

FIRST DIVISION

[G.R. No. 118075, September 05, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EMILIANO CATANTAN Y TAYONG, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

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