

PEOPLE OF THE PHILIPPINES, PLAINTIFF -APPELLEE, VS. JOEL AQUINO Y CENDANA @ “AKONG,” ACCUSED-APPELLANT.

G.R. No. 201092. January 15, 2014

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Before this Court is an appeal from a Decision[1] dated July 29, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04265, entitled *People of the Philippines v. Joel Aquino y Cendana alias “Akong,”* which affirmed with modifications the Decision[2] dated September 18, 2009 of the Regional Trial Court of Malolos, Bulacan, Branch 12, which convicted appellant Joel Aquino y Cendana alias “Akong” for the felony of Murder under Article 248 of the Revised Penal Code in Criminal Case No. 483-M-2003 and for the crime of violation of Republic Act No. 6539 otherwise known as the Anti-Carnapping Act of 1972 in Criminal Case No. 484-M-2003.

The pertinent portion of the Information[3] dated December 9, 2002 charging appellant with Murder in Criminal Case No. 483-M-2003 is reproduced here:

That on or about the 6[th] day of September, 2002, in San Jose del Monte City, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an ice pick and with intent to kill one Jesus O. Lita, with evident premeditation, treachery and abuse of superior strength, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said ice pick the said Jesus O. Lita, hitting him on the different parts of his body, thereby inflicting upon him mortal wounds which directly caused his death.

On the other hand, the accusatory portion of the Information[4] also dated December 9, 2002 accusing appellant with violating Republic Act No. 6539 in Criminal Case No. 484-M-2003 reads:

That on or about the 6[th] day of September, 2002, in San Jose del Monte City, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an ice pick and by means of force, violence and intimidation, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent [to] gain and without the knowledge and consent of the owner thereof, take, steal and carry away with them one (1) tricycle with Plate No. TP-9198 valued at P120,500.00, belonging to Jesus Lita and Sisinio Contridas, to the damage and prejudice of the said owners in the said amount of P120,500.00; and that on the occasion or by reason of said carnapping, the said accused, pursuant to their conspiracy and with intent to kill, attack, assault and stab Jesus Lita, owner and driver of the said tricycle, hitting him on the different parts of his body which directly caused his death.

Arraignment for the two criminal cases was jointly held on February 13, 2004 wherein appellant pleaded “NOT GUILTY” to both charges.[5]

As indicated in the Appellee’s Brief, the following narration constitutes the prosecution’s summation of this case:

On September 5, 2005, at around 8:30 in the evening, the victim Jesus Lita, accompanied by his ten[-]year old

son, Jefferson, went out aboard the former's black Kawasaki tricycle. Upon reaching San Jose del Monte Elementary School, appellant Joel Aquino together with Noynoy Almoguera a.k.a. Negro, Rodnal, Bing, John Doe and Peter Doe boarded the tricycle. Noynoy Almoguera instructed the victim to proceed to the nipa hut owned by appellant.

Upon reaching the said nipa hut, Jesus Lita, appellant and his companions had a shabu session while Jefferson was watching TV. After using shabu, Noynoy Almoguera demanded from the victim to pay Five Hundred Pesos (P500.00), but the victim said that he had no money. Appellant shouted at the victim demanding him to pay. Bing suggested to her companions that they leave the nipa hut. Thus, the victim mounted his tricycle and started the engine. Noynoy Almoguera and John Doe rode in the tricycle behind the victim while appellant and Rodnal rode in the sidecar with Jefferson [sitting] at the toolbox of the tricycle. Inside the tricycle, appellant pointed a knife at Jefferson while Noynoy Almoguera stabbed the victim's side. After the victim was stabbed, he was transferred inside the tricycle while appellant drove the tricycle to his friend's house where they again stabbed the victim using the latter's own knife. Then they loaded the victim to the tricycle and drove to a grassy area where appellant and his companions dumped the body of the victim. Thereafter, they returned to appellant's residence. Jefferson told the sister of appellant about the death of his father but the sister of appellant only told him to sleep.

The next day, Jefferson was brought to the jeepney terminal where he rode a jeepney to get home. Jefferson told his mother, Ma. Theresa Calitisan-Lita, about the death of his father.

In the meantime, SPO3 Servillano Lactao Cabading received a call from Barangay Captain Danilo Rogelio of Barangay San Rafael IV, San Jose Del Monte City, Bulacan thru the two (2) way radio, that the body of a male person with several stab wounds was found dead on a grassy area beside the road of the said barangay. Immediately, SPO3 Cabading together with a police aide proceeded to the area. Thereat, they found the dead body whom they identified thru his Driver's License in his wallet as Jesus Lita, the victim. Also recovered were a big stainless ice pick about 18 inches long including the handle and a tricycle key. The police officers brought the body of the victim to the Sapang Palay District Hospital. Thereafter, they proceeded to the address of the victim.

Ma. Theresa Calitisan-Lita and Jefferson were about to leave for the morgue when they met SPO3 Cabading outside their residence. SPO3 Cabading informed Ma. Theresa that the body of the victim was found in Barangay San Rafael IV. Jefferson told SPO3 Cabading that he was with his father at the time of his death and he brought the police officers to the place where his father was stabbed and to the hut owned by appellant. Thereat, the police officers recovered a maroon colored knife case and the sandals of the victim. Appellant was invited to the police station for questioning but he refused alleging that he does not know anything about the incident. The police officers were able to obtain a picture of appellant which was shown to Jefferson and he positively identified the same as "Akong" one of those who stabbed his father. Likewise, a video footage of Noynoy Almoguera alias "Negro" was shown to Jefferson and he likewise identified the person in the video footage as the same "Negro" who also stabbed his father.

Dr. Richard Ivan Viray, medico-legal, who conducted an autopsy on the victim, concluded that cause of death is Hemorrhagic Shock due to multiple stab wounds.[6]

However, appellant held a different version of the events of this case. In his Appellant's Brief, the succeeding account is entered:

[Appellant] denied the accusations against him. On September 6, 2002, he was working as a laborer/mason in the construction of his uncle's (Rene Cendana) house located at Area C, Acacia Homes, Cavite, together with Paul Maglaque, Eman Lozada, Raul Lozada and Lorenzo Cendana. They worked from 7:30 x x x in the morning until 4:30 x x x in the afternoon, with lunch and "merienda" breaks from 11:30 x x x to 12:00 o'clock noon and 3:00 o'clock to 3:15 x x x in the afternoon, respectively. After work, they just stayed in their

barracks located within their workplace. They would prepare their food and take supper at around 7:00 o'clock to 7:30 x x x in the evening, after which, they would smoke cigarettes. They would go to bed at around 8:00 o'clock to 9:00 o'clock in the evening.

He goes home to Sapang Palay, San Jose Del Monte City, Bulacan every Saturday. During Mondays, he would leave their house at around 4:00 o'clock to 5:00 o'clock in the morning and would arrive at his workplace at around 8:00 o'clock or 9:00 o'clock in the morning.

[Appellant] does not know either Ma. Theresa Lita, his son Jefferson, or the victim Jesus Lita. Also, he does not know a certain Noynoy Almoguera and alias Rodnal. Likewise, he denied using illegal drugs (i.e., shabu).

[Appellant] knew SPO3 Cabading because the former had served as a police aide to him since he was seventeen (17) years old. He had no misunderstanding with the police officer. He cannot think of any reason why Ma. Theresa Lita and Jefferson pointed to him as one of the perpetrators of the subject crimes.

Paul Maglague (Paul) corroborated [appellant's] testimony. On September 6, 2002, a Friday, [appellant] was working with him, together with Roldan Lozada and Oweng Cendana, at Area C, Dasmariñas, Cavite, in the construction of Boy Cendana's house, Paul's brother-in-law. Paul was the cement mixer while [appellant], being his partner, carries it to wherever it is needed. Their work ends at 5:00 o'clock in the afternoon. After their work, they just stayed in their barracks located within their workplace. [Appellant] was their cook. They usually sleep at around 8:00 o'clock to 9:00 o'clock in the evening. They get their pay only during Saturdays. Hence, they would go home to Bulacan every Saturday.

At around 6:00 o'clock to 7:00 o'clock in the evening of September 7, 2002, they left Cavite and went to their respective homes in Bulacan.

On the night of September 5, 2002, [appellant] slept together with Paul and their other co-workers inside their barracks. Paul woke up in the middle of the night to urinate and was not able to see whether the accused was there, as there were no lights in the place where they were sleeping. The following morning, [appellant] was the one who cooked their food.[7] (Citations omitted.)

At the conclusion of trial, a guilty verdict was handed down by the trial court on both criminal charges. The dispositive portion of the assailed September 18, 2009 Decision states:

WHEREFORE, in Criminal Case No. 483-M-2003, the Court finds the Accused JOEL AQUINO alias "Akong" guilty beyond reasonable doubt of the crime of Murder and hereby sentences him to suffer the penalty of Reclusion Perpetua. The Court hereby orders the accused JOEL AQUINO to pay the heirs of Jesus Lita, the expenses incurred in his burial and funeral services in the total amount of Sixty Thousand One Hundred (P60,100.00) Pesos as actual damages, the sum of Fifty Thousand (P50,000.00) Pesos as moral damages, and P30,000.00 as exemplary damages.

In Criminal Case No. 484-M-2003, the Court likewise finds the accused JOEL AQUINO alias "Akong" guilty beyond reasonable doubt of violating R.A. 6539, otherwise known as the Anti-Carnapping Law, and hereby sentences him to suffer the penalty of Life Imprisonment pursuant to Section 14 of the said R.A. 6539. The said accused is also ordered to pay the amount of Sixty[-]Five Thousand Eight Hundred Seventy[-]Five (P65,875.00) Pesos representing the total installment payments of the Motorcycle.

The accused is also ordered to pay costs of this suit.[8]

Insisting on his innocence, appellant filed an appeal with the Court of Appeals. However, the appellate court upheld the judgment of the trial court along with some modifications. The dispositive portion of the assailed July 29, 2011 Decision of the Court of Appeals, in turn, reads:

WHEREFORE, the appealed Decision is hereby MODIFIED, as follows:

a) In Criminal Case No. 483-M-2003, appellant is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. Appellant is ordered to pay the heirs of the victim actual damages in the sum of P60,100.00, duly proven during the trial, P75,000.00 civil indemnity, P75,000.00 moral damages and P30,000.00 exemplary damages.

b) In Criminal Case No. 484-M-2003, appellant is sentenced to suffer the penalty of imprisonment of Fourteen (14) years and Eight (8) months, as minimum, to Seventeen (17) years and Four (4) months, as maximum and to pay the sum of P65,875.00 representing the total installment payments of the motorcycle.[9]

Hence, appellant seeks the Court's favorable action on the instant appeal. In his Brief, appellant reiterated the following errors allegedly committed by the trial court when it adjudged him guilty of the charges leveled against him:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE ALLEGED LONE EYEWITNESS POSITIVELY IDENTIFIED THE ACCUSED-APPELLANT AS ONE OF THE PERPETRATORS OF THE CRIMES.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT TREACHERY ATTENDED THE KILLING.[10]

Appellant challenges his conviction by arguing that the trial court was not able to prove his guilt beyond reasonable doubt because it only relied on the incredible and inconsistent testimony of Jefferson Lita – the sole eyewitness presented by the prosecution. He contends that if Jefferson was indeed present during the murder of his father, Jesus Lita, then it would be highly inconceivable that Jefferson would have lived to tell that tale since he would most likely be also killed by the perpetrators being an eyewitness to the crime. Furthermore, appellant maintains that he cannot possibly have committed the crimes attributed to him because, on the night that Jesus was murdered, he was asleep in the barracks of a construction site somewhere in Dasmariñas City, Cavite.

We are not persuaded.

It is settled in jurisprudence that, absent any showing that the lower court overlooked circumstances which would overturn the final outcome of the case, due respect must be made to its assessment and factual findings, moreover, such findings, when affirmed by the Court of Appeals, are generally binding and conclusive upon this Court.[11] After a thorough examination of the records of this case, we find no compelling reason to doubt the veracity of the findings and conclusions made by the trial court.

With regard to appellant's inquiry into the credibility of the lone eyewitness of the prosecution, we depend upon the principle that the trial court is in a better position to adjudge the credibility of a witness. In *People v. Vergara*, [12] we elaborated on this premise in this wise:

When it comes to the matter of credibility of a witness, settled are the guiding rules some of which are that (1) the [a]ppellate court will not disturb the factual findings of the lower [c]ourt, unless there is a showing that it had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case, which showing is absent herein; (2) the findings of the [t]rial [c]ourt

pertaining to the credibility of a witness is entitled to great respect since it had the opportunity to examine his demeanor as he testified on the witness stand, and, therefore, can discern if such witness is telling the truth or not; and (3) a witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent on cross-examination is a credible witness.[13]

Jurisprudence also tells us that when a testimony is given in a candid and straightforward manner, there is no room for doubt that the witness is telling the truth.[14] A perusal of the testimony of Jefferson indicates that he testified in a manner that satisfies the aforementioned test of credibility. More importantly, during his time at the witness stand, Jefferson positively and categorically identified appellant as one of the individuals who stabbed his father.

We quote the relevant portions of Jefferson's detailed testimony:

[PROSECUTOR CARAIG]

Q

Why do you know that your father died on the early morning of September 6, 2002, in Sapang Palay, San Jose del Monte?

x x x x

A

Because we left the house together at 8:30 in the evening, and my father looked at the calendar.

Q

You said you were with your father. Do you know where were you going at that time?

A

To the house of Akong.

Q

And what mode of transportation did you take, as you said, you were going to the house of Akong?

A

Our tricycle, sir.

Q

Do you know the trade mark of that tricycle of your father?

A

Kawasaki, sir.

Q

Do you know the color of that tricycle?

A

Black, sir.

Q

While on your way to the residence of Akong, could you please tell us if there was any unusual incident that took place?

A

Yes, sir, there was.

Q

What was that?

A

My father was being stabbed.

x x x x

Q

Did you see who stabbed your father?

A

Yes, sir.

Q

How many?

A

There were three (3) of them.

Q

If you will see those three (3) persons again, can you still identify them?

A

Yes, sir.

Q

Are they inside the courtroom?

A

Yes, sir.

Q

Will you please look around and point to them.

INTERPRETER

Witness pointed to accused Joel Aquino inside the courtroom.

[PROSECUTOR CARAIG]

Q

Who else?

A

The others are not here.

Q

Now, prior to the stabbing incident and you were able to recognize the three, one of them you identified here inside the courtroom. What was Joel Aquino doing when you first saw him?

A

He was inside our tricycle sitting.

Q

You are referring to the sidecar of your tricycle?

A

Yes, sir.

Q

You said a while ago that you and your father were only the one[s] on board the tricycle. Why was he, that Joel, now inside the tricycle?

A

They rode in our tricycle.

Q

You are referring to Aquino together with his two (2) companions?

A

Yes, sir.

Q

Where in particular did these three (3) persons ride in your tricycle?

A

Joel Aquino was inside the sidecar of our tricycle while the other two (2) rode at the back of my father.

Q

At that precise moment, where were you seated?

A

Also inside the sidecar, sir.

Q

You are sitting side by side with Aquino? Is that what you mean?

A

No, sir.

Q

While inside the tricycle, what did Aquino do, if any?

A

He pointed his knife at me.

Q

What else?

A

Nothing else.

Q

What about the two (2) companions, what did they do, if any?

A

Inunahan nila agad ang Tatay ko sa tagiliran.

Q

What do you mean by “inunahan”?

A

They stabbed my father on his side.

Q

Did you see what part of the body of your father was stabbed?

COURT:

Witness pointing to the right side of his stomach.

[PROSECUTOR CARAIG]

Q

What happened to your father when he was stabbed?

A

He appeared dizzy and he was placed inside the sidecar.

Q

And who brought your father inside the sidecar?

A

The two (2) other persons previously at the back of my father.

Q

And at that time, what did Joel do?

A

He started driving the tricycle.

Q

Did Aquino drive the tricycle after he started it?

A

Yes, sir.

x x x x

Q

And did you come to know where did Joel Aquino proceed?

A

To their house, sir.

Q

How far was that house of Aquino from the place where your father was stabbed?

A

Quite far, sir.

Q

Were you able to reach the house of Joel Aquino?

A

Yes, sir.

Q

What did Aquino and these two (2) persons do to your father when you reached his house?

A

They brought him down from the tricycle.

Q

Where did these three (3) persons bring your father?

A

They brought my father to their friend.

Q

Did you come to know who was that friend where your father was brought?

A

I do not know the name of their friend.

Q

What happened to your father when he was brought to their friend?

A

My father was already dying and they went back to him and stabbed him several times.

Q

How many times was your father stabbed at that time?

A

I do not know, sir.

Q

Did you see who stabbed him again?

A

Yes, sir.

Q

Who?

A

The three (3) of them.

Q

Do you mean to say that Aquino at that time stabbed your father?

A

Yes, sir.

Q

Did you see what kind of weapon did these three (3) persons use in stabbing your father?

A

My father's own knife.

Q

Who among the three (3) used your father's knife?

A

Akong po.

Q

That Akong was the friend of the three (3) persons to where these three (3) persons brought your father?

A

No, sir.

Q

You are referring to one of the two (2) companions of Joel?

A

Yes, sir.

Q

And after that what else transpired next?

A

They boarded my father to the tricycle.

Q

How about you?

A

While they were boarding my father to the tricycle, Akong pointed his knife at my stomach.

Q

Were the three (3) persons able to board your father inside your tricycle?

A

Yes, sir.

Q

And what did the three (3) persons do after your father was already inside the tricycle?

A

They started the tricycle.

Q

And then what happened next?

A

After they started the motorcycle, they drove the tricycle and threw away my father.

Q

Did you see the act of these three (3) persons throwing your father away from the tricycle?

A

Yes, sir.

Q

How far were you from them when they threw your father?

A

More or less about 5 to 6 meters, sir.

Q

Describe the place where your father was thrown.

A

It was a grassy area.

Q

The grass are tall?

A

Short grass, sir.

Q

And after your father was thrown away, what did the three (3) persons do?

A

They started our tricycle and left my father.[15]

In the face of this serious accusation, appellant puts forward the defense of alibi. We have held that for the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time of the commission of the crime, but also that it was physically impossible for him to be at the locus delicti or within its immediate vicinity.[16] These requirements of time and place must be strictly met. A review of the evidence presented by appellant reveals that it falls short of the standard set by jurisprudence. Appellant failed to establish by clear and convincing evidence that it was physically impossible for him to be at San Jose Del Monte City, Bulacan when Jesus was murdered. His own testimony revealed that the distance between the locus delicti and Dasmariñas City, Cavite is only a four to five hour regular commute.[17] Thus, it would not be physically impossible for him to make the round trip between those two points from dusk till dawn of September 5-6, 2002 and still have more than enough time to participate in the events surrounding the murder of Jesus.

Furthermore, the only person that could corroborate appellant's alibi is his friend and former co-worker, Paul Maglaque. However, we have consistently assigned less probative weight to a defense of alibi when it is corroborated by friends and relatives since we have established in jurisprudence that, in order for corroboration to be credible, the same must be offered preferably by disinterested witnesses.[18] Clearly, due to his friendship with appellant, Maglaque cannot be considered as a disinterested witness.

Nevertheless, it is jurisprudentially settled that positive identification prevails over alibi since the latter can easily be fabricated and is inherently unreliable.[19] It is likewise settled that where there is nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is that he was not so actuated and his testimony is entitled to full faith and credit.[20] In the case at bar, no allegation was made nor proven to show that Jefferson had any ill motive to falsely testify against appellant.

With regard to appellant's argument that Jefferson would surely have also been killed by his father's murderers had he indeed witnessed the crime, we can only surmise and speculate on this point. Whatever may be the killers' motivation to spare Jefferson's life remains a mystery. Nonetheless, it does not adversely affect what has been

clearly established in this case and that is the cold-blooded murder of Jesus by a group of assailants which includes herein appellant.

According to jurisprudence, to be convicted of murder, the following must be established: (1) a person was killed; (2) the accused killed him; (3) the killing was with the attendance of any of the qualifying circumstances under Article 248 of the Revised Penal Code; and (4) the killing neither constitutes parricide nor infanticide.[21]

Contrary to appellant's assertion, the qualifying circumstance of treachery did attend the killing of Jesus. We have consistently held that treachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.[22] On this point, we quote with approval the Court of Appeals' discussion of this aspect of the case, to wit:

The essence of treachery is the sudden and unexpected attack by the aggressor on an unsuspecting victim, depriving him of any real chance to defend himself. Even when the victim was forewarned of the danger to his person, treachery may still be appreciated since what is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. Records disclose that Jesus was stabbed by the group on the lateral part of his body while he was under the impression that they were simply leaving the place where they had [a] shabu session. Judicial notice can be taken that when the tricycle driver is seated on the motorcycle, his head is usually higher or at the level of the roof of the side car which leaves his torso exposed to the passengers who are seated in the side car. Hence, there was no way for Jesus to even be forewarned of the intended stabbing of his body both from the people seated in the side car and those seated behind him. Thus, the trial court's finding of treachery should be affirmed. There is treachery when the means, methods, and forms of execution gave the person attacked no opportunity to defend himself or to retaliate; and such means, methods, and forms of execution were deliberately and consciously adopted by the accused without danger to his person. What is decisive in an appreciation of treachery is that the execution of the attack made it impossible for the victim to defend himself.[23] (Citations omitted.)

However, in contrast to the pronouncements of both the trial court and the Court of Appeals, we cannot consider abuse of superior strength as an aggravating circumstance in this case. As per jurisprudence, when the circumstance of abuse of superior strength concurs with treachery, the former is absorbed in the latter.[24] Since there is no aggravating or mitigating circumstance present, the proper penalty is reclusion perpetua, in accordance with Article 63 paragraph 2 of the Revised Penal Code,[25] it being the lesser penalty between the two indivisible penalties for the felony of murder which is reclusion perpetua to death.

However, we concur with the modification made by the Court of Appeals with respect to the penalty of life imprisonment for carnapping originally imposed by the trial court. Life imprisonment has long been replaced with the penalty of reclusion perpetua to death by virtue of Republic Act No. 7659. Furthermore, the said penalty is applicable only to the special complex crime of carnapping with homicide which is not obtaining in this case. Jurisprudence tells us that to prove the special complex crime of carnapping with homicide, there must be proof not only of the essential elements of carnapping, but also that it was the original criminal design of the culprit and the killing was perpetrated in the course of the commission of the carnapping or on the occasion thereof.[26] The appellate court correctly observed that the killing of Jesus cannot qualify the carnapping into a special complex crime because the carnapping was merely an afterthought when the victim's death was already fait accompli. Thus, appellant is guilty only of simple carnapping.

It is enshrined in jurisprudence that when death occurs due to a crime, the following damages may be awarded: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.[27]

There being no aggravating circumstance since, as discussed earlier, abuse of superior strength is absorbed in the qualifying circumstance of treachery, the award of P75,000.00 as moral damages should be decreased to P50,000.00. Such an amount is granted even in the absence of proof of mental and emotional suffering of the victim's heirs.[28]

Pursuant to current jurisprudence, the award of civil indemnity in the amount of P75,000.00[29] and exemplary damages in the amount of P30,000.00[30] is correct. The amount of actual damages duly proven in court in the sum of P60,100.00 is likewise upheld. Finally, we impose interest at the rate of 6% per annum on all damages from the date of finality of this ruling until fully paid.[31]

With regard to appellant's conviction for simple carnapping, we affirm the penalty of imprisonment imposed by the Court of Appeals which is fourteen (14) years and eight (8) months, as minimum, to seventeen (17) years and four (4) months, as maximum. Likewise, we uphold the order upon appellant to pay the sum of P65,875.00 representing the total amount of the installment payments made on the motorcycle.

WHEREFORE, premises considered, the Decision dated July 29, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04265, affirming the conviction of appellant Joel Aquino y Cendana alias "Akong" in Criminal Cases No. 483-M-2003 and 484-M-2003, is hereby **AFFIRMED** with the **MODIFICATIONS** that:

(1) The amount of moral damages to be paid by appellant Joel Aquino y Cendana alias "Akong" in Criminal Case No. 483-M-2003, is decreased from Seventy-Five Thousand Pesos (P75,000.00) to Fifty Thousand Pesos (P50,000.00); and

(2) Appellant Joel Aquino y Cendana alias "Akong" is ordered to pay interest on all damages at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

No pronouncement as to costs.

SO ORDERED.

Sereno, C.J. (Chairperson), Bersamin, Villarama, Jr., and Reyes, JJ. concur

[1] Rollo, pp. 2-19; penned by Associate Justice Magdangal M. de Leon with Associate Justices Mario V. Lopez and Socorro B. Inting, concurring.

[2] CA rollo, pp. 41-55.

[3] Records (Vol. 1), pp. 1-2.

[4] Records (Vol. 2), pp. 2-3.

[5] Records (Vol. 1), pp. 60-61.

[6] CA rollo, pp. 115-117.

[7] Id. at 79-82.

[8] Id. at 54-55.

[9] Rollo, p. 18.

[10] CA rollo, pp. 72-73.

[11] *People v. Roman*, G.R. No. 198110, July 31, 2013.

- [12] G.R. No. 177763, July 3, 2013.
- [13] *Id.*; citing *People v. Clores*, 263 Phil. 585, 591 (1990).
- [14] *People v. Jalbonian*, G.R. No. 180281, July 1, 2013.
- [15] TSN, June 29, 2004, pp. 6-12.
- [16] *People v. Hatsero*, G.R. No. 192179, July 3, 2013.
- [17] TSN, August 24, 2006, p. 8.
- [18] *People v. Basallo*, G.R. No. 182457, January 30, 2013, 689 SCRA 616, 644.
- [19] *People v. Ramos*, G.R. No. 190340, July 24, 2013.
- [20] *People v. Zapuiz*, G.R. No. 199713, February 20, 2013, 691 SCRA 510, 520.
- [21] *People v. Peteluna*, G.R. No. 187048, January 23, 2013, 689 SCRA 190, 196-197.
- [22] *People v. Rarugal*, G.R. No. 188603, January 16, 2013, 688 SCRA 646, 656.
- [23] Rollo, p. 13.
- [24] *People v. Cabtalan*, G.R. No. 175980, February 15, 2012, 666 SCRA 174, 195.
- [25] Art. 63. Rules for the application of indivisible penalties. – x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties the following rules shall be observed in the application thereof:

x x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

- [26] *People v. Mallari*, G.R. No. 179041, April 1, 2013, 694 SCRA 284, 296.
- [27] *People v. De la Rosa*, G.R. No. 201723, June 13, 2013.
- [28] *People v. Vergara*, *supra* note 12.
- [29] *People v. Corpuz*, G.R. No. 191068, July 17, 2013.
- [30] *People v. Alawig*, G.R. No. 187731, September 18, 2013.
- [31] *Avelino v. People*, G.R. No. 181444, July 17, 2013.

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