



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 14, 2019**, which reads as follows:

“G.R. No. 248217 (*Evelyn Bianzon-Galler v. People of the Philippines*). – A perusal of the issues raised by Evelyn Bianzon-Galler (petitioner) in her petition for review on *certiorari* shows that these have already been squarely raised and resolved upon on the merits by the Court of Appeals (CA). In fact, the errors laid down by petitioner in the present petition were mere reiteration and rehash of what were already raised by her on appeal before the Regional Trial Court (RTC) from the Decision of the Metropolitan Trial Court (MeTC) of Muntinlupa City. Petitioner further failed to show that the CA in CA-G.R. CR No. 39703 committed any reversible error in its Decision¹ dated November 26, 2018 affirming the Decision² dated December 15, 2016 of Branch 276, RTC, Muntinlupa City, finding her guilty beyond reasonable doubt for the crime of perjury.

Petitioner insists, among others, that the MeTC of Muntinlupa City had no jurisdiction over the case because the affidavit of loss was used before the Department of Foreign Affairs, Pasay City, and it was only upon its submission that the alleged falsehood became manifest and where the alleged untruthful statement found relevance or materiality.³ Thus, jurisdiction lies before the courts in Pasay City. Moreover, petitioner maintains that not all the elements of the crime of perjury under Article 183 of the Revised Penal Code (RPC) were present, particularly, the second element which provides “*that the statement or affidavit was made before a competent officer, authorized to receive and administer oath.*”⁴ Petitioner alleges that: (1) the prosecution must present certain and unequivocal proof, not hypothetical, not conjectural; (2) petitioner personally appeared before him and took oath as to the veracity of the affidavit of loss in order to establish the evidence beyond

¹ Rollo, pp. 10-32.

² *Id.* at 90-96.

³ *Id.* at 47.

⁴ *Id.* at 52.

reasonable doubt; and (3) Atty. Corro did not testify that petitioner appeared before him.⁵

At the outset, the issues raised are clearly factual in nature which are beyond the scope of a Rule 45 Petition as only questions of law may be raised in a petition for review on *certiorari*. While there are exceptions to this rule, none of which was established here.

This Court finds that the resolution of the above arguments of the petitioner entails a review of the factual circumstances that led the MeTC, as affirmed by the RTC and CA, to decide in such manner. In other words, what petitioner would like this Court to do is to analyze and weigh the evidence all over again. However, it is not the function of this Court to analyze or weigh the evidence, which tasks belong to the trial court as the trier of facts and to the appellate court as the reviewer of facts.⁶ This Court is confined to the review of errors of law that may have been committed in the judgment under review.⁷

All told, the CA did not err in affirming the RTC Decision dated December 15, 2016 which affirmed the findings of the MeTC that petitioner was guilty beyond reasonable doubt of the crime of perjury as defined and penalized under Article 183 of the RPC. It is settled that "*factual findings of the trial court and its evaluation of the credibility of witnesses and their testimonies are entitled to great respect and will not be disturbed on appeal, unless the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.*"⁸

However, this Court modifies the penalty imposed by the MeTC, as affirmed by the RTC and the CA, which was an indeterminate penalty of imprisonment of four months of *arresto mayor*, as minimum, to one year of *prision correccional*, as maximum.

Under Article 183 of the RPC, "[t]he penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon any person, who knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires."

There being no aggravating or mitigating circumstances, the penalty to be imposed is *prision correccional* in its medium period which is one year and one day to one year and eight months.

⁵ *Id.* at 50.

⁶ *Sps. Sibay, et al. v. Sps. Bermudez*, 813 Phil. 807, 813 (2017).

⁷ *Id.*

⁸ *Janap v. People of the Philippines*, G.R. No. 227835, February 1, 2017, citing *People v. De Jesus*, 695 Phil. 114, 122 (2012).

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Pursuant to the Indeterminate Sentence Law (ISLAW),⁹ the maximum term to be imposed against appellant shall be based on the attending circumstances, and the minimum term of the sentence shall be within the range of the penalty next lower to that prescribed by the RPC.¹⁰ In other words, applying ISLAW, there being no aggravating or mitigating circumstances alleged and proven in this case, this Court imposes upon the petitioner an indeterminate penalty the minimum term of which must be within the range of *arresto mayor* in its minimum period to *arresto mayor* in its medium period which is one month and one day to four months as the “penalty next lower to that prescribed by the RPC for the offense;” while the maximum term of which must be within the range of the medium period of *prision correccional* which is one year and one day to one year and eight months.

Hence, the Court finds it proper to impose upon the petitioner the penalty of four months of *arresto mayor*, as minimum, to one year and one day of *prision correccional*, as maximum.

WHEREFORE, this Court **AFFIRMS WITH MODIFICATION** the Decision dated November 26, 2018 of the Court Appeals in CA-G.R. CR No. 39703 that the petitioner is sentenced to suffer an indeterminate penalty of four (4) months of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum.

SO ORDERED.” (Leonen, *J.*, on leave)

Very truly yours,

Mis PDC Batt
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 Deputy Division Clerk of Court *8/13/19*

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⁹ Act No. 4103, as amended.

¹⁰ *People v. Calinawan*, 805 Phil. 673, 686 (2017).

The Presiding Judge
REGIONAL TRIAL COURT
Branch 276, 1770 Muntinlupa City
(Crim. Case No. 16-366)

The Presiding Judge
METROPOLITAN TRIAL COURT
Branch 80, 1770 Muntinlupa City
(Crim. Case No. 44602)

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