

SECOND DIVISION

[G.R. No. 120548, October 26, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOSELITO ESCARDA, JOSE VILLACASTIN JR., HERNANI ALEGRE,
AND RODOLFO CAÑEDO, ACCUSED. JOSE VILLACASTIN, JR.,
ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

On appeal is the decision dated September 21, 1994, of the Regional Trial Court of Cadiz City, Branch 60, in Criminal Case No. 586-S, finding accused Joselito Escarda and Jose Villacastin Jr., guilty beyond reasonable doubt of violation of the Anti-Cattle Rustling Law. In its decision, the trial court decreed:

WHEREFORE, in view of the foregoing circumstances, this Court finds both accused JOSELITO ESCARDA and JOSE VILLACASTIN, JR., guilty beyond reasonable doubt of the crime of "Viol. of P.D. 533" (Anti-Cattle Rustling Law), and there being the presence of three generic aggravating circumstances of [r]ecidivism, nighttime and unlawful entry, with no mitigating circumstances to offset the same, as such, the accused are each sentenced to suffer, considering the Indeterminate Sentence Law, the imprisonment of EIGHTEEN (18) YEARS, EIGHT (8) MONTHS and ONE (1) DAY as the minimum to RECLUSION PERPETUA as the maximum, together with all the accessory penalties imposed by law and to indemnify the offended party, Joel Barrieses, in the amount of P5,000.00 without subsidiary imprisonment in case of insolvency.

The accused being detained, are hereby entitled to the full credit of their preventive imprisonment as provided for under R.A. 6127.

Costs against both accused.

SO ORDERED.^[1]

In an information dated April 18, 1988, Provincial Fiscal Othello Villanueva charged accused with violation of Presidential Decree No. 533, otherwise known as Anti-Cattle Rustling Law of 1974, as follows:

The undersigned Provincial Fiscal accuses JOSELITO ESCARDA, JOSE VILLACASTIN, JR., HERNANI ALEGRE (at-large) and RODOLFO CAÑEDO (at-large) of the crime of Violation of Presidential Decree No. 533, (Anti-Cattle Rustling Law of 1974), committed as follows:

That on or about the 29th day of July, 1987, in the Municipality of Sagay, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the first two (2) above-named accused, in company of their two (2) other co-accused, namely: Hernani Alegre and Rodolfo Cañedo, who are both still-at-large, conspiring, confederating and mutually help[ing] one another, with intent of gain, did then and there, wilfully, unlawfully and feloniously take, steal and carry away two (2) female carabaos, valued in the total amount of FIVE THOUSAND PESOS (P5,000.00), Philippine Currency, belonging to JOEL BARRIESES, without the consent of the latter, to the damage and prejudice of the said owner in the aforestated amount.

CONTRARY TO LAW.^[2]

Upon arraignment, accused Escarda and Villacastin, assisted by counsel, entered a plea of not guilty. Thereafter, trial on the merits ensued.

The facts as presented by the prosecution and summarized by the trial court are as follows:

[Dionesio Himaya] testified that on July 29, 1987 at about 2:00 o'clock in the morning in [Hacienda] Ricky, Jose Villacastin, Jr. and his group passed by his house. [He] was still awake at that time because he was watching over his cornfield and while doing so, he saw the two accused remove the cyclone wire which was used as the corral for the two (2) carabaos of Rosalina Plaza. He was able to see Jose Villacastin, Jr. cut the cyclone wire because he was just four (4) arms length away from them and after Jose Villacastin cut the wire, they swept it aside and untied the two (2) carabaos. After untying the carabaos, they rode on it and proceeded to the canefields. [He] saw two (2) persons riding on the carabao whom he identified as Jose Villacastin, Jr. together with Joselito Escarda. He awakened Rosalina Plaza who thereafter went to Joel Barrieses, owner of the carabaos, to inform the latter that his carabaos were stolen.

[Rosalina Plaza] testified that on July 29, 1987 at about 2:00 o'clock in the morning, in the residence of Joel Barrieses, Dionesio Himaya called her and informed her that the carabaos were stolen and when asked who stole the carabaos, Dionesio Himaya only mentioned Jose Villacastin, Jr. Before the incident of July 29, 1987, she already knew the person of Jose Villacastin, Jr., because the latter always passed by their house. After she was informed of the stealing of the carabaos, she went to the corral to check whether the carabaos were there but discovered that the beasts were no longer there and the cyclone wire was destroyed. She informed Joel Barrieses, that Jose Villacastin, Jr., stole the carabaos and she went to the 334th PC Company and reported the incident.^[3]

In their defense, Escarda and Villacastin denied the charges. Escarda claimed that

he was sleeping in the house of Gilda Labrador during the incident while Villacastin declared that he too was sleeping in his house at that time.^[4] The defense version of the incident was summarized by the trial court as follows:

...Joselito Escarda testified that he did not know his co-accused in this case, specifically, Jose Villacastin, Hernani Alegre and Rodolfo Cañedo. Neither did he know of somebody by the name of Dionesio Himaya although he knew somebody by the name of Gilda Labrador. In the early morning of July 29, 1987, he was working as cane cutter and hauler in the hacienda of Javelosa located in Barrio Malubon, Sagay, Negros Occidental which is fifteen (15) kilometers away from the house of his mother where he was residing. On July 29, 1987, he started working at 8:00 o'clock in the morning and ended at 11:00. After he finished working in the field, he went to the house of his mother where he ate lunch and rested until 3:00 o'clock in the afternoon. In the evening of July 29, 1987, he slept at the house of Gilda Labrador starting at 7:00 o'clock in the evening and woke up at 6:00 o'clock in the morning of July 30, 1987. Sometime on August 29, 1987, he left alone for the dance hall located at Hda. Ricky to attend a dance held there because there was a fiesta at that time. While he was at the dance hall, he was arrested by the PC elements and brought to the 334th PC Company where he was maltreated. He was asked whether or not he stole the carabaos at Hda. Ricky but he denied the commission of the crime and again, he was maltreated. He suffered injuries when they maltreated him so he made a confession before them but did not sign the same. His injuries were not treated by a physician because the PC would not let him go out of the jail, so, his injuries healed while he was in jail. He did not know the names of the PC who maltreated him and forced him to admit the loss of the carabaos at Hda. Ricky because the maltreatment happened in the evening. Furthermore, he did not know the complainant in this case, i.e. Joel Barrieses.

x x x

[Jose Villacastin, Jr. testified] that on or before July 29, 1987, he did not know the accused Joselito Escarda, Hernani Alegre and Rodolfo Cañedo because in the early morning of July 29, 1987, at more or less 2:00 o'clock to 3:00 o'clock, he had not gone with Joselito Escarda, Hernani Alegre and Rodolfo Cañedo because he was sleeping in his house which is located in Sitio Candiis. He started sleeping at 8:00 o'clock in the evening of July 28, 1987 and woke up the next day, July 29, 1987 at 7:00 in the morning. On August 29, 1987 at 10:00 o'clock in the evening, he was attending a dance at Hda. Ricky and while watching the dance, he was arrested and brought to the 334th PC Headquarters in Tan-ao, Sagay, Negros Occidental. When they arrived at the PC Headquarters, they were investigated about the stealing of the carabaos and the PC elements wanted them to admit it. He denied what they were accusing him of because he has not committed the crime. He does not know of anybody by the name of Joel Barrieses. When he denied the commission of the crime, he was maltreated and was forced to admit it and to make a confession. They were detained for about a month at the

334th PC Headquarters and they were transferred to the Municipal Jail of Sagay, Negros Occidental and there was no lawyer present during his refusal to admit the stealing of the carabaos.^[5]

The trial court found the testimonies of the prosecution witnesses credible, while it disbelieved the defense of denial and alibi of accused Escarda and Villacastin. They were found guilty as charged. However, the charge against accused Rodolfo Cañedo was dismissed for insufficiency of evidence. Earlier, the charge against co-accused Hernani Alegre was dismissed on motion by the prosecution, for lack of evidence.

Insisting on their innocence, Escarda and Villacastin filed their notice of appeal. In their assignment of error, they alleged that the trial court erred in convicting them of the crime charged.^[6]

On November 27, 1995, we required the trial court to order the commitment of Escarda and Villacastin to the Bureau of Corrections or the nearest national penal institution. However, Executive Judge Renato Muñoz requested that their commitment to the Bureau of Corrections be deferred until the termination of the other criminal case^[7] against them pending before the said trial court. Further, Captain Eduardo Legaspi, Acting Provincial Warden of Negros Occidental, also requested to hold in abeyance the commitment of Escarda and Villacastin in view of their pending criminal cases before the Regional Trial Court of Cadiz City.^[8] Accordingly, we granted the aforesaid request for deferment.^[9] On August 12, 1998, they were eventually committed to the New Bilibid Prison, Muntinlupa City.^[10]

On October 12, 1998, Escarda sought the approval of this Court to withdraw his appeal.^[11] We required the Director of the New Bilibid Prison to confirm the voluntariness of said withdrawal.^[12] In his certification dated July 15, 1999, Atty. Roberto Sangalang, who personally examined Escarda, attested that Escarda executed his urgent motion to withdraw appeal on his own free will and fully understood the consequences of the same. On August 9, 1999, we granted Escarda's motion to withdraw appeal.^[13]

Accordingly, we are now concerned only with the appeal of the remaining appellant, Jose Villacastin, Jr. In his brief, he assigns only one error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED BEYOND REASONABLE DOUBT.

Appellant contends that the element of "taking away of carabaos by any means, method or scheme without the consent of the owner" was not proven by the prosecution. He also alleges that his identity was not established beyond reasonable doubt, thus, he should be acquitted. He adds that the prosecution failed to prove ownership of the stolen carabaos by presenting the certificate of ownership,^[14] as required by the Anti-Cattle Rustling Law.

Cattle rustling is the taking away by any means, method or scheme, without the consent of the owner or raiser of cow, carabao, horse, mule, ass, or other