

CLEMENCIO C. RAMIREZ, PETITIONER, VS. HON. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 56441. July 25, 1983

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-56441/>

AQUINO, J.:

This is a plea of the accused for the reduction of his penalty for the malversation of P68,057.97.

Clemencio C. Ramirez, a collection agent of the Bureau of Internal Revenue at Bauang, La Union, was convicted by the Sandiganbayan in a decision dated February 23, 1981 for having malversed P68,057.97. He had pleaded guilty. The penalty for the offense is reclusion temporal maximum to reclusion perpetua (Par. 4, Art. 217 of the Revised Penal Code as amended by Republic Act No. 1060).

That penalty should be lowered by one degree because of the presence of two mitigating circumstances: plea of guilty and voluntary surrender to the authorities. So, the maximum of the indeterminate penalty should be taken from prision mayor maximum to reclusion temporal medium, or ten years and one day to seventeen years and four months (Par. 5, Art. 64, Revised Penal Code).

And the minimum penalty should be taken from prision correccional maximum to prision mayor medium, or four years, two months and one day to ten years.

Ramirez was sentenced to an indeterminate penalty of five (5) years, five (5) months and eleven (11) days of prision correccional, as minimum, to twelve (12) years and one day of reclusion temporal, as maximum, and to pay a fine of P68,057.97 and a similar indemnity with the additional penalty of perpetual special disqualification.

Section 1 of the Indeterminate Sentence Law provides that "the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense."

The Sandiganbayan took the maximum of the indeterminate penalty from reclusion temporal minimum, or from the medium period, on the theory that, since the two extenuating circumstances were already taken into account in lowering the penalty by one degree, they should not again be taken into account in determining the maximum of the penalty. It applied the provision of rule 1 of article 64 that "when there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period".

Using its discretion, the Sandiganbayan took the minimum of the indeterminate penalty from the minimum period of the penalty next lower in degree, or from prision correccional maximum.

The accused in his motions for reconsideration in the Sandiganbayan and in this Court insists that, out of compassion to a first offender and to a lawyer, he should be sentenced to an indeterminate penalty of four years, two months and one day to six years (pp. 13 and 31, Rollo).

However, in this petition for review he prays that he be sentenced to four years, two months and one day to ten years and one day.

We hold that he may be given as minimum penalty four (4) years, two (2) months and one (1) day of prison correccional maximum. That is allowed by law. But the maximum penalty cannot be reduced to six years. That is not authorized by law.

As prayed in his basic petition, the maximum of his penalty may be ten (10) years and one (1) day of prison mayor maximum. This matter rests in the discretion of the court according to paragraph 5 of article 64 itself. (People vs. Oaza, 83 Phil. 633)

Parenthetically, it should be noted that the extensions sought by the accused from September 13, 1981 to August 5, 1983 constitute an abuse of the legal process. His last extension, which will serve no purpose, is denied.

WHEREFORE, the judgment of the Sandiganbayan is affirmed with the modification that the accused is sentenced to an indeterminate penalty of four years, two months and one day of prison correccional as minimum to ten years and one day of prison mayor as maximum. No costs.

SO ORDERED.

Fernando, C.J., Concepcion Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Teehankee, J., took no part.

Makasiar, J., dissents. The decision should be affirmed. The penalty is within the maximum and minimum range allowed by law. The lower court did not commit any error nor abuse of discretion. The majority opinion tends to pamper grafters.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.