

## THIRD DIVISION

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

**ERNESTO PIL-EY,<sup>[1]</sup> PETITIONER, VS. THE PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**NACHURA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 assailing the November 29, 2001 Decision<sup>[2]</sup> 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.

That the use of a motor vehicle attended and facilitated the commission of the crime.

CONTRARY TO LAW.<sup>[3]</sup>

On arraignment, the three pleaded not guilty to the crime charged.<sup>[4]</sup> 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,<sup>[5]</sup> which was grazing at *Sitio* Taed with her 4 other bovines, was missing.<sup>[6]</sup> 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<sup>[7]</sup> loaded in a blue Ford Fiera driven along the national highway by accused Manochon.<sup>[8]</sup> With Manochon in the Fiera was his helper, petitioner Pil-ey.<sup>[9]</sup> Manochon was a butcher and meat vendor.<sup>[10]</sup>

After having ascertained from people in the market that the cow was already slaughtered,<sup>[11]</sup> Rita reported the matter to the police.<sup>[12]</sup> 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.<sup>[13]</sup> On April 17, 1994, Rita, Annie and Ronnie went to the station to file their respective affidavits. <sup>[14]</sup> 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.<sup>[15]</sup> Rita, however, rebuffed the request.<sup>[16]</sup> On separate occasions, Anamot and Manochon went to the house of Rita, <sup>[17]</sup> to offer a compromise, but again, Rita refused. <sup>[18]</sup>

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<sup>[19]</sup> 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.<sup>[20]</sup> 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.<sup>[21]</sup> 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.<sup>[22]</sup>

Hence, at 2:00 p.m. on that day, while Manochon was in Sagada buying pigs,<sup>[23]</sup> 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.<sup>[24]</sup> 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.<sup>[25]</sup> Passing along the national road,<sup>[26]</sup> they then went back to Manochon's house in Caluttit.<sup>[27]</sup> At 11:00 p.m., they butchered the cow at Manochon's house and readied it for sale.<sup>[28]</sup>

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.<sup>[29]</sup> 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.<sup>[30]</sup> He denied offering a settlement and explained that he went to Rita Khayad's house to deliver the P6,000.00.<sup>[31]</sup> Petitioner Pil-ey denied asking forgiveness from private complainant and insisted that the cow they took was Anamot's.<sup>[32]</sup>

For his part, Anamot denied having conspired with his co-accused in taking the subject cow.<sup>[33]</sup> He testified that in 1993, he and Rita co-owned a white female cow, which was hacked and sold for butchering to Manochon.<sup>[34]</sup> On April 12, 1994, he went to see Manochon at his house in order to collect his share of the payment.<sup>[35]</sup>

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 prison 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:

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*.

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.

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.<sup>[48]</sup>

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.<sup>[49]</sup>

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.<sup>[50]</sup> 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,<sup>[51]</sup> 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