



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated July 6, 2022 which reads as follows:

“G.R. No. 259391 (Mark Anthony Fernandez y Dalugdugan and Marbert Villanueva y Ramil, petitioners v. People of the Philippines, respondent) – The Court resolves to **GRANT** petitioner’s motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari.

This petition¹ seeks to reverse and set aside the following dispositions of the Court of Appeals in CA-G.R. CR No. 43226 entitled *“People of the Philippines v. Mark Anthony Fernandez y Dalugdugan and Marbert Villanueva y Ramil,” viz.:*

1. Decision dated January 28, 2021,² finding petitioners guilty of robbery in an inhabited place³ under Article 299 of the Revised Penal Code (RPC), as amended by Republic Act No. 10951⁴ (RA 10951); and

2. Resolution dated March 1, 2022,⁵ denying petitioners’ motion for reconsideration.

Antecedents

Petitioners Mark Anthony Fernandez y Dalugdugan and Marbert Villanueva y Ramil were charged with robbery in an inhabited place under Article 299 of the RPC, as amended by RA 10951, viz.:

¹ *Rollo*, pp. 11-34.

² Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Raymond Reynold R. Lauigan; *id.* at 41-52.

³ **Article 301. What is an inhabited house, public building or building dedicated to religious worship and their dependencies.** — Inhabited house means any shelter, ship or vessel constituting the dwelling of one or more persons, even though the inhabitants thereof shall temporarily be absent therefrom when the robbery is committed.

⁴ An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code", as amended.

⁵ *Rollo*, pp. 54-56.

That on or about September 8, 2012, in the City of Manila, Philippines, the said accused, conspiring and confederating with one another and mutually helping each other, with intent to gain and without the knowledge and consent of the owner thereof, did and there willfully, unlawfully and feloniously, by means of force upon things, break into and enter the house of JOSE VALDEZ located at #964 J. Fajardo cor. Mt. Halili St., Sampaloc, this City, which is an inhabited place, by then and there forcibly entering through the roof, an opening not intended for entrance or egress, and once inside, took, robbed and carried away therefrom one (1) sack of chopped cable wires worth P20,000.00 and metals detached from a double deck worth P6,000.00 or all in the total amount of P26,000.00, belonging to said JOSE VALDEZ, to the damage and prejudice of the said owner in the aforesaid sum of P26,000.00, Philippine Currency.

CONTRARY TO LAW.⁶

After due proceedings, the Regional Trial Court - Branch 12, Manila City rendered a verdict of conviction. It found that the prosecution was able to prove beyond reasonable doubt that: 1) Jose was the owner of the apartment building and that he has authority over the said building; 2) petitioners had no authority to enter the apartment building particularly inside the apartment on the fourth floor; 3) petitioners entered through the roof, an opening not intended for entrance or egress; and 4) with intent to gain, petitioners took the cable wires and disassembled steel beds from the apartment building.

Thus, they were sentenced to the indeterminate penalty of imprisonment ranging from TWO (2) YEARS, FOUR (4) MONTHS AND FIVE (5) DAYS of *prision correccional*, as minimum, to EIGHT (8) YEARS AND FIVE (5) DAYS of *prision mayor*, as maximum.

The Court of Appeals subsequently affirmed under its assailed dispositions.

Petitioners now pray anew for their acquittal. They maintain their innocence and insist that the prosecution failed to prove their guilt beyond reasonable doubt.

The petition must fail.

To begin with, the Court, not being a trier of facts does not take cognizance of factual issues, let alone, calibrate anew the evidence already assessed and evaluated by the trial court in a petition for review on certiorari. Accordingly, the Court accords the highest respect to the factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions drawn from its factual findings, more so, when the same are affirmed by the Court of Appeals.

⁶ Id. at 42.

On this score, petitioners have not shown any special or important reason for the Court to review all over again the trial court's factual findings, which carried the full concurrence of the Court of Appeals.

We nonetheless modify the imposed penalty. Considering that the value of the stolen articles was only ₱26,000.00, and petitioners were not armed, the prescribed penalty is *prision mayor* in its minimum period.⁷ Applying the Indeterminate Sentence Law, in the absence of any mitigating or aggravating circumstance, the maximum term shall be taken from *prision mayor* minimum in its medium period, which is six (6) years, eight (8) months and one (1) day to seven (7) years and four (4) months; while the minimum term is within the range of the penalty next lower than that prescribed by law, which is four (4) years, two (2) months and one (1) day of *prision correccional* in its maximum period.

The Court, therefore, modifies the imposed penalty to four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

FOR THESE REASONS, the petition is **DENIED**. The Decision dated January 28, 2021 and Resolution dated March 1, 2022 of the Court of Appeals in CA-G.R. CR No. 43226 are **AFFIRMED** with **MODIFICATION**.

In **Criminal Case No. 12-293027**, petitioners Mark Anthony Fernandez y Dalugdugan and Marbert Villanueva y Ramil are found **GUILTY** of **Robbery in an Inhabited Place** under Article 299 of the Revised Penal Code as amended by Republic Act No. 10951 and are sentenced to an indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

SO ORDERED.”

⁷ Art. 299. *Robbery in an inhabited house or public building or edifice devoted to worship.* — Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by *reclusion temporal*, if the value of the property taken shall exceed Fifty thousand pesos (P50,000), and if —

(a) The malefactors shall enter the house or building in which the robbery was committed, by any of the following means:

1. Through an opening not intended for entrance or egress.

xxx

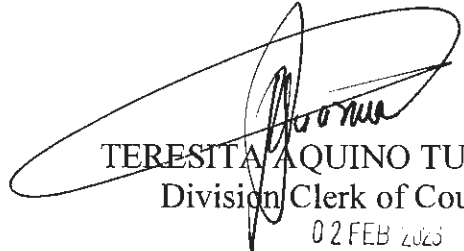
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When the offenders do not carry arms, and the value of the property taken exceeds Fifty thousand pesos (P50,000), the penalty next lower in degree shall be imposed.

The same rule shall be applied when the offenders are armed, but the value of the property taken does not exceed Fifty thousand pesos (P50,000).

When said offenders do not carry arms and the value of the property taken does not exceed Fifty Thousand pesos (P50,000), they shall suffer the penalty prescribed in the two (2) next preceding paragraphs, in its minimum period.

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *at*
02 FEB 2023

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 12
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(Crim. Case No. 12-293027)

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*with copy of the CA Decision dated January 28, 2021
Please notify the Court of any change in your address.
GR259391. 7/06/2022(184)URES

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