

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MILLANO MUIT, SERGIO PANCHO, JR., EDUARDO HERMANO ALIAS "BOBBY REYES"; ROLANDO DEQUILLO, ROMEO PANCHO, AND JOSEPH FERRAER, APPELLANTS.

G.R. No. 181043. October 08, 2008

Ponente: TINGA, J.

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TINGA, J.:

Millano Muit y Munoz (Muit), Sergio Pancho y Cagumoc, Jr. (Pancho, Jr.), Rolando Dequillo y Tamos (Dequillo), Romeo Pancho (Romeo), Eduardo "Eddie" Hermano alias "Bobby Reyes" alias "Eddie Reyes" (Hermano), and Joseph Ferraer (Ferraer) were charged with kidnapping for ransom with homicide[1] and carnapping[2] in two separate informations. Only Muit, Pancho Jr., Dequillo, Romeo, and Ferraer were arrested and stood trial. However, Ferraer was discharged from the criminal cases by the Regional Trial Court (RTC) and was utilized as a state witness.[3] All appellants pleaded not guilty during their arraignments.

The facts as culled from the records are as follows:

In the afternoon of 11 November 1997, Orestes Julaton, (Julaton), a relative of Ferraer, arrived at the latter's house in Kaylaway, Nasugbu, Batangas with Sergio Pancho, Sr. (Pancho, Sr.), Pancho, Jr., Dequillo and four other men on board a gray Mitsubishi car with plate number PSV-818. Julaton introduced them to Ferraer and told the latter that Pancho, Sr. is also their relative. Pancho, Sr. told Ferraer that they wanted to use his house as a safehouse for their "visitor." Ferraer was hesitant at first as he thought it was risky for him and his family. Hermano told Ferraer not to worry because they are not killers; their line of work is kidnap for ransom. Ferraer was assured that the money they will get would be shared equally among them. Ferraer and Pancho, Sr. would guard their victim. Later, five other men came and they were introduced to Ferraer as Muit, Morales, alias Tony, alias David and alias Puri. They had dinner and chatted until midnight. That evening, Morales handed to Ferraer for safekeeping a folded carton wrapped with masking tape contained in a big paper bag, and a green backpack. Hermano told Ferraer that the package contained guns. Ferraer brought the package inside his room; he inspected the contents before placing them under the bed, and saw that the carton contained a shotgun and the green backpack, an Ingram folding. Morales and Udon also showed him their .45 caliber guns tucked at their waists.[4]

At one o'clock in the afternoon of 24 November 1997, Ferraer saw Pancho, Jr., and Hermano with a companion, seated under the tree in front of his house. Pancho, Jr. introduced their companion as Romeo. They informed Ferraer that the following day, they would proceed with their plan. Romeo would be the informant since he is an insider and a trusted general foreman of the victim. The next day, at nine o'clock in the morning, Pancho, Sr. arrived at Ferraer's house alone and asked Ferraer if he was already informed of the plan. Ferraer replied in the affirmative. Pancho, Sr. told him to wait for the group's return. However, the group returned without the intended victim because the latter did not show up at the construction site.[5] On 2 December 1997, the group received a call from Romeo informing them that the victim was already at the construction site. Hermano, Morales, Udon,

Manuel, Bokbok, and Muit commuted to the construction site at Barangay Darasa, Tanauan, Batangas. Pancho, Jr. was on board the Mitsubishi car as back-up.

At around two o'clock in the afternoon of the same date, 2 December 1997, Roger Seraspe (Seraspe), the personal driver of the victim, drove a blue Pajero with plate number UDL-746 carrying Engr. Ruth Roldan and the victim to visit the Flexopac project site at Barangay Darasa, Tanauan, Batangas. At the site, Engr. Roldan and the victim alighted from the Pajero and, along with Engr. Ed dela Cruz, toured the construction site. Seraspe talked with Armand Chavez (Chavez), the warehouseman of ILO Construction, while waiting for his boss.[6]

After the site inspection, the three engineers walked towards the direction of the Pajero. Seraspe was surprised to see that the three engineers who stood together suddenly lay prostrate on the ground. Seraspe and Chavez saw an unidentified man standing near the three engineers. Three more armed men surrounded the Pajero. Two of them approached Seraspe and Chavez. One of the armed men, Muit, poked a gun at Seraspe and ordered him and Chavez to lay prostrate on the ground.[7] The assailants dragged the victim towards the Pajero. They forced the victim to order Seraspe to give them the keys to the Pajero. When the victim was already on board the Pajero, Seraspe heard one of them say, "Sarge, nandito na ang ating pakay." [8]

They then started the Pajero and drove away, passing through the Pag-asa Road gate. Two more persons who were waiting at the Pag-asa road boarded the Pajero.[9]

At 2:30 that same afternoon, Lipa City Deputy Chief of Police, Supt. Arcadio Mission (Supt. Mission) received a radio message from the Tanauan Police Station that a kidnapping was ongoing and the kidnappers on board a Pajero with plate number UDL-746 were heading towards Lipa City. Supt. Mission immediately ordered the police posted near the Lipa City bus stop to put up a barricade. In the meantime, two teams were organized to intercept the Pajero. They proceeded to the barricade.[10]

Right after Supt. Mission and the teams arrived at the barricade, the Pajero was spotted. When policemen flagged down the Pajero, the driver stopped the vehicle. While two policemen approached the Pajero, the driver and front passenger opened their car doors and started firing at the policemen. At this point, all the policemen present at the scene fired back. The cross-fire lasted for around four minutes. All the occupants of the Pajero, except the driver and the front passenger who managed to escape, died. SPO1 Rolando Cariaga apprehended one of the escapees who turned out to be Muit, the driver of the Pajero, at Barangay San Carlos, Batangas, about 200 meters from the place of the shootout.[11]

On the other hand, after the assailants carried their plan into action, Pancho, Jr. proceeded to their agreed meeting place but did not find Hermano's group there. Pancho, Jr. waited along the highway in front of the construction site. He thought that he had been left behind when he did not see the group, so he left. When Pancho, Jr. returned to Ferraer's house, he told Ferraer what happened to their operation. Worried that something bad might have happened to the group, Pancho, Jr. went back and looked for the rest of his group. Pancho, Jr. came back alone.

At around 5:30 in the morning of 3 December 1997, Ferraer saw Pancho, Sr. and Pancho, Jr. watching the TV program "Alas Singko y Medya." He joined them and saw on the news the Pajero riddled with bullets. Pancho, Sr. and Pancho, Jr. left Ferraer's house at around 9:00 in the morning and they also left behind the Mitsubishi car they used. That night, Ferraer saw on the news program TV Patrol a footage showing the cadavers of Udon, Morales, Manuel, Bokbok and the victim, and the Pajero riddled with bullets. Ferraer also saw Muit in handcuffs.

The prosecution presented Ignacio Ong, Sr., the father of the victim Engr. Ignacio Ong, Jr.; Seraspe; Chavez; Dr. Anthony Llamas, the PNP Medico-Legal Officer who conducted the autopsy; Supt. Mission, Ferraer, as the state witness; and Atty. Narzal Mallare[12] (Atty. Mallare), the lawyer who assisted appellants Pancho, Jr. and

Dequillo in executing their respective sworn statements as witnesses. Their accounts were corroborated by the prosecution's documentary evidence such as the extra judicial confessions of Pancho, Jr. and Dequillo, which were executed with the assistance of Atty. Mallare. Muit executed two extra judicial confessions: the first statement was dated 4 December 1997, in which he was assisted by Atty. Ernesto Vergara, and the second statement was dated 7 December 1997 in which he was assisted by Atty. Solomon De Jesus and witnessed by his uncle, Bonifacio Muit (Bonifacio), and his brother, Dominador Muit (Dominador). On the other hand, the defense presented appellants Dequillo, Pancho, Jr., and Muit.

Dequillo, for his part, claimed that for the period of November to December 1997 he was working as a mason at Villanueva Construction in BF Homes. His work starts at 8:00 in the morning and ends at 5:00 in the afternoon. He stated that on 8 December 1997, he was arrested by the CIDG at his house in Purok Sto. Domingo, Barangay Holy Spirit, Quezon City. At the CIDG Detention Center, he was questioned about the guns used in the kidnapping of the victim. He was allegedly tortured when he denied any knowledge about the kidnapping and was forced to sign a statement without being allowed to read it. Atty. Mallare only came in after he had already signed the statement. He denied any participation in the crimes charged against him.[13]

Pancho, Jr. claimed that he was arrested on 7 December 1997 in Calbayog, Samar. He was first brought to the Calbayog City Police Station, and then transferred to Camp Crame. He alleged that the police tortured him and forced him to sign the written confession of his participation in the crimes. He denied having participated in the commission of the offenses charged against him.[14]

On the other hand, Muit claimed that on 2 December 1997 he was in Lipa City, near the place of the shootout. He had just attended a gathering of the Rizalistas and was waiting for his uncle Bonifacio when the police arrested him. He denied having any knowledge of the crime. He denied knowing the people whose name appeared in his two extra judicial confessions. He claimed that the names were supplied by the police and that he was not assisted by counsel during the custodial investigation.[15]

In a decision[16] dated 22 November 2002, the RTC, Branch 83 of Tanauan City, Batangas found Muit, Pancho, Jr., Dequillo, and Romeo guilty.[17] Only the cases involving the charges of carnapping and kidnapping for ransom which resulted in the death of the victim were automatically appealed to this Court.

The RTC held that mere denials and alibis of appellants cannot prevail over the positive declarations of the prosecution's witnesses. It found the prosecution's witnesses more credible than appellants, whose self-serving statements were obviously intended to exculpate themselves from criminal liability. The RTC did not give credence to the claims of appellants that their extra judicial confessions were procured through torture as these were belied by the testimony of Atty. Mallare and appellants' medical certificates which were issued during their incarceration and after the execution of their statements. And the RTC noted that even without appellants' extra judicial confessions, there was still sufficient evidence on record to hold them guilty.

In a resolution dated 17 January 2006, the Court referred the case to the Court of Appeals for intermediate review.[18]

The Court of Appeals in a decision[19] dated 31 August 2007 affirmed the decision of the RTC.[20] The appellate court held that the RTC was correct in convicting appellants for kidnapping and carnapping. The prosecution was able to prove through Ferraer that appellants conspired with one another in the planning and execution of their plan to kidnap the victim. Moreover, appellants executed extra judicial confessions, duly assisted by their counsels, detailing their participation in the kidnapping. As for Muit, other than his extra judicial confession, he was also positively identified during the kidnapping by eyewitnesses Seraspe and Chavez. Appellants filed their notices of appeal with the Court of Appeals.

Before this Court, appellants opted not to file supplemental briefs, and instead adopted the assignment of errors in their respective original briefs.[21] Taken together, appellants claim that: (i) the RTC erred in finding them guilty beyond reasonable doubt of the charges against them; (ii) the RTC erred in its finding that they acted in conspiracy in the commission of the crimes charged against them; and (iii) the RTC erred in giving credence to the extra-judicial confessions of Pancho, Jr. and Dequillo, and to the sworn statement and testimony of Ferraer in convicting them.[22]

The appeals are bereft of merit.

The elements of the crime of kidnapping and serious illegal detention[23] are the following: (a) the accused is a private individual; (b) the accused kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping is illegal; and (d) in the commission of the offense, any of the four circumstances mentioned in Article 267 is present. The essence of the crime of kidnapping is the actual deprivation of the victim's liberty, coupled with indubitable proof of intent of the accused to effect the same.[24] The totality of the prosecution's evidence in this case established the commission of kidnapping for ransom with homicide.

On the other hand, Republic Act No. 6539, or the Anti-Carnapping Act, as amended, defines "carnapping" 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.[25] The crime was committed in this case when the victim's Pajero was forcibly taken away from him contemporaneously with his kidnapping at the construction site.

The kidnapping for ransom with homicide and the carnapping were established by the direct testimony of Ferraer, Seraspe and Chavez. Ferraer testified on how the group approached and convinced him to let them use his house to keep the victim they planned to kidnap. They planned the crime in Ferraer's house and waited for the call from Romeo to inform them when the victim would be at the construction site. The group received a call from Romeo on 2 December 1997 informing them that the victim was already at the construction site, and so they went there to carry out their plan. At the construction site, as testified to by Seraspe and Chavez, Muit and the other members of the group pointed their guns at the victim and his companion and ordered them to lie prostrate on the ground. After getting the keys to the Pajero from Seraspe, they forced the victim to board the vehicle with Muit driving it. They immediately reported the kidnapping of the victim to the police and the kidnappers were intercepted by the group led by Supt. Mission. Supt. Mission testified that the kidnappers refused to surrender and engaged the police in a shoot out in which the victim was among the casualties. Muit was one of the two persons who survived the shoot out, but was apprehended by the police. Pancho, Jr. returned to the house of Ferraer alone when the group did not arrive at their meeting place. Ferraer, Pancho, Jr., and Pancho, Sr. learned from the news that the group engaged the police in a shoot out and most of them were killed, and that Muit was arrested by the police.

After investigation, the police were able to apprehend appellants Pancho, Jr., Romeo, and Dequillo who all took part in the botched criminal conspiracy to kidnap the victim. During the investigation, Pancho, Jr., Dequillo, and Muit, with the assistance of their counsels and family members, executed extra judicial confessions divulging their respective roles in the planning and execution of the crimes.

Even though Pancho, Jr., Dequillo and Romeo did not participate in the actual abduction of the victim, they should still be held liable, as the courts below did, because of the existence of conspiracy. Conspiracy is a unity of purpose and intention in the commission of a crime.[26] Where conspiracy is established, the precise modality or extent of participation of each individual conspirator becomes secondary since the act of one is the act of all.[27] The degree of actual participation in the commission of the crime is immaterial.

The conspiracy to kidnap the victim was proven through circumstantial evidence. The group thoroughly planned the kidnapping in Ferraer's house and patiently waited for the day when the victim would be at the construction site. Then on 2 December 1997, the group received a call from Romeo so they proceeded to the construction site and carried out their plan.

All the appellants took active part in the criminal conspiracy and performed different roles to consummate their common plan. The roles which Muit and his other companions played in the actual abduction were described earlier. As for Dequillo, he was the one who procured the guns used by the group. Pancho, Jr. served as the driver of the back-up vehicle, and Romeo was the group's informant.

Section 4, Rule 133 of the Revised Rules of Evidence states that circumstantial evidence is sufficient 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.

The extra judicial confessions of Pancho, Jr., Dequillo, and Muit strengthened the case against them. There is nothing on record to support appellants' claim that they were coerced and tortured into executing their extra judicial confessions. One of the indicia of voluntariness in the execution of appellants' extra judicial statements is that each contains many details and facts which the investigating officers could not have known and could not have supplied, without the knowledge and information given by appellants. Moreover, the appellants were assisted by their lawyers when they executed their statements. Atty. Mallare testified that Pancho, Jr. and Dequillo executed their statements voluntarily and affixed their signatures after he talked with them alone and informed them of their constitutional rights.[28] Muit, on the other hand, was assisted by counsels in each instance when he executed his two extra judicial confessions; his second statement was even witnessed by his uncle, Bonifacio, and his brother, Dominador. Muit cannot just conveniently disclaim any knowledge of the contents of his extra judicial confession. Nevertheless, in Muit's case, he was also positively identified by Seraspe and Chavez as the one who pointed a gun at them during the kidnapping and ordered them to lay prostrate on the ground.[29]

Appellants' claims of torture are not supported by medical certificates from the physical examinations done on them.[30] These claims of torture were mere afterthoughts as they were raised for the first time during trial; appellants did not even inform their family members who visited them while they were imprisoned about the alleged tortures.[31] Dequillo, for his part, also had the opportunity to complain of the alleged torture done to him to the Department of Justice when he was brought there.[32] Claims of torture are easily concocted, and cannot be given credence unless substantiated by competent and independent corroborating evidence.[33]

The extra judicial confessions of Pancho, Jr., Dequillo, and Muit also strengthened the prosecution's case against Romeo. The rule that an extra judicial confession is evidence only against the person making it recognizes various exceptions. One such exception is where several extra judicial statements had been made by several persons charged with an offense and there could have been no collusion with reference to said several confessions, the fact that the statements are in all material respects identical is confirmatory of the confession of the co-defendants and is admissible against other persons implicated therein. They are also admissible as circumstantial evidence against the person implicated therein to show the probability of the latter's actual participation in the commission of the crime and may likewise serve as corroborative evidence if it is clear from other facts and circumstances that other persons had participated in the perpetration of the crime charged and proved. These are known as "interlocking confessions." [34] Nonetheless, the RTC, in convicting Romeo, relied not only on the aforesaid extra judicial statements but also on Ferraer's testimony that Romeo was introduced to him in his house as the informant when they were planning the kidnapping.

As for the penalty, the RTC did not err in imposing the penalty of death since the kidnapping was committed for

the purpose of extorting ransom from the victim or any other person. Neither actual demand for nor payment of ransom is necessary for the consummation of the felony. It is sufficient that the deprivation of liberty was for the purpose of extorting ransom even if none of the four circumstances mentioned in Article 267 were present in its perpetration.[35] The death of the victim as a result of the kidnapping only serves as a generic aggravating circumstance for the rule is that when more than one qualifying circumstances are proven, the others must be considered as generic aggravating circumstances.[36]

The imposition of death penalty is also proper in the carnapping of the victim's Pajero because it was committed by a band, which serves as a generic aggravating circumstance, without any mitigating

circumstance.[37] There is band whenever more than three armed malefactors shall have acted together in the commission of the offense.[38] As planned, Mui and three other armed men kidnapped the victim and drove away with the latter's Pajero while two more persons waiting near the Pag-asa road boarded the Pajero.

However, pursuant to Republic Act No. 9346 which prohibits the imposition of the death penalty, the penalties imposed are commuted to reclusion perpetua with all its accessory penalties and without eligibility for parole under Act No. 4103.[39]

As to damages, the RTC erred in awarding compensation for loss of earning capacity. Pursuant to jurisprudence, the Court precludes an award for loss of earning capacity without adequate proof as it partakes of the nature of actual damages.[40] The bare testimony of the father of the deceased that, at the time of his death, the victim was earning P5,000.00 per month as an engineer is not sufficient proof.[41] But pursuant to the Court's ruling in *People v. Abrazaldo*[42] wherein we deemed it proper to award temperate damages in the amount of P25,000.00 in cases where evidence confirms the heirs' entitlement to actual damages but the amount of actual damages cannot be determined because of the absence of supporting and duly presented receipts, the Court awards P25,000.00 temperate damages to the heirs of the victim in the present case.

The civil indemnity should be increased to P75,000.00.[43] The award of civil indemnity may be granted without any need of proof other than the death of the victim.[44] In line with jurisprudence, the moral damages should also be increased to P 500,000.00.[45]

Moreover, exemplary damages in the amount of P100,000.00 for the crime of kidnapping for ransom with homicide[46] and P25,000.00 for the crime of carnapping should be awarded. The law allows exemplary damages in criminal cases as part of the civil liability of the malefactors when the crime is attended by one or more aggravating circumstances.[47]

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 02044 which commuted the death penalties imposed in Criminal Case Nos. P-521 and P-607 to reclusion perpetua without eligibility for parole is **AFFIRMED** with the **MODIFICATIONS** that the compensation for loss of earning capacity be deleted while the civil indemnity be increased to P75,000.00 and the moral damages to P500,000.00, and that appellants shall also pay the heirs of Ignacio Earl Ong, Jr. temperate damages of P25,000.00 and exemplary damages of P100,000.00 for the crime of kidnapping for ransom with homicide and P25,000.00 for the crime of carnapping. Costs against appellants.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., Concur.

[1]Records, pp. 43-44. Crim. Case No. P-521 (for Kidnapping for Ransom with Homicide).

The undersigned State Prosecutor accuses SERGIO PANCHO y CAGUMOC, JR., MILLANO MUIT y MUÑOZ, ROLANDO DEQUILLO y TAMPOS (all under arrest), JOSEPH FERRAER, EDUARDO "EDDIE" HERMANO @ BOBBY REYES/EDDIE REYES and ROMEO PANCHO DOE (all at-large), and JOHN DOE, RICHARD DOE and PETER DOE (all-at-large and whose true names and identifies are unknown) of the crime of KIDNAPPING FOR RANSOM WITH HOMICIDE, defined and penalized under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, committed as follows:

That on or about December 2, 1997, in the Municipality of Tanauan, Province of Batangas, and within the jurisdiction of this Honorable Court, above-named accused, being then private individuals, conspiring, confederating and mutually helping one another, acting in common accord with Sammy Pansoy @ Bukbok, @Morales, @Manuel Alfon and @Felipe Macalla (all deceased), and John Doe, Richard Doe and Peter Doe (whose true names and identities are unknown) while armed with high powered firearms, did then and there, willfully, unlawfully and feloniously, kidnap, detain and abduct by force, threat and intimidation and deprive IGNACIO ONG, JR., of his liberty for the purpose of [extorting] ransom from his family in exchange for the latter's liberty and as a consequenc[e] or on the occasion of the said kidnapping and detention, the said IGNACIO ONG, JR. was killed, to the damage and prejudice of his heirs.

CONTRARY TO LAW.

[2] CA rollo, pp. 6-7. Crim. Case No. P-607 (for Carnapping).

The undersigned Special Counsel accuses Millano Muit y Munoz alias "Emi," Eduardo "Eddie" Hermano alias "Bobby Reyes" alias "Eddie Ryes," Sergio Pancho y Cagumoc, Jr., Rolando Dequillo y Tampos, Romeo Pancho and Joseph Ferraer of the crime of Carnapping, defined and penalized under Republic Act No. 6539, otherwise known as the Anti-Carnapping Act of 1972[,] as amended by Republic Act No. 7659, committed as follows:

That on the 2[nd] day of December 1997, at about 2:00 o'clock in the afternoon, at Barangay Darasa, Municipality of Tanauan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, together with one John Doe, one Peter Doe, one Richard Doe and one alias "Rocky Reyes" whose identities and whereabouts are still unknown, armed with firearms, conspiring and confederating together, acting in common accord and mutually helping one another, with intent to gain and without the knowledge and consent of the owner thereof, did then and there [willfully], unlawfully and feloniously take, steal and carry away one (1) Mitsubishi Pajero with Plate No. UDL-746 with an undetermined amount, owned by Ignacio Ong, Jr., to the damage and prejudice of aforesaid owner and/or his heirs.

[CONTRARY TO LAW].

[3] Records, p. 308.

[4]TSN, 23 November 1999, pp. 16-22; 6 July 2000, pp. 3-6.

[5] TSN, 6 July 2000, pp. 8-11.

[6]TSN, 31 March 1998, pp. 4-5; 13 April 1998, pp. 4-5.

[7]TSN, 31 March 1998, pp. 6-7, 9-10; 13 April 1998, pp. 6-7, 9-10.

[8] TSN, 31 March 1998, pp. 7-8.

[9] TSN, 13 April 1998, pp. 8-10.

[10]TSN, 21 July 1998, pp. 3-7.

[11] Id. at 8-11, 20, 23-24.

[12] See TSN, 11 February 1999.

[13] TSN, 6 March 2001, pp. 6-14.

[14] TSN, 27 March 2001, pp. 2-9.

[15] TSN, 13 November 2001, pp. 3-11.

[16] CA rollo, pp. 200-219.

[17] Id. at 218-219. Penned by Judge Voltaire Rosales. The dispositive portion of the decision reads as follows:

WHEREFORE, this Court finds accused MILLANO MUIT Y MUNOZ, SERGIO PANCHITO Y CAGUMOC[,] JR., ROLANDO DEQUILLO Y TARIPOS, AND ROMEO PANCHITO, GUILTY beyond reasonable doubt of KIDNAPPING FOR RANSOM[,] resulting in the death of Ignacio Earl Ong, Jr., punished under Article 267 of the Revised Penal Code[,] as amended by Republic Act [No.] 7659, and sentences all the accused to suffer the penalty of DEATH.

The accused are further directed to pay heirs of the victim Ignacio Earl Ong[,] Jr. an indemnity of FIFTY THOUSAND (P50,000.00) PESOS, actual damages in the amount of TWO MILLION TWO HUNDRED THOUSAND (P2,200,000.00) PESOS, and moral damages in the amount of TWO HUNDRED THOUSAND (P200,000.00) PESOS, with subsidiary imprisonment in case of insolvency.

In Criminal Case No. P-607, this Court finds the accused MILLANO MUIT Y MUNOZ, SERGIO PANCHITO Y CAGUMOC[,] JR., ROLANDO DEQUILLO Y TARIPOS AND ROMEO PANCHITO, GUILTY beyond reasonable doubt of CARNAPPING punished under Republic Act [No.] 6539, and sentences all the accused to suffer the penalty of DEATH.

In Criminal Cases Nos. P-534 and P-535, this Court finds the accused MILLANO MUIT Y MUNOZ guilty beyond reasonable doubt of ROBBERY with violence against or intimidation of persons, punished under Article 294 of the Revised Penal Code, and sentences accused to an indeterminate penalty of two years and six months of prison correccional, as minimum, up to eight years and six months of prison mayor, as maximum. MILLANO MUIT is also directed to pay actual damages of P18,875.00 to the offended parties.

The custodians of the accused MIL[L]ANO MUIT Y MUNOZ, SERGIO PANCHITO Y CAGUMOC[,] JR., ROLANDO DEQUILLO Y TARIPOS AND ROMEO PANCHITO are directed to immediately transfer detention of the accused to the National Penitentiary in the City of Muntinlupa, Metro Manila.

Let the records of Criminal Cases Nos. P-521 and P-607 be elevated to the Supreme Court for automatic review on appeal.

SO ORDERED.

[18] Id. at 298-299.

[19] Rollo, pp. 2-31. Penned by Associate Justice Jose Catral Mendoza, and concurred in by Associate Justices Andres Reyes, Jr., and Ramon Bato, Jr.

[20] Id. at 31. The dispositive portion of the decision reads as follows:

WHEREFORE, the November 22, 2002 Decision of the Regional Trial Court, Branch 83, Tanauan, Batangas, in Criminal Case Nos. P-521 and P-607, is hereby AFFIRMED except with respect to the penalty of Death which is

hereby reduced to Reclusion Perpetua in both cases.

SO ORDERED.

[21] Id. at 41-42.

[22] CA rollo, pp. 92-93; 171-172; 244; 306.

[23] Art. 267. Kidnapping and serious illegal detention. "Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death.

- If kidnapping or detention shall have lasted more than three days.

- If it shall have been committed simulating public authority.

- If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.

- If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purposes of extorting ransom from the victim or any other person, even if none of the circumstances abovementioned were present in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed. (As amended by Sec. 8, Republic Act No. 7659.) (Emphasis supplied.)

[24] People v. Borromeo, 323 SCRA 547 (2000).

[25] Republic Act No. 6539, Anti-Carnapping Act of 1972:

Sec. 2. Definition of terms.--The terms "carnapping," "motor vehicle," "defacing or tampering with," "repainting," "body-building," "remodeling," "defacing or tampering," and "overhauling," as used in this Act, shall be understood, respectively, to mean -

"Carnapping" is 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.

x x x x

Sec. 14. Penalty for Carnapping.--Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things, and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof. (As amended by Sec. 20, Republic Act No. 7659)

[26] People v. Lising, 349 Phil. 530, 579 (1998).

[27] *People v. Alilio*, 311 Phil. 395, 405 (1995).

[28] TSN, 11 February 1999, pp. 8-13, 17-20.

[29] TSN, 31 March 1998, pp. 9-10; 13 April 1998, pp. 9-10.

[30] TSN, 13 March 2001, pp. 17-18; 27 March 2001, p. 8; 18 June 2001, p. 11.

[31] TSN, 13 March 2001, pp. 16-18; 18 June 2001, pp. 9-10.

[32] TSN, 6 March 2001, p. 10.

[33] See *People v. Sinoc*, 341 Phil. 355 (1997); *People v. Sabiyon*, 437 Phil. 594 (2002).

[34] See *People v. Encipido*, L-70091, 29 December 1986, 146 SCRA 478, 492, citing *People v. Domondon*, 43 SCRA 486, 490-491 (1972).

[35] *People v. Salimbago*, 373 Phil. 56, 75 (1999).

[36] *People v. Reynes*, 423 Phil. 363, 384 (2001) citing *People v. Danico*, 208 SCRA 472 (1992).

[37] REVISED PENAL CODE, Art. 63.

[38] REVISED PENAL CODE, Art. 14. See *People v. Lee*, G.R. No. 66848, 20 December 1991, 201 SCRA 900, 911; *People v. Buka*, G.R. Nos. 68311-13, 30 January 1992, 205 SCRA 567, 588; *People v. de la Cruz*, G.R. No. 102063, 20 January 1993, 217 SCRA 283, 296.

[39] SEC. 2. In lieu of the death penalty, the following shall be imposed:

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

Pursuant to the same law, appellant shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law.

[40] See *People v. Panabang*, 424 Phil. 596 (2002); *People v. Cuenca*, 425 Phil. 722 (2002).

[41] TSN, 5 March 1998, p. 20.

[42] 445 Phil. 109, 126 (2003). See also *People v. Villanueva*, 456 Phil. 14, 29 (2003).

[43] *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 742-743; *People v. Bangcado*, 399 Phil. 768, 792 (2000); *People v. SPO1 Lobitania*, 437 Phil. 213 (2002). See also *People v. Amion*, 405 Phil. 917, 934 (2001); *People v. Court of Appeals*, 405 Phil. 247, 269 (2001); citing *People v. Pedroso*, G.R. No. 125120, July 19, 2000; *People v. Go-od*, 387 Phil. 628 (2000); *People v. Rosalino Flores*, 385 Phil. 159 (2000); *People v. Mindanao*, 390 Phil. 510 (2000); *People v. Quijon*, 382 Phil. 339 (2000); *People v. Buluran*, 382 Phil. 364 (2000).

[44] *People v. Concepcion*, 409 Phil. 173, 189 (2001), citing *People v. De Vera*, 312 SCRA 640 (1999).

[45] *People v. Deang, et al.*, 393 Phil. 314 (2000).

[46] *Id.* at 336.

[47]See CIVIL CODE, Art. 2230. See also *People v. PO3 Roxas*, 457 Phil. 566, 579 (2003), citing *People v. Catubig*, G.R. No. 137842, 23 August 2001. See also *People v. Bergante*, 350 Phil. 275, 292-293 (1998); *People v. Reyes*, 350 Phil. 683, 699 (1998).

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