

## LEVY VALENTINO Y MAGDAMIT, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND BENIGNO FERRER Y AÑASCO, RESPONDENTS.

Ponente: LOPEZ, J.

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### LOPEZ, J.:

This petition for review assailing the April 29, 2013 Decision of the Regional Trial Court stemmed from the threats uttered by petitioner Levy Valentino against private respondent Benigno Ferrer.

The antecedents follow.

On August 3, 2010,[1] at around 5:30 a.m. in the ricefield, Benigno saw Levy approaching with a bolo. When the distance between them was only about one and a half meters, Levy thrust his bolo and charged towards Benigno. Immediately, Benigno ran for safety and sought refuge. Unable to pursue Benigno, Levy shouted “Kapag natyempuhan ko ika, bubutukon ko an payo mo” (“When I get the opportunity, I will lop off your head”). Rogelio del Pilar, Jr. witnessed the incident and how Benigno managed to scamper and escape from Levy.[2]

Aggrieved, Benigno referred the matter on the same day to the barangay authorities but no amicable settlement was reached. Later, an information for the crime of light threats was filed against Levy before the Municipal Trial Court docketed as Criminal Case No. 3179.[3] In his Answer, Levy admitted his presence at the crime scene on the alleged date and time of the incident but denied threatening to kill Benigno or having any prior altercation with him.[4]

In its Decision dated November 13, 2012,[5] the MTC gave credence to the version of the prosecution and convicted Levy of grave threats not subject to a condition as described in Article 282, paragraph 2 of the Revised Penal Code. It ruled that the allegations in the body of the information are controlling and not the title or designation of the crime, thus:

WHEREFORE, all the foregoing being considered, the Court finds Levy Valentino y Magdamit GUILTY, beyond reasonable doubt, of the crime of Grave Threats defined and penalized under Article 282 (2) of the Revised Penal Code. He is hereby sentence to suffer the penalty of imprisonment from TWO MONTHS (2) and ONE (1) DAY of Arresto Mayor as minimum to FOUR (4) MONTHS of Arresto Mayor as maximum.

SO ORDERED.[6]

On appeal, the Regional Trial Court affirmed the judgment of conviction.[7] Unsuccessful at a reconsideration,[8] Levy filed this petition for review reiterating his defense of denial and invoking the constitutional presumption of innocence. Also, Levy argued that the barangay which issued the certificate to file action was not the proper venue for the conciliation proceedings; hence, the filing of the criminal case against him was premature for non-compliance with a condition precedent.[9]

We deny the petition.

Prefatorily, it bears emphasis that prior recourse to barangay conciliation when so required under the law is not a jurisdictional requirement.[10] Corollarily, non-observance would not deprive a court of its jurisdiction either

over the subject matter or the person of the defendant.[11] At any rate, failure to seasonably allege that there was no compliance with such condition precedent constitutes a waiver of the defense of prematurity of the cause of action.[12] Here, Levy did not invoke non-referral of the complaint to the appropriate barangay before the filing of the criminal case in court. Worse, he did not file a motion to dismiss or assign this issue in his answer before the MTC. Thus, it is too late for Levy to seek the dismissal of the case in view of his arraignment and active participation at the trial.

Anent the merits of this case, We agree with the MTC and the RTC that Levy was charged with grave threats under Article 282, paragraph 2 of the Revised Penal Code as can be gleaned from the information, to wit:

xxx the above-named accused, armed with a bolo, did then and there, willfully, unlawfully, feloniously and acting with discernment, uttered the following words to Benigno Ferrer, to wit: “Kapag natyempuhan ko ika, bubutukon ko an payo mo” (When I get the opportunity, I will lop off your head) which act constitute a wrong amounting to a crime to his damage and prejudice. (Emphases Ours).

It is settled that the real nature of a crime is determined by the actual recital of facts in the information and not from the caption nor from the specification of the provision of law alleged to have been violated.[13] Relevantly, the requirements to prove grave threats under this class are the following: (1) that the offender threatened another with the infliction upon the person, honor, or property of the latter or of his family of any wrong; (2) that such wrong amounted to a crime; and (3) that the threat was not subject to a condition.[14] The prosecution established these elements beyond reasonable doubt.

First, Levy deliberately uttered serious words and persisted in the idea involved in his threats. His acts of thrusting a bolo and of warning to lop off Benigno's head give rise to only one conclusion that the threats were made with the purpose of creating in the mind of the person threatened the belief that the threat would be carried into effect.”[15]Evidently, Benigno became so apprehensive of his safety that he scampered and sought refuge. Moreover, he did not waste time reporting the incident to the barangay. Second, the threats are wrongs on the person of Benigno amounting to homicide or serious physical injury. Without doubt, the uttered words enounce a threat to kill or to inflict serious harm. Finally, the threats are not accompanied by a demand or subject to any other condition.

In stark contrast, Levy offered a bare denial. As the MTC and the RTC correctly pointed out, this is a negative and self-serving evidence undeserving of weight in law.[16] More importantly, it cannot prevail over the categorical declarations of the prosecution witnesses.[17] In this case, Benigno positively identified Levy as the one who made the threats upon his person while Rogelio corroborated on how the victim managed to escape from the attack of the accused. Both witnesses had no motive to perjure against Levy. They were not moved by any reason other than to see that justice is done. Time-tested is the doctrine that the trial court’s finding on the credibility of witnesses is entitled to great weight, sometimes even with finality.[18] An appellate court will not interfere with that assessment, absent any indication that the trial court has overlooked some material facts or gravely abused its discretion.[19]

In sum, Levy is guilty beyond reasonable doubt of the crime of grave threats not subject to a condition penalized under Article 282, paragraph 2 of the Revised Penal Code with arresto mayor and a fine not exceeding P500.00. There being no mitigating or aggravating circumstance present in the commission of the crime, the penalty shall be in its medium period or three (3) months of arresto mayor. Obviously, the MTC and the RTC erred in applying the Indeterminate Sentence Law given that the maximum term of imprisonment does not exceed one year.[20]

FOR THESE REASONS, the April 29, 2013 Decision of the Regional Trial Court is **AFFIRMED** with **MODIFICATIONS** that LEVY VALENTINO y MAGDAMIT is found **GUILTY** of **GRAVE THREATS** and is

meted a straight penalty of three (3) months of arresto mayor and further ORDERED to pay a fine of P500.00.

**SO ORDERED.**

Reyes, Jr., (Chairperson) and Inting, JJ., concur.

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[1] Rollo, pp. 30-31.

[2] Id., pp. 31-32.

[3] Id., p. 29.

[4] Id., pp. 32-33.

[5] Id., pp. 35-37. The MTC Decision discussed as follows:

Evaluating the facts of this case, the Court is of the conclusion that the crime committed by the accused is Grave Threat[s] and not Light Threats. As defined in Article 283 of the Revised Penal Code, there is Light Threat[s] when the threat to commit a wrong does not constitute a crime. The facts in the instant case showed that when Levy Valentino y Magdamit draw his weapon and tried to hack Benigno Ferrer a crime could have been committed had it not been for the timely escape of the private complainant. “xxx That the threat to commit a wrong will constitute or not constitute a crime is the distinguishing factor between grave threats on one hand, and light and other light threats on the other.”

The Court also would like to stress that although the crime charged against the accused is Light Threat[s], however, the allegation[s] in the Information is for Grave Threat[s]. Thus, basic is the principle that the Title or the designation of the crime committed is immaterial and what is controlling is the allegation in the Information and/or Complaint. xxx.

[6] Id., p. 37.

[7] Id., pp. 38-40.

[8] Id., pp. 41-42.

[9] Id., pp. 10-25.

[10] See Uy v. Contreras, G.R. No. 111416, September 26, 1994, citing Garces v. Court of Appeals, 162 SCRA 504 (1988); Bañares, II, et al. v. Balising, et al., G.R. No. 132624, March 13, 2000, citing Millare v. Hernando, 151 SCRA 484 (1987).

[11] See Diu v. Court of Appeals, G.R. No. 115213, December 19, 1995, citing Agbayani, et al. v. Belen, et al., G.R. No. 65629, November 24, 1986, 145 SCRA 635; Fernandez, et al. v. Militante, et al., G.R. No. 59801, May 31, 1988, 161 SCRA 695.

[12] See Royales v. Intermediate Appellate Court, 127 SCRA 470 (1984); Ebol v. Amin, 135 SCRA 438 (1985); Gonzales v. Court of Appeals, 151 SCRA 289 (1987);

[13] See People of the Philippines v. Escosio, G.R. No. 101742, March 25, 1993. 220 SCRA 475; Pilapil v. Sandiganbayan, G.R. No. 101978. April 7, 1993.

[14] See Reyes v. People, G.R. Nos. L-21528 and L-21529, March 28, 1969; and U.S. v. Paguirigan, 14 Phil. 450.

[15] See U.S. v. Sevilla, 1 Phil. 143; and U.S. v. Paguirigan, supra.

[16] See *People v. Gayon*, 269 SCRA 587 (1997); and *Caca v. Court of Appeals*, 275 SCRA 123 (1997).

[17] See *People v. San Juan*, 270 SCRA 693 (1997); *People v. Bundang*, 272 SCRA 641 (1997); *People v. Enciso*, 223 SCRA 675 (1993); *People v. Pidia*, 249 SCRA 687 (1995); and *People v. De Guzman*, 265 SCRA 228 (1996).

[18] See *People v. Sagun*, February 19, 1999, 303 SCRA 382; and *People v. Villanueva*, January 29, 1999, 302 SCRA 380.

[19] See *People v. Gado*, 358 Phil. 956 (1998).

[20] Section 2 of Republic Act No. 4103, as amended.

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