



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

“G.R. No. 237968 (Re: Petition for Habeas Corpus for the Production and Release of Rommel Lachica y Ventura from the Maximum Security Compound of New Bilibid Prison, Raoul Lachica, in behalf of Rommel Lachica y Ventura v. P/Supt. II Richard W. Schwarzkopf, Jr., in his present capacity as Superintendent of New Bilibid Prison, Muntinlupa City). – Before the Court is a Petition¹ for Review on *Certiorari* seeking the reversal of the Decision² dated October 13, 2017 and the Resolution³ dated February 28, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 151899. The CA affirmed the Resolution⁴ dated March 17, 2017 of Branch 276, Regional Trial Court (RTC), Muntinlupa City in Sp. Proc. No. 17-001 that denied the petition for *habeas corpus* filed by Raoul Lachica (petitioner) on behalf of his brother, detainee Rommel Lachica y Ventura (Rommel).

The Antecedents

Rommel was charged with Robbery with Homicide on January 16, 1979 before Branch 168, RTC of Pasig City. As the case involved a non-bailable offense, he was immediately detained.⁵

Rommel was also charged with one count of Robbery with Serious Physical Injuries and one count of Illegal Possession of Firearms in the RTC of Manila. Although both charges arose out of a single incident, the

¹ *Rollo*, pp. 28-47.

² *Id.* at 10-21; penned by Associate Justice Ramon R. Garcia, with Associate Justices Edwin D. Sorongon and Maria Filomena D. Singh, concurring.

³ *Id.* at 24-25.

⁴ *Id.* at 182-189; rendered by Presiding Judge Antonietta Pablo-Medina.

⁵ *Id.* at 11.

cases were raffled to and tried separately by Branches 4 and 24 of the RTC of Manila.⁶

On March 29, 1979, Branch 4 of the RTC of Manila found Rommel guilty beyond reasonable doubt of Robbery with Serious Physical Injuries and meted out the penalty of one (1) year and one (1) day of *prision correccional*, as minimum, to four (4) years, two (2) months, and one (1) day of *prision correccional*, as maximum. On April 4, 1979, Rommel was transferred to the Maximum Security Compound of the New Bilibid Prison (NBP).⁷

On March 18, 1980, Rommel pleaded guilty to Illegal Possession of Firearms. The RTC, Branch 24 of Manila found him guilty and imposed on him the straight penalty of five (5) years of *prision correccional*.⁸

On October 2, 1985, RTC Branch 168 of Pasig City found Rommel guilty beyond reasonable doubt of Robbery with Homicide for which he was sentenced to suffer *reclusion perpetua*.⁹

On March 18, 1986, seven years after his detention on January 16, 1979, Rommel escaped from prison.¹⁰

More than 30 years later, or on May 20, 2016, the authorities recaptured and recommitted Rommel to the NBP.¹¹

Petition for Habeas Corpus

On January 5, 2017, petitioner filed a Petition for Writ of *Habeas Corpus*¹² with the RTC of Muntinlupa City on behalf of his brother, Rommel. Petitioner alleged that there was no longer any legal justification for Rommel to be detained and argued that even though Rommel was convicted of three offenses, all penalties therefor had already been served and/or prescribed.¹³

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 12; see Partial Decision rendered by Acting Presiding Judge Nicolas P. Lapeña, Jr., *id.* at 134-160.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 175-180.

¹³ *Id.* at 12.

On February 10, 2017, P/Supt. II Richard W. Schwarzkopf, Jr. (respondent), through the Office of the Solicitor General (OSG), filed an Opposition to the Petition for *Habeas Corpus* wherein he contended that there is no merit in petitioner's claim that Rommel had already fully served the penalties for the two lesser offenses for which he was convicted; and that there is also no merit in his alternative position that the service of sentence for all three convictions had already prescribed. Respondent further contended that the prescriptive period for the two other penalties had not yet even started to run considering that Rommel only started to serve the sentence of *reclusion perpetua* for the complex crime of Robbery with Homicide.¹⁴

Ruling of the RTC

On March 17, 2017, the RTC issued a Resolution¹⁵ that denied the Petition for Writ of *Habeas Corpus* for lack of merit. It ruled that contrary to the allegation of petitioner, the sentences for Robbery with Serious Physical Injuries and Illegal Possession of Firearms had not yet been served.¹⁶

The RTC held that when Rommel escaped from prison on March 18, 1986, he was only serving the penalty for Robbery with Homicide for which he was sentenced to suffer the penalty of *reclusion perpetua*; he has not yet begun serving his sentences for the two other offenses. Thus, the penalties for the two other offenses cannot be considered as having prescribed.¹⁷

Ruling of the CA

Petitioner went to the CA by way of Notice of Appeal.¹⁸ He argued that the RTC erred in not ordering the release of Rommel from confinement; in not ruling that Rommel had fully served his sentence, either for Robbery with Serious Physical Injuries or for Illegal Possession of Firearms before he escaped from prison on March 18, 1986; and in not ruling that the penalty for the same offenses already prescribed when he was recommitted to prison on May 20, 2017 because he had been at large for thirty (30) years, two (2) months, and two (2)

¹⁴ *Id.* at 13.

¹⁵ *Id.* at 182-189.

¹⁶ *Id.* at 14.

¹⁷ *Id.*

¹⁸ *Id.* at 212-213.

days.¹⁹

On October 13, 2017, the CA rendered its Decision²⁰ that denied the appeal and affirmed the RTC ruling.²¹ The CA also denied petitioner's Motion for Reconsideration on February 28, 2018.²²

Present Petition

Petitioner is now before the Court and alleges that:

- I. The Court of Appeals erred in not ruling that the *successive service rule* under Article 70 of the Revised Penal Code applies when the prison sentences are imposed on the same date or when service of the prison sentences would overlap.
 - a. The Court of Appeals erred in not ruling that Detainee [Rommel] Lachica had fully served out the maximum term of the prison sentence imposed for *Robbery with Physical Injuries* on March 17, 1983, or long before the prison sentence for *Robbery with Homicide* was imposed on him on October 2, 1985.
 - b. The Court of Appeals erred in not ruling that Detainee [Rommel] Lachica had partly served out the prison sentence imposed on him for *Illegal Possession of Firearms* on March 18, 1980, or before the prison sentence for *Robbery with Homicide* was imposed on October 2, 1985.
- II. The Court of Appeals erred in not ruling that the penalty imposed on Detainee [Rommel] Lachica for *Illegal Possession of Firearms* had already prescribed pursuant to Article 90 of the Revised Penal Code.
- III. The Court of Appeals erred in not setting free detainee [Rommel] Lachica, as there is no lawful cause to further hold him in custody.²³

Petitioner argues that the successive service rule applies when prison sentences are imposed on the same day or service thereof overlap. He ratiocinated that Rommel was confined in prison on January 16, 1979 before he was convicted of any offense; and he was convicted as

¹⁹ *Id.* at 16-17.

²⁰ *Id.* at 10-21.

²¹ *Id.* at 20.

²² *Id.* at 24-25.

²³ *Id.* at 32-33.

follows: (a) on March 29, 1979, for Robbery with Serious Physical Injuries, with the maximum term of four (4) years, two (2) months, and one (1) day of *prision correccional*; (b) on March 18, 1980 for Illegal Possession of Firearms, with the straight penalty of five (5) years; and (c) on October 2, 1985 for Robbery with Homicide, with the sentence of *reclusion perpetua*.²⁴

Petitioner asserts that Rommel already fully served the sentence for Robbery with Serious Physical Injuries and partly served the sentence for Illegal Possession of Firearms when his sentence for Robbery with Homicide was handed out.²⁵ Petitioner invokes Article 70 of the Revised Penal Code (RPC) which excludes from its coverage the penalty or penalties “first imposed” which had already been “served out.”²⁶

Petitioner further asserts that Rommel’s penalty for Illegal Possession of Firearms had already prescribed. Applying Articles 92 and 93 of the RPC, the straight five-year prison term, imposed on Rommel for Illegal Possession of Firearms, prescribes in 10 years.²⁷

On the other hand, respondent, through the OSG, asserts in its Comment²⁸ that the petition should be dismissed outright for failing to attach the duplicate original or certified true copy of the judgment subject of the appeal; the CA did not err in holding that the NBP possesses authority in law to detain Rommel, as he has yet to serve his prison sentence for Illegal Possession of Firearms and Robbery with Serious Physical Injuries and Robbery with Homicide; Rommel was serving his sentence for Robbery with Homicide at the time he escaped from prison; the prescription of penalties for Illegal Possession of Firearms and Robbery with Serious Physical Injuries has yet to run; even if Rommel were to serve his sentence in accordance with the order of promulgation of the three decisions, he would still have to serve his *reclusion perpetua* sentence for his Robbery with Homicide conviction; and the petition for *habeas corpus* is not the proper remedy to assail the restraint on Rommel’s liberty, as he is detained in the NBP under a legal process.²⁹

²⁴ *Id.* at 33.

²⁵ *Id.*

²⁶ *Id.* at 36.

²⁷ *Rollo*, p. 40.

²⁸ *Id.* at 109-128.

²⁹ *Id.* at 113-114.

Petitioner filed a Reply³⁰ reiterating his arguments.

Issue

Whether the petition for *habeas corpus* should be granted.

Our ruling

The petition is denied.

Article 70 of the RPC provides:

Article 70. *Successive service of sentences.* - x x x x.

In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out.

For the purpose of applying the provisions of the next preceding paragraph the respective severity of the penalties shall be determined in accordance with the following scale:

1. Death,
2. Reclusion perpetua,
3. Reclusion temporal,
4. Prision mayor,
5. Prision correccional,
6. Arresto mayor,
7. Arresto menor,
8. Destierro,
9. Perpetual absolute disqualification,
10. Temporary absolute disqualification.
11. Suspension from public office, the right to vote and be voted for, the right to follow a profession or calling, and
12. Public censure.

x x x x.

Article 70 of the RPC is clear. When a culprit has to serve two or more penalties, he should serve them simultaneously if the nature of the penalties so permit; otherwise said penalties shall be executed successively, following the order of their respective severity.³¹ By reason

³⁰ *Id.* at 269-273.

³¹ *Evangelista v. Hon. Sistoza*, 414 Phil. 874, 879 (2001); *Santiago v. Director of Prisons*, 77 Phil. 927, 929 (1947).

of the nature of the penalties of imprisonment, *i.e.*, deprivation of liberty, they cannot be served simultaneously.³² Thus, where the accused is sentenced to two or more terms of imprisonment, the terms should be served successively in the order of severity.³³

Here the most severe penalty imposed on Rommel is *reclusion perpetua* for his conviction for Robbery with Homicide; followed by a straight penalty of five (5) years for Illegal Possession of Firearms; and one (1) year and one (1) day to four (4) years, two (2) months, and one (1) day of *prision correccional* for Robbery with Serious Physical Injuries.

Following Article 70 of the RPC, when Rommel escaped the NBP on March 18, 1986, he is deemed to have served seven years of the 40-year duration of *reclusion perpetua*, reckoned from his immediate detention upon being charged with Robbery with Homicide on January 16, 1979. This is following Article 29³⁴ of the RPC, which allows for the deduction of preventive imprisonment from the term of imprisonment served.

As he is then deemed to be serving his sentence for Robbery with Homicide at the time he escaped from prison in 1986, the service of his sentence for the two other offenses has not yet started to run. Consequently, the rules on prescription cannot apply in the cases of Illegal Possession of Firearms and Robbery with Serious Physical Injuries.

Petitioner adamantly argues, however, that Article 70 of the RPC applies only when the accused is sentenced on the same date to two or more prison terms, or when the prison terms would overlap.³⁵

³² The penalties that can be simultaneously served are: (1) perpetual absolute disqualification, (2) perpetual special disqualification, (3) temporary absolute disqualification, (4) temporary special disqualification, (5) suspension, (6) *destierro*, (7) public censure, (8) fine and bond to keep the peace, (9) civil interdiction, and (10) confiscation and payment of costs. These penalties, except *destierro*, can be served simultaneously with imprisonment. *In the Matter of the Petition for Habeas Corpus of Lagran*, 415 Phil. 506. 510 (2001).

³³ *Id.*

³⁴ Article 29. *Period of preventive imprisonment deducted from term of imprisonment.* - Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, x x x.

³⁵ *Rollo*, p. 36.

The Court is not persuaded.

Basic is the principle that where the law does not distinguish, neither should the courts distinguish. *Ubi lex non distinguit, nec nos distinguere debemus*. “There should be no distinction in the application of a law where none is indicated.”³⁶

Another time-honored principle is that penal laws should be construed strictly against the state and liberally in favor of the accused. When there is doubt as to the interpretation of criminal laws, all must be resolved in favor of the accused.³⁷

As correctly pointed out by the OSG, applying petitioner’s reasoning would actually be disadvantageous to Rommel. Following petitioner’s arguments: Rommel should be deemed to have already served his sentence for the Robbery with Serious Physical Injuries case and to have begun serving his sentence in the Illegal Possession of Firearms case when he escaped from prison; because Rommel escaped from prison for more than thirty (30) years, his 5-year penalty for illegal possession has already prescribed;³⁸ and the *reclusion perpetua* sentence for the Robbery with Homicide case should also be deemed to have prescribed.³⁹

Petitioner’s arguments are erroneous.

The sentence of imprisonment cannot be served simultaneously, save only in cases where the nature of the penalties so permit.⁴⁰ Where the accused is sentenced to two or more terms of imprisonment, as in the case, the terms should be served successively.⁴¹

As Rommel’s sentence for Robbery with Homicide and Illegal Possession of Firearms cannot be considered as having been served simultaneously, the penalty of *reclusion perpetua* cannot be deemed to have prescribed.

Moreover, a penalty imposed cannot be considered prescribed in the absence of the element of service of sentence. The prescription of

³⁶ *People v. Sandiganbayan (Fourth Division)*, 581 Phil. 419, 429 (2008).

³⁷ *People v. Valdez*, 774 Phil. 723, 747 (2015).

³⁸ *Rollo*, p. 123.

³⁹ *Id.* at 44.

⁴⁰ *In the Matter of the Petition for Habeas Corpus of Lagran*, *supra* note 32.

⁴¹ *Id.*

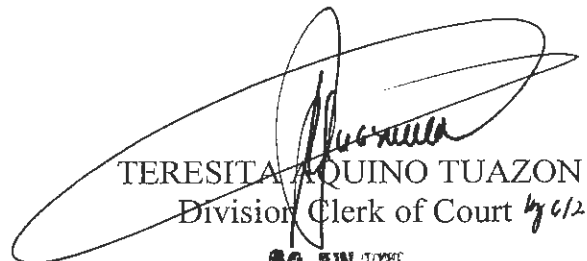
penalties found in Article 93⁴² of the RPC applies only to those who are convicted by a final judgment and are serving the sentence which consists of deprivation of liberty. The period for prescription of penalties begins only when the convict evades service of sentence by escaping during the term of his/her sentence.⁴³

Finally, the Court agrees with the CA that because Rommel's detention is by reason of the service of his sentences, the RTC correctly denied his application for a writ of *habeas corpus*. The writ of *habeas corpus* may not be availed of when the person in custody is under a judicial process or by virtue of a valid judgment.⁴⁴

WHEREFORE, the petition is **DENIED**. The Decision dated October 13, 2017 and the Resolution dated February 28, 2018 of the Court of Appeals in CA-G.R. SP No. 151899 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court by c/2
02 JUN 2022

⁴² Article 93. *Computation of the prescription of penalties.* - The period of prescription of penalties shall commence to run from the date when the culprit should evade the service of his sentence, and it shall be interrupted if the defendant should give himself up, be captured, should go to some foreign country with which this Government has no extradition treaty, or should commit another crime before the expiration of the period of prescription.

⁴³ *Pangan v. Hon. Gatbalite*, 490 Phil. 49, 59 (2005).

⁴⁴ *Go v. Dimagiba*, 499 Phil. 445, 456 (2005).

FERNANDEZ AND ASSOCIATES LAW FIRM (reg)
Counsel for Petitioner
Unit #130 M Place Mall
116 Panay Avenue
Barangay South Triangle
Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 276
Muntinlupa City
(Sp. Proc. No. 17-001)

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 151899

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