

ELMER DIAMANTE Y SIOSON AND TANNY BOY STA. TERESA Y LINTAG, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 180992. September 04, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Along with Archimede Lintag y Fausto (Lintag) alias Medes, Maricar Manalang y Mallari (Maricar) alias Marie, and Virgilio Gerardo y Supatan (Gerardo), herein two petitioners Elmer Diamante y Sioson (Diamante) alias Romeo Diamante and Mengoy and Tanny Boy Sta. Teresa y Lintag (Sta. Teresa) alias Tanny were charged before the Regional Trial Court (RTC) of Mandaluyong with robbery[1] and carnapping[2] in two separate Informations, both dated July 13, 2000.

When arraigned, petitioners and their co-accused pleaded not guilty.[3]

Upon motion of the prosecution, Amended Informations were admitted impleading as additional accused Arnold Loza (Loza) alias Bimbo and Ronald dela Rosa (Dela Rosa) alias Ronnie.[4] They, too, pleaded not guilty on arraignment.[5]

From the testimony of private complainant Wilfredo Cadorniga (Cadorniga),[6] a dentist, the following version of the prosecution is culled:

At about 2:00 o'clock in the afternoon of July 9, 2000, while Cadorniga was in his clinic inside his house at San Rafael Street, Mandaluyong City, Maricar, accompanied by petitioner Diamante, knocked on the door seeking a dental check-up. Cadorniga let them in and entered an inner room to fix himself. After he emerged from the inner room, he saw that there were already five persons inside.

Cadorniga went on to conduct the check-up, after which someone grabbed him and announced a hold-up. Sta. Teresa quickly tied him down to a stool and wrapped his entire body, including his face and eyes, with a clear scotch tape. Lintag and Dela Rosa poked guns at him, prompting him to cry, "Kunin niyo nang lahat, huwag niyo lang akong saktan." The assailants soon ransacked the clinic for around 15 minutes and left carrying Cadorniga's personal effects. Cadorniga thereafter heard his car alarm sound off, putting him on notice that his car, a Daewoo racer, was likewise taken.

Still tied to a stool, Cadorniga struggled to reach the main door which he opened. A neighbor who saw his condition helped him untangle himself. Cadorniga thereupon called the police who swiftly arrived at the crime scene, gathered fingerprints thereat, and took Cadorniga's statement.

At about 10:00 to 11:00 p.m. of the following day, Gerardo turned up at the clinic and advised Cadorniga that they had to rush to Pandacan because his car would be sold to a buyer in Cavite. Accompanied by officers of the Manila police, Gerardo led Cadorniga and his brother to the house of Sta. Teresa who promptly confessed being one of those who had robbed Cadorniga. Sta. Teresa subsequently led them to the house of Loza where the other

accused were hiding. The police thus apprehended Sta. Teresa, Diamante, Maricar, and Lintag and brought them to the police station. Some of the stolen items, including the Daewoo racer, were recovered.

Corroborating Cadorniga's account, accused-turned-state witness Gerardo,[7] a taxi driver, testified as follows:[8]

On July 9, 2000, in Pandacan, Manila, Gerardo was flagged down by a male passenger, later identified to be Dela Rosa, who instructed him to head to Boni Avenue corner San Rafael Street, Mandaluyong City. Along the way, they picked up Dela Rosa's companions, later identified as Diamante, Sta. Teresa, Lintag, and Maricar. Upon reaching their destination, Diamante and Maricar alighted from the taxi and entered the clinic of Cadorniga. The remaining passengers shortly followed upon Diamante's signal.

Gerardo waited outside as told. His passengers went out of the clinic after about 30 minutes carrying things. Lintag boarded Gerardo's taxi, while the others rode in the Daewoo racer parked behind it. Gerardo was asked to tail the Daewoo racer, but lost sight of it when they reached Makati. He was thus instructed to, as he did, proceed to Dela Rosa's house in Pandacan where Lintag got off and came back with Maricar. Gerardo was then told to drive on. They reached the house where the Daewoo racer had been brought, whereupon two other members of the group again boarded Gerardo's taxi. Gerardo overheard that they would take the Daewoo racer to Cavite.

His passengers having been brought to their final destination, Gerardo demanded payment for his services. Dela Rosa poked a gun at him, however, and told him to go away and keep quiet about everything. Gerardo returned to Dela Rosa the next day to demand payment once more, but the latter again poked a gun at him and asked him to leave. Gerardo thus left.

That night on his way home, Gerardo dropped by the clinic of Cadorniga and talked to him. It was then that he realized what had happened the day before. He accompanied Cadorniga in seeking police assistance; and led him and the police to Sta. Teresa who, in turn, led them to the other assailants and the location of the Daewoo racer.

PO3 Robert Eugenio (PO3 Eugenio) and PO2 Virgilio Bismonte (PO2 Bismonte) of the Mandaluyong City police testified that they conducted the investigation and took the sworn statement of Cadorniga.[9] PO2 Bismonte identified the items recovered from the accused.[10]

SPO4 Alfredo Villarosa (SPO4 Villarosa) of the Pandacan Police Station testified that he and one SPO1 Cenia apprehended Diamante, Sta. Teresa, Lintag, Maricar, and Gerardo as accomplice, all without a warrant, but with the express consent of the owner of the house where Gerardo had led them and pointed to the suspects. SPO4 Villarosa likewise identified some additional items recovered.[11]

Now, the defense.

Lintag admitted his involvement in the robbery that took place in Cadorniga's clinic (and accordingly changed his plea to guilty upon re-arraignment for the robbery case), but denied complicity in the carnapping of the Daewoo racer, claiming that when the situation became tumultuous, he just took the cash register and traveling bag, then ran away on board Gerardo's taxi. He identified the other persons who participated in the robbery - Diamante, Maricar, Dela Rosa, Sta. Teresa, Loza, and Gerardo who acted as their driver.[12]

Dela Rosa, denying the charges, proffered alibi. He declared that he was either in Bataan or some place other than the crime scene on the day the robbery and carnapping were committed; and that he had not known any of his co-accused until he was detained at the city jail following his arrest.[13]

Petitioner Diamante, for his part, denied the charges too and put up alibi, stating that while the alleged ransacking of Cadorniga's clinic was happening, he was at home with his live-in partner and their child; that Sta. Teresa arrived in their house with Maricar at about 6:00 p.m. on the day of the incident requesting him to sell a Rolex

watch which Sta. Teresa would not explain where he got; that of all his co-accused, he only knew Sta. Teresa and Maricar; and that Sta. Teresa probably implicated him in the case only out of jealousy over his closeness to Maricar.[14]

Petitioner Sta. Teresa, on the other hand, averred that on the day of the incident, Maricar and her boyfriend Loza, followed by a taxi with approximately five unfamiliar passengers, went to his house requesting for help in moving Maricar's things from her mother's house to her new apartment. He obliged. When they arrived at the house, Maricar and her companions went inside to pick up some things, while he waited outside and later helped in loading the items picked up in the taxi's compartment. Maricar then told him he could already go home. He thus left, and learned only at the trial that the house which Maricar said was her mother's was actually the clinic and residence of Cadorniga.[15]

By consolidated Decision of January 27, 2006,[16] Branch 211 of the Mandaluyong RTC found all the accused guilty as charged, except Gerardo who had been discharged to be a state witness, and Loza whose demurrer to evidence resulted in the dismissal of the cases as to him by Order of even date.[17] It disposed as follows:

WHEREFORE, finding the accused ELMER DIAMANTE y SIOSON, TANNY BOY STA. TERESA y LINTAG, ARCHIMEDEZ LINTAG y FAUSTO, MARICAR ISIP-MANALANG y MALLARI and RONALD DELA ROSA @ RONNIE DELA ROSA guilty beyond reasonable doubt of the crimes of Robbery, defined and penalized under Article 293 of the Revised Penal Code and Anti-Carnapping Act of 1972 (R.A. 6539), the court hereby sentences them as follows:

In Criminal Case No. MC00-2728 for Robbery, accused ELMER DIAMANTE y SIOSON, TANNY BOY STA. TERESA y LINTAG, MARICAR MANALANG y MALLARI @ MARIE and RONALD DELA ROSA, to suffer an indeterminate penalty of imprisonment of four (4) years, two (2) months of Prision Correccional as minimum to ten (10) years of Prision Mayor as maximum, each.

Archimedes Lintag y Fausto having voluntarily pleaded to the crime charged under plea bargaining in Criminal Case No. MC00-2728, is hereby sentenced to suffer the penalty of imprisonment of four (4) years, two (2) months and one (1) day to six (6) years, one (1) month and ten (10) days of prision mayor as maximum.

In Criminal Case No. MC00-2729 for Anti-Carnapping Act of 1972 (R.A. 6539), accused ELMER DIAMANTE y SIOSON, TANNY BOY STA. TERESA y LINTAG, ARCHIMEDEZ LINTAG y FAUSTO @ MEDES, MARICAR MANALANG y MALLARI @ MARIE and RONALD DELA ROSA @ "RONNIE DELA ROSA", to suffer imprisonment of fourteen (14) years and eight (8) months to seventeen (17) years and four (4) months, each.

The case/s against ARNOLD LOZA @ "BIMBO" will be resolved separately in relation to accused's Demurrer to Evidence he filed before this court, in the above-entitled case.

Likewise, the bail bonds posted by Elmer Diamante, Tanny Boy Sta. Teresa, Maricar Manalang and Ronald Dela Rosa for their provisional liberty are hereby ordered confiscated and forfeited in favor of the government.

Let alias warrant for the manhunt of Maricar Isip-Manalang be issued.

The evidence custodian of the court is hereby directed to turn over to private complainant, Dr. Wilfredo Cadornia, all his personal belongings marked as Exhibits "F-1", "F-2", "F-3", "F4" and "F-5". (Copied verbatim.)

The trial court credited the version of the prosecution, primarily the testimony of Gerardo, to be clear and coherent; and appreciated the presence of conspiracy in the commission of the crimes. It deemed the alibi of the defense inherently weak.

Petitioners Diamante and Sta. Teresa, as well as Lintag and Dela Rosa, timely filed a notice of appeal, hence, the case was elevated to the Court of Appeals.[18] Maricar has remained at large.

By Decision of July 31, 2007,[19] the appellate court affirmed in toto the Decision of the trial court, upon a finding that the testimonies of prosecution witnesses, particularly those of Cadorniga and Gerardo, were not only consistent, reliable and trustworthy, but also corroborative of and in harmony with each other. It likewise observed that, in contrast, the testimonies of the therein appellants were incongruous.

Their Motion for Reconsideration having been denied by Resolution dated December 3, 2007,[20] petitioners seek relief from this Court via Petition for Review on Certiorari.

Petitioners argue that their identification as among the assailants by Cadorniga is dubious in view of the confusion and extreme pressure he went through during the incident; that the tale of Gerardo could not be believed as his participation was limited to bringing his passengers to their destination; that they were illegally arrested without a warrant by SPO4 Villarosa, he having relied solely on Cadorniga's subjective identification; and that since the prosecution's evidence emanated from an illegal arrest, the same cannot produce a conviction pursuant to the exclusionary rule under the Constitution.[21]

The Solicitor General counters that the factual findings of the trial court, as affirmed by the appellate court, are amply supported by evidence and must be respected; and that petitioners are estopped from assailing the legality of their arrest, not having raised any objection thereto prior to their arraignment.[22]

The appeal lacks merit.

On the legality of petitioners' arrest, the Court finds that, indeed, they are barred from assailing the same for failure to take issue thereon before their arraignment. Objections to the legality of an arrest must be made prior to the entry of plea at arraignment; otherwise, they are considered waived.[23] An accused may also be estopped from assailing the legality of his arrest if he fails to move for the quashal of the Information against him before his arraignment.[24]

To be sure, the legality of an arrest affects only the jurisdiction of the court over the person of the accused, hence, any defect therein may be deemed cured when, as here, the accused voluntarily submitted to the jurisdiction of the trial court.[25] An illegal arrest is thus not a sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error.[26]

Regarding the admissibility of physical evidence obtained as a result of petitioners' arrest, the Court need not belabor this question as it is not even a material consideration in petitioners' conviction. It suffices to state that physical evidence would be merely corroborative because, as will be discussed later, there are credible witnesses who testified on the complicity of petitioners in the crimes charged.[27]

On the merits, what petitioners essentially want is for this Court to weigh the credibility of the prosecution witnesses vis-à-vis the defense witnesses and to take this case out of the purview of the general rule in order to review it in its entirety, a task entrusted to the trial court, which is in the best position to discriminate between truth and falsehood because of its untrammelled opportunity to observe the demeanor of witnesses during trial.

Factual findings of the trial court are entitled to respect and are not to be disturbed on appeal, unless some facts and circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case.[28] In the case at bar, the Court finds that the trial court did not overlook, misapprehend, or misapply any fact of value to warrant a reversal of its findings. Prevailing jurisprudence uniformly holds that findings of fact of the trial court, especially when affirmed by the appellate court, are binding upon this Court.[29]

Nevertheless, from a review of the records, the Court does not appreciate a conclusion different from the trial court's, as affirmed by the appellate court.

The elements of robbery are: (1) the subject is personal property belonging to another; (2) there is unlawful taking of that property; (3) the taking is with intent to gain; and (4) there is violence against or intimidation of any person or use of force upon things.[30] Carnapping, on the other hand, has these elements: "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." [31]

The trial and appellate courts found that petitioners were among those who committed robbery and carnapping against Cadorniga as shown by the testimonies of the prosecution witnesses which both courts considered to be straightforward, clear, and consistent. The Court finds no cogent reason to rule otherwise.

That Cadorniga was tied down to a stool at gun point to facilitate the commission of the crimes speaks unequivocally that petitioners and their cohorts employed violence and intimidation in taking away Cadorniga's personal effects and the Daewoo racer without his consent and with intent to gain. This is clear from the testimony of Cadorniga alone which, as reflected earlier, is categorical on all material points. The records being barren of proof of any ill motive on the part of Cadorniga to testify falsely against petitioners, his testimony is entitled to full faith and credit. Well settled is the rule that the testimony of a single, trustworthy, and credible witness is sufficient for conviction.[32]

The finding of the trial court on the presence of conspiracy merits the Court's concurrence too, it being evident from the orchestrated manner, indicative of a common design, in which petitioners and their cohorts pursued their unlawful purpose. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.[33]

Respecting petitioners' identification as among the assailants, Cadorniga remembered petitioner Diamante as the person who entered the clinic with Maricar when the latter sought a "dental check-up," and Sta. Teresa as the one who later tied him down to a stool and wrapped his entire body with a clear scotch tape. Cadorniga, therefore, saw petitioners' faces before his eyes were covered. Such being the case, there is no reason to consider as fuzzy Cadorniga's recollection of petitioners' participation in the commission of the crimes. Besides, even with his eyes covered with a clear scotch tape, Cadorniga emphasized that he could still slightly open his eyes.[34]

There is nothing contrary to human experience about Cadorniga being able to recall petitioners as among those who robbed him and how they did it. As the appellate court observed, while a startling event does not elicit a standard form of human behavioral response, experience shows that it oftentimes creates an indelible impression in the mind that can be recalled vividly.[35]

While Cadorniga's testimony alone pointing to petitioners as among the assailants would have sufficed for purposes of identification, it bears to stress that the prosecution still provided corroborating evidence. As the trial court noted, Gerardo also identified petitioners, and his testimony was corroborated by Lintag and petitioner Sta. Teresa himself that they went to San Rafael Street corner Boni Avenue, Mandaluyong, entered the clinic of Cadorniga, and took certain things therefrom.[36] And while Lintag's confession is binding only as to him, his court testimony pointing to his co-principals is a judicial admission of an eyewitness admissible in evidence against those it implicates.[37]

Gerardo's testimony should thus not be doubted merely because his participation was limited to bringing his passengers to their destination. He positively identified petitioners as among those he had brought to the clinic of Cadorniga and who entered the same on the day of the incident. At the very least, this is further proof of

petitioners' presence at the crime scene when the robbery and carnapping were committed, belying all uncorroborated allegations to the contrary.

In fine, petitioners' guilt is indubitable.

As to the penalties imposed, the Court resolves to modify them to conform to applicable jurisprudence.

In the robbery case, the felony committed by petitioners was simple robbery by means of violence against or intimidation of persons which, under Article 294 (5) of the Revised Penal Code,[38] is punishable with prison correccional maximum to prison mayor medium (4 years, 2 months and 1 day to 10 years). There being no aggravating or mitigating circumstance, the penalty should be imposed in the medium period, i.e., prison mayor minimum, which has a range of 6 years and 1 day to 8 years. Applying the Indeterminate Sentence Law, petitioners are entitled to a minimum term to be taken within the penalty next lower in degree to that imposed by the Code, or arresto mayor maximum to prison correccional medium, which has a range of 4 months and 1 day to 4 years and 2 months. Hence, the penalty of imprisonment to be imposed should be 4 years and 2 months of prison correccional as minimum, and 8 years of prison mayor as maximum.[39]

In the carnapping case, since the crime was similarly committed by means of violence against or intimidation of persons, the imposable penalty under the Anti-Carnapping Act of 1972 is imprisonment for not less than 17 years and 4 months and not more than 30 years.[40] Furthermore, pursuant to the Indeterminate Sentence Law, the trial court should have imposed an indeterminate sentence with a maximum term not exceeding the maximum fixed by the special penal law and a minimum term not less than the minimum term prescribed by the same.[41] Therefore, the proper penalty is imprisonment for an indeterminate sentence of 17 years and 4 months as minimum to 30 years as maximum.[42]

WHEREFORE, the petition is DISMISSED. The challenged Decision of the Court of Appeals in CA-G.R. CR No. 29967 affirming in toto that of Branch 211 of the Mandaluyong RTC in Crim. Case Nos. MC00-2728 and MC00-2729 is MODIFIED in that for robbery, the penalty imposed on petitioners is imprisonment for Four (4) years and Two (2) months of prison correccional as minimum, and Eight (8) years of prison mayor as maximum; and for carnapping, the penalty imposed on petitioners is imprisonment for an indeterminate sentence of Seventeen (17) years and Four (4) months as minimum to Thirty (30) years as maximum. In all other respects, the assailed judgment is AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Brion, Del Castillo, and Abad, JJ., concur.

[1] Records, pp. 1-3. Criminal Case No. MC00-2728 (for Robbery).

That on or about the 9th day of July, 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, one of them (Maricar Manalang) pretended to be a patient of WILFREDO CADORNIGA y CANOSA, and once inside the clinic, while armed with a gun, conspiring and confederating with ARNOLD LOZA @ Bimbo and RONALD DELA ROSA or "Ronnie dela Rosa" who are still at-large, and mutually helping and aiding with one another, with intent of gain and by means of force, violence and intimidation employed upon the person of said WILFREDO CADORNIGA y CANOSA alias Joey, did, then and there willfully, unlawfully and feloniously take, steal and divest from said WILFREDO CADORNIGA y CANOSA the following, to wit:

- One (1) unit cash register,

Sharp Model XE-A130 P6,500.00

- One (1) unit Spymomanometer

Labtronix 4,000.00

- one (1) unit alarm clock (quarts)

- one (1) pair brown slipper (LEWRE)

- one (1) black travelling bag Fermont

- bosch 908 cellphone with charger 5,000.00

- Louis Vuitton wallet color black containing
P8,500.00 Cash money &AIG credit card

- AIWA VHS with remote control 4,996 .00

- Rolex watch 150,000.00

- Gold bracelet 7,500.00

- wireless telephone 1,400.00

- mechanical tools with box

- three (3) dozen of socks

- travelling bag color black

- check book and passbook

- Non-Pro driver's license

- PRC Professional license

- China & Metrobank ATM card

- CMG health and insurance card

- Makro card

- Angels figurine

(Copied verbatim.)

[2] Records, pp. 27-28. Criminal Case No. MC00-2729 (for Violation of Republic Act 6359 also known as Anti-Carnapping Act of 1972).

That on or about the 9th day of July, 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with Arnold Loza @ Bimbo and Ronaldo dela Rosa @ Ronnie dela Rosa who are still at-large, and mutually helping and aiding with one another, with intent to gain, did, then and there willfully, unlawfully and feloniously take, steal and carry away a motor vehicle which described as follows:

MAKE/TYPE : DAEWOO Racer

MOTOR NO. : G15SF425024

CHASSIS NO. : KLATF19T1TB677662

PLATE NUMBER : UPM-616

COLOR : Blue

owned by WILFREDO CADORNIGA y CANOSA alias "Joey", without the latter's consent, to the damage and prejudice of said Wilfredo Cadorniga y Canosa. (Copied verbatim.)

[3] Records, p. 46.

[4] Id. at 74-80.

[5] Id. at 547.

[6] TSN of August 12, 2002, pp. 4-18.

[7] By Order of February 12, 2003, the trial court granted the motion of the prosecution for the discharge of Gerardo to be a state witness in accordance with Section 17, Rule 119 of the Rules of Court; records, p. 395.

[8] TSN of February 12, 2003, pp. 3-20.

[9] TSN of May 20, 2002, pp. 1-7; TSN of June 3, 2002, pp. 2-9.

[10] TSN of August 12, 2002, pp. 1-3.

[11] TSN of November 12, 2003, pp. 1-12.

[12] TSN of May 19, 2004, pp. 1-12.

[13] TSN of June 29, 2005, pp. 1-15.

[14] TSN of August 31, 2005, pp. 1-30.

[15] TSN of February 23, 2005, pp. 1-28.

[16] Records, pp. 851-870.

[17] Id. at 879-891.

[18] CA rollo, p. 52.

[19] Penned by Associate Justice Normandie B. Pizarro, with the concurrence of Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta; CA rollo, pp. 131-150.

[20] Id. at 177-178.

[21] Vide Petition for Review on Certiorari, rollo, pp. 11-27.

[22] Vide Comment, id. at 120-130.

[23] People v. Biyoc, G.R. No. 167670, September 7, 2007, 532 SCRA 528, 543, citing People v. Ereño, 383 Phil. 30 (2000), People v. Tidula, 354 Phil. 609 (1998), People v. Cabiles, 348 Phil. 220 (1998), People v. Mahusay, 346 Phil. 762 (1997), People v. Rivera, 315 Phil. 454 (1995) and People v. Lopez, Jr., 315 Phil. 59 (1995).

[24] Vide People v. Hernandez, 347 Phil. 56, 74-75 (1997).

[25] Vide People v. Nazareno, 329 Phil. 16, 22 (1996).

[26] People v. Alunday, G.R. No. 181546, September 3, 2008, 564 SCRA 135, 149-150.

[27] Vide Abay v. People, G.R. No. 165896, September 19, 2008, 566 SCRA 34, 45.

[28] Bautista v. Castillo, G.R. No. 174405, August 26, 2008, 563 SCRA 398, 406.

[29] Castillo v. Court of Appeals, 329 Phil. 150, 159 (1996).

[30] Article 293 of the Revised Penal Code provides:

Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything, shall be guilty of robbery.

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

[32] People v. Soriano, G.R. No. 171085, March 17, 2009.

[33] People v. De Leon, G.R. No. 179943, June 26, 2009.

[34] Rollo, p. 106.

[35] Id. at 105-106.

[36] Id. at 85.

[37] Vide Abay v. People, supra note 27 at 43-44.

[38] Art. 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:

x x x x

5. The penalty of prision correccional in its maximum period to prision mayor in its medium period in other cases.

[39] Eduarte v. People, G.R. No. 176566, April 16, 2009.

[40] Republic Act No. 6539, Section 14.

[41] Act No. 4103, Section 1; . . . and if the offense is punished by [a special] law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

[42] People v. Viente, G.R. No. 103299, August 17, 1993, 225 SCRA 361, 373.

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