

THIRD DIVISION

[G.R. NO. 173797, August 31, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EMMANUEL ROCHA ALIAS "NOPOY" AND RUEL RAMOS ALIAS
"AWENG," ACCUSED-APPELLANTS.**

RESOLUTION

CHICO-NAZARIO, J.:

On 12 May 1994, an Information was filed against herein accused-appellants Emmanuel Rocha y Yeban alias Nopoy (Rocha) and Ruel Ramos y Alcober alias Aweng (Ramos), along with Romeo Trumpeta y Aguaviva (Trumpeta), in the Regional Trial Court (RTC) of Quezon City, Branch 215. Another accused, Eustaquio Cenita y Omas-As (Cenita), was impleaded in the Amended Information. The Amended Information alleged a crime committed as follows:

That on or about the 28th day of September, 1993, in Quezon City, Philippines, the above-named accused, conspiring and confederating with several others, whose true identities, whereabouts and personal circumstances have not as yet been ascertained and mutually helping one another, all armed with high power (sic) guns, with intent to gain and by means of violence and intimidation against person (sic), did then and there, wilfully, unlawfully and feloniously rob the Bank of the Philippine Islands (BPI) represented by ALEX BABASA, JR. in the following manner, to wit: on the date and place aforementioned, while Alex Babasa, Jr. was placing the money contained in two (2) duffle bags inside the vault of the armored van, with the two (2) security guards on the watch, the said accused pursuant to their conspiracy and with intent to kill, opened fire at them hitting S/G ROGER TARROQUIN and S/G TITO HOMERES, thereby inflicting upon them serious and mortal wounds which were the immediate cause of their death and thereafter, accused took, robbed and carried away the said two (2) duffle bags containing P1.5 million pesos, Philippine Currency, and the 12 gauge shotgun with SN 1048245 worth P11,000.00 issued to S/G Roger Tarroquin and the cal. 38 revolver with SN 23238 worth P6,500.00 issued to S/G Tito Henares and owned by Eaglestar Security Services, Incorporated to the damage and prejudice of the offended parties in the amount aforementioned and to the heirs of the said victims.^[1]

On 6 February 1996, the RTC promulgated its Decision in Criminal Case No. Q-93-49474 finding Trumpeta, Cenita and herein accused-appellants Rocha and Ramos guilty of the crime of Robbery with Homicide, and imposing upon them the penalty of reclusion perpetua. The RTC disposed of the case as follows:

WHEREFORE, the accused ROMEO TRUMPETA y AGUAVIVA, EMMANUEL RIOCHA y YEBAN, RUEL RAMOS y ALCOBER and EUSTAQUIO CENITA y

OMAS-AS, are found GUILTY of the crime of Robbery With Homicide as charged, the prosecution having proven their guilt beyond reasonable doubt. In accordance with Article 294 of the Revised Penal Code, paragraph 1 thereof, all of the above-named accused are sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties attendant thereto. They could have been sentenced to death but for the fact that the death penalty was suspended, then the crime was committed.^[2]

In addition, all the accused are jointly and severally ordered to pay the heirs of deceased Roger Tarroquin and Tito Henares P50,000.00 each, respectively. Further, all the accused are jointly and severally ordered to indemnify the Bank of the Philippine Islands the sum of P1,600,000. With costs against the accused.^[3]

Trumpeta, Cenita and accused-appellants appealed to this Court. On 13 September 1999, however, Trumpeta filed an Urgent Motion to Withdraw Appeal,^[4] which was granted by this Court on 11 October 1999.^[5] On 29 May 2001, Cenita filed his own Urgent Motion to Withdraw Appeal,^[6] which was granted by this Court on 15 August 2001.^[7]

On 25 August 2004, pursuant to the Decision of this Court in *People v. Mateo*,^[8] we transferred the case to the Court of Appeals.

On 31 March 2006, the Court of Appeals promulgated its Decision^[9] in CA-G.R. CR H.C. No. 01765 affirming with clarification the Decision of the RTC, thus:

Wherefore, the appealed Decision is AFFIRMED with CLARIFICATION. Appellants Emmanuel Rocha @ "Nopoy" and Ruel Ramos @ "Aweng" are found guilty as co-principals in the crime of Robbery with Homicide and each is hereby sentenced to suffer the penalty of reclusion perpetua. Each one of them is ordered to pay civil indemnity in the amount of [Fifty Thousand Pesos] (P50,000.00) each to the heirs of Roger Tarroquin and Tito Homeres. All other aspects of the appealed Decision are MAINTAINED.^[10]

On 18 April 2006, accused-appellants Rocha and Ramos, through the Public Attorney's Office (PAO), appealed the Decision of the Court of Appeals to this Court.

On 13 September 2006, this Court required the parties to submit their respective supplemental briefs.

On 14 November 2006, accused-appellant Rocha, having been detained for more than seventeen years, filed a Motion to Withdraw Appeal, stating that he intends to apply for parole. He also manifested that his co-accused on this case, Romeo Trumpeta and Estaquio Cenita, had already withdrawn their appeal.

On 14 February 2007, plaintiff-appellee People of the Philippines, through the Solicitor General, filed a Comment opposing accused-appellant Rocha's Motion to Withdraw Appeal.

On 28 February 2007, accused-appellant Ramos followed suit and filed his own Manifestation with Motion to Withdraw Appeal. He likewise manifested that he had already served fourteen years in prison and that all his other co-accused had already withdrawn their appeal, and applied for executive clemency to avail himself of parole.^[11]

We are therefore determining herein whether or not the Motions to Withdraw Appeal of accused-appellants Rocha and Ramos should be granted.

According to the plaintiff-appellee,

8. It is well-settled that in cases where the penalty imposed is *reclusion perpetua*, appeal in criminal cases to this Honorable Court is a matter of right. A review of the trial court's judgment of conviction is automatic and does not depend on the whims of the convicted felon. It is mandatory and leaves the reviewing court without any option.

9. In **U.S. v. Laguna** [17 Phil. 533 (1910)], this Honorable Court first enunciated the rationale behind the Court's power of automatic review. The High Court ratiocinated:

The requirement that the Supreme Court pass upon a case in which capital punishment has been imposed by the sentence of the trial court is one having for its object simply and solely the protection of the accused. Having received the highest penalty which the law imposes, he is entitled under that law to have the sentence and all the facts and circumstances upon which it is founded placed before the highest tribunal of the land to the end that its justice and legality may be clearly and conclusively determined. Such procedure is merciful. It gives a second chance of life. **Neither the courts nor the accused can waive it.** It is a positive provision of the law that brooks no interference and tolerates no evasions. (emphasis supplied)

10. No less than this Honorable Court recognizes the value of human life that it provided an intermediate appeal or review in favor of the accused. In **People vs. Mateo**, this Honorable Court held:

While the Fundamental Law requires a mandatory review by the Supreme Court of cases where the penalty imposed is *reclusion perpetua*, life imprisonment, or death, nowhere, however has it proscribed an intermediate review. If only to ensure utmost circumspection before the penalty of death, *reclusion perpetua* or life imprisonment is imposed, the court now deems it wise and compelling to provide in these cases a review by the Court of Appeals before the case is elevated to the Supreme Court. Where life and liberty are at stake, all possible avenues to determine his guilt or innocence must be accorded an accused, and no care in the evaluation of the facts can ever be undone. A prior determination by the court of Appeals on, particularly, the factual issues, would minimize the possibility of an error in judgment. If the court of

Appeals should affirm the penalty of death, reclusion perpetua or life imprisonment, it could then render judgment imposing the corresponding penalty as the circumstances so warrant, refrain from entering judgment and elevate the entire records of the case to the Supreme Court for its final disposition.

11. Appellant's motion to withdraw appeal, therefore, contravenes this Honorable Court's power to automatically review a decision imposing the penalty of reclusion perpetua or life imprisonment. Neither appellant nor this Honorable Court can waive by mere motion to withdraw appeal, the Court's power to review the instant case.
12. Based on the above disquisition, the review by this Honorable court of appellants' conviction is mandatory and the withdrawal of his appeal can not be granted as it will contravene the applicable rules and jurisprudence.^[12]

Plaintiff-appellee also claims that accused-appellant Rocha's motion is "actually a scheme to evade the supreme penalty of *reclusion perpetua*"^[13] and that it is "obviously merely an afterthought designed to trifle not only with our procedural law, but more importantly, our judicial system."^[14] Plaintiff-appellee continues that "if indeed, appellant Emmanuel Rocha was acting in good faith, he should have withdrawn his appeal at the first opportunity. Instead, he waited for the "intermediate review" of the RTC Decision to be first resolved and after an unfavorable decision thereon that he now decides to withdraw his appeal."^[15]

We resolve to grant the Motions of accused-appellants Rocha and Ramos.

The confusion in the case at bar seems to stem from the effects of the Decision of this Court in *People v. Mateo*.^[16] In *Mateo*, as quoted by plaintiff-appellee, it was stated that "[w]hile **the Fundamental Law requires a mandatory review by the Supreme Court of cases where the penalty imposed is reclusion perpetua**, life imprisonment, or death, nowhere, however, has it proscribed an intermediate review."^[17] A closer study of *Mateo*, however, reveals that the inclusion in the foregoing statement of cases where the penalty imposed is reclusion perpetua and life imprisonment was only for the purpose of including these cases within the ambit of the intermediate review of the Court of Appeals: "[this] Court now deems it wise and compelling to provide in these cases [cases where the penalty imposed is *reclusion perpetua*, life imprisonment or death] review by the Court of Appeals before the case is elevated to the Supreme Court."^[18]

We had not intended to pronounce in *Mateo* that cases where the penalty imposed is *reclusion perpetua* or life imprisonment are subject to the mandatory review of this Court. In *Mateo*, these cases were grouped together with death penalty cases because, prior to *Mateo*, it was this Court which had jurisdiction to directly review *reclusion perpetua*, life imprisonment and death penalty cases alike. The mode of review, however, was different. *Reclusion perpetua* and life imprisonment cases were brought before this Court via a notice of appeal, while death penalty cases were reviewed by this Court on automatic review. Thus, the **erstwhile Rule 122, Sections 3 and 10**, provided as follows:

SEC. 3. *How appeal taken.*-

(a) The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.

(b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.

(c) The appeal to the Supreme Court in cases where the **penalty imposed by the Regional Trial Court is reclusion perpetua, or life imprisonment**, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, *reclusion perpetua*, or life imprisonment is imposed, shall be by **filing a notice of appeal in accordance with paragraph (a)** of this section.

(d) **No notice of appeal is necessary in cases where the death penalty is imposed by the Regional Trial Court.** The same shall be automatically reviewed by the Supreme Court as provided in section 10 of this Rule.

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SEC. 10. *Transmission of records in case of death penalty.*- In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15) day following the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

After the promulgation of *Mateo* on 7 June 2004, this Court promptly caused the amendment of the foregoing provisions, but retained the distinction of requiring a notice of appeal for *reclusion perpetua* and life imprisonment cases and automatically reviewing death penalty cases. Thus, **Rule 122, Sections 3 and 10, as amended by A.M. No. 00-5-03-SC (which took effect on 15 October 2004)**, now provides:

SEC. 3. *How appeal taken.*-

(a) The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be by notice of appeal filed with the court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.

(b) The appeal to the Court of Appeals in cases decided by the Regional