

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ROMUALDO MENA, DEFENDANT AND APPELLANT.*G.R. No. 4812. October 30, 1908*

Ponente: CARSON, J.

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The accused was convicted of the crime of coaccion (unlawful coercion), as defined and penalized in article 497 of the Penal Code, and sentenced to one month and one day of *arresto mayor*; to the payment of a fine of 325 pesetas, with subsidiary imprisonment as provided by law; and to the payment of the costs of the trial; the penalty prescribed being imposed in its minimum degree, the trial court having taken into consideration the extenuating circumstance of race, as prescribed in article 11 of the Penal Code.

On or about the 21st day of December, 1907, three carabaos, the property of the defendant, trespassed upon the rice paddies of the complaining witness, Ceferino Flora, doing considerable damage thereto. Flora took possession of the animals and refused to return them to the defendant without compensation for the damage done. The defendant did not deny Flora's right to compensation, but said that he was unable to make payment in kind, because at the time he did not own any rice; and there would appear to have been some question also as to the amount of damage done by the animals. Between 10 and 11 o'clock on the following morning, Flora and his son set out to take the carabaos to the justice of the peace, for the purpose of depositing them in his care until the question of damages could be settled in his court. On the road to the justice of the peace, they met the defendant in company with some other persons. In answer to a question of some of the party who were with the defendant, Flora said that he was bringing the animals to the justice of the peace, and refused to surrender them to the defendant or his friends. Thereupon, the defendant drew his bolo, rushed at Flora's son (who was in advance of Flora himself, mounted on one of the carabaos, and leading another with a mecate), cut the mecate by which the son was leading the carabao, and with threats of bodily injury, compelled him to turn the other loose; and then with further threats of bodily injury, compelled Flora himself to turn loose the carabao which he was riding.

While there is some dispute as to the details of the incident, we think the testimony of the witnesses clearly establishes the facts as above set out. Counsel for the defendant insists that the complaining witness had no right to take possession of the carabaos of the defendant, even though they were trespassing upon his lands; that he had no right to take the animals to the justice of the peace; and that the defendant was guilty of no offense in forcibly taking possession of his own carabaos at the time when the incident above related occurred.

Without entering upon a discussion of the respective rights of the parties, we are of opinion that, granting it were true that the complaining witness had no lawful right to the possession of the carabaos or to take the carabaos to the justice of the peace, and granting further that the accused had a right to have the carabaos turned over to him, when he demanded them of the complaining witness, nevertheless, the crime of coaccion (unlawful coercion), as defined and penalized in article 497 of the Penal Code, was committed by him, when with violence he compelled the complaining witness to turn over the carabaos against his will, it being clearly understood by the defendant and his friends that the complaining witness was not seeking to appropriate the animals or to carry them off as his

property, and that he merely asserted a right to the possession of the carabaos for the purpose of taking them to the justice of the peace in order that the question of the damages might be adjusted.

Article 497 of the Penal Code defines and penalizes the crime of coaccion as follows:

"He who, without being lawfully authorized so to do, prevents another, with violence, from doing something which is not prohibited by law or compels him to do something which he does not wish to do, whether such thing be just or unjust, will be punished with the penalty of arresto mayor, and a fine of from 325 to 3,250 pesetas."

The acts committed by the defendant clearly fall within the foregoing definition of the crime of coaccion. With violence he compelled the complaining witness to do that which he did not desire to do—that is to say, to turn, over the possession of the carabaos—and it matters not whether it was "just or unjust" that they should thus have been turned over to the defendant; whether it was or was not the duty of the complaining witness to turn them over on demand, the defendant was guilty of the crime of coaccion unless he was lawfully authorized to enforce his demand when the complaining witness refused compliance therewith.

The defendant was not clothed with any judicial or administrative authority, and it is a maxim of the law that no man is authorized to take the law into his own hands and enforce his rights with threats of violence, except in certain well-defined cases, where one acts in the necessary defense of one's life, liberty, or property, against unlawful aggression, and manifestly the defendant can not successfully maintain that his action was taken in defense of life, liberty, or property. The carabaos were in the possession of the complaining witness who claimed the right thereto for the purpose of turning them over to the justice of the peace; the defendant denied the right of the complaining witness to this possession and claimed the absolute right to possession in himself; but in forcibly depriving the complaining witness of possession of the carabaos the defendant was not acting in defense of his right to the possession of the property from unlawful aggression, but rather asserting his right to take the possession from another, and thus he himself became the aggressor.

A dispute having arisen as to the right of possession, and the carabaos being actually in the possession of the complaining witness, it was the duty of the defendant if he desired to enforce his claim, to seek the aid of the proper judicial authority; and had he thus asserted his claim in the orderly manner provided by law, he would have secured not only the possession of the animals, but damages for their detention, upon proof of the justice of his claim.

A similar question was decided in the case of *U. S. vs. Tremoya* (10 Phil. Rep., 89), wherein it was held that where one was actually in possession of a parcel of land and claimed the right to possession under color of title, the lawful owner of the land with the true title to the possession was guilty of coaccion, when with violence he compelled the person in possession to vacate.

The judgment and sentence of the trial court should be and are hereby affirmed, with the costs of this instance against the appellant. So ordered.

Torres, Mapa, Johnson, Willard, and Tracey, JJ., concur.

Arellano, C. J., concurs in the result.

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