

2 Phil. 167

[ G.R. No. 957. April 25, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FERNANDO VEGA ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**TORRES, J.:**

One morning in March, 1898, the four accused, provided with bolos and firearms, went to a granary belonging to Ponciano Alba, situated at the place called Tansa Norte, within the limits of the town of Capiz, Panay, and, under threats of death, compelled Basilio Difon, the person left in charge by the owner, to leave the house and to deliver the *palay* which was stored there under lock and key. This Difon did and made delivery of the *palay* by measure, this operation lasting two days. It appeared that there were 447 *cavanes* of *palay*, which were taken out and carried away on sleds, in the presence of witnesses, to the house of Fernando. They also carried away agricultural instruments, a caldron, 2 *barotos*, 43 boards, 5 beams, a milk cow, and 10 carabaos which were in the field. Difon was compelled to accompany the accused to help catch these animals. Three full days were occupied in the transportation of these goods, which the accused claimed belonged to them, and which were taken by them to their houses. Two of the carabaos were recovered by the complaining witness, having been found in the possession of Fernando Vega, who objected to returning them, claiming that they were his, and therefore a policeman named Barcenas, who accompanied Alba, was obliged to issue a receipt for the carabaos taken by him, and which were turned over to the authorities. The animals and the other property taken are worth \$1,384.85. Some days afterwards, as appears in the cause, the accused also took possession of certain parcels of land belonging to the complaining witness Alba.

The witnesses, Gualberto de la Cruz, Dionisio Bueno, Valentin Duro, Pablo Arroyo, Inocente Andrada, Toribio Lopez, and Tomas Aquijano, by their testimony corroborated the allegations of fact contained in the information, and those stated in detail by the

complainant Alba and his agent, Basilio Difon.

The accused, Fernando Vega, his son Benito Vega, and the brothers Gregorio Lara and Eduardo Lara, relatives, who were working for the Vega's, pleaded not guilty. Fernando testified that he lived in the barrio of Tansa, in which the complaining witness, Ponciano Alba, had no property whatever; that the two carabaos taken from him were his property, and that on this account the police agent who took them from him by order of the justice of the peace, gave him a receipt; but that they were not the same carabaos which were subsequently shown him, as the latter were old, unbranded animals, whereas his animals were young; that he so stated to the justice of the peace, but the latter paid no attention to him, the witness adding that he had been on bad terms with Ponciano Alba since 1891. Benito Vega testified that he lived with his father, and the brothers Gregorio and Eduardo Lara testified that in March, 1898-99, Ponciano Alba had no granary or any other property in the barrio of Tansa Norte, and that at that time nothing of particular note had occurred at that place. This was corroborated by the testimony of the witnesses Juan Balasa, Hilario Bigares, Valerio Anerismatmat, Vito Lara, Estanislao Sello, Victorio Ballena, Filomena Asulpado, and Ruperto Acejo.

According to documents in the record introduced by the provincial fiscal, Dona Lucinda Barrios, widow of the late Don Bernabe Lara, appeared before the clerk of the court and testified that her deceased brother-in-law, Ramon Lara, charged her, before his death, that the three pieces of land situated in Tansa, shown in the plat on pages 168 and 169, and which he had inherited from his deceased father, Don Francisco Lazaro, were to be delivered to Ramon's daughter, Dona Flora Lara, and that therefore, in compliance with this verbal charge, she delivered the said lands to the said Flora Lara and to her husband, Don Ponciano Alba, who received them with gratitude. The record also discloses a copy of the inscription of certain lands in the registry of property. (Folio 171.)

The defense of the accused also exhibited the will of Don Francisco Lazaro, from the contents of which it appears that the said Bernabe, Ramon, and Flora Lara were his children, and that Scverina Lara, the wife of Fernando Vega, was a daughter of the testator by a second marriage, as stated by counsel for the defense, who also exhibited a document in which Ramon Lara appears to have stated that ho had pledged to his sister, for 50 pesos, a piece of land, planted in nipa palms, situated in the barrio of Tansa.

The facts stated, and which appear to be proven in this case, and which are classified in the complaint as constituting the crime of robbery in a gang, constitute the crime of coercion,

denned and punished by article 497 of the Penal Code, inasmuch as Fernando Vega, with his son Benito and two employees of theirs, exercised violence or force and intimidation on the person of Difon, obliging him to open the rice deposit belonging to Ponciano Alba, absent from the place, and which was under lock and key, and compelling him to deliver to them the rice and then to go away and leave the granary, of which he had been placed in charge by the complaining witness; and also to accompany them to get in from the pasture the cow and carabaos mentioned, exercising such coercion that he dared make no opposition whatever to the acts of spoliation of the said property committed by the four accused, or to their transportation, during a period of three days, to the house of Fernando Vega, by whom these acts, constituting the offense of coercion, were committed, without any right to do so. Notwithstanding the fact that Fernando Vega, who was the principal offender in this case, alleges that he was the owner of the property of which he took possession by means of this coercion of the person left in charge of it, it is not permissible to take the law into one's own hands, and to seize the property of a third person without being authorized to do so, and entirely disregarding the authorities whose duty it is to settle disagreements between private individuals and to give each one that which is his due, in accordance with the law.

Fernando Vega, believing that he was entitled to the property of which Ponciano Alba, by means of his agent, was in possession, in the barrio of Tansa Norte of the town of Panay, seized it with the assistance of one of his sons and two employees, with intent to take the law into his own hands, but without *animus furandi*. Though in effecting this seizure he availed himself of the intimidation of the person so left in charge, the record does not disclose the existence of that specific wrongful intent which characterizes robbery.

It must be understood, however, that this decision is without prejudice to the rights of the complaining witness, Ponciano Alba, the presumptive owner of the property taken, to recover the same by the proper civil action.

In view, then, of the fact that in the complaint the offense charged is that of robbery in a gang, and that the facts proven do not constitute this offense, but constitute the offense of coercion, it follows that, as the latter offense has not been prosecuted, no conviction of the accused can be had, and therefore the judgment below must be reversed and set aside, and, should a new information be filed on the charge of coercion, a new trial should be had, in accordance with the law.

The judgment, therefore, is set aside, and the judge, upon filing a new complaint, charging the said offense of coercion, will proceed to hold a new trial, in accordance with the law,

without prejudice to the right of Ponciano Alba to bring the corresponding civil action to which he may be entitled. So ordered.

*Arellano, C. J., Cooper, Willard, Mapa, and Ladd, JJ., concur.*

*McDonough, J., did not sit in this case.*

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