

EN BANC

[G.R. Nos. 138874-75, January 31, 2006]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FRANCISCO JUAN LARRAÑAGA ALIAS "PACO;" JOSMAN AZNAR; ROWEN ADLAWAN ALIAS "WESLEY;" ALBERT CAÑO ALIAS "ALLAN PAHAK;" ARIEL BALANSAG; DAVIDSON VALIENTE RUSIA ALIAS `TISOY TAGALOG;" JAMES ANTHONY UY ALIAS "WANGWANG;" AND JAMES ANDREW UY ALIAS "MM," APPELLANTS.

RESOLUTION

PER CURIAM:

Most jurisdictions recognize age as a barrier to having full responsibility over one's action.^[1] Our legal system, for instance, does not punish a youth as it would an adult, and it sees youthful misconduct as evidence of unreasoned or impaired judgment. Thus, in a myriad of cases, we have applied the privileged mitigating circumstance of minority embodied in Article 68 of the Revised Penal Code -- the rationale of which is to show mercy and some extent of leniency in favor of an accused who, by reason of his age, is presumed to have acted with less discernment. The case at bar is another instance when the privileged mitigating circumstance of minority must apply.

For our resolution is the motion for reconsideration^[2] filed by brothers James Anthony and James Andrew, both surnamed Uy, praying for the reduction of the penalties we imposed upon the latter on the ground that he was a minor at the time the crimes were committed.

A brief review of the pertinent facts is imperative.

On February 3, 2004, we rendered a Decision^[3] convicting the Uy brothers, together with Francisco Juan Larrañaga, Josman Aznar, Rowen Adlawan, Alberto Caño and Ariel Balansag of the crimes of **(a)** special complex crime of kidnapping and serious illegal detention with homicide and rape; and **(b)** simple kidnapping and serious illegal detention. The dispositive portion of the Decision reads:

WHEREFORE, the Decision of the Regional Trial Court, Branch 7, Cebu City in Criminal Cases Nos. CBU 45303 and 45304 is **AFFIRMED** with the following **MODIFICATIONS**:

(1) In Criminal Case No. CBU-45303, appellants **FRANCISCO JUAN LARRAÑAGA alias `PACO;** **JOSMAN AZNAR; ROWEN ADLAWAN alias `WESLEY;** **ALBERTO CAÑO alias `ALLAN PAHAK;** **'ARIEL BALANSAG;** and **JAMES ANDREW UY alias` MM,** are found guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with homicide and rape and are sentenced to

suffer the penalty of **DEATH** by lethal injection;

(2) In Criminal Case No. CBU-45304, appellants **FRANCISCO JUAN LARRAÑAGA** alias '**PACO**'; **JOSMAN AZNAR**; **ROWEN ADLAWA N** alias '**WESLEY**'; **ALBERTO CAÑO** alias '**ALLAN PAHAK**'; **ARIEL BALANSAG**; and **JAMES ANDREW UY** alias '**MM**,' are found guilty beyond reasonable doubt of simple kidnapping and serious illegal detention and are sentenced to suffer the penalty of **RECLUSION PERPETUA**;

(3) In Criminal Case No. CBU-45303, appellant **JAMES ANTHONY UY** **who was a minor at the time the crime was committed**, is likewise found guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with homicide and rape and is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA**; in Criminal Case No. CBU-45304, he is declared guilty of simple kidnapping and serious illegal detention and is sentenced to suffer the penalty of TWELVE (12) years of *prision mayor* in its maximum period, as **MINIMUM**, to seventeen (17) years of *reclusion temporal* in its medium period, as **MAXIMUM**;

(4) Appellants are ordered to pay jointly and severally the heirs of Marijoy and Jacqueline, in each case, the amounts of **(a)** P100,000.00 as civil indemnity; **(b)** P25,000.00 as temperate damages; **(c)** P150,000.00 as moral damages; and **(d)** P100,000.00 as exemplary damages.

Three (3) Justices of the Court maintain their position that RA 7659 is unconstitutional insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority that the law is constitutional and the death penalty can be lawfully imposed in the case at bar.

In accordance with Article 83 of The Revised Penal Code, as amended by Section 25 of RA No. 7659, upon the finality of this Decision let the records of this case be forthwith forwarded to the Office of the President for the possible exercise of Her Excellency's pardoning power.

SO ORDERED.

On March 23, 2004, the Uy brothers filed a motion for reconsideration anchored on the following grounds:

I

ACCUSED JAMES ANDREW S. UY WAS, LIKE HIS YOUNGER BROTHER JAMES ANTHONY S. UY, A MINOR AT THE TIME THE OFFENSES AT BAR ALLEGEDLY HAPPENED LAST JULY 16, 1997;

II

THE IDENTITY OF THE DEAD BODY OF THE WOMAN FOUND IN TAN-AWAN, CARCAR, CEBU LAST JULY 18, 1997 WAS NEVER