

SECOND DIVISION

[G.R. No. 185860, June 05, 2009]

**ANTONIO ANDRES AND RODOLFO DURAN, PETITIONERS, VS.
THE PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

BRION, J.:

Submitted for our review in this Petition for Review on *Certiorari* are the Decision^[1] and Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CR No. 30243, affirming with modification the June 1, 2006 Decision^[3] of the Regional Trial Court (RTC), Branch 18, Malolos City.

Petitioners Antonio Andres (*Antonio*) and Rodolfo Duran (*Rodolfo*) were charged with violation of Republic Act (R.A.) No. 6539^[4] before the RTC, Branch 18, Malolos City, Bulacan, committed as follows:

That on or about the 6th day of September, 2002, in the Municipality of Sta. Maria, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping each other, with intent of gain and without the knowledge and consent of the owner, did then and there willfully, unlawfully and feloniously take, steal and carry away with them one Motorized Kawasaki Tricycle worth P140,000.00 belonging to Catalino Eugenio to the damage and prejudice of the said Catalino E. Eugenio in the amount of P140,000.00.

Contrary to law.

The petitioners pleaded not guilty to the charge laid; trial on the merits thereafter followed.

In its decision of June 1, 2006, the RTC found petitioners Antonio and Rodolfo guilty of violating R.A. No. 6539, as amended, and sentenced them to suffer the penalty of seventeen (17) years and four (4) months to thirty (30) years imprisonment.

The petitioners appealed to the CA which affirmed the RTC decision with modification, as follows:

WHEREFORE, premised considered, the appeal is DISMISSED for lack of merit. The challenged decision of the court a quo in Criminal Case No. 429-M-2003 is hereby AFFIRMED, with the MODIFICATION that the accused-appellants shall suffer the indeterminate prison term of SEVENTEEN YEARS AND FOUR MONTHS, as minimum, to THIRTY YEARS, as maximum.

Costs against the accused-appellants.

The petitioners moved to reconsider this decision, but the CA denied their motion in its resolution of December 17, 2008; hence, the present recourse to us pursuant to Rule 45 of the Rules of Court.

The petitioners argue that the CA gravely erred -

(a) in giving full credence to the testimonies of the prosecution witnesses and in disregarding the theory of the defense;

(b) in convicting them despite of the prosecution's failure to prove their guilt beyond reasonable doubt; and

(c) in imposing upon them the penalty of seventeen (17) years and four (4) months to thirty (30) years.

In support of the first two (2) assigned errors, the petitioners alleged that it was unlikely for Eres Eugenio (*Eres*) to have recognized the suspects, considering that the light coming from the nearby canteen was not directed at the suspects' faces. The petitioners further argued that Eres' attention during the carnapping was not focused on the identities of the suspects; and that he (*Eres*) never had the full opportunity to look at their faces. Moreover, the prosecution failed to establish that the tricycle's headlight was directed at the faces of the suspects when they alighted from the tricycle. The petitioners also alleged that their out-of-court identification was improperly suggestive; thus, it fell short of the "totality of circumstances" test.

The petitioners also contend that assuming they were guilty of the crime charged, the penalty imposed by the lower courts was erroneous. They argue that the information failed to allege any circumstance that would warrant the imposition of a higher penalty.

We find the petition meritorious with respect to the penalty imposed and, thus, PARTIALLY GRANT the petition. In all other respects, we AFFIRM the decision and resolution of the CA in CA-G.R. CR No. 30243.

A petition for review on *certiorari* under Rule 45 of the Revised Rules of Court limits this Court's review to errors of law, not of fact,^[5] unless the factual findings are devoid of evidentiary support or unless the assailed judgment is based on a misapprehension of facts. On factual matters, the factual findings of the CA are conclusive and beyond our review, particularly when the appellate court affirms the factual findings of the trial court, as we held in *Philippine Airlines, Inc. v. CA*.^[6] We see no palpable error or any arbitrariness in the lower courts' findings of fact and, thus, do not have any basis to review these findings.

The appropriate question, a legal one, for our review is the third assigned error - the propriety of the penalty imposed. Section 14 of R.A. No. 6539, as amended by R.A. No. 7659,^[7] provides:

SEC. 14. *Penalty for Carnapping.* - Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall,