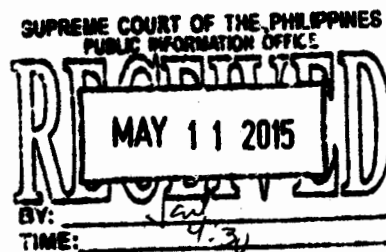




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 9, 2015** which reads as follows:*

“G.R. No. 215564 (Ronnie Vedasto y Baron v. People of the Philippines).- The petitioner's motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

Petitioner was charged for theft in an Information filed before the Regional Trial Court of Caloocan City. The accusatory portion reads:

That on or about the 11th day of August 2007, in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without the knowledge and consent of the owner thereof, one EDITHA DE LEON y RIVERA, did then and there wilfully, unlawfully and feloniously take, steal and carry away, one LAPTOP Model Aspire 3641 in the amount of PhP36,000.00 belonging to said EDITHA DE LEON y RIVERA, to the damage and prejudice of the latter in the aforestated amount of PhP36,000.00.¹

Editha de Leon (Editha) owns a store adjacent to her house in Caloocan City. She also owns a laptop computer worth ₱35,490.00 which was placed on top of a table. The table was situated below the store window measuring 1 foot by 1-1/2 feet. Her brother Gilbert de Leon testified that he saw petitioner take the laptop from the opening of the store window. He initially rushed to tell his brother-in-law, Esteban Biblioteca (Esteban) about the incident before he ran to Editha's room to inform her. Gilbert knows the petitioner who is a regular customer of the store and a friend of Editha.

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¹ Rollo, p. 52.

Petitioner admitted to buying a soft drink from Editha's store and asking Esteban how much he owed but he denied taking the laptop computer. Petitioner alleged that it was impossible to get the laptop computer from inside the store since the size of the opening is so small that laptop computer cannot pass through it.

After trial, the Regional Trial Court (RTC), Branch 128 of Caloocan City found petitioner guilty beyond doubt for theft. The dispositive portion reads:

WHEREFORE, finding the accused Ronnie Vedasto y Baron guilty beyond reasonable doubt for Theft and there being no aggravating and mitigating circumstances established, the court hereby sentences him to an imprisonment of Two (2) Years, Four (4) months and One (1) day of prision correccional, as minimum to Eight (8) years, Eight (8) months and One(1) day of prision mayor, as maximum. However, since the laptop taken by the accused is worth Thirty-Five Thousand Four Hundred Ninety Pesos (₱35,490.00), or more than Twenty Two Thousand Pesos, One (1) year is added to the maximum penalty. Hence, the maximum penalty shall be Nine (9) years, Eight (8) months and One (1) day.

He is likewise directed to pay the private complainant the value of the laptop in the amount of Thirty Five Thousand Four Hundred Ninety Pesos (₱35,490.00).²

The trial court found the testimony of Gilbert credible. The trial court observed that Gilbert testified in a straightforward manner and despite being subjected to a gruelling cross-examination, Gilbert stood firm on his account on how he saw petitioner steal the laptop computer of Editha.

On appeal, the Court of Appeals affirmed³ the Decision of the RTC with a slight modification as to the penalty imposed. The appellate court held that although the penalty imposed by the trial court is within the allowable range provided by law, the maximum penalty should already include the incremental penalty because of the value of the thing stolen. Thus, the dispositive portion of the Court of Appeals' Decision, reads:

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² Id. at 58-59.

³ Id. at 27-32; Penned by Associate Justice Rosmari D. Carandang with Associate Justices Marlene Gonzales-Sison and Edwin D. Sorongon concurring.

WHEREFORE, premises considered, the appeal is **DISMISSED**. The decision of the trial court is hereby affirmed but with the slight correction on the penalty imposed. The accused is hereby sentenced to prison penalty of Two (2) years, Four (4) months and One (1) day of prison correccional as minimum to Nine (9) years, Eight (8) months and One (1) day of prison mayor as maximum.⁴

The appellate court added that the bare denial of petitioner cannot prevail over the positive declaration of Gilbert who credibly identified petitioner as the culprit.

In the instant petition, petitioner insists that it was impossible for any person to take and carry away the laptop from inside the store through the window as the same is too small. Furthermore, petitioner points out the inconsistencies on the testimony relating to the actual taking of the laptop computer.

We find no cogent reason to reverse the Court of Appeals' decision.

The prosecution has satisfactorily established that petitioner took the laptop owned by Editha worth ₱35,495.00 through the opening window while it was placed on top of a table inside the store.

Pursuant to Article 309 of the Revised Penal Code, the penalty for the crime of theft is *prision mayor* in its minimum and medium periods, if the value of the thing stolen exceeds ₱22,000.00, the penalty shall be the maximum period of the prescribed penalty. In applying the Indeterminate Sentence Law, the minimum term is taken from the penalty next lower or anywhere within *prisión correccional* medium and maximum (*i.e.*, from 2 years 4 months and 1 day to 6 years). The maximum term, on the other hand, is taken from the prescribed penalty of *prision mayor* in its minimum and medium periods, in its maximum period adding 1 year of imprisonment for every ₱10,000.00 in excess of ₱22,000.00, provided that the total penalty shall not exceed 20 years. To compute the maximum period of the prescribed penalty, *prision mayor* minimum to medium should be divided into three equal portions of time each of which portion shall be deemed to form one period in accordance with Article 65 of the Revised Penal Code. In computing the incremental penalty, the amount defrauded shall be subtracted by ₱22,000.00, and the difference shall be divided by ₱10,000.00. Any fraction of a year shall be discarded.⁵

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⁴ Id. at 32.

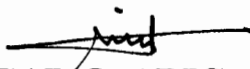
⁵ *Sy v. People*, 632 Phil. 276, 286 (2010) citing *People v. Temporada*, G.R. No. 173473, 17 December 2008, 574 SCRA 258, 260.

Consequently, we find that the Court of Appeals correctly imposed the penalty of imprisonment of Two (2) years, Four (4) months and One (1) day of *prision correccional*, as minimum to Nine (9) years, Eight (8) months and One (1) day of *prision mayor*, as maximum.

WHEREFORE, the 15 May 2014 Decision of the Court of Appeals in CA-G.R. CR No. 35321 is hereby **AFFIRMED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{m 4/4}
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The Hon. Presiding Judge
Regional Trial Court, Br. 128
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(Crim. Case No. C-82333)

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