

CELERINO CHUA ALIAS SUNTAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 172193. September 13, 2017

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The violence against or intimidation of persons perpetrated by the accused to commit a robbery under Article 294 of the Revised Penal Code renders the accused also liable for carnapping committed by means of violence against or intimidation of persons as defined and punished by Section 14 of Republic Act 6539 involving the taking of a vehicle to transport the stolen goods.

The Case

Celerino Chua alias Suntay (Chua) seeks to reverse the decision promulgated on October 20, 2005,[1] whereby the Court of Appeals (CA) affirmed his convictions for carnapping in violation of Republic Act 6539 (Anti-Carnapping Act of 1972) and for robbery as defined and punished by Article 294(5) of the Revised Penal Code handed down by the Regional Trial Court, Branch 81, in Malolos, Bulacan (RTC) through its decision of September 25, 2002.[2]

Antecedents

On January 25, 1994, Chua, along with Leonardo Reyes alias Leo and Arnold Lato y Baniel alias Arnold or Rodel, was charged in Criminal Case No. 397-M-94 of the RTC with the crime of carnapping under the information alleging as follows:

That on or about the 24[th] day of October, 1993, in the municipality of Bocaue, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and helping one another, did then and there willfully, unlawfully and feloniously, with intent to gain and without the consent of the owner thereof, take, steal and carry away with them one owner type jeep (stainless) bearing Plate No. CFC-327, belonging to Sps. Reynaldo Ravago and Teresa Ravago, to the damage and prejudice of the said owners in the amount of P170,000.00.

CONTRARY TO LAW.[3]

On January 27, 1994, the same accused were charged with robbery under the information filed in Criminal Case No. 428-M-94, to wit:

That on or about the 24[th] day of October, 1993 in the municipality of Bocaue, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and helping one another did then and there willfully, unlawfully and feloniously, with intent to gain and by means of force and intimidation, take, rob and carry away with them the following, to wit:

one (1) colored TV set (Sony)-----

P 15,000.00

one (1) TV set B & W (Hitachi/Union)---

P 5,000.00

two (2) Betamax (Sony)-----

P 18,000.00

one (1) VHS record (Toshiba)-----

P 12,000.00

one (1) Sansui compact disc-----

P 25,000.00

assorted jewelries (sic)-----

P 30,000.00

six (6) pcs. of assorted wristwatches-----

P 10,000.00

cash-----

P 7,000.00

TOTAL

P122,000.00

belonging to Sps. Reynaldo Ravago and Theresa Ravago, to the damage and prejudice of the said spouses in the total amount of P122,000.00; and by reason of and on the occasion of the commission of the said robbery, the above-named accused conspiring, confederating together and helping one another, did then and there wilfully, unlawfully and feloniously attack, assault and stab with bladed instrument, said Reynaldo E. Ravago thereby inflicting upon him serious physical injuries which required medical attendance and incapacitated him from his customary labor for a period of not more than thirty (30) days.[4]

Reyes and Lato remained at large; hence, only Chua was arraigned and tried for the crimes.

The CA synthesized the procedural and factual antecedents adduced by the Prosecution and the Defense as follows:

The prosecution presented eight (8) witnesses, namely: Teresa Legaspi-Ravago, Reynaldo Ravago, Valentina Legaspi, Juanito Olivario, Gerry Ormesa, Moises Legaspi, Jessie Tugas and John Laguidao.

The facts established by prosecution witness Teresa Ravago as follows:

On October 24, 1993 at around 2:50 o'clock in the morning, Teresa Legaspi-Ravago, accompanied by a helper, was about to leave for work at the Maymart Market in Meycauayan, Bulacan. Upon opening the door, she was immediately pushed inside the house by accused Arnold Lato. Lato was followed by accused Leonardo Reyes. Arnold tied the hands of Teresa and the helper with straw. Leonardo on the other hand went to the master's bedroom where Reynaldo was sleeping. Reynaldo was stabbed four times but was able to run to the bathroom and lock himself in.

The accused demanded jewelry and cash that the Ravagos earned as broker's commission from the sale of a fishpond. The two robbers wore stockings on the head to conceal their identities. Teresa was able to recognize the face of Arnold when the latter removed the stocking off his face as he searched for jewelry.

Said two (2) accused carted off their television sets, Sony Betamax sets, Karaoke, compact disc, assorted pieces of jewelry, VHS player and cash. The said stolen items were loaded in a stainless owner type jeep registered in the name of Teresa's mother, Valentina Legaspi, but given to the private complainants in 1990.

The robbery was immediately reported to the Bocaue Police Station. In the course of the investigation, Teresa was able to identify Arnold through photographs shown to her.

The robbers were later on identified as Arnold Lato and Leonardo Reyes. Arnold Lato was about her height, 5'2", dark and had earring on his right ear. The other, Leonardo Reyes, was 5'7" or 5'8", fair complexioned, thin and lanky. Both accused who were still at large were workers of Gerry Ormesa. Appellant Chua referred both accused to Gerry Ormesa. The straw ropes that were used to tie Teresa and her helper were being used by Arnold and Leo in their work. The built and height of the accused as described by Teresa fit the description of aforementioned workers of Gerry Ormesa. The clothes the robbers wore as described by Teresa were recognized by their employer Gerry as among those few clothings his two workers owned. Arnold and Leonardo stopped working after the October 24 incident. They left without waiting to receive the salaries due them.

Prior to the incident appellant Celerino Chua, together with his legitimate family resided about twenty (20) meters away from complainants' house. After the incident, they left. Before Chua went into hiding he wrote the Ravagos to keep quiet about the incident, otherwise, harm would befall their family.

A couple from the place where the appellant resided gave information that the jeep was brought by the appellant Chua to Bani, Pangasinan. The jeep was recovered at Jessie Tugas' motor shop in Pangasinan. Appellant Chua and his live-in partner then resided in a nipa hut near the motor shop from November to December 1993. One Betamax unit was recovered in the nipa hut where appellant Chua and his girlfriend stayed.

Appellant Chua told Tugas that he is the owner of the jeep. Chua approached John Alden Laguidao, a friend of Tugas, who agreed to purchase the vehicle for Forty Thousand Pesos (P40,000.00). Laguidao made a partial payment of Twenty Thousand Pesos (P20,000.00) on the condition that the balance shall be paid upon the presentation of the certificate of registration.

Teresa was shocked by the incident. She was unable to return to work for sometime because of fear to step outside in the morning. She even received threats. She left the amount of damages to the discretion of the court.

Reynaldo Ravago corroborated Teresa's testimony. He added that he was stabbed four (4) times by the taller malefactor. He (Reynaldo) ran to the bathroom and locked himself in to avoid further harm. He heard the two robbers asking for their jewelry and cash which they earned as commission from the sale of a fishpond which they brokered. Appellant Celerino Chua knew of said transaction. Reynaldo stayed inside the bathroom for as long as the two (2) robbers had not yet left. After Reynaldo's wife opened the bathroom door, he was brought for treatment to Yanga Clinic. He was confined for five (5) days. He incurred expenses of about P17,000.00.

They were able to recover the vehicle in Jessie Tugas' shop in Bani, Pangasinan. It had already been sold to one John Aldrin Laguidao for P40,000.00. He saw the terms of the sale on a yellow pad which showed the seller to be Celerino Chua and one Meann (Chua's live-in partner). Pictures of the vehicle already dismantled (Exhibits "J", "J-1" to "J-19") and taken in Jessie's shop were presented. An inventory of the jeep's parts (Exhibits "M", and "M-1") were offered. Picture (Exhibit "J-13") of the nipa hut where Chua and MeAnn stayed was taken. The Betamax, among those stolen from the Ravagos, was recovered from the same nipa hut where Chua and his companion stayed.

Valentina Legaspi, Teresa's mother, confirmed that the jeep, although registered in her name, was given to the spouses Ravago in 1991.

Juanita Olivario, the husband of Reynaldo Ravago's sister, accompanied Reynaldo to Bani, Pangasinan. They went first to the police station and requested for an escort to the shop of Jessie Tugas. Laguidao, the buyer of the jeep, was no longer in Bani. Reynaldo requested for a copy of the deed of sale between Chua and Laguidao. They were told it was missing.

Gerry Ormesa identified Celerino Chua in court. Chua is his sister's compadre. He identified the straw ropes to belong to him but used by the two accused, Arnold and Leo, in their work. He also admitted that the clothes shown him belonged to the two (2) accused.

Moises Legaspi, Teresa's father, identified the pictures of the subject vehicle (Exhibit "J", "J-1" to "J-16").

Jessie Tugas, a resident of Bani, Pangasinan, identified Chua in court. He came to know him when introduced by a nephew. He had an auto repair shop then. Chua was with MeAnn and two (2) men. He admitted that the jeep in question was repaired in his shop. Chua represented that he owned the jeep. He was offering it for sale. A "For Sale" sign was even posted at the back of the jeep. Tugas identified the pictures of the jeep (Exhibits "J", "J-1" to "J-16"). He also admitted that the picture (Exhibit "J-13") showed the nipa hut where Chua, MeAnn and his nephew stayed. Laguidao, his brother-in-law, bought the jeep. Laguidao gave a down payment of P20,000.00. Before the balance was paid, Reynaldo Ravago came to recover the vehicle.

John Laguidao identified Celerino Chua in court. He identified the pictures of the jeep. It was sold to him. Before he could pay the balance in full, the real owner came and showed him the certificate of registration. Upon verification of the chassis and engine numbers, the owner took the vehicle. Laguidao's receipt for the transaction could not be located anymore.

The accused thereafter presented defense evidence.

Accused Celerino Chua testified that he has no knowledge about the charges against him. He did not know personally the other accused, Leonardo and Arnold. He drove part time for Reynaldo. In the early morning of October 24, 1993, he agreed to drive for Reynaldo but the vehicle he was supposed to drive was under repair. He went home and drove a passenger jeep instead. He started at 9:00 o'clock in the morning and went home at 6:00 o'clock in the evening. He proceeded to Sapang Palay, San Jose del Monte where he had a live-in partner, Mary-Ann Rodrigues. He learned that the house of Reynaldo Ravago was robbed when the policemen came to Sapang Palay to ask him questions. He hid in Malolos because he was afraid that he might be killed. He also denied knowing John Laguidao and Jessie Tugas. He hid in his father's house in Malolos, Bulacan for three (3) years. He had not been to Bani, Pangasinan.

A barriomate and childhood playmate, Manuel Calumpang, testified in behalf of appellant Chua. Sometime in 1994, upon a chance meeting with the appellant, he heard two (2) persons talking to the former threatening him not to point to them otherwise he and his family would be killed. He was also told by the appellant that he had a case. Of the two who made the threats, one was short and the other was tall.[5]

Ruling of the RTC

As stated, the RTC convicted Chua for the crimes charged, decreeing:

WHEREFORE, foregoing premises considered, finding accused CELERINO CHUA alias SUNTAY guilty under Criminal Case No. 397- M-94 for violation of Republic Act 6539 otherwise known as the Anti-Carnapping Act of 1972, he is hereby sentenced to suffer an indeterminate sentence of fourteen years (14) and eight (8) months as minimum to seventeen (17) years and four (4) months as maximum.

Further, finding accused CELERINO CHUA alias SUNTAY guilty in Criminal Case No. 428-M-94 for Robbery under Article 294 (5) of the Revised Penal Code, he is hereby sentenced to suffer a penalty of four (4) years, two (2) months and one (1) day of arresto mayor as minimum to eight (8) years and twenty one (21) days of prision mayor as maximum and to indemnify the complainants Spouses Teresa Ravago and Reynaldo Ravago the amount of Php One Hundred Thirteen Thousand (less the value of (1) recovered Betamax Sony).

With accused preventive imprisonment credited in his favor.

Accused Celerino Chua is likewise directed to pay complainant Teresa Ravago the amount of Php Two Hundred Thousand as and for actual damages.

Costs against accused CELERINO CHUA.

Let the records of the case be sent to archive as against accused LEONARDO REYES alias "LEO" and ARNOLD LATO y BANIEL @ Arnold or Rodel who are still at large.

SO ORDERED.[6]

Decision of the CA

On appeal, Chua contended that the RTC had erred:

I

xxx IN CONVICTING ACCUSED-APPELLANT SOLELY ON THE BASIS OF CIRCUMSTANTIAL EVIDENCE.

II

xxx IN RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT ACCUSED-APPELLANT'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.[7]

On October 20, 2005, the CA promulgated the assailed decision affirming the findings and conclusions of the RTC, pertinently observing:

Direct evidence of the commission of the crime is not only the matrix from which a trial court may draw its conclusion and finding of guilt. Circumstantial evidence is like a rope composed of many strands and cords one strand might be insufficient, but five together may suffice to give it strength.

The requisite of circumstantial evidence to be sufficient basis for conviction are: (a) There is more than one circumstance; (b) the facts from which the inferences are derived have been established; and (c) the combination of all the circumstance is such as to warrant a finding of guilt beyond reasonable doubt.

This Court is convinced that the three (3) accused conspired to commit the crime. The circumstances before,

during and after the incident point to the appellant as the mastermind. Direct proof is not essential to the establishment of conspiracy, as it may be inferred from the acts of the accused before, during and after the commission of the crime.

The circumstances in this case that point to appellant Chua as the mastermind are:

First, the day before the incident, Reynaldo Ravago told his compadre about the broker's commission he received in the sale of a fishpond. Appellant Chua eavesdropped and intently listened to the conversation.

Second, on the day of the robbery, Leonardo and Arnold, the two (2) other accused, asked for the said broker's commission. Only Celerino Chua could have told Arnold and Leo About said commission.

Third, subsequent to the commission of the crime, Celerino Chua disappeared. He left the place where he stayed. He hid in his father's house in Malolos Bulacan. Flight in jurisprudence has always been a strong indication of guilt, betraying a desire to evade responsibility.

Fourth is the sale of the owner type jeep. The seller was Celerino Chua. Both Jessie Tugas and John Laguidao categorically identified him as the person who sold and received the partial payment for the vehicle. During the recovery of the vehicle, another stolen item, the Betamax, was found in the place where Chua and his live-in partner had stayed. A disputable presumption exists that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act. Appellants offered no evidence to overcome or contradict such presumption.

It is also noted by this Court that appellant denied any knowledge in the commission of the crime as well as the fact that he knows the other accused. However, it was testified that appellant Chua was the one who referred Leonardo and Arnold to their employer. Being evidence that is negative and self-serving in nature, disavowals cannot secure more worthiness than the testimonies of prosecution witnesses who testified on clear and positive evidence.

Furthermore, the defense of the accused is alibi and denial. Alibi and denial are intrinsically weak absent material evidence of non--culpability.

The defense also failed to prove any reason for the filing of a case against the appellant. Settled is the doctrine that when there is no evidence to show any dubious reason or improper motive why a prosecution would testify falsely against the accused or implicate him in a serious offense the testimony deserves full faith and credit.

A judgment of conviction by the lower court is upheld on the basis of the circumstantial evidence that constitutes an unbroken chain which leads to one fair and reasonable conclusion that the defendant is guilty.

This Court affirms the conviction of Celerino Chua in Criminal Case No. 397-M-94 without modification of the penalty imposed by the trial court.[8]

The CA modified the penalty meted on Chua for the robbery stating thusly:

However, this Court finds the penalty in Criminal Case No. 428- M-94 for Robbery under Article 294(5) of the Revised Penal Code inaccurate. Though this Court agrees with the trial court that there was no evidence that Celerino Chua was part of any plan to inflict physical injury in the course of the robbery which justified imposition of the penalty under paragraph 5, Article 294 of the Revised Penal Code, yet, the penalty actually imposed was not accurate.

Since there is no mitigating and aggravating circumstance, the maximum penalty should have been prision mayor in its minimum period and the minimum penalty should have been the penalty next lower prescribed by the code. The minimum of the indeterminate penalty is left to the sound discretion of the court, to fix from within the range of the penalty next lower without reference to the periods into which it may be subdivided.[9]

The CA then accordingly disposed:

WHEREFORE, in view of the foregoing, the appeal is hereby DENIED. The decision of Branch 81 of the Regional Trial Court of Malolos, Bulacan in Criminal Case No. 397-M-94 is AFFIRMED in toto.

Conviction in Criminal Case No. 428-M-94 is AFFIRMED with the MODIFICATION that appellant Chua is hereby sentenced to suffer a penalty of Four (4) years and Two (2) months of Prision Correccional as minimum to Eight (8) years of Prision Mayor as maximum.

Preventive imprisonment is credit(ed) in favor of the accused. Accused Celerino Chua is likewise directed to pay complainant Teresa Ravago the amount of Php Two Hundred Thousand for actual damages.

Costs against accused Celerino Chua.

SO ORDERED.[10]

Issue

In his petition, Chua submits that the CA committed reversible errors in finding the existence of a conspiracy between him and the two other accused despite the failure of the State to establish his actual participation in the commission of the crimes charged; in finding him guilty of the crimes charged despite the insufficiency of the circumstantial evidence; and in holding him guilty as a principal in the commission of the crimes charged even assuming that he had sold the motor vehicle of the victims and that the betamax machine had been found in his place.

Was Chua's guilt for robbery and carnapping established beyond reasonable doubt?

Ruling of the Court

The Court UPHOLDS the decision of the CA.

1.

The State presented sufficient and reliable circumstantial evidence to establish the guilt of Chua beyond reasonable doubt for robbery and carnapping, as charged

Direct evidence was not the sole means of establishing the guilt of the accused beyond reasonable doubt. The lack or absence of direct evidence putting the accused at or near the scene of robbery and carnapping at the time of their commission did not necessarily mean that his guilt could not be proved by evidence other than direct evidence. Conviction could also rest purely on circumstantial evidence, which is that evidence that proves a fact or series of facts from which the fact in issue may be established by inference. Circumstantial evidence, if sufficient, could supplant the lack or absence of direct evidence. It may be resorted to when to insist on direct testimony would ultimately lead to setting felons free.[11]

Section 4, Rule 133 of the Rules of Court provides when circumstantial evidence is sufficient for conviction if the conditions enumerated therein are shown to exist, to wit:

Section 4. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

With respect to the third requisite, it is essential that the circumstantial evidence presented must constitute an

unbroken chain that leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of others, as the guilty person.[12]

Circumstances that fully warranted the inference of Chua's having been the mastermind in the commission of the carnapping and the robbery incriminated him beyond reasonable doubt in the crimes for which he was convicted. It is relevant to note that the CA listed the several circumstances that, taken together, proved the complicity of Chua in the robbery and carnapping, as follows:

First, the day before the incident, Reynaldo Ravago told his compadre about the broker's commission he received in the sale of a fishpond. Appellant Chua eavesdropped and intently listened to the conversation.

Second, on the day of the robbery, Leonardo and Arnold, the two (2) other accused, asked for the said broker's commission. Only Celerino Chua could have told Arnold and Leo About said commission.

Third, subsequent to the commission of the crime, Celerino Chua disappeared. He left the place where he stayed. He hid in his father's house in Malolos Bulacan. Flight in jurisprudence has always been a strong indication of guilt, betraying a desire to evade responsibility.

Fourth is the sale of the owner type jeep. The seller was Celerino Chua. Both Jessie Tugas and John Laguidao categorically identified him as the person who sold and received the partial payment for the vehicle.

During the recovery of the vehicle, another stolen item, the Betamax, was found in the place where Chua and his live-in partner had stayed. A disputable presumption exists that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act. Appellants offered no evidence to overcome or contradict such presumption.

It is also noted by this Court that appellant denied any knowledge in the commission of the crime as well as the fact that he knows the other accused. However, it was testified that appellant Chua was the one who referred Leonardo and Arnold to their employer. Being evidence that is negative and self-serving in nature, disavowals cannot secure more worthiness than the testimonies of prosecution witnesses who testified on clear and positive evidence.[13]

Chua's complicity in the commission of robbery and carnapping is beyond dispute. It was he who had earlier referred his co-accused Lato and Reyes to Gerry Ormesa for purposes of employing them. But Lato and Reyes stopped working for Ormesa immediately after the commission of the crimes on October 24, 1993, and left even without receiving the salaries due to them. After the commission of the crimes, Chua himself, along with his common-law spouse, left his residence in the neighborhood where the house of complainant Reynaldo Ravago was (being only about 20 meters away from the latter's residence). Before he transferred, however, he warned Ravago to keep quiet about the robbery, or else harm would befall him and his family. Chua was also the person who later on sold the vehicle subject of the carnapping for P40,000.00 to one John Alden Laguidao who partially paid him P20,000.00 with the balance of P20,000.00 to be given upon Chua's presentation of the certificate of registration. In the meantime, Ravago learned from a couple who were residing in the place where Chua had transferred that the latter had brought the vehicle subject of the carnapping to Bani, Pangasinan. Thus, Ravago, with the help from the local police station, successfully recovered the vehicle, already dismantled, from the motor shop of one Jessie Tugas located in that place. Laguidao, Chua's buyer, was the brother-in-law of Tugas, who himself recalled that Chua, in the company of two men, had brought the vehicle to his shop claiming to be the owner of the vehicle. Chua and his common-law spouse then lived in a nipa hut near the motor shop. It was hardly coincidental that at the time of the recovery of the vehicle, Ravago's Betamax unit was recovered from Chua's nipa hut.

2.

Despite his physical absence from the scene of the crime, Chua was liable as a principal by inducement, and also for the violence committed by Lato and Reyes during the execution of the crimes

The foregoing circumstances were sufficient and competent to prove that Chua masterminded the robbery and carnapping. As the mastermind, he directly induced Lato and Reyes to commit the robbery and the carnapping. His inducement of them was not merely casual but influential and controlling. Lato and Reyes could not have committed the crimes without Chua's inducement and plotting. In that capacity, Chua was a principal by inducement within the context of Article 17 of the Revised Penal Code, which provides:

Article 17. Principals. - The following are considered principals:

1. Those who take a direct part in the execution of the act;
2. Those who directly force or induce others to commit it;
3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a crime, and decide to commit it.[14] For an accused to be validly held to conspire with his co-accused in committing the crimes, his overt acts must tend to execute the offense agreed upon, for the merely passive conspirator cannot be held to be still part of the conspiracy without such overt acts, unless such passive conspirator is the mastermind. In that respect, it is not always required to establish that two or more persons met and explicitly entered into the agreement to commit the crime by laying down the details of how their unlawful scheme or objective would be carried out.[15] Conspiracy can also be deduced from the mode and manner in which the offense is perpetrated, or can be inferred from the acts of the several accused evincing their joint or common purpose and design, concerted action and community of interest.[16] Clearly, the State successfully proved the existence of a conspiracy among the three accused.

3.

Robbery committed was that under Article 294(5) of the Revised Penal Code

Robbery is defined and punished under Article 294 of the Revised Penal Code, to wit:

Article 294. Robbery with violence against or intimidation of persons; Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.[17]
2. The penalty of reclusion temporal in its medium period to reclusion perpetua when the robbery shall have been accompanied by rape or intentional mutilation, or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted; Provided, however, that when the robbery accompanied with rape is committed with a use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death (As amended by PD No. 767).
3. The penalty of reclusion temporal, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted.
4. The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or in the course of its execution, the offender shall have inflicted

upon any person not responsible for its commission any of the physical injuries covered by sub-divisions 3 and 4 of said Article 263.

5. The penalty of prision correccional in its maximum period to prision mayor in its medium period in other cases. (As amended by R. A. 18).

The CA properly convicted Chua of robbery as defined and punished under Article 294(5) of the Revised Penal Code.

During the commission of robbery, Reyes, the taller between him and Lato, stabbed Ravago four times. Ravago escaped further harm only by running to the bathroom and locking himself in. In that time, the robbers demanded to know from him the hiding place of the jewelry and the commission earned from the sale of a fishpond that Ravago had brokered. The latter ignored the demand and just stayed inside the bathroom until after they had left, and his wife opened the bathroom door. She rushed him to the Yanga Clinic for treatment. He was confined in the Yanga Clinic for five days, and incurred expenses of about P17,000.00.

Yet, the physical injuries inflicted by the stabbing in the course of the execution of the robbery did not constitute any of the serious physical injuries mentioned under Article 263 of the Revised Penal Code as required by Article 294(2)(3) and (4) of the Revised Penal Code. Specifically, the physical injuries inflicted on him did not render him insane, imbecile, impotent or blind; he did not also lose the use of speech or the power to hear or to smell, or an eye, a hand, a foot, an arm or a leg; or the use of any of such member; he did not also become incapacitated for the work in which he was theretofore habitually engaged; he did not become deformed; he did not lose any other part of his body, or the use thereof; he did not become ill or incapacitated for the performance of the work in which he was habitually engaged for a period of more than 90 days; or he did not become ill or incapacitated for labor for more than 30 days. The crime is simple robbery under Article 294(5) of the Revised Penal Code.

The CA modified the penalty meted by the RTC after observing that "there was no evidence that Celerino Chua was part of any plan to inflict physical injury in the course of the robbery." [18] Although both lower courts agreed that there was no evidence showing that Chua had been part of any plan to inflict physical injury in the course of the robbery, the Court deems it necessary to issue a rectification lest such observation be unduly taken as sanctioned with concurrence.

Being the mastermind, Chua was as responsible for the consequences of the acts committed by Lato and Reyes, the principals by direct participation. This is because of the conspiracy among the three of them. The informations had properly charged them as co-conspirators in robbery and carnapping. Once their conspiracy was established, the act of each of the conspirators became the act of all. Indeed, Chua could not escape responsibility for the acts done by his co-conspirators. The very nature of the planned robbery as a crime that entailed violence against persons warranted holding Chua fully responsible for all the consequences of the criminal plot.

In *People v. Pareja*, [19] the trial court had appreciated one of two aggravating circumstances (price or reward) as the qualifying circumstance but had refused to consider the other (treachery) as a generic aggravating circumstance against the accused, who was the mastermind, on the ground that he had not been present when the crime was being actually committed, having left the means, modes or methods of its commission to a great extent to the discretion of the others. The trial court cited as its authority the ruling in *People v. De Otero* (51 Phil. 201). The Court, on appeal, disagreed with the lower court, and opined per curiam as follows:

The citation is not in point. It refers to a case where the accused was convicted as principal by inducement *per se* under paragraph 2 of Article 17 of the Revised Penal Code, without proof of conspiracy with the other accused. In the case at bar, however, there was conspiracy among the defendants, and the rule is that every conspirator is responsible for the acts of the others in furtherance of the conspiracy. Treachery - evident in the

act of the gunman in suddenly firing his revolver, preceded as it was by a false showing of courtesy to the victim, thus insuring the execution of the crime without risk from any defense or retaliation the victim might offer should be appreciated as a generic aggravating circumstance against appellant.[20]

For the robbery, the RTC set the indeterminate sentence at four years, two months and one day of *arresto mayor*, as the minimum, and eight years and 21 days of *prision mayor*, as the maximum. The CA modified the indeterminate sentence by imposing four years and two months of *prision correccional*, as minimum, to eight years of *prision mayor*, as maximum.

The impossible penalty for robbery under Article 294(5) of the Revised Penal Code is *prision correccional* in its maximum period to *prision mayor* in its medium period, which ranges from four years, two months and one day to 10 years. In the absence of modifying circumstances, the penalty is imposed in its medium period, that is, six years, one month and 11 days to eight years and 20 days. The minimum of the indeterminate sentence is taken from the penalty next lower, which is *arresto mayor* in its maximum period to *prision correccional* in its medium period (that is, four months and one day to four years and two months). The CA correctly fixed the minimum of the indeterminate sentence. On the other hand, the maximum of the indeterminate sentence should be from the medium period of the penalty as stated herein.

In its judgment, the CA applied the ceiling of the penalty but did not tender any justification for doing so. Such justification was required by the seventh rule enunciated in Article 64 of the Revised Penal Code on the application of penalties containing three periods. The need for the justification is explained in *Ladines v. People*,[21] to wit:

x x x although Article 64 of the Revised Penal Code, which has set the rules "for the application of penalties which contain three periods," requires under its first rule that the courts should impose the penalty prescribed by law in the medium period should there be neither aggravating nor mitigating circumstances, its seventh rule expressly demands that "[w]ithin the limits of each period, the courts shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater or lesser extent of the evil produced by the crime." By not specifying the justification for imposing the ceiling of the period of the impossible penalty, the fixing of the indeterminate sentence became arbitrary, or whimsical, or capricious. In the absence of the specification, the maximum of the indeterminate sentence for the petitioner should be the lowest of the medium period of *reclusion temporal*, which is 14 years, eight months and one day of *reclusion temporal*. (Bold underlining supplied for emphasis; italicized portions are part of the original text)

Although the CA should not have fixed the ceiling of the penalty without tendering the justification for doing so, we nonetheless note that such ceiling of eight years as the maximum of the indeterminate penalty was warranted. The appeal by Chua threw the records open for review, such that the penalty meted on him could be reviewed as a matter of course and rectified, if necessary, without infringing on his right as an accused. Thus, the Court will itself now tender the justification for imposing the ceiling of the penalty. Chua's masterminding of the robbery and carnapping against his own neighbor manifested the high degree of his criminality.

4.

Carnapping committed with violence or intimidation of persons was established beyond reasonable doubt; hence, Chua's proper penalty should be higher

Carnapping is defined as "the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things." [22] Under Section 14 of Republic Act No. 6539, the penalty for carnapping committed without violence or intimidation of persons, or force upon things is imprisonment of not less than 14 years and eight months and not

more than 17 years and four months; if committed by means of violence against or intimidation of any person, or force upon things, the penalty is imprisonment of not less than 17 years and four months and not more than 30 years.

The taking of the motor vehicle (owner-type jeep) belonging to the Ravagos by Lato and Reyes constituted carnapping. But it was clear error for the lower courts to punish Chua with the penalty for carnapping committed without violence or intimidation of persons, or force upon things. Even if the robbers took the motor vehicle after consummating the robbery in the course of the execution of which one of them stabbed Ravago four times, the taking of the motor vehicle in order to carry the stolen articles out was still attended by the same violence and intimidation of the owner and his wife, as well as of the rest of their household. As such, the correct imposable penalty is imprisonment of not less than 17 years and four months and not more than 30 years. Accordingly, the indeterminate sentence is imprisonment for 18 years, as minimum, to 22 years, as maximum.

5.

Civil liability

We affirm the civil liability awarded to Ravago considering that Chua did not assail the award. Yet, we have to direct the payment of legal interest of 6% per annum on the P200,000.00 awarded as actual damages reckoned from the finality of this decision until full satisfaction.

WHEREFORE, the Court DENIES the petition for review on certiorari; AFFIRMS in all respects the decision promulgated on October 20, 2005, subject to the following MODIFICATIONS, to wit:

(1) Petitioner CELERINO CHUA ALIAS SUNTAY is punished in Criminal Case No. 397-M-94, for carnapping, with the indeterminate sentence of 18 years, as minimum, to 22 years, as maximum; and

(2) The actual damages of P200,000.00 shall earn legal interest of 6% per annum reckoned from the finality of this decision until full satisfaction.

The petitioner shall pay the costs of suit.

SO ORDERED.

Velasco, Jr. (Chairperson), Leonen, Martires, and Gesmundo, JJ., concur.

December 1, 2017

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 13, 2017 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 1, 2017 at 10:20 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo, pp. 126-137; penned by Associate Justice Arcangelita M. Romilla-Lontok, and concurred in by Associate Justice Marina L. Buzon and Associate Justice Danilo B. Pine.

[2] Id. at 52-68; penned by Judge Herminia V. Pasamba.

[3] Id. at 127.

[4] Id. at 128.

[5] Id. at 129-133.

[6] Id. at 104-105.

[7] Id. at 134.

[8] Id. at 134-136.

[9] Id. at 136-137.

[10] Id. at 137.

[11] *Gan v. People*, G.R. No. 165884, April 23, 2007, 521 SCRA 550, 571.

[12] *People v. Canlas*, G.R. No. 141633, December 14, 2001, 372 SCRA 401, 411; *People v. Malimit*, G.R. No. 109775, November 14, 1996, 264 SCRA 167, 178.

[13] Rollo, p. 135.

[14] Article 8, second paragraph, Revised Penal Code.

[15] *People v. Pansacala*, G.R. No. 194255, June 13, 2012, 672 SCRA 549, 558-559.

[16] *People v. Fegidero*, G.R. No. 113446, August 4, 2000, 337 SCRA 274, 284.

[17] This paragraph has since been amended by Republic Act No. 7659 (approved on December 13, 1993) to add: "or when the robbery shall have been accompanied by rape or intentional mutilation or arson."

[18] Rollo, p. 136.

[19] No. L-21937, November 29, 1969, 30 SCRA 693.

[20] Id. at 715-716.

[21] G.R. No. 167333, January 11, 2016, 778 SCRA 83, 93.

[22] Section 2, Republic Act No. 6539.

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