions in the commission of the crime in order to confuse the police authorities as well as the Court. With the two criminal cases for frustrated murder and robbery filed against him and the many warrants of arrest issued for his apprehension as a background in the instant case, the Court has absolutely no doubt that Leonardo Dahil, *alias* Nardo, in company with one Kamlon, brought the car of the offended party to Virgilio's yard after the said car has been stolen by the two, Kamlon and Nardo.

"Another reason why the Court does not believe in the testimony of this witness is that he stated, when asked about his personal circumstances, that he is a businessman, when the truth is, he is a mere cook in his father's restaurant, receiving a paltry sum of ₱20.00 a week."

On appeal, defendant-appellant through his counsel *de oficio*, Atty. Salvador San Juan, in a well-written brief made the following assignment of errors:

Supreme Court E-Library

"I. The lower court erred in giving credit to the extrajudicial confession of Virgilio Apolinario, Exhibit 'A'; and

"II. The lower court erred in not acquitting defendant-appellant on the ground that his participation in the commission of the offense charged has not been established beyond reasonable doubt."

The errors assigned boil down to the question of whether the prosecution had sufficiently established beyond reasonable doubt the appellant's participation in the theft in that according to Virgilio Apolinario's sworn statement (which was duly submitted in evidence by the prosecution) defendant-appellant was the one who drove away the stolen Toyota car after Kamlon had pushed it from the carport of the owner's house and that the three of them thereafter drove away and hid the car in the yard of his house in Malate. In turn, this revolves on the identity of defendant-appellant Leonardo Dahil as pointed out by Virgilio Apolinario himself, together with other identifying data such as his address and record of arrests, although at the trial Apolinario sought to save defendant-appellant by brazenly declaring that defendant-appellant who was in court was not the same person who had driven the stolen car to his yard.

Upon a review of the record and the evidence, the Court is not inclined to agree with the brief manifestation of then Solicitor General Felix Q. Antonio, now a member of this Court, believing the disclaimer of Apolinario and stating that "hence, the evidence is too meager to produce certainty beyond reasonable doubt of appellant's guilt in this case," and, therefore, recommending appellant's acquittal, as follows:

"WHEREFORE, appellee is constrained to agree with the argument in appellant's brief that the participation of the appellant in the offense charged has not been established beyond reasonable doubt. Hence, appellee begs leave to submit this case for decision without appellee's brief and, in the interest of justice, recommends the acquittal of the accused."

The whole issue after all before the Court is one of credibility. The trial court from its vantage point of observing and hearing the witnesses flatly refused to believe Apolinario's brass

Supreme Court E-Library

disclaimer and defendant-appellant's bare denial of any participation in the theft and stated weighty reasons therefor in its decision hereinabove quoted. Its findings of fact and conclusions on the lack of credibility of the witnesses are entitled to great respect and weight and will not be disturbed on appeal, defendant-appellant having failed to establish any of the recognized grounds for it to do so.

On June 4 this year, defendant-appellant filed a manifestation with prayer for the withdrawal of his appeal even if it is "certainly against my conscience and against all assigned errors of fact and law in my appeal," citing, among other things, the attack on April 22, 1977 against him by elements of the notorious "Sputnik" gang group where he sustained seventeen stab wounds and complaining against the conditions in the National Penitentiary, as follows:

"The conditions actually prevailing in the detention quarters of this National Penitentiary in particular, are miserably far below the modest standard set for human beings who by law [are] assured to be treated as INNOCENT CITIZENS UNTIL THE CONTRARY IS PROVED so that, driven to despair and the hopelessness of their cause, we often hear of detainees who became mentally deranged contracted serious physical ailments, or took to sudden and violent suicidal acts that end up in the death both of his victims and himself."

The Court, taking note of appellant's said manifestation, recalls that in several cases in the past it has called attention to the "incredible overcrowding of prison cells" that lead inevitably to the formation of wolfpacks, and confine prisoners "under circumstances that strangle all sense of decency, reduce convicts to the level of animals, and convert a prison term into prolonged torture and slow death."

In *People vs. De los Santos*,[5] then Justice J.B.L. Reyes had graphically described such conditions, as follows:

"The evidence compels us to agree with the trial court that the accused-appellants are guilty beyond reasonable doubt of the crime

---

[5] 14 SCRA 702, 712 (1965).

Supreme Court E-Library

of murder. But the members of the Court cannot in conscience concur in the death penalty imposed, because they find it impossible to ignore the contributory role played by the inhuman conditions then reigning in the penitentiary, vividly described by the trial Judge in his decision. *It is evident that the incredible overcrowding of the prison cells*, that taxed facilities beyond measure and the starvation allowance of ten centavos per meal for each prisoner, must have rubbed raw the nerves and dispositions of the unfortunate inmates, and predisposed them to all sorts of violence to seize from their owners the meager supplies from outside in order to eke out their miserable existence. All this led inevitably to the formation of gangs that preyed like wolf packs on the weak, and ultimately to pitiless gang rivalry for the control of the prisoners, abetted by the inability of the outnumbered guards to enforce discipline, and which culminated in violent riots. The government cannot evade responsibility for keeping prisoners under such subhuman and dantesque conditions. Society must not close its eyes to the fact that if it has the right to exclude from its midst those who attack it, it has no right at all to confine them under circumstances that strangle all sense of decency, reduce convicts to the level of animals, and convert a prison term into prolonged torture and slow death."

In *People vs. Simeon*,[6] in setting aside the death penalty imposed by the trial court on an improvement guilty plea and remanding the case to the lower court for further proceedings in conformity with law, Mr. Justice Felix V. Makasiar, speaking for the Court, again decried how the miserable conditions in prison have reduced the inmates into animal packs, as follows:

"x x x If the counsels *de oficio* in this case were given such a reasonable period of time and opportunity to go to the New Bilibid Prisons, where the crime was allegedly committed, they would have acquainted themselves with the oppressive as well as explosive condition in a brigade where the ten accused herein were packed along with hundreds of convicts lying on the concrete floor because of lack of beds and lack of space. The New Bilibid Prisons is so jampacked with about 10,000 prisoners built as it was for only 2,000. Medium and maximum security prisoners have no separate cells and are mixed with the minimum security convicts. The ten defendants

[6] 47 SCRA 129, 134-135 (1972).

Supreme Court E-Library

were serving merely terms of imprisonment when the crime was allegedly committed. Able advocate stressed further that the counsels *de oficio* designated by the trial court had virtually only few minutes to advise appellants herein, more pre-occupied as they were with the cases of their paying clients for which they were in court, that day of the arraignment of the accused. He further recalled that the crowded brigades or cells had been the cause of riots among the prisoners, who have been reduced into animal packs by the miserable conditions in prison, resulting in the death of many convicts."

The Court, however, could not give due course to appellant's proposed withdrawal of his appeal because such withdrawal, if given due course, would mean that the erroneously excessive penalty of *reclusion perpetua* imposed by the lower court would be allowed to stand. Defendant-appellant is entitled to the Court's judgment imposing the appropriate penalty, as hereinafter stated.

While the trial court correctly stated that under Article 310 of the Revised Penal Code, the crime committed was qualified theft (of a motor vehicle) and the imposable penalty of *prision mayor* in its minimum and medium periods has to be raised by two degrees, it imposed an erroneously excessive penalty in two particulars:

1. The penalty higher by two degrees would be *reclusion temporal* in its medium and maximum periods, not *reclusion perpetua*; and

2. The indeterminate sentence law should be applied.

ACCORDINGLY, the appealed judgment finding defendant-appellant Leonardo Dahil guilty of qualified theft is hereby affirmed with the modification that in accordance with the indeterminate sentence law and there being no mitigating nor aggravating circumstances, the sentence imposed upon him should be an imprisonment of ten (10) years and one (1) day of *prision mayor* as minimum to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* as maximum. Should be defendant-appellant have already served the minimum sentence herein imposed, it is recommended that he be granted immediate parole by the Board of Pardons and Parole, if qualified therefor; and considering further the ordeal that he has undergone during

Supreme Court E-Library

his confinement at the National Penitentiary, it is further recommended that he be granted Executive Clemency.

Let copies hereof be furnished the Office of the President of the Philippines and the Board of Pardons and Parole.

SO ORDERED.

Fernandez, Guerrero, De Castro, and *Melencio Herrera, JJ.,* concur.

Makasiar, J., took no part.

SECOND DIVISION

[A.M. No. 242-MJ. June 19, 1979]

MAXIMO UBAS, *complainant, vs.* **MUNICIPAL JUDGE BENITO P. CINCO OF MARGOSATUBIG, ZAMBOANGA DEL SUR,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; WHEN A JUDGE RENDERED JUDGMENT IN ACCORDANCE WITH LAW, HE CANNOT BE HELD ADMINISTRATIVELY LIABLE.— There was nothing left for respondent Judge then but to render judgment, which he did in accordance with the law on the subject.

RESOLUTION

FERNANDO, ***Acting C.J.:***

Ever so often, the actuation of a judge would be stigmatized as violative of a litigant's rights, resulting in an administrative complaint for abuse of authority and, possibly, to impress this