ERNESTO PIL-EY, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 154941. July 09, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari under Rule 45 assailing the November 29, 2001 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR No. 19810, which affirmed the ruling of the Regional Trial Court (RTC), First Judicial Region, Branch 36, Bontoc, Mountain Province.

On May 27, 1994, an Information was filed with the RTC charging petitioner Ernesto Pil-ey and his two co-accused, Constancio Manochon and Waclet Anamot, with violation of Presidential Decree (P.D.) No. 533, or the Anti-Cattle Rustling Law, committed as follows:

> That on or before April 15, 1994, in the evening thereof at [S]itio Ta-ed, Bontoc, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and helping one another and with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and load on a Ford Fierra one (1) male cow, and thereafter butchered the same, against and without the consent of the owner, Rita Khayad, resulting to the damage and prejudice of the said owner in the amount of TEN THOUSAND PESOS (P10,000.00), Philippine currency.
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> That the use of a motor vehicle attended and facilitated the commission of the crime.
>
> CONTRARY TO LAW.[3]

On arraignment, the three pleaded not guilty to the crime charged.[4] Thereafter, the RTC proceeded to try the case.

From the testimonies of the prosecution witnesses, the facts are as follows.

On April 16, 1994, private complainant Rita Khayad of Bontoc, Mt. Province discovered that her 3-year-old white and black-spotted cow,[5] which was grazing at Sitio Taed with her 4 other bovines, was missing.[6] She and her children searched for it but to no avail. She was later informed by her grandson, Ronnie Faluyan, that in the afternoon of April 15, 1994, while the latter was with his friends at the 156 Store at the back of the market, he saw a cow similar to that of his grandmother's[7] loaded in a blue Ford Fiera driven along the national highway by accused Manochon.[8] With Manochon in the Fiera was his helper, petitioner Pil-ey.[9] Manochon was a butcher and meat vendor.[10]

After having ascertained from people in the market that the cow was already slaughtered,[11] Rita reported the matter to the police.[12] Tagged as the primary suspects were petitioner Pil-ey, his co-accused, Manochon and Anamot. The 3 accused were invited by the authorities to the Bontoc Municipal Police Station for questioning.[13] On April 17, 1994, Rita, Annie and Ronnie went to the station to file their respective affidavits.[14] During the confrontation between the parties, petitioner Pil-ey admitted that they were the ones

who took the cow. Since they were relatives, Pil-ey asked for a settlement of the case.[15] Rita, however, rebuffed the request.[16] On separate occasions, Anamot and Manochon went to the house of Rita,[17] to offer a compromise, but again, Rita refused. [18]

Traversing the prosecution evidence, accused Manochon and Pil-ey testified that on April 12, 1994, Anamot went to Manochon's house and offered his cow for sale and butchering[19] for P7,000.00. Manochon agreed and gave him P1,000.00 as advance payment; the balance of P6,000.00 shall be paid after the cow's meat had been sold.[20] At 7:00 a.m. of April 15, 1994, Anamot went to the market and requested Pil-ey to ask Manochon, who was then busy chopping meat for sale, if his cow could be scheduled for butchering on the following day.[21] Manochon consented so Anamot described the white and black-spotted cow and instructed Pil-ey to get the same above the road at Sitio Taed.[22]

Hence, at 2:00 p.m. on that day, while Manochon was in Sagada buying pigs,[23] Pil-ey went to Sitio Taed, found the subject cow, tied it to a tree within the area, and then went home to wait for Manochon.[24] When the latter came back from Sagada, they proceeded back to Sitio Taed at around 4:00 p.m. to load the cow in the blue Ford Fiera.[25] Passing along the national road,[26] they then went back to Manochon's house in Caluttit.[27] At 11:00 p.m., they butchered the cow at Manochon's house and readied it for sale.[28]

In the afternoon of April 16, 1994, they were surprised when they were invited by the Bontoc Police for investigation in view of the complaint of Rita Khayad who claimed to be the owner of the cow.[29] Manochon further stated that only Pil-ey and Anamot answered the questions of the police officers and the private complainant, and that he was not able to explain his side as they were forced and sent immediately to jail.[30] He denied offering a settlement and explained that he went to Rita Khayad's house to deliver the P6,000.00.[31] Petitioner Pil-ey denied asking forgiveness from private complainant and insisted that the cow they took was Anamot's.[32]

For his part, Anamot denied having conspired with his co-accused in taking the subject cow.[33] He testified that in 1993, he and Rita co-owned a white female cow, which was hacked and sold for butchering to Manochon.[34] On April 12, 1994, he went to see Manochon at his house in order to collect his share of the payment.[35] He further claimed that, aside from the cow he co-owned with Rita, he had three other cows grazing near the road going to Guina-ang but he had nothing at Sitio Taed;[36] hence, he denied seeing and talking to Manochon and Pil-ey on April 15, 1994 and instructing them to get a cow at Sitio Taed. He stated that after the meeting on April 12, 1994, he saw his co- accused again when they were already behind bars.[37] He further alleged that he went to Rita's place not to ask for a settlement but only to ask from the latter why he was included in her complaint.[38]

On March 22, 1996, the RTC rendered its Decision[39] finding the three accused guilty beyond reasonable doubt of violating P.D. No. 533, otherwise known as the Anti-Cattle Rustling Law of 1974. The fallo of the RTC's decision reads:

> Wherefore, judgment is hereby rendered, applying the Indeterminate Sentence Law in the process, sentencing each of the above-named accused to indeterminate imprisonment of ten (10) years, and one (1) day of prision mayor as minimum, to twelve (12) years, five (5) months, and eleven (11) days of reclusion temporal as maximum — the statute violated being a special law; ordering the said accused to pay jointly and severally the sum of P10,000.00 to the offended party; and to pay the costs.
>
> SO ORDERED.[40]

Individual notices of appeal[41] were, then, filed by the accused. On November 29, 2001, the appellate court affirmed the ruling of the RTC and disposed of the case as follows:

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> WHEREFORE, finding no reversible error in the judgment of conviction dated March 22, 1996, rendered by Branch 36 of the Regional Trial Court, First Judicial Region, Bontoc, Mountain Province, in Criminal Case No. 1025 entitled "People of the Philippines versus Constancio Manochon, Waclet Anamot and Ernesto Pil-ey," the same is AFFIRMED in toto.
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> With costs against accused-appellants.
>
> SO ORDERED.[42]

The separate motions for reconsideration[43] were denied; thus, the three accused interposed their respective but separate appeals before this Court.

On November 11, 2002, Constancio Manochon's petition for review on certiorari docketed as G.R. No. 155234 was denied by the Court for failure to submit a certified true copy of the assailed decision; and for raising factual issues.[44] Likewise, on December 16, 2002, the Court denied Waclet Anamot's petition for review on certiorari (UDK-13174) for failure to pay the docket fees.[45]

Thus, only the instant petition for review on certiorari[46] filed by Ernesto Pil-ey is left for resolution.

In this petition, Pil-ey reiterates his and Manochon's narration of the incident,[47] and raises the following issues:

I.

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE OFFER OF COMPROMISE ON THE PART OF THE PETITIONER IS AN IMPLIED ADMISSION OF GUILT [IN SPITE] OF THE FACT THAT IT WAS MADE DURING CUSTODIAL INVESTIGATION WHERE THE PETITIONER'S [RIGHTS] WERE NOT OBSERVED, HENCE, THE SAME IS INADMISSIBLE.
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> II.
> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN APPLYING IN THIS CASE THE LEGAL PRESUMPTION OF GUILT UNDER SECTION 7 IN RELATION TO SECTION 5 OF PD NO. 533, THE ANTI-CATTLE RUSTLING LAW OF 1974.
>
> III.
> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT [IN SPITE] OF THE FACT THAT EVIDENCE ON RECORD COULD NOT SUPPORT A CONVICTION.[48]

The pivotal issue in this case is whether or not, based on the evidence on record, petitioner is guilty beyond reasonable doubt of violating the provisions of P.D. No. 533 or the Anti-Cattle Rustling Law of 1974.

We rule in the affirmative.

Cattle-rustling is the taking away by any means, method or scheme, without the consent of the owner or raiser, of any cow, carabao, horse, mule, ass or other domesticated member of the bovine family, whether or not for profit or gain, or whether committed with or without violence against or intimidation of any person or force upon things; and it includes the killing of large cattle, or taking its meat or hide without the consent of the owner or raiser.[49]

Conviction for cattle-rustling necessitates the concurrence of the following elements: (1) large cattle is taken; (2) it belongs to another; (3) the taking is done without the consent of the owner or raiser; (4) the taking is done by any means, method or scheme; (5) the taking is done with or without intent to gain; and (6) the taking is accomplished with or without violence or intimidation against persons or force upon things.[50] Considering that

the gravamen of the crime is the taking or killing of large cattle or taking its meat or hide without the consent of the owner or raiser,[51] conviction for the same need only be supported by the fact of taking without the cattle owner's consent.

In the instant case, the prosecution proved beyond reasonable doubt that Rita Khayad's white and black-spotted cow was taken from Sitio Taed where it was grazing; that its taking was without Rita's consent; and that the said cattle was later seen in the possession of the petitioner and his co-accused. Thus, the foregoing elements of the crime of cattle-rustling are present.

Its takers have not offered a satisfactory explanation for their possession of the missing bovine. It is the rule that when stolen property is found in the possession of one, not the owner, and without a satisfactory explanation of his possession, he is presumed to be the thief.[52] This is in consonance with the disputable presumption that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act.[53]

Indeed, petitioner's defense of mistake of fact, i.e., he and his employer Manochon were of the erroneous belief that the cow was owned or raised by Anamot, is unacceptable. This defense crumbles in the light of Anamot's testimony that his purpose in going to Manochon's house on April 12, 1994 was to exact payment of a white female cow sold for butchering in 1993, and not to sell the white and black-spotted cow subject of this case. He further stated that he did not have cows grazing at Sitio Taed.

Petitioner's admission in the course of the trial that he and his co-accused took the cow is buttressed by the testimony of prosecution witness Ronnie Faluyan that he saw Manochon and Pil-ey with the subject cow in a blue Ford Fiera. This judicial admission, which binds the declarant and which does not need any further presentation of evidence,[54] reinforces petitioner's conviction.

Thus, petitioner's argument that his alleged offer of settlement during the informal confrontation at the police station is inadmissible in evidence because it was made without the presence of counsel, is no longer material. After all, the crime of cattle-rustling and the fact that petitioners and his co-accused are the perpetrators thereof had been established by ample evidence other than the alleged inadmissible extrajudicial confession. The same holds true even if we do not apply the presumption of guilt under Section 7[55] of P.D. No. 533.

All told, we hold that the evidence on record sufficiently prove the unanimous findings of the RTC and the CA that the petitioner and his co-accused are guilty beyond reasonable doubt of violating the provisions of P.D. No. 533. There is no cogent reason to reverse the said rulings.

Be that as it may, we, however, find that the penalty imposed by the trial court is erroneous. While it correctly imposed reclusion temporal in its minimum period as the maximum penalty, it erred in imposing prision mayor in its maximum period as the minimum penalty. As in Canta v. People,[56] the RTC in this case considered P.D. No. 533 as a special law and applied the latter portion of Section 1 of the Indeterminate Sentence Law.[57] However, as we have declared in Canta, the computation of the penalty should be in accordance with our discussion in People v. Macatanda,[58] which we quote herein for emphasis, thus:

> We do not agree with the Solicitor General that P.D. No. 533 is a special law, entirely distinct from and unrelated to the Revised Penal Code. From the nature of the penalty imposed which is in terms of the classification and duration of penalties as prescribed in the Revised Penal Code, which is not for penalties as are ordinarily imposed in special laws, the intent seems clear that P.D. 533 shall be deemed as an amendment of the Revised Penal Code, with respect to the offense of theft of large cattle (Art. 310), or otherwise to be subject to applicable provisions thereof such as Article 104 of the Revised Penal Code on civil liability of the offender, a provision which is not found in the decree, but which could not have been intended to be discarded

> or eliminated by the decree. Article 64 of the same Code should, likewise, be applicable x x x.[59]

Hence, in the instant case, considering that neither aggravating[60] nor mitigating circumstance attended the commission of the crime, the penalty to be imposed should be within the range of prision correccional in its maximum period to prision mayor in its medium period, as minimum, to reclusion temporal in its minimum period, as maximum. We, thus, modify the minimum penalty imposed by the trial court to be four (4) years, two (2) months and one (1) day of prision correccional.

Furthermore, we note that the separate appeals interposed by Manochon and Anamot were denied by this Court on November 11 and December 16, 2002, respectively. As their convictions were affirmed earlier, they were already made to suffer the erroneous penalty imposed by the trial court. Nevertheless, they shall benefit from the favorable modification of the minimum penalty made herein. Section 11, Rule 122 of the Revised Rules on Criminal Procedure provides that "an appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter."[61]

WHEREFORE, in view of the foregoing disquisition, the Decision of the Court of Appeals is AFFIRMED, with the modification that petitioner Ernesto Pil-ey and his co-accused Constancio Manochon and Waclet Anamot are hereby SENTENCED to suffer a prison term of four (4) years, two (2) months and one (1) day of prision correccional in its maximum period, as minimum, to twelve (12) years, five (5) months and eleven (11) days of reclusion temporal in its minimum period, as maximum.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1] The records reveal that petitioner's surname is alternatively spelled as "Pil-ey" or "Pel-ey."

[2] Penned by Associate Justice Sergio L. Pestaño (deceased), with Associate Justices Conchita Carpio Morales (now Associate Justice of the Supreme Court) and Martin S. Villarama, Jr., concurring; CA rollo, pp. 195-202.

[3] Records, p. 1.

[4] Id. at 52, 61.

[5] TSN, August 4, 1994, pp. 18-19.

[6] Id. at 2-3.

[7] Id. at 48-49.

[8] Id. at 35-36.

[9] TSN, August 4, 1994, p. 35.

[10] TSN, September 6, 1995, p. 24.

[11] Id. at 7, 37-38.

[12] Id. at 7.

[13] Records, p. 10.

[14] Id. at 6-9, 11-12.

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[15] TSN, October 13, 1994, pp. 15, 21; TSN, August 9, 1994, pp. 4-5; TSN, August 5, 1994, p. 68; TSN, August 4, 1994, p. 9.

[16] TSN, August 4, 1994, p. 10.

[17] TSN, September 6, 1995, pp. 18, 31; TSN, July 13, 1995, p. 3.

[18] TSN, August 5, 1994, pp. 62-63; TSN, August 4, 1994, p. 32.

[19] TSN, September 6, 1995, pp. 27-28; TSN, July 13, 1995, p. 11.

[20] Id. at 27-28.

[21] TSN, July 13, 1995, pp. 12-13.

[22] Id. at 13.

[23] TSN, September 6, 1995, pp. 30-31.

[24] TSN, July 13, 1995, pp. 13-16.

[25] Id. at 18-19.

[26] TSN, July 13, 1995, p. 18.

[27] TSN, September 6, 1995, p. 34.

[28] Id. at 37.

[29] Id. at 37-39.

[30] Id. at 39-41.

[31] Id. at 41-42.

[32] TSN, July 13, 1995, pp. 17, 20.

[33] Id. at 2.

[34] Id. at 5-6.

[35] TSN, October 12, 1995, pp. 89-90.

[36] Id. at 92.

[37] Id. at 90-91.

[38] TSN, July 13, 1995, pp. 3-4, 6-8.

[39] Records, pp. 238-243.

[40] Id. at 243.

[41] Id. at 246, 249, 250.

[42] CA rollo, p. 201.

[43] Id. at 204-209, 219-230, 233-238.

[44] Id. at 285-286. An entry of judgment was issued on July 15, 2003 (id. at 288-289).

[45] Id. at 280-281. The Court forthwith issued the entry of judgment on February 14, 2003 (id. at 283).

[46] Rollo, pp. 10-31.

[47] Id. at 13-16.

[48] Id. at 17-18.

[49] Presidential Decree No. 533 (1974), Sec. 2, par. c in relation to par. a.

[50] Canta v. People, 405 Phil. 726, 736 (2001).

[51] People v. Villacastin, Jr., 420 Phil. 394, 403-404 (2001).

[52] People v. Del Rosario, 411 Phil. 676, 687 (2001).

[53] People v. Newman, G.R. No. L-45354, July 26, 1988, 163 SCRA 496, 508, citing RULES OF COURT, Rule 131, Sec. 3, par. (j).

[54] RULES OF COURT, Rule 129, Sec. 4.

[55] SEC. 7. Presumption of cattle rustling. — Every person having in his possession, control or custody of large cattle shall, upon demand by competent authorities, exhibit the documents prescribed in the preceding sections. Failure to exhibit the required documents shall be prima facie evidence that the large cattle in his possession, control or custody are the fruits of the crime of cattle rustling.

[56] Supra note 50.

[57] Act No. 4103, as amended by Act No. 4225.

[58] 195 Phil. 604 (1981).

[59] Id. at 611-612.

[60] Let it be noted that the aggravating circumstance of "by means of motor vehicle" alleged in the information was not sufficiently established to have facilitated the commission of the crime.

[61] People v. Arondain, 418 Phil. 354, 373 (2001).

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