



Republic of the Philippines
Supreme Court
Manila

EN BANC

IN RE: CORRECTION/
ADJUSTMENT OF PENALTY
PURSUANT TO REPUBLIC ACT
NO. 10951, IN RELATION TO
HERNAN v. SANDIGANBAYAN.

G.R. No. 240347

Present:

SAMUEL SAGANIB y LUTONG,
Petitioner.

CARPIO,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
TIJAM,
A. REYES, JR.,
GESMUNDO, and
J. REYES, JR., *JJ.*

Promulgated:

August 14, 2018

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RESOLUTION

TIJAM, J.:

Before Us is a Petition for Release,¹ praying for the immediate release of Samuel Saganib y Lutong (petitioner) pursuant to the provisions of Republic Act (R.A.) No. 10951² and this Court's ruling in *Hernan v. Sandiganbayan*.³

¹ *Rollo*, pp. 3-13.

² 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. Approved on August 29, 2017.

³ G.R. No. 217874, December 5, 2017.

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The Facts

Petitioner was convicted of the crime of *Estafa* under Article 315, paragraph 2(a) of the Revised Penal Code for pretending to be a lawyer, a certain “Atty. Amos Saganib Sabling” that will help private complainants to facilitate the release of their friend from jail for ₱100,000.00 as attorneys fees. Despite receipt of the said amount, however, the prisoner was never released and worse, he died in jail.⁴ The dispositive portion of the Decision⁵ dated January 28, 2011 of the Regional Trial Court (RTC) of Baguio City, Branch 3 in Criminal Case No. 27487-R, reads:

WHEREFORE, [petitioner] is hereby **FOUND GUILTY BEYOND REASONABLE DOUBT**, for the crime of *Estafa*, and he is hereby sentenced to suffer the penalty of imprisonment from **FIVE (5) YEARS of prision correccional as minimum to NINE (9) YEARS of prision mayor as maximum**, at the National Bilibid Prisons (NBP), Muntinlupa City, Metro Manila, and to indemnify private complainant Ruben Iglesias the amount of One Hundred Thousand Pesos (₱100,000.00) as Actual Damages, with legal interest from January 2007, until the amount is fully paid; Moral Damages of Fifty Thousand Pesos (₱50,000.00) each to private complainants Nenita Catabay, and Ruben Iglesias; and Exemplary Damages of Thirty Thousand Pesos (₱30,000.00) each to the said private complainants, plus costs of suit.

IT IS SO ORDERED.⁶

The RTC Decision became final and executory on February 12, 2012 per the said court's Entry of Judgment⁷ dated February 20, 2012.

Per his Prison Record,⁸ petitioner already has two (2) years, seven (7) months, and six (6) days time served with earned good conduct time allowance as of June 6, 2018.

Meanwhile, R.A. No. 10951 was promulgated on August 29, 2017, which provides under Article 315, paragraph 3 that *estafa*, involving an amount of over ₱40,000.00 but not exceeding ₱1,200,000.00 shall be punishable by *arresto mayor* in the maximum period to *prision correccional* in its minimum period.

Applying, thus, the Indeterminate Sentence Law and invoking our ruling in *Hernan*, allowing for the re-opening of an already terminated case and the recall of an Entry of Judgment for purposes of modifying/reducing the penalty to be served, petitioner comes before this Court averring that he is entitled to have his sentence modified in accordance with R.A. No. 10951

⁴ *Rollo*, p. 38.

⁵ Penned by Judge Fernando Vil Pamintuan; *id.* at 30-40.

⁶ *Id.* at 40.

⁷ *Id.* at 41.

⁸ *Id.* at 29.

and be released immediately from confinement in view of the aforesaid circumstances.

The Issue

Is petitioner entitled to the relief prayed for?

Ruling of the Court

While the petitioner correctly invoked R.A. No. 10951 for the modification of his sentence, in the recent case of *In Re: Correction/Adjustment of Penalty pursuant to R.A. No. 10951 in Relation to Hernan v. Sandiganbayan – Rolando Elbanbuena y Marfil*,⁹ this Court, however, ruled that the determination of whether the petitioner is entitled to immediate release would necessarily involve ascertaining, among others, the actual length of time actually served and whether good conduct time allowance should actually be allowed, and thus should be better undertaken by the trial court, which is relatively more equipped to make findings of both fact and law. In the said case, the Court also had the occasion to issue Guidelines considering the anticipated influx of similar petitions, in the interest of justice and efficiency, which states:

I. *Scope.*

These guidelines shall govern the procedure for actions seeking (1) the modification, based on the 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 petition.

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 the 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 a certification from the Bureau of Corrections as to the length of the sentence already served by petitioner-convict.

⁹ G.R. No. 237721, July 31, 2018.



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

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 R[.]A[.] No. 10951;
- b. Where proper, the length of time the petitioner-convict has been in confinement (and 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 a 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.¹⁰

WHEREFORE, the petition is **GRANTED**. The Decision dated January 28, 2011 of the Regional Trial Court of Baguio City, Branch 3 in Criminal Case No. 27487-R is hereby **REMANDED** to the said court for the determination of: (1) the proper penalty in accordance with Republic Act No. 10951; and (2) whether petitioner Samuel Saganib y Lutong is entitled to immediate release on account of full service of his sentence, as modified.

¹⁰ Id.

Let copies of this Resolution be 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, Office of the Solicitor General, Public Attorney's Office, Prosecutor General's Office, 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.

SO ORDERED.

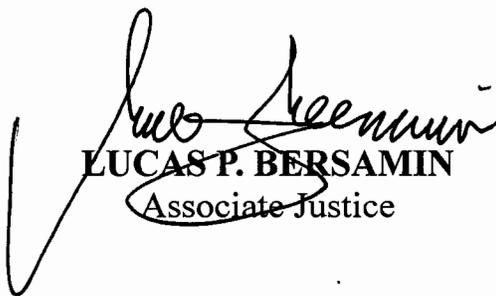

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

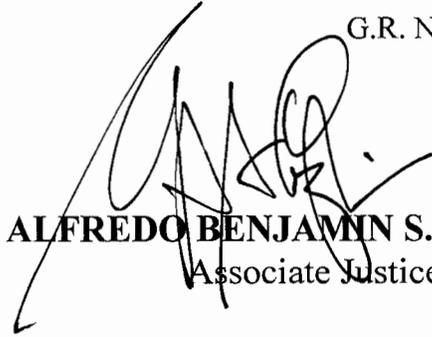

MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice



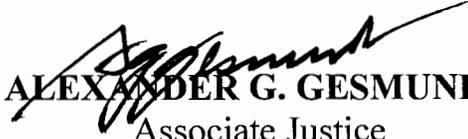
FRANCIS H. JARDELEZA
Associate Justice



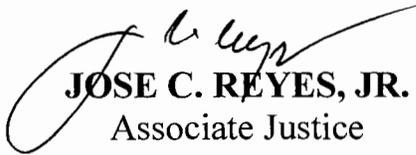
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



JOSE C. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



ANTONIO T. CARPIO
Senior Associate Justice

(Per Section 12, Republic Act No. 296,
The Judiciary Act of 1948, As Amended)

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court