



Republic of the Philippines
Supreme Court
Bacolod City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 29, 2022, which reads as follows:

“G.R. No. 259823 (*Keeyen Red Mataganas v. People of the Philippines*). — The petitioner’s Motion for Extension of thirty (30) days within which to file a petition for review on *certiorari* is **GRANTED**, counted from the expiration of the reglementary period.

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision² dated July 27, 2021 and the Resolution³ dated March 11, 2022 of the Court of Appeals (CA) in CA-G.R. CR No. 43409 which affirmed with modification the Judgment⁴ dated February 28, 2019 of the Regional Trial Court (RTC) of Legazpi City, Branch 2, in Criminal Case No. 13605, finding Keeyen Red Mataganas (petitioner) guilty of the crime of *Estafa* under Article 315(3)(a) of the Revised Penal Code (RPC).

Considering the allegations, issues, and arguments adduced in the petition, the Court finds no cogent reason to deviate from the findings of the CA that petitioner is guilty of the offense charged. However, there is a need to modify the assailed Decision insofar as the imposed penalty is concerned.

In this case, the CA found petitioner guilty of the crime of *Estafa* and imposed the indeterminate penalty of imprisonment of one (1) month and eleven (11) days of *arresto mayor* in its minimum period as minimum to three (3) months and eleven (11) days of *arresto mayor* in its medium and

¹ *Rollo*, pp. 12-31.

² *Id.* at 36-43. Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Louis P. Acosta and Angelene Mary W. Quimpo-Sale.

³ *Id.* at 45-46. Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Louis P. Acosta and Angelene Mary W. Quimpo-Sale.

⁴ *Id.* at 66-77. Penned by Acting Presiding Judge Ignacio C. Barcillano, Jr.

maximum periods as maximum. The dispositive portion of the assailed CA Decision reads:

WHEREFORE, the appeal is **DENIED**. The judgment of the Regional Trial Court of Legazpi City Branch 2 dated February 28, 2019 in Criminal Cases [sic] No. 13605 finding accused-appellant Keeyen Red Mataganas guilty beyond reasonable doubt of the crime of estafa under Article 315 (3)(a) is **AFFIRMED with MODIFICATION**. Accused-appellant shall suffer the imprisonment of one (1) month and eleven (11) days of *arresto mayor* in its minimum period as minimum to three (3) months and eleven (11) days of *arresto mayor* in its medium and maximum periods as maximum.

SO ORDERED.⁵

The CA correctly modified the penalty imposed by the RTC, specifically in applying the penalty under Republic Act (RA) No. 10951,⁶ considering that it is more beneficial to petitioner than the penalty imposed under the RPC. In *Hernan v. Sandiganbayan*,⁷ the Court directed the application of the provisions of RA No. 10951 whenever it is, by reason of justice and equity, called for by the facts of each case.

However, a modification of the penalty is in order.

In arriving at the imposable penalty, the CA mistakenly applied the Indeterminate Sentence Law (ISL).⁸ It should be noted that under Section 2 of the said law, among those excluded from the coverage of the ISL are cases where the maximum term of imprisonment does not exceed one year.⁹

In this case, the penalty provided under RA No. 10951 is *arresto mayor* in its medium and maximum period, which does not exceed one year. Thus, the ISL does not apply. Therefore, the imposable penalty in this case should be *arresto mayor* in its medium and maximum period, which is two (2) months and one (1) day to six (6) months. The straight penalty of three (3) months of *arresto mayor* is proper.¹⁰

ACCORDINGLY, the petition is **DENIED**. The Decision dated July 27, 2021 of the Court of Appeals in CA-G.R. CR No. 43409 is **AFFIRMED**

⁵ Id. at 42-43.

⁶ 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.

⁷ 822 Phil. 148, 178 (2017).

⁸ Entitled "AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES." Approved: December 5, 1933.


⁹ *People v. Tan*, 411 Phil. 813, 842 (2001).

¹⁰ See *People v. Racho*, 819 Phil. 137, 154 (2017).

with MODIFICATION that Keeyen Red Mataganas is sentenced to suffer the straight penalty of imprisonment of three (3) months of *arresto mayor*.

SO ORDERED.” *Marquez, J., on official business.*

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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