

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARIEL LOPEZ, ACCUSED-APPELLANT.

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a Motion for Reconsideration[1] of this Court's Decision[2] promulgated on 12 August 2013, which dismissed appellant's Appeal[3] from the Decision[4] dated 18 March 2009 of the Regional Trial Court, 11th Judicial Region, Branch 11 of Davao City, finding accused-appellant Ariel G. Lopez guilty beyond reasonable doubt of Violation of Presidential Decree No. 533, otherwise known as Anti-Cattle Rustling Act of 1974, in Criminal Case No. 51,451-02.

In this recourse, the appellant invokes the following grounds, to wit: (a) that there is doubt on the identity and existence of the alleged stolen carabao;[5] and (b) that the appellant's uncounselled admission before PO3 Lozarito is inadmissible in evidence.[6]

The first ground had already been passed upon by this Court in the assailed Decision, viz:

“Appellant posits that the prosecution's evidence does not measure up to the standard of moral certainty required in criminal cases. Not all elements of the crime were duly proven by the prosecution, viz (a) a large cattle is taken; (b) it belongs to another; (c) the taking is done without the consent of the owner or raiser; (d) the taking is done by any means, method or scheme; (e) the taking is done with or without intent to gain; and (f) the taking is accomplished with or without violence or intimidation against persons or force upon things.

Appellant invokes that the second element is wanting. He claims that the testimony of Alderete is too deficient to prove complainant's ownership of the carabao. Alderete merely suspected on account of rumors that the carabao they took was the one owned by private complainant.

Appellant fails to persuade.

The invocation of appellant is belied by the testimony of Alderete who testified, thus:

Prosecutor Atencia conducting the direct examination of Felix Alderete:

Q

xxx Why do you say and why do you confirm that the carabao that you got that early morning of July 17 was also the same carabao that belonged to the private complainant in this case?

A

Because there were no other carabaos tied there. It was only a big carabao, the mother, and offspring of the carabao.

XXX

XXX

XXX

Q

And besides that, why do you say it is the same carabao, meaning, the one you and Lopez took, being owned by the complainant?

A Because the carabao we brought to Malagros was a big female carabao with big horns.

Q And the carabao belonging to the private complainant, how do you describe it?

A It is her carabao because I went to the place where the carabao was tied and it was the same place where it was lost.

XXX

XXX

XXX

The foregoing testimony was corroborated by Perez who testified, viz:

Prosecutor Atencia conducting the direct examination of Mario Perez:

Q

When was it that this carabao was discovered to be lost?

A

At 5:00 a.m. on July 17, 2002.

Q

Who was the person who discovered that the carabao was lost at 5:00 a.m. on July 17, 2002?

A

Me.

Q At what place?

A There where the carabao was tied at the coconut tree.

xxx

xxx

xxx

Q Who tied the carabao to the tree?

A Me, sir.

xxx

xxx

xxx

The gravamen in the crime of cattle-rustling is the “taking” or “killing” of large cattle or “taking” its meat or hide without the consent of the owner.[7] The “owner” includes the herdsman, caretaker, employee or tenant of any firm or entity engaged in the raising of large cattle or other persons in lawful possession of such large cattle.

(Emphasis Supplied)

In this case, the Certificate of Transfer of Large Cattle presented by complainant makes the latter fall within the definition of “owner” under the law. Taken altogether, said documentary evidence and the testimonies of Perez and Alderite sufficiently established the elements of the crime of cattle rustling. First, the carabao belongs to private complainant. Appellant’s testimony seeking to establish otherwise is negated by the evidence of the prosecution. Second, appellant took, without the consent of the owner, the carabao as testified to by Alderite. Third, appellant employed “means, methods, or schemes” to deprive private complainant of her possession of the carabao. This is evident from the act of appellant requesting Alderite to ride the carabao to Malagos making Alderite believe that appellant is the true owner thereof; thereby, manifesting appellant’s intent to gain. Fifth, no violence or intimidation against persons or force upon things attended the commission of the crime.”[8]

(Citations Omitted)

The second ground was, likewise, resolved by this Court, viz:

“The constitutional procedures on custodial investigation do not apply to a spontaneous statement, not elicited through questioning by the authorities, but given in an ordinary manner whereby the accused orally admits having committed the crime. (Emphasis Supplied)

A thorough scrutiny of the records reveals that PO3 Lozarito did not elicit any question from which appellant made the admission. In his testimony, PO3 Lozarito testified, thus:

Q You said that Ariel Lopez appeared in the police station, do you know what if anything transpired between Ariel Lopez and Teresita Perez?

Xxx

xxx

xxx

A No agreement. They will not enter an amicable settlement and the price.

Q They were just arguing on the price but with respect to other matters, there was no conflict?

A No conflict.

xxx

xxx

xxx

PO3 Lozarito's testimony was confirmed by the PNP Daily Record of Events which reveals the following entry:

xxx the persons of Ariel LOPEZ, Teresita Pere[z], and Mario Pere[z] appear to this station for confrontation and settlement for theft (sic) of large cattle (carabao), herein Ariel Lopez while at this office voluntarily admitted his fault xxx. After lengthy (sic) confrontation no settlement was reach[ed] between both parties.

Xxx

(Emphasis Supplied)

From the foregoing, it can easily be deduced that appellant was seeking for a settlement. There was no evidence of compulsion when he made the admission of guilt. At that point, he was not subjected to a custodial investigation as he was negotiating with the Perezes on how he can pay for the stolen carabao. After the confrontation at the police station, he was sent home.

Consequently, appellant's act of pleading for forgiveness and seeking for a settlement with the private complainant may be considered as analogous to an attempt to compromise, which in turn can be received as an implied admission of guilt under Section 27, Rule 130 of the Revised Rules of Court, viz:

Section 27. Offer of compromise not admissible.--

xxx

xxx

xxx

In criminal cases, except those involving quasi-offenses (criminal negligence) or those allowed by law to be compromised, an offer of compromise by the accused may be received in evidence as an implied admission of guilt.

xxx

xxx

xxx"[9]

(Citations Omitted)

Consequently, for appellant's failure to raise new substantial matters, We find no compelling reason to warrant the reversal of Our decision. The arguments raised by the appellant in his motion had already been carefully considered, evaluated and passed upon by this Court in the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.

Borja, J., Chairperson and Badelles, JJ., concur.

[1] Rollo, pp. 87-92

[2] Rollo, pp. 70-86.

[3] Rollo, pp. 6-23.

[4] Penned by the Honorable Judge Virginia Hofileña-Europa, Records, pp. 138-142.

[5] Rollo, p. 88.

[6] Rollo, p. 90.

[7] People v. Escarda, G.R. No. 120548, 26 October 2001.

[8] Rollo, pp. 76-78.

[9] Rollo, pp. 81-82.

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