Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **September 21, 2022** *which reads as follows:*

"G.R. No. 214218 ***(Rolando S. Maclang, Sr. and Aurora V. Maclang, for and on behalf of their son Rolando V. Maclang, Jr. v. Hon. Leila de Lima, in her capacity as Secretary of the Department of Justice, Hon. Franklin Jesus B. Bucayu, in his capacity as the Director of the Bureau of Corrections, Superintendent Fajardo Lansangan, in his capacity as Superintendent of the New Bilibid Prison, and the Bureau of Corrections).*** – Before this Court is a Petition for Review on *Certiorari*[1] (petition) under Rule 45 of the Rules of Court of the Decision[2] dated 26 May 2014 and Resolution[3] dated 11 September 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 134528. The CA denied petitioners' prayer for the issuance of a writ of *habeas corpus* and the release of Rolando V. Maclang, Jr. (Rolando Jr.) from the New Bilibid Prison (NBP) on the ground that he has fully served his sentence.

Antecedents

Petitioners Rolando S. Maclang, Sr. and Aurora V. Maclang (petitioners) filed a *habeas corpus* petition before the CA for and in behalf of their son, Rolando Jr., then serving his sentence at the NBP. Rolando Jr. was detained on 27 October 1997 in connection with a charge for kidnapping for ransom which resulted in the death of the victim. After trial, the Regional Trial Court (RTC) of Bacolod City, Branch 50 found Rolando, Jr., along with several other accused, guilty and sentenced him with the penalty of death. Rolando Jr.'s conviction was affirmed on appeal by the Supreme Court in a

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1 *Rollo*, pp. 10-35.

2 Id. at 37-62. Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Remedios A. Salazar-Fernando and Samuel H. Gaerlan (now a Member of this Court).

3 Id. at 64-67. Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Remedios A. Salazar-Fernando and Samuel H. Gaerlan (now a Member of this Court).

*REVISION: The Hon. Executive Judge, Regional Trial Court, 1770 Muntinlupa City added. (p.8, this Resolution)

Decision dated 01 October 2003.[4] With the enactment of Republic Act No. (RA) 9346,[5] however, his sentence was modified to *reclusion perpetua.*

Petitioners contended that the benefits of Section 3 of RA 10592,[6] providing for, among others, time allowances for good conduct (TAGC) should be applied retroactively to Rolando Jr. Based on their computation, Rolando Jr., with the TAGC, would have served a total of 33 years, four months, and four days, or more than the 30-year duration of the penalty of *reclusion perpetua.*

Ruling of the CA

On 28 March 2014, the CA issued a Resolution[7] giving due course to the petition. The dispositive portion reads:

> **WHEREFORE**, the petition is given due course and accordingly **GRANTED**. The Division Clerk of Court of the Special Second Division of the Court is **DIRECTED** to issue the corresponding Writ ordering the respondents, their agents or duly authorized representatives to produce the person of Rolando V. Maclang, Jr. and to bring him before the Court on 02 April 2014, Wednesday, at 10:00 o'clock in the morning and to show cause why Rolando V. Maclang, Jr. should not be released from further imprisonment.
>
> Let a copy of this Resolution together with the Writ and a copy of the instant petition be served upon the respondents who are directed to make a Return of the Writ to the Court.
>
> **IT IS SO ORDERED.**[8]

Respondents subsequently filed a Return of the Writ dated 01 April 2014.[9] They argued that: (1) the petition for *habeas corpus* should be dismissed since Rolando Jr., who was convicted by virtue of a lawful judgment, has not completely served out his sentence of *reclusion perpetua* which has a duration of 40 years; (2) the petition for *habeas corpus* is still premature since the provisions of RA 10592 concerning the grant of TAGC is not yet in full force and effect in the absence of the required guidelines; and (3) the entitlement to TAGC is not automatic since the power to evaluate and grant TAGC to deserving convicted prisoners is within the exclusive authority of the Director of the Bureau of Prisons, not the courts.

In its assailed Decision[10] dated 26 May 2014, the CA ultimately

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4 *People v. Mamarion*, 459 Phil. 51 (2003).
5 Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES." Approved: 24 June 2006.
6 Entitled "AN ACT AMENDING ARTICLES 29, 94, 97 AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE." Approved: 29 May 2013.
7 *Rollo*, pp. 115-118.
8 Id. at 118.
9 Id. at 119-130.
10 Id. at 36-62.

resolved to deny the petition. Initially, the appellate court affirmed that a petition for *habeas corpus* is available as a post-conviction remedy, in limited cases, such as when it is shown that a prisoner has already completely served his sentence. However, it held that while, based on law and logic, Section 3 of RA 10592 can be retroactively applied, Rolando Jr. has **not** served out the duration of his sentence of *reclusion perpetua,* which has a duration of 40 years. The CA reasoned thus:

> x x x the actual confinement or imprisonment, that is, deprivation of liberty, of Rolando V. Maclang, Jr. can be categorized into three periods:
>
First Period From the time of his arrest and detention at Bacolod City District Jail until he was transferred to the New Bilibid Prisons (NBP)	October 27, 1997 to November 1, 1998
Second Period From the date he was received at the NBP until he started serving his sentence	November 2, 1998 to July 28, 2004
Third Period Actual service of sentence	July 29, 2004 to present
>
> Rolando V. Maclang, Jr. is considered to have undergone preventive imprisonment during the first and second periods and he did actual service of the sentence during the third period.
>
> The Court agrees with the petitioners that Rolando V. Maclang, Jr. is entitled to a full time credit of the period during which he had undergone preventive imprisonment. For one, the respondents do not quibble that Rolando V. Maclang, Jr. is entitled to a full-time credit for preventive imprisonment of 6 years, 9 months and 2 days. Apparently, this is the entire period during which Rolando V. Maclang, Jr. had undergone preventive imprisonment, that is from 27 October 1997 to 28 July 2004. For another, the petitioners submitted a document, dated 27 October 1997 and signed by Rolando V. Maclang, Jr., manifesting that the latter agreed to abide by the same disciplinary rules imposed upon convicted prisoners and that he was neither a recidivist nor had he been convicted previously twice or more times of any crime. Again, this matter the respondents did not dispute.[11]
>
> x x x x
>
> There is no dispute that under the old provision of Article 97, Rolando V. Maclang, Jr. earned TAGC of 2 years, 8 months and 11 days during his actual service of sentence. Applying the amended provision of Article 97, Rolando V. Maclang, Jr. would be entitled

[11] Id. at 53-54.

to TAGC of approximately 9 years and 1 month as of 26 April 2014, computed as follows:

July 28, 2004	Commencing date of actual service of sentence and Rolando V. Maclang, Jr. was on his seventh year in prison
July 28, 2004 to October 26, 2007 (7th year to 10th year)	39 months x 25 days for each month = 975 days
October 27, 2007 to April 26, 2014 (11th year onwards)	78 months x 30 days for each month = 2,340 days
Total TAGC under R.A. No. 10592	**3,315 days or 9 years, 1 month**

With respect to the claimed Time Allowance for Study, Teaching and Mentoring (TASTM), there is no concrete proof that Rolando V. Maclang, Jr. is indeed entitled to it. The petitioners' bare allegation that Rolando V. Maclang, Jr. had engaged in teaching or mentoring for the period 2005-2011 is bereft of any support. Like TAGC, TASTM or time allowance for teaching, or mentoring is also just a privilege and it is incumbent upon the petitioners to establish that Rolando V. Maclang, Jr. had earned and been granted additional time allowance.

Thus, the total time served with TAGC is now **25 years** and **7 months**:

Actual Time Served	9 years, 8 months, 28 days
Add: Credit for Preventive Imprisonment	6 years, 9 months, 2 days
Add: Earned TAGC under R.A. No. 10592	9 years, 1 month
Total time served with TAGC	**25 years, 7 months**

Since Rolando V. Maclang, Jr. had only served **25 years and 7 months** as of 26 April 2014, there is therefore no basis for his immediate release.[12]

The CA rejected petitioners' claim for TAGC during the period Rolando Jr. was in preventive detention, stating that the grant of TAGC to detention prisoners under RA 10592 would be "prospective only in application insofar as those already serving their sentences in the national penitentiary are concerned. It is only in this limited situation that the prospective principle espoused by Section 4 of the IRR may be said to be properly placed."[13]

The appellate court likewise held that even if it accepts petitioners' computation entirely, Rolando Jr. is still not entitled to be released because: (a) *reclusion perpetua* must be served up to 40 years; and (b) Rolando Jr. cannot be classified as (and entitled to the benefits of) a penal colonist as he has not received any presidential approval concerning his classification as

[12] Id. at 56-58.
[13] Id. at 56.

such. To note, under Sections 4 and 5 of Act No. 2489,[14] a penal colonist may be entitled to a modification or reduction of his sentence from *reclusion perpetua* to 30 years and an additional 10 days of TAGC for each month of exemplary work and conduct.

Issue

The petition beseeches Us to resolve whether the CA was correct when it denied the privilege of the writ of *habeas corpus* in favor of Rolando Jr. and refused to order his immediate release.

Ruling of the Court

The petition is **PARTLY MERITORIOUS**.

While Rolando Jr. cannot avail of the benefits granted to a penal colonist, he may be entitled to the benefits of RA 10592.

First, it is not disputed that Rolando Jr. was classified as a penal colonist effective 05 November 1998.[15] Nevertheless, conferment by the Director General of the Bureau of Corrections of a colonist status, by itself, does not operate to reduce said prisoner's sentence. The prisoner is also required to secure presidential approval. In *Tiu v. Dizon*,[16] We held:

> Section 5 of Act No. 2489 is clear and unambiguous: "[p]risoners serving sentences of life imprisonment receiving and retaining the classification of penal colonists or trusties will automatically have the sentence of life imprisonment modified to a sentence of thirty years when receiving the executive approval for this classification upon which the regular credit now authorized by law and special credit authorized in the preceding paragraph, for good conduct, may be made."
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> **The wording of the law is such that the act of classification as a penal colonist or trustie [sic] is separate from and necessarily precedes the act of approval by the Executive.** Under Section 6, Chapter 3, Part II, Book I of the BuCor-OM quoted earlier, the Director of Corrections may, upon the recommendation of the Classification Board of the Bureau of Corrections, classify an inmate as a colonist. It is crucial, however, that the prisoner not only receives, but retains such classification, because the grant of a colonist status may, for cause, be revoked at any time by the Superintendent with the approval of the Director of Corrections pursuant to Section 9 of the same Chapter. **It is the classification of the penal colonist and trustie [sic] of the Director of Corrections which subsequently receives executive approval.**
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> The foregoing is bolstered by the fact that the reduction of a prisoner's sentence is a partial pardon, and our Constitution reposes in the

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[14] Entitled "AN ACT AUTHORIZING SPECIAL COMPENSATION, CREDITS, AND MODIFICATION IN THE SENTENCE OF PRISONERS AS A REWARD FOR EXCEPTIONAL CONDUCT AND WORKMANSHIP, AND FOR OTHER PURPOSE." Approved: 05 February 1915.

[15] Id. at 343.

[16] 787 Phil. 427 (2016).

> President the power and the exclusive prerogative to extend the same. The 1987 Constitution, specifically under Section 19, Article VII thereof, provides that the President possesses the power to grant pardons, along with other acts of executive clemency, which petitioner explicitly recognized by applying for commutation of sentence even during the pendency of his request for the implementation of the conditional pardon. Section 19, Article VII of the 1987 Constitution reads:
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> > Section 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment.
> >
> > He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.
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> It has long been recognized that the exercise of the pardoning power, notwithstanding the judicial determination of guilt of the accused, demands the exclusive exercise by the President of the constitutionally vested power. Stated otherwise, **since the Chief Executive is required by the Constitution to act in person, he may not delegate the authority to pardon prisoners under the doctrine of qualified political agency,** which "essentially postulates that the heads of the various executive departments are the alter egos of the President, and, thus, the actions taken by such heads in the performance of their official duties are deemed the acts of the President unless the President himself should disapprove such acts."[17]

In this case, nothing in the records shows that the President has signified his approval to either Rolando Jr.'s classification as a penal colonist or the latter's release in view of his status as colonist. Absent proof of such executive approval, his sentence cannot be reduced or modified, not even by this Court.

Second, We held in *Inmates of the New Bilibid Prison v. De Lima*,[18] that the benefits of RA 10592 can be applied retroactively. Among the amendments introduced by said law are the increase in the number of days that may be credited for TAGC; expansion of the application of TAGC for prisoners even during preventive imprisonment; and deduction of 15 days for each month of study, teaching, or mentoring service.[19]

Third, based on his Prison Record, Rolando Jr. was preventively imprisoned from 27 October 1997 to 28 July 2004, or a period of six years, nine months, and two days. He had also been serving his actual sentence since 29 July 2004. The OSG, in its Comment, computed Rolando Jr.'s total time served, with TAGC under RA 10592, at **30 years, four months and four days** as of 19 March 2014. Given that said computation was made more than eight years ago, it may well be that, taking in consideration any earned TAGC, Rolando Jr. is already entitled to immediate release on account of the full service of his sentence.

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[17] Id. at 438-440. Citations omitted. Emphases supplied.
[18] G.R. Nos. 212719 & 214637, 25 June 2019.
[19] *Franco v. Director of Prisons*, G.R. No. 235483, 08 June 2020.

TAGC, Rolando Jr. is already entitled to immediate release on account of the full service of his sentence.

As held by this Court in *In Re: Elbanbuena*,[20] "[t]he determination of whether [a prisoner] is entitled to immediate release x x x would necessarily involve ascertaining, among others, the actual length of time [said prisoner] has actually been in confinement and whether time allowance for good conduct should be allowed. Such an exercise would, at the first instance, be better undertaken by a trial court, which is relatively more equipped to make findings of both fact and law."[21] It is thus necessary to refer the case to the RTC for purposes of computing the actual length of time Rolando Jr. has actually been in confinement and his earned TAGC, if any, and thereafter determining whether he is entitled to be released on account of full service of his sentence.

WHEREFORE, the petition is hereby **PARTLY GRANTED**. The case is referred to the Regional Trial Court of Muntinlupa for the receipt of records for the determination of: (1) the length of time that petitioners' son, ROLANDO V. MACLANG, JR., has been in actual confinement; (2) earned, if any, Time Allowance for Good Conduct and other privileges granted to him under Republic Act No. 10592 and their computation; and (3) whether he is entitled to immediate release from confinement on account of the full service of his sentence.

SO ORDERED." ***Gesmundo, C.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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OCT 13 2022

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[20] 837 Phil. 1025 (2018).
[21] Id. at 1033.

*The Hon. Executive Judge (x)
Regional Trial Court
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Branch 50
Bacolod City, 6100 Negros Occidental
(Crim. Case No. 96-17590)

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*Added.