



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 3, 2022 which reads as follows:

“G.R. No. 241913 (*Ruben D. Garcia v. People of the Philippines*). – This is a Petition for Review on *Certiorari*¹ assailing the Decision² dated July 27, 2018 and the Resolution³ dated September 4, 2018 of the Sandiganbayan in SB-17-A/R-0040, which affirmed with modification the Decision⁴ dated February 28, 2017 of the Regional Trial Court of Daet, Camarines Norte, Branch 39 (RTC), in Criminal Case No. 12416, which, in turn, found the accused Ruben D. Garcia (Garcia) guilty beyond reasonable doubt of the crime of Malversation of Public Funds, defined and penalized under Article 217 of the Revised Penal Code (RPC).

Garcia was charged with the crime of Malversation of Public Funds in an Information⁵ dated February 10, 2005, which reads:

That sometimes [*sic*] on January 2001 to May 23, 2002 at Barangay Magang, municipality of Daet, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being an accountable officer of Barangay Magang as barangay treasurer and as such, is responsible for the funds collected and received by him by reason of said position, did, then and there willfully, unlawfully, feloniously and fraudulently and with grave abuse of confidence, misappropriate, embezzle and take away the collection of the said barangay coming from the real property taxes and clearances amounting to P60,360.00, Philippine Currency, which he appropriated and converted to his personal use, to the damage and prejudice of the government.

CONTRARY TO LAW.⁶

¹ *Rollo*, pp. 12-37.

² *Id.* at 39-57. Penned by Associate Justice Rafael R. Lagos, and concurred in by Associate Justices Maria Theresa V. Mendoza-Arcega and Mary Ann E. Corpus-Mañalac.

³ *Id.* at 59-63.

⁴ *Id.* at 220-224. Penned by Judge Winston S. Racoma.

⁵ *Id.* at 64.

⁶ *Id.*

During arraignment on May 25, 2006, Garcia, assisted by the Public Attorney's Office, pleaded "not guilty" to the crime charged. The preliminary conference was set on July 20, 2006.⁷

During the pre-trial on August 5, 2008, Garcia admitted that he was the *barangay* treasurer of *Barangay Magang*, Daet, Camarines Norte (*Barangay Magang*) from 2001 to 2002. The prosecution identified and marked its exhibits and submitted the names of its witnesses. The defense, on the other hand, had no stipulation for admission or exhibits to be marked, but submitted the names of its witnesses. Thereafter, trial of the case ensued.⁸

The prosecution presented three witnesses, namely: 1) Eduardo C. Asiao (Asiao), the *Barangay* Captain of *Barangay Magang*; 2) Elmer C. Nagera (Nagera), the Municipal Accountant of Daet, Camarines Norte in 2001 to 2002; and 3) Emerlita B. Laureles (Laureles), the Head of the Finance Committee of *Barangay Magang* in 2002.⁹

The prosecution's case, built on the testimonies of its witnesses, is summarized as follows:

On August 16, 2002, upon his assumption as the duly elected *Punong Barangay* of *Barangay Magang*, Asiao was informed as per report of Nagera that there was a deficit/shortage in the *barangay's* remittance of funds by Garcia to the Municipality of Daet during the period from January 8, 2001 to May 23, 2002. When Asiao confronted Garcia, the latter promised that he will pay the discrepancy, but eventually failed to do so. He came to know later that a demand letter was sent by the Municipal Legal Officer to Garcia.

The deficit/shortage stemmed from the collections of Garcia of all fees and taxes that accrue to the *barangay* which require him to issue the corresponding official receipts coming from the Office of the Municipal Treasurer, and thereafter, deposit the amounts to the depositary bank and record the transactions in the journal of tax receipts which he then submits to the Municipal Accountant for bookkeeping.

From the summary of collections, Nagera found that the total amount of collections from January 8, 2001 to May 23, 2002 was ₱177,800.95, but the amount deposited in the depositary bank was only ₱117,440.61—the discrepancy being in the amount of ₱60,360.34. Upon conduct of audit by Nagera of all official Receipts issued to determine if indeed the collections were deposited by Garcia, he found the discrepancy which he reported to Asiao who, upon authority of the *Sangguniang Barangay*, filed the complaint for Malversation of Public Funds against Garcia.

⁷ Id. at 40.

⁸ Id.

⁹ Id.

The extent of the participation of Garcia which gave rise to the complaint, as testified by the prosecution witnesses, was summarized by the RTC, as follows:¹⁰

Accused Ruben Garcia y Dominguez was the Barangay Treasurer of Barangay Magang, Daet, Camarines Norte from May 1997 to August 2002. In 2002, Eduardo Asiao was elected as the punong barangay of Barangay Magang. Upon assumption to office on August 16, [2002], he discovered that there was a deficit in their remittance of funds to the municipality per report of the Municipal Accountant. The witness confronted Garcia and the latter promised to pay the discrepancy. Asiao came to know later that the Municipal Legal Officer of Daet already sent a demand letter to Garcia; but the latter did not heed the demand. Hence, he initiated the complaint against the accused for Malversation of Public Funds. The accused, on the other hand, ceased reporting for work without prior notice. He also did not appear before the Finance Committee of the barangay headed by witness Emelita Laureles, despite the committee's request for him to explain the undeposited amounts. For failure of the accused to appear for three times, the Sangguniang Bayan prepared a resolution authorizing Punong Barangay Asiao to file the complaint. On cross-examination, Asiao admitted that he was not the one who personally took hold of and examined the forms, official receipts and other documents, and instead relied only on the report made by another person.

The Municipal Accountant of Daet, Elmer Nagera y Carrascal, averred in his testimony that he was the one who reviewed the transactions of barangay Magang and discovered that the deposits made by the treasurer were short of the actual transactions reflected in the receipts. The witness explained that he was the immediate supervisor of the Central Barangay Accounting Unit that supervises the transactions of the different barangays particularly their collections and disbursements based on the documents they submit. The collections cover all fees and taxes that accrue to the barangay and for which the barangay treasurer must issue corresponding official receipts from the Office of the Municipal Treasurer. The witness detailed the tasks that the barangay treasurer must perform in this regard. First, the barangay treasurer makes a requisition for the issuance of blank receipts from the Municipal Treasurer. The barangay treasurer then issues original receipts for every payment to, or collection made by, the barangay. He thereafter deposits the amounts collected to the depositary bank and afterward, enters the transactions in the journal of tax receipts submitted to the Municipal Accountant for bookkeeping. According to the witness, the Accounting Unit of the municipality records all the collection in their collection journal. It was from this summary of collections that the

¹⁰ Id. at 41.

total amount of collections made in Barangay Magang from January 8, 2001 to May 23, 2002 was Php 177,800.95. However, the amounts deposited as reflected in the statement of the Development Bank of the Philippines (DBP) was only [Php 117,440.61]. There is a discrepancy in the amount of PhP 60,360.34. Nagera explained that he conducted the audit by going over all the Official Receipts issued by the accused during the period in question and then compared the same with the amount [stated] in the bank statement from the DBP. By conducting this audit, the witness determines whether the collections on the barangay were indeed deposited. On account of his findings, the witness sent a letter to the barangay captain of Magang to inform him about the deficit, copy furnished the Commission on Audit and the Sangguniang Barangay of Magang.¹¹

After the testimony of the last witness, the prosecution formally offered the following documentary exhibits:

Exhibit "A"	Sworn Statement of Eduardo Asiao dated August 18, 2004
Exhibit "B"	Sworn Statement of Emelita B. Laureles
Exhibit "B-2"	Certification from DILG
Exhibit "C"	Summary of Collection
Exhibit "D" to "D-11"	Official Receipts
Exhibit "E"	Landbank Statement
Exhibit "F"	Letter of Elmer Nagera to Barangay Captain Pio Carrascal dated August 2, 2002
Exhibit "F-1"	Heat-sealed plastic container
Exhibit "G"	DBP Bank Statement for 2001
Exhibit "H"	DBP Bank Statement for 2002
Exhibit "I"	Resolution No. 14
Exhibit "J"	Resolution No. 38
Exhibit "K"	Certificate of Appointment
Exhibit "K-1"	Oath of Office
Exhibit "L"	Updated List of Barangay Officials
Exhibit "M"	Demand Letter. ¹²

After the RTC admitted the foregoing documents in evidence, the prosecution rested its case. Garcia, on the other hand, manifested that he will no longer present his case due to his medical condition as he has just suffered a stroke.¹³ The case was submitted for decision.

On March 2, 2017, the RTC promulgated its Decision¹⁴ finding Garcia guilty beyond reasonable doubt of the crime of Malversation of Public Funds. The dispositive portion reads:

¹¹ Id. at 41-42.

¹² Id. at 42-43.

¹³ Id. at 43.

¹⁴ The Decision is dated February 28, 2017.

WHEREFORE, all the foregoing premises considered, the accused, **RUBEN GARCIA y DOMINGUEZ** is hereby found **GUILTY** beyond reasonable doubt of the crime of Malversation of Public Funds.

The accused is sentenced to suffer the Indeterminate penalty of imprisonment from TWELVE (12) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS of *Prision Mayor* as MINIMUM, to EIGHTEEN (18) YEARS and EIGHT (8) MONTHS of *Reclusion Temporal* as MAXIMUM.

He is also ordered to pay the fine of FORTY EIGHT THOUSAND EIGHT HUNDRED TWO PESOS and EIGHT CENTAVOS (PhP48,802.08).

The accused shall also suffer the penalty of perpetual special disqualification.

SO ORDERED.¹⁵

During the promulgation of the judgment of conviction, Garcia failed to appear; hence, it was made in accordance with Rule 120, Section 6, paragraph 4 of the Rules of Court.¹⁶

On March 17, 2017, Garcia filed a Motion for Leave of Court to Avail of Remedies¹⁷ before the RTC, attributing his failure to attend the promulgation of judgment to his inability to walk due to a swollen foot. On the same day, he filed his Notice of Appeal.¹⁸

In an Order¹⁹ dated March 31, 2017, the RTC, acting on the Motion and the Comment thereon, as well as the Reply of Garcia, granted the motion in the interest of substantial justice. Accordingly, the Notice of Appeal was given due course.²⁰

In the assailed Decision²¹ dated July 27, 2018, the Sandiganbayan denied the appeal for lack of merit and affirmed the RTC Decision with modification. The dispositive portion reads, as follows:

WHEREFORE, in light of the foregoing, the appeal is **DISMISSED** for lack of merit. The assailed Decision dated February 28, 2017 of the Regional Trial Court of Daet, Camarines Norte, Branch 224, in Criminal Case No. 12416 finding him guilty beyond reasonable doubt of the crime of *Malversation of Public Funds* is hereby **AFFIRMED** with the modification that the indeterminate penalty to be imposed should be two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to seven (7) years, four (4) months and one (1) day of *prision mayor*, as maximum.

¹⁵ *Rollo*, p. 224.

¹⁶ *Id.* at 44.

¹⁷ A copy was not attached to the petition.

¹⁸ *Rollo*, p. 44.

¹⁹ A copy was not attached to the petition.

²⁰ *Rollo*, p. 44.

²¹ *Id.* at 39-57.

Accused -appellant is also ordered to pay the Fine of Forty-Eight Thousand Eight Hundred Two Pesos and Eight Centavos (PhP48,802.08). Accused-appellant shall also suffer the penalty of perpetual special disqualification.

SO ORDERED.²²

Garcia filed a Motion for Reconsideration²³ dated August 15, 2018 which was denied by the Sandiganbayan in the assailed Resolution²⁴ dated September 4, 2018.

Aggrieved, Garcia filed this Petition where he raised the sole issue of whether the Sandiganbayan gravely erred in affirming with modification the RTC Decision which found him guilty beyond reasonable doubt of the crime charged, despite the patent insufficiency of evidence on record to establish his guilt.²⁵

In its Comment,²⁶ the respondent People argued that the Sandiganbayan correctly affirmed the RTC's conviction of Garcia for the crime of Malversation of Public Funds based on the documentary and testimonial evidence offered by the prosecution and the concurrence of the elements thereof; and also considering that Garcia was unable to explain the cash shortage of the collection funds in his custody, giving rise to a *prima facie* presumption of malversation. Moreover, the bank statements in question were not objected to during trial. The present petition does not advance any cogent reason to disturb the affirmance of the RTC's Decision as it merely reiterated the arguments already raised and passed upon by the Sandiganbayan.²⁷

In his Reply,²⁸ Garcia reiterated that the prosecution failed to establish his guilt of the crime of Malversation of Public Funds beyond reasonable doubt. The elements of the crime do not obtain in the present case. There is insufficient evidence to show that he appropriated, took, misappropriated, or consented to the taking of public funds or property. The Sandiganbayan heavily relied on the factual findings of the RTC, specifically the official receipts allegedly issued by Garcia. Despite these being material, they are absent from the case records.²⁹

The sole issue for consideration is whether the Sandiganbayan erred in affirming with modification the RTC Decision finding Garcia guilty beyond reasonable doubt of the crime of Malversation of Public Funds.

²² Id. at 55-56.

²³ Id. at 250-254.

²⁴ Id. at 59-63.

²⁵ Id. at 19.

²⁶ Id. at 276-296.

²⁷ Id. at 282.

²⁸ Id. at 318-328.

²⁹ Id. at 319-320.

We deny the Petition.

The crime of Malversation of Public Funds is defined and penalized under Art. 217 of the RPC, as follows:

Article 217. Malversation of public funds or property; Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

1. The penalty of *prision correccional* in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.

2. The penalty of *prision mayor* in its minimum and medium periods, if the amount involved is more than two hundred pesos but does not exceed six thousand pesos.

3. The penalty of *prision mayor* in its maximum period to reclusion temporal in its minimum period, if the amount involved is more than six thousand pesos but is less than twelve thousand pesos.

4. The penalty of *reclusion temporal*, in its medium and maximum periods, if the amount involved is more than twelve thousand pesos but is less than twenty-two thousand pesos. If the amount exceeds the latter, the penalty shall be reclusion temporal in its maximum period to *reclusion perpetua*.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use.

The law was designed to protect the government and to penalize erring public officials and conspiring private individuals who are responsible for the loss of public funds and property by reason of corrupt motives or neglect or disregard of duty.³⁰ The elements of the crime are as follows:

1. that the offender is a public officer;
2. that he had the custody or control of funds or property by reason of the duties of his office;
3. that those funds or property were public funds or property for which he was accountable; and

³⁰ *Quiñon v. People*, 438 Phil. 146, 154-155 (2002).

4. that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.³¹

As correctly found by the RTC and the Sandiganbayan, all the elements of the crime are present in this case. As for the first element, Garcia is a public officer as he was the *barangay* treasurer of *Barangay Magang* at the time of the commission of the offense. As for the second and third elements, he had in his custody and control the fees and taxes accruing to the *barangay* by reason of the duties of his office. He likewise had the duty to issue corresponding official receipts from the Office of the Municipal Treasurer for the fees and taxes paid to him.

As for the fourth element, We find that the prosecution was able to establish that Garcia appropriated, took, or misappropriated the cash deficit.

In the crime of Malversation of Public Funds, all that is necessary for conviction is proof that the accountable officer had received the public funds and that he failed to account for the said funds upon demand without offering a justifiable explanation for the shortage.³² Direct evidence of personal misappropriation by the accused is hardly necessary as long as the accused cannot explain satisfactorily the shortage in his account.³³

Art. 217 of the RPC expressly provides that the failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use. When these circumstances are present, a “presumption of law” arises that there was malversation of public funds or properties.³⁴

In *Fuertes v. The Senate of the Philippines*,³⁵ We held that—

This Court has upheld the constitutionality of disputable presumptions in criminal laws. The constitutional presumption of innocence is not violated when there is a logical connection between the fact proved and the ultimate fact presumed. When such *prima facie* evidence is unexplained or not contradicted by the accused, the conviction founded on such evidence will be valid. However, the prosecution must still prove the guilt of the accused beyond reasonable doubt. The existence of a disputable presumption does not preclude the presentation of contrary evidence.³⁶ (Citations omitted)

³¹ *Cantos v. People*, 713 Phil. 344, 353-354 (2013). (Citation omitted)

³² See *Cantos vs. People*, supra at 355.

³³ *Mesina v. People*, 760 Phil. 607, 619 (2015).

³⁴ *Wa-acon v. People*, 539 Phil. 485, 493 (2006).

³⁵ G.R. No. 208162, January 7, 2020.

³⁶ *Id.*

This presumption, however, is disputable and may be rebutted by evidence showing that the public officer has fully accounted for the alleged cash shortage.

In this case, the RTC found that, in the conduct of audit by Nagera of the official receipts issued by Garcia corresponding to his collections of *barangay* fees and taxes, and the bank statements issued by the DBP, there was a shortage in the deposits made by Garcia. The total payments reflected in the official receipts from January 8, 2001 to May 23, 2002 is ₱177,800.95, while in his audit of the bank statements, the deposits made with the DBP amount to only ₱117,440.61, there being a shortage of ₱60,360.34.

When Garcia was asked to account for the shortage of ₱60,360.34 by Asiao, he promised to return the shortage amount but eventually failed to do so.³⁷ Neither did he respond nor act on the letter of demand dated August 20, 2002 sent by Daet Municipal Legal Officer Omar E. Manlapaz. When requested to appear and explain before the *Barangay* Committee on Finance and Appropriation, Garcia still failed to appear.³⁸

Given the fact that the shortage amount was established by the prosecution, and Garcia failed to return the same, the RTC correctly applied the presumption of law under the last paragraph of Art. 217— that the failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use.

In his Petition, Garcia assails the application of the aforesaid presumption and claims that the bank statements issued by the DBP, which were presented by the prosecution to arrive at the shortage of ₱60,360.00 by comparing it with the official receipts and the Summary of Collections issued by Garcia, were not properly identified and authenticated by any witness. Hence, these are inadmissible hearsay evidence.³⁹

The contention is bereft of merit.

Rule 130, Section 36 of the Rules of Court provides the rule on hearsay evidence, as follows:

Section 36. Testimony generally confined to personal knowledge; hearsay excluded. — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.

³⁷ TSN, September 27, 2011, pp. 3-5.

³⁸ TSN, October 2, 2012, pp. 2-4.

³⁹ *Rollo*, p. 27.

Any evidence—whether oral or documentary—is hearsay if its probative value is not based on the personal knowledge of the witness, but on that of some other person who is not on the witness stand.⁴⁰ It is evidence not of what the witness knows himself but of what he has heard from others.⁴¹

In this case, Nagera testified that during the conduct of audit of the collections of the *barangay* treasurer for transactions entered during the period of January 8, 2001 to May 23, 2002, he found that there was a shortage after the Summary of Collections he prepared—taken from the total amounts stated in the official receipts in 12 bundles (amounting to ₱177,800.95)—was compared with the bank statements of the DBP for 2001 and 2002. The entries in the bank statements reflected a total of ₱117,450.61, or a shortage of ₱60,360.34. Note that the DBP bank statements were admitted not as independent evidence but primarily as part of the testimony of Nagera. Nagera testified that, as municipal treasurer, he requested the DBP to issue the bank statements as part of his audit of *Barangay* Magang's collections in relation to the total deposits made with the DBP by Garcia.

It is significant to note that Garcia was not deprived of the opportunity to challenge Nagera's testimony relative to the bank statements since his counsel was able to cross-examine Nagera during trial. More importantly, Garcia could have refuted Nagera's claim by presenting his own evidence. Unfortunately, he chose not to present his evidence after the prosecution had rested its case.⁴² Hence, Garcia's argument that the RTC's admission of the bank statements violated the hearsay rule cannot be given credence.

Assuming *arguendo* that the DBP bank statements are considered hearsay evidence, the RTC did not err in admitting the same in light of this Court's ruling on waiver of objections arising out of failure to object at the proper time. In *Abrenica v. Gonda*,⁴³ We ruled:

Now then, it has been repeatedly laid down as a rule of evidence that a protest or objection against the admission of any evidence must be made at the proper time, and that if not so made it will be understood to have been waived. The proper time to make a protest or objection is when, from the presentation of the proof, the inadmissibility of the evidence is, or may be, inferred.

x x x x

“Objection to the introduction of evidence should be made before the question is answered. When so such objection is made, a motion to strike out the answer

⁴⁰ *PNOC Shipping & Transport Corporation v. Court of Appeals*, 358 Phil. 38, 56 (1998).

⁴¹ *People v. Manhuyod, Jr.*, 352 Phil. 866, 880 (1998).

⁴² *Rollo*, p. 43.

⁴³ 34 Phil. 739 (1916). See also *Estate of Bueno v. Estate of Peralta*, G.R. No. 205810, September 9, 2020.

ordinarily comes too late.” (De Dios Chua Soco vs. Veloso, 2 Phil. Rep., 658).

x x x x

“After a question has been repeatedly asked and answered without objection, it is too late to object to its repetition on the ground that the answer is in itself inadmissible.” (Mckee vs. Nelson, 4 Cow., 355; 15 Am. Dec., 384.)

“An objection to the admission of evidence on the ground of incompetency, taken after the testimony has been given, is too late.”⁴⁴

A perusal of the records would show that no objection or protest was made by Garcia, through his counsel, to the admission of the testimony of Nagera with respect to the bank statements and Summary of Collection, thus, the objection to their admissibility as evidence came too late.

In *Heirs of Mariano v. City of Naga*,⁴⁵ We held:

It is well-settled that evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment. This is true even if by its nature the evidence is inadmissible and would have surely been rejected if it had been challenged at the proper time.⁴⁶

There is abundance of authority in Our jurisprudence that where no objection is made to the question propounded to the witness until after the question is answered, the objectionable feature of the evidence is deemed waived.⁴⁷

Moreover, by the cross-examination conducted by Garcia’s counsel on Nagera and other witnesses, Garcia’s right to object has been tacitly waived, thus, the testimonial evidence cannot be considered as inadmissible.

We emphasize that Garcia’s conviction was not based solely on the audit findings which were, in turn, based on the DBP bank statements, but on the totality of the prosecution’s evidence. Garcia’s guilt was proved beyond reasonable doubt by the testimonies of the witnesses: *first*, Asiao’s testimony that Garcia promised to return the shortage but eventually failed to do so; *second*, Garcia failed to respond or act on the letter of demand dated August 20, 2002, sent by the Daet Municipal Legal Officer; and *third*, when Garcia was invited on three separate occasions to appear and explain before the *Barangay* Committee on Finance and Appropriation, he failed to appear. Moreover, Garcia failed to present his own evidence before the RTC after

⁴⁴ *Abrenica v. Gonda*, supra at 745-747.

⁴⁵ 827 Phil. 531 (2018).

⁴⁶ Id. at 568. Citations omitted.

⁴⁷ See *Commissioner of Internal Revenue v. De La Salle University, Inc.*, 799 Phil. 141, 177 (2016).

the prosecution had rested its case. This failure to present his own evidence to counter the version of facts established by the prosecution works against him.

This Court also notes the discrepancy deposited to the DBP based on Nagera's testimony, which amounts to ₱117,440.61, and the RTC's finding of the amount of shortage which is equivalent to ₱128,998.87. After the same has been deducted from the total collection of ₱177,800.95, the missing funds that Garcia is accountable for still amount to ₱48,802.08. Thus, the RTC imposed the penalty pursuant to paragraph 4 of Art. 217.

However, in light of the enactment of Republic Act No. 10951,⁴⁸ the penalty imposed for malversation of public funds or property involving an amount which is Forty Thousand Pesos (₱40,000.00) but does not exceed One Million Two Hundred Thousand Pesos (₱1,200,000.00) is *prision mayor* in its minimum and medium periods. Since the amendatory law is favorable to Garcia, the penalty provided therein shall be applied. There being no mitigating or aggravating circumstances, Garcia was correctly sentenced by the Sandiganbayan to an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to seven (7) years, four (4) months and one (1) day of *prision mayor*, as maximum.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated July 27, 2018 and the Resolution dated September 4, 2018 of the Sandiganbayan in SB-17-A/R-0040 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court rn 4/17/18

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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⁴⁸ Entitled "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 August 29, 2017.

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The Hon. Presiding Judge
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(Crim. Case No. 12416)

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