PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER P. TULIN, VIRGILIO I. LOYOLA, CECILIO O. CHANGCO, ANDRES C. INFANTE, CHEONG SAN HIONG, AND JOHN DOES, ACCUSED-APPELLANTS.

G.R. No. 111709. August 30, 2001

Ponente: MELO, J.

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MELO, J.:

This is one of the older cases which unfortunately has remained in docket of the Court for sometime. It was reassigned, together with other similar cases, to undersigned ponente in pursuance of A.M. No. 00-9-03-SC dated February 27, 2001.

In the evening of March 2, 1991, "M/T Tabangao," a cargo vessel owned by the PNOC Shipping and Transport Corporation, loaded with 2,000 barrels of kerosene, 2,600 barrels of regular gasoline, and 40,000 barrels of diesel oil, with a total value of P40,426,793,87. was sailing off the coast of Mindoro near Silonay Island.

The vessel, manned by 21 crew members, including Captain Edilberto Libo-on, Second Mate Christian Torralba, and Operator Isaias Ervas, was suddenly boarded, with the use of an aluminum ladder, by seven fully armed pirates led by Emilio Changco, older brother of accused-appellant Cecilio Changco. The pirates, including accused-appellants Tulin, Loyola, and Infante, Jr. were armed with M-16 rifles, .45 and .38 caliber handguns, and bolos. They detained the crew and took complete control of the vessel. Thereafter, accused-appellant Loyola ordered three crew members to paint over, using black paint, the name "M/T Tabangao" on the front and rear portions of the vessel, as well as the PNOC logo on the chimney of the vessel. The vessel was then painted with the name "Galilee," with registry at San Lorenzo, Honduras. The crew was forced to sail to Singapore, all the while sending misleading radio messages to PNOC that the ship was undergoing repairs.

PNOC, after losing radio contact with the vessel, reported the disappearance of the vessel to the Philippine Coast Guard and secured the assistance of the Philippine Air Force and the Philippine Navy. However, search and rescue operations yielded negative results. On March 9, 1991, the ship arrived in the vicinity of Singapore and cruised around the area presumably to await another vessel which, however, failed to arrive. The pirates were thus forced to return to the Philippines on March 14, 1991, arriving at Calatagan, Batangas on March 20, 1991 where it remained at sea.

On March 28, 1991, the "M/T Tabangao" again sailed to and anchored about 10 to 18 nautical miles from Singapore's shoreline where another vessel called "Navi Pride" anchored beside it. Emilio Changco ordered the crew of "M/T Tabangao" to transfer the vessel's cargo to the hold of "Navi Pride". Accused-appellant Cheong San Hiong supervised the crew of "Navi Pride" in receiving the cargo. The transfer, after an interruption, with both vessels leaving the area, was completed on March 30,1991.

On March 30, 1991, "M/T Tabangao" returned to the same area and completed the transfer of cargo to "Navi

Pride."

On April 8, 1991, "M/T Tabangao" arrived at Calatagan, Batangas, but the vessel remained at sea. On April 10, 1991, the members of the crew were released in three batches with the stern warning not to report the incident to government authorities for a period of two days or until April 12, 1991, otherwise they would be killed. The first batch was fetched from the shoreline by a newly painted passenger jeep driven by accused-appellant Cecilio Changco, brother of Emilio Changco, who brought them to Imus, Cavite and gave P20,000.00 to Captain Libo-on for fare of the crew in proceeding to their respective homes. The second batch was fetched by accused-appellant Changco at midnight of April 10, 1991 and were brought to different places in Metro Manila.

On April 12, 1991, the Chief Engineer, accompanied by the members of the crew, called the PNOC Shipping and Transport Corporation office to report the incident. The crew members were brought to the Coast Guard Office for investigation. The incident was also reported to the National Bureau of Investigation where the officers and members of the crew executed sworn statements regarding the incident.

A series of arrests was thereafter effected as follows:

a. On May 19, 1991, the NBI received verified information that the pirates were present at U.K. Beach, Balibago, Calatagan, Batangas. After three days of surveillance, accused-appellant Tulin was arrested and brought to the NBI headquarters in Manila.

b. Accused-appellants Infante, Jr. and Loyola were arrested by chance at Aguinaldo Hi-way by NBI agents as the latter were pursuing the mastermind, who managed to evade arrest.

c. On May 20, 1991, accused-appellants Hiong and Changco were arrested at the lobby of Alpha Hotel in Batangas City.

On October 24 1991, an Information charging qualified piracy or violation of Presidential Decree No. 532 (piracy in Philippine Waters) was filed against accused-appellants, as follows:

> The undersigned State Prosecutor accuses ROGER P. TULIN, VIRGILIO I. LOYOLA, CECILIO O. CHANGCO, ANDRES C. INFANTE, and CHEONG SAN HIONG, and nine (9) other JOHN DOES of qualified piracy (Violation of P.D. No. 532), committed as follows:
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> That on or about and during the period from March 2 to April 10, 1991, both dates inclusive, and for sometime prior and subsequent thereto, and within the jurisdiction of this Honorable Court, the said accused, then manning a motor launch and armed with high powered guns, conspiring and confederating together and mutually helping one another, did then and there, wilfully, unlawfully and feloniously fire upon, board and seize while in the Philippine waters M/T PNOC TABANGCO loaded with petroleum products, together with the complement and crew members, employing violence against or intimidation of persons or force upon things, then direct the vessel to proceed to Singapore where the cargoes were unloaded and thereafter returned to the Philippines on April 10, 1991, in violation of the aforesaid law.
>
> CONTRARY TO LAW.

(pp. 119-20, Rollo.)

This was docketed as Criminal Case No. 91-94896 before Branch 49 of the Regional Trial Court of the National Capital Judicial Region stationed in Manila. Upon arraignment, accused-appellants pleaded not guilty to the charge. Trial thereupon ensued.

Accused-appellants Tulin, Infante, Jr., and Loyola, notwithstanding some inconsistencies in their testimony as to where they were on March 1, 1991, maintained the defense of denial, and disputed the charge, as well as the

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transfer of any cargo from "M/T Tabangao" to the "Navi Pride." All of them claimed having their own respective sources of livelihood. Their story is to the effect that on March 2, 1991, while they were conversing by the beach, a red speedboat with Captain Edilberto Liboon and Second Mate Christian Torralba on board, approached the seashore. Captain Liboon inquired from the three if they wanted to work in a vessel. They were told that the work was light and that each worker was to be paid P3,000.00 a month with additional compensation if they worked beyond that period. They agreed even though they had no sea-going experience. On board, they cooked, cleaned the vessel, prepared coffee, and ran errands for the officers. They denied having gone to Singapore, claiming that the vessel only went to Batangas. Upon arrival thereat in the morning of March 21, 1991, they were paid P1,000.00 each as salary for nineteen days of work, and were told that the balance would be remitted to their addresses. There was neither receipt nor contracts of employment signed by the parties.

Accused-appellant Changco categorically denied the charge, averring that he was at home sleeping on April 10, 1991. He testified that he is the younger brother of Emilio Changco, Jr.

Accused-appellant Cheong San Hiong, also known as Ramzan Ali, adduced evidence that he studied in Sydney, Australia, obtaining the "Certificate" as Chief Officer, and later completed the course as a "Master" of a vessel, working as such for two years on board a vessel. He was employed at Navi Marine Services, Pte., Ltd. as Port Captain. The company was engaged in the business of trading petroleum, including shipoil, bunker lube oil, and petroleum to domestic and international markets. It owned four vessels, one of which was "Navi Pride."

On March 2, 1991, the day before "M/T Tabangao" was seized by Emilio Changco and his cohorts, Hiong's name was listed in the company's letter to the Mercantile Section of the Maritime Department of the Singapore government as the radio telephone operator on board the vessel "Ching Ma."

The company was then dealing for the first time with Paul Gan, a Singaporean broker, who offered to sell to the former bunker oil for the amount of 300,000.00 Singapore dollars. After the company paid over one-half of the aforesaid amount to Paul Gan, the latter, together with Joseph Ng, Operations Superintendent of the firm, proceeded to the high seas on board "Navi Pride" but failed to locate the contact vessel.

The transaction with Paul Gan finally pushed through on March 27, 1991. Hiong, upon his return on board the vessel "Ching Ma," was assigned to supervise a ship-to-ship transfer of diesel oil off the port of Singapore, the contact vessel to be designated by Paul Gan. Hiong was ordered to ascertain the quantity and quality of the oil and was given the amount of 300,000.00 Singapore Dollars for the purchase. Hiong, together with Paul Gan, and the surveyor William Yao, on board "Navi Pride" sailed toward a vessel called "M/T Galilee". Hiong was told that "M/T Galilee" would be making the transfer. Although no inspection of "Navi Pride" was made by the port authorities before departure, Navi Marine Services, Pte., Ltd. was able to procure a port clearance upon submission of General Declaration and crew list. Hiong, Paul Gan, and the brokers were not in the crew list submitted and did not pass through the immigration. The General Declaration falsely reflected that the vessel carried 11,900 tons.

On March 28, 1991, "Navi Pride" reached the location of "M/T Galilee". The brokers then told the Captain of the vessel to ship-side with "M/T Galilee" and then transfer of the oil transpired. Hiong and the surveyor William Yao met the Captain of "M/T Galilee," called "Captain Bobby" (who later turned out to be Emilio Changco). Hiong claimed that he did not ask for the full name of Changco nor did he ask for the latter's personal card.

Upon completion of the transfer, Hiong took the soundings of the tanks in the "Navi Pride" and took samples of the cargo. The surveyor prepared the survey report which "Captain Bobby" signed under the name "Roberto Castillo." Hiong then handed the payment to Paul Gan and William Yao. Upon arrival at Singapore in the morning of March 29, 1991, Hiong reported the quantity and quality of the cargo to the company.

Thereafter, Hiong was again asked to supervise another transfer of oil purchased by the firm " from "M/T Galilee" to "Navi Pride." The same procedure as in the first transfer was observed. This time, Hiong was told that that there were food and drinks, including beer, purchased by the company for the crew of "M/T Galilee. The transfer took ten hours and was completed on March 30, 1991. Paul Gan was paid in full for the transfer.

On April 29 or 30, 1991, Emilio Changco intimated to Hiong that he had four vessels and wanted to offer its cargo to cargo operators. Hiong was asked to act as a broker or ship agent for the sale of the cargo in Singapore. Hiong went to the Philippines to discuss the matter with Emilio Changco, who laid out the details of the new transfer, this time with "M/T Polaris" as contact vessel. Hiong was told that the vessel was scheduled to arrive at the port of Batangas that weekend. After being billeted at Alpha Hotel in Batangas City, where Hiong checked in under the name "SONNY CSH." A person by the name of "KEVIN OCAMPO," who later turned out to be Emilio Changco himself, also checked in at Alpha Hotel. From accused-appellant Cecilio Changco, Hiong found out that the vessel was not arriving. Hiong was thereafter arrested by NBI agents.

After trial, a 95-page decision was rendered convicting accused-appellants of the crime charged. The dispositive portion of said decision reads:

> WHEREFORE, in the light of the foregoing considerations, judgment is hereby rendered by this Court finding the accused Roger Tulin, Virgilio Loyola, Andres Infante, Jr. and Cecilio Changco guilty beyond reasonable doubt, as principals, of the crime of piracy in Philippine Waters defined in Section 2(d) of Presidential Decree No. 532 and the accused Cheong San Hiong, as accomplice, to said crime. Under Section 3(a) of the said law, the penalty for the principals of said crime is mandatory death. However, considering that, under the 1987 Constitution, the Court cannot impose the death penalty, the accused Roger Tulin, Virgilio Loyola, Andres Infante,]r., and Cecilio Changco are hereby each meted the penalty of RECLUSION PERPETUA, with all the accessory penalties of the law. The accused Cheong San Hiong is hereby meted the penalty of RECLUSION PERPETUA, pursuant to Article 52 of the Revised Penal Code in relation to Section 5 of PD 532. The accused Roger Tulin, Virgilio Loyola, Andres Infante, Jr. and Cecilio Changco are hereby ordered to return to the PNOC Shipping and Transport Corporation the "M/T Tabangao" or if the accused can no longer return the same, the said accused are hereby ordered to remit, jointly and severally, to said corporation the value thereof in the amount of P11,240,000.00 Philippine Currency, with interests thereon, at the rate of 6% per annum from March 2, 1991 until the said amount is paid in full. All the accused including Cheong San Hiong are hereby ordered to return to the Caltex Philippines, Inc. the cargo of the "M/T Tabangao", or if the accused can no longer return the said cargo to said corporation, all the accused are hereby condemned to pay, jointly and severally, to the Caltex Refinery, Inc., the value of said cargo in the amount of P40,426,793.87, Philippine Currency plus interests until said amount is paid in full. After the accused Cheong San Hiong has served his sentence, he shall be deported to Singapore.
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> All the accused shall be credited for the full period of their detention at the National Bureau of Investigation and the City Jail of Manila during the pendency of this case provided that they agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail of Manila and the National Bureau of Investigation. With costs against all the accused.
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> SO ORDERED.
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> (pp. 149-150, Rollo.)

The matter was then elevated to this Court. The arguments of accused-appellants may be summarized as follows:

Roger P. Tulin Virgilio Loyola Andres C. Infante Jr., and Cecilio O. Changco

Accused-appellants Tulin, Loyola, Infante, Jr., and Cecilio Changco assert that the trial court erred in allowing them to adopt the proceedings taken during the time they were being represented by Mr. Tomas Posadas, a

non-lawyer, thereby depriving them of their constitutional right to procedural due process.

In this regard, said accused-appellants narrate that Mr. Posadas entered his appearance as counsel for all of them. However, in the course of the proceedings, or on February 11, 1992, the trial court discovered that Mr. Posadas was not a member of the Philippine Bar. This was after Mr. Posadas had presented and examined seven witnesses for the accused.

Further, accused-appellants Tulin, Loyola, Infante, Cecilio, Changco uniformly contend that during the custodial investigation, they were subjected to physical violence; were forced to sign statements without being given the opportunity to read the contents of the same; were denied assistance of counsel, and were not informed of their rights, in violation of their constitutional rights,

Said accused-appellants also argue that the trial court erred in finding that the prosecution proved beyond reasonable doubt that they committed the crime of qualified piracy. They allege that the pirates were outnumbered by the crew who totaled 22 and who were not guarded at all times. The crew, so these accused-appellants conclude, could have overpowered the alleged pirates.

Cheong San Hiong
In his brief, Cheong argues that: (1) Republic Act No. 7659 in effect obliterated the crime committed by him; (2) the trial court erred in declaring that the burden is lodged on him to prove by clear and convincing evidence that he had no knowledge that Emilio Changco and his cohorts attacked and seized the "M/T Tabangao" and/or that the cargo of the vessel was stolen or the subject of theft or robbery or piracy; (3) the trial court erred in finding him guilty as an accomplice to the crime of qualified piracy under Section 4 of Presidential Decree No. 532 (Anti-Piracy and Anti-Robbery Law of 1974); (4) the trial court erred in convicting and punishing him as an accomplice when the acts allegedly committed by him were done or executed outside of Philippine waters and territory, stripping the Philippine courts of jurisdiction to hold him for trial, to convict, and sentence; (5) the trial court erred in making factual conclusions without evidence on record to prove the same and which in fact are contrary to the evidence adduced during trial; (6) the trial court erred in convicting him as an accomplice under Section 4 of Presidential Decree No. 532 when he was charged as a principal by direct participation under said decree, thus violating his constitutional right to be informed of the nature and cause of the accusation against him.

Cheong also posits that the evidence against the other accused-appellants do not prove any participation on his part in the commission of the crime of qualified piracy. He further argues that he had not in any way participated in the seajacking of "M/T Tabangao" and in committing the crime of qualified piracy, and that he was not aware that the vessel and its cargo were pirated.

As legal basis for his appeal, he explains that he was charged under the information with qualified piracy as principal under Section 2 of Presidential Decree No. 532 which refers to Philippine waters. In the case at bar, he argues that he was convicted for acts done outside Philippine waters or territory. For the State to have criminal jurisdiction, the act must have been committed within its territory.

We affirm the conviction of all the accused-appellants.

The issues of the instant case may be summarized as follows: (1) what are the legal effects and implications of the fact that a non-lawyer represented accused-appellants during the trial?; (2) what are the legal effects and implications of the absence of counsel during the custodial investigation?; (3) did the trial court err in finding that the prosecution was able to prove beyond reasonable doubt that accused-appellants committed the crime of qualified piracy?; (4) did Republic Act No. 7659 obliterate the crime committed by accused-appellant Cheong?; and (5) can accused-appellant Cheong be convicted as accomplice when he was not charged as such and when the

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acts allegedly committed by him were done or executed outside Philippine waters and territory?

On the first issue, the record reveals that a manifestation (Exhibit "20", Record) was executed by accused-appellants Tulin, Loyola, Changco, and Infante, Jr. on February 11, 1991, stating that they were adopting the evidence adduced when they were represented by a non-lawyer. Such waiver of the right to sufficient representation during the trial as covered by the due process clause shall only be valid if made with the full assistance of a bona fide lawyer. During the trial, accused-appellants, as represented by Atty. Abdul Basar, made a categorical manifestation that said accused-appellants were apprised of the nature and legal consequences of the subject manifestation, and that they voluntarily and intelligently executed the same. They also affirmed the truthfulness of its contents when asked in open court (tsn, February 11, 1992, pp. 7-59). It is true that an accused person shall be entitled to be present and to defend himself in person and by counsel at every stage of the proceedings, from arraignment to promulgation of judgment (Section 1, Rule 115, Revised Rules of Criminal Procedure). This is hinged on the fact that a layman is not versed on the technicalities of trial. However, it is also provided by law that "[r]ights may be waived, unless the waiver is contrary to law, public order, public policy, morals, or good customs or prejudicial to a third person with right recognized by law." (Article 6, Civil Code of the Philippines). Thus, the same section of Rule 115 adds that "[u]pon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his rights without the assistance of counsel." By analogy , but without prejudice to the sanctions imposed by law for the illegal practice of law, it is amply shown that the rights of accused-appellants were sufficiently and properly protected by the appearance of Mr. Tomas Posadas. An examination of the record will show that he knew the technical rules of procedure. Hence, we rule that there was a valid waiver of the right to sufficient representation during the trial, considering that it was unequivocally, knowingly, and intelligently made and with the full assistance of a bona fide lawyer, Atty. Abdul Basar. Accordingly, denial of due process cannot be successfully invoked where a valid waiver of rights has been made (People vs. Serzo, 274 SCRA 553 [1997]; Sayson vs. People, 166 SCRA 680 [1988]).

However, we must quickly add that the right to counsel during custodial investigation may not be waived except in writing and in the presence of counsel.

Section 12, Article III of the Constitution reads:

> SEC. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
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> (2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.
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> (3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.
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> (4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families.

Such rights originated from Miranda v. Arizona (384 U. S. 436 [1966]) which gave birth to the so-called Miranda doctrine which is to the effect that prior to any questioning during custodial investigation, the person must be warned that he has a right to remain silent, that any statement he gives may be used as evidence against him, and that he has the right to the presence of an attorney, either retained or appointed. The defendant may waive

effectuation of these rights, provided the waiver is made voluntarily, knowingly, and intelligently. The Constitution even adds the more stringent requirement that the waiver must be in writing and made in the presence of counsel.

Saliently, the absence of counsel during the execution of the so-called confessions of the accused-appellants make them invalid. In fact, the very basic reading of the Miranda rights was not even shown in the case at bar. Paragraph [3] of the aforestated Section 12 sets forth the so-called "fruit from the poisonous tree doctrine," a phrase minted by Mr. Justice Felix Frankfurter in the celebrated case of Nardone vs. United States (308 U.S. 388 [1939]). According to this rule, once the primary source (the "tree") is shown to have been unlawfully obtained, any secondary or derivative evidence (the "fruit") derived from it is also inadmissible. The rule is based on the principle that evidence illegally obtained by the State should not be used to gain other evidence because the originally illegally obtained evidence taints all evidence subsequently obtained (People vs. Alicando, 251 SCRA 293 [1995]). Thus, in this case, the uncounselled extrajudicial confessions of accused-appellants, without a valid waiver of the right to counsel, are inadmissible and whatever information is derived therefrom shall be regarded as likewise inadmissible in evidence against them.

However, regardless of the inadmissibility of the subject confessions, there is sufficient evidence to convict accused-appellants with moral certainty. We agree with the sound deduction of the trial court that indeed, Emilio Changco (Exhibits "U" and "UU") and accused-appellants Tulin, Loyola, .and Infante, Jr. did conspire and confederate to commit the crime charged. In the words of then trial judge, now Justice Romeo J. Callejo of the Court of Appeals -

> ...The Prosecution presented to the Court an array of witnesses, officers and members of the crew of the "M/T Tabangao" no less, who identified and pointed to the said Accused as among those who attacked and seized, the "M/T Tabangao" on March 2, 1991, at about 6:30 o'clock in the afternoon, off Lubang Island, Mindoro, with its cargo, and brought the said vessel, with its cargo, and the officers and crew of the vessel, in the vicinity of Horsebough Lighthouse, about sixty-six nautical miles off the shoreline of Singapore and sold its cargo to the Accused Cheong San Hiong upon which the cargo was discharged from the "M/T Tabangao" to the "Navi Pride" for the price of about $500,000.00 (American Dollars) on March 29, and 30, 1991...
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> The Master, the officers and members of the crew of the "M/T Tabangao" were on board the vessel with the Accused and their cohorts from March 2, 1991 up to April 10, 1991 or for more than one (1) month. There can be no scintilla of doubt in the mind of the Court that the officers and crew of the vessel could and did see and identify the seajackers and their leader. In fact, immediately after the Accused were taken into custody by the operatives of the National Bureau of Investigation, Benjamin Suyo, Norberto Senosa, Christian Torralba and Isaias Wervas executed their "Joint Affidavit" (Exhibit "B") and pointed to and identified the said Accused as some of the pirates.
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> Indeed, when they testified before this Court on their defense, the three (3) Accused admitted to the Court that they, in fact, boarded the said vessel in the evening of March 2 1991 and remained on board when the vessel

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sailed to its, destination, which turned out to be off the port of Singapore.

(pp. 106-112, Rollo.)

We also agree with the trial court's finding that accused-appellants' defense of denial is not supported by any hard evidence but their bare testimony. Greater weight is given to the categorical identification of the accused by the prosecution witnesses than to the accused's plain denial of participation in the commission of the crime (People v. Baccay, 284 SCRA 296 [1998]). Instead, accused-appellants Tulin, Loyola, and Infante, Jr. narrated a patently desperate tale that they were hired by three complete strangers (allegedly Captain Edilberto Liboon, Second Mate Christian Torralba, and their companion) while said accused-appellants were conversing with one another along the seashore at Apkaya, Balibago, Calatagan, Batangas, to work on board the "M/T Tabangao" which was then anchored off-shore. And readily, said accused-appellants agreed to work as cooks and handymen for an indefinite period of time without even saying goodbye to their families, without even knowing their destination or the details of their voyage, without the personal effects needed for a long voyage at sea. Such evidence is incredible and clearly not in accord with human experience. As pointed out by the trial court, it is incredible that Captain Liboon, Second Mate Torralba, and their companion "had to leave the vessel at 9:30 o'clock in the evening and venture in a completely unfamiliar place merely to recruit five (5) cooks or handymen (p. 113, Rollo)."

Anent accused-appellant Changco's defense of denial with the alibi that on May 14 and 17, he was at his place of work and that on April 10, 1991, he was in his house in Bacoor, Cavite, sleeping, suffice it to state that alibi is fundamentally and inherently a weak defense, much more so when uncorroborated by other witnesses (People v. Adora, 275 SCRA 441 [1997]) considering that it is easy to fabricate and concoct, and difficult to disprove. Accused-appellant must adduce clear and convincing evidence that, at about midnight on April 10, 1991, it was physically impossible for him to have been in Calatagan, Batangas. Changco not only failed to do this, he was likewise unable to prove that he was in his place of work on the dates aforestated.

It is doctrinal that the trial court's evaluation of the credibility of a testimony is accorded the highest respect, for trial courts have an untrammeled opportunity to observe directly the demeanor of witnesses and, thus, to determine whether a certain witness is telling the truth (People v. Obello, 284 SCRA 79 [1998]).

We likewise uphold the trial court's finding of conspiracy. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it (Article 8, Revised Penal Code). To be a conspirator, one need not participate in every detail of execution; he need not even take part in every act or need not even know the exact part to be performed by the others in the execution of the conspiracy. As noted by the trial court, there are times when conspirators are assigned separate and different tasks which may appear unrelated to one another, but in fact, constitute a whole and collective effort to achieve a common criminal design.

We affirm the trial court's finding that Emilio Changco, accused- appellants Tulin, Loyola, and Infante, Jr. and others, were the ones assigned to attack and seize the "M/T Tabangao" off Lubang, Mindoro, while accused-appellant Cecilio Changco was to fetch the master and the members of the crew from the shoreline of Calatagan, Batangas after the transfer, and bring them to Imus, Cavite, and to provide the crew and the officers of the vessel with money for their fare and food provisions on their way home. These acts had to be well-coordinated. Accused-appellant Cecilio Changco need not be present at the time of the attack and seizure of "M/T Tabangao" since he performed his task in view of an objective common to all other accused- appellants.

Of notable importance is the connection of accused-appellants to one another. Accused-appellant Cecilio Changco is the younger brother of Emilio Changco (aka Captain Bobby/Captain Roberto Castillo/Kevin Ocampo), owner of Phil-Asia Shipping Lines. Cecilio worked for his brother in said corporation. Their residences are approximately six or seven kilometers away from each other. Their families are close. Accused-appellant Tulin,

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on the other hand, has known Cecilio since their parents were neighbors in Aplaya, Balibago, Calatagan, Batangas. Accused-appellant Loyola's wife is a relative of the Changco brothers by affinity .Besides, Loyola and Emilio Changco had both been accused in a seajacking case regarding "M/T Isla Luzon" and its cargo of steel coils and plates off Cebu and Bohol in 1989. Emilio Changco (aka Kevin Ocampo) was convicted of the crime while Loyola at that time remained at large.

As for accused-appellant Hiong, he ratiocinates that he can no longer be convicted of piracy in Philippine waters as defined and penalized in Sections 2[d] and 3[a], respectively of Presidential Decree No. 532 because Republic Act No. 7659 (effective January 1, 1994) which amended Article 122 of the Revised Penal Code, has impliedly superseded Presidential Decree No. 532. He reasons out that Presidential Decree No. 532 has been rendered "superfluous or duplicitous" because both Article 122 of the Revised Penal Code, as amended, and Presidential Decree No. 532 punish piracy committed in Philippine waters. He maintains that in order to reconcile the two laws, the word "any person" mentioned in Section 1 [d] of Presidential Decree No. 532 must be omitted such that Presidential Decree No. 532 shall only apply to offenders who are members of the complement or to passengers of the vessel, whereas Republic Act No. 7659 shall apply to offenders who are neither members of the complement or passengers of the vessel, hence, excluding him from the coverage of the law.

Article 122 of the Revised Penal Code, used to provide:

> Article 122. Piracy in general and mutiny on the high seas. -The penalty of reclusion temporal shall be inflicted upon any person who, on the high seas, shall attack or seize a vessel or, not being a member of its complement nor a passenger, shall seize the whole or part of the cargo of said vessel, its equipment, or personal belongings of its complement or passengers.
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> (Underscoring supplied.)

Article 122, as amended by Republic Act No. 7659 January 1, 1994), reads:

> Article 122. Piracy in general and mutiny on the high seas or in Philippine waters. -The penalty of reclusion perpetua shall be inflicted upon any person who, on the high seas, or in Philippine waters, shall attack or seize a vessel or, not being a member of its complement nor a passenger, shall seize the whole or part of the cargo of said vessel, its equipment, or personal belongings of its complement or passengers.
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> (Underscoring ours)

On the other hand, Section 2 of Presidential Decree No. 532 provides:

> SEC. 2. Definition of Terms. - The following shall mean and be understood, as follows:
>
> d. Piracy. -Any attack upon or seizure of any vessel, or the taking away of the whole or part thereof or its cargo, equipment, or the personal belongings of its complement or passengers, irrespective of the value thereof, by means of violence against or intimidation of persons or force upon things, committed by any person. including a passenger or member of the complement of said vessel in Philippine waters, shall be considered as piracy. The offenders shall be considered as pirates and punished as hereinafter provided (underscoring supplied).

To summarize, Article 122 of the Revised Penal Code, before its amendment, provided that piracy must be committed on the high seas by any person not a member of its complement nor a passenger thereof. Upon its amendment by Republic Act No. 7659, the coverage of the pertinent provision was widened to include offenses committed "in Philippine waters." On the other hand, under Presidential Decree No. 532 (issued in 1974), the coverage of the law on piracy embraces any person including "a passenger or member of the complement of said vessel in Philippine waters." Hence, passenger or not, a member of the complement or not, any person is covered

by the law.

Republic Act No. 7659 neither superseded nor amended the provisions on piracy under Presidential Decree No. 532. There is no contradiction between the two laws. There is likewise no ambiguity and hence, there is no need to construe or interpret the law. All the presidential decree did was to widen the coverage of the law, in keeping with the intent to protect the citizenry as well as neighboring states from crimes against the law of nations. As expressed in one of the "whereas" clauses of Presidential Decree No. 532, piracy is "among the highest forms of lawlessness condemned by the penal statutes of all countries." For this reason, piracy under the Article 122, as amended, and piracy under Presidential Decree No. 532 exist harmoniously as separate laws.

As regards the contention that the trial court did not acquire jurisdiction over the person of accused-appellant Hiong since the crime was committed outside Philippine waters, suffice it to state that unquestionably, the attack on and seizure of "M/T Tabangao" (renamed "M/T Galilee" by the pirates) and its cargo were committed in Philippine waters, although the captive vessel was later brought by the pirates to Singapore where its cargo was off-loaded, transferred, and sold. And such transfer was done under accused-appellant Hiong's direct supervision. Although Presidential Decree No. 532 requires that the attack and seizure of the vessel and its cargo be committed in Philippine waters, the disposition by the pirates of the vessel and its cargo is still deemed part of the act of piracy, hence, the same need not be committed in Philippine waters.

Moreover, piracy falls under Title One of Book Two of the Revised Penal Code. As such, it is an exception to the rule on territoriality in criminal law. The same principle applies even if Hiong, in the instant case, were charged, not with a violation of qualified piracy under the penal code but under a special law, Presidential Decree No. 532 which penalizes piracy in Philippine waters. Verily, Presidential Decree No. 532 should be applied with more force here since its purpose is precisely to discourage and prevent piracy in Philippine waters (People v. Catantan, 278 SCRA 761 [1997]). It is likewise, well-settled that regardless of the law penalizing the same, piracy is a reprehensible crime against the whole world (People v. Lol-lo, 43 Phil. 19 [1922]).

However, does this constitute a violation of accused-appellant's constitutional right to be informed of the nature and cause of the accusation against him on the ground that he was convicted as an accomplice under Section 4 of Presidential Decree No. 532 even though he was charged as a principal by direct participation under Section 2 of said law?

The trial court found that there was insufficiency of evidence showing:

(a) that accused-appellant Hiong directly participated in the attack and seizure of "M/T Tabangao" and its cargo; (b) that he induced Emilio Changco and his group in the attack and seizure of "M/T Tabangao" and its cargo; (c) and that his act was indispensable in the attack on and seizure of "M/T Tabangao" and its cargo. Nevertheless, the trial court found that accused-appellant Hiong's participation was indisputably one which aided or abetted Emilio Changco and his band of pirates in the disposition of the stolen cargo under Section 4 of Presidential Decree No. 532 which provides:

> SEC. 4. Aiding pirates or highway robbers/brigands or abetting piracy or highway robbery brigandage. -Any person who knowingly and in any manner aids or protects pirates or highway robbers/brigands, such as giving them information about the movement of police or other peace officers of the government, or acquires or receives property taken by such pirates or brigands or in any manner derives any benefit therefrom; or any person who directly or indirectly abets the commission of piracy or highway robbery or brigandage, shall be considered as an accomplice of the principal officers and be punished in accordance with Rules prescribed by the Revised Penal Code.
>
> It shall be presumed that any person who does any of the acts provided in this Section has performed them

knowingly, unless the contrary is proven.

The ruling of the trial court is Within well-settle jurisprudence that if there is lack of complete evidence of conspiracy, the liability is that of an accomplice and not as principal (People v. Tolentino, 40 SCRA 514 [1971]). Any doubt as to the participation of an individual in the commission of the crime is always resolved in favor of lesser responsibility (People v. Corbes, 270 SCRA 465 [1997]; People vs. Elfano, Jr., 125 SCRA 792 [1983]; People v. Pastores, 40 SCRA 498 [1971]).

Emphasis must also be placed on the last paragraph of Section 4 of Presidential Decree No 532 which presumes that any person who does any of the acts provided in said section has performed them knowingly, unless the contrary is proven. In the case at bar, accused-appellant Hiong had failed to overcome the legal presumption that he knowingly abetted or aided in the commission of piracy, received property taken by such pirates and derived benefit therefrom.

The record discloses that accused-appellant Hiong aided the pirates in disposing of the stolen cargo by personally directing its transfer from "M/T Galilee" to "M/T Navi Pride". He profited therefrom by buying the hijacked cargo for Navi Marine Services, Pte., Ltd. (tsn, June 3, 1992, pp. 15-23). He even tested the quality and verified the quantity of the petroleum products, connived with Navi Marine Services personnel in falsifying the General Declarations and Crew List to ensure that the illegal transfer went through, undetected by Singapore Port Authorities, and supplied the pirates with food, beer, and other provisions for their maintenance while in port (tsn, June 3, 1992, pp. 133-134).

We believe that the falsification of the General Declaration (Arrival and Departure) and Crew List was accomplished and utilized by accused-appellant Hiong and Navi Marine Services personnel in the execution of their scheme to avert detection by Singapore Port Authorities. Hence, had accused-appellant Hiong not falsified said entries, the Singapore Port Authorities could have easily discovered the illegal activities that took place and this would have resulted in his arrest and prosecution in Singapore. Moreover, the transfer of the stolen cargo from "M/T Galilee" to "Navi Pride" could not have been effected.

We completely uphold the factual findings of the trial court showing in detail accused-appellant Hiong's role in the disposition of the pirated goods summarized as follows: that on March 27, 1991, Hiong with Captain Biddy Santos boarded the "Navi Pride," one of the vessels of the Navi Marine, to rendezvous with the "M/T Galilee"; that the firm submitted the crew list of the vessel (Exhibit "8-CSH", Record) to the port authorities, excluding the name of Hiong; that the "General Declaration" (for departure) of the "Navi Pride" for its voyage off port of Singapore (Exhibits "HH" and "8-A CSH", Record) falsely stated that the vessel was scheduled to depart at 2200 (10 o'clock in the evening), that there were no passengers on board, and the purpose of the voyage was for "cargo operation" and that the vessel was to unload and transfer 1,900 tons of cargo; that after the transfer of the fuel from "M/T Galilee" with' Emilio Changco a. k. a. Captain Bobby a. k. a. Roberto Castillo at the helm, the surveyor prepared the "Quantity Certificate" (Exhibit "11-C CSH, Record) stating that the cargo transferred to the "Navi Pride" was 2,406 gross cubic meters; that although Hiong was not the Master of the vessel, he affixed his signature on the "Certificate" above the word "Master" (Exhibit "11-C-2 CSH", Record); that he then paid $150,000.00 but did not require any receipt for the amount; that Emilio Changco also did not issue one; and that in the requisite "General Declaration" upon its arrival at Singapore on March 29, 1991, at 7 o'clock in the evening, (Exhibits "JJ" and "13-A CSH", Record), it was made to falsely appear that the "Navi Pride" unloaded 1,700 tons of cargo on the high seas during said voyage when in fact it acquired from the "M/T Galilee" 2,000 metric tons of diesel oil. The second transfer transpired with the same irregularities as discussed above. It was likewise supervised by accused- appellant Cheong from his end while Emilio Changco supervised the transfer from his end.

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Accused-appellant Hiong maintains that he was merely following the orders of his superiors and that he has no knowledge of the illegality of the source of the cargo.

First and foremost, accused-appellant Hiong cannot deny knowledge of the source and nature of the cargo since he himself received the same from "M/T Tabangao". Second, considering that he is a highly educated mariner, he should have avoided any participation in the cargo transfer given the very suspicious circumstances under which it was acquired. He failed to show a single piece of deed or bill of sale or even a purchase order or any contract of sale for the purchase by the firm; he never bothered to ask for and scrutinize the papers and documentation relative to the "M/T Galilee"; he did not even verify the identity of Captain Robert Castillo whom he met for the first time nor did he check the source of the cargo; he knew that the transfer took place 66 nautical miles off Singapore in the dead of the night which a marine vessel of his firm did not ordinarily do; it was also the first time Navi Marine transacted with Paul Gan involving a large sum of money without any receipt issued therefor; he was not even aware if Paul Gan was a Singaporean national and thus safe to deal with. It should also be noted that the value of the cargo was P40,426,793.87 or roughly more than US$l,000,000.00 (computed at P30.00 to $1, the exchange rate at that time). Manifestly, the cargo was sold for less than one-half of its value. Accused-appellant Hiong should have been aware of this irregularity. Nobody in his right mind would go to far away Singapore, spend much time and money for transportation -only to sell at the aforestated price if it were legitimate sale involved. This, in addition to the act of falsifying records, clearly shows that accused-appellant Hiong was well aware that the cargo that his firm was acquiring was purloined.

Lastly, it cannot be correctly said that accused-appellant was "merely following the orders of his superiors." An individual is justified in performing an act in obedience to an order issued by a superior if such order, is for some lawful purpose and that the means used by the subordinate to carry out said order is lawful (Reyes, Revised Penal Code, Vol. 1, 1981 ed., p. 212). Notably, the alleged order of Hiong's superior Chua Kim Leng Timothy, is a patent violation not only of Philippine, but of international law. Such violation was committed on board a Philippine-operated vessel. Moreover, the means used by Hiong in carrying out said order was equally unlawful. He misled port and immigration authorities, falsified records, using a mere clerk, Frankie Loh, to consummate said acts. During the trial, Hiong presented himself, and the trial court was convinced, that he was an intelligent and articulate Port Captain. These circumstances show that he must have realized the nature and the implications of the order of Chua Kim Leng Timothy. Thereafter, he could have refused to follow orders to conclude the deal and to effect the transfer of the cargo to the "Navi Pride." He did not do so, for which reason, he must now suffer the consequences of his actions.

WHEREFORE, finding the conviction of accused-appellants justified by the evidence on record, the Court hereby AFFIRMS the judgment of the trial court in toto.

SO ORDERED.

Vitug, Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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