

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRANCISCO JUAN LARRAÑAGA ALIAS ‘PACO’; JOSMAN AZNAR; ROWEN ADLAWAN ALIAS ‘WESLEY’; ALBERT CAÑO ALIAS ‘ALLAN PAHAK’; ARIEL BALANSAG; DAVI...

G.R. Nos. 138874-75. January 31, 2006

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PER CURIAM:

Most jurisdictions recognize age as a barrier to having full responsibility over one's action.[1] Our legal system, for instance, does not punish a youth as it would an adult, and it sees youthful misconduct as evidence of unreasoned or impaired judgment. Thus, in a myriad of cases, we have applied the privileged mitigating circumstance of minority embodied in Article 68 of the Revised Penal Code -- the rationale of which is to show mercy and some extent of leniency in favor of an accused who, by reason of his age, is presumed to have acted with less discernment. The case at bar is another instance when the privileged mitigating circumstance of minority must apply.

For our resolution is the motion for reconsideration[2] filed by brothers James Anthony and James Andrew, both surnamed Uy, praying for the reduction of the penalties we imposed upon the latter on the ground that he was a minor at the time the crimes were committed.

A brief review of the pertinent facts is imperative.

On February 3, 2004, we rendered a Decision[3] convicting the Uy brothers, together with Francisco Juan Larrañaga, Josman Aznar, Rowen Adlawan, Alberto Caño and Ariel Balansag of the crimes of (a) special complex crime of kidnapping and serious illegal detention with homicide and rape; and (b) simple kidnapping and serious illegal detention. The dispositive portion of the Decision reads:

WHEREFORE, the Decision of the Regional Trial Court, Branch 7, Cebu City in Criminal Cases Nos. CBU 45303 and 45304 is AFFIRMED with the following MODIFICATIONS:

(1) In Criminal Case No. CBU-45303, appellants FRANCISCO JUAN LARRAÑAGA alias ‘PACO’; JOSMAN AZNAR; ROWEN ADLAWAN alias ‘WESLEY’; ALBERTO CAÑO alias ‘ALLAN PAHAK’; ‘ARIEL BALANSAG’; and JAMES ANDREW UY alias ‘MM,’ are found guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with homicide and rape and are sentenced to suffer the penalty of DEATH by lethal injection;

(2) In Criminal Case No. CBU-45304, appellants FRANCISCO JUAN LARRAÑAGA alias ‘PACO’; JOSMAN AZNAR; ROWEN ADLAWAN alias ‘WESLEY’; ALBERTO CAÑO alias ‘ALLAN PAHAK’; ARIEL BALANSAG; and JAMES ANDREW UY alias ‘MM,’ are found guilty beyond reasonable doubt of simple kidnapping and serious illegal detention and are sentenced to suffer the penalty of RECLUSION PERPETUA;

(3) In Criminal Case No. CBU-45303, appellant JAMES ANTHONY UY who was a minor at the time the crime was committed, is likewise found guilty beyond reasonable doubt of the special complex crime of

kidnapping and serious illegal detention with homicide and rape and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA; in Criminal Case No. CBU-45304, he is declared guilty of simple kidnapping and serious illegal detention and is sentenced to suffer the penalty of TWELVE (12) years of prision mayor in its maximum period, as MINIMUM, to seventeen (17) years of reclusion temporal in its medium period, as MAXIMUM;

(4) Appellants are ordered to pay jointly and severally the heirs of Marijoy and Jacqueline, in each case, the amounts of (a) P100,000.00 as civil indemnity; (b) P25,000.00 as temperate damages; (c) P150,000.00 as moral damages; and (d) P100,000.00 as exemplary damages.

Three (3) Justices of the Court maintain their position that RA 7659 is unconstitutional insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority that the law is constitutional and the death penalty can be lawfully imposed in the case at bar.

In accordance with Article 83 of The Revised Penal Code, as amended by Section 25 of RA No. 7659, upon the finality of this Decision let the records of this case be forthwith forwarded to the Office of the President for the possible exercise of Her Excellency's pardoning power.

SO ORDERED.

On March 23, 2004, the Uy brothers filed a motion for reconsideration anchored on the following grounds:

I

ACCUSED JAMES ANDREW S. UY WAS, LIKE HIS YOUNGER BROTHER JAMES ANTHONY S. UY, A MINOR AT THE TIME THE OFFENSES AT BAR ALLEGEDLY HAPPENED LAST JULY 16, 1997;

II

THE IDENTITY OF THE DEAD BODY OF THE WOMAN FOUND IN TAN-AWAN, CARCAR, CEBU LAST JULY 18, 1997 WAS NEVER CONCLUSIVELY ESTABLISHED THUS THE NEED FOR ITS EXHUMATION FOR DNA TESTING.[4]

The issues raised in the above motion being intertwined with those raised by Larrañaga, Aznar, Adlawan, Caño and Balansag in their separate motions for reconsideration, we deemed it appropriate to consolidate the motions. After a painstaking evaluation of every piece and specie of evidence presented before the trial court in response to the movants' plea for the reversal of their conviction, still we are convinced that the movants' guilt has been proved beyond reasonable doubt. Thus, in our Resolution dated July 21, 2005, we denied all the motions. However, left unresolved is the issue of James Andrew's minority.

Hence, this disquisition.

In their motion, the Uy brothers claim that James Andrew was only seventeen (17) years and two hundred sixty two (262) days old at the time the crimes were committed. To substantiate such claim, he begs leave and pleads that we admit at this stage of the proceedings his (1) Certificate of Live Birth issued by the National Statistics Office, and (2) Baptismal Certificate. In the ultimate, he prays that his penalty be reduced, as in the case of his brother James Anthony.

Considering that the entry of James Andrew's birth in the proffered Certificate of Live Birth is not legible, we required the Solicitor General (a) to secure from the City Civil Registrar of Cotobato, as well as the National Statistics Office, a clear and legible copy of James' Certificate of Live Birth, and thereafter, (b) to file an extensive comment on the Uy brothers' motion, solely on the issue of James Andrew's minority.

On November 17, 2005, the Solicitor General submitted his comment. Attached therewith are clear and legible

copies of James' Certificate of Live Birth duly certified by the Office of the City Civil Registrar of Cotobato and the National Statistics Office. Both documents bear the entry October 27, 1979 as the date of his birth, thus, showing that he was indeed only 17 years and 262 days old when the crimes were committed on July 16, 1997.

Consequently, the Solicitor General recommended that the penalty imposed on James Andrew be modified as follows:

In Criminal Case No. CBU-45303 for the special complex crime of kidnapping and serious illegal detention with homicide and rape, the death penalty should be reduced to reclusion perpetua.

In Criminal Case No. CBU-45304, for the crime of simple kidnapping and serious illegal detention, the penalty of reclusion perpetua should be reduced to twelve (12) years of prision mayor in its maximum period, as minimum, to seventeen (17) years of reclusion temporal in its medium period, as maximum, similar to the penalty imposed on his brother James Anthony in Criminal Case No. CBU-45303.

The motion is meritorious.

Article 68 of the Revised Penal Code provides:

ART. 68. - Penalty to be imposed upon a person under eighteen years of age. - When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraph next to the last of article 80 of this Code, the following rules shall be observed:

x x x

- Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.

Thus, the imposable penalty on James Andrew, by reason of his minority, is one degree lower than the statutory penalty. The penalty for the special complex crime of kidnapping and serious illegal detention with homicide and rape, being death, one degree lower therefrom is reclusion perpetua.[5] On the other hand, the penalty for simple kidnapping and serious illegal detention is reclusion perpetua to death. One degree lower therefrom is reclusion temporal.[6] There being no aggravating and mitigating circumstance, the penalty to be imposed on James Andrew is reclusion temporal in its medium period. Applying the Indeterminate Sentence Law, he should be sentenced to suffer the penalty of twelve (12) years of prision mayor in its maximum period, as minimum, to seventeen (17) years of reclusion temporal in its medium period, as maximum.[7]

Accordingly, in Criminal Case No. CBU-45303, the penalty of reclusion perpetua should be imposed upon James Andrew; while in Criminal Case No. CBU-45304, the imposable penalty upon him is twelve (12) years of prision mayor in its maximum period, as minimum, to seventeen (17) years of reclusion temporal in its medium period, as maximum.

WHEREFORE, the motion for reconsideration is hereby GRANTED. Our Decision dated February 3, 2004 is AFFIRMED with the MODIFICATION that in Criminal Case No. CBU-45303, James Andrew Uy is sentenced to suffer the penalty of reclusion perpetua; while in Criminal Case No. CBU-45304, the penalty of twelve (12) years of prision mayor in its maximum period, as MINIMUM, to seventeen (17) years of reclusion temporal in its medium period, as maximum.

SO ORDERED.

Panganiban, C. J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Carpio, Carpio Morales, Corona, Azcuna, Callejo, Jr., Chico-Nazario, Tinga, and Garcia, JJ., concur.

[1] Siegel, Senna, Juvenile Delinquency, Theory, Practice and Law, 7[th] Edition, at 20.

[2] Rollo, p. 1789. It was filed on March 23, 2004.

[3] G.R. Nos. 138874-75, February 3, 2004, 421 SCRA 530.

[4] Rollo, p. 1789. It was filed on March 23, 2004.

[5] Article 61, par. 1 in relation to Article 71, Scale No. 1 of the Revised Penal Code.

The Indeterminate Sentence Law does not apply to persons convicted of offenses punished with death penalty or life imprisonment. (Section 2) While the exception in Section 2 of the law speak of "life imprisonment," this term has been considered to also mean reclusion perpetua. (Regalado, Criminal Law Conspectus, First Edition, at 207).

[6] Article 61, par. 2 in relation to Article 71, Scale No. 1 of the Revised Penal Code.

[7] Reyes, The Revised Penal Code, Book I, 2001 Ed. at 780.

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