

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 5, 2019** which reads as follows:

“G.R. No. 224909 – LLOYD DELA CRUZ y ALMOQUERA, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.

After reviewing the Petition¹ and its annexes, inclusive of the Court of Appeal’s (CA) Decision² dated January 26, 2016 in CA-G.R. CR No. 36651 and the Regional Trial Court’s (RTC) Judgment³ dated December 12, 2013 in Crim. Case No. 1871-M-2007, the Court resolves to **DENY** the petition for failure of the petitioner Lloyd Dela Cruz y Almoquera (Dela Cruz) to sufficiently show that the CA committed any reversible error in the challenged Decision as to warrant the exercise of this Court’s discretionary appellate jurisdiction.

Robbery under Article 294, paragraph 5 of the Revised Penal Code (RPC) has the following elements: a) intent to gain (*animus lucrandi*); b) unlawful taking (*asportation*) of personal property belonging to another; and c) violence against or intimidation of any person.⁴

In the case at bar, all of the abovementioned elements of the crime of Robbery are present. Dela Cruz unlawfully took the victim Emily Lazaro’s (victim) cellphone with the use of violence. To recall,

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¹ *Rollo*, pp. 10-27.

² *Id.* at 29-36. Penned by Associate Justice Manuel M. Barrios with Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio Diy, concurring.

³ *Id.* at 58-68. Penned by Presiding Judge Olivia V. Escubio-Samar.

⁴ *Eduarte v. People*, 603 Phil. 504, 514 (2009).

Dela Cruz covered the victim's mouth and pointed a *balisong* at her.⁵ Thereafter, after forcibly taking the victim's cellphone, Dela Cruz forced the victim to kneel on the muddy road and mauled her relentlessly, resulting to contusions and abrasions on her body.⁶

The CA was correct in ruling that Dela Cruz was positively identified by the victim herself.⁷ To further strengthen the identification of Dela Cruz, the victim's testimony was corroborated by another witness, Agnes Mendoza, who personally knew Dela Cruz since childhood.⁸ In addition, Dela Cruz cannot raise the defense of denial and alibi as he was not able to prove that it was physically impossible for him to be at the scene of the crime.⁹ He did not even testify as to the distance of his house from the place where the incident occurred.¹⁰

The CA was likewise correct in ruling that Dela Cruz's defense that the stolen cellphone was not recovered from him is without merit.¹¹ That the cellphone was not found in Dela Cruz's possession does negate the existence of *animus lucrandi*, considering that there exists a substantial interval of time (around 3 hours)¹² between the actual taking of the cellphone and the subsequent arrest of Dela Cruz, giving him enough opportunity to dispose of the stolen property.¹³

Therefore, the CA did not commit any reversible error in affirming Dela Cruz's conviction for the crime of Robbery under Article 294, paragraph 5 of the RPC.

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⁵ *Rollo*, p. 31.

⁶ *Id.*

⁷ *Id.* at 34.

⁸ *Id.*

⁹ *Id.* at 66.

¹⁰ *Id.*

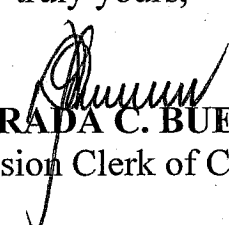
¹¹ *Id.* at 33.

¹² *Id.*

¹³ *Id.*; *Eduarte v. People*, supra note 4.

SO ORDERED.” *Inting, J., additional member per Special Order 2726 dated October 25, 2019.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

By:

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