



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 14, 2023** which reads as follows:*

“G.R. No. 265418 (ROBERTO GERVACIO y BAUTISTA a.k.a. OBET, Petitioner v. PEOPLE OF THE PHILIPPINES, Respondent). — This is a Petition for Review on *Certiorari*¹ assailing the Decision² dated August 23, 2022 and the Resolution³ dated January 23, 2023 of the Court of Appeals (CA) in CA-G.R. CR No. 44501, which affirmed the Amended Decision⁴ dated November 27, 2019 of the Regional Trial Court (RTC) convicting Roberto Gervacio of two counts of simple robbery under Article 294, paragraph 5 of the Revised Penal Code (RPC).

Considering the allegations, issues, and arguments adduced in the Petition for Review on *Certiorari*, the Court finds no cogent reason to deviate from the findings of the CA and the RTC that petitioner is guilty of robbery. However, the imposed indeterminate sentence of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years and twenty-one (21) days of *prision mayor*, as maximum, must be modified.

The crime of robbery under Article 294, paragraph 5 of the RPC is punishable by *prision correccional* in its maximum period to *prision mayor* in its medium period,⁵ which has a range of four (4) years, two (2) months, and

¹ *Rollo*, pp. 12–38.

² *Id.* at 39–58. Penned by Associate Justice Ramon M. Bato, Jr., with the concurrence of Associate Justices Germano Francisco D. Legaspi and Alfonso C. Ruiz II.

³ *Id.* at 59–61.

⁴ *Id.* at 80–100. The Amended Decision in Criminal Case Nos. R-MNL-18-08771-CR, R-MNL-18-10264-CR, R-MNL-18-01880-CR, and R-MNL-18-01881-CR was penned by Presiding Judge Dinnah Topacio.

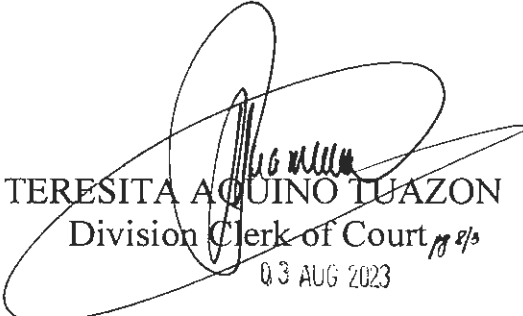
⁵ REV. PEN. CODE, art. 294, par. 5.

one (1) day to ten (10) years.⁶ Applying the Indeterminate Sentence Law, and considering that there are neither mitigating nor aggravating circumstances, the maximum term of the indeterminate sentence should be taken from the medium period of the prescribed penalty or between six (6) years, one (1) month, and eleven (11) days to eight (8) years and twenty (20) days. Thus, the Court deems it proper to adjust the maximum term of the indeterminate sentence to eight (8) years and twenty (20) days. On the other hand, the CA and the RTC correctly imposed the minimum term of the indeterminate sentence which is within the range of the penalty next lower in degree than that prescribed or *arresto mayor* in its maximum period to *prision correccional* in its medium period which has a duration of four (4) months and one (1) day to four (4) years and two (2) months. Anent the civil aspect of the case, the Court awards to the private complainants Fer Ivan Lim and Eric Racab the amounts of PHP 126,000.00 and PHP 3,500.00, respectively, as compensatory damages. The awards shall earn interest at the rate of 6% per annum from the date of finality of this Resolution until full payment.

FOR THESE REASONS, the Petition is **DENIED**. The Decision dated August 23, 2022 and the Resolution dated January 23, 2023 of the Court of Appeals in CA-G.R. CR No. 44501 are **AFFIRMED** with **MODIFICATION**. Petitioner Roberto Gervacio y Bautista is found guilty of two (2) counts of simple robbery under Article 294, paragraph 5 of the Revised Penal Code, and is sentenced to suffer an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years and twenty (20) days of *prision mayor*, as maximum, for each count. Petitioner is ordered to pay private complainants Fer Ivan Lim and Eric Racab the amounts of PHP 126,000.00 and PHP 3,500.00, respectively, as compensatory damages, which shall earn interest at the rate of 6% per annum from the date of finality of this Resolution until full payment.

SO ORDERED.” (LEONEN, S.A.J., on official leave; and LOPEZ, J., J., on sick leave)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *pp 8/5*
03 AUG 2023

⁶ REV. PEN. CODE, art. 76.

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*ROBERTO GERVACIO y BAUTISTA a.k.a. "OBET" (reg)
Petitioner
c/o The Jail Warden
Manila City Jail
Old Bilibid Compound
Quezon Blvd., Sta. Cruz, 1003 Manila

THE JAIL WARDEN (reg)
Manila City Jail
Old Bilibid Compound
Quezon Blvd., Sta. Cruz, 1003 Manila

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 42
Manila
(Crim. Case No. R-MNL-18-08771-CR; 18-10264-CR)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Ma. Orosa Street
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CA-G.R. CR No. 44501

*with a copy of the CA Decision dated August 23, 2022
Please notify the Court of any change in your address.
GR265418. 6/14/2023(8)URES *18/3*