

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMILIANO CATANTAN Y TAYONG, ACCUSED-APPELLANT.*G.R. No. 118075. September 05, 1997*

Ponente: BELLOSILLO, J.

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EMILIANO CATANTAN and JOSE MACVEN URSAL alias "Bimbo" were charged with violation of PD No. 532 otherwise known as the Anti-Piracy and Highway Robbery Law of 1974 for having on 27 June 1993, while armed with a firearm and a bladed weapon, acting in conspiracy with one another, by means of violence and intimidation, wilfully and feloniously attacked, assaulted and inflicted physical injuries on Eugene Pilapil and Juan Pilapil Jr. who were then fishing in the seawaters of Tabogon, Cebu, and seized their fishing boat, to their damage and prejudice. [1]

The Regional Trial Court of Cebu, after trial, found both accused Emiliano Catantan y Tayong and Jose Macven Ursal alias "Bimbo" guilty of the crime charged and sentenced them to reclusion perpetua. [2] Of the duo only Emiliano Catantan appealed.

In his appeal, accused Catantan contends that the trial court erred in convicting him of piracy as the facts proved only constitute grave coercion defined in Art. 286 of the Revised Penal Code and not piracy under PD No. 532.

The evidence for the prosecution is that at 3:00 o'clock in the morning of 27 June 1993, the Pilapil brothers Eugene, 21, and Juan Jr., 18, were fishing in the sea some 3 kilometers away from the shores of Tabogon, Cebu. Suddenly, another boat caught up with them. One of them, later identified as the accused Emiliano Catantan, boarded the pumpboat of the Pilapils and leveled his gun at Eugene. With his gun, Catantan struck Eugene on the left cheekbone and ordered him and Juan Jr. to "dapa." [3] Then Catantan told Ursal to follow him to the pumpboat of the Pilapils. There they hogtied Eugene, forced him to lie down at the bottom of the boat, covered him with a tarpaulin up to his neck, stepped on him and ordered Juan Jr. to ferry them to Daan Tabogon. They left behind the other pumpboat which the accused had earlier used together with its passengers one of whom was visibly tied.

Noting that they were already far out into the sea, Eugene reminded Catantan that they were now off-course but Catantan told Eugene to keep quiet or he would be killed. Later, the engine conked out and Juan Jr. was directed to row the boat. Eugene asked to be set free so he could help but was not allowed; he was threatened with bodily harm instead.

Meanwhile Juan Jr. managed to fix the engine, but as they went farther out into the open sea the engine stalled again. This time Eugene was allowed to assist his brother. Eugene's hands were set free but his legs were tied to the outrigger. At the point of a tres cantos [4] held by Ursal, Eugene helped row the boat.

As they passed the shoreline of Nipa, they saw another boat. Catantan asked whose boat that was and the Pilapils told him that it was operated by a certain Juanito and that its engine was new. Upon learning this, Catantan

ordered the Pilapil brothers to approach the boat cautioning them however not to move or say anything.

On the pretext that they were buying fish Catantan boarded the "new" pumpboat. Once aboard he ordered the operator Juanito to take them to Mungaz, another town of Cebu. When Juanito tried to beg-off by saying that he would still pull up his net and harvest his catch, Catantan drew his revolver and said, "You choose between the two, or I will kill you." [5] Juanito, obviously terrified, immediately obeyed and Ursal hopped in from the other pumpboat and joined Catantan.

But, as Ursal was transferring to the "new" pumpboat, its outrigger caught the front part of the pumpboat of the Pilapils so he kicked hard its prow; it broke. The jolt threw Eugene into the sea and he landed on the water headlong. Juan Jr. then untied his brother's legs and the two swam together clinging to their boat. Fortunately another pumpboat passed by and towed them safely ashore.

Section 2, par. (d), of PD No. 532, defines piracy as "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 the 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." And a vessel is construed in Sec. 2, par. (b), of the same decree as "any vessel or watercraft used for transport of passengers and cargo from one place to another through Philippine waters. It shall include all kinds and types of vessels or boats used in fishing (underscoring supplied).

On the other hand, grave coercion as defined in Art. 286 of the Revised Penal Code is committed by "any person who, without authority of law, shall, by means of violence, prevent another from doing something not prohibited by law, or compel him to do something against his will, whether it be right or wrong."

Accused-appellant argues that in order that piracy may be committed it is essential that there be an attack on or seizure of a vessel. He claims that he and his companion did not attack or seize the fishing boat of the Pilapil brothers by using force or intimidation but merely boarded the boat, and it was only when they were already on board that they used force to compel the Pilapils to take them to some other place. Appellant also insists that he and Ursal had no intention of permanently taking possession or depriving complainants of their boat. As a matter of fact, when they saw another pumpboat they ordered the brothers right away to approach that boat so they could leave the Pilapils behind in their boat. Accordingly, appellant claims, he simply committed grave coercion and not piracy.

We do not agree. Under the definition of piracy in PD No. 532 as well as grave coercion as penalized in Art. 286 of the Revised Penal Code, this case falls squarely within the purview of piracy. While it may be true that Eugene and Juan Jr. were compelled to go elsewhere other than their place of destination, such compulsion was obviously part of the act of seizing their boat. The testimony of Eugene, one of the victims, shows that the appellant actually seized the vessel through force and intimidation. The direct testimony of Eugene is significant and enlightening -

Q: Now, while you and your younger brother were fishing at the seawaters of Tabogon at that time, was there anything unusual that happened?

A: Yes.

Q: Will you please tell the Court what that was?

A: While we were fishing at Tabogon another pumpboat arrived and the passengers of that pumpboat boarded our pumpboat.

Q: Now, that pumpboat which you said approached you, how many were riding in that pumpboat?

A: Four.

Q: When you said the passengers of that pumpboat boarded your pumpboat, how did they do that?

A: They approached somewhat suddenly and came aboard the pumpboat (underscoring supplied).

Q: How many suddenly came aboard your pumpboat?

A: Only one.

Q: What did that person do when he came aboard your pumpboat?

A: When he boarded our pumpboat he aimed his revolver at us (underscoring supplied).

Q: By the way, when he aimed his revolver to you, did he say anything to you?

xxxx

A: He said, "dapa," which means lie down (underscoring supplied).

COURT:

Q: To whom did he aim that revolver?

A: He aimed the revolver on me.

TRIAL PROS. ECHAVEZ:

Q: What else did he do?

A: Then he ordered his companion to come aboard the pumpboat.

Q: What did he do with his revolver?

A: He struck my face with the revolver, hitting the lower portion of my left eye.

Q: Now, after you were struck with the revolver, what did these persons do?

A: We were ordered to take them to a certain place.

Q: To what place did he order you to go?

A: To Daan Tabogon. [6]

To sustain the defense and convert this case of piracy into one of grave coercion would be to ignore the fact that a fishing vessel cruising in Philippine waters was seized by the accused by means of violence against or intimidation of persons. As Eugene Pilapil testified, the accused suddenly approached them and boarded their pumpboat and Catantan aimed his revolver at them as he ordered complaining witness Eugene Pilapil to "dapa" or lie down with face downwards, and then struck his face with a revolver, hitting the lower portion of his left eye, after which, Catantan told his victims at gun point to take them to Daan Tabogon.

The incident happened at 3:00 o'clock in the morning. The sudden appearance of another pumpboat with four passengers, all strangers to them, easily intimidated the Pilapil brothers that they were impelled to submit in complete surrender to the marauders. The moment Catantan jumped into the other pumpboat he had full control of his victims. The sight of a drawn revolver in his hand drove them to submission. Hence the issuance of PD No. 532 designed to avert situations like the case at bar and discourage and prevent piracy in Philippine waters. Thus we cite the succeeding "whereas" clauses of the decree -

Whereas, reports from law-enforcement agencies reveal that lawless elements are still committing acts of depredations upon the persons and properties of innocent and defenseless inhabitants who travel from one place to another, thereby disturbing the peace, order and tranquility of the nation and stunting the economic and social progress of the people;

Whereas, such acts of depredations constitute either piracy or highway robbery/brigandage which are among the highest forms of lawlessness condemned by the penal statutes of all countries; and,

Whereas, it is imperative that said lawless elements be discouraged from perpetrating such acts of depredations by imposing heavy penalty on the offenders, with the end in view of eliminating all obstacles to the economic, social, educational and community progress of the people.

The Pilapil brothers are mere fisherfolk whose only means of livelihood is fishing in sea waters. They brave the natural elements and contend with the unknown forces of the sea to bring home a bountiful harvest. It is on these small fishermen that the townspeople depend for the daily bread. To impede their livelihood would be to deprive them of their very subsistence, and the likes of the accused within the purview of PD No. 532 are the obstacle to the "economic, social, educational and community progress of the people." Had it not been for the chance passing of another pumpboat, the fate of the Pilapil brothers, left alone helpless in a floundering, meandering outrigger with a broken prow and a conked-out engine in open sea, could not be ascertained.

While appellant insists that he and Ursal had no intention of depriving the Pilapils permanently of their boat, proof of which they left behind the brothers with their boat, the truth is, Catantan and Ursal abandoned the Pilapils only because their pumpboat broke down and it was necessary to transfer to another pumpboat that would take them back to their lair. Unfortunately for the pirates their "new" pumpboat ran out of gas so they were apprehended by the police soon after the Pilapils reported the matter to the local authorities.

The fact that the revolver used by the appellant to seize the boat was not produced in evidence cannot exculpate him from the crime. The fact remains, and we state it again, that Catantan and his co-accused Ursal seized through force and intimidation the pumpboat of the Pilapils while the latter were fishing in Philippine waters.

WHEREFORE, finding no reversible error in the decision appealed from, the conviction of accused-appellant EMILIANO CATANTAN y TAYONG for the crime of piracy penalized under PD No. 532 and sentencing him accordingly to reclusion perpetua, is AFFIRMED. Costs against accused-appellant.
SO ORDERED.

Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 1.

[2] Decision penned by Judge Renato C. Dacudao, RTC-Br.14, Cebu, 26 May 1994.

[3] To lie down.

[4] A 3-bladed knife.

[5] Rollo, p. 14.

[6] TSN, 13 January 1994, pp. 5-6.

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