

## TWENTIETH DIVISION

[ CA-G.R. CR NO. 02043, November 13, 2014 ]

### PROCESO LUNTAYAO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

#### DECISION

##### QUIJANO-PADILLA, J.:

This is an appeal *via* a Petition for Review under Rule 42 of the Rules of Court, in relation to Section 3(b),<sup>[1]</sup> Rule 122 of the Rules on Criminal Procedure on the Orders of the Regional Trial Court (RTC), Branch 44, Bacolod City in Criminal Case No. 10-33547 dated May 11, 2012<sup>[2]</sup> and January 7, 2013<sup>[3]</sup> dismissing petitioner's appeal from his conviction of grave coercion by the Municipal Trial Court in Cities, Branch 5, Bacolod City (MTCC), and denying his motion for reconsideration, respectively.

#### The Antecedents

Petitioner Proceso Luntayao (Proceso) and his wife Felicidad Luntayao (Felicidad) [collectively referred to as Spouses Luntayao], and Eduardo Obstaculo (Eduardo) were charged with committing grave coercion under Article 286 of the Revised Penal Code under the following Information,<sup>[4]</sup> *viz.* :

That on or about the 9<sup>th</sup> of day of March 2000, in the City of Bacolod, Philippines and within the jurisdiction of this Honorable Court, the herein accused, Eduardo J. Obstaculo, a public officer, being then the *Barangay* Secretary of *Barangay* Bata, Bacolod City, and Spouses Proceso Luntayao and Felicidad Luntayao, both private persons, conspiring, confederating and acting in concert, without authority of law, and by means of force, threats, violence and intimidation, did, then and there, willfully, unlawfully and feloniously compel the herein offended party, Herminia A. Alojado, to do something against her will, that is, to leave her leased store owned by lessor-Spouses Luntayao; herein accused prevent her to enter therein and after the latter was prevented to enter her leased premises, herein accused forcibly remove and haul the goods, commodities and fixtures of said complainant out of her leased premises (store) which thereafter accused padlocked and closed, thus preventing her from doing something not prohibited by law to wit: to enter and occupy the said leased premises and continue her usual retail store business thereat.

Act contrary to law.

Before the trial could be completed, the case against Eduardo was dismissed upon his motion for insufficiency of evidence. Meanwhile, the MTCC acquitted Felicidad on

the ground of reasonable doubt. Hence, it is only Proceso who brought this petition to assail his conviction which was affirmed *in toto* by the RTC.

The facts, as culled from the records are as follows.

Private offended party Herminia Alojado (Herminia) occupied a store that forms part of the house of Spouses Luntayao. Since her stay thereon was without a contract, Proceso complained to the *barangay* authorities when he wanted to eject her from the premises. They met before the *Lupong Tagapamayapa* but did not arrive at any settlement. Subsequently, Proceso urged the *barangay* captain to order Herminia to vacate the store. In response thereto, the *barangay* captain directed Eduardo, who was then the *barangay* secretary, to issue a memorandum of ejectment.

The memorandum of ejectment<sup>[5]</sup> dated March 9, 2009, which was signed by Eduardo and the *barangay* captain, was served on Herminia at her store. Herminia, however, refused to heed it. Consequently, her goods and supplies, as well as her fixtures and other personal belongings inside the store were forcibly taken out by the members of the Civilian Volunteers Organization (CVO) or *barangay tanods*, and some *trisikad* drivers. During the incident, Eduardo and Felicidad were not present. Only Proceso was there standing at about 20 to 25 steps away<sup>[6]</sup> from the store and holding a copy of the memorandum of ejectment. Herminia took pictures and made a listing of the items taken out from the store.

Upon the above stated facts, the MTCC found Proceso guilty of the crime charged. The court based its Decision on the findings that: he was the one who urged the *barangay* captain to issue the memorandum of ejectment; his presence during the incident and his act of holding of the Memorandum of Ejectment show that the criminal design came from him; and he lent moral support to encourage the actors to materialize the plan to evict Herminia from the store. The dispositive portion of the MTCC's Decision<sup>[7]</sup> reads, *viz*:

WHEREFORE, premises considered, all elements of the crime having been established, the court finds Proceso Luntayao guilty beyond reasonable doubt of the crime of Grave Coercion under Article 286 of the Revised Penal Code, as amended, and hereby sentences him for imprisonment of 6 months and 1 day to 2 year and four months prision correccional minimum in view of the mitigating circumstance of old age (over 70 years old) and a fine of Six thousand Pesos (P6,000.00) with subsidiary imprisonment in case of insolvency.

Felicidad Luntayao is AQUITTED on the ground of reasonable doubt.

Spouses Proceso and Felicidad Luntayao are ordered to pay solidarily Herminia Alojado, the following:

- <1> Actual damages of P10,000.00.
- <2> Moral damages in the amount of P30,000.00.
- <3> Exemplary damages in the sum of P20,000.00.

SO ORDERED.<sup>[8]</sup>

Proceso sought for reconsideration<sup>[9]</sup> but the MTCC denied his motion.<sup>[10]</sup> Aggrieved, he appealed<sup>[11]</sup> the matter to the RTC but his appeal was also dismissed.<sup>[12]</sup> He moved for reconsideration<sup>[13]</sup> but the RTC also denied his motion.<sup>[14]</sup>

Undaunted, Proceso brought the matter to us raising the following errors,<sup>[15]</sup> thus:

A. THE COURT *A QUO* ERRED IN AFFIRMING THE DECISION OF THE MUNICIPAL TRIAL COURT IN CITIES BRANCH 5 FINDING PETITIONER (ACCUSED THEREIN) GUILTY BEYOND REASONABLE DOUBT FOR GRAVE COERCION DESPITE OF *[SIC]* CLEAR SHOWING THAT PETITIONER WAS SHOWN TO HAVE NOT ACTED WITH FORCE AND INTIMIDATION, EITHER DIRECTLY OR INDIRECTLY AGAINST THE PERSON OF THE PRIVATE OFFENDED PARTY; and

B. THE COURT *A QUO* ERRED IN RULING THAT THERE *[SIC]* ELEMENTS FOR THE CRIME OF GRAVE COERCION EXISTS IN THE INSTANT CASE.

### **This Court's Ruling**

The petition is impressed with merit.

Grave coercion is committed when a person prevents another from doing something not prohibited by law or compelling him to do something against his will, whether it be right or wrong, and without any authority of law, by means of violence, threats or intimidation.<sup>[16]</sup> The crime has the following elements, to wit:

1. that any person is prevented by another from doing something not prohibited by law, or compelled to do something against his or her will, be it right or wrong;
2. that the prevention or compulsion is effected by violence, either by material force or such a display of it as would produce intimidation and, consequently, control over the will of the offended party; and
3. that the person who restrains the will and liberty of another has no right to do so; in other words, that the restraint is not made under authority of law or in the exercise of any lawful right.

A circumspect evaluation of the record shows that none of the foregoing elements existed in the case. Proceso did not, by means of force, intimidation, threats or violence, and without authority of law, prevented Herminia from doing something not prohibited by law, or compelled her to do something against her will. It was an undisputed fact that Proceso did not take part in the ejection of Herminia from the store. All he did was merely stand at a distance and hold a copy of the memorandum. Nothing from such acts of Proceso constituted the elements of the crime of grave coercion.

It must be emphasized that Herminia's goods and fixtures were hauled out from the store by the *barangay tanods* who implemented the memorandum issued by the *barangay* captain. Obviously, it was the acts of the *barangay* captain and the *tanods*