

THIRD DIVISION

[G.R. No. 91483, February 27, 1998]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SAMUEL MAHUSAY Y FLORES AND CRISTITUTO PASPOS @
"TOTO" Y CATARIG, ACCUSED-APPELLANTS.**

D E C I S I O N

ROMERO, J.:

Appellants Samuel Mahusay and Cristituto Paspos, were charged with the crime of robbery with rape before the Regional Trial Court of Naval, Subprovince of Biliran, Leyte. After trial on the merits, on November 7, 1989, the lower court declared that appellants' guilt were proved beyond reasonable doubt. From this conviction, appellants filed a notice of appeal.

On November 18, 1987, we rendered a decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the appeal is DISMISSED and the decision of the trial court finding appellants Samuel Mahusay and Cristituto Paspos guilty beyond reasonable doubt of the crime of robbery with rape is hereby AFFIRMED with the MODIFICATION that appellants shall each suffer three (3) terms of *reclusion perpetua*. In line with recent jurisprudence,^[1] appellants are ordered to indemnify Maria Luisa Bughao in the amount of P50,000.00 each as indemnity. Costs against appellants.

SO ORDERED."

On December 29, 1997, however, Action Officer Homobono R. Lachica Jr., addressed a letter to this Court seeking clarification regarding the imposition of the penalty therein insofar as Mahusay is concerned.

A perusal of the records would show that on May 12, 1995, Mahusay filed an urgent motion to withdraw his appeal which was accordingly granted by this Court in a resolution dated July 17, 1995. Consequently, an entry of judgment was made on September 7, 1995 and the letter of transmittal of such entry was sent on April 18, 1996.

ACCORDINGLY, we resolved to MODIFY the dispositive portion of the decision, *viz.*:

"WHEREFORE, in view of the foregoing, the appeal is DISMISSED and the decision of the trial court finding appellant Cristituto Paspos guilty beyond reasonable doubt of the crime of robbery with rape is hereby AFFIRMED with the MODIFICATION that appellant shall each suffer three (3) terms of *reclusion perpetua*. In line with recent jurisprudence,^[2] appellants is ordered to indemnify Maria Luisa Bughao in the amount of P50,000.00 as indemnity. Costs against appellants.

SO ORDERED."