



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 15, 2020** which reads as follows:*

“G.R. No. 224303 – REDENTOR CONCEPCION PALERO a.k.a. “PAPANG” vs. PEOPLE OF THE PHILIPPINES

The Case

This Petition for Review on *Certiorari* assails the Decision¹ dated December 11, 2015 of the Court of Appeals (Thirteenth Division) in CA-G.R. CR No. 36756, convicting petitioner Redentor Concepcion Palero, a.k.a. “Papang” for violation of Presidential Decree No. 533 (PD No. 533) or the Anti-Cattle Rustling Law of 1974.

The Charge

Petitioner, along with three (3) John Does, were charged with violation of PD No. 533:

That (on) or about 10 o'clock in the morning of June 15, 2013 at Barangay 2, Municipality of Mercedes, Province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another for a common purpose, with intent to gain, did then and there, willfully, unlawfully and feloniously take, steal, and carry away two (2) large cows valued at Thirty Thousand Pesos (Php30,000.00), belonging to FIDES C. VILLAFUERTE, without the consent of the owner and against his will, to his damage and prejudice.

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¹ *Rollo*, pp. 80-89.

A handwritten signature in blue ink, located in the bottom right corner of the page.

CONTRARY TO LAW.²

The case was raffled before the Regional Trial Court (RTC) – Branch 38, Daet, Camarines Norte.

When arraigned, petitioner pleaded not guilty.³

Prosecution's Version

Private complainant Fides Villafuerte, Edwin Pacao, and Police Officer 2 (PO2) Melvin Reyes of the Philippine National Police (PNP) Mercedes, Camarines Norte testified for the prosecution. Their testimonies may be summarized thus:

On June 15, 2013, around 10 o'clock in the morning, Villafuerte went to his fishpond to look for his three (3) cows tethered to a nipa hut. Arriving thereat, he discovered that two (2) of his cows were missing and could not be found within the fishpond's vicinity.⁴ Villafuerte thus crossed the river and asked some persons within the area if they had seen his cows.⁵

Edwin Pacao, Junior Pacao, and a certain Veloso told Villafuerte that they had witnessed petitioner pulling two (2) cows coming from the direction of his fishpond, and headed to his house at San Isidro, Daet, Camarines Norte.⁶

Villafuerte asked for assistance from police officers. Together, they went to petitioner's house. Villafuerte saw petitioner and immediately asked the latter where his cows were. Petitioner replied that "he hid" the cows at a rice field, about 200 meters away from his house.⁷

Villafuerte and the police officers went to the rice field where they saw the two (2) missing cows. As a result, PO2 Reyes arrested petitioner for violation of PD No. 533.⁸

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² *Id.* at 31.

³ *Id.* at 50.

⁴ *Id.* at 51.

⁵ *Id.*

⁶ *Id.* at 62.

⁷ *Id.* at 63.

⁸ *Id.*

Villafuerte presented the following documents proving his ownership of the subject two (2) cows, *viz.*: Certificate of Ownership of Large Cattle, Official Receipt for the registration fees, and Certificate of Registration.⁹

The Defense's Version

Marcial Palero, petitioner's father, was the only defense witness.

Marcial alleged that on June 15, 2013, around 10 o'clock in the morning, he had instructed his son to get the two (2) cows he owned which were grazing at Villafuerte's land. Villafuerte had allegedly allowed Marcial's cows to graze at his land for the purpose of clearing out the weeds there.¹⁰

Petitioner got the cows, placed them at a rice field near their house, and thereafter, went home.

Villafuerte, together with (3) policemen, suddenly arrived at their house and accused his son of stealing his cows.¹¹ The policemen immediately arrested his son while Villafuerte seized the two (2) cows.¹²

Marcial admitted he had no documents showing ownership of the two (2) cows he owned.¹³

The Regional Trial Court's Ruling

During the trial, the prosecution and the defense agreed that the elements of violation of Presidential Decree No. 533 (PD No. 533) or the Anti-Cattle Rustling Law of 1974 are as follows:¹⁴

- 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.

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⁹ *Id.* at 120.

¹⁰ *Id.* at 52.

¹¹ *Id.* at 39.

¹² *Id.*

¹³ *Id.* at 53.

¹⁴ *Id.*

In a Decision¹⁵ dated February 13, 2014, the trial court convicted petitioner of the offense charged.

The trial court held that: a) Villafuerte proved his ownership of the two (2) cows subject of the thievery by presenting a Certificate of Ownership of Large Cattle, Official Receipt of Registration, and Certificate of Registration;¹⁶ b) petitioner's father admitted in open court that he did not have any documents to prove his ownership of the cows;¹⁷ c) petitioner was positively identified as the one pulling the two (2) subject cows which came from Villafuerte's fishpond and escorted them near his residence;¹⁸ and d) petitioner failed to refute the allegation that he himself had informed Villafuerte of the place where he hid the missing cows. The trial court concluded that petitioner took the cows without the owner's consent in violation of PD No. 533.¹⁹

The Proceedings before the Court of Appeals

On appeal, petitioner argued that the trial court erred in finding him guilty for violation of PD No. 533 despite the prosecution's failure to prove Villafuerte's ownership of the cows.²⁰ Villafuerte presented a mere Certificate of Registration for the subject two (2) cows that was allegedly already dated, that is, for a period in September 2013, about three (3) months after the supposed thievery had happened on June 15, 2013.²¹ Petitioner also maintained that the prosecution failed to establish his actual taking of the cows.²²

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¹⁵ *Id.* at 50-56.

The *fallo* reads:

WHEREFORE, the prosecution having proven the guilt of the accused Redentor Palero y Concepcion beyond reasonable doubt, he is hereby sentenced to an indeterminate penalty of twelve (12) years of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum.

The accused shall be credited in the service of his sentence with full time during which he has undergone preventive imprisonment under the conditions set forth in Article 29 of the Revised Penal Code.

No pronouncement as to cost and damages.

SO ORDERED.

¹⁶ *Id.* at 120.

¹⁷ *Id.* at 54.

¹⁸ *Id.* at 55.

¹⁹ *Id.* at 55.

²⁰ *Id.* at 42.

²¹ *Id.* at 43.

²² *Id.* at 46.

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The Office of the Solicitor General (OSG) through Senior State Solicitor Raymund Rigodon and Associate Solicitor Nielson Pangan countered: 1) all the elements of cattle rustling under PD No. 533 were present;²³ 2) Villafuerte duly proved his ownership of the two (2) cows through Certificate of Ownership of Large Cattle dated September 2, 2013, Official Receipt of Registration, and Certificate of Registration;²⁴ and 3) petitioner failed to rebut the presumption of cattle rustling under Section 7,²⁵ PD No. 533.²⁶

The Court of Appeals' Ruling

In its assailed Decision²⁷ dated December 11, 2015, the Court of Appeals affirmed the trial court's decision.

The Court of Appeals found that Villafuerte possessed a Certificate of Ownership of Large Cattle, Official Receipt of Registration, and Certificate of Registration, specifically for these subject two (2) cows, and that he had registered the two (2) cows and obtained the foregoing documents belatedly after the incident. The belated registration and issuance of the registration documents did not, however, divest him of ownership of these cows at the time of the thievery. According to the Court of Appeals, the registration in fact reinforced his claim of ownership of the cows. Registration is not a mode of acquiring ownership but is a strong proof of ownership as Villafuerte had been, in fact, allowed to register his ownership of these cows.

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²³ *Id.* at 64.

²⁴ *Id.* at 65.

²⁵ Section 7, PD No. 533 provides:

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.

²⁶ *Rollo*, p. 72.

²⁷ *Id.* at 80-89.

The *fallo* reads:

WHEREFORE, the appeal is hereby DENIED. The *Decision* promulgated on February 13, 2014, wherein the Regional Trial Court (RTC), Branch 38, Daet, Camarines Norte in Criminal Case No. 15674, found accused-appellant guilty beyond reasonable doubt of violation of Presidential Decree No. 533, otherwise known as the *Anti-Cattle Rustling Law of 1974*, is hereby AFFIRMED in toto.

SO ORDERED.

On the other hand, petitioner failed to prove ownership of the cows.²⁸ He failed to rebut documented proof of Villafuerte's ownership except by his self-serving testimony. The Court of Appeals opined that had petitioner offered credible and reliable documentation of ownership as well, this could have casted reasonable doubt on Villafuerte's claim. Unfortunately, petitioner was not able to do so. Thus, the Court of Appeals concluded, as between Villafuerte and petitioner, the former is more credibly, beyond a reasonable doubt, the owner of the two (2) cows, and petitioner took them without the owner's consent in violation of PD No. 533.

Petitioner moved for reconsideration but was denied by the Court of Appeals under Resolution dated April 22, 2016.²⁹

The Present Petition

Petitioner now assails the rulings of the Court of Appeals in this petition for review under Rule 45 of the Rules of Court.

Petitioner avers the same arguments already passed upon by the Court of Appeals: a) Pacao merely saw him pulling the two (2) cows, not the actual taking itself;³⁰ and b) the cows were not yet registered at the time the alleged incident happened.³¹

On the other hand, the OSG reiterates that all the elements of violation of PD No. 533 were duly established.³²

Issue

Did the Court of Appeals err when it convicted petitioner of violation of PD No. 533?

Ruling

Section 2(c) of PD No. 533 defines cattle rustling, *viz.*:

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²⁸ *Id.* at 85-86.

²⁹ *Id.* at 16.

³⁰ *Id.* at 21.

³¹ *Id.* at 23.

³² *Id.* at 119.

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Section 2 (c) - Cattle rustling is the **taking away** by any means, method or scheme, **without the consent of the owner/raiser**, of any of the abovementioned animals whether or not for profit or gain, or whether committed with or without violence against or intimidation of any person or force upon things. It includes the killing of large cattle, or taking its meat or hide without the consent of the owner/raiser. (emphasis supplied)

As agreed upon in the proceedings below, violation of PD No. 533 is committed when the following elements exist:³³

- 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.

All these elements are present here.

First, there is no dispute that the cows taken are species of “large cattle” as defined in Section 2(a) of PD No. 533:

Section 2. Definition of terms. The following terms shall mean and be understood to be as herein defined:

- a. Large cattle as herein used shall include the cow, carabao, horse, mule, ass, or other domesticated member of the bovine family.

Second, prosecution witness Edwin Pacao positively identified petitioner as the one pulling the two (2) missing cows, which Villafuerte later proved he owns. By this act, petitioner was thus already in possession, custody, and control of the cows that came from the direction of Villafuerte’s fishpond, at Barangay II, Mercedes, Camarines Norte, the place where the latter left his cows.³⁴ Petitioner fortified the taking of the cows when he headed to his residence at San Isidro, Daet, Camarines Norte.

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³³ See *Pil-Ey v. People*, 553 Phil. 747, 755 (2007).

³⁴ *Rollo*, p. 87.

Further, Villafuerte along with some policemen went to petitioner's house and after having been confronted, petitioner himself pointed to the rice field, the location where he hid Villafuerte's cows. Villafuerte went to the rice field to confirm petitioner's statement. There he saw his two (2) missing cows. Petitioner did not dispute the facts regarding his actual possession of the missing cows, and his act of informing Villafuerte of the place where he had hidden the cows. These circumstances constitute an unbroken chain of events which led to a reasonable conclusion of petitioner's unlawful taking of cows that do not belong to him.

Petitioner, however, maintains that Pacao only saw him pulling the cows, not the actual taking thereof.

The argument clutches at straws.

Section 7, PD No. 533 provides:

Section 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.** (Emphasis supplied)

In *Pil-ey v. People*,³⁵ the Court held that when a large cattle is found in the possession of a person not the owner thereof, without a satisfactory explanation of his or her possession, *he or she is presumed to be the thief*, in accordance with Section 7 of PD No. 533.

Here, petitioner failed to rebut the presumption of cattle rustling since he did not offer sufficient explanation for his possession of the two (2) missing cows.³⁶ Notably, he failed to provide any documentary evidence to prove his or his father's alleged ownership of the two (2) subject cows. Petitioner's father, who had asserted he owned the cows, admitted during trial that he had no documents to support his claim of ownership.³⁷ This judicial admission sustains petitioner's failure to rebut the presumption that the cows in his possession were the actual fruits of the crime of cattle rustling.

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³⁵ Supra note 33 at 756.

³⁶ *Id.*

³⁷ *Rollo*, p. 53.

Petitioner assails again Villafuerte's belated registration of the two (2) missing cows, which fact supposedly controverted the latter's ownership of the large cattle.

Petitioner's argument is misplaced.

As the Court of Appeals explained, registration is not a mode of acquiring ownership.³⁸ Thus, it is of no moment that the cows were registered only after the taking had already happened. As opposed to petitioner's failure to provide any proof of ownership or proof of right of possession of the missing cows, Villafuerte was able to show documents proving his ownership of the subject two (2) cows – Certificate of Ownership of Large Cattle, Official Receipt for the registration fees, and Certificate of Registration.³⁹

Third, the taking is nonetheless criminal with or without an intent to gain. While petitioner may not have actually gained pecuniary benefit from the taking of the two cows, petitioner nonetheless committed a violation of PD No. 533.

Finally, while the evidence does not prove that petitioner took the cows with the use of force, intimidation, or violence, as he simply towed them to the rice field near his house, he nonetheless criminally took them under PD No. 533 as the manner of taking does not matter.

All said, the Court of Appeals did not commit reversible error in convicting petitioner of violation of PD No. 533.

As for the proper penalty, *Pil-ey v. People*⁴⁰ ordains:

As in *Canta v. People*, 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. However, as we have declared in *Canta*, the computation of the penalty should be in accordance with our discussion in *People v. Macatanda*, which we quote herein for emphasis, thus:

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³⁸ See *Heirs of Ermac v. Heirs of Ermac*, 451 Phil. 368 (2003).

³⁹ *Rollo*, p. 120.

⁴⁰ *Supra* note 33 at 757.

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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 . .

Hence, in the instant case, considering that neither aggravating 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. xxx (Citations omitted.)

Applying *Pil-ey*, we modify the imposed penalty and sentence petitioner to four (4) years, two (2) months and one (1) day of *prision correccional* as minimum, to twelve (12) years, five (5) months and eleven (11) days of *reclusion temporal* as maximum.

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A final word. The imposable penalty for the offense charged is rather harsh. We make this comment in light of the amendments instituted by RA 10951 (2017) to the penalties for theft under *The Revised Penal Code*.⁴¹ We take this opportunity to appeal respectfully to Congress for a review of PD No. 533, specifically the penalties thereunder, if these are still commensurate with prevailing standards of proportionality between crime and punishment.

WHEREFORE, the petition is **DENIED**. The Decision dated December 11, 2015 of the Court Appeals in CA-G.R. CR No. 36756, **AFFIRMED with MODIFICATION**.

Petitioner **Redentor Conception Palero**, a.k.a. "Papang" is found **GUILTY** for violation of Presidential Decree No. 533 or the "*Anti-Cattle Rustling Law of 1974*" and is sentenced to four (4) years, two (2) months and one (1) day of *prision correccional* as minimum, to twelve (12) years, five (5) months and eleven (11) days of *reclusion temporal* as maximum.

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⁴¹ SEC. 81. Article 309 of the same Act is hereby amended to read as follows:

ART. 309. Penalties. - Any person guilty of theft shall be punished by:

1. The penalty of prison mayor in its minimum and medium periods, if the value of the thing stolen is more than One million two hundred thousand pesos (P1,200,000) but does not exceed Two million two hundred thousand pesos (P2,200,000); but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one (1) year for each additional One million pesos (P1,000,000), but the total of the penalty which may be imposed shall not exceed twenty (20) years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prison mayor or reclusion temporal, as the case may be.
2. The penalty of prison correccional in its medium and maximum periods, if the value of the thing stolen is more than Six hundred thousand pesos (P600,000) but does not exceed One million two hundred thousand pesos (P1,200,000).
3. The penalty of prison correccional in its minimum and medium periods, if the value of the property stolen is more than Twenty thousand pesos (P20,000) but does not exceed Six hundred thousand pesos (P600,000).
4. Arresto mayor in its medium period to prison correccional in its minimum period, if the value of the property stolen is over Five thousand pesos (P5,000) but does not exceed Twenty thousand pesos (P20,000).
5. Arresto mayor to its full extent, if such value is over Five hundred pesos (P500) but does not exceed Five thousand pesos (P5,000).
6. Arresto mayor in its minimum and medium periods, if such value does not exceed Five hundred pesos (P500).
7. Arresto menor or a fine not exceeding Twenty thousand pesos (P20,000), if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed Five hundred pesos (P500). If such value exceeds said amount, the provisions of any of the five preceding- subdivisions shall be made applicable.
8. Arresto menor in its minimum period or a fine of not exceeding Five thousand pesos (P5,000), when the value of the thing stolen is not over Five hundred pesos (P500), and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family."

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SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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