



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 213913

Present:

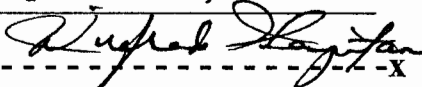
- versus -

VELASCO, JR., *J.*, Chairperson,
 PERALTA,
 VILLARAMA, JR.,
 PEREZ,* and
 MENDOZA,** *JJ.*

JULKIPLI ASAMUDDIN y
SALAPUDIN a.k.a. "JUL" and "REY",
 Accused-Appellant.

Promulgated:

September 2, 2015

x-----


DECISION

VILLARAMA, JR., J.:

On appeal is the Decision¹ dated May 22, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05870, which affirmed with modification the Decision² dated October 15, 2012 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 212, in the consolidated Criminal Case Nos. MC08-11421 and MC08-11422.

The consolidated cases for violation of Republic Act (R.A.) No. 6539, the Anti-Carnapping Act of 1972, as amended, and Qualified Theft were filed on January 16, 2008 against accused Julkipli Asamuddin y Salapudin (appellant). The accusatory portions of the Informations alleged as follow:

Criminal Case No. MC08-11421:
 For Violation of R.A. No. 6539

That on or about the 11th day of July 2007, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this

* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.
 ** Designated additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 17, 2014.
¹ CA *rollo*, pp. 104-117. Penned by Associate Justice Amelita G. Tolentino with Associate Justices Edwin D. Sorongon and Pedro B. Corales concurring.
² Id. at 40-47. Penned by Judge Rizalina T. Capco-Umali.

Honorable Court, the above-named accused, with intent to gain, without the knowledge and consent of the owner thereof, did then and there, willfully, unlawfully and feloniously take, ste[a]l and carry away a motorcycle, Honda XRM with plate no. UU-9142 amounting to P49,000.00 belonging to EMELINA GLORIA Y UMAL[I] without the latter's consent, to the damage and prejudice of the latter in the aforementioned sum of P49,000.00.

CONTRARY TO LAW.³

**Criminal Case No. MC08-11422:
For Qualified Theft**

That on or about the 11th day of July 2007, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as a messenger of E. Gloria's Money Changer owned by Emelina Gloria y Umali, with grave abuse of confidence and taking advantage of the trust reposed upon him, with intent to gain, without the knowledge and consent of the owner thereof, did then and there, willfully, unlawfully and feloniously take, steal and carry away cash money of various denominations P800,000.00, Yen 660,000.00, Pounds 50.00, Dirham 530.00, Brunei Dollar 100.00 and Singapore Dollar 467.00 with an aggregate amount of P1,077,995.00, to the damage and prejudice of the complainant in the aforementioned amount of P1,077,995.00.

CONTRARY TO LAW.⁴

The criminal cases were temporarily archived, but were revived with the arrest of appellant in Zamboanga City on February 25, 2009.

Assisted by a counsel *de officio* at his arraignment on August 19, 2009, appellant pleaded "Not Guilty" to both charges.⁵

In the ensuing trial, the prosecution presented Emelina Gloria y Umali (Emelina), proprietor of E. Gloria Money Changer where appellant works as a messenger; and Imee Gerbon⁶ (Imee), domestic helper of Emelina. Among the documentary evidence presented by the prosecution were (1) the list of currencies Emelina entrusted to appellant that fateful day of July 11, 2007 (Exhibit "F"⁷); and (2) Sales Invoice Retail No. 16607 (Exhibit "I"⁸), Official Receipt (Exhibit "J"⁹), and certification (Exhibit "K"¹⁰), all issued by Triumph JT Marketing Corporation, which show that the Honda XRM motorcycle with plate number UU-9142 was purchased by Emelina's husband.

³ Records, p. 1.

⁴ Id. at 19.

⁵ Id. at 72-73.

⁶ Emie Garbon and Immie in some parts of the records.

⁷ Records, p. 166.

⁸ Id. at 169.

⁹ Id. at 170.

¹⁰ Id. at 171.

The defense presented appellant as its sole witness. He denied the charges against him.

THE FACTS

Emelina hired appellant as messenger in E. Gloria Money Changer, Mandaluyong City, sometime in 2006, with the main function of delivering local or foreign currencies to clients or other money changers.¹¹ Assigned to appellant to be used in the performance of his work is a blue Honda XRM motorcycle with plate number UU-9142.¹²

At 12:30 in the afternoon of July 11, 2007, Emelina handed to appellant the cash amount of ₱800,000.00, and various foreign denominations consisting of 66 pieces of *lapad*,¹³ 50 pounds, 530 dirhams, 467 Singaporean dollars, and 100 Brunei dollars,¹⁴ with a peso value of ₱277,995.00.¹⁵ She instructed appellant to bring the currencies to her friend Rina Rosalial, a money changer in Mabini, Manila.¹⁶ After receiving the monies from Emelina, appellant left aboard his service motorcycle on his way to Manila.¹⁷

Imee, the domestic helper of Emelina, was then inside E. Gloria Money Changer, and saw Emelina hand to appellant currencies of various denominations,¹⁸ and as appellant left in his service motorcycle.¹⁹

By 1:30 p.m. of the same day, Emelina received a call from Rina Rosalial informing her that appellant has yet to arrive in her shop.²⁰ Emelina's calls to the cellular phones of appellant and his wife were at naught,²¹ prompting her to lodge a complaint against appellant at the Philippine National Police, Criminal Investigation and Detection Group (PNP-CIDG), Camp Crame.²²

In August 2007, the blue Honda XRM motorcycle with plate number UU-9142 was found abandoned in Silang, Cavite, and was returned to Emelina.²³

Appellant vehemently denied asporting currency totaling ₱1,077,995.00, and the subject motorcycle. He admitted working as a

¹¹ TSN, August 2, 2010, p. 10.

¹² Id. at 12-13.

¹³ A *lapad* is the colloquial term for a 10,000 yen.

¹⁴ TSN, August 2, 2010, pp. 16-19.

¹⁵ Exhibit "F," supra note 7. [(¥660,000 X .3785) ₱249,810.00 + (£50.00 X 93.10) ₱4,655.00 + (Dirham 530.00 X ₱12.25) ₱6,492.00 + (Brunei 100.00 X ₱30.05) ₱3,005.00 + (Singapore \$467 X 30.05) ₱14,033.00].

¹⁶ TSN, August 2, 2010, pp. 17-19.

¹⁷ Id. at 19-20.

¹⁸ TSN, November 21, 2011, pp. 15-18.

¹⁹ Id. at 18-19.

²⁰ TSN, August 2, 2010, pp. 20-21.

²¹ Id. at 21-22.

²² Records, pp. 9-11.

²³ TSN, August 2, 2010, pp. 32-35.

Messenger/Runner at the E. Gloria Money Changer starting October 2006 but he resigned from his job on July 10, 2007. Appellant asserted that the money he received from Emelina on July 11, 2007 was his last salary for the period July 1 to 10, 2007. His family's return to Zamboanga City on September 7, 2007 was due to the high cost of living in Metro Manila which he could no longer afford.²⁴

Relying on the categorical and straightforward testimony of Emelina, and rejecting the defense of denial advanced by appellant, the RTC rendered a guilty verdict in both criminal cases, thus:

WHEREFORE, IN VIEW OF THE FOREGOING, the court finds the accused **JULKIPLI ASAMUDDIN Y SALAPUDIN @ "Jul"** and **"Rey" GUILTY** beyond reasonable doubt of Violation of Republic Act No. 6539 (Anti-Carnapping Act of 1972)[,] as amended[,], and he is hereby sentenced to an indeterminate imprisonment of fourteen (14) years and eight (8) months, as minimum, to seventeen (17) years and four (4) months, as maximum. Likewise[,], the court finds **JULKIPLI ASAMUDDIN Y SALAPUDIN @ "Jul" @ "Rey" GUILTY** beyond reasonable doubt of Qualified Theft and he is hereby sentenced to suffer the penalty of reclusion perpetua but with all the accessories of the penalty imposed under Article 40 of the Revised Penal Code. Accused is also condemned to pay the offended party, EMELINA GLORIA Y UMALI[,], the sum of Php1,877,995.00, as actual damages representing the total amount of the money entrusted to him by the said offended party.

Further, let a Commitment Order be issued for the transfer of accused **JULKIPLI ASAMUDDIN Y SALAPUDIN @ "Jul" @ "Rey"** from Mandaluyong City Jail to the Bureau of Corrections, Muntinlupa City.

SO ORDERED.²⁵

On November 6, 2012, appellant timely filed his Notice of Appeal.²⁶ The consolidated cases were subsequently elevated to the CA, and was docketed as CA-G.R. CR-H.C. No. 05870. Before the CA, appellant ascribed to the RTC the following errors:

I.

THE COURT A QUO GRAVELY ERRED IN DISREGARDING [APPELLANT'S] TESTIMONY.

II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING [APPELLANT] OF QUALIFIED THEFT AND CARNAPPING DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.²⁷

²⁴ TSN, May 16, 2012, pp. 6-40.

²⁵ CA rollo, pp. 46-47.

²⁶ Records, p. 236.

²⁷ CA rollo, p. 32.

In the Decision dated May 22, 2014, the appellate court dismissed the appeal but modified appellant's civil liability in Criminal Case No. MC08-11422 by reducing the awarded actual damages from ₱1,877,995.00 to ₱1,077,995.00.²⁸ The appellate court emphasized that the amount alleged in the Information for Qualified Theft, and established by Exhibit "F" was only ₱1,077,995.00.²⁹

Appellant perfected his appeal to this Court with the timely filing of a Notice of Appeal on June 16, 2014.³⁰ The Solicitor General and appellant separately manifested to adopt their respective briefs filed before the CA as their supplemental briefs.³¹

The main issue for resolution is whether the CA correctly affirmed the conviction of the appellant for Qualified Theft and Carnapping.

The Court rules in the affirmative and finds the appeal without merit.

Appellant primarily assails the testimony of Emelina to be inadequate to anchor his conviction for the crimes charged. Branding Emelina's testimony to be self-serving, unsubstantiated, and uncorroborated by documentary and credible testimonial evidence, appellant asserted that no credible proof was presented by the prosecution to establish that he actually received from Emelina the subject peso and foreign currencies and that he used and unlawfully took away the service motorcycle.

When the credibility of the witness is in issue, the settled rule is that the trial court's assessment thereof is accorded great weight by appellate courts absent any showing that the trial court overlooked certain matters which, if taken into consideration, would have materially affected the outcome of the case.³² And where the trial court's findings have been affirmed by the CA, these are generally binding and conclusive upon this Court.³³ The determination of the credibility of witnesses is best left to the trial court judge because of his untrammelled opportunity to observe directly the demeanor of a witness on the stand and, thus, to determine whether he or she is telling the truth.³⁴ After a circumspect scrutiny of the records of the case, we find no reason to modify, alter or reverse the factual finding of the lower court and affirmed by the CA that in the afternoon of July 11, 2007, appellant received money from Emelina; used his service motorcycle; and disappeared with the money and the motorcycle.

²⁸ Id. at 116.

²⁹ Id. at 110.

³⁰ Id. at 121 and 124.

³¹ *Rollo*, pp. 33 and 38.

³² *Roca v. Court of Appeals*, 403 Phil. 326, 333 (2001), citing *People v. Rimorin*, 387 Phil. 925, 933 (2000).

³³ *Polo v. People*, 591 Phil. 76, 80 (2008), citing *Danofrata v. People*, 458 Phil. 1018, 1026-1027 (2003).

³⁴ *People v. Dela Cruz*, 433 Phil. 739, 757 (2002), citing *People v. Castro*, 346 Phil. 894, 905-906 (1997); *People v. Rebato*, 410 Phil. 470, 478-479 (2001).

Moreover, appellant failed to establish the alleged ill-motive of Emelina in implicating him in the present case. No evidence was presented to show that the business of Emelina incurred losses that needed to be concealed from her business partners. Absent any improper motive to falsely testify against the appellant, Emelina's declarations are worthy of full faith and credence.³⁵ In like manner, Imee's employment as the domestic servant of Emelina is not a ground to disregard her testimony. Relationship alone is not enough reason to discredit and label Imee's testimony as biased and unworthy of credence. It is settled that the witness' relationship to the victim does not automatically affect the veracity of his or her testimony.³⁶

We now resolve the criminal liability of the appellant for the unlawful taking of the service motorcycle, and the peso and foreign currencies amounting to a total of ₱1,077,995.00.

I. Criminal Case No. MC08-11421 (For Violation of R.A. No. 6539)

The elements of Carnapping as defined under Section 2 of R.A. No. 6539, as amended, are:

- (1) the taking of a motor vehicle which belongs to another;
- (2) the taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; and
- (3) the taking is done with intent to gain.³⁷

All these elements were established by the prosecution beyond reasonable doubt.

Exhibits "I",³⁸ "J"³⁹ and "K",⁴⁰ proved that the blue Honda XRM motorcycle with plate number UU-9142 used as a service vehicle by appellant was acquired from Triumph JT Marketing Corporation by Manolito, Emelina's spouse, establishing the *first* element.

It is the *second* element that the appellant claimed was not proven because the prosecution's evidence failed to show that he took the motorcycle **without** the consent of Emelina. Indeed, Emelina herself tasked the appellant to proceed to Mabini, Manila, and permitted him to use the service motorcycle.

³⁵ *People v. Guillera*, 601 Phil. 155, 165 (2009), citing *Tadeja v. People*, 528 Phil. 592, 600 (2006) and *People v. Celis*, 375 Phil. 491, 505 (1999).

³⁶ *People v. Cortezano*, 425 Phil. 696, 716 (2002), citing *People v. Quilang*, 371 Phil. 241, 255 (1999).

³⁷ *People v. Lagat*, 673 Phil. 351, 366 (2011), citing *People v. Bernabe*, 448 Phil. 269, 280 (2003).

³⁸ Records, p. 169.

³⁹ Id. at 170.

⁴⁰ Id. at 171.

Unlawful taking, or *apoderamiento*, is the taking of the motor vehicle without the consent of the owner, or by means of violence against or intimidation of persons, or by using force upon things; it is deemed complete from the moment the offender gains possession of the thing, even if he has no opportunity to dispose of the same.⁴¹ In *Roque v. People*,⁴² the Court ruled that qualified theft may be committed even when the personal property is in the lawful possession of the accused prior to the commission of the felony. The concept of unlawful taking in theft, robbery and carnapping being the same,⁴³ the holding in *Roque v. People*⁴⁴ equally applies to carnapping. Hence, in *People v. Bustinera*,⁴⁵ appellant, who was hired as taxi driver, was found guilty of carnapping under R.A. No. 6539 after he failed to return the Daewoo Racer taxi assigned to him by the cab company where he was employed.

In the present case, the Solicitor General aptly argued that appellant's failure to return the motorcycle to Emelina after his working hours from 8:00 a.m. to 5:00 p.m.⁴⁶ constitutes "unlawful taking". Emelina lodged a complaint against appellant with the PNP-CIDG for the loss of the service motorcycle⁴⁷ confirming that appellant's continued possession thereof is without her authority.

The subsequent recovery of the stolen motorcycle will not preclude the presence of the *third* element. Actual gain is irrelevant as the important consideration is the intent to gain or *animus lucrandi*.⁴⁸ Intent to gain is an internal act presumed from the unlawful taking⁴⁹ of the motor vehicle which the appellant failed to overcome with evidence to the contrary. Verily, the mere use of the thing unlawfully taken constitutes gain.⁵⁰

Appellant is thus guilty of the crime of carnapping under R.A. No. 6539.

II. Criminal Case No. MC08-11422 (For Qualified Theft)

Appellant asserted that he cannot be convicted of Qualified Theft because his employment as messenger did not create a fiduciary relationship that will qualify the crime of theft. He also insisted that Exhibit "F" is self-

⁴¹ *People v. Lagat*, supra note 37, at 367, quoting *People v. Bustinera*, G.R. No. 148233, June 8, 2004, 431 SCRA 284, 295.

⁴² 486 Phil. 288, 305-310 (2004).

⁴³ *People v. Bustinera*, supra note 41, at 292, citing *People v. Fernandez*, 460 Phil. 194, 211-212 (2003); *People v. Sia*, 421 Phil. 784, 798 (2001); *People v. Santos*, 388 Phil. 993, 1006 (2000).

⁴⁴ *Roque v. People*, supra note 42.

⁴⁵ Supra note 41.

⁴⁶ TSN, May 16, 2012, p. 9.

⁴⁷ Records, p. 9.

⁴⁸ *Ringor v. People*, G.R. No. 198904, December 11, 2013, 712 SCRA 622, 631-632.

⁴⁹ *Sazon v. Sandiganbayan (Fourth Division)*, 598 Phil. 35, 46 (2009).

⁵⁰ The term "gain" is not merely limited to pecuniary benefit but also includes the benefit which in any other sense may be derived or expected from the act which is performed. See *People v. Bustinera*, supra note 41, at 296, citing 3 R. Aquino & C. Griño-Aquino, THE REVISED PENAL CODE 206 (1997).

serving and is incompetent to establish the amount of money handed to him by Emelina.

For the successful prosecution for Qualified Theft committed with grave abuse of confidence, the prosecution must establish beyond reasonable doubt the following elements: (1) taking of personal property; (2) that the said property belongs to another; (3) that the said taking be done with intent to gain; (4) that it be done without the owner's consent; (5) that it be accomplished without the use of violence or intimidation against persons, nor of force upon things; and (6) that it be done with grave abuse of confidence.⁵¹

All these elements are present in the instant case. Emelina positively and credibly testified that she entrusted to appellant the amount of ₱800,000.00 and foreign currencies valued at ₱277,995.00. Instead of delivering the money to the designated money changer as directed by Emelina, appellant breached the trust reposed in him and disappeared with the cash bills.

We agree with the RTC and the CA that a fiduciary relationship between appellant and Emelina, his employer, existed contrary to the assertion of appellant.

In *Candelaria v. People*,⁵² petitioner Candelaria was the driver of the truck loaded with liters of diesel fuel for delivery to a customer. Instead of delivering the fuel, petitioner Candelaria disappeared together with the truck and its cargo. With the recovery of the truck, petitioner Candelaria was convicted of Qualified Theft for the lost fuel.

Here, the function of the appellant as a messenger of the E. Gloria Money Changer is to deliver amounts of money, both peso and foreign currency, to the clients or to exchange the currency with another money changer. Emelina routinely entrusts to appellant, on a daily basis, various amounts of money from ₱50,000.00 to ₱500,000.00⁵³ without requiring the latter to acknowledge receipt thereof. Emelina testified that she does not have proof that he handed to appellant ₱800,000.00 and various foreign currency on July 11, 2007 because of her total trust and high degree of confidence on appellant (“*tiwalaan lang po*”).⁵⁴ This exhibited the trust and confidence of Emelina to the appellant which he exploited to enrich himself to the damage and prejudice of the former.

The straightforward and credible testimony⁵⁵ of Emelina is adequate to establish the exact amount of money handed to appellant. She could not have forgotten about the denominations given to appellant as the same is

⁵¹ *People v. Mirto*, 675 Phil. 895, 906 (2011), citing *People v. Puig*, 585 Phil. 555, 562 (2008); *Roque v. People*, supra note 42, at 311.

⁵² G.R. No. 209386, December 8, 2014.

⁵³ TSN, August 2, 2010, p. 11.

⁵⁴ Id. at 37.

⁵⁵ See id. at 16-23.

subject of her transaction with a money changer in Mabini, Manila, and she counted⁵⁶ the same before handing it to appellant. Thus, the testimony of Emelina sufficiently proved beyond reasonable doubt that she delivered to appellant monies valued in the total amount of ₱1,077,995.00.

APPELLANT'S DEFENSE

The lame defense of denial is all that appellant could offer against the prosecution evidence. Denial is a negative and self-serving evidence that requires to be substantiated by clear and convincing evidence of non-culpability to merit credibility.⁵⁷ Otherwise, it will not overcome the testimony of the prosecution witness/es who testified on affirmative matters.⁵⁸ Except for the testimonial assertion of appellant in the present case, no credible corroborating evidence was presented by the defense to bolster his denial. Emelina's positive assertions that she handed to appellant the money to be delivered to a money changer in Mabini, Manila, and that he did not return the service motorcycle, prevail over the denial of the appellant. Appellant's admission⁵⁹ that he was at E. Gloria Money Changer shop in the morning of July 11, 2007 further served to bolster the testimony of Emelina.

In the face of the overwhelming and positive evidence against the appellant, even if his return to Zamboanga City is disregarded as an indication of his guilty conscience, his conviction should still be sustained. Unfortunately for appellant, there is no case law holding non-flight as an indication or as conclusive proof of innocence.⁶⁰

THE PENALTIES

The RTC, as affirmed by the CA, correctly imposed in **Criminal Case No. MC08-11421** (for carnapping) the penalty of 14 years and 8 months, as minimum, to 17 years and 4 months, as maximum, which is within the range of the impossible penalty under Section 14 of R.A. No. 6539:

SEC. 14. *Penalty for Carnapping.* – Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished **by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things** x x x. (Emphasis and underscoring supplied)

Further, appellant was correctly meted the penalty of *reclusion perpetua* for Qualified Theft in **Criminal Case No. MC08-11422**. Article 309 of the Revised Penal Code reads:

⁵⁶ TSN, August 1, 2011, p. 25.

⁵⁷ *People v. Astrologo*, 551 Phil. 916, 928 (2007).

⁵⁸ *People v. Rivera*, 414 Phil. 430, 457 (2001), citing *People v. Quilatan*, 395 Phil. 444, 450 (2000).

⁵⁹ TSN, May 16, 2012, pp. 16-19.

⁶⁰ *People v. Diaz*, 443 Phil. 67, 89 (2003).

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

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

The **basic penalty** when the value of the stolen item exceeded ₱22,000.00 is the maximum period of the penalty of *prision mayor* in its minimum and medium periods which is 8 years, 8 months and 1 day to 10 years of *prision mayor*. To determine the additional years of imprisonment, the difference after deducting ₱22,000.00 shall be divided by ₱10,000.00, disregarding any amount less than ₱10,000.00. The amount of cash stolen by appellant is ₱1,077,995.00. Thus, 105 years⁶¹ shall be added to the basic penalty. However, the penalty for Simple Theft cannot go beyond 20 years of *reclusion temporal*, and such will be the sentence of appellant if he committed Simple Theft.

The penalty for Qualified Theft is two degrees higher under Article 310⁶² of the Revised Penal Code, thus appellant was correctly sentenced to *reclusion perpetua*. However, appellant is disqualified under R.A. No. 9346,⁶³ in relation to Resolution No. 24-4-10⁶⁴ to avail the benefits of parole.

WHEREFORE, the present appeal is **DISMISSED**. The appealed Decision dated May 22, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 05870 is **AFFIRMED and UPHELD**.⁶⁵

⁶¹ ₱1,077,995.00 less ₱22,000.00 equals ₱1,055,995. ₱1,055,995 divided by ₱10,000.00 equals ₱105.5995.

⁶² ART. 310. *Qualified theft.* — The crime of theft shall be **punished by the penalties next higher by two degrees** than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance. (Emphasis supplied)

⁶³ Section 3 thereof states that “[p]ersons convicted of offenses punished with *reclusion perpetua* x x x shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended”. See *People v. San Gaspar*, G.R. 180496, April 2, 2014, 720 SCRA 409, 422 and *People v. Santiago*, G.R. No. 196970, April 2, 2014, 720 SCRA 516, 521.

⁶⁴ Entitled “RE: AMENDING AND REPEALING CERTAIN RULES AND SECTIONS OF THE RULES ON PAROLE AND AMENDED GUIDELINES FOR RECOMMENDING EXECUTIVE CLEMENCY OF THE 2006 REVISED MANUAL OF THE BOARD OF PARDONS AND PAROLE.” Pertinent portion of the Rule reads:

RULE 2.2. Disqualifications for Parole – Pursuant to Section 2 of Act No. 4103, as amended, otherwise known as the “Indeterminate Sentence Law,” parole shall not be granted to the following inmates:

x x x x

i. Those convicted of offenses punished with *reclusion perpetua* x x x.


See *Candelaria v. People*, supra note 52, at 8 and *People v. Manicat*, G.R. No. 205413, December 2, 2013, 711 SCRA 284, 289.

⁶⁵ Vide: A.M. No. 15-08-02-SC which provides:

x x x x

With costs against the accused-appellant.

SO ORDERED.

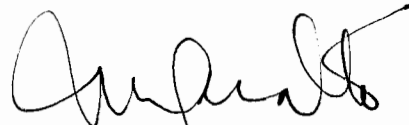


MARTIN S. VILLARAMA, JR.
Associate Justice

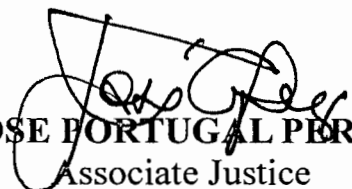
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

II.

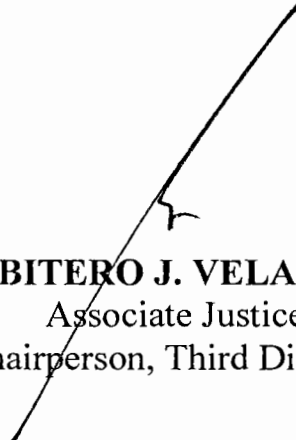
In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

- (1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

x x x x

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

