



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 16, 2019**, which reads as follows:

“**G.R. No. 240989 (Aristoteles Macaraig y Cabrera v. People of the Philippines)**. – This resolves the motion for reconsideration of this Court’s Resolution¹ dated November 21, 2018 denying the petition for review on *certiorari* of the Decision² dated March 27, 2018 and the Resolution³ dated July 19, 2018 of the Court of Appeals (CA) denying the motion for reconsideration thereof in CA-G.R. CR No. 39715. The CA affirmed with modification the Decision of the Regional Trial Court (RTC) finding Aristoteles Macaraig y Cabrera (petitioner) guilty of the crime of theft and was thereby sentenced to suffer the penalty of imprisonment of two (2) years, four (4) months and one (1) day to seven (7) years, four (4) months and one (1) day.

Petitioner was charged with the crime of theft for feloniously causing the cutting of nine coconut trees planted in a land located in San Pablo City, owned by the Gesmundo family. During the mediation proceedings, petitioner admitted having cut and sold only three coconut trees and asserted that he remitted the proceeds thereof to Milagros Gesmundo. Further, the Barangay Chairman revealed that petitioner gave a total amount of ₱500.00, by way of donation, for the five coconut trees that he cut.

The RTC found petitioner guilty of the crime of theft. The *fallo* of the RTC Decision⁴ dated August 5, 2016 reads:

WHEREFORE, premises considered, this Court FINDS the accused guilty beyond reasonable doubt of the crime of theft and hereby imposes upon him the penalty of Three (3) years, Six (6) Months and Twenty-One (21) Days to Four (4) Years, Nine (9) Months and Ten (10) Days of *Prision Correccional* in its medium and maximum periods as Minimum to Seven (7) years, Four (4) Months and One (1) day to Eight (8) Years and Eight (8) Months of *Prision Mayor*

¹ *Rollo*, p. 103.

² *Id.* at 34-47; penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Nina G. Antonio-Valenzuela and Zenaida T. Galapate-Laguilles, concurring.

³ *Id.* at 49-50.

⁴ *Id.* at 67-76.

in its minimum and medium periods, as Maximum.

The accused is also directed to pay the Gesmundo family through Guarino L. Gesmundo, the amount of Eighteen Thousand (₱18,000.00) Pesos, for and by way of actual indemnity.

The accused shall be committed to the National Bilibid Prisons immediately.

SO ORDERED.⁵

On appeal, the CA affirmed with modification the ruling of the RTC, thus:

WHEREFORE, the appeal is DENIED. The Decision in Criminal Case No. 19265-SP(12) is AFFIRMED with MODIFICATION in that appellant is sentenced to suffer the penalty of imprisonment of 2 years, 4 months, and 1 day to 7 years, 4 months and 1 day.

The rest of the appealed Decision stands.

SO ORDERED.⁶

In this Court's Resolution dated November 21, 2018, the petition for review on *certiorari* was denied for petitioner's failure to sufficiently show any reversible error in the challenged decision as to warrant the exercise of this Court's discretionary appellate jurisdiction.

On March 28, 2019, petitioner filed the instant Motion for Reconsideration⁷ maintaining that: (1) the prosecution has not proven his guilt beyond reasonable doubt; and (2) for the sake of argument, the prosecution failed to establish the value of the nine coconut trees allegedly cut and stolen from the Gesmundo Family.

The issues raised are clearly factual. This Court sees no cogent reason to deviate from the findings and conclusions of the CA and the RTC that the prosecution proved all the elements of theft beyond reasonable doubt. Even in the absence of direct evidence to prove the guilt of petitioner, the CA aptly observed that circumstantial evidence exists in the case to conclude that petitioner took the missing coconut trees. It was established that: (1) petitioner, who was the tenant of Gesmundo's family, had actual possession and control over the subject land and the trees found thereon; (2) petitioner had the better chance to cut the coconut trees in the subject land; (3) the farm workers of the Gesmundo's family informed Guarino Gesmundo, one of the registered owners of the subject land, that petitioner caused the cutting of the coconut trees on his

⁵ *Id.* at 76.

⁶ *Id.* at 46-47.

⁷ *Id.* at 104-110.

family's lot; (4) petitioner gave donations coming from the proceeds of coconut trees to the barangay as evidenced by a certification issued by the barangay chairman; and (5) petitioner admitted the accusation against him.

However, after a closer look, this Court finds that the penalty imposed by the CA needs to be corrected in accordance with Republic Act No. 10951,⁸ which provides:

Section 81. Article 309 of the same Act is hereby amended to read as follows:

“Art. 309. *Penalties.* – Any person guilty of theft shall be punished by:

x x x x

“4. *Arresto mayor* in its medium period to *prisión correccional* in its minimum period, if the value of the property stolen is over Five thousand pesos (₱5,000) but does not exceed Twenty thousand pesos (₱20,000).

x x x x

In the case at bench, it is beyond question that the value of the thing stolen is ₱18,000.00. Hence, the penalty to be imposed under Article 309 of the Revised Penalty Code (RPC), as amended, should be *arresto mayor* in its medium period to *prisión correccional* in its minimum period which is two months and one day to two years and four months.

In sentencing the accused to an indeterminate penalty, the maximum term of which shall be that, in view of the attending circumstances, could be properly imposed under the rules of the RPC, and the minimum term of which shall be within the range of the penalty next lower to that prescribed by the RPC for the offense.⁹ There being no aggravating or mitigating circumstance, the maximum penalty imposed is within the range of *arresto mayor* medium which is four months and one day to six months, while the minimum penalty imposed is one degree lower which is within the range of *arresto mayor* minimum which is one month and one day to two months.

The Indeterminate Sentence Law,¹⁰ under Section 2,¹¹ is not applicable

⁸ An Act Adjusting the Amount or the Value of Property and Damages on Which as Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as “The Revised Penal Code”, As Amended.

⁹ Sec. 1, Act No. 4103, as amended by Act No. 4225 and Republic Act No. 4203.

¹⁰ Act. No. 4103, as amended by Act No. 4225 and Republic Act No. 4203.

¹¹ Sec. 2. **This Act shall not apply to persons convicted of offenses punished with death penalty or life-imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year, not to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof. Emphasis supplied.**

to, among others, cases where the maximum term of imprisonment does not exceed one year. In determining “whether an indeterminate sentence and not a straight penalty is proper, what is considered is the penalty actually imposed by the trial court, after considering the attendant circumstances, and not the impossible penalty.”¹² In this case, since the maximum of the impossible penalty is six months, it follows that the possible maximum term that can be actually imposed is surely less than one year. Hence, the Indeterminate Sentence Law is not applicable to the present case. As a result, and in view of the attendant circumstances in this case, this Court deems it proper to impose a straight penalty of three months of *arresto mayor*.¹³

This Court likewise imposes the legal interest of 6% *per annum* on the value of the coconut trees stolen from the date of finality of this Resolution until full payment thereof pursuant to BSP Circular No. 799, Series of 2013.

WHEREFORE, the motion for reconsideration is **DENIED**. Petitioner Aristoteles Macaraig y Cabrera is **GUILTY** beyond reasonable doubt of the crime of theft.

The Decision dated March 27, 2018 and the Resolution dated July 19, 2018 of the Court of Appeals in CA-G.R. CR No. 39715 are **AFFIRMED with MODIFICATION** in that petitioner is sentenced to suffer a straight penalty of three (3) months of *arresto mayor*.

In addition, petitioner is **ORDERED** to pay ₱18,000.00 representing the value of the coconut trees taken with legal interest of 6% *per annum* from the date of finality of this Court’s Resolution until full payment thereof.

SO ORDERED.” (Leonen, *J.*, on leave)

Very truly yours,

Mis DC Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court *gm*
11/17/19

¹² *Ladino v. Garcia*, 333 Phil. 254, 259 (1996); *People v. Dimalanta*, 92 Phil. 239, 242 (1952).

¹³ *Lumauig v. People*, 738 Phil. 405 (2014).

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(Criminal Case No. 19265-SP[12])

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