

NOLI Z. ILON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 260538, November 11, 2025

Ponente: KHO, JR., J.

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KHO, JR., J.:

Before the Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated April 29, 2021 and the Resolution[3] dated December 14, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 13840, which affirmed with modification the Decision[4] dated January 12, 2018 of Branch 45, Regional Trial Court, Bacolod City (RTC) in Criminal Case No. 17-45323. The RTC ruling, in turn, upheld with modification the Decision[5] dated June 1, 2017 of Branch 7, Municipal Trial Court in Cities, Bacolod City (MTCC) in Criminal Case No. 04-6-7909, finding petitioner Noli Z. Ilon (Ilon) guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide, as defined and penalized under Article 365 of the Revised Penal Code.[6]

The Facts

This case stemmed from an Information[7] filed before the MTCC charging Ilon of the crime of reckless imprudence resulting in homicide, the accusatory portion of which reads:

That on or about the 31st day of October, 2003, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, being then the driver and person in-charge of a Civic Honda bearing Plate No. UDJ-184, owned by Jose Rodelio Malinao, Sr. did, then and there willfully, unlawfully[,] and feloniously drive and operate said Civic Honda along Circumferential Road, Brgy. Banago, Bacolod City, in a reckless, imprudent[,] and negligent manner without due regards to traffic rules and regulations and without taking the necessary care and precaution to prevent accident to persons or damage to property, considering the width, flow of traffic, grade, visibility[,] and such other conditions of the street, thus causing as a result of such recklessness, imprudence and negligence, the said motor vehicle driven and operated by him to bump a trisikad driven and operated by Lee de la Cruz[,] which resulted [in] the latter's death as shown by the Certificate of Death dated November 1, 2003 issued by Dr. Randy Melo.

Act contrary to law.[8]

According to the prosecution, in the evening of October 31, 2003, the victim, Lee de la Cruz (Lee) parked a trisikad[9] to drop off his passenger and sacks of rice at the side of Circumferential Road, Barangay Banago, Bacolod City, particularly close to the Bangga Pepsi plant, which was near the intersection between Circumferential Road and Lacson Street. Thereafter, a Honda Civic driven by Ilon was running fast close to the intersection and bumped the trisikad parked in the street. As a result, Lee was thrown on top of the motor vehicle, fell on the road, and was ran over by Ilon. Instead of stopping, Ilon hurriedly left the place of the incident without helping Lee.[10] Lee was brought to Corazon Locsin Montelibano Memorial Hospital but unfortunately, was declared dead on November 1, 2003. At around 8:00 a.m. of even date, Ilon surrendered to the Office of the Investigation Section, Traffic Division of the Bacolod City Police Office. He reported the incident and admitted to

having been the driver of the Honda Civic that bumped Lee.[11]

The foregoing instances led to the filing of the Information against Ilon before the MTCC.

In his defense, Ilon claimed that on October 31, 2003, he was driving the Honda Civic travelling from Circumferential Road to Lacson Street on his way home to Talisay City after doing an errand for the wife of his employer, Rodelio[12] Malinao, Sr. (Rodelio). Upon reaching the corner (i.e., Bangga Pepsi plant), he alleged that he was merely an arms-length away when he noticed the parked trisikad, which he tried to avoid. Unfortunately, he still bumped the trisikad because the latter turned and moved to the center of the road when the passenger alighted from it. He described the area of the accident to have been dark because there were no lights around the intersection area. Upon figuring into an accident, Ilon alleged that he attempted to help Lee, but he did not pursue it because he was being stoned by bystanders in the area.[13]

During cross-examination, Ilon stated that he was about eight arms' length or 30 feet away from the intersection when he first saw the trisikad driven by Lee, which was around three arms' length away from the intersection. He stated that he was driving at a normal speed of 40kph while traversing the road and that he tried to avoid the trisikad, but nonetheless, still bumped the same because the trisikad moved downward. However, he admitted that he did not stop or slow down despite the trisikad stopping because his motor vehicle was running too fast and he even increased the speed of his motor vehicle upon reaching the intersection and it was only then that he noticed that the trisikad was in front of him.[14]

Aside from Ilon's testimony, the defense presented Marissa Malinao (Marissa). Marissa testified that Ilon was their family driver of the Honda Civic which was owned by Rodelio. After figuring into the accident, she alleged that she advised Ilon to report the incident the following day while the latter argued that the accident was not his fault.[15] Further, the defense presented Rommel Gimongala, another trisikad driver, who described the events of the incident. He testified that he saw a white car which tried to avoid the trisikad of Lee, but the same car eventually hit the trisikad and its driver.[16]

The MTCC Ruling

In a Decision[17] dated June 1, 2017, the MTCC found Ilon guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide, the dispositive portion of which reads:

WHEREFORE, premises considered, this Court hereby finds the accused NOLI Z. ILON "GUILTY" beyond a [sic] reasonable doubt as principal for the commission of the quasi-offense of Reckless Imprudence Resulting in Homicide[,] defined and penalized under Art. 365 of the Revised Penal Code. He is hereby sentenced to suffer an indeterminate penalty of 2 years[,] 4 months[,] and 1 day of [prision correccional] as the minimum to 3 years[,] 6 months[,] and 20 days of [prision correccional] as the maximum.[18] (Emphasis in the original)

In convicting Ilon, the MTCC found that all the elements of Article 365 of the Revised Penal Code were proven by the prosecution beyond reasonable doubt. It relied on the testimonies of the prosecution and the admissions of Ilon. In particular, it took into consideration Ilon's admission that he did not take any form of precaution while driving in an intersection and even increased his speed, which caused Ilon's motor vehicle to bump into the trisikad and caused Lee's death. Further, it found untenable Ilon's argument of Lee's contributory negligence, opining that the same does not apply in criminal cases arising from reckless imprudence.[19]

As a consequence of finding Ilon's guilt beyond reasonable doubt, the MTCC found him civilly liable to the heirs of Lee and ordered him to pay the amounts of PHP 547,200.00 for future support; PHP 100,000.00 for civil indemnity for Lee's death; PHP 50,000.00 for moral damages; and PHP 22,683.45 for actual and compensatory damages. The amount of PHP 40,000.00 previously paid by Ilon was deducted by the MTCC as partial payment

to the agreed payment of PHP 100,000.00 by Ilon and the heirs of Lee. Further, it ordered that the foregoing amounts shall bear interest at the rate of 6% per annum from the date of finality of the ruling until full payment. Furthermore, it ruled that Rodelio shall be subsidiarily liable for being the employer of Ilon and the owner-operator of the Honda Civic pursuant to Article 103 of the Revised Penal Code in case of Ilon's insolvency.[20]

Aggrieved, Ilon moved for reconsideration,[21] but was denied in an Order[22] dated July 14, 2017. Thus, he appealed[23] to the RTC.

The RTC Ruling

In a Decision[24] dated January 12, 2018, the RTC upheld the MTCC ruling with modification, the dispositive portion of which reads:

WHEREFORE, the appeal is hereby partially GRANTED. The Decision dated June 1, 2017 of the MTCC Branch 7, finding accused NOLI ILON Y ZAMORA guilty beyond reasonable doubt of the crime of Reckless Imprudence Resulting [in] Homicide under Article 365 of the Revised Penal Code is hereby AFFIRMED with the following MODIFICATION; in that the award for civil indemnity for the victim's death of [PHP] 100,000.00 is reduced to [PHP] 50,000.00.[25] (Emphasis in the original)

Agreeing with the MTCC, the RTC held that Ilon cannot invoke the defense of contributory negligence when a criminal case is committed through reckless imprudence. Similarly, it likewise ruled that there was an inexcusable lack of precaution on the part of Ilon based on his own admissions during cross-examination that he did not slow down and even sped up when he was approaching the intersection at the time of the incident.[26] Nonetheless, the RTC modified the civil indemnity in accordance with the case of *People v. Jugueta*. [27]

Dissatisfied, Ilon appealed[28] the case to the CA.

The CA Ruling

In a Decision[29] dated April 29, 2021, the CA affirmed the RTC ruling with modification, the dispositive portion of which reads:

WHEREFORE, the instant Petition is DENIED. The January 12, 2018 Decision of the RTC, Branch 45, Bacolod City, in Criminal Case No. 17-45323, is AFFIRMED with MODIFICATION as to the penalty to be imposed. Petitioner Noli Z. Ilon is sentenced to suffer an indeterminate penalty of four (4) years of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum.[30] (Emphasis in the original)

The CA held that the prosecution was able to establish that the motor vehicle driven by Ilon was running at a fast speed and hit the rear of the trisikad, causing Lee to be thrown off into the air and land on the hood of the car. The CA also considered the admissions of Ilon in not slowing down and instead increasing his speed while approaching an intersection. It held that Ilon should have exerted more precaution as the degree of care required of motorists approaching an intersection is higher than an ordinary street or highway. Citing Article 365 of the Revised Penal Code, the CA modified the penalty imposed due to Ilon's failure to render assistance to Lee. Similarly applying the provisions of Article 365 of the Revised Penal Code, the CA did not consider Ilon's surrender as a mitigating circumstance.[31]

Undaunted, Ilon moved for reconsideration,[32] but was denied by the CA in a Resolution[33] dated December 14, 2021. Hence, this Petition.[34]

The Issue Before the Court

The issue for the Court's resolution is whether the CA correctly upheld Ilon's conviction for reckless imprudence

resulting in homicide.

The Court's Ruling

The Petition is denied.

The Court holds Ilon liable for reckless imprudence resulting in homicide. However, the Court modifies the penalty to be imposed, as will be explained below.

I.

Rule 45, Section 2, in relation to Rule 124,[35] Section 18 of the Rules of Court provides that a petition for review on certiorari shall be filed within 15 days from notice of the judgment appealed from or of the denial of petitioner's motion for reconsideration. The time of filing may be extended for a period not exceeding 30 days, provided that a motion was duly filed and served with full payment of docket and other lawful fees.

In this relation, the Court finds that Ilon's present Petition was filed out of time despite the Court granting an extension to file the same for 30 days from April 13, 2022, or until May 13, 2022. However, the Petition was filed only on May 16, 2022. Considering the foregoing, Ilon's failure to file the Petition within the reglementary period despite the Court's grant of an extension renders the CA ruling final and executory.

Nevertheless, if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.[36] Otherwise stated, procedural rules may be relaxed for the most persuasive of reasons in order to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.

In *Barnes v. Padilla*,[37] the Court has previously relaxed the reglementary period in perfecting an appeal to serve substantial justice such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the other party will not be unjustly prejudiced thereby.[38]

In this relation, in a catena of similar cases where the accused failed to perfect their appeal on their respective judgments of conviction,[39] the Court still corrected the penalties imposed, notwithstanding the finality of the decisions because they were outside the range of penalty prescribed by law. Thus, a sentence which imposes upon the defendant in a criminal prosecution a penalty in excess of the maximum, which the court is authorized by law to impose for the offense for which the defendant was convicted, is void for want or excess of jurisdiction as to the excess.[40] Thus, there is no reason to deprive Ilon of the same relief afforded to the accused in the aforesaid cases.

While this Court affirms the conviction of Ilon for reckless imprudence resulting in homicide, some of his arguments merit consideration, as will be explained hereunder. As such, the Court hereby disregards the strict rules of procedure for this case and shall proceed to make a full review of the factual and legal bases of Ilon's conviction and the consequent imposition of penalties therefor, if any, pursuant to the principle that an appeal in criminal cases opens the entire case for review.[41]

II.

Reckless imprudence or negligence under Article 365 of the Revised Penal Code consists of a voluntary act done without malice, from which an immediate personal harm, injury, or material damage results by reason of an inexcusable lack of precaution or advertence on the part of the person committing it.[42] It implies a failure in precaution or a failure to take the necessary precaution once the danger or peril becomes foreseen.[43]

Otherwise stated, reckless imprudence, as punished by the Revised Penal Code, consists of the following elements: (1) that the offender does or fails to do an act; (2) that the doing or the failure to do that act is voluntary; (3) that it be without malice; (4) that material damage results from the reckless imprudence; and (5) that there is inexcusable lack of precaution on the part of the offender, taking into consideration their employment or occupation, degree of intelligence, physical condition, and other circumstances regarding persons, time, and place.[44]

In *Caminos, Jr. v. People*,[45] the Court found the accused guilty of reckless imprudence resulting in damage to property when the accused caused a vehicular collision, as he failed to exercise proper precaution when he drove a vehicle towards the intersection at an unreasonable speed. In upholding the existence of reckless imprudence, the Court held that a motorist is expected to exercise ordinary care and drive at a reasonable rate of speed commensurate with all the conditions encountered, especially when close to an intersection, viz.:

Even apart from statutory regulations as to speed, a motorist is nevertheless expected to exercise ordinary care and drive at a reasonable rate of speed commensurate with all the conditions encountered which will enable him to keep the vehicle under control and, whenever necessary, to put the vehicle to a full stop to avoid injury to others using the highway.

It must be stressed that this restriction on speed assumes more importance where the motorist is approaching an intersection. Ordinary or reasonable care in the operation of a motor vehicle at an intersection would naturally require more precaution than is necessary when driving elsewhere in a street or highway. A driver approaching an intersection is generally under duty, among others, to be vigilant and to have the vehicle under control as to be able to stop at the shortest possible notice, that is, he must look for vehicles that might be approaching from within the radius that denotes the limit of danger.

Since compliance with this duty is measured by whether an approaching motorist has exercised the level of precaution required under the circumstances, then with more reason that he exhibit a relatively higher level of care when the intersection is blind at the point where the roads meet. In other words, where the view at an intersection is obstructed and an approaching motorist cannot get a good view to the right or left until he is close to the intersection, prudence would dictate that he take particular care to observe the traffic before entering the intersection or otherwise use reasonable care to avoid a collision, which means that he is bound to move with the utmost caution until it is determinable that he can proceed safely and at the slowest speed possible so that the vehicle could be stopped within the distance the driver can see ahead.[46] (Emphasis supplied, citations omitted)

Here, the courts a quo consistently and correctly held that there was an inexcusable lack of precaution on the part of Ilon based on his admissions and the factual circumstances of the case. Absent any exceptional circumstance, none of which are present in this case, the findings of the trial court, when affirmed by the appellate court, are binding upon the Court.[47] As Ilon himself admitted, he failed to slow down his motor vehicle despite knowing that he was approaching an intersection and at the same time knowing that the area where the intersection was located was dark. Worse, instead of taking precaution and slowing down, he sped up his motor vehicle, and thus, resulted in the occurrence of the accident, which led to the death of Lee. This can be seen in Ilon's testimony during his cross-examination, viz.:

PA1 Placido:

Q-

How far were you from the [trisikad] when you first saw him when you are [sic] in the circumferential road?

A-

Eight (8) [arm's] length.

....

Q-

Do you mean to say Mr. [W]itness that while you were driving behind the [trisikad] and when the [trisikad] stopped to be able [sic] the passenger alighted the [trisikad], you did not stop, you continued driving Mr. [W]itness?

A-

No, I continued driving.

Q-

You did not stop Mr. [W]itness even if you were just about three [arm's] length away from the intersection?

A-

No ma'am.

Q-

And you decided to avoid the [trisikad] by taking the lane of the jeepney coming towards west?

A-

Yes.

Q-

And you did that Mr. [W]itness even [sic] you are [sic] approaching an intersection of Lacson Street?

A-

Yes.

Q-

And considering Mr. [W]itness that the road at that time was going up, am I right to say Mr. [W]itness that you were able to move your car forward [sic] you increase [sic] your speed, Mr. [W]itness?

A-

Yes.

Q-

And you increase [sic] speed even if you are about to enter an intersection?

A-

Yes.

Q-

And when you accelerate [sic] speed Mr. [W]itness, do you agree with me that you were able to hit the [trisikad]?

A-

Yes.

....

Q-

You also mentioned earlier Mr. [W]itness that the different parts of the [trisikad] scattered?

A-

Yes.

Q-

You also mentioned earlier that you saw the [trisikad] driver flying?

A-

Yes.

Q-

Meaning to say Mr. [W]itness that when you approached the intersection, you were in full speed instead of lowering your speed?

A-

Yes.[48]

Verily, these circumstances lead the Court to conclude that Ilon failed to exercise the standard of care called for the situation that he himself admitted to.

Neither does Ilon's argument that Lee's alleged contributory negligence hold water as a defense for his acquittal. As discussed in *Caminos*, the Court held that the negligence of the person injured or who was the driver of the motor vehicle with which the accused's vehicle collided does not constitute a defense in the crime of reckless imprudence. Instead, such negligence shall only be considered in the award of damages.[49] The Court elaborated the foregoing discussion in this wise:

Moreover, in a prosecution for reckless or dangerous driving, the negligence of the person who was injured or who was the driver of the motor vehicle with which the accused's vehicle collided does not constitute a defense. In fact, even where such driver is said to be guilty of a like offense, proof thereof may never work favors to the case of the accused. In other words, proof that the offended party was also negligent or imprudent in the operation of his automobile bears little weight, if at all, at least for purposes of establishing the accused's culpability beyond reasonable doubt. Hence, even if we are to hypothesize that Arnold was likewise negligent in neglecting to keep a proper lookout as he took a left turn at the intersection, such negligence, contrary to petitioner's contention, will nevertheless not support an acquittal. At best, it will only determine the applicability of several other rules governing situations where concurring negligence exists and only for the purpose of arriving at a proper assessment of the award of damages in favor of the private offended party.[50] (Emphasis supplied, citations omitted)

Contributory negligence is analogous to sufficient provocation and, if factually proven, is considered a mitigating circumstance

While contributory negligence cannot be raised as defense for acquittal, the Court is of the view that contributory negligence, if factually proven, may be considered as a mitigating circumstance under Article 13(10) of the Revised Penal Code – particularly, analogous circumstances to the paragraphs 1 to 9 of Article 13 in relation to Article 13(4) of the Revised Penal Code (that sufficient provocation or threat on the part of the offended party immediately preceded the act).

In *Miranda v. People*,[51] the Court reiterated that sufficient provocation is "any unjust or improper conduct or act of the victim adequate enough to excite a person to commit a wrong, which is accordingly proportionate in gravity." [52] On the other hand, contributory negligence as a concept "is conduct on the part of the injured party, contributing as a legal cause to the harm he has suffered, which falls below the standard to which he is required to conform for his own protection." [53] From the foregoing definitions, it is discerned that contributory negligence is analogous to the sufficient provocation because of how the injury caused the offended party would not have occurred if not for the offended party's failure to conform with the standard required of him.

Nevertheless, the Court finds untenable Ilon's assertion that Lee is guilty of contributory negligence. As uniformly found by the courts a quo, no contributory negligence could be ascribed to Lee, considering that he simply alighted from the trisikad and it was Ilon's lack of precaution of speedily driving which caused the accident. Thus, Ilon is not entitled to a mitigating circumstance of contributory negligence.

Given the foregoing, the Court finds no reason to deviate from the findings of the first-level and second-level courts, as affirmed by the CA that there was an inexcusable negligence on the part of Ilon, as there is no indication that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. In fact, the first-level court was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.[54] Considering the foregoing, the lower courts' finding of Ilon's conviction is sustained.

III.

Ilon's criminal liability having been established, the Court now goes to the penalty imposable upon him, as well as his civil liability *ex delicto*.

Under Article 365, paragraph 6, subparagraph 2 of the Revised Penal Code, when reckless imprudence in the use of a motor vehicle results in the death of a person, as in this case, the prescribed penalty is prision correccional in its medium and maximum periods, i.e., two years, four months, and one day, to six years. Notably, Article 365, paragraph 9 of the Revised Penal Code prescribes "[t]he penalty next higher in degree to those provided for in this article. . . upon the offender who fails to lend on the spot to the injured parties such help as may be in this hand to give." Here, the CA used this clause to increase the penalty to be imposed on Ilon.

The CA erred in this regard.

As may be gleaned from Article 365, paragraph 9 of the Revised Penal Code, failure to help on the spot on the part of the offender is a qualifying circumstance, which operates to increase the imposable penalty by a degree, and as such, must be alleged in the Information.

In *Ibabao v. People*,^[55] the Court ruled:

We find merit in petitioner's contention, however, that the increased penalty is inapplicable to him because the failure to give aid to the injured on the spot has not been alleged in the Information. So far as we have been able to ascertain, this question has not been definitely passed upon by this Court. But, we agree with the then Court of Appeals when it ruled in *People vs. Beduya* that "the failure to render assistance, constitutes a qualifying circumstances because the presence thereof raises the penalty by one degree (like treachery which qualifies homicide to murder). The same must be alleged in the [I]nformation to apprise the defendant of this charge[.]"^[56] (Emphasis supplied, citation omitted)

In this relation, the Court has consistently held that for qualifying aggravating circumstances to be appreciated, it must be alleged in the Information and consequently proven during trial. This is in line with the constitutional right of an accused to be informed of the nature and cause of the accusation against them. Thus, the Court cannot appreciate the qualifying circumstance of failure to render assistance in the present case, as it was not alleged in the Information, even if the prosecution has duly proven its existence.^[57]

In this case, the Court notes that a plain reading of the Information shows that it is bereft of any factual averment stating that Ilon failed to render assistance on Lee. Thus, even if this fact was proven during trial, the Court is constrained to disregard this circumstance.

IV.

On the other hand, Ilon invokes the circumstance of voluntary surrender to mitigate his criminal liability.

As previously discussed by the CA, Ilon's voluntary surrender to the authorities cannot be appreciated as a mitigating circumstance based on the provisions of Article 365 of the Revised Penal Code.

While the CA did not discuss the reason for not considering the existence of mitigating circumstances, it can be surmised that it made its holding following Article 365, paragraph 5 of the Revised Penal Code. Such provision states that in the rules of the application of penalties—the applicability of mitigating and/or aggravating circumstances in the determination of the penalty under Article 64 of the Revised Penal Code—the trial court has the discretion of whether to apply the circumstances in imposing the penalties provided in Article 365 of the Revised Penal Code.

In this relation, the entire provision of Article 365 of the Revised Penal Code reads as follows:

ART. 365. Imprudence and negligence. – Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of *arresto mayor* in its maximum period to *prision correccional* in its medium period; if it would have constituted a less grave felony, the penalty of *arresto mayor* in its minimum and medium periods shall be imposed; if it would have constituted a light felony, the penalty of *arresto menor* in its maximum period shall be imposed.

Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of *arresto mayor* in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of *arresto mayor* in its minimum period shall be imposed.

When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three times such value, but which shall in no case be less than twenty-five pesos.

A fine not exceeding two hundred pesos and censure shall be imposed upon any person who, by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.

In the imposition of these penalties, the court shall exercise their sound discretion, without regard to the rules prescribed in Article 64.

The provisions contained in this article shall not be applicable:

1. When the penalty provided for the offense is equal to or lower than those provided in the first two paragraphs of this article, in which case the court shall impose the penalty next lower in degree than that which should be imposed in the period which they may deem proper to apply.
2. When, by imprudence or negligence and with violation of the Automobile Law, to death of a person shall be caused, in which case the defendant shall be punished by *prision correccional* in its medium and maximum periods.

Reckless imprudence consists in voluntary, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.

Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest.

The penalty next higher in degree to those provided for in this article shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in this hand to give. (As amended by Republic Act No. 1790, approved on June 21, 1957). (Emphasis supplied)

The application of the rules prescribed in Article 365 of the Revised Penal Code by the Court was done as early as the American occupation in the case of *United States v. Apigo*.^[58] In a case involving reckless imprudence which caused damage to property due to the spread of fire, the Court, in *Apigo*, held that a judge may waive the application of the ordinary rules under the then Article 81 of the *Codigo Penal* (i.e., now Article 64 of the Revised Penal Code) in imposing penalties in cases involving reckless imprudence, viz.:

From a reading of his judgment we would infer that he, like ourselves, had arrived at the conclusion that under all the circumstances of this case the interests of justice would not demand the imposition of anything more than the minimum penalty prescribed by law, but that he overlooked the authority conferred upon him to waive

the ordinary rules in imposing penalties in this class of cases. Article 568, after defining and penalizing the offense, further provides that "in the application of these penalties the courts shall act upon their own discretion without subjection to the rule established by article 81, "that is to say, without the obligation of imposing the penalty in its minimum, medium or maximum degree according as the proof adduced at the trial establishes the existence or nonexistence of the aggravating and extenuating circumstances mentioned in the first book of the Code.[59] (Emphasis supplied)

After 45 years, the Court En Banc, in the case of *People v. Agito*,^[60] shared the same view held in *Apigo*. In *Agito*, the accused was charged with reckless imprudence resulting in triple homicide and serious physical injuries. Similar to the facts of the present case, the accused, while driving a bus and while bypassing another truck in full speed, hit a coconut tree, causing the death of three people. During trial, the accused invoked the plea of guilty as a mitigating circumstance, but was not considered by the trial court in imposing the penalty. In holding that the trial court was correct in not considering the mitigating circumstance, the Court, citing the case of *People v. Quijano*^[61] decided by the CA, likewise applied paragraph 5 of Article 365, similar to the Court's ruling in *Apigo*:

The contention that the trial court erred in not considering the mitigating circumstance of plea of guilty to reduce the penalty to the minimum period is also untenable, for the same is contrary to [A]rticle 365, paragraph 5, of the Revised Penal Code, as amended by Republic Act No. 384, which provides that "In the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in Article sixty-four." These penalties are the ones prescribed for offenses committed through imprudence and negligence.^[62]

It should be noted that *Quijano* also involved the crime of reckless imprudence resulting in homicide committed by therein accused who caused the death of the victim therein through shooting of a rifle. In not appreciating the existence of the mitigating circumstance of voluntary surrender, the appellate court cited the Court's explanation in *Apigo*:

The alleged failure of the trial court to consider in favor of the appellant the mitigating circumstance of voluntary surrender, as well as the consideration by it of the alleged circumstance of refusal to lend aid to his victim as an aggravating circumstance, need not be considered, because the rules for the application of penalties prescribed by Article 62 of the Revised Penal Code are not applicable in case of reckless imprudence under [A]rticle 65 (*U.S. vs. Apigo*, 25 Phil. 631).^[63]

The Court arrived at the same conclusion in *People v. Medroso, Jr.*^[64] In *Medroso*, the accused was charged with reckless imprudence resulting in homicide, particularly under Article 365, paragraph 6, subparagraph 2 of the Revised Penal Code, when the accused, without any license, operated a truck and while passing along a barrio, hit a pedestrian, causing the latter's death. In upholding the trial court's determination of penalty without taking into account the accused's invocation of the mitigating circumstances of plea of guilty and voluntary surrender, the Court, citing *Agito*, explained:

Appellant is charged with homicide thru reckless imprudence for which the penalty provided for in paragraph 6, sub-section 2 of Article 365 of the Revised Penal Code is prision correccional in its medium and maximum periods or from two years, four months and one day to six years.

Appellant now contends that inasmuch as he has two mitigating circumstances in his favor without any aggravating circumstance, as driving without a license is not to be considered such, he is entitled to a penalty one degree lower than that prescribed by law pursuant to Article 64 of the Revised Penal Code or, arresto mayor in its maximum period to prision correccional in its minimum period, that is, from "four months and one day to two years, four months and one day," and that applying the Indeterminate Sentence Law, the trial court should have imposed a minimum within the penalty still one degree lower, which is arresto mayor minimum

and medium periods (1 month and 1 day to 4 months) and to a maximum of not more than two years, four months, and one day of prision correccional.

Appellant's proposition would indeed be correct if he were charged with any of the offenses penalized in the Revised Penal Code other than Article 365 thereof. But because appellant is accused under Article 365, he is not entitled as a matter of right to the provisions of Article 64 of the Code.

Paragraph 5 of Article 365 expressly states that in the imposition of the penalties provided for in the Article, the courts shall exercise their sound discretion without regard to the rules prescribed in Article 64. The rationale of the law can be found in the fact that in quasi-offenses penalized under Article 365, the carelessness, imprudence or negligence which characterizes the wrongful act may vary from one situation to another, in nature, extent, and resulting consequences, and in order that there may be a fair and just application of the penalty, the courts must have ample discretion in its imposition, without being bound by what We may call the mathematical formula provided for in Article 64 of the Revised Penal Code. On the basis of this particular provision, the trial court was not bound to apply paragraph 5 of Article 64 in the instant case even if appellant had two mitigating circumstances in his favor with no aggravating circumstance to offset them.

In *People vs. Agito*, 1958, 103 Phil. 526, the accused, Simplicio Agito, was charged with triple homicide and serious physical injuries thru reckless imprudence before the Court of First Instance of Occidental Mindoro. He pleaded guilty and the trial court, applying Article 365, paragraph 6, sub-section 2 of the Revised Penal Code, sentenced him to suffer an indeterminate penalty from one year and one day to three years, six months and twenty-one days of prision correccional. The accused appealed questioning the propriety of the penalty imposed and appellant contended inter alia that the trial court erred in not considering the mitigating circumstance of plea of guilty so as to reduce the penalty to a minimum period. This contention was held by this Court to be untenable for to uphold it would be contrary to Article 365, paragraph 5, of the Revised Penal Code as amended by R.A. 384 which provides that "(I)n the imposition of these penalties (referring to the penalties defined in Article 365), the courts shall exercise their sound discretion without regard to the rules prescribed in Article 64." (Portion in parenthesis supplied)

In the case now before Us, the penalty for homicide thru reckless imprudence with violation of the Automobile Law is prision correccional in its medium and maximum periods with a duration from two years, four months, and one day to six years. Applying the Indeterminate Sentence Law to which appellant is entitled[,] the imposable penalty covers a minimum to be taken from the penalty one degree lower than that prescribed by law or arresto mayor in its maximum period to prision correccional in its minimum period, [i.e.] four months and one day to two years and four months, and a maximum to be taken in turn from the penalty prescribed for the offense the duration of which is from two years, four months and one day to six years. The determination of the minimum and maximum terms is left entirely to the discretion of the trial court, the exercise of which will not be disturbed on appeal unless there is a clear abuse.[65] (Emphasis supplied, citations omitted)

Recently, the Court En Banc, in *People v. Delos Santos*,^[66] likewise did not appreciate the mitigating circumstance of voluntary surrender in determining the penalty to be imposed upon the accused. In *Delos Santos*, the accused was charged with reckless imprudence resulting in multiple homicide under Article 365 of the Revised Penal Code when the accused rammed through different persons while driving at night. Citing *Agito* and *Medroso*, the Court held that modifying circumstances need not be considered in the imposition of the penalty, to wit:

Now, we come to the penalty. Under Article 365 of the Revised Penal Code, any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony shall suffer the penalty of arresto mayor in its maximum period to prision correccional in its medium period; and if it would have constituted a light felony, the penalty of arresto menor in its maximum period shall be imposed. The last paragraph thereof provides that the penalty next higher in degree shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in his hand to give. This failure to

render assistance to the victim, therefore, constitutes a qualifying circumstance because the presence thereof raises the penalty by one degree. Moreover, the fifth paragraph thereof provides that in the imposition of the penalty, the court shall exercise its sound discretion without regard to the rules prescribed in Article 64. Elsewise stated, in felonies through imprudence or negligence, modifying circumstances need not be considered in the imposition of the penalty.

In the case at bar, it has been alleged in the [I]nformation and proved during the trial that GLENN "escaped from the scene of the incident, leaving behind the victims." It being crystal clear that GLENN failed to render aid to the victims, the penalty provided for under Article 365 shall be raised by one degree. Hence, for reckless imprudence resulting in multiple homicide with serious physical injuries and less serious physical injuries, the penalty would be prision correccional in its maximum period to prision mayor in its medium period. Applying Article 48, the maximum of said penalty, which is prision mayor in its medium period, should be imposed. For the separate offenses of reckless imprudence resulting in slight physical injuries, GLENN may be sentenced to suffer, for each count, the penalty of arresto mayor in its minimum period.

Although it was established through the testimonies of prosecution witness Lemuel Pangca and of GLENN that the latter surrendered to Governor Emano of Misamis Oriental, such mitigating circumstance need not be considered pursuant to the aforestated fifth paragraph of Article 365.[67] (Emphasis supplied, citations omitted)

Based on the foregoing line of cases, the trial court has the discretion not to apply the rules on the application of modifying circumstances under Article 64 of the Revised Penal Code to cases of reckless imprudence under Article 365 of the Revised Penal Code—including, as it appears, to cases where the death of a person is caused by imprudence or negligence and with violation of the Automobile Law under paragraph 6, subparagraph 2 of the Revised Penal Code—based on the mandate of paragraph 5 of the same article.

Interestingly, however, the Court, in *Ibabao*, presented a different interpretation that is inconsistent with the prevailing understanding of the applicability of paragraph 5 in relation to paragraph 6, subparagraph 2 of Article 365 of the Revised Penal Code.

In *Ibabao*, the accused was charged with the crime of reckless imprudence resulting in homicide when the accused was driving an owner-type jeep which bumped a victim and caused the death of the latter due to the accused's failure to stop the said vehicle.

Before the Court, the accused in *Ibabao* argued that the last paragraph of Article 365—which increased the imposable penalty when the accused fails to lend on the spot to the injured party—is not applicable to offenses under paragraph 6, subparagraph 2 of the same Article based on paragraph 6's opening statement that "the provisions contained in this article shall not be applicable." The accused argued that the opening statement of paragraph 6 of Article 365 implies that offenses under paragraph 6, subparagraph 2 is in a class by itself and is not affected by the rest of the provisions of the same Article.[68]

Disagreeing with the accused's argument, the Court, in *Ibabao*, ruled:

Petitioner submits that the last paragraph of the aforequoted Article 365 is not applicable to offenses under paragraph "2" of the same Article because of the opening statement that "the provisions contained in this article shall not be applicable," implying that paragraph "2" is in a class by itself and is not affected by the rest of the provisions of the same Article.

The argument is flawed. The proviso that "the provisions contained in this article shall not be applicable" clearly refers to the preceding paragraphs. Paragraphs "1" and "2" are exceptions to the application of the said preceding paragraphs under the circumstances mentioned. The last paragraph on failure to lend aid on the spot necessarily applies to all situations envisioned in the said Article whenever there is an injured party.[69]

(Emphasis supplied)

As held in *Ibabao*, the clause of Article 365, paragraph 6 of the Revised Penal Code stating that "the provisions contained in this article shall not be applicable" has the effect of excluding paragraph 6, subparagraphs 1 and 2 of Article 365 from the application of the first five paragraphs of Article 365 of the Revised Penal Code. In other words, the Court stated in *Ibabao* that in the determination of the applicable penalty for imprudence and negligence in Article 365 of the Revised Penal Code, paragraphs 1 to 5 of Article 365 is not applicable to paragraph 6, subparagraphs 1 and 2 of the same law.

The foregoing discussion presents the Court with two possible interpretations regarding the applicability of Article 64 of the Revised Penal Code with regard to reckless imprudence committed under Article 365, paragraph 6, subparagraph 2 of the Revised Penal Code.

The first view of interpretation, as held in the cases of *Apigo*, *Agito*, *Medroso*, and *De los Santos*, is that the modifying circumstances are not applicable to all acts committed under Article 365 of the Revised Penal Code including acts committed under paragraph 6, subparagraph 2 thereof based on the proviso under paragraph 5 of the same Article (first view).

On the other hand, the second view of interpretation as held in *Ibabao* is that the modifying circumstances under Article 64 may be applied over acts committed under Article 365, paragraph 6, subparagraph 2 because the first five paragraphs of Article 365 do not apply to paragraph 6 thereof based on its clause stating that "the provisions contained in this article shall not be applicable" (second view).

Confronted with these two interpretations, the Court finds an opportune moment to determine which between the first view and second view should be applied to guide the bench, the bar, and the public in relation to acts falling within paragraph 6, subparagraph 2 of Article 365 of the Revised Penal Code. In the present case, the Court deems it necessary to apply the rules of statutory construction to aid the Court in reconciling the two conflicting interpretations.

It is a fundamental rule in statutory construction that when the law is clear and unambiguous, the Court is left with no alternative but to apply the same according to its clear language—for it is the Court's duty to apply the law the way that it is worded. This rule of statutory construction is otherwise known as the *verba legis* rule or the "plain meaning rule," which states that "if the statute is clear, plain[,] and free from ambiguity, it must be given its literal meaning and applied without interpretation."^[70]

Considering the foregoing, the Court finds the second view to be more in keeping with the *verba legis* rule or the "plain meaning rule." A cursory reading of the clause of Article 365, paragraph 6 of the Revised Penal Code is clear in stating that "the provisions contained in this article shall not be applicable: . . . 2. When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused . . ." Included in the preceding paragraphs before paragraph 6 is paragraph 5 which give courts the discretion to impose the penalties in Article 365 of the Revised Penal Code "without regard to the rules prescribed in Article 64." Thus, as discussed in *Ibabao*, paragraph 6 should be considered as the exceptions to the applicability of the preceding provisions under Article 365 of the Revised Penal Code, including paragraph 5 of Article 365, which speaks of Article 64 of the Revised Penal Code.

In this relation, the Court finds that the second view is further supported by the history and development of Article 365 of the Revised Penal Code together with the penalty prescribed for reckless imprudence resulting in homicide committed while using a motor vehicle.

Prior to the Revised Penal Code, Article 568 of the Penal Code, as cited in *Apigo*, punishes reckless imprudence

or imprudencia temeraria as follows:

"He who shall execute through reckless negligence an act that, if done with malice, would constitute a grave crime, shall be punished with the penalty of arresto mayor in its maximum degree, to prision correccional in its minimum degree, and with arresto mayor in its minimum and medium degrees if it shall constitute a less grave crime.

"He who in violation of the regulations shall commit a crime through simple imprudence or negligence shall incur the penalty of arresto mayor in its medium and maximum degrees.

"In the application of these penalties the courts shall proceed according to their discretion, without being subject to the rules prescribed in article 81.

"The provisions of this article shall not be applicable if the penalty prescribed for the crime is equal to or less than those contained in the first paragraph thereof, in which case the courts shall apply the next one thereto in the degree which they may consider proper." [71]

Article 568 of the Penal Code was amended by Act No. 3815 or the Revised Penal Code as Article 365. Aside from the Revised Penal Code defining what constitutes as reckless imprudence and simple imprudence, Article 365 now made two situations where the provisions of the article would not apply: (a) Article 568, paragraph 4 of the Penal Code; and now (b) when there is imprudence and negligence and there is violation of the Automobile Law causing the death of the person, to wit:

ART. 365. Imprudence and negligence. — Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of arresto mayor in its maximum period to prision correccional in its medium period; if it would have constituted a less grave felony, the penalty of arresto mayor in its minimum and medium periods shall be imposed.

Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of arresto mayor in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of arresto mayor in its minimum period shall be imposed.

When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three times such value, but which shall in no case be less than Five thousand pesos ([PHP]5,000).

A fine not exceeding 200 pesos and censure shall be imposed upon any person who, by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.

In the imposition of these penalties, the court shall exercise their sound discretion, without regard to the rules prescribed in article 62.

The provisions contained in this article shall not be applicable:

1. When the penalty provided for the offense is equal to or lower than those provided in the first two paragraphs of this article, in which case the court shall impose the penalty next Lower in degree than that which should be imposed, in the period which they may deem proper to apply.
2. When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by prision correccional in its medium and maximum periods.

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical

condition and other circumstances regarding persons, time and place.

Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest.

Article 365, paragraph 5 of the Revised Penal Code would thereafter be amended in Republic Act No. 384[72] by changing the phrase "article 62" to "article sixty-four". Subsequently, Article 365 would be substantially amended by Republic Act No. 1790,[73] which is the present iteration of the said article. The amendments are underscored as follows:

ART. 365. Imprudence and negligence. — Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of arresto mayor in its maximum period to prision correccional in its medium period; if it would have constituted a less grave felony, the penalty of arresto mayor in its minimum and medium periods shall be imposed; if it would have constituted a light felony, the penalty of arresto menor in its maximum period shall be imposed.

Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of arresto mayor in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of arresto mayor in its minimum period shall be imposed.

When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three times such value, but which shall in no case be less than twenty-five pesos.

A fine not exceeding two-hundred pesos and censure shall be imposed, upon any person who, by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.

In the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in [A]rticle sixty-four.

The provisions contained in this article shall not be applicable:

1. When the penalty provided for the offense is equal to or lower than those provided in the first two paragraphs of this article, in which case the courts shall impose the penalty next lower in degree than that which should be imposed in the period which they may deem proper to apply.
2. When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by prision correccional in its medium and maximum periods.

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.

Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest.

The penalty next higher in degree to those provided for in this article shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in his hands to give.

It can be observed that the two situations contemplated under Article 365, paragraph 6 of the Revised Penal Code, particularly those that follow the clause "the provisions contained in this article is not applicable," remain

unchanged. This is despite the fact of the succeeding amendments to provisions of Article 365 of the Revised Penal Code. However, the Court notes that the penalty prescribed in relation to the act covered by Article 365, paragraph 6, subparagraph 2 had the occasion to be changed by the legislature considering the changes made to the Automobile Law.

Prior to the effectivity of the Revised Penal Code, Act No. 2159,[74] passed on February 6, 1912, penalized the act of recklessly operating a motor vehicle which can endanger the "property or safety or rights of any person":

SECTION 24. No person shall operate a motor vehicle on any highway in these Islands recklessly or at a rate of speed greater than is reasonable and proper, having regard to the width, traffic, grades, crossings, curvatures, and other conditions of the highway and to the conditions of the atmosphere and weather, or so as to endanger the property or the safety or rights of any person or so as to cause excessive or unreasonable damage to the highway.

No person shall unreasonably obstruct or impede the passage or right of travel of any motor vehicle or operator thereof and no operator shall unreasonably obstruct the passage of any other vehicle or person on any highway. Every person found guilty of violating the provisions of this section shall be punished by a fine of not less than five nor more than fifty pesos or by imprisonment of not more than six months or by both such fine and imprisonment.

With the advent of the Revised Penal Code, Article 365 prescribed a different penalty when the death of a person is caused by negligence or imprudence in violation of the Automobile Law:

ART. 365. Imprudence and negligence. — ...

The provisions contained in this article shall not be applicable:

2. When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by prison correccional in its medium and maximum periods.

Immediately after the effectivity of the Revised Penal Code on January 1, 1932, the Legislature passed Act No. 3992[75] or the Revised Motor Vehicle Law on December 3, 1932, which amended the penalty for the death of a person caused by negligence or imprudence with the use of a motor vehicle, to wit:

SEC. 67. Violation and Penalties. — The following penalties shall be imposed for violations of this Act.

....

(d) If, as the result of negligence or reckless or unreasonably fast driving any accident occurs resulting in death or serious bodily injury to any person, the motor vehicle driver or operator at fault shall, upon conviction be punished by imprisonment for not less than fifteen days nor more than six years in the discretion of the court.

Notably, Act No. 3992 explicitly provided for a distinct penalty for the crime, which is different from that prescribed by the Revised Penal Code, i.e., "imprisonment for not less than fifteen days nor more than six months."

Thereafter, on September 22, 1950, Act No. 3992 was amended by Republic Act No. 587. In particular, Republic Act No. 587[76] again amended the penalty for the commission of the said crime, to wit:

Section 16. Section sixty-seven, article one, Chapter four, of Act Numbered Thirty-nine hundred and ninety-two, is hereby amended to read as follows:

"Sec. 67. Violation and penalties. — The following penalties shall be imposed for violations of this Act.

....

(d) If, as the result of negligence or reckless or unreasonably fast driving any accident occurs resulting in death or serious bodily injury to any person, the motor vehicle driver at fault, shall, upon conviction be punished under the provisions of the Penal Code.

As may be gleaned above, the prescribed penalty for the crime was reverted to what is prescribed under the Revised Penal Code, i.e., prison correccional in its medium and maximum periods.

Significantly, the reversion of the prescribed penalty to what is provided under the Revised Penal Code would be retained by the present Automobile Law, Republic Act No. 4136[77] or the Land Transportation and Traffic Code. In particular, Section 56 of Republic Act No. 4136 states that the prescribed penalty for the death of a person caused by negligence or imprudence with the use of a motor vehicle shall be based on the provisions of the Revised Penal Code, viz.:

SECTION 56. Penalty for Violation. — The following penalties shall be imposed for violations of this Act:

....

(n) If, as the result of negligence or reckless or unreasonable fast driving, any accident occurs resulting in death or injury of any person, the motor vehicle operator at fault shall, upon conviction, be punished under the provisions of the Revised Penal Code.

The same language in Section 56(n) of Republic Act No. 4136 would be retained in Batas Pambansa Blg. 398,[78] passed on May 18, 1983, which further amended the provisions of Republic Act No. 4136.

As illustrated above, the evolution of Article 365 supports the second view when taken together with decisions involving the appreciation of modifying circumstances in relation to reckless imprudence. In particular, the Court observes that the application of the rulings in *Apigo* and *Quijano* in *Agito* was improper, considering that:

a.

The factual circumstances of *Apigo* and *Quijano*, which served as *Agito*'s rationale, were different from *Agito* and did not involve the commission of reckless imprudence resulting in homicide with the use of a motor vehicle; and

b.

Significantly, Article 365 of the Revised Penal Code (previously Article 568 of the Penal Code) had yet to contemplate paragraph 6, subparagraph 2 of Article 365 during the time when *Apigo* was decided by the Court.

Moreover, the Court's ruling in *Ibabao* likewise acknowledges that the impossible penalty may be increased through a special aggravating circumstance (i.e., the failure to lend aid to the injured party). To the Court's mind, to adopt the first view would be to create an inequitable situation where the range of the impossible penalty may be increased with an aggravating circumstance, but cannot be decreased through a mitigating circumstance.

In the same vein, the development of the penalty prescribed for reckless imprudence resulting in homicide through the use of a motor vehicle likewise supports the second view. Following the Court's discussion above, it is divined that the legislature intended to keep the original language of Article 365, paragraph 6, subparagraph 2 of the Revised Penal Code based on the amendments made from Act No. 3992 up until Batas Pambansa Blg. 398. Moreover, the language of the amendments likewise did not revise or amend the clause "The provisions contained in this article shall not be applicable: [...]" found in Article 365, paragraph 6 of the Revised Penal Code.

Taking the foregoing considerations all together, the Court thus reconsiders the doctrine espoused by *Agito* and

similar cases and now holds that Article 64 of the Revised Penal Code, which provides for the rules on the application of modifying circumstances, are applicable to the commission of acts covered by Article 365, paragraph 6 of the Revised Penal Code, specifically those falling within subparagraph 2.

At this juncture, it is important to clarify that the exception made in Article 365, paragraph 6 of the Revised Penal Code only relates to the paragraphs preceding the same (i.e., paragraphs 1 to 5 of the same Article). Thus, the succeeding paragraphs of Article 365—including the last paragraph which prescribes higher penalties to an "offender who fails to lend on the spot to the injured parties such help as may be in his hands to give"—are still applicable to all crimes falling under this Article where there is an injured party involved, regardless of whether they fall under paragraphs 1 to 5 or to paragraph 6 of Article 365. To be sure, this matter has been squarely addressed in *Ibabao*, to wit:

Petitioner submits that the last paragraph of the aforementioned Article 365 is not applicable to offenses under paragraph "2" of the same Article because of the opening statement that "the provisions contained in this article shall not be applicable," implying that paragraph "2" is in a class by itself and is not affected by the rest of the provisions of the same Article.

The argument is flawed. The proviso that "the provisions contained in this article shall not be applicable" clearly refers to the preceding paragraphs. Paragraphs "1" and "2" are exceptions to the application of the said preceding paragraphs under the circumstances mentioned. The last paragraph on failure to lend aid on the spot necessarily applies to all situations envisioned in the said Article whenever there is an injured party.[79] (Emphasis supplied)

V.

Having clarified the applicability of Article 64 of the Revised Penal Code in the present case, the Court now proceeds to determine the penalty to be imposed upon Ilon.

In *People v. Doca*,^[80] the Court reiterated that voluntary surrender may be appreciated to mitigate the imposable penalty when the following requisites are present: "(1) the accused has not been actually arrested; (2) the accused surrenders himself to a person in authority or the latter's agent; and (3) the surrender is voluntary."^[81] In this relation, the mitigating circumstance is based on "[the] spontaneity and the intent of the accused to give himself up and submit himself to the authorities, either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture."^[82]

Here, the records show that at around 8:00 a.m. of the same day of the commission of the crime, Ilon surrendered to the Office of the Investigation Section, Traffic Division of the Bacolod City Police Office. There, he reported the incident and admitted having been the driver of the Honda Civic that bumped Lee. These circumstances lead the Court to conclude that Ilon had the intent to voluntarily surrender to the authorities and thus, the penalty should be adjusted accordingly with voluntary surrender as a mitigating circumstance.

In view of the foregoing, the Court modifies the penalty imposed by the CA. As mentioned, the prescribed penalty is prision correccional in its medium and maximum periods, i.e., two years, four months and one day, to six years. Applying the Indeterminate Sentence Law,^[83] and taking into consideration the presence of the mitigating circumstance of voluntary surrender in this case, the Court finds it proper to sentence Ilon to suffer the penalty of imprisonment for an indeterminate period of four months and one day of arresto mayor, as minimum, to two years, four months, and one day of prision correccional, as maximum.

VI.

As regards Ilon's civil liability, the Court finds that the award of damages, as modified by the RTC's Decision dated January 12, 2018, should remain undisturbed, considering that Lee's heirs are not impleaded in the present case.[84]

Hence, Ilon is ordered to pay the total amount of PHP 629,883.45 broken down as follows: (a) PHP 547,200.00 for future support; (b) PHP 50,000.00 for civil indemnity for Lee's death; (c) PHP 50,000.00 for moral damages; and (d) PHP 22,683.45 for actual and compensatory damages as reduced by PHP 40,000.00 for Ilon having previously paid Lee's heirs. The total amount shall bear interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of finality of the ruling until full payment.

In this relation, the Court finds that the MTCC erred in making a conditional finding of Rodelio's subsidiary liability to pay the damages owed by Ilon to Lee's heirs. In *Pangonorom v. People*,[85] the Court held that the determination of an employer's subsidiary liability under Article 103[86] of the Revised Penal Code only arises when: (a) the conviction of the accused has become final and executory; and (b) after the writ of execution issued against the accused is returned unsatisfied because of their insolvency. Thus, it is only then that a subsidiary writ of execution can be issued against the employer after a hearing was set for that precise purpose.[87] Following *Pangonorom*, the Court finds that it is still too early to rule on Rodelio's subsidiary liability considering that Ilon's insolvency has yet to be proven.

VII.

A final word.

Following the Court's discussion of the history of Article 365 of the Revised Penal Code in relation to reckless imprudence resulting in homicide using a motor vehicle, two worrying observations have been made:

First, following the Court's discussion in this case, the interpretation of Article 365, paragraph 6 of the Revised Penal Code shows that the nonapplicability of first five paragraphs of the same Article shall ONLY apply to reckless imprudence resulting in homicide with the use of a motor vehicle and NOT to reckless imprudence resulting in serious bodily injury or damage to property using a motor vehicle. This observation would mean that a person convicted of reckless imprudence resulting in serious bodily injury or damage to property cannot avail of modifying circumstances (i.e., mitigating circumstances found in Article 13 of the Revised Penal Code) to mitigate one's criminal liability, considering how the determination of penalty to be imposed for the commission of such act is left to the discretion of the Court without regard to the rules found in Article 64 of the Revised Penal Code.

To illustrate this observation, the Court presents a situation where there are two accused tried in two separate cases: the first charged with reckless imprudence resulting in homicide with the use of a motor vehicle (Accused A) and the second charged with reckless imprudence resulting in serious bodily injury or damage to property with the use of a motor vehicle (Accused B). In both cases, Accused A and Accused B have both successfully proven the existence of the mitigating circumstances of voluntary surrender and plea of guilty. Applying the Court's ruling in this case, Accused A can avail of the provisions of Article 64, thus lowering the impossible penalty to arresto mayor in its maximum period to prision correccional in its minimum period. On the other hand, Accused B cannot avail of the provisions of Article 64 of the Revised Penal Code—Accused B shall be constrained to the discretion of the judge in determining their penalty within the range found in Article 365 of the Revised Penal Code. If Article 64 of the Revised Penal Code applied to Accused B's case, the impossible penalty could be lowered by one degree.

To the Court's mind, this observation and the foregoing illustration shows an unjust situation because reckless imprudence resulting in homicide can afford the accused leeway to modify one's liability compared to the accused committing reckless imprudence resulting in serious bodily injuries.

Second, as now ruled in this case, reckless imprudence falling under Article 365, paragraph 6 of the Revised Penal Code is now susceptible to either mitigation or aggravation, depending on the obtaining circumstances of the case. However, reckless imprudence falling under Article 365, paragraphs 1 to 4 of the Revised Penal Code Code not be mitigated due to paragraph 5 thereof, but is susceptible to aggravation, particularly by the last paragraph of the same Article—a qualifying aggravating circumstance. After a circumspect reflection, it is discerned that this distinction is iniquitous, given that the Article seeks to penalize the commission of a single act or omission, particularly, criminal imprudence or negligence.

Despite these seeming incongruences in the law, this Court must abide by its constitutional function to interpret the law due to the principle of the separation of powers, lest it be accused of judicial legislation.[88] In this relation, the Court reiterates that the determination of penalties is a policy matter belonging to realm of the legislature. Pursuant to Article 5 of the Revised Penal Code,[89] the Court thus finds it prudent to furnish both Houses of Congress, as well as the President of the Republic of the Philippines with copies of this Decision. Through this Decision, the Court finds it necessary to alert its co-equal branches of government of the incongruence in determining the respective imposable penalty on reckless imprudence resulting in homicide or serious bodily injury or damage to property, by using a motor vehicle, all with the hope of correcting this predicament.

ACCORDINGLY, the Petition is PARTLY GRANTED. The Decision dated April 29, 2021 and the Resolution dated December 14, 2021 of the Court of Appeals in CA-G.R. SP No. 13840 finding petitioner Noli Z. Ilon guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide under Article 365 of the Revised Penal Code are hereby AFFIRMED with MODIFICATION. He is sentenced to suffer the penalty of imprisonment for an indeterminate period of four months and one day of arresto mayor, as minimum, to two years, four months, and one day of prision correccional, as maximum; and ordered to pay the total amount of PHP 629,883.45 which shall bear interest at the rate of 6% per annum from the date of finality of this Decision until full payment.

Pursuant to Article 5 of the Revised Penal Code, let a copy of this Decision be furnished the President of the Republic of the Philippines, through the Department of Justice, the President of the Senate, and the Speaker of the House of Representatives.

SO ORDERED.

Gesmundo, C.J., Caguioa, Inting, Zalameda, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Singh, and Villanueva, JJ., concur.

Leonen, SAJ., see concurring opinion.

Hernando,[*] J., on official business.

Lazaro-Javier,[*][*] J., on official business but left a concurring vote.

[*] On official business.

[*][*] On official business but left a concurring vote.

[1] Rollo, pp. 13-35.

[2] Id. at 38-55. Penned by Associate Justice Bautista G. Corpin, Jr. and concurred in by Associate Justices Gabriel T. Ingles and Roberto P. Quiroz of the Special Eighteenth Division, Court of Appeals, Cebu City.

[3] Id. at 57-58.

[4] Id. at 87-94. Penned by Presiding Judge Phoebe A. Gargantiel-Balbin of Branch 45, Regional Trial Court, Bacolod City.

[5] Id. at 104-118. Penned by Presiding Judge Abraham A. Bayona of Branch 7, Municipal Trial Court in Cities, Bacolod City.

[6] REV. PEN. CODE (1930), An Act Revising the Penal Code and Other Penal Laws.

[7] Rollo, p. 104.

[8] Id.

[9] A trisikad is a bicycle with a mounted sidecar.

[10] Rollo, pp. 40, 106-107.

[11] Id. at 105.

[12] "Rodillo" in some parts of the rollo.

[13] Rollo, p. 109.

[14] Id. at 110.

[15] Id. at 110-111.

[16] Id. at 111.

[17] Id. at 104-118.

[18] Id. at 117.

[19] Id. at 112-115.

[20] Id. at 117-118.

[21] Id. at 121-129.

[22] Id. at 119-120. Issued by Presiding Judge Abraham A. Bayona of Branch 7, Municipal Trial Court in Cities, Bacolod City.

[23] Id. at 133-143.

[24] Id. at 87-94.

[25] Id. at 93-94.

[26] Id. at 91-94.

[27] 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

[28] Rollo, pp. 98-103.

[29] Id. at 38-55.

[30] Id. at 54-55.

[31] Id. at 49-50, 53-54.

[32] Id. at 60-69.

[33] Id. at 57-58.

[34] Id. at 13-35.

[35] Rule 124, sec. 18 of the Rules of Court reads:

Sec. 18. Application of certain rules in civil to criminal cases. — The provisions of Rules 42, 44 to 46 and 48 to 56 relating to procedure in the Court of Appeals and in the Supreme Court in original and appealed civil cases shall be applied to criminal cases insofar as they are applicable and not inconsistent with the provisions of this Rule.

[36] *Curammeng v. People*, 799 Phil. 575, 581 (2016) [Per J. Perlas-Bernabe, First Division], citing *CMTC International Marketing Corporation v. Bhagis International Trading Corporation*, 700 Phil. 575, 582 (2012) [Per J. Peralta, Third Division].

[37] 500 Phil. 303 (2005) [Per J. Austria-Martinez, Second Division].

[38] Id. at 311.

[39] *Sumbilla v. Matrix Finance Corporation*, 762 Phil. 130 (2015) [Per J. Villarama, Jr., Third Division]; *Almuete v. People*, 706 Phil. 166 (2013) [Per J. Del Castillo, En Banc]; *Estrada v. People*, 505 Phil. 339 (2005) [Per J. Austria-Martinez, Second Division]; *Rigor v. The Superintendent, New Bilibid Prison*, 458 Phil. 561 (2003) [Per J. Austria-Martinez, Second Division]; *People v. Barro, Sr.*, 392 Phil. 857 (2000) [Per J. Buena, Second Division]; *People v. Gatward*, 335 Phil. 440 (1997) [Per J. Regalado, Second Division].

[40] *Sumbilla v. Matrix Finance Corporation*, 762 Phil. 130, 140 (2015) [Per J. Villarama, Jr., Third Division].

[41] *Curammeng v. People*, 799 Phil. 575, 583 (2016) [Per J. Perlas-Bernabe, First Division], citing *People v. Comboy*, 782 Phil. 187, 196 (2016) [Per J. Perlas-Bernabe, First Division].

[42] *Villareal v. People*, 680 Phil. 527, 600-601 (2012) [Per J. Sereno, Second Division].

[43] *Tabao v. People*, 669 Phil. 486, 495 (2011) [Per J. Brion, Second Division].

[44] *Valencia v. People*, 889 Phil. 450, 461 (2020) [Per J. Leonen, Third Division], citing *Cabugao v. People*, 740 Phil. 9, 21-22 (2014) [Per J. Peralta, Third Division].

[45] 605 Phil. 422 (2009) [Per J. Tinga, Second Division].

[46] Id. at 437-438.

[47] *People v. Arellano*, 856 Phil. 500, 508-509 (2019) [Per C.J. Bersamin, First Division].

[48] *Rollo*, pp. 90-91.

[49] *Camino, Jr. v. People*, 605 Phil. 422, 441 (2009) [Per J. Tinga, Second Division].

[50] Id.

[51] 846 Phil. 125 (2019) [Per J. A. Reyes, Jr., Third Division].

[52] *Id.* at 139. (Emphasis supplied, citation omitted)

[53] *Dela Cruz v. Octaviano*, 814 Phil. 891, 910 (2017) [Per J. Peralta, Second Division]. (Emphasis supplied, citation omitted)

[54] *Peralta v. People*, 817 Phil. 554, 563 (2017) [Per J. Perlas-Bernabe, Second Division].

[55] 217 Phil. 210 (1984) [Per J. Melencio-Herrera, First Division].

[56] *Id.* at 216.

[57] *People v. Solar*, 858 Phil. 884, 953 (2019) [Per J. Caguioa, En Banc]; *People v. Lapore*, 761 Phil. 196, 203 (2015) [Per J. Perez, First Division]; *People v. Lab-eo*, 424 Phil. 482, 497 (2002) [Per J. Carpio, Third Division].

[58] 25 Phil. 631 (1913) [Per J. Carson].

[59] *Id.* at 633-634.

[60] 103 Phil. 526 (1958) [Per J. Bautista Angelo].

[61] 43 Off. Gaz. No. VI, pp. 2214, 2218.

[62] *People v. Agito*, 103 Phil. 526, 529-530 (1958) [Per J. Bautista Angelo].

[63] 43 Off Gaz. No. VI, pp. 2214, 2218.

[64] 159 Phil. 297 (1975) [Per J. Muñoz Palma, First Division].

[65] *Id.* at 300-302.

[66] 407 Phil. 724 (2001) [Per C.J. Davide, Jr., En Banc].

[67] *Id.* at 744-745.

[68] *Ibabao v. People*, 217 Phil. 210, 215 (1984) [Per J. Melencio-Herrera, First Division].

[69] *Id.* at 215-216.

[70] *H. Villarica Pawnshop, Inc. v. Social Security Commission*, 824 Phil. 613, 628 (2018) [Per J. Gesmundo, Third Division]. (Citation omitted)

[71] The present translation was provided in *United States v. Ah Chong*, 15 Phil. 488 (1910) [Per J. Carson, Second Division]. The Original Translation states:

Titulo XIV De la Imprudencia Temeraria

Art. 568. El que por imprudencia temeraria ejecutare un hecho que, si mediere malicia, constituiría un delito grave, será castigado con la pena de arresto mayor en su grado máximo a prisión correccional en su grado mínimo, y con arresto mayor en sus grados minimo y medio si constituyere un delito menos grave.

Al que, con infracción de los reglamentos, cometiere un delito por simple imprudencia o negligencia, se impondrá la pena de arresto mayor en sus grados medio y máximo.

En la aplicación de estas penas procederán los Tribunales según su prudente arbitrio, sin sujetarse a las reglas prescritas en el artículo 81.

Lo dispuesto en el presente artículo no tendrá lugar cuando la pena señalada al delito sea igual o menor que las contenidas en el párrafo 1.º del mismo, en cuyo caso los Tribunales aplicarán la inmediata a la que

corresponda, en el grado que estimen conveniente.

[72] Republic Act No. 384 (1949), An Act to Amend the Fifth Paragraph of Article Three Hundred and Sixty-Five of The Revised Penal Code.

[73] Republic Act No. 1790 (1957), An Act to Amend Article Three Hundred and Sixty-Five of the Revised Penal Code. (Re Penalty for Reckless Imprudence.)

[74] Act No. 2159 (1912), An Act to Regulate Motor Vehicle Traffic in the Philippine Islands, to Provide for the Registration of Motor Vehicles and the Licensing of Operators, and to Require All Vehicles on Highways to Carry Lights, and for Other Purposes.

[75] Act No. 3992 (1932), An Act to Amend and Compile the Laws Relative to Motor Vehicles.

[76] Republic Act No. 587 (1950), An Act to Amend Subsections (a) and (b) of Section Three, Article Two of Chapter One; Subsections (b) and (d) of Section Five, Subsections (a), (b), (c), (i), (j), (m) and (n) of Section Seven of Article One, Section Eight, Subsections (a) and (d) of Section Nine, and Section Ten, Article Two of Chapter Two, and Insert a New Section Between Sections Eight and Nine of This Article to be Known as Section Eight-A with New Subsections (a), (b), (c) and (d) and Amend, Further, Subsection (a) of Section Thirteen, Sections Fourteen and Nineteen, Article Three of Chapter Two; Sections Twenty-Four, Thirty-One and Thirty-Five, Article One, Section Thirty-Eight, Article Two of Chapter Three; and Section Sixty-Seven of Article One and Subsection (b) of Section Seventy of Article Two of Chapter Four of Act Numbered Thirty-Nine Hundred and Ninety-Two, as Amended by Commonwealth Act Numbered One Hundred and Twenty-Three, and as Further Amended by Commonwealth Acts Numbered Five Hundred and Fifty-Six and Six Hundred and Fifty-Two.

[77] Republic Act No. 4116 (1964), An Act to Compile the Laws Relative to Land Transportation and Traffic Rules, to Create a Land Transportation Commission and for Other Purposes.

[78] An Act Amending Certain Sections of Republic Act Numbered Forty-One Hundred and Thirty-Six, Otherwise Known as the Land Transportation and Traffic Code.

[79] *Ibabao v. People*, 217 Phil. 210, 215-216 (1984) [Per J. Melencio-Herrera, First Division].

[80] 865 Phil. 1077 (2019) [Per J. Lazaro-Javier, Second Division].

[81] *Id.* at 1093.

[82] *Id.* (Citation omitted)

[83] Act No. 4103 (1933). Pertinently, Section 1 of the Indeterminate Sentence Law provides:

Hereafter, in imposing a prison sentence for an offense punished by acts of the Philippine Legislature, otherwise than by the Revised Penal Code, the court shall order the accused to be imprisoned for a minimum term, which shall not be less than the minimum term of imprisonment provided by law for the offense, and for a maximum term which shall not exceed the maximum fixed law; and where the offense is punished by the Revised Penal Code, or amendments thereto, the court shall sentence the accused to such maximum as may, in view of the attending circumstances, be properly imposed under the present rules of the said Code, and to a minimum which shall not be less than the minimum imprisonment period of the penalty next lower to that prescribed by said Code for the offense. Except as provided in section two hereof, any person who shall have been so convicted and sentenced and shall have served the minimum sentenced imposed hereunder, may be released on parole in accordance with the provisions of this Act.

[84] *Gonzaga v. People*, 751 Phil. 218 (2015) [Per J. Perlas-Bernabe, First Division].

[85] 495 Phil. 195 (2005) [Per J. Carpio, First Division].

[86] Article 103 of the Revised Penal Code reads:

Art. 103. Subsidiary civil liability of other persons. – The subsidiary liability established in the next preceding article shall apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties.

[87] *Pangonorum v. People*, 495 Phil. 195, 212 (2005) [Per J. Carpio, First Division].

[88] See *Kilusang Mayo-Uno v. Aquino III*, 850 Phil. 1168, 1215 (2019) [Per J. Leonen, En Banc]; *Cahulogan v. People*, 828 Phil. 742, 753 (2018) [Per J. Perlas-Bernabe, Second Division].

[89] Article 5 of the Revised Penal Code reads:

Art. 5. Duty of the court in connection with acts which should be repressed but which are not covered by the law, and in cases of executive penalties. — Whenever a court has knowledge of any act which it may deem proper to repress and which is not punishable by law, it shall render the proper decision and shall report to the Chief Executive, through the Department of Justice, the reasons which induce the court to believe that said act should be made the subject of penal legislation.

In the same way, the court shall submit to the Chief Executive, through the Department of Justice, such statement as may be deemed proper, without suspending the execution of the sentence, when a strict enforcement of the provisions of this Code would result in the imposition of a clearly excessive penalty, taking into consideration the degree of malice and the injury caused by the offense.

CONCURRING OPINION

LEONEN, SAJ:

I concur with petitioner Noli Z. Ilon's conviction. Moreover, I second the ponencia's call to furnish the president and both Houses of Congress with copies of this Decision as the Revised Penal Code needs to be revisited.

The Revised Penal Code was created during an era when the Philippines was yet to be freed from outside influences. This Code, which replaced the Spanish Código Penal, was enacted in 1930^[1] while the Philippines was under the colonial rule of the United States. As such, the identified crimes and penalties contained therein reflect the socio-legal, political, and economic realities of that period.

Yet, despite being almost a century old, the Revised Penal Code remains the cornerstone of our criminal law system as it governs majority of the crimes punished by the State.

As the realities under which the Code was enacted no longer hold true, there is a pressing need now to formulate a new penal code.

The Philippines has been independent of outside influence since July 4, 1946. For the 80 years that followed, our country has developed into a society that is distinctly ours. We have molded our own values, traditions, social and cultural practices, and sense of morality that define the present-day Philippine society. These changes are not reflected in the current Revised Penal Code— proof that a wholesale revision is necessary.

Further, several of the crimes punished in the Revised Penal Code embody the prevailing values of that period.

Certain crimes, such as bigamy, concubinage, and prostitution, are skewed against women. The criminalization of these acts, as written, are inconsistent with modern international principles, which the Philippines subscribes to:

The Philippines, as State Party to the [Convention on the Elimination of All Forms of Discrimination Against Women], recognized that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between them. Accordingly, the country vowed to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices, customs and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.[2] (Citations omitted)

Finally, many of the imposed fines and threshold figures to categorize the gravity of offenses are outdated due to inflation and the changing economic conditions. This Court discussed in *People v. Mejares*:^[3]

Basic wisdom underlies the adjustments made by Republic Act No. 10951. Imperative to maintaining an effective and progressive penal system is the consideration of exigencies borne by the passage of time. This includes the basic economic fact that property values are not constant. To insist on basing penalties on values identified in the 1930s is not only anachronistic and archaic; it is unjust and legally absurd to a moral fault.

In his dissenting opinion in *Corpuz v. People*, Justice Roberto Abad illustrated in the context of qualified theft the cruelty foisted by insistence on the values set by the Revised Penal Code when it was originally adopted:

The harshness of this antiquated 1930 scheme for punishing criminal offenders is doubly magnified in qualified theft where the offender is a domestic helper or a trusted employee. Qualified theft is a grievous offense since its penalty is automatically raised two degrees higher than that usually imposed on simple theft. Thus, unadjusted for inflation, the domestic helper who steals from his employer would be meted out a maximum of:

- a) 6 years in prison for a toothbrush worth P5;
- b) 12 years in prison for a lipstick worth P39;
- c) 14 years and 8 months in prison for a pair of female slippers worth P150;
- d) 20 years in prison for a wristwatch worth P19,000; or
- e) 30 years in prison for a branded lady's handbag worth P125,000.

Unless checked, courts will impose 12 years maximum on the housemaid who steals a P39 lipstick from her employer. They will also impose on her 30 years maximum for stealing a pricy lady's handbag. This of course is grossly obscene and unjust, even if the handbag is worth P125,000.00 since 30 years in prison is already the penalty for treason, for raping and killing an 8-year-old girl, for kidnapping a grade school student, for robbing a house and killing the entire family, and for a P50-million plunder.

It is not only the incremental penalty that violates the accused's right against cruel, unusual, and degrading punishment. The axe casts its shadow across the board touching all property-related crimes. This injustice and inhumanity will go on as it has gone on for decades unless the Court acts to rein it in.

Given its possibly fairer and more just consequences, Republic Act No. 10951 is a welcome development in our legal system.^[4] (Citations omitted)

Congress has enacted multiple statutes to rectify several outdated provisions in our penal code. A recent Calesa Project study, entitled "Baseline Study of the Codification and Revision Status of Philippine Criminal, Civil, and Commercial Law", found that 102 statutes were passed amending certain provisions of the Revised Penal Code. Aside from this, Congress also passed 1,865 special penal laws as of March 3, 2020.^[5]

These piecemeal revisions, however, are mere stopgap measures to the perennial problems plaguing the archaic

Revised Penal Code. Further, the existence of multiple criminal statutes renders the criminal law field vulnerable to inconsistencies and gaps that often confuse, instead of enlighten, the public.

It is high time that the Philippines formulates a penal code that is distinctly Filipino, free from unnecessary Spanish or American influences. The new penal code must be devoid of any traces of antiquated beliefs. Instead, it must address the realities of modern Philippine society, recognize the equality of rights across all genders, and uphold the values that are important to us as a people. The penalties and fines imposed must be commensurate to the crime committed according to the present standard.

The consolidation of all criminal provisions into a single unified code ensures that our citizens and those facing the full machinery of criminal prosecution are duly apprised of the law. Members of the Judiciary and the Bar will no longer have to scrounge through various criminal statutes to perform their duty.

The creation of a new penal code may be a herculean task, but it is a worthy endeavor that will ensure fairness and clarity in the field of criminal law and facilitate the orderly administration of justice.

ACCORDINGLY, I vote to PARTIALLY GRANT the Petition.

[1] The Calesa Project, Baseline Study of the Codification and Revision Status of Philippine Criminal, Civil, and Commercial Law, available at <https://calesaproject-cbhe.eu/wp-content/uploads/2021/02/WP1.Study-on-Legal-Modernization.pdf> (last accessed on January 20, 2026).

[2] *People v. Jumawan*, 733 Phil. 102, 140 (2014) [Per J. Reyes, First Division].

[3] 823 Phil. 459 (2018) [Per J. Leonen, Third Division].

[4] *Id.* at 471-472.

[5] The Calesa Project, Baseline Study of the Codification and Revision Status of Philippine Criminal, Civil, and Commercial Law, available at <https://calesaproject-cbhe.eu/content/uploads/2021/02/WP1.Study-on-Legal-Modernization.pdf> (last accessed on January 20, 2026).

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