

SILVINO ENVERZO BERNAL, PETITIONER, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-32798. August 30, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals, dated 15 July 1970, in CA-G.R. No. 04512-CR which affirmed the decision[2] of the court a quo in Criminal Case No. 6253, finding the accused guilty of the crime of robbery of coconuts valued at fifteen pesos (P15.00).

The incident in question took place in Sta. Elena, Sta. Rita, Samar, in a residential land planted to coconut trees, and belonging to the Estate of Tomas Bernal. The factual background of the case is as follows:

Tomas Bernal was married to Fortunata Longasa by whom he had two (2) daughters. One of them is the complainant Maria Bernal. Subsequently, the Bernal spouses separated, and Tomas Bernal lived with Fortunata Enverzo for over thirty (30) years, and by whom he had a son named Silvino Enverzo Bernal, accused and petitioner in the case at bar.[3]

On 18 August 1947, Tomas Bernal died leaving several parcels of land. During the pendency of the intestate proceedings[4] for the settlement of the estate of the deceased, the appointed administrator, Ambrosio Reyes, filed an action for recovery of possession of all the properties of the deceased, including the land referred to in this case, that were in the possession of Fortunata Enverzo, Silvino Enverzo Bernal, and other defendants.

On 30 March 1952, the court ordered Silvino and his mother Fortunata Enverzo together with other defendants to turn over the properties of the estate in their possession to the appointed administrator.[5] On 18 December 1952, the administrator was placed in actual possession of the properties of the estate.[6]

Sometime between 1952 and 1954, the appointed administrator of the estate of Tomas Bernal died, as a result of which, Maria Bernal without prior approval of the court in the intestate proceedings, took possession of the properties of the estate, including the residential land where the coconuts - subject of this case - were allegedly stolen by the accused-petitioner, and placed one Vicente Luge as tenant thereon.[7]

On 5 November 1960, Maria Bernal, together with her son Arturo Berdan, went to the residential lot referred to above, and upon finding that there were already mature coconuts therein, she hired Miling Caldoza to gather the same. While they were piling up the gathered coconuts, Silvino Enverzo Bernal, half-naked (without upper wear), and carry-ing a bolo, appeared and approached them. Brandishing the bolo he was holding, Silvino angrily threatened Maria Bernal not to take the piled coconuts and stated that he was not only a tenant of his father Tomas Bernal nor a "scarecrow" in said land. Because of fear, Maria and her son fled and proceeded to the house of the barrio lieutenant of Sta. Elena and later to the Chief of Police, to report the incident. Right after Maria Bernal and her son ran away, Silvino brought the coconuts (about 100 of them) to his residence.

Based on the complaint lodged by Maria Bernal four (4) months after the incident, an information for robbery was

filed by the Asst. Provincial Fiscal against Silvino Enverzo Bernal before the Court of First Instance of Samar, (docketed as Criminal Case No. 6253).[8]

On 27 July 1963, the Court found the accused guilty beyond reasonable doubt of the crime of robbery and sentenced him to suffer an indeterminate sentence of six (6) months and one (1) day of prision correccional to six (6) years and one (1) day of prision mayor, with the accessory penalties and to indemnify Maria Bernal in the amount of fifteen pesos (P15.00), with costs.[9]

Silvino Bernal appealed the decision of the court a quo to the Court of Appeals. On 15 July 1970, the appellate court affirmed the decision of the trial court.[10] A motion for reconsideration of said decision was filed, but the same was denied on 7 October 1970;[11] hence, this petition.

As to petitioner's first assignment of error questioning Maria Bernal's right to file the complaint for robbery against him, we note that the property where the coconuts were allegedly stolen, was in custodia legis, i.e., under the control and custody of the court in the intestate proceedings. Despite the fact that Maria Bernal is one of the heirs and a claimant to the estate of Tomas Bernal, she had no right to take possession of the property referred to in this case without the approval or prior authority of the court with jurisdiction over said estate. Under the circumstances, her then possession of the property and the produce thereof (coconuts) was unlawful.

To be sure, it has been held that mere possession of personal property, which was taken by means of threats or violence, is a sufficient ground for prosecution for the crime of robbery.[12] However, in the instant case, we note that Maria Bernal's possession of the property and its pro-duce was unlawfully obtained; thus, her possession could not really serve as basis of a right to file the complaint for robbery against petitioner.

As to petitioner's second assignment of error claiming that the Court of Appeals erred in adopting the findings of fact of the trial court, we find such contention to be devoid of merit. Factual findings of the trial court are entitled to great respect on appeal.

Petitioner next contends that, during the trial, the prosecution witnesses testified that at the time the incident happened, accused stated that he was not merely a tenant of his father Tomas Bernal nor a scarecrow in said property. Based on the aforesaid testimony, the trial court committed a mistake, according to the petitioner, in the appreciation of the evidence of the prosecution, because petitioner's unequivocal, albeit indirect, claim of ownership of the coconuts was clearly shown by his aforesaid statement testified to by the prosecution's own witnesses.

The Solicitor General, on the other hand, points out that petitioner failed to raise before the trial court as one of his defenses his claim of co-ownership of the coconuts in question and that, in fact, petitioner denied having taken the coconuts from the land of Tomas Bernal, testifying that the coconuts were taken from his own coconut plantation.

The rule is that any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything, is guilty of robbery.[13]

It has been said that "taking" as an element of robbery means depriving the offended party of ownership of the thing taken with the character of permanency.[14] The taking of personal property belonging to another should not be under a claim of ownership. One who takes the property openly and avowedly under claim of title offered in good faith is not guilty of robbery even though the claim of ownership is untenable.[15] The intent to gain, being an internal act, cannot be established by direct evidence, except in case of confession by the accused. It must, therefore, be deduced from the circumstances surrounding the commission of the offense.[16]

Petitioner's failure to interpose the defense that he took the coconuts under the belief that he was entitled to the same, as one of the heirs of his deceased father, will not deter or bar this Court from looking into the surrounding circumstances of the case, to determine whether or not there was really intent to gain on the part of petitioner in taking the coconuts or whether they were taken under a belief, mistaken or otherwise, that he was entitled to the same as co-owner thereof.

It has been established that Silvino Bernal was an illegitimate son of Tomas Bernal, and together with his mother, he had exercised dominion over the property from where the coconuts were allegedly stolen by him, even after the death of Tomas Bernal, until a court order was issued on 30 March 1952, ordering them to deliver the possession of said property to the administrator of the estate. However, upon the death of the administrator, Maria Bernal took possession of the property without prior consent or approval from the court in the intestate proceedings.

In addition to the statement made by Silvino during the incident - previously referred to - the foregoing circumstances tend to show that the act of petitioner in taking the coconuts was made under the belief that he was also entitled to a share in the estate of his father. The fact that under the law then applicable, - Tomas Bernal died on 18 August 1947 - an illegitimate child (like Silvino) was not considered a compulsory heir, is not material in determining whether herein petitioner is guilty of the crime charged. What is important is that he appears to have taken the coconuts under a claim of ownership. Petitioner is not learned in the intricacies or fine details of the law, so that it is not inconceivable that he assumed that as the son of Tomas Bernal, although illegitimate, he was entitled to a part of the estate of his deceased father.

In a criminal prosecution, every circumstance favorable to the innocence of the accused must be duly taken into account. The proofs adduced against the accused must convince the court, with moral certainty, that on him can be laid the responsibility for the offense charged, that is, that not only did he perpetrate the act, but that the act amounted to a crime.[17]

WHEREFORE, the decision under review is REVERSED and SET ASIDE. The accused is ACQUITTED based on reason-able doubt. With costs de oficio.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Justice Juan P. Enriquez, with the concurrence of Justices Magno S. Gatmaitan, Carmelino G. Alvenida and Jesus Y. Perez, Justice Andres Reyes dissented in a separate opinion, Rollo, pp. 8-19

[2] Penned by Judge Fidel Hernandez, CFI of Samar, 13th Judicial District, Branch I, dated 27 July 1963, Orig. Record, pp. 60-65

[3] Original Record, pp. 43-51

[4] Civil Case No. 4016, CFI of Samar

[5] Penned by Judge Fidel Hernandez, in Civil Case No. 4040, CFI of Samar, 13th Judicial District, Branch I, Original Record, pp. 43-51

[6] Original Record, p. 54

[7] Brief for Private Respondent, Rollo, p. 80

[8] Information, dated 16 January 1962, signed by Juan Figueroa, First Asst. Provincial Fiscal, Original Record, p.

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[9] Original Record, pp. 60-65

[10] Rollo, p. 8

[11] Petition, Rollo, p. 2

[12] U.S. v. Albao, G.R. No. 9369, Dec. 24, 1914, 29 Phil. 86

[13] Art. 293, Revised Penal Code of the Phil.

[14] U.S. vs. Atienza, G.R. No. 1043, May 15, 1903, 2 Phil. 242

[15] U.S. vs. Manluco, G.R. No. 10005, Nov. 9, 1914; 28 Phil. 360

[16] People vs. Sia Teb Ban, G.R. No. 31695, Nov. 26, 1929, 54 Phil. 52

[17] People v. Cui, G.R. No. L-48084, 20 June 1988

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