



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

ROBERT CATAN y G.R. No. 261156
 MASANGKAY, Petitioner, Present:

– versus –

LEONEN, *SAJ.*, Chairperson,
 LAZARO-JAVIER,
 LOPEZ, M.,
 LOPEZ, J., and
 KHO, JR., *JJ.*

PEOPLE OF THE
 PHILIPPINES, Respondent.

Promulgated:
 AUG 23 2023

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DECISION

M. LOPEZ, J.:

This resolves the Petition for Review on *Certiorari*¹ assailing the Decision² dated July 5, 2021 and the Resolution³ dated May 25, 2022 of the Court of Appeals, Manila (CA) in CA-G.R. CR No. 43884, which affirmed the Decision⁴ dated July 5, 2019 of the Regional Trial Court, Branch [REDACTED], [REDACTED] City (RTC), convicting the accused of the crime of simple robbery punishable under Article 294,⁵ paragraph 5 of the Revised Penal Code (RPC),

¹ *Rollo*, pp. 12–32.

² *Id.* at 34–50. The July 5, 2021 Decision in CA-G.R. CR No. 43884 was penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Alfredo D. Ampuan of the Seventeenth Division, Court of Appeals, Manila.

³ *Id.* at 52–54. The May 25, 2022 Resolution in CA-G.R. CR No. 43884 was penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Alfredo D. Ampuan of the Former Seventeenth Division, Court of Appeals, Manila.

⁴ *Id.* at 71–82. The July 5, 2019 Decision in Criminal Case Nos. 2018-401 FC, 2018-402 FC, and 2018-403 FC was penned by Assisting Judge Gemma Theresa B. Hilario-Logronio of Branch [REDACTED], Regional Trial Court, [REDACTED] City.

⁵ Article 294. *Robbery with violence against or intimidation of persons — Penalties.* — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

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in relation to Section 6⁶ of Republic Act No. (RA) 10175 or the “Cybercrime Prevention Act of 2012.”

Antecedents

Robert Catan y Masangkay (Robert) was charged with simple robbery in relation to Section 6 of RA 10175 or the “Cybercrime Prevention Act of 2012,” and two counts of violation of Section 10(a)⁷ of RA 7610 or the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,” in three separate Informations, the accusatory portion of which read as follows:

**[Criminal Case No. 2018-401 FC
For: Simple robbery]**

That on or about the twenty-third (23rd) day of September 2018, in ██████████ City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and by means of intimidation against the persons of [AAA261156]⁸ and [BBB261157], both only sixteen (16) years of age having been born on February 5, 2002 and January 25, 2002, respectively, through and with the use of information and communications technologies—a qualifying circumstance, did then and there willfully, unlawfully, and feloniously take One Thousand Pesos (PhP1,000.00), Philippine Currency, belonging to [AAA261156] and [BBB261157], committed as follows: while in the possession of the cellphone belonging to [BBB261157], a Huawei Y7, and thereby gaining access to nude pictures and videos of Minor B’s girlfriend, [AAA261156], accused, using a Facebook account with username “Rolly Gatmaitan”, sent messages to [AAA261156] through Facebook Messenger, an online messaging application, and demanded from them the amount of Twenty Thousand Pesos (PhP20,000.00), Philippine Currency, in exchange for his

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5. The penalty of *prison correctional* in its maximum period to *prison mayor* in its medium period in other cases.

⁶ Section 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

⁷ Section 10. *Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child’s Development.*—

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child’s development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prison mayor* in its minimum period.

⁸ The identity of the victim or any information which could establish or compromise their identity, as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, approved on June 17, 1992; Republic Act No. 9262, or the Anti-Violence Against Women and Their Children Act of 2004, approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “Rule on Violence Against Women and Their Children” dated November 15, 2004. *See also* Amended Administrative Circular No. 83-2015, entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances,” dated September 5, 2017.

guaranty that he will not post said nude pictures and videos of [AAA261156] on social media.

Contrary to law.⁹

**[Criminal Case No. 2018-402 FC
For: Other acts of abuse]**

That on or about the twenty-third (23rd) day of September 2018, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to debase, degrade, and demean the intrinsic worth and dignity as a child of [AAA261156], a girl only sixteen (16) years of age having been born on February 5, 2002, through and with the use of information and communication technologies—a qualifying circumstance, did then and there willfully, unlawfully, and feloniously commit acts constituting child abuse against said [AAA261156], committed as follows: while in possession of the cell phone belonging to [BBB261157], a Huawei Y7, and thereby gaining access to nude pictures and videos of [BBB261157]’s girlfriend, [AAA261156], the accused, using a Facebook account with username “Rolly Gatmaitan”, sent messages to [BBB261156]’s girlfriend through Facebook Messenger, an online messaging application, and demanded from them the amount of Twenty Thousand Pesos (PhP20,000.00), Philippine Currency, in exchange for his guaranty that he will not post said nude pictures and videos of [AAA261156] on social media. Said acts of the accused debase, degrade, and demean the intrinsic worth and dignity of [AAA261156] as a child and are prejudicial to her development.

Contrary to law.¹⁰

**[Criminal Case No. 2018-403 FC
For: Other acts of abuse]**

That on or about the twenty-third (23rd) day of September 2018, in [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to debase, degrade, and demean the intrinsic worth and dignity as a child of [BBB261157], a boy only sixteen (16) years of age having been born on January 25, 2002, through and with the use of information and communication technologies—a qualifying circumstance, did then and there willfully, unlawfully, and feloniously commit acts constituting child abuse against said [BBB261157], committed as follows: while in possession of the cell phone belonging to [BBB261157], a Huawei Y7, and thereby gaining access to nude pictures and videos of [BBB261157]’s girlfriend, [AAA261156], the accused, using a Facebook account with username “Rolly Gatmaitan”, sent messages to [BBB261157]’s girlfriend through Facebook Messenger, an online messaging application, and demanded from them the amount of Twenty Thousand Pesos (PhP20,000.00), Philippine Currency, in exchange for his guaranty that he will not post said nude pictures and videos of [BBB261157]’s girlfriend on social media. Said acts of the accused debase,

⁹ *Rollo*, p. 35.

¹⁰ *Id.* at 35–36.

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degrade, and demean the intrinsic worth and dignity of [BBB261157] as a child and are prejudicial to her [sic] development.

Contrary to law.¹¹

When arraigned, Robert pleaded not guilty. Pre-trial was conducted and the parties stipulated on the following:

1. The identity of the accused as the same person in the three (3) criminal *Informations*;
2. The jurisdiction of the court to try and hear the case;
3. The minority of the complainants ["AAA261156"] and ["BBB261156"] at the time of the commission of the alleged offenses and with the counter stipulation that the accused does not know that they were minors;
4. The existence of the Inventory Receipt and Chain of Custody;
5. The existence and due [execution] of the Complaint Assignment Sheet; [and]
6. The existence of the Request for Medical Examination of the accused.¹²

Afterwards, trial ensued.

The prosecution presented the testimonies of minors AAA261156¹³ and BBB261156, as well as Police Officer III Michelle Ubuta (PO3 Ubuta) and Police Officer II Ronnee Jude Alba (PO2 Alba).

On September 18, 2018, BBB261156, then a minor, lost his cellphone when he and his minor girlfriend, AAA261156, went to a shopping mall near their school. On September 23, 2018, AAA261156 received from a certain "Rolly Gatmaitan" (Rolly), a Facebook message containing AAA261156's nude pictures and videos. AAA261156, who does not know Rolly, inquired as to how he was able to obtain copies of the private pictures and videos. Rolly replied that he found a cellphone containing the pictures in a shopping mall. Rolly then threatened AAA261156 that he will expose and post on social media the pictures unless he will be paid PHP 20,000.00. AAA261156 informed BBB261156 about the incident, They told Rolly that they did not have the money because they were just students. However, Rolly raised the

¹¹ *Id.* at 36–37.

¹² *Id.* at 37.

¹³ The real names of AAA261156 and BBB261156 were not disclosed in the pleadings and court records.

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amount to PHP 30,000.00 after discovering that BBB261156 comes from a well-off family.¹⁴

AAA261156 and BBB261156 then informed their parents and reported the incident to the police. At the police station, AAA261156 continued to communicate with Rolly through Facebook messenger. Rolly instructed AAA261156 to bring the money alone at the corner of [REDACTED], [REDACTED] at around 7:00 p.m. PO2 Alba and Police Officer I Neil Aldrin Zacarias (PO1 Zacarias), planned and conducted an entrapment operation bringing with them the marked money.¹⁵

At 7:00 p.m., AAA261156, followed by PO2 Alba and PO1 Zacarias, went to the designated meeting place. Rolly instructed AAA261156 to put the money inside a red plastic bag and to leave it on top of a trash can. Since there was no trash can, Rolly ordered AAA261156 to leave the money at the place where she was seated. Rolly then ordered AAA261156 to leave. However, instead of leaving, AAA261156 walked towards the next street and hid.¹⁶

Within a minute, a motorcycle approached the place where the red plastic bag was left and the man driving the motorcycle parked, took the money, and left. The police officers chased and apprehended the man, later on identified as the accused Robert. PO2 Alba recovered from Robert's possession the following items: one silver Huawei Y7 cellphone lost by BBB261156; the PHP 1,000.00 marked money with serial number BM418779 marked as "RJA"; one Vivo cellphone; and one Yamaha Mio motorcycle. The seized items were turned over to PO3 Ubuta, the case investigator.¹⁷

On redirect examination, BBB261156 testified that he was 15 to 20 meters away from the drop-off point and saw AAA261156 leave the red plastic bag on the stairs of a store in [REDACTED] Street. A minute later, he saw Robert on a motorcycle arrive, park in front of the store, and get the plastic bag. He and the police officers chased the man, so BBB261156 was certain that the man who picked up the red plastic bag was the one whom they chased and was arrested by the police officers.¹⁸

On the other hand, for his defense, Robert completely waived his right to adduce evidence.¹⁹

¹⁴ *Rollo*, pp. 37–38.

¹⁵ *Id.* at 38–39.

¹⁶ *Id.*

¹⁷ *Id.* at 39.

¹⁸ *Id.* at 79

¹⁹ *Id.*

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Ruling of the RTC

In its Decision,²⁰ the RTC acquitted Robert of two counts of violation of RA 7610. However, the RTC found Robert guilty beyond reasonable doubt of robbery with violence against or intimidation of persons under Article 294(5) of the RPC, in relation to Section 6 of RA 10175.²¹

The RTC ruled that Robert was identified by BBB261156, PO2 Alba, and PO1 Zacarias as the very person who picked up the plastic bag containing the marked money. Likewise, Robert failed to explain his presence during the entrapment operation, as well as his possession of BBB261156's cellphone upon apprehension,²² thus:

WHEREFORE, in light of the foregoing, the Court finds accused Robert Catan y Masangkay **GUILTY** beyond reasonable doubt of Simple Robbery punishable under Art. 294 of the Revised Penal Code in relation to Sec. 6 of Republic Act No. 10175 known as Cybercrime Prevention Act and he is hereby sentenced to suffer an indeterminate penalty of prision mayor of eight (8) years and one (1) day as minimum to reclusion temporal of twelve (12) years and one (1) day as maximum.

However, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt for the two (2) counts of violation of Republic Act 7610, accused is hereby acquitted.

SO ORDERED.²³

Ruling of the CA

Robert appealed to the CA. In its Decision²⁴ dated July 5, 2021, the CA affirmed the ruling of the RTC. The CA ruled that the circumstantial evidence led to the conclusion that Robert was the same person who extorted money in exchange for his promise not to upload the nude photos and videos on social media,²⁵ viz.:

WHEREFORE, the appeal is **DENIED**. The assailed July 5, 2019 Decision of the Regional Trial Court (RTC), Branch ■ of ■, in Criminal Case No. 2018-401 FC, finding the accused-appellant Robert Catan y Masangkay (Catan) guilty beyond reasonable doubt of Robbery with Violence Against or Intimidation of Persons punishable under Paragraph 5, Article 294 of the Revised Penal Code in relation to Section 6 of R.A. No. 10175 or "The Cybercrime Prevention Act of 2012" is **AFFIRMED**.

²⁰ *Id.* at 71–83.

²¹ *Id.* at 82, 78.

²² *Id.* at 80.

²³ *Id.* at 82, 78.

²⁴ *Id.* at 34–50.

²⁵ *Id.* at 48.

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SO ORDERED.²⁶ (Citation omitted)

Robert moved for reconsideration but was denied by the CA in its Resolution²⁷ dated May 25, 2022.

Hence, this Petition for Review on *Certiorari*²⁸ under Rule 45 of the Rules of Court. Robert reiterates his arguments that the identity of the perpetrator was not established beyond reasonable doubt and that the prosecution failed to prove all the elements of the crime.²⁹

Ruling

The Petition is denied.

Robert was charged with simple robbery under Article 294(5) of the RPC.

ART. 294. Robbery with violence against or intimidation of persons
— *Penalties.* — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

....

5. The penalty of *prision correccional* in its maximum period to *prision mayor* in its medium period in other cases.

“The elements of simple robbery are: a) there is personal property belonging to another; b) that there is unlawful taking of that property; c) the taking is with intent to gain; and d) there is violence against or intimidation of persons or force upon things.”³⁰

The prosecution was able to establish all the elements.

Robert unlawfully demanded from AAA261156 and BBB261156 the sum of PHP 20,000.00 under the condition that he will not upload AAA261156’s nude pictures. When AAA261156 and BBB261156 haggled for a smaller amount, Robert got irritated and demanded for the higher sum of PHP 30,000.00. Clearly, the elements of intent to gain and intimidation of persons are evident from Robert’s act of extorting or demanding from

²⁶ *Id.* at 49.

²⁷ *Id.* at 52–54.

²⁸ *Id.* at 12–32

²⁹ *Id.* at 27.

³⁰ *Remolano v. People*, G.R. No. 248682, October 6, 2021 [Per J. Lazaro-Javier, First Division], *citing People v. Avancena*, 810 Phil. 672, 690 (2017) [Per J. Leonen, Second Division].

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AAA261156 and BBB261156 a sum of money under the condition that he will not upload AAA261156's nude pictures.

Unlawful taking was also present in this case, even though Robert was immediately arrested after he took the red plastic bag containing the marked money. Verily, taking is considered complete the moment the offender gains possession of the thing, even if he or she did not have the opportunity to dispose of the same. There is, likewise, no need to prove the exact amount of money taken, as long as there is proof of the unlawful taking.³¹

Nevertheless, Robert assails the credibility of the witnesses and denies that he is the "Rolly Gatmaitan" who demanded money from AAA261156 through facebook messenger.

Robert's arguments must fail. It is a well-settled rule that absent any evidence that the lower courts overlooked or misappreciated the facts, their factual findings on the witness' credibility are entitled to the highest degree of respect and will not be disturbed on appeal, that is:

We have consistently ruled that on matters involving the credibility of witnesses, the trial court is in the best position to assess the credibility of witnesses since it has observed firsthand their demeanor, conduct and attitude under grilling examination. The trial court has the best opportunity to observe the demeanor of witnesses while on the stand, it can discern whether or not they are telling the truth. The unbending jurisprudence is that its findings on the matter of credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal. It is well to remind appellant that when the trial court's findings have been affirmed by the Court of Appeals, as in the case at bar, these are generally binding and conclusive upon this Court.³² (Citations omitted)

At any rate, the mobile phone of BBB261156, a Huawei Y7 containing the nude pictures and videos of AAA261156, was recovered from Robert during the entrapment operation.³³ Under the Rules of Court, a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act.³⁴ Here, Robert's unexplained possession of BBB261156's cellphone gives credence to the fact that he was the "Rolly Gatmaitan" who extorted money from AAA261156 and BBB261156.

As to the penalty, since the robbery was facilitated through, and with the use of information and communications technology, i.e. internet and social media, RA 10175 applies. Section 6 of the law provides that the penalty to be imposed shall be one degree higher than that provided for by the RPC to wit:

³¹ *Poquiz v. People*, G.R. No. 238715, January 11, 2021 [Per J. Delos Santos, Third Division].

³² *People v. Eling*, 576 Phil 665, 675 (2008) [Per J. Chico-Nazario, Third Division].

³³ *Rollo*, p. 80.

³⁴ Rules of Court, Rule 131, sec. 3(j).

SEC. 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

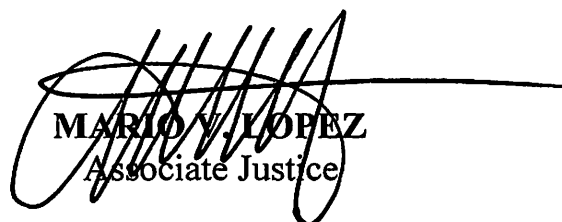
However, although the RTC and the CA correctly recognized the application of RA 10175, they erred in imposing the proper penalty.

Under Article 294(5) of the RPC, simple robbery is punishable by *prision correccional* in its maximum period to *prision mayor* in its medium period. Under Section 6 of RA 10175, the penalty to be imposed shall be one degree higher than that provided by the RPC, as amended, hence, *prision mayor* in its maximum period to *reclusion temporal* in its medium period.

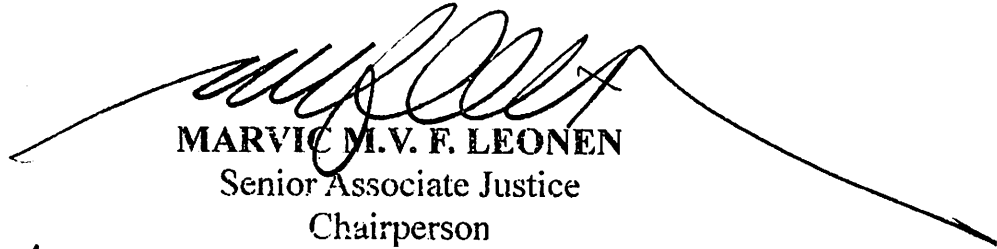
Applying the Indeterminate Sentence Law, and absent any aggravating or mitigating circumstances, the minimum term is to be taken from anywhere within the range of *prision correccional* in its maximum period to *prision mayor* in its medium period or four years, two months and one day to 10 years. On the other hand, the maximum term should be taken from the medium period of the imposable penalty or 12 years, five months and 11 days to 14 years, 10 months and 20 days. Thus, the penalty imposed by the RTC should be modified to eight years and one day of *prision mayor* as minimum, to 12 years, five months and 11 days of *reclusion temporal* as maximum.

ACCORDINGLY, the Petition is **DENIED**. The Decision dated July 5, 2021 and the Resolution dated May 25, 2022 of the Court of Appeals, Manila in CA-G.R. CR No. 43884 are **AFFIRMED** with **MODIFICATION**. **ROBERT CATAN y MASANGKAY** is found **GUILTY** of simple robbery committed with the use of information and communications technologies. He is sentenced to suffer imprisonment of eight years and one day of *prision mayor* as minimum, to 12 years, five months and 11 days of *reclusion temporal* as maximum.


SO ORDERED.


MARIO V. LOPEZ
Associate Justice

WE CONCUR:



MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



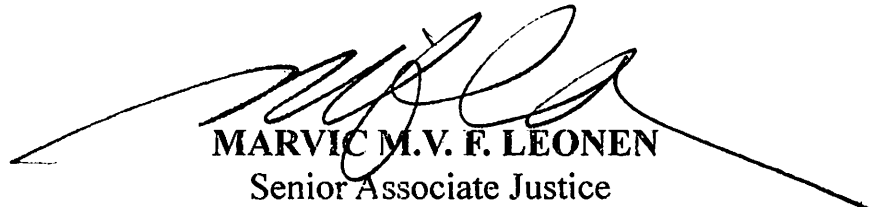
JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

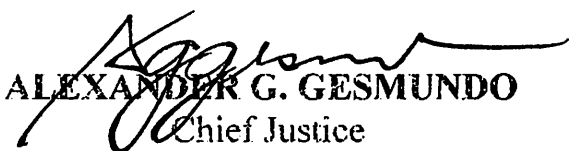
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice