PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HU RUEY CHUN A.K.A. RICHARD HU, RESPONDENT.

G.R. NO. 158064. June 30, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The Extra Excel International Philippines, Inc. (EEIPI) is a corporation duly organized and registered under the laws of the Philippines. One of the members of its Board of Directors was Hu Ruey Chun a.k.a. Richard Hu, a Taiwanese, who was also its president and general manager; Ralph S. Villanueva was the financial manager.[1]

On September 25, 2001, the EEIPI filed a criminal complaint for qualified theft[2] of P762,076.35 against Hu in the Office of the City Prosecutor of Makati City. Appended thereto was the affidavit-complaint of Villanueva, with the following allegations:

> 4. Mr. Hu is a stockholder and the former Director, President and General Manager of E. Excel. During his term as Director, President and General Manager, he was also the authorized sole signatory to all the checks issued by E. Excel to pay for the latter's business expenses. He was also authorized to disburse corporate funds in payment of legitimate business expenses.
>
> 4.1 Mr. Hu ceased to be the President in 22 December 2000, as General Manager in the second half of 2000, and as Director in 15 June 2001.
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> 5. After the respondent left Excel, the new management hired an independent auditing firm to perform audit procedures. One of the purposes of the audit is to verify the regularity of certain checks issued by the respondent.
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> 6. During the audit, I discovered that Mr. Hu issued a check drawn against the company's funds in Equitable PCIBank (formerly PCIBank), Rufino Tower branch, with Account No. 00-5722-01480-9, not covering any business expense, and PAYABLE TO HIMSELF. The check I refer to is Equitable PCIBank Check No. 292740 dated 10 July 1998 in the amount of Php762,076.35. Copy of the check (including the dorsal portion thereof) is hereto attached as Annex "B."
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> 6.1 The Equitable PCIBank, Rufino Tower branch is located at Herrera Street corner Ayala Avenue, Makati City.
>
> 6.2 The check was issued on or about the date of the check in the office of Excel located at 24/F Rufino Pacific Tower, 6784 Ayala Avenue cor. Herrera St., Makati City.
>
> 7. From Excel's passbook, the check cleared on 15 July 1998 after it was deposited into PCIBank Account No. 5722-0179-0. Copy of the front page of the passbook, and the page showing that the amount of the check was debited on the same date from the funds of Excel, is hereto attached as Annexes "C" and "D," respectively.
>
> 7.1 Note that the account number of E. Excel's passbook do not correspond to the account number appearing on the face of the checks. This, however, is explained by the fact that the passbook account is a savings account, while the account number appearing on the face of the checks represents the checking account of E.

> Excel. As per certification of Equitable PCIBank, the passbook account is linked to the checking account, meaning when the checks are drawn against E. Excel's checking account, the funds to cover the same would be debited from the passbook account and, then, transferred to the checking account to pay the checks. Copy of the aforementioned certification is hereto attached as Annex "E."
>
> 7.2 Since the check was payable to Mr. Hu himself, it is indubitable that the respondent received, and benefited personally from, the proceeds of the check. It bears stressing that the subject check being payable to Richard Hu, only he can collect it.[3]

Hu submitted a counter-affidavit wherein he alleged that the P762,076.35 represented his 5% commission of the gross sales of the corporation amounting to P152,415,269.00.[4]

After the requisite preliminary investigation, the Office of the City Prosecutor issued a Resolution[5] dated December 14, 2001, dismissing the complaint for insufficiency of evidence. The EEIPI appealed the resolution, and on July 10, 2002, the Department of Justice (DOJ) resolved to grant the appeal and reversed the appealed resolution.[6] The DOJ held as follows:

> Drawing from the respective allegations of the parties, and the evidence adduced in support thereof, the established facts are: (1) Respondent is the sole signatory of corporate checks of Excel for unlimited amount that are used to pay the company's legitimate business expenses; (2) Respondent received the money represented by the check; (3) There is no resolution of the Board of Directors or any written contract with Excel authorizing the payment of commission to its General Manager; and (4) The subject check disbursement appears in the records of Excel. However, there were no supporting documents for the check disbursement such as invoice charging the amount of payment, a contract showing what, when, where, why and how much is to be paid by Excel, receipt of the payment made, and withholding tax returns for the taxable payment made.
>
> No one can argue that respondent is only authorized to issue corporate checks for legitimate business expenses. Neither can there be an argument that the money used to cover the subject check came from Excel. Evidence adduced and, in fact, impliedly admitted by respondent that, indeed, the proceeds of the check was received by him. It is for this reason that there is taking. However, whether the taking is lawful or not is still challenged, and would be put to rest only by the resolution of the issue on whether respondent can claim subject commissions.
>
> We agree with complainant that the respondent is not entitled to the commissions he claimed from Excel. The affidavits of Hendrik Tjandra, General Manager of E. Excel Singapore and Malaysia; Mr. Andrew Lee, General Manager of E. Excel Hongkong and Taiwan; and Ms. Lau Phooi Hing, General Manager of Excel, overwhelms the lone affidavit of Mr. Tzu Shih Shih, the ex-General Manager of E. Excel Hongkong.
>
> Nothing can attest to the truth of the matter than the present General Manager of Excel. That she is not receiving a .5% commission based on the monthly gross sales of Excel constitutes a declaration against her own interest, in that she too could have taken the commissions claimed by her predecessor. But she did not.
>
> The contention of respondent that the reason for the lack of a Board Resolution of Excel regarding the claimed commissions is because the Board of Directors seldom meets to tackle day-to-day business operations. We agree with Excel that a company as big as it is cannot survive, financially or, otherwise, were it run through the verbal instructions of one person who is not even a direct stockholder. Besides, the contention of respondent runs counter to the presumptions established by the Rules on Evidence that "private transactions have been fair and regular" and that "the ordinary course of business has been followed." (Sec. 3, Rule 131 of the Rules of Court)
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> Even the employment contract of respondent is silent as to the alleged commissions he claimed, notwithstanding the fact that the employment contract is signed solely by respondent for himself and in behalf of Excel. Moreover, respondent did not pay taxes on the commissions he claimed, a fact that negates that the

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same were taken as commissions.

Finally, the defenses presented by respondent are mostly evidentiary in nature and are matters of defense, the truth of which can be best passed upon after a full-blown trial on the merits. Hence, this is not the proper forum where the defense evidence of respondent may be evaluated vis-à-vis the evidence of Excel. That function is better left to the courts of justice.[7]

The DOJ ordered the City Prosecutor to file the Information for qualified theft against Hu within five (5) days from notice thereof.

Conformably with the resolution of the DOJ, the City Prosecutor filed an Information for qualified theft against Hu in the Regional Trial Court (RTC) of Makati City on July 18, 2002. The case was raffled to Branch 148 thereof. The prosecutor recommended a bail of P40,000.00 for the provisional liberty of the accused, based on DOJ Department Circular No. 74 issued on November 6, 2001, which reads:

B. FOR QUALIFIED THEFT:
...

3) Where the value of the property stolen is P32,000.00 or over, in which the imposable penalty ranges from reclusion temporal to reclusion perpetua, bail shall be based on reclusion temporal in its maximum period, pursuant to Par. 2(a) of the 2000 Bail Bond Guide, multiplied by P2,000.00, plus an additional P2,000.00 for every P10,000.00 in excess of P22,000.00; Provided, however, that bail shall not exceed P80,000.00.[8]

On August 1, 2002, the RTC issued an Order[9] for the issuance of a warrant of arrest against the accused, considering that the imposable penalty for the crime charged was reclusion perpetua to death. The RTC, thus, rejected the recommendation of the public prosecutor to grant bail to the accused in the amount of P40,000.00.

On August 23, 2002, Hu filed a motion for the reconsideration of the said order, contending that DOJ Department Circular No. 74 should be applied. He pointed out that the recommended bail in the said circular was based on the ruling of this Court in People v. Hernando.[10]

On August 27, 2002, the trial court issued an Order[11] denying the motion, in light of the ruling in People v. Bago,[12] where the Court held that the imposable penalty for qualified theft is reclusion perpetua; hence, bail is not a matter of right.

Hu filed a petition for certiorari with the Court of Appeals (CA) for the nullification of the August 1, 2002 and August 27, 2002 Orders of the trial court, contending that:
The public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Orders dated August 01, 2002 and August 27, 2002. This is because:

1. The public respondent denied the petitioner’s constitutional right against deprivation of liberty without due process of law when he upgraded to non-bailable the crime of qualified theft.

2. Also, the public respondent failed to conduct the requisite hearing, to determine whether the guilt of the petitioner is strong or not when he issued the assailed Orders, denying bail to the petitioner.[13]

Meanwhile, the DOJ issued a Resolution[14] on November 15, 2002 denying Hu’s motion for the reconsideration of its July 10, 2002 Resolution.

On January 16, 2003, the CA rendered judgment granting the petition and nullifying the assailed orders of the trial court.[15] The appellate court cited DOJ Department Circular No. 74, which provides that qualified theft is bailable. It further ruled that the Circular should be given great weight and respect, considering that the DOJ issued the Circular after the ruling in People v. Bago[16] was promulgated. Apparently, under the November 15, 2002 DOJ Resolution, the DOJ had not yet resolved the motion for reconsideration of its July 10, 2002

Resolution; hence, the order of the RTC was premature. The appellate court opined that until the DOJ had resolved the motion for reconsideration filed by Hu, the warrant for his arrest should not have been issued.[17]

The People of the Philippines, through the Office of the Solicitor General (OSG), filed a motion for the reconsideration of the decision, to no avail, as the CA resolved to deny the same on April 23, 2003.[18]

On June 17, 2003, the People of the Philippines, now the petitioner, filed a petition for review on certiorari of the decision and resolution of the CA on the following grounds:

A

> THE COURT OF APPEALS COMMITTED A GRAVE ERROR OF LAW WHEN IT RULED THAT THE CRIME OF QUALIFIED THEFT THOUGH CARRYING THE PENALTY OF RECLUSION PERPETUA IS BAILABLE ON THE BASIS ALONE OF DOJ CIRCULAR NO. 74.
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> B
>
> THE COURT OF APPEALS COMMITTED A GRAVE ERROR OF LAW WHEN IT FAILED TO CONSIDER THAT RESPONDENT CANNOT SEEK RELIEF FROM THE TRIAL COURT WHOSE JURISDICTION HE HAS NOT RECOGNIZED AS HE HAS EVEN CONTINUOUSLY EVADED IT.
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> C
>
> THE ORDER OF ARREST ISSUED AGAINST RESPONDENT DOES NOT AMOUNT TO A DENIAL OF HIS RIGHT TO BAIL; IT IS SIMPLY A PROCESS OF ACQUIRING JURISDICTION OVER HIS PERSON.
>
> D
>
> THE COURT OF APPEALS HAS NO JURISDICTION TO RESTRAIN THE TRIAL COURT FROM ACQUIRING JURISDICTION OVER THE PERSON OF RESPONDENT.
>
> E
>
> RESPONDENT'S MOTION FOR RECONSIDERATION OF THE DOJ DIRECTIVE TO FILE INFORMATION AGAINST HIM WAS ALREADY DENIED UNDER RESOLUTION DATED NOVEMBER 15, 2002.[19]

Citing the ruling of this Court in Te v. Perez,[20] the petitioner averred that DOJ Department Circular No. 74 is not conclusive and binding on the court, and is merely a guide. The petitioner maintains that the ruling in People v. Hernando[21] is not controlling in this case, because the crime charged in the RTC is qualified theft, while the felony subject of the case in People v. Hernando is estafa. The petitioner posits that since the imposable penalty for qualified theft is reclusion perpetua, bail is a matter of discretion on the part of the trial court. The petitioner asserts that the trial court was not proscribed from issuing a warrant for the respondent-accused's arrest, as it was a prerequisite for the court to acquire jurisdiction over his person. It posits that unless and until the respondent is arrested or brought under the custody of the trial court, he cannot assail the orders issued by it. It laments that the respondent had already fled to Taiwan, which is beyond the territorial jurisdiction of the trial court, and has thus evaded arrest. It submits that the Rules of Criminal Procedure should not be used to suit the respondent's convenience.

In his comment on the petition, the respondent averred that –

> CONTRARY TO PETITIONER'S CLAIM, [THE] COURT OF APPEALS COMMITTED NO GRAVE ERROR OF LAW IN ANNULLING AND SETTING ASIDE THE RTC-MAKATI'S ORDERS DATED

AUGUST 01, 2002 AND AUGUST 27, 2002, AND IN DECLARING THE CRIME OF QUALIFIED THEFT CHARGED AGAINST RICHARD HU AS A BAILABLE OFFENSE.[22]

CONTRARY TO THE PETITIONER'S CLAIM, [THE] COURT OF APPEALS COMMITTED NO GRAVE ERROR OF LAW IN CONSIDERING AND GRANTING RICHARD HU'S PETITION FOR CERTIORARI EVEN IF HE HAD NOT BEEN ARRESTED OR, OTHERWISE, PHYSICALLY RESTRAINED, IN VIEW OF THE FACT THAT THE ASSAILED ORDERS WERE NULL AND VOID AB INITIO BECAUSE RTC-MAKATI HAD NO AUTHORITY IN LAW TO ISSUE THEM.[23]

The petition is meritorious.

The respondent asserts that the August 1, 2002 and August 27, 2002 Orders of the trial court are null and void; hence, may be assailed by him before any warrant for his arrest is issued by the trial court. He insists that qualified theft is a bailable offense as gleaned from DOJ Department Circular No. 74, which was issued after the Court promulgated its decision in People v. Hernando,[24] and reiterated in People v. Panganiban.[25] While the said Circular is not binding on the courts, it nevertheless merits consideration, as it is, in a sense, an expression of policy of the Executive Branch (through the DOJ) in the enforcement of criminal laws. The respondent contends that the rulings of this Court in People v. Hernando and People v. Panganiban are also applicable, since like estafa, the penalty for theft is dependent on the value stolen or amount of the fraud. The petitioner's reliance on the ruling of this Court in People v. Bago is misplaced, since the Court in Bago did not categorically state therein that qualified theft is a non-bailable offense.

In any event, the respondent asserts, the trial court committed grave abuse of its discretion when it denied his petition for bail via its August 1, 2002 Order without a prior determination or hearing on the strength of the evidence against him.

The Court agrees with the respondent's contention that he was not proscribed from assailing the August 1, 2002 Order of the RTC before the CA on certiorari, even before his arrest. The respondent believed, albeit erroneously, that the aforementioned order of the RTC was null and void; hence, it may be assailed any time, either directly or collaterally, or by resisting such order in any action or proceeding wherein it is involved.[26] One need not wait to be arrested before filing such petition. Upon receipt of a copy of the said order from the RTC, the respondent already had the right to assail the same in an appropriate proceeding for the said purpose.

However, the Court agrees with the petitioner's contention that the RTC was not proscribed from issuing the assailed order on August 1, 2002. While it is true that the respondent filed a motion for the reconsideration of the July 10, 2002 Resolution of the DOJ, there is no showing that the RTC was apprised thereof. Moreover, the respondent assailed the August 1, 2002 Order not because it was issued while his motion for reconsideration of the July 10, 2002 Resolution of the DOJ was pending, but solely because it was issued without any prior hearing and in utter disregard of DOJ Department Circular No. 74.

In any event, the fact of the matter is that the DOJ denied the respondent's motion for reconsideration of its July 10, 2002 Resolution before the CA rendered judgment granting the petition for certiorari.

On the merits of the petition, we find and so rule that the CA erred in nullifying the August 1, 2002 Order of the RTC. Indeed, the RTC did not commit any abuse of its discretion in issuing the said order. In fact, the order is in accord with the Constitution, the Revised Rules of Criminal Procedure and case law.

The Constitution provides that all persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties or be released on recognizance as may be provided by law.[27] Section 7, Rule 114 of the Revised Rules of Criminal Procedure

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provides that no person charged with a capital offense or an offense punishable by reclusion perpetua or life imprisonment shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

The rule is that the RTC judge shall personally evaluate, within ten (10) days from the filing of the complaint or Information, the resolution of the prosecutor and its supporting evidence. If he finds probable cause, he shall issue, without need of any hearing, a warrant of arrest unless the accused is already under detention, in which case, the judge shall issue a commitment order.[28] If the accused is charged with an offense punishable by death, reclusion perpetua or life imprisonment, the judge should not grant bail for his provisional release, regardless of whether or not the prosecutor recommends bail for the provisional release of the accused under DOJ Department Circular No. 74. However, if the accused has been brought under custody of the court, he may file a petition for bail for his provisional liberty. If, after the requisite hearing,[29] the court finds that the evidence of the accused is strong, the petition shall be denied. Consequently, the accused will remain under the custody of the court. However, if the evidence of guilt of the accused is not strong,[30] the petition shall be granted and the accused discharged upon approval of the bail bond, in such amount fixed by the court, taking into consideration the guidelines set forth in Section 9, Rule 114 of the Revised Rules of Criminal Procedure, in tandem with DOJ Department Circular No. 74, as well as the recommendation of the public prosecutor.

In this case, the respondent was charged with qualified theft of P762,076.35. In People v. Cañales,[31] the Court ruled that the penalty for qualified theft under Article 40 of the Revised Penal Code, taking into account the value of the property stolen, is reclusion perpetua with the accessory penalty of death, with no possibility of pardon before the lapse of forty years:

> We now come to the correctness of the penalty imposed by the respondent court. We quote the well-researched disquisition of the appellate court, viz.:
>
> "The Court a quo meted on Cañales an indeterminate penalty of Thirteen (13) Years, One (1) Month and Eleven (11) Days to Eighteen (18) Years, Nine (9) Months and Twenty (20) Days both of Reclusion Temporal. The Court was in error. The court imposed merely the penalty for theft under Article 309 of the Revised Penal Code, quoted infra, as follows:
>
> 'ART. 309. Penalties. – Any person guilty of theft shall be punished by:
>
> '1. The penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceed the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be.' (idem, supra; Italics supplied)
>
> "The value of the truck, the van and the cargo contained therein should be used as basis for the imposable penalty although the truck and van were recovered (People versus Juan Carpio, 54 Phil. 48). Since the value of the truck was P300,000.00 and the cargo was valued at P2,500,000.00 (Exhibit "C"), the imposable penalty for the felony of theft was reclusion temporal. However, under Article 310 of the Revised Penal Code, the crime of qualified theft is punished by the penalties next higher by two (2) degrees than that specified in Article 309 of the Revised Penal Code. Under Article 25 of the Revised Penal Code, two (2) degrees higher than reclusion temporal is death. This is, likewise, conformable with Article 74 of the Revised Penal Code, which provides that:
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> 'ART. 74. Penalty higher than reclusion perpetua in certain cases. – In cases in which the law prescribes a

penalty higher than another given penalty, without specifically designating the name of the former, if such higher penalty should be that of death, the same penalty and the accessory penalties of Article 40, shall be considered as the next higher penalty.' (idem, supra; Italics supplied)

"The provision, however, proscribes the imposition of the death penalty resulting from the graduation of the penalty. It bears stressing that Article 74 of the Revised Penal Code was based on Article 93 of the Old Penal Code which provided that if the penalty is reclusion perpetua, the next higher penalty would be the same penalty but the convict in such cases cannot be pardoned until forty years had elapsed (Aquino, Comments on the Revised Penal Code, 1987 ed., Volume 1, page 709).

"But there is a pervading divergence of opinion among commentators of the Revised Penal Code as to what the higher penalty referred to in Article 74 of the Revised Penal Code should be. Some authors are of the view that the higher penalty would be reclusion perpetua with the accessory penalties for said penalty. But then, under Article 74 of the Revised Penal Code, the accessory penalties under Article 40 of the Revised Penal Code should be imposed. Still others, like former Senator Ambrosio Padilla are of the view that the higher penalty is reclusion perpetua but with the accessory penalties of death under Article 40 of the Revised Penal Code if the death penalty is commuted. But then, the accessory penalty under Article 40 of the Revised Penal Code is perpetual absolute disqualification and civil interdiction during thirty (30) years following the date of sentence, whereas, the accessory penalty of reclusion perpetua under Article 41 of the Revised Penal Code is civil interdiction for life and perpetual absolute disqualification. As aptly observed by former Chief Justice Ramon C. Aquino, there seems to be an absurdity under the latter view (Aquino, Comments on the Revised Penal Code, supra). On the other hand, Justice Albert is of the firm view that:

'The Code meant to say here that the judgment should provide that the convict should not be given the benefit of the provisions of Article 27 until forty years should have elapsed; otherwise, there could be no difference at all between reclusion perpetua when imposed as the penalty next higher in degree and when it is imposed as the penalty fixed by law.' (Albert, Comments on the Revised Penal Code, 1932 edition, page 240)

"to which Justice Luis Reyes subscribes (Reyes, Comments on the Revised Penal Code, 1981 ed., Vol. 1, page 746). Former Chief Justice Ramon C. Aquino, likewise, is in accord with the opinion of Justice Albert.

'xxx

'Justice Albert believes that the 'penalty higher than reclusion perpetua' is reclusion perpetua for forty years with the accessory penalties of death under Art. 40. Otherwise, as he said 'there could be no difference at all between reclusion perpetua, when imposed as the penalty next higher in degree and when it is imposed as the penalty fixed by law.' This opinion is supported by Art. 93 of the old Penal Code from which Art. 74 was taken. Art. 93 provides that if the given penalty is cadena perpetua or reclusion perpetua, the next higher penalty would be these same penalties but the convict in such case cannot be pardoned 'until forty years elapsed.' (Aquino, Comments on the Revised Penal Code, 1987 ed., Volume 1, pages 708-709)

"We are, likewise, in accord with the opinion of Justice Albert as a logical explanation and application of Article 74 of the Revised Penal Code. Consequently, Cañales should be meted the penalty Reclusion Perpetua for Forty Years with the accessory penalties of death under Article 40 of the Revised Penal Code. In fine, Cañales is not entitled to pardon before the lapse of the forty-year period." (Reyes, Comments on the Revised Penal Code, 1977 ed., Volume 1, page 747).

We agree with this dissertation considering that it is supported by the opinions of our leading commentators in penal law.[32]

The Court reiterated this ruling in People v. Bago.[33] Since the imposable penalty for the felony charged is reclusion perpetua, the respondent was not entitled to bail as a matter of right. Hence, the RTC was correct in rejecting the recommended amount of bail of P40,000.00, and ordering the issuance of a warrant for the

respondent's arrest.

The Court agrees with the contention of the petitioner that the rulings in Hernando and Panganiban are not decisive of the issue in this case, because the petitioner therein was charged with estafa, and not qualified theft.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The Decision and Resolution of the Court of Appeals are REVERSED AND SET ASIDE. The assailed Order of the Regional Trial Court is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

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[1] Rollo, p. 138.

[2] ART. 310. Qualified theft. – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.

Article 309 of the Revised Penal Code provides the penalties for theft, as follows:

ART. 309. Penalties. – Any person guilty of theft shall be punished by:

1. The penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceed the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be.

2. The penalty of prision correccional in its medium and maximum periods, if the value of the thing stolen is more than 6,000 pesos but does not exceed 12,000 pesos.

3. The penalty of prision correccional in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos.

4. Arresto mayor in its medium period to prision correccional in its minimum period, if the value of the property stolen is over 50 pesos but does not exceed 200 pesos.

5. Arresto mayor to its full extent, if such value is over 5 pesos but does not exceed 50 pesos.

6. Arresto mayor in its minimum and medium periods, if such value does not exceed 5 pesos.

7. Arresto menor or a fine not exceeding 200 pesos, if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed 5 pesos. If such value exceeds said amount, the provisions of any of the five preceding subdivisions shall be made applicable.

8. Arresto menor in its minimum period or a fine not exceeding 50 pesos, when the value of the thing stolen is not over 5 pesos, and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family.

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[3] Rollo, pp. 138-139.

[4] Id. at 144.

[5] Id. at 165-168.

[6] Rollo, pp. 169-175.

[7] Rollo, pp. 173-174.

[8] Id. at 53.

[9] Rollo, pp. 47-48.

[10] G.R. No. 125214, 28 October 1999, 317 SCRA 617.

[11] Rollo, p. 57.

[12] G.R. No. 122290, 6 April 2000, 330 SCRA 115.

[13] CA Rollo, pp. 9-10.

[14] Rollo, p. 45.

[15] Id. at 39-43.

[16] Supra.

[17] Rollo, p. 42.

[18] Id. at 44.

[19] Rollo, pp. 15-16.

[20] A.M. No. MTJ-00-1286, 21 January 2002, 374 SCRA 130.

[21] Supra.

[22] Rollo, p. 109.

[23] Id. at 131.

[24] Supra.

[25] G.R. No. 133028, 10 July 2000, 335 SCRA 354.

[26] Ramos v. Court of Appeals, G.R. No. 42108, 29 December 1989, 180 SCRA 635.

[27] Section 13, Article IV of the 1987 Constitution.

[28] Section 6, Rule 112 of the Revised Rules of Criminal Procedure.

[29] Sec. 8. Burden of proof in bail application. – At the hearing of an application for bail filed by a person who is in custody for the commission of an offense punishable by death, reclusion perpetua, or life imprisonment, the prosecution has the burden of showing that evidence of guilt is strong. The evidence presented during the bail hearing shall be considered automatically reproduced at the trial, but, upon motion of either party, the court may recall any witness for additional examination unless the latter is dead, outside the Philippines, or otherwise unable to testify.

[30] Te v. Perez, supra.

[31] G.R. No. 126319, 12 October 1998, 297 SCRA 667.

[32] People v. Cañales, supra.

[33] Supra.

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