

TWENTIETH DIVISION

[CA-G.R. CEB-CR NO. 02136, September 04, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERNANDO PELEGRINO AND MAXIMO TUTOR, ACCUSED-
APPELLANTS.**

D E C I S I O N

HERNANDO, J.:

This is an appeal filed by accused-appellants Fernando Pelegrino and Maximo Tutor seeking the reversal of the May 18, 2012 Decision^[1] of the Regional Trial Court (RTC), Branch 51, of Carmen, Bohol finding them guilty beyond reasonable doubt for violation of Presidential Decree No. 533 or the Anti-Cattle Rustling Law in Criminal Case No. 0590.

The Antecedents:

On February 3, 2003, an Information^[2] was filed charging the accused-appellants with violation of the Anti-Cattle Rustling Law, allegedly committed as follows:

That on or about the 8th day of August 2003 in the municipality of Mabini, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually helping one another, with intent of gain and without any legal justification, did then and there willfully, unlawfully and feloniously take, steal and lead away one (1) female cow registered in the name of Maximo Pelegrino and taken care of by Luciana Pelegrino valued in the amount of FIVE THOUSAND PESOS (P5,000.00), Philippines currency without consent and against and against the will of the owner, to the damage and prejudice of the said owner and caretaker.

Acts committed contrary to the provisions of P.D. No. 533 (Anti-Cattle Rustling Law of 1974)

On February 24, 2004, accused-appellants were arraigned. They registered negative pleas of guilt at said arraignment. Thereafter, trial on the merits ensued.

The facts of the case according to the prosecution are summarized as follows:

On August 8, 2003, at around seven o'clock in the evening, Juanito Libres together

with Lardo Olajay, Jamen Olajay, Wilfredo Olajay, Berto Vallejos and Crispin Elle noticed accused-appellants dragging a cow towards a cargo truck owned by Felixberto Curatibo. After boarding the cow on the truck, Felixberto drove away while accused-appellants proceeded to a nearby store. After the incident, Omac Vallejos, son-in-law of Luciana Pelegrino, asked Juanito if he saw the cow of Luciana. Omac described it as a red female cow with a white spot on the head. Juanito then told Omac that he saw a cow matching said description being dragged by accused-appellants. Thus, Omac reported the matter to the barangay captain. Subsequently, when Luciana learned from Juanito that her cow was loaded into a truck, she immediately reported it to the Chief of Police. Luciana clarified that her daughter, Maxima Pelegrino, actually owned the missing cow and that she was merely its caretaker. Luciana also averred that after the Chief of Police filed the complaint against her nephews, the accused-appellants, they never visited her again.

Joel dela Peña alleged that during the pendency of the case, sometime in March 2004, accused-appellant Maximo Tutor confided to him that he took the missing cow. Joel claimed that Maximo admitted the commission of the offense because he was bothered by his conscience. He stressed that Maximo wanted him to arrange a settlement with Luciana as he was willing to pay for the value of the cow.

On the other hand, accused-appellants interposed denial as their defense. However, they opted not to present any evidence considering what they believed to be a weakness in the prosecution's case against them.

After trial, the court *a quo* found that the elements of the crime of Anti-Cattle Rustling was duly proven by the prosecution. The trial court ruled that accused-appellants failed to rebut the fact that they were found in possession of the missing cow. Moreover, it found credible the testimony of Joel dela Peña asserting that accused-appellant Maximo Tutor admitted taking the subject cow. Thus, the trial court found them guilty beyond reasonable doubt for the offense charged in its assailed Decision, the dispositive portion of which reads:^[3]

WHEREFORE, in view of all the foregoing and for the successful prosecution of the instant case showing the guilt of the two accused beyond reasonable doubt for the crime charged, the court finds accused Maximo Tutor and Fernando Pelegrino guilty beyond reasonable doubt for Violation of Anti-Cattle Rustling Law (P.D. 533), and hereby sentences each of them to suffer a prison term of four (4) years, two (2) months and one (1) day of prision correccional in its maximum period as minimum to twelve (12) years, five (5) months and eleven (11) days of reclusion temporal in its minimum period as maximum.

Considering that the prosecution failed to show clear proof of the value of the subject cow, the court cannot therefore adjudicate for the payment of the civil liability.

SO ORDERED.

Aggrieved, accused-appellant Fernando Pelegrino filed a Motion for