



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 219581

Present:

- versus -

MAXIMO DELA PEÑA,
Accused-Appellant.

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 MARTIRES,* and
 TIJAM, JJ.

ROMY REAL, DANNY REAL
and ONYONG REYES,
Accused.

Promulgated:

JAN 31 2018

X-----X

DECISION

DEL CASTILLO, J.:

Maximo De La Peña (appellant) filed this appeal assailing the December 16, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 00834 which affirmed with modification the October 22, 2007 Decision² of the Regional Trial Court (RTC) of Calbiga, Samar, Branch 33, in Criminal Case No. CC-2006-1608 finding him guilty beyond reasonable doubt of the crime of piracy.

Appellant was charged with the crime of piracy defined under Presidential Decree (PD) No. 532 allegedly committed as follows:

That on or about the 24th day of September 2005, at about 1:00 o'clock in the morning, more or less, along the river bank of Barangay San Roque, Municipality of Villareal, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with deliberate intent to gain, by means of force and intimidation, did then and there willfully, unlawfully and feloniously take and carry away the following items, to wit:

* Designated as additional member per October 18, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

¹ CA rollo, pp. 121-132; penned by Associate Justice Renato C. Francisco and concurred in by Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino.

² Records, pp. 118-133; penned by Executive Judge Carmelita T. Cuares.

- * 13 sacks of dried coconuts (copra) valued at ₱7,537.00[;]
- * 2 pieces automatic watch (Seiko and citizen) valued at ₱ 6,796.00[;]
- * 1 piece ([S]audi gold) valued at ₱4,731.00[;]
- * 1 [N]okia cellphone 3350 valued at ₱3,615.00[;]
- * 1 unit Briggs and [Stratton] 16 horse power with propeller valued at ₱26,000.00[;]
- * cash money worth [₱]1,000.00,

all in the amount of Forty Nine Thousand Six Hundred Seventy-Nine Pesos (₱49,679.00) to the damage and prejudice of the said owner.

CONTRARY TO LAW.³

Appellant pleaded not guilty to the crime charged. His co-accused, Romy Real (Romy), Danny Real (Danny), and Onyong Reyes (Onyong), have not been arrested and remain fugitives from justice.

Version of the Prosecution

On September 24, 2005, at around 1:00 a.m., Julita Nacoboan (Julita), her husband, Jose Nacoboan (Jose), and their son, Marwin Nacoboan (Marwin) were about to board their pump boat loaded with 13 sacks of copra. These sacks of copra were supposed to be loaded and transferred to a bigger passenger boat that would ferry the copra to Catbalogan, Samar. Their *barangay* is situated along a river which opens to the sea. When the tide is low, the bigger passenger boat cannot dock along the shore so a smaller pump boat has to be used to ferry the cargo to a bigger passenger boat.

As the Nacoboan's pump boat was about to depart, a smaller boat suddenly blocked its path. For fear of collision, Jose stopped the engine of their pump boat. Three armed men then immediately boarded the pump boat. One of the armed men pointed a firearm at Jose and ordered him to proceed to the aft or the rear side of the boat. Julita identified him as the appellant. Jose's hands were tied and his head covered.

Another armed person grabbed Julita's bag and took the following items: 1) ₱1,000.00 Cash; 2) Earrings; 3) Cellular phone; and 4) Necklace.

Another person operated the pump boat and docked it on a small island after nearly two hours of travel. During the trip, Marwin's shirt was taken off and used to blindfold Julita. When they arrived at the small island, the appellant unloaded the 13 sacks of copra.

The appellant and his armed companions then brought the pump boat to another island where its engine, propeller tube, and tools were taken and loaded on appellant's boat. Consequently, the Nacoboan's boat was left without an engine and they had to paddle to safety. They discovered that they were already in Equiran, Daram, Samar.

The following day, Julita went to the police authorities in Villareal, Samar to report the incident. She reported that the value of the copra was then ₱15.00 per kilo and that the engine and other equipment lost were valued at ₱30,000.00. She identified the appellant as one of the armed men who took control of their boat and took away its engine, propeller tube, and tools since she had known him for 16 years already and she recognized him when he boarded their boat.

Version of the Defense

Appellant denied the accusation against him and testified that he was a resident of Brgy. San Roque, Villareal, Samar for 15 years. He had been engaged in fishing for 10 years as a source of livelihood. He claimed that from September 5, 2005 up to December 5, 2005 he was fishing in Daram, Samar with Edgar Pojas, Jose Dacletan (Dacletan), Tope Dacletan, Nestor Bombay, and Esok Pojas. During the said period, he stayed at the house of *Barangay Kagawad* Edgar Pojas and used the boat of Dacletan to fish

After their fishing activity, appellant went home to Brgy. San Roque, Villareal, Samar. On December 6, 2005, four soldiers arrested and beat him up. He was brought to the Municipal Hall thereafter and was imprisoned. He declared that he knew the complainants who were also residents of Brgy. San Roque, Villareal, Samar but did not know his co-accused Romy, Onyong, and Darry.

Ruling of the Regional Trial Court

On October 22, 2007, the RTC of Calbiga, Samar, Branch 33 rendered judgment finding appellant guilty of piracy under PD 532. The RTC was convinced that the testimonies of Julita and Marwin positively identifying the appellant as the one who boarded their boat and took away their cargo through violence or intimidation were credible. The RTC ruled that appellant's denial and alibi could not prevail over the positive identification made by the victims.

The dispositive portion of the RTC's Decision reads:

WHEREFORE, AND IN VIEW OF ALL THE FOREGOING, the accused MAXIMO DE LA PEÑA is sentenced to the penalty of imprisonment or *RECLUSION PERPETUA*, without [eligibility for] parole, and to pay the victims the following:



1. ₱49,679.00, total amount lost;
2. ₱30,000.00 in exemplary damages;
3. ₱15,000.00 in moral damages;
4. ₱25,000.00 in nominal damages;
5. and to pay the costs.

Let the continued detention of the accused be transferred to the Leyte Regional Prison, as soon as possible.

Issue an alias order for the arrest of Onyong Reyes, Romy Real and Danny Real, accordingly.

Furnish copies of this decision to [the] PNP station, PNP Regional Office and its Directorate for operations.⁴

Aggrieved by the RTC's Decision, appellant filed an appeal to the CA.

Ruling of the Court of Appeals

On December 16, 2014, the CA affirmed appellant's conviction for the crime of piracy under PD 532 and held as follows:

WHEREFORE, the appeal is hereby DENIED. The Decision dated October 22, 2007, convicting accused-appellant for the crime of piracy penalized under PD No. 532 and sentencing him accordingly to suffer the penalty of *reclusion perpetua* without [eligibility for] parole is AFFIRMED WITH MODIFICATION as follows:

- a. [₱]30,000.00 as temperate damages in lieu of actual damages;
- b. the award of moral damages, nominal damages, and exemplary damages are deleted; and
- c. interest on all damages awarded at the rate of 6% per annum from the date of finality of this judgment until such amounts shall have been fully paid.

Costs against accused-appellant.

SO ORDERED.⁵

Dissatisfied with the CA's Decision, and after denial of his Motion for Reconsideration, appellant filed a Notice of Appeal.⁶

Issue

The issue in this case is whether appellant is guilty of piracy. According to

⁴ Id. at 132-133.

⁵ CA *en banc*, p. 131-132.

⁶ Id. at 135.



appellant, the prosecution failed to prove the elements of piracy under PD 532. Appellant insists that the RTC erroneously convicted him since the prosecution failed to prove his guilt beyond reasonable doubt.

Our Ruling

The appeal lacks merit.

Section 2(d) of PD 532 defines piracy as follows:

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 its 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. x x x

In his Appellant's Brief, appellant contends that the prosecution failed to prove the elements of piracy under PD 532. He posits that the Information failed to allege the elements of the crime of piracy. Appellant maintains that the Information did not state that the vessel in question was in Philippine waters and that its cargo, equipment, or personal belongings of the passengers or complement were seized.

The Court disagrees.

The Information⁷ charged appellant of the crime of piracy to wit:

That on or about the 24th day of September 2005, at about 1:00 o'clock in the morning, more or less, along the river bank of Barangay San Roque, Municipality of Villareal, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with deliberate intent to gain, by means of force and intimidation, did then and there willfully, unlawfully and feloniously take and carry away the following items, to wit:

- * 13 sacks of dried coconuts (copra) valued at ₱7,537.00[;]
- * 2 pieces automatic watch (Seiko and citizen) valued at ₱ 6,796.00[;]
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- * 1 [N]okia cellphone 3350 valued at ₱3,615.00[;]
- * 1 unit Briggs and [Stratton] 16 horse power with propeller valued at ₱26,000.00[;]
- * cash money worth [₱]1,000.00,

all in the amount of Forty Nine Thousand Six Hundred Seventy Nine Pesos (₱49,679.00) to the damage and prejudice of the said owner.

⁷ Records, pp. 1-2.

CONTRARY TO LAW.

The Information categorically alleged that the incident happened along the river bank of Brgy. San Roque, Municipality of Villareal, Province of Samar. Under Section 2(a) of PD 532, "Philippine waters" is defined as follows:

[A]ll bodies of water, such as but not limited to, seas, gulfs, bays around, between and connecting each of the Islands of the Philippine Archipelago, irrespective of its depth, breadth, length or dimension, and all other waters belonging to the Philippines by historic or legal title, including territorial sea, the sea-bed, the insular shelves, and other submarine areas over which the Philippines has sovereignty or jurisdiction. (Emphasis supplied)

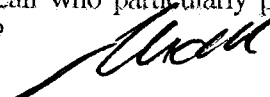
From this definition, it is clear that a river is considered part of Philippine waters.

The Information also clearly alleged that the vessel's cargo, equipment, and personal belongings of the passengers were taken by the appellant and his armed companions. It stated, in no uncertain terms, that 13 sacks of copra were taken by the appellant through force and intimidation. Undoubtedly, these sacks of copra were part of the vessel's cargo. The Information also stated that the vessel's equipment which consisted of the engine, propeller tube, and tools were taken and carried away by the appellant. Furthermore, the Information also stated that the personal belongings of the passengers consisting of two watches, jewelry, cellphone, and cash money were taken by the appellant and his armed companions. The appellant was able to seize these items when he, along with armed companions, boarded the victims' pump boat and seized control of the same. Armed with firearms, appellant and his companions tied Jose's hands, covered his head, and operated their pump boat. They travelled to an island in Samar where they unloaded the sacks of copra. Thereafter, appellant and his armed companions travelled to another island where the engine, propeller tube, and tools of the pump boat were taken out and loaded on appellant's boat.

From the foregoing, the Court finds that the prosecution was able to establish that the victims' pump boat was in Philippine waters when appellant and his armed companions boarded the same and seized its cargo, equipment, and the personal belongings of the passengers.

The Court finds no merit in appellant's contention that he was not positively identified by the prosecution's witnesses. From the testimony of Julita, she positively identified the appellant as follows:

Q: Among the three (3) accused, can you recall who particularly pointed and levelled at your husband with his knife?



A: It was Maximo De la Peña, ma'am

x x x x

Q: Who [among the three (3) accused unloaded the 13 sacks of copra]?

A: The [ones] who unloaded our [copra] were Maximo De la Peña and the person who was guarding me with a short [fire]arm [whom] I do not know x x x. [T]he other one who was carrying a long [fire]arm [was] in charge of the engine.⁸

The Court finds no reason to doubt the testimony of Julita identifying appellant as one of the assailants who boarded their vessel and seized its cargo, equipment, and the passengers' personal belongings. Julita testified that she was able to identify appellant because of the moonlight that illuminated the area. Further, she testified that she then had a flashlight that allowed her to see who boarded the vessel. More importantly, Julita had known the appellant for 16 years since they reside in the same *barangay*.⁹ Appellant's bare denial and alibi cannot prevail over the positive identification made by Julita. "Time and again, this Court has consistently ruled that positive identification prevails over alibi since the latter can easily be fabricated and is inherently unreliable."¹⁰ Since both the RTC and CA found Julita's testimony to be credible and straightforward, the Court thus finds no reason to disturb the same.

Lastly, appellant argues that the proper penalty should be *reclusion temporal* in its medium and maximum periods and not *reclusion perpetua* as imposed by the RTC.

Appellant's contention is incorrect. Section 3 of PD 532, provides:

Section 3. *Penalties*. Any person who commits piracy or highway robbery/brigandage as herein defined, shall, upon conviction by competent court be punished by:

a. *Piracy*. The penalty of *reclusion temporal* in its medium and maximum periods shall be imposed. If physical injuries or other crimes are committed as a result or on the occasion thereof, the penalty of *reclusion perpetua* shall be imposed. If rape, murder or homicide is committed as a result or on the occasion of piracy, or when the offenders abandoned the victims without means of saving themselves, **or when the seizure is accomplished by firing upon or boarding a vessel**, the mandatory penalty of death shall be imposed. (Emphasis supplied)

In this case, it was established that the appellant and his armed companions boarded the victims' pump boat and seized 13 sacks of copra, the boat's engine,

⁸ TSN, January 19, 2007, pp. 8-12.

⁹ Id. at 23-24.

¹⁰ *People v. Ramos*, 715 Phil. 193, 207 (2013).

propeller tube, and tools, as well as the contents of Julita's bag. Hence, from the provision above, the proper impossible penalty should be death. However, due to Republic Act No. 9346, which prohibits the imposition of the death penalty, the Court thus finds that the penalty imposed by the RTC, which was *reclusion perpetua* without eligibility for parole, was correct since the seizure of the vessel and its cargo was accomplished by boarding the vessel.

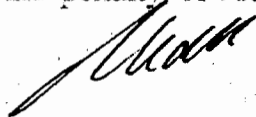
Anent the award of damages, the Court sustains the modification made by the CA in deleting the amount of ₱49,679.00 as actual damages and instead, awarding Julita temperate damages since she failed to substantiate her losses with the necessary receipts. As we explained in *Tan v. OMC Carriers, Inc.*:¹¹

Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. To justify an award of actual damages, there must be competent proof of the actual amount of loss, credence can be given only to claims which are duly supported by receipts.

The award of temperate damages is proper since under Article 2224 of the Civil Code, temperate damages may be recovered when the court finds that some pecuniary loss had been suffered but its amount cannot, from the nature of the case, be proved with certainty. Likewise, the Court finds the deletion of nominal damages proper. The CA is correct in holding that temperate and nominal damages are incompatible and thus, cannot be granted concurrently. Under Article 2221 of the Civil Code, nominal damages are given in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him. Lastly, the deletion of the awards of moral and exemplary damages are also proper for lack of factual and legal basis.

All told, based on the evidence on record, the Court finds no reason to disturb the findings of both the RTC and the CA that appellant was guilty of piracy under PD 532.

WHEREFORE, the appeal is **DISMISSED**. The December 16, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC. No. 00834 finding appellant Maximo De La Peña **GUILTY** beyond reasonable doubt of the crime of piracy defined and penalized under Presidential Decree No. 532 and sentencing him to suffer the penalty of *reclusion perpetua* without eligibility for parole is **AFFIRMED**.



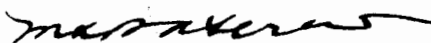
¹¹ 654 Phil. 443, 454 (2011). Citation omitted.

SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On official leave)
SAMUEL R. MARTIRES
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice