



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 233-2018

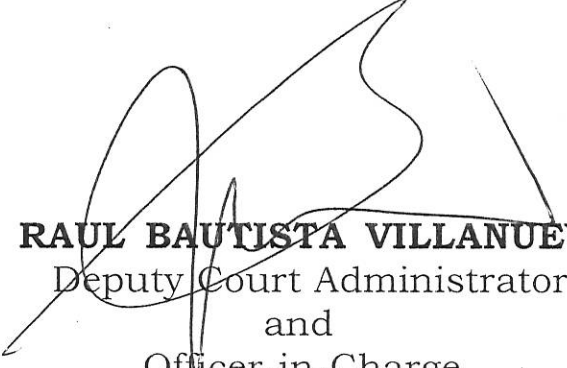
**TO : ALL JUDGES AND CLERKS OF COURT
OF THE FIRST AND SECOND LEVEL
COURTS**

**SUBJECT : REOPENING OF CRIMINAL CASES
INVOLVING FOUR (4) COUNTS OF ESTAFA
AND REMANDING OF THE MOTION TO
FIX PENALTY TO THE REGIONAL TRIAL
COURT OF MANDALUYONG CITY FOR THE
DETERMINATION OF THE PROPER
PENALTIES IN ACCORDANCE WITH
REPUBLIC ACT NO. 10951**

Pursuant to the 19 September 2018 Resolution in **G. R. No. 218573** (*People of the Philippines v. Myrna Porcioncula alias Myrna Aquino*), the Court, Third Division, **REOPENED** Criminal Cases Nos. 17568-SP to 17571-SP involving four (4) counts of Estafa under Article 315, par. 2(a) of the Revised Penal Code, and **REMANDED** the Motion to Fix Penalty to the Regional Trial Court of Mandaluyong City for the determination of the proper penalties in accordance with Republic Act No. 10951, the full text of which is appended herein as Annex "A" for immediate reference.

For your information, guidance and strict compliance.

8 November 2018


RAUL BAUTISTA VILLANUEVA
Deputy Court Administrator
and
Officer-in-Charge
Office of the Court Administrator
(Per Special Order No. 12-2018
dated 31 October 2018)



Republic of the Philippines
Supreme Court
Manila

SPECIAL THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **September 19, 2018**, which reads as follows:

“G.R. No. 218573 (*People of the Philippines v. Myrna Porcioncula alias Myrna Aquino*). - In this Motion to Fix Penalty in accordance with R.A. 10951 dated February 27, 2018, petitioner Myrna Porcioncula prays for the fixing of the new penalties against her in all her criminal cases in view of Republic Act No. 10951¹ (*R.A. 10951*) and the ruling in *Hernan v. Sandiganbayan*.²

Porcioncula was charged with Illegal Recruitment in Large Scale and four (4) counts of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code before the Regional Trial Court (RTC) of San Pablo City, Branch 32 in Criminal Cases Nos. 17567-SP, 17568-SP, 17569-SP, 17570-SP, and 17571-SP entitled *People of the Philippines v. Myrna Porcioncula*. In the RTC’s Joint Decision dated June 2, 2012, it found her guilty of the crimes charged. On August 29, 2014, the Court of Appeals (CA) affirmed the RTC Decision, with modification as to the rate of interest on all the damages, which must be six percent (6%).

In a Resolution³ dated August 15, 2016 in G.R. No. 218573, the Court affirmed the CA Decision dated August 29, 2014, with modification on the impossible penalties. For the offense of Illegal Recruitment in Large Scale in Criminal Case No. 17567-SP, the Court sentenced her to suffer the penalty of life imprisonment and ordered her to pay a fine of ₱100,000.00, plus six percent (6%) *per annum* from the finality of this judgment until fully paid. For the four (4) counts of Estafa, the Court sentenced her to suffer the indeterminate penalty of imprisonment for four (4) years and two (2) months of *prision correccional*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, and to pay Esmeralda Alvero the amount of ₱162,750.00, plus six percent (6%) *per annum* from the finality of this judgment until fully paid, in Criminal Case No. 17568-SP. In Criminal Case

¹ “An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, otherwise known as ‘The Revised Penal Code, as Amended’.”

² G.R. No. 217874, December 5, 2017, penned by Associate Justice Diosdado M. Peralta.

³ *Rollo*, pp. 40-41.

No. 17569-SP, the Court imposed the indeterminate penalty of imprisonment of four (4) years and two (2) months of *prision correccional*, as minimum, to fourteen (14) years, eight (8) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to pay Fe Belaro the amount of ₱111,900.00, plus six percent (6%) *per annum* from the finality of this judgment until fully paid. In Criminal Case No. 17570-SP, the Court sentenced Porcioncula to suffer the indeterminate penalty of imprisonment for four (4) years and two (2) months of *prision correccional*, as minimum, to seven (7) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum, and to pay Laida De Gracia the amount of ₱32,000.00, plus six percent (6%) *per annum* from the finality of this judgment until fully paid. Lastly, in Criminal Case No. 17571-SP, the Court imposed the indeterminate penalty of imprisonment of four (4) years and two (2) months of *prision correccional*, as minimum, to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum, and to pay Rosalyn Wagan the amount of ₱30,000.00, also, plus six percent (6%) *per annum* from the finality of this judgment until fully paid.

Per Entry of Judgment,⁴ the Court's Resolution in G.R. No. 218573 became final and executory on November 28, 2016.

On August 29, 2017, R.A. 10951 was enacted into law providing for, among other matters: (1) adjustment of the values of the property and damage on which various penalties are based, taking into consideration the present value of money; and (2) its explicit retroactive effect if favorable to the accused.

On December 5, 2017, the Court ruled in *Hernan v. Sandiganbayan*⁵ that the passage of R.A. 10951 is an exceptional circumstance allowing, not only the re-opening of an already terminated case, but also the recall of an Entry of Judgment for purposes of re-computing the indeterminate period of imprisonment to be served by a convicted accused involving crimes affected by the adjustment of penalties in the said law.

In her Motion to Fix Penalty in accordance with R.A. 10951, Porcioncula contends that considering the length of time during which she has been detained, she respectfully prays for the fixing of the penalties in all her estafa cases. This law would be favorable to her since the bracket of the amounts involved in her cases fit into the amendatory law pursuant to the third and fourth paragraphs of Section 85, R.A. 10951.

The Court resolves to reopen Criminal Cases Nos. 17568-SP, 17569-SP, 17570-SP, and 17571-SP, and to remand to the trial court *a quo* Porcioncula's Motion to Fix Penalty in accordance with R.A. 10951, for the adjustment of her penalties.

⁴ *Id.* at 58-59.

⁵ *Supra* note 2.

In the case of *In Re: Correction/Adjustment of Penalty Pursuant to Republic Act No. 10951 in Relation to Hernan vs. Sandiganbayan – Rolando Elbanbuena y Marfil, Petitioner*,⁶ the Court recognized that in view of the passage of R.A. 10951 and the ruling in *Hernan v. Sandiganbayan*, there will be an anticipated influx of petitions coming from convicted accused involving crimes affected by the adjustment of penalties. To address this concern, the Court laid down the following guidelines:

I. Scope.

These guidelines shall govern the procedure for actions seeking (1) the modification, based on amendments introduced by R.A. No. 10951, of penalties imposed by final judgments; and (2) the immediate release of the petitioner-convict on account of full service of the penalty/penalties, as modified.

II. Who may file.

The Public Attorney's Office, the concerned inmate, or his/her counsel/representative, may file the action.

III. Where to file.

The petition shall be filed with the Regional Trial Court exercising territorial jurisdiction over the locality where the petitioner-convict is confined. The case shall be raffled and referred to the branch to which it is assigned within three (3) days from filing of the petition.

IV. Pleadings.

(A) Pleadings allowed. – The only pleadings allowed to be filed are the petition and the comment from the OSG. No motions for extension of time, or other dilatory motions for postponement, shall be allowed. The petition must contain a certified true copy of the Decision sought to be modified and, where applicable, the *mittimus* and/or certification from the Bureau of Corrections as to the length of the sentence already served by the petitioner-convict.

(B) *Verification*. – The petition must be in writing and verified by the petitioner convict himself[herself]

V. Comment by the OSG.

Within ten (10) days from notice, the OSG shall file its comment to the petition.

VI. Effect of failure to file comment.

Should the OSG fail to file the comment within the period provided, the court, *motu proprio*, or upon motion of the petitioner-convict, shall render judgment as may be warranted.

VII. Judgment of the court.

To avoid any prolonged imprisonment, the court shall promulgate judgment no later than ten (10) calendar days after the lapse of the period to file comment. The judgment shall set forth the following:

a. The penalty/penalties imposable in accordance with RA No. 10951;

⁶ G.R. No. 237721, July 31, 2018.

- b. Where proper, the length of time the petitioner-convict has been in confinement (whether time allowance for good conduct should be allowed); and
- c. Whether the petitioner-convict is entitled to immediate release due to complete service of his sentence/s, as modified in accordance with R.A. No. 10951.

The judgment of the court shall be immediately executory, without prejudice to the filing before the Supreme Court of a special civil action under Rule 65 of the Revised Rules of Court where there is showing of grave abuse of discretion amounting to lack or excess of jurisdiction.

VIII. Applicability of the regular rules.

The Rules of Court shall apply to the special cases herein provided in a suppletory capacity insofar as they are not inconsistent therewith.⁷

Accordingly, the Court finds it proper to reopen Criminal Cases Nos. 17568-SP, 17569-SP, 17570-SP, and 17571-SP involving four (4) counts of Estafa under Article 315, par. 2(a) of the RPC, and remand the instant motion, which is in the nature of a petition for correction/adjustment of penalty, to the RTC exercising territorial jurisdiction over the locality where Porciuncula is confined, *i.e.*, RTC of Mandaluyong City, where the Correctional Institute for Women, Nueve de Pebrero, Barangay Addition Hills, Mandaluyong City is found.

WHEREFORE, premises considered, Criminal Cases Nos. 17568-SP, 17569-SP, 17570-SP, and 17571-SP, involving four (4) counts of Estafa under Article 315, par. 2(a) of the RPC, are hereby **REOPENED**, and the Motion to Fix Penalty in Accordance with R.A. 10951 is hereby **REMANDED** to the Regional Trial Court of Mandaluyong City for the determination of the proper penalties in accordance with Republic Act No. 10951.

Let copies of the said motion, together with the attached documents, be furnished the RTC of Mandaluyong City for raffle and assignment, and the Office of the Solicitor General for its Comment to the same within ten (10) days from notice.

Let copies of this Resolution be also furnished the Office of the Court Administrator for dissemination to the First and Second Level Courts, as well as to the Presiding Justices of the appellate courts, the Department of Justice, the Office of the Solicitor General, the Public Attorney's Office, the Office of the Prosecutor General, the Directors of the National Penitentiary and Correctional Institution for Women, and the Integrated Bar of the Philippines for their information, guidance, and appropriate action.

⁷ *Id.*

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court
9/19/18

ULEP AND ULEP LAW OFFICE
Counsel for Accused-Appellant
2005 Visayan Ave. cor. Ma. Luisa St.
Sampaloc, Manila

COURT OF APPEALS
CA G.R. CR HC No. 05694
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Ms. Myrna Porcioncula @ Myrna Aquino
c/o The Superintendent
CORRECTIONAL INSTITUTION FOR WOMEN
1550 Mandaluyong City

CSupt. Marites D. Luceño
Superintendent
CORRECTIONAL INSTITUTION FOR WOMEN
1550 Mandaluyong City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 32, San Pablo City
4000 Laguna

Hon. Executive Judge
REGIONAL TRIAL COURT
1550 Mandaluyong City

The Clerk of Court
REGIONAL TRIAL COURT
1150 Mandaluyong City

Hon. Jose Midas P. Marquez
Court Administrator
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Raul Bautista Villanueva
Hon. Jenny Lind R. Aldecoa-Delorino
Deputy Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Lilian C. Barribal-Co
Hon. Maria Regina Adoracion Filomina M. Ignacio
Assistant Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Resolution
SPECIAL THIRD DIVISION

- 6 -

G.R. No. 218573
September 19, 2018

Hon. Romeo F. Barza
Presiding Justice
COURT OF APPEALS
1000 Manila

Hon. Amparo M. Cabotaje-Tang
Presiding Justice
SANDIGANBAYAN
Sandiganbayan Centennial Building
COA Compound, Commonwealth Avenue
cor. Batasan Road, 1126 Quezon City

Hon. Menardo I. Guevarra
Secretary
DEPARTMENT OF JUSTICE
1000 Manila

Solicitor General Jose C. Calida
OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Atty. Persida V. Rueda-Acosta
Chief Public Attorney
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1101 Quezon City

Atty. Richard Anthony Fadullon
Acting Prosecutor General
Office of the Prosecutor General
DEPARTMENT OF JUSTICE
1000 Manila

Director General Ronald Dela Rosa
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Secretariat
INTEGRATED BAR OF THE PHILIPPINES
Dofia Julia Vargas Avenue
Ortigas Center, 1600 Pasig City

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

218573

len/

20
(1)
URES