



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated October 17, 2022, which reads as follows:

“G.R. No. 259280 (*Bryon James Cabral y Lazo @ James v. People of the Philippines*). — The Court resolves to **DENY** the Petition for Review on *Certiorari* for failure to sufficiently show any reversible error in the assailed judgment as to warrant the exercise of this Court’s discretionary appellate jurisdiction pursuant to Section 6, Rule 45 of the Rules of Court, and for lack of merit in the appeal pursuant to Sec. 5, Rule 45 in relation to Sec. 5 (b), Rule 56 of the Rules of Court.¹

The penalty imposed by the Court of Appeals should, however, be modified. The penalty for robbery under Article 294(5) of the Revised Penal Code (RPC) is *prision correccional* in its maximum period to *prision mayor* in its medium period. On the other hand, under Sec. 28 of Republic Act No. (RA) 10591,² the penalty for illegal possession of firearm loaded with ammunition is as follows:

SEC. 28. Unlawful Acquisition, or Possession of Firearms and Ammunition. – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

x x x x

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

¹ *Miranda v. People*, 680 Phil. 126, 134-136 (2012).

² Entitled “AN ACT PROVIDING FOR A COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.” Approved: May 29, 2013.

- (1) Loaded with ammunition or inserted with a loaded magazine[.]

Meanwhile, Section 29 of RA 10591 provides:

SEC. 29. *Use of Loose Firearm in the Commission of a Crime.* – The use of a loose firearm, when inherent in the commission of a crime punishable under the Revised Penal Code or other special laws, shall be considered as an aggravating circumstance: **Provided, That if the crime committed with the use of a loose firearm is penalized by the law with a maximum penalty which is lower than that prescribed in the preceding section for illegal possession of firearm, the penalty for illegal possession of firearm shall be imposed in lieu of the penalty for the crime charged:** Provided, further, That if the crime committed with the use of a loose firearm is penalized by the law with a maximum penalty which is equal to that imposed under the preceding section for illegal possession of firearms, the penalty of *prisión mayor* in its minimum period shall be imposed in addition to the penalty for the crime punishable under the Revised Penal Code or other special laws of which he/she is found guilty.³

Since the penalty for illegal possession of firearm loaded with ammunition (*prisión mayor* in its maximum period)⁴ is higher than the penalty for robbery (*prisión correccional* in its maximum period to *prisión mayor* in its medium period), the penalty for the former crime should be applied in accordance with the above-quoted Sec. 29 of RA 10591. To reiterate, the penalty is *prisión mayor* in its maximum period.

There being no aggravating or mitigating circumstances, the maximum imposable penalty shall be within the range of the medium term of *prisión mayor* in its maximum period, or 10 years, 8 months and 1 day to 11 years and 4 months. Applying the Indeterminate Sentence Law, the minimum period should be the penalty next lower in degree, or *prisión mayor* in its medium period, which is from 8 years and 1 day to 10 years. Thus, the proper indeterminate prison term that petitioner must suffer is 9 years and 4 months of *prisión mayor* in its medium period, as minimum, to 11 years and 4 months of *prisión mayor* in its maximum period, as maximum.⁵

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated September 24, 2020 and the Resolution dated February 21, 2022 of the Court of Appeals in CA-G.R. CR No. 43365 are hereby **AFFIRMED** with **MODIFICATION**. Petitioner Bryon James Cabral y Lazo @ James is **GUILTY** beyond reasonable doubt of Robbery aggravated with the use of loaded loose firearm under Article 294(5) of the Revised Penal Code in relation to Section 29 of Republic Act No. 10591. Accordingly, he is sentenced to suffer the indeterminate penalty of imprisonment of 9 years and 4

³ Emphasis supplied.

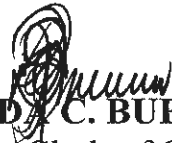
⁴ *Supra*.

⁵ *Id.*

months of *prisión mayor*, as minimum, to 11 years and 4 months of *prisión mayor*, as maximum.

SO ORDERED.” Zalameda, J., on official leave.

By authority of the Court:


LIBRADA C. BUENA,
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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