Republic of the Philippines
Supreme Court
Manila

SPECIAL SECOND DIVISION

ARTEMIO VILLAREAL, **G.R. No. 151258**
Petitioner,

– versus –

PEOPLE OF THE PHILIPPINES,
Respondent.

x - x

PEOPLE OF THE PHILIPPINES, **G.R. No. 154954**
Petitioner,

– versus –

THE HONORABLE COURT OF APPEALS, ANTONIO MARIANO ALMEDA, DALMACIO LIM, JR., JUNEL ANTHONY AMA, ERNESTO JOSE MONTECILLO, VINCENT TECSON, ANTONIO GENERAL, SANTIAGO RANADA III, NELSON VICTORINO, JAIME MARIA FLORES II, ZOSIMO MENDOZA, MICHAEL MUSNGI, VICENTE VERDADERO, ETIENNE GUERRERO, JUDE FERNANDEZ, AMANTE PURISIMA II, EULOGIO SABBAN, PERCIVAL D. BRIGOLA, PAUL ANGELO SANTOS, JONAS KARL B. PEREZ, RENATO BANTUG, JR.,

ADEL ABAS, JOSEPH LLEDO, and RONAN DE GUZMAN,
Respondents.

x - x

FIDELITO DIZON,
Petitioner,

G.R. No. 155101

– versus –

PEOPLE OF THE PHILIPPINES,
Respondent.

x - x

GERARDA H. VILLA,
Petitioner,

G.R. Nos. 178057 & 178080

– versus –

MANUEL LORENZO ESCALONA II, MARCUS JOEL CAPELLAN RAMOS, CRISANTO CRUZ SARUCA, JR., and ANSELMO ADRIANO,
Respondents.

Present:

SERENO, *CJ*,
CARPIO, Chairperson
*VILLARAMA,
PEREZ, and
REYES, *JJ.*

Promulgated:
DEC 01 2014

x - x

RESOLUTION

SERENO, *CJ:*

We are asked to revisit our Decision in the case involving the death of Leonardo "Lenny" Villa due to fraternity hazing. While there is nothing new in the arguments raised by the parties in their respective Motions for Clarification or Reconsideration, we find a few remaining matters needing to be clarified and resolved. Some of these matters include the effect of our Decision on the finality of the Court of Appeals judgments insofar as respondents Antonio Mariano Almeda (Almeda), Junel Anthony D. Ama (Ama), Renato Bantug, Jr. (Bantug), and Vincent Tecson (Tecson) are

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* Designated additional member in lieu of Associate Justice Arturo D. Brion per S.O. No. 1888 dated 28 November 2014.

concerned; the question of who are eligible to seek probation; and the issue of the validity of the probation proceedings and the concomitant orders of a court that allegedly had no jurisdiction over the case.

Before the Court are the respective Motions for Reconsideration or Clarification filed by petitioners People of the Philippines, through the Office of the Solicitor General (OSG), and Gerarda H. Villa (Villa); and by respondents Almeda, Ama, Bantug, and Tecson (collectively, Tecson *et al.*) concerning the Decision of this Court dated 1 February 2012.[1] The Court modified the assailed judgments[2] of the Court of Appeals (CA) in CA-G.R. CR No. 15520 and found respondents Fidelito Dizon (Dizon), Almeda, Ama, Bantug, and Tecson guilty beyond reasonable doubt of the crime of reckless imprudence resulting in homicide. The modification had the effect of lowering the criminal liability of Dizon from the crime of homicide, while aggravating the verdict against Tecson *et al.* from slight physical injuries. The CA Decision itself had modified the Decision of the Caloocan City Regional Trial Court (RTC) Branch 121 finding all of the accused therein guilty of the crime of homicide.[3]

Also, we upheld another CA Decision[4] in a separate but related case docketed as CA-G.R. S.P. Nos. 89060 & 90153 and ruled that the CA did not commit grave abuse of discretion when it dismissed the criminal case against Manuel Escalona II (Escalona), Marcus Joel Ramos (Ramos), Crisanto Saruca, Jr. (Saruca), and Anselmo Adriano (Adriano) on the ground that their right to speedy trial was violated. Reproduced below is the dispositive portion of our Decision:[5]

> **WHEREFORE**, the appealed Judgment in G.R. No. 155101 finding petitioner Fidelito Dizon guilty of homicide is hereby **MODIFIED** and **SET ASIDE IN PART**. The appealed Judgment in G.R. No. 154954 – finding Antonio Mariano Almeda, Junel Anthony Ama, Renato Bantug, Jr., and Vincent Tecson guilty of the crime of slight physical injuries – is also **MODIFIED** and **SET ASIDE IN PART**. Instead, Fidelito Dizon, Antonio Mariano Almeda, Junel Anthony Ama, Renato Bantug, Jr., and Vincent Tecson are found **GUILTY** beyond reasonable doubt of reckless imprudence resulting in homicide defined and penalized under Article 365 in relation to Article 249 of the Revised Penal Code. They are hereby sentenced to suffer an indeterminate prison term of four (4) months and one (1) day of *arresto mayor*, as minimum, to four (4) years and two (2)

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[1] *Villareal v. People*, G.R. Nos. 151258, 154954, 155101, 178057 & 178080, 1 February 2012, 664 SCRA 519.
[2] CA Decision (*People v. Dizon*, CA-G.R. CR No. 15520, 10 January 2002), *rollo* (G.R. No. 154954, Vol. I), pp. 221-249; CA Resolution (*People v. Dizon*, CA-G.R. CR No. 15520, 30 August 2002), *rollo* (G.R. No. 154954, Vol. I), pp. 209-218. Both the Decision and the Resolution of the CA were penned by Associate Justice Eubulo G. Verzola and concurred in by Associate Justices Rodrigo V. Cosico and Eliezer R. de los Santos (with Concurring Opinion).
[3] RTC Decision (*People v. Dizon*, Criminal Case No. C-38340[91], 8 November 1993), *rollo* (G.R. No. 154954, Vol. I), pp. 273-340. The Decision of the RTC was penned by Judge Adoracion G. Angeles.
[4] CA Decision (*Escalona v. Regional Trial Court*, CA-G.R. S.P. Nos. 89060 & 90153, 25 October 2006), *rollo* (G.R. Nos. 178057 & 178080), pp. 12-51. The Decision was penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Andres B. Reyes Jr. and Hakim S. Abdulwahid.
[5] *Villareal v. People*, supra note 1, at 598-599.

> months of *prision correccional*, as maximum. In addition, accused are ORDERED jointly and severally to pay the heirs of Lenny Villa civil indemnity *ex delicto* in the amount of □50,000, and moral damages in the amount of □1,000,000, plus legal interest on all damages awarded at the rate of 12% from the date of the finality of this Decision until satisfaction. Costs *de oficio*.
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> The appealed Judgment in G.R. No. 154954, acquitting Victorino *et al.*, is hereby **AFFIRMED**. The appealed Judgments in G.R. Nos. 178057 & 178080, dismissing the criminal case filed against Escalona, Ramos, Saruca, and Adriano, are likewise **AFFIRMED**. Finally, pursuant to Article 89(1) of the Revised Penal Code, the Petition in G.R. No. 151258 is hereby dismissed, and the criminal case against Artemio Villareal deemed **CLOSED** and **TERMINATED**.
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> Let copies of this Decision be furnished to the Senate President and the Speaker of the House of Representatives for possible consideration of the amendment of the Anti-Hazing Law to include the fact of intoxication and the presence of non-resident or alumni fraternity members during hazing as aggravating circumstances that would increase the applicable penalties.
>
> **SO ORDERED.**

To refresh our memories, we quote the factual antecedents surrounding the present case:[6]

> In February 1991, seven freshmen law students of the Ateneo de Manila University School of Law signified their intention to join the Aquila Legis Juris Fraternity (Aquila Fraternity). They were Caesar "Bogs" Asuncion, Samuel "Sam" Belleza, Bienvenido "Bien" Marquez III, Roberto Francis "Bert" Navera, Geronimo "Randy" Recinto, Felix Sy, Jr., and Leonardo "Lenny" Villa (neophytes).
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> On the night of 8 February 1991, the neophytes were met by some members of the Aquila Fraternity (Aquilans) at the lobby of the Ateneo Law School. They all proceeded to Rufo's Restaurant to have dinner. Afterwards, they went to the house of Michael Musngi, also an Aquilan, who briefed the neophytes on what to expect during the initiation rites. The latter were informed that there would be physical beatings, and that they could quit at any time. Their initiation rites were scheduled to last for three days. After their "briefing," they were brought to the Almeda Compound in Caloocan City for the commencement of their initiation.
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> Even before the neophytes got off the van, they had already received threats and insults from the Aquilans. As soon as the neophytes alighted from the van and walked towards the *pelota* court of the Almeda compound, some of the Aquilans delivered physical blows to them. The neophytes were then subjected to traditional forms of Aquilan "initiation rites." These rites included the "Indian Run," which required the neophytes to run a gauntlet of two parallel rows of Aquilans, each row delivering blows to the neophytes; the "Bicol Express," which obliged the neophytes to sit on the floor with their backs against the wall and their legs

[6] Id. at 530-535.

outstretched while the Aquilans walked, jumped, or ran over their legs; the "Rounds," in which the neophytes were held at the back of their pants by the "auxiliaries" (the Aquilans charged with the duty of lending assistance to neophytes during initiation rites), while the latter were being hit with fist blows on their arms or with knee blows on their thighs by two Aquilans; and the "Auxies' Privilege Round," in which the auxiliaries were given the opportunity to inflict physical pain on the neophytes. During this time, the neophytes were also indoctrinated with the fraternity principles. They survived their first day of initiation.

On the morning of their second day – 9 February 1991 – the neophytes were made to present comic plays and to play rough basketball. They were also required to memorize and recite the Aquila Fraternity's principles. Whenever they would give a wrong answer, they would be hit on their arms or legs. Late in the afternoon, the Aquilans revived the initiation rites proper and proceeded to torment them physically and psychologically. The neophytes were subjected to the same manner of hazing that they endured on the first day of initiation. After a few hours, the initiation for the day officially ended.

After a while, accused non-resident or alumni fraternity members Fidelito Dizon (Dizon) and Artemio Villareal (Villareal) demanded that the rites be reopened. The head of initiation rites, Nelson Victorino (Victorino), initially refused. Upon the insistence of Dizon and Villareal, however, he reopened the initiation rites. The fraternity members, including Dizon and Villareal, then subjected the neophytes to "paddling" and to additional rounds of physical pain. Lenny received several paddle blows, one of which was so strong it sent him sprawling to the ground. The neophytes heard him complaining of intense pain and difficulty in breathing. After their last session of physical beatings, Lenny could no longer walk. He had to be carried by the auxiliaries to the carport. Again, the initiation for the day was officially ended, and the neophytes started eating dinner. They then slept at the carport.

After an hour of sleep, the neophytes were suddenly roused by Lenny's shivering and incoherent mumblings. Initially, Villareal and Dizon dismissed these rumblings, as they thought he was just overacting. When they realized, though, that Lenny was really feeling cold, some of the Aquilans started helping him. They removed his clothes and helped him through a sleeping bag to keep him warm. When his condition worsened, the Aquilans rushed him to the hospital. Lenny was pronounced dead on arrival.

Consequently, a criminal case for homicide was filed against the following 35 Aquilans:

In Criminal Case No. C-38340(91)

1. Fidelito Dizon (Dizon)
2. Artemio Villareal (Villareal)
3. Efren de Leon (De Leon)
4. Vincent Tecson (Tecson)
5. Junel Anthony Ama (Ama)
6. Antonio Mariano Almeda (Almeda)
7. Renato Bantug, Jr. (Bantug)
8. Nelson Victorino (Victorino)

9. Eulogio Sabban (Sabban)
10. Joseph Lledo (Lledo)
11. Etienne Guerrero (Guerrero)
12. Michael Musngi (Musngi)
13. Jonas Karl Perez (Perez)
14. Paul Angelo Santos (Santos)
15. Ronan de Guzman (De Guzman)
16. Antonio General (General)
17. Jaime Maria Flores II (Flores)
18. Dalmacio Lim, Jr. (Lim)
19. Ernesto Jose Montecillo (Montecillo)
20. Santiago Ranada III (Ranada)
21. Zosimo Mendoza (Mendoza)
22. Vicente Verdadero (Verdadero)
23. Amante Purisima II (Purisima)
24. Jude Fernandez (J. Fernandez)
25. Adel Abas (Abas)
26. Percival Brigola (Brigola)

In Criminal Case No. C-38340

1. Manuel Escalona II (Escalona)
2. Crisanto Saruca, Jr. (Saruca)
3. Anselmo Adriano (Adriano)
4. Marcus Joel Ramos (Ramos)
5. Reynaldo Concepcion (Concepcion)
6. Florentino Ampil (Ampil)
7. Enrico de Vera III (De Vera)
8. Stanley Fernandez (S. Fernandez)
9. Noel Cabangon (Cabangon)

Twenty-six of the accused Aquilans in Criminal Case No. C-38340(91) were jointly tried. On the other hand, the trial against the remaining nine accused in Criminal Case No. C-38340 was held in abeyance due to certain matters that had to be resolved first.

On 8 November 1993, the **trial court** rendered judgment in Criminal Case No. C-38340(91), holding the **26 accused guilty** beyond reasonable doubt of the **crime of homicide**, penalized with *reclusion temporal* under Article 249 of the Revised Penal Code. A few weeks after the trial court rendered its judgment, or on 29 November 1993, Criminal Case No. C-38340 against the remaining nine accused commenced anew.

On 10 January 2002, the **CA** in (CA-G.R. No. 15520) **set aside the finding of conspiracy by the trial court** in Criminal Case No. C-38340(91) and **modified the criminal liability** of each of the accused **according to individual participation**. Accused De Leon had by then passed away, so the following Decision applied only to the remaining 25 accused, *viz*:

1. **Nineteen of the accused-appellants** – Victorino, Sabban, Lledo, Guerrero, Musngi, Perez, De Guzman, Santos, General, Flores, Lim, Montecillo, Ranada, Mendoza, Verdadero, Purisima, Fernandez, Abas, and Brigola (**Victorino *et al.***) – were **acquitted,** as their individual guilt was not established by proof beyond reasonable doubt.

2. **Four of the accused-appellants** – Vincent Tecson, Junel Anthony Ama, Antonio Mariano Almeda, and Renato Bantug, Jr. (**Tecson *et al.***) – were found guilty of the crime of **slight physical injuries** and sentenced to 20 days of *arresto menor*. They were also ordered to jointly pay the heirs of the victim the sum of □30,000 as indemnity.

3. **Two of the accused-appellants** – **Fidelito Dizon** and **Artemio Villareal** – were found guilty beyond reasonable doubt of the crime of **homicide** under Article 249 of the Revised Penal Code. Having found no mitigating or aggravating circumstance, the CA sentenced them to an indeterminate sentence of 10 years of *prision mayor* to 17 years of *reclusion temporal*. They were also ordered to indemnify, jointly and severally, the heirs of Lenny Villa in the sum of □50,000 and to pay the additional amount of □1,000,000 by way of moral damages.

On 5 August 2002, the trial court in Criminal Case No. 38340 dismissed the charge against accused Concepcion on the ground of violation of his right to speedy trial. Meanwhile, on different dates between the years 2003 and 2005, the trial court denied the respective Motions to Dismiss of accused Escalona, Ramos, Saruca, and Adriano. On 25 October 2006, the CA in CA-G.R. SP Nos. 89060 & 90153 reversed the trial court's Orders and dismissed the criminal case against Escalona, Ramos, Saruca, and Adriano on the basis of violation of their right to speedy trial.

From the aforementioned Decisions, the five (5) consolidated Petitions were individually brought before this Court. (Citations omitted)

Motion for Partial Reconsideration filed by Petitioner Gerarda H. Villa

Petitioner Villa filed the present Motion for Partial Reconsideration[7] in connection with G.R. Nos. 178057 & 178080 (*Villa v. Escalona*) asserting that the CA committed grave abuse of discretion when it dismissed the criminal case against Escalona, Ramos, Saruca, and Adriano (collectively, Escalona *et al.*) in its assailed Decision and Resolution.[8] Villa reiterates her previous arguments that the right to speedy trial of the accused was not violated, since they had failed to assert that right within a reasonable period of time. She stresses that, unlike their co-accused Reynaldo Concepcion, respondents Escalona *et al.* did not timely invoke their right to speedy trial during the time that the original records and pieces of evidence were unavailable. She again emphasizes that the prosecution cannot be faulted entirely for the lapse of 12 years from the arraignment until the initial trial, as there were a number of incidents attributable to the accused themselves

[7] Motion for Partial Reconsideration of petitioner Gerarda H. Villa (posted on 6 March 2012), *rollo* (G.R. Nos. 178057 & 178080), pp. 1607-1660.
[8] CA Decision dated 25 October 2006 (*Escalona v. Regional Trial Court*), supra note 4; CA Resolution (*Escalona v. Regional Trial Court*, CA-G.R. S.P. Nos. 89060 & 90153, 17 May 2007), *rollo* (G.R. Nos. 178057 & 178080), pp. 53-58.

that caused the delay of the proceedings. She then insists that we apply the balancing test in determining whether the right to speedy trial of the accused was violated.

Motion for Reconsideration filed by the OSG

The OSG, in its Motion for Reconsideration[9] of G.R. Nos. 155101 (*Dizon v. People*) and 154954 (*People v. Court of Appeals*), agrees with the findings of this Court that accused Dizon and Tecson *et al.* had neither the felonious intent to kill (*animus interficendi*) nor the felonious intent to injure (*animus iniuriandi*) Lenny Villa. In fact, it concedes that the mode in which the accused committed the crime was through fault (*culpa*). However, it contends that the penalty imposed should have been equivalent to that for deceit (*dolo*) pursuant to Article 249 (Homicide) of the Revised Penal Code. It argues that the nature and gravity of the imprudence or negligence attributable to the accused was so gross that it shattered the fine distinction between *dolo* and *culpa* by considering the act as one committed with malicious intent. It maintains that the accused conducted the initiation rites in such a malevolent and merciless manner that it clearly endangered the lives of the initiates and was thus equivalent to malice aforethought.

With respect to the 19 other accused, or Victorino *et al*., the OSG asserts that their acquittal may also be reversed despite the rule on double jeopardy, as the CA also committed grave abuse of discretion in issuing its assailed Decision (CA-G.R. No. 15520). The OSG insists that Victorino *et al*. should have been similarly convicted like their other co-accused Dizon, Almeda, Ama, Bantug, and Tecson, since the former also participated in the hazing of Lenny Villa, and their actions contributed to his death.

***Motions for Clarification or Reconsideration of Tecson* et al.**

Respondents Tecson *et al.*,[10] filed their respective motions pertaining to G.R. No. 154954 (*People v. Court of Appeals*). They essentially seek a clarification as to the effect of our Decision insofar as their criminal liability and service of sentence are concerned. According to respondents, they immediately applied for probation after the CA rendered its Decision (CA-G.R. No. 15520) lowering their criminal liability from the crime of homicide, which carries a non-probationable sentence, to slight physical injuries, which carries a probationable sentence. Tecson *et al.* contend that, as a result, they have already been discharged from their criminal liability

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[9] Motion for Reconsideration of OSG (posted on 7 March 2012), *rollo* (G.R. No. 155101), pp. 2085-2117.
[10] Manifestation and Motion for Clarification of Almeda (filed on 2 March 2012), *rollo* (G.R. No. 155101), pp. 1843-1860; Motion for Reconsideration of Ama (filed on 5 March 2012), *rollo* (G.R. No. 155101), pp. 1883-1896; Motion for Clarification of Bantug (filed on 6 March 2012), *rollo* (G.R. No. 155101), pp. 1953-1966; and Motion for Clarification of Tecson (filed on 6 March 2012), *rollo* (G.R. No. 155101), pp. 1930-1941.

and the cases against them closed and terminated. This outcome was supposedly by virtue of their Applications for Probation on various dates in January 2002[11] pursuant to Presidential Decree No. 968, as amended, otherwise known as the Probation Law. They argue that Branch 130 of Caloocan City Regional Trial Court (RTC) had already granted their respective Applications for Probation on 11 October 2002[12] and, upon their completion of the terms and conditions thereof, discharged them from probation and declared the criminal case against them terminated on various dates in April 2003.[13]

To support their claims, respondents attached[14] certified true copies of their respective Applications for Probation and the RTC Orders granting these applications, discharging them from probation, and declaring the criminal case against them terminated. Thus, they maintain that the Decision in CA-G.R. No. 15520 had already lapsed into finality, insofar as they were concerned, when they waived their right to appeal and applied for probation.

ISSUES

I. Whether the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it dismissed the case against Escalona, Ramos, Saruca, and Adriano for violation of their right to speedy trial

II. Whether the penalty imposed on Tecson *et al.* should have corresponded to that for intentional felonies

III. Whether the completion by Tecson *et al.* of the terms and conditions of their probation discharged them from their criminal liability, and closed and terminated the cases against them

DISCUSSION

Findings on the Motion for Partial Reconsideration of Petitioner Gerarda H. Villa

As regards the first issue, we take note that the factual circumstances and legal assertions raised by petitioner Villa in her Motion for Partial Reconsideration concerning G.R. Nos. 178057 & 178080 have already been

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[11] *Rollo* (G.R. No. 155101), pp. 1861, 1897, 1942, & 1967.
[12] RTC Order (*People v. Dizon*, Criminal Case No. C-38340, 11 October 2002), *rollo* (G.R. No. 155101), pp. 1872-1873, 1904-1905, 1950-1951, 1977-1978.
[13] RTC Order (*People v. Dizon*, Criminal Case No. C-38340, 29 April 2003), *rollo* (G.R. No. 155101), p. 1875; RTC Order (*People v. Dizon*, Criminal Case No. C-38340, 10 April 2003), *rollo* (G.R. No. 155101), pp. 1906, 1952; RTC Order (*People v. Dizon*, Criminal Case No. C-38340, 3 April 2003), *rollo* (G.R. No. 155101), p. 1979.
[14] *Rollo* (G.R. No. 155101), pp. 1861-1875, 1897-1906, 1942-1952, 1967-1979.

thoroughly considered and passed upon in our deliberations, which led to our Decision dated 1 February 2012. We emphasize that in light of the finding of violation of the right of Escalona *et al.* to speedy trial, the CA's dismissal of the criminal case against them amounted to an acquittal,[15] and that any appeal or reconsideration thereof would result in a violation of their right against double jeopardy.[16] Though we have recognized that the acquittal of the accused may be challenged where there has been a grave abuse of discretion,[17] *certiorari* would lie if it is convincingly established that the CA's Decision dismissing the case was attended by a whimsical or capricious exercise of judgment equivalent to lack of jurisdiction. It must be shown that the assailed judgment constitutes "a patent and gross abuse of discretion amounting to an evasion of a positive duty or to a virtual refusal to perform a duty imposed by law or to act in contemplation of law; an exercise of power in an arbitrary and despotic manner by reason of passion and hostility; or a blatant abuse of authority to a point so grave and so severe as to deprive the court of its very power to dispense justice."[18] Thus, grave abuse of discretion cannot be attributed to a court simply because it allegedly misappreciated the facts and the evidence.[19]

We have taken a second look at the court records, the CA Decision, and petitioner's arguments and found no basis to rule that the CA gravely abused its discretion in concluding that the right to speedy trial of the accused was violated. Its findings were sufficiently supported by the records of the case and grounded in law. Thus, we deny the motion of petitioner Villa with finality.

Ruling on the Motion for Reconsideration filed by the OSG

We likewise deny with finality the Motion for Reconsideration filed by the OSG with respect to G.R. Nos. 155101 (*Dizon v. People*) and 154954 (*People v. Court of Appeals*). Many of the arguments raised therein are essentially a mere rehash of the earlier grounds alleged in its original Petition for *Certiorari*.

Furthermore, we cannot subscribe to the OSG's theory that even if the act complained of was born of imprudence or negligence, malicious intent can still be appreciated on account of the gravity of the actions of the accused. We emphasize that the finding of a felony committed by means of

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[15] *Villareal v. People*, supra note 1, at 545 (citing *People v. Hernandez*, 531 Phil. 289 [2006]; *People v. Tampal*, 314 Phil. 35 [1995]; *Philippine Savings Bank v. Bermoy*, 508 Phil. 96 [2005]; *People v. Bans*, 239 SCRA 48 [1994]; *People v. Declaro*, 252 Phil. 139 [1989]; and *People v. Quizada*, 243 Phil. 658 [1988]).
[16] *See*: *People v. Hernandez*, supra.
[17] *Villareal v. People*, supra note 1, at 550 (citing *People v. Court of Appeals and Galicia*, 545 Phil. 278 [2007]; *People v. Serrano*, 374 Phil. 302 [1999]; and *People v. De Grano*, G.R. No. 167710, 5 June 2009, 588 SCRA 550).
[18] *Villareal v. People*, supra note 1, at 551 (citing *People v. De Grano*, supra note 17; and *People v. Maquiling*, 368 Phil. 169 [1999]).
[19] *Villareal v. People*, supra note 1, at 552 (citing *People v. Maquiling*, supra; and *Teknika Skills and Trade Services v. Secretary of Labor and Employment*, 339 Phil. 218 [1997]).

culpa is legally inconsistent with that committed by means of *dolo*. Culpable felonies involve those wrongs done as a result of an act performed without malice or criminal design. The Revised Penal Code expresses thusly:

> ARTICLE 365. *Imprudence and Negligence*. — **Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony**, shall suffer the penalty of *arresto mayor* in its maximum period to *prisión correccional* in its medium period; if it would have constituted **a less grave felony**, the penalty of *arresto mayor* in its minimum and medium periods shall be imposed.
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> Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of *arresto mayor* in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of *arresto mayor* in its minimum period shall be imposed.
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> x x x x
>
> **Reckless imprudence consists in voluntary, but without malice, doing or falling to do an act from which material damage results by reason of inexcusable lack of precaution** on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.
>
> Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest. (Emphases supplied)

On the other hand, intentional felonies concern those wrongs in which a deliberate malicious intent to do an unlawful act is present. Below is our exhaustive discussion on the matter:[20]

> Our Revised Penal Code belongs to the classical school of thought. x x x The identity of *mens rea* – defined as a guilty mind, a guilty or wrongful purpose or criminal intent – is the predominant consideration. **Thus, it is not enough to do what the law prohibits. In order for an intentional felony to exist, it is necessary that the act be committed by means of *dolo* or "malice."**
>
> The term "*dolo*" or "malice" is a complex idea involving the elements of *freedom*, *intelligence*, and *intent*. x x x x The element of *intent* – on which this Court shall focus – is described as the **state of mind accompanying an act**, especially a forbidden act. It refers to the **purpose of the mind and the resolve with which a person proceeds.** It does not refer to mere *will*, for the latter pertains to the act, while *intent* concerns the result of the act. While motive is the "moving power" that impels one to action for a definite result, **intent is the "purpose" of using a particular means to produce the result.** On the other hand, the term **"felonious"** means, *inter alia*, **malicious, villainous, and/or proceeding from an evil heart or purpose.** With these elements taken together, **the requirement of intent in intentional felony must refer to malicious**

[20] *Villareal v. People*, supra note 1, at 556-593.

intent, which is a vicious and malevolent state of mind accompanying a forbidden act. Stated otherwise, intentional felony requires the existence of *dolus malus* – that the act or omission be done "willfully," "maliciously," "with deliberate evil intent," and "with malice aforethought." The maxim is *actus non facit reum, nisi mens sit rea* – a crime is not committed if the mind of the person performing the act complained of is innocent. As is required of the other elements of a felony, the **existence of malicious intent must be proven beyond reasonable doubt.**

x x x x

The presence of an *initial* malicious intent to commit a felony is thus a vital ingredient in establishing the commission of the intentional felony of homicide. Being *mala in se*, the felony of homicide requires the **existence of malice or *dolo* immediately before or simultaneously with the infliction of injuries. Intent to kill – or *animus interficendi* – cannot and should not be inferred, unless there is proof beyond reasonable doubt of such intent.** Furthermore, the victim's death must not have been the product of accident, natural cause, or suicide. **If death resulted from an act executed without malice or criminal intent – but with lack of foresight, carelessness, or negligence – the act must be qualified as reckless or simple negligence or imprudence resulting in homicide.**

x x x x

In order to be found guilty of any of the felonious acts under Articles 262 to 266 of the Revised Penal Code, **the employment of physical injuries must be coupled with *dolus malus*.** As an act that is *mala in se*, the existence of malicious intent is fundamental, since injury arises from the mental state of the wrongdoer – *iniuria ex affectu facientis consistat*. If there is no criminal intent, the accused cannot be found guilty of an intentional felony. Thus, in case of physical injuries under the Revised Penal Code, **there must be a specific *animus iniuriandi* or malicious intention to do wrong against the physical integrity or well-being of a person, so as to incapacitate and deprive the victim of certain bodily functions. Without proof beyond reasonable doubt of the required *animus iniuriandi*, the overt act of inflicting physical injuries *per se* merely satisfies the elements of freedom and intelligence in an intentional felony.** The commission of the act does not, in itself, make a man guilty unless his intentions are.

Thus, we have ruled in a number of instances that the **mere infliction of physical injuries, absent malicious intent, does not make a person automatically liable for an intentional felony.** x x x.

x x x x

The absence of malicious intent does not automatically mean, however, that the accused fraternity members are ultimately devoid of criminal liability. The Revised Penal Code also punishes felonies that are committed by means of fault (*culpa*). According to Article 3 thereof, there is fault when the wrongful act results from imprudence, negligence, lack of foresight, or lack of skill.

> ***Reckless imprudence* or *negligence*** consists of a **voluntary act done without malice**, from which an immediate personal harm, injury or material damage results by reason of an inexcusable lack of precaution or advertence on the part of the person committing it. **In this case, the danger is visible and consciously appreciated by the actor.** In contrast, *simple imprudence or negligence* comprises an act done without grave fault, from which an injury or material damage ensues by reason of a mere lack of foresight or skill. Here, the threatened harm is not immediate, and the danger is not openly visible.
>
> The test for determining whether or not a person is negligent in doing an act is as follows: **Would a prudent man in the position of the person to whom negligence is attributed foresee harm to the person injured as a reasonable consequence of the course about to be pursued? If so, the law imposes on the doer the duty to take precaution against the mischievous results of the act. Failure to do so constitutes negligence.**
>
> As we held in *Gaid v. People*, for a person to avoid being charged with recklessness, the degree of precaution and diligence required varies with the degree of the danger involved. If, on account of a certain line of conduct, the danger of causing harm to another person is great, the individual who chooses to follow that particular course of conduct is bound to be very careful, in order to prevent or avoid damage or injury. In contrast, if the danger is minor, not much care is required. It is thus possible that there are countless degrees of precaution or diligence that may be required of an individual, "from a transitory glance of care to the most vigilant effort." The duty of the person to employ more or less degree of care will depend upon the circumstances of each particular case. (Emphases supplied, citations omitted)

We thus reiterate that the law requires proof beyond reasonable doubt of the existence of malicious intent or *dolus malus* before an accused can be adjudged liable for committing an intentional felony.

Since the accused were found to have committed a felony by means of *culpa*, we cannot agree with the argument of the OSG. It contends that the imposable penalty for intentional felony can also be applied to the present case on the ground that the nature of the imprudence or negligence of the accused was so gross that the felony already amounted to malice. The Revised Penal Code has carefully delineated the imposable penalties as regards felonies committed by means of *culpa* on the one hand and felonies committed by means of *dolo* on the other in the context of the distinctions it has drawn between them. The penalties provided in Article 365 (Imprudence and Negligence) are mandatorily applied if the death of a person occurs as a result of the imprudence or negligence of another. Alternatively, the penalties outlined in Articles 246 to 261 (Destruction of Life) are automatically invoked if the death was a result of the commission of a forbidden act accompanied by a malicious intent. These imposable penalties are statutory, mandatory, and not subject to the discretion of the court. We have already resolved – and the OSG agrees – that the accused Dizon and Tecson *et al.* had neither *animus interficendi* nor *animus iniuriandi* in

inflicting physical pain on Lenny Villa. Hence, we rule that the imposable penalty is what is applicable to the crime of reckless imprudence resulting in homicide as defined and penalized under Article 365 of the Revised Penal Code.

Ruling on the Motions for Clarification or Reconsideration filed by Tecson et al.

We clarify, however, the effect of our Decision in light of the motions of respondents Tecson *et al*. vis-à-vis G.R. No. 154954 (*People v. Court of Appeals*).

The finality of a CA decision will not bar the state from seeking the annulment of the judgment via a Rule 65 petition.

In their separate motions,[21] respondents insist that the previous verdict of the CA finding them guilty of slight physical injuries has already lapsed into finality as a result of their respective availments of the probation program and their ultimate discharge therefrom. Hence, they argue that they can no longer be convicted of the heavier offense of reckless imprudence resulting in homicide.[22] Respondents allude to our Decision in *Tan v. People*[23] to support their contention that the CA judgment can no longer be reversed or annulled even by this Court.

The OSG counters[24] that the CA judgment could not have attained finality, as the former had timely filed with this Court a petition for *certiorari*. It argues that a Rule 65 petition is analogous to an appeal, or a motion for new trial or reconsideration, in that a petition for *certiorari* also prevents the case from becoming final and executory until after the matter is ultimately resolved.

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[21] Supra note 10.

[22] In the annulled CA Decision (supra note 2), Tecson *et al.* were sentenced to suffer the penalty of 20 days of *arresto menor*. On the other hand, in the Decision of this Court (supra note 1), they were sentenced to suffer the indeterminate prison term of four (4) months and one (1) day of arresto mayor, as minimum, to four (4) years and two (2) months of *prisión correccional*, as maximum.

[23] 430 Phil. 685 (2002). The accused was found guilty of bigamy by the trial court, and was sentenced to suffer a prison term of *prisión correccional*. He thereafter applied for probation, as the sentence imposed on him was probationable. Subsequently however, the trial court withheld the order of release from probation in view of the filing by the prosecution of a motion for modification of the penalty. The prosecution pointed out that the trial court erred in imposing the sentence on the accused, as the legally imposable penalty under the Revised Penal Code was *prisión mayor*, which is non-probationable. The trial court reconsidered its order and amended the sentence from a maximum period of 4 years and 2 months to the maximum period of 8 years and 1 day, which had the effect of disqualifying accused from applying for probation. This Court set aside the amendatory judgment of the trial court and reinstated its original decision, and ruled that the trial court judgment can no longer be reversed, annulled, reconsidered, or amended, as it has already lapsed into finality. It was then reiterated that the accused's waiver of appeal brought about by his application for probation amounted to a voluntary compliance with the decision and wrote *finis* to the jurisdiction of the trial court over the judgment.

[24] Reply of OSG dated 25 November 2004, *rollo* (G.R. No. 154954, Vol. I), pp. 1098-1132.

Indeed, Rule 120 of the Rules of Court speaks of the finality of a criminal judgment once the accused applies for probation, *viz*:

> SECTION 7. *Modification of judgment*. — A **judgment of conviction** may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, **a judgment becomes final** after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or **when the accused** has waived in writing his right to appeal, or **has applied for probation**. (7a) (Emphases supplied)

Coupled with Section 7 of Rule 117[25] and Section 1 of Rule 122,[26] it can be culled from the foregoing provisions that only the accused may appeal the criminal aspect of a criminal case, especially if the relief being sought is the correction or review of the judgment therein. This rule was instituted in order to give life to the constitutional edict[27] against putting a person twice in jeopardy of punishment for the same offense. It is beyond contention that the accused would be exposed to double jeopardy if the state appeals the criminal judgment in order to reverse an acquittal or even to increase criminal liability. Thus, the accused's waiver of the right to appeal – as when applying for probation – makes the criminal judgment immediately final and executory. Our explanation in *People v. Nazareno* is worth reiterating:[28]

> **Further prosecution *via* an appeal** from a judgment of acquittal is likewise barred because the **government has already been afforded a complete opportunity to prove the criminal defendant's culpability**; after failing to persuade the court to enter a final judgment of conviction, the underlying reasons supporting the constitutional ban on multiple trials applies and becomes compelling. The reason is **not only the defendant's already established innocence at the first trial where he had been placed in peril of conviction, but also the same untoward and prejudicial consequences of a second trial initiated by a government who has at its disposal all the powers and resources of the State.**

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[25] Rule 117 of the Rules of Court provides as follows:

> SEC. 7. *Former conviction or acquittal; double jeopardy*. — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, **the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged**, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information. (Emphasis supplied)

[26] Rules of Court, Rule 122, provides as follows:

> SECTION 1. *Who may appeal*. — **Any party may appeal** from a judgment or final order, **unless the accused will be placed in double jeopardy**. (2a) (Emphases supplied)

[27] 1987 Constitution, Art. III, Sec. 21.

[28] G.R. No. 168982, 5 August 2009, 595 SCRA 438, 450.

> **Unfairness and prejudice would necessarily result, as the government would then be allowed another opportunity to persuade a second trier of the defendant's guilt while strengthening any weaknesses that had attended the first trial**, all in a process where the government's power and resources are once again employed against the defendant's individual means. That the second opportunity comes *via* an appeal does not make the effects any less prejudicial by the standards of reason, justice and conscience. (Emphases supplied, citations omitted)

It must be clarified, however, that the finality of judgment evinced in Section 7 of Rule 120 does not confer blanket invincibility on criminal judgments. We have already explained in our Decision that the rule on double jeopardy is not absolute, and that this rule is inapplicable to cases in which the state assails the very jurisdiction of the court that issued the criminal judgment.[29] The reasoning behind the exception is articulated in *Nazareno*, from which we quote:[30]

> In such instance, however, **no review of facts and law on the merits, in the manner done in an appeal, actually takes place; the focus of the review is on whether the judgment is *per se* void on jurisdictional grounds**, *i.e.*, whether the verdict was rendered by a court that had no jurisdiction; **or where the court has appropriate jurisdiction, whether it acted with grave abuse of discretion amounting to lack or excess of jurisdiction. In other words, the review is on the question of whether there has been a validly rendered decision, not on the question of the decision's error or correctness.** Under the exceptional nature of a Rule 65 petition, the burden — a very heavy one — is on the shoulders of the party asking for the review to show the presence of a whimsical or capricious exercise of judgment equivalent to lack of jurisdiction; or of a patent and gross abuse of discretion amounting to an evasion of a positive duty or a virtual refusal to perform a duty imposed by law or to act in contemplation of law; or to an exercise of power in an arbitrary and despotic manner by reason of passion and hostility. (Emphases supplied, citations omitted)

While this Court's Decision in *Tan* may have created an impression of the unassailability of a criminal judgment as soon as the accused applies for probation, we point out that what the state filed therein was a mere motion for the modification of the penalty, and not a Rule 65 petition. A petition for *certiorari* is a special civil action that is distinct and separate from the main case. While in the main case, the core issue is whether the accused is innocent or guilty of the crime charged, the crux of a Rule 65 petition is whether the court acted (a) without or in excess of its jurisdiction; or (b) with grave abuse of discretion amounting to lack or excess of jurisdiction. Hence, strictly speaking, there is no modification of judgment in a petition for *certiorari*, whose resolution does not call for a re-evaluation of the merits of the case in order to determine the ultimate criminal responsibility of the

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[29] *People v. Court of Appeals and Galicia*, supra note 17 (citing *People v. Serrano*, supra note 17, at 306; and *People v. De Grano*, supra note 17).
[30] Supra note 28, at 451.

accused. In a Rule 65 petition, any resulting annulment of a criminal judgment is but a consequence of the finding of lack of jurisdiction.

In view thereof, we find that the proper interpretation of Section 7 of Rule 120 must be that it is inapplicable and irrelevant where the court's jurisdiction is being assailed through a Rule 65 petition. Section 7 of Rule 120 bars the modification of a criminal judgment only if the appeal brought before the court is in the nature of a regular appeal under Rule 41, or an appeal by *certiorari* under Rule 45, and if that appeal would put the accused in double jeopardy. As it is, we find no irregularity in the partial annulment of the CA Decision in CA-G.R. No. 15520 in spite of its finality, as the judgment therein was issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

The orders of Caloocan City RTC Branch 130 have no legal effect, as they were issued without jurisdiction.

First, Tecson *et al*. filed their Applications for Probation with the wrong court. Part and parcel of our criminal justice system is the authority or jurisdiction of the court to adjudicate and decide the case before it. Jurisdiction refers to the power and capacity of the tribunal to hear, try, and decide a particular case or matter before it.[31] That power and capacity includes the competence to pronounce a judgment, impose a punishment,[32] and enforce or suspend[33] the execution of a sentence in accordance with law.

The OSG questions[34] the entire proceedings involving the probation applications of Tecson *et al*. before Caloocan City RTC Branch 130. Allegedly, the trial court did not have competence to take cognizance of the applications, considering that it was not the court of origin of the criminal case. The OSG points out that the trial court that originally rendered the Decision in Criminal Case No. C-38340(91) was Branch 121 of the Caloocan City RTC.

The pertinent provision of the Probation Law is hereby quoted for reference:

> SEC. 4. *Grant of Probation*. — Subject to the provisions of this Decree, **the trial court may, after it shall have convicted and sentenced a defendant**, and upon application by said defendant within the period for perfecting an appeal, **suspend the execution of the sentence and place the defendant on probation** for such period and upon such terms and conditions as it may deem best; Provided, That no application for probation shall be entertained or granted if the defendant has perfected the appeal from the judgment of conviction. x x x x (Emphases supplied)

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[31] *People v. Mariano*, 163 Phil. 625 (1976).
[32] Id.; and *Antiporda v. Garchitorena*, 378 Phil. 1166 (1999).
[33] *See*: Presidential Decree No. 968, otherwise known as the Probation Law, Sec. 4.
[34] Reply of OSG dated 25 November 2004, *rollo* (G.R. No. 154954, Vol. I), pp. 1098-1132.

It is obvious from the foregoing provision that the law requires that an application for probation be filed with the trial court that convicted and sentenced the defendant, meaning the court of origin. Here, the trial court that originally convicted and sentenced Tecson *et al.* of the crime of homicide was Branch 121 – not Branch 130 – of the Caloocan City RTC.[35] Neither the judge of Branch 130 in his Orders nor Tecson *et al.* in their pleadings have presented any explanation or shown any special authority that would clarify why the Applications for Probation had not been filed with or taken cognizance of by Caloocan City RTC Branch 121. While we take note that in a previous case, the CA issued a Decision ordering the inhibition of Branch 121 Judge Adoracion G. Angeles from hearing and deciding Criminal Case No. C-38340(91), the ruling was made specifically applicable to the trial of petitioners therein, *i.e.* accused Concepcion, Ampil, Adriano, and S. Fernandez.[36]

Tecson *et al*. thus committed a fatal error when they filed their probation applications with Caloocan City RTC Branch 130, and not with Branch 121. We stress that applicants are not at liberty to choose the forum in which they may seek probation, as the requirement under Section 4 of the Probation law is substantive and not merely procedural. Considering, therefore, that the probation proceedings were premised on an unwarranted exercise of authority, we find that Caloocan City RTC Branch 130 never acquired jurisdiction over the case.

Second, the records of the case were still with the CA when Caloocan City RTC Branch 130 granted the probation applications. Jurisdiction over a case is lodged with the court in which the criminal action has been properly instituted.[37] If a party appeals the trial court's judgment or final order, [38] jurisdiction is transferred to the appellate court. The execution of the decision is thus stayed insofar as the appealing party is concerned.[39] The court of origin then loses jurisdiction over the entire case the moment the other party's time to appeal has expired.[40] Any residual jurisdiction of the court of origin shall cease – including the authority to order execution pending appeal – the moment the complete records of the case are transmitted to the appellate court.[41] Consequently, it is the appellate court that shall have the authority to wield the power to hear, try, and decide the case before it, as well as to enforce its decisions and resolutions appurtenant thereto. That power and authority shall remain with the appellate court until it finally disposes of the case. Jurisdiction cannot be ousted by any

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[35] *See*: RTC Decision (*People v. Dizon*), supra note 3.
[36] *Concepcion v. Judge Angeles*, CA-G.R. SP No. 32793 (CA, decided on 15 June 1994), slip. op., at 16.
[37] See Batas Pambansa Blg. 129 (otherwise known as The Judiciary Reorganization Act of 1980), Sec. 20, for the applicable law on which court has subject-matter jurisdiction over criminal cases; and Rule 110, Sec. 15, for the applicable rule on where the criminal action must be instituted.
[38] Rule 122, Sec. 1; Rule 121, Sec. 7.
[39] Rule 122, Sec. 11(c).
[40] Rule 41, Sec. 9 in relation to Rule 122, Sec. 6.
[41] Rule 41, Sec. 9 in relation to Rule 122, Secs. 8 and 11(c).

subsequent event, even if the nature of the incident would have prevented jurisdiction from attaching in the first place.

According to Article 78 of the Revised Penal Code, "[n]o penalty shall be executed except by virtue of a final judgment." A judgment of a court convicting or acquitting the accused of the offense charged becomes final under any of the following conditions among others:[42] after the lapse of the period for perfecting an appeal; when the accused waives the right to appeal; upon the grant of a withdrawal of an appeal; when the sentence has already been partially or totally satisfied or served; or when the accused applies for probation. When the decision attains finality, the judgment or final order is entered in the book of entries of judgments.[43] If the case was previously appealed to the CA, a certified true copy of the judgment or final order must be attached to the original record, which shall then be remanded to the clerk of the court from which the appeal was taken.[44] The court of origin then reacquires jurisdiction over the case for appropriate action. It is during this time that the court of origin may settle the matter of the execution of penalty or the suspension of the execution thereof,[45] including the convicts' applications for probation.[46]

A perusal of the case records reveals that the CA had not yet relinquished its jurisdiction over the case when Caloocan City RTC Branch 130 took cognizance of the Applications for Probation of Tecson *et al*. It shows that the accused filed their respective applications[47] while a motion for reconsideration was still pending before the CA[48] and the records were still with that court.[49] The CA settled the motion only upon issuing the Resolution dated 30 August 2002 denying it, or about seven months after Tecson *et al*. had filed their applications with the trial court.[50] In September 2002, or almost a month before the promulgation of the RTC Order dated 11 October 2002 granting the probation applications,[51] the OSG had filed Manifestations of Intent to File Petition for Certiorari with the CA[52] and this

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[42] Rule 120, Sec. 7; Rule 122, Sec. 12.
[43] Rule 120, Sec. 8 in relation to Rule 36, Sec. 2; Rule 124, Sec. 17.
[44] Rule 124, Sec. 17.
[45] Revised Penal Code, Arts. 78 to 88 (in relation to Rule 124, Sec. 17; Rule 121, Sec. 8; Rule 36, Sec. 2; Rule 39, Sec. 1)
[46] Probation Law, Sec. 4.
[47] Tecson *et al*. filed their applications on various dates in January 2002. *See*: *rollo* (G.R. No. 155101), pp. 1861-1863, 1897-1901, 1942-1944, & 1967-1969.
[48] *See*: CA Resolution dated 30 August 2002, supra note 2 at 6, *rollo* (G.R. No. 154954, Vol. I), p. 214.
[49] *See*: CA Resolution (*People v. Dizon*, CA-G.R. CR No. 15520, 14 February 2002), *rollo* (G.R. No. 155101), p. 1972. In the Resolution, the CA stated that "the records of this case cannot be remanded at this stage considering the motions for reconsideration filed hereto." *See also*: Letter of Presiding Judge Adoracion G. Angeles, CA *rollo* Vol. II, pp. 2686-2688; Transmittal Letter from the CA dated 19 February 2008, *rollo* (G.R. No. 155101), p. 918.
[50] CA Resolution dated 30 August 2002, supra note 2 at 6, *rollo* (G.R. No. 154954, Vol. I), p. 214.
[51] RTC Order (*People v. Dizon*, Criminal Case No. C-38340, 11 October 2002), *rollo* (G.R. No. 155101), pp. 1872-1873, 1904-1905, 1950-1951, 1977-1978.
[52] CA Resolution (*People v. Dizon*, CA-G.R. CR No. 15520, 29 October 2002), CA *rollo* Volume II, pp. 2724-2725.

Court.[53] Ultimately, the OSG assailed the CA judgments by filing before this Court a Petition for Certiorari on 25 November 2002.[54] We noted the petition and then required respondents to file a comment thereon.[55] After their submission of further pleadings and motions, we eventually required all parties to file their consolidated memoranda.[56] The records of the case remained with the CA until they were elevated to this Court in 2008.[57]

For the foregoing reasons, we find that RTC Branch 130 had no jurisdiction to act on the probation applications of Tecson *et al*. It had neither the power nor the authority to suspend their sentence, place them on probation, order their final discharge, and eventually declare the case against them terminated. This glaring jurisdictional *faux pas* is a clear evidence of either gross ignorance of the law or an underhanded one-upmanship on the part of RTC Branch 130 or Tecson *et al.*, or both – to which this Court cannot give a judicial imprimatur.

In any event, Tecson *et al.* were ineligible to seek probation at the time they applied for it. Probation[58] is a special privilege granted by the state to penitent qualified offenders who immediately admit their liability and thus renounce their right to appeal. In view of their acceptance of their fate and willingness to be reformed, the state affords them a chance to avoid the stigma of an incarceration record by making them undergo rehabilitation outside of prison. Some of the major purposes of the law are to help offenders to eventually develop themselves into law-abiding and self-respecting individuals, as well as to assist them in their reintegration with the community.

It must be reiterated that probation is not a right enjoyed by the accused. Rather, it is an act of grace or clemency conferred by the state. In *Francisco v. Court of Appeals*,[59] this Court explained thus:

> It is a **special prerogative** granted by law to a person or group of persons **not enjoyed by others or by all**. Accordingly, the grant of probation rests solely upon the discretion of the court which is to be exercised primarily for the benefit of organized society, and only incidentally for the benefit of the accused. **The Probation Law should**

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[53] Supreme Court Resolution dated 25 November 2002, *rollo* (G.R. No. 154954, Vol. I), p. 10-A.
[54] The Supreme Court granted the Motion for Extension filed by the OSG. *See*: Supreme Court Resolution dated 13 October 2003, *rollo* (G.R. No. 154954, Vol. I), p. 675.
[55] Supreme Court Resolution dated 13 October 2003, *rollo* (G.R. No. 154954, Vol. I), p. 675.
[56] Supreme Court Resolution dated 21 October 2009, *rollo* (G.R. No. 155101), pp. 1156-1160.
[57] Transmittal Letter from the CA dated 19 February 2008, *rollo* (G.R. No. 155101), p. 918; *See also* Letter of Presiding Judge Adoracion G. Angeles, Caloocan City RTC Branch 121, CA *rollo* Vol. II, pp. 2686-2688. Judge Angeles informed the CA that the records of the case had not yet been remanded to Branch 121, thus preventing her from complying with the CA Resolution to release the cash bond posted by one of the accused. The CA Third Division received the letter on 22 October 2002 – or 11 days after RTC Branch 130 granted the probation applications.
[58] Probation Law; *Francisco v. Court of Appeals*, 313 Phil. 241 (1995); and *Baclayon v. Mutia*, 214 Phil. 126 (1984). *See*: *Del Rosario v. Rosero*, 211 Phil. 406 (1983).
[59] Id. at 254-255.

> **not therefore be permitted to divest the state or its government of any of the latter's prerogatives, rights or remedies, unless the intention of the legislature to this end is clearly expressed, and no person should benefit from the terms of the law who is not clearly within them.** (Emphases supplied)

The OSG questions the validity of the grant of the probation applications of Tecson *et al.*[60] It points out that when they appealed to the CA their homicide conviction by the RTC, they thereby made themselves ineligible to seek probation pursuant to Section 4 of Presidential Decree No. 968 (the Probation Law).

We refer again to the full text of Section 4 of the Probation Law as follows:

> SEC. 4. *Grant of Probation*. — Subject to the provisions of this Decree, **the trial court may, after it shall have convicted and sentenced a defendant**, and upon application by said defendant within the period for perfecting an appeal, **suspend the execution of the sentence and place the defendant on probation** for such period and upon such terms and conditions as it may deem best; Provided, That **no application for probation shall be entertained or granted if the defendant has perfected the appeal from the judgment of conviction.**
>
> Probation may be granted whether the sentence imposes a term of imprisonment or a fine only. An application for probation shall be filed with the trial court. The filing of the application shall be deemed a waiver of the right to appeal.
>
> An order granting or denying probation shall not be appealable. (Emphases supplied)

Indeed, one of the legal prerequisites of probation is that the offender must not have appealed the conviction.[61] In the 2003 case *Lagrosa v. Court of Appeals*,[62] this Court was faced with the issue of whether a convict may still apply for probation even after the trial court has imposed a non-probationable verdict, provided that the CA later on lowers the original penalty to a sentence within the probationable limit. In that case, the trial court sentenced the accused to a maximum term of eight years of *prisión mayor*, which was beyond the coverage of the Probation Law. They only became eligible for probation after the CA reduced the maximum term of the penalty imposed to 1 year, 8 months and 21 days of *prisión correccional*.

In deciding the case, this Court invoked the reasoning in *Francisco* and ruled that the accused was ineligible for probation, since they had filed an appeal with the CA. In *Francisco*, we emphasized that Section 4 of the Probation Law offers no ambiguity and does not provide for any distinction,

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[60] Reply of OSG dated 25 November 2004, *rollo* (G.R. No. 154954, Vol. I), pp. 1098-1132.
[61] *Lagrosa v. Court of Appeals*, 453 Phil. 270 (2003); and *Francisco v. Court of Appeals*, supra note 58.
[62] Supra. *See also*: *Francisco v. Court of Appeals*, supra note 58.

qualification, or exception. What is clear is that all offenders who previously appealed their cases, regardless of their reason for appealing, are disqualified by the law from seeking probation. Accordingly, this Court enunciated in *Lagrosa* that the accused are disallowed from availing themselves of the benefits of probation if they obtain a genuine opportunity to apply for probation only on appeal as a result of the downgrading of their sentence from non-probationable to probationable.

While *Lagrosa* was promulgated three months after Caloocan City RTC Branch 130 issued its various Orders discharging Tecson *et al.* from probation, the ruling in *Lagrosa*, however, was a mere reiteration of the reasoning of this Court since the 1989 case *Llamado v. Court of Appeals*[63] and *Francisco*. The Applications for Probation of Tecson *et al.*, therefore, should not have been granted by RTC Branch 130, as they had appealed their conviction to the CA. We recall that respondents were originally found guilty of homicide and sentenced to suffer 14 years, 8 months, and 1 day of *reclusion temporal* as maximum. Accordingly, even if the CA later downgraded their conviction to slight physical injuries and sentenced them to 20 days of *arresto menor*, which made the sentence fall within probationable limits for the first time, the RTC should have nonetheless found them ineligible for probation at the time.

The actions of the trial court must thus be adjudged as an arbitrary and despotic use of authority, so gross that it divested the court of its very power to dispense justice. As a consequence, the RTC Orders granting the Applications for Probation of Tecson *et al.* and thereafter discharging them from their criminal liability must be deemed to have been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

Whether for lack of jurisdiction or for grave abuse of discretion, amounting to lack or excess of jurisdiction, we declare all orders, resolutions, and judgments of Caloocan City RTC Branch 130 in relation to the probation applications of Tecson *et al.* null and void for having been issued without jurisdiction. We find our pronouncement in *Galman v. Sandiganbayan*[64] applicable, *viz*:

> **A void judgment is, in legal effect, no judgment at all. By it no rights are divested. Through it, no rights can be attained.** Being worthless, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void. (Emphasis supplied)

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[63] 256 Phil. 328 (1989).
[64] 228 Phil. 42, 90 (1986). *E.g.*, *People v. Jardin*, 209 Phil. 134, 140 (1983) (citing *Gomez v. Concepcion*, 47 Phil. 717 [1925]; *Chavez v. Court of Appeals*, 133 Phil. 661 [1968]; *Paredes v. Moya*, 158 Phil. 1150, [1974]).

The ultimate discharge of Tecson* et al. *from probation did not totally extinguish their criminal liability.

Accused Bantug asserts[65] that, in any event, their criminal liability has already been extinguished as a result of their discharge from probation and the eventual termination of the criminal case against them by Caloocan City RTC Branch 130. To support his argument, he cites the following provision of the Revised Penal Code:

> ARTICLE 89. *How Criminal Liability is Totally Extinguished*. — Criminal liability is totally extinguished:
>
> 1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.
> 2. **By service of the sentence.**
> 3. By amnesty, which completely extinguishes the penalty and all its effects.
> 4. By absolute pardon.
> 5. By prescription of the crime.
> 6. By prescription of the penalty.
> 7. By the marriage of the offended woman, as provided in article 344 of this Code. (Emphasis supplied)

As previously discussed, a void judgment cannot be the source of legal rights; legally speaking, it is as if no judgment had been rendered at all. Considering our annulment of the Orders of Caloocan City RTC Branch 130 in relation to the probation proceedings, respondents cannot claim benefits that technically do not exist.

In any event, Tecson *et al.* cannot invoke Article 89 of the Revised Penal Code, as we find it inapplicable to this case. One of the hallmarks of the Probation Law is precisely to "suspend the execution of the sentence,"[66] and not to replace the original sentence with another, as we pointed out in our discussion in *Baclayon v. Mutia*:[67]

> An order placing defendant on **"probation" is not a "sentence"** but is rather in effect a suspension of the imposition of sentence. **It is not a final judgment but is rather an "interlocutory judgment"** in the nature of a conditional order placing the convicted defendant under the supervision of the court for his reformation, to be followed by a final judgment of discharge, if the conditions of the probation are complied with, or by a final judgment of sentence if the conditions are violated. (Emphases supplied)

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[65] Motion for Clarification of Bantug, supra note 10.
[66] Probation Law, Sec. 4.
[67] Supra note 58, at 132.

Correspondingly, the criminal liability of Tecson *et al.* remains.

In light of our recent Decision in* Colinares v. People, *Tecson* et al. *may now reapply for probation.

Very recently, in *Colinares v. People*,[68] we revisited our ruling in *Francisco* and modified our pronouncements insofar as the eligibility for probation of those who appeal their conviction is concerned. Through a majority vote of 9-6, the Court *En Banc* in effect abandoned *Lagrosa* and settled the following once and for all:[69]

> Secondly, it is true that under the probation law the accused who appeals "from the judgment of conviction" is disqualified from availing himself of the benefits of probation. But, as it happens, two judgments of conviction have been meted out to Arnel: one, a conviction for frustrated homicide by the regional trial court, now set aside; and, two, a conviction for attempted homicide by the Supreme Court.
>
> If the Court chooses to go by the dissenting opinion's hard position, it will apply the probation law on Arnel based on the trial court's annulled judgment against him. He will not be entitled to probation because of the severe penalty that such judgment imposed on him. More, the Supreme Court's judgment of conviction for a lesser offense and a lighter penalty will also have to bend over to the trial court's judgment — even if this has been found in error. And, worse, Arnel will now also be made to pay for the trial court's erroneous judgment with the forfeiture of his right to apply for probation. *Ang kabayo ang nagkasala, ang hagupit ay sa kalabaw* (the horse errs, the carabao gets the whip). Where is justice there?
>
> The dissenting opinion also expresses apprehension that allowing Arnel to apply for probation would dilute the ruling of this Court in *Francisco v. Court of Appeals* that the probation law requires that an accused must not have appealed his conviction before he can avail himself of probation. But there is a huge difference between *Francisco* and this case.
>
> x x x x
>
> **Here, however, Arnel did not appeal from a judgment that would have allowed him to apply for probation.** He did not have a choice between appeal and probation. He was not in a position to say, "By taking this appeal, I choose not to apply for probation." The stiff penalty that the trial court imposed on him denied him that choice. **Thus, a ruling that would allow Arnel to now seek probation under this Court's greatly diminished penalty will not dilute the sound ruling in *Francisco*. It remains that those who will appeal from judgments of conviction, when they have the option to try for probation, forfeit their right to apply for that privilege.**
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> x x x x

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[68] G.R. No. 182748, 13 December 2011, 662 SCRA 266.
[69] Id. at 279-282.

> **In a real sense, the Court's finding that Arnel was guilty, not of frustrated homicide, but only of attempted homicide, is an original conviction that for the first time imposes on him a probationable penalty.** Had the RTC done him right from the start, it would have found him guilty of the correct offense and imposed on him the right penalty of two years and four months maximum. This would have afforded Arnel the right to apply for probation.
>
> **The Probation Law never intended to deny an accused his right to probation through no fault of his. The underlying philosophy of probation is one of liberality towards the accused.** Such philosophy is not served by a harsh and stringent interpretation of the statutory provisions. As Justice Vicente V. Mendoza said in his dissent in *Francisco*, the **Probation Law must not be regarded as a mere privilege to be given to the accused only where it clearly appears he comes within its letter; to do so would be to disregard the teaching in many cases that the Probation Law should be applied in favor of the accused not because it is a criminal law but to achieve its beneficent purpose.**
>
> x x x x
>
> At any rate, what is clear is that, **had the RTC done what was right and imposed on Arnel the correct penalty of two years and four months maximum, he would have had the right to apply for probation.** No one could say with certainty that he would have availed himself of the right had the RTC done right by him. The idea may not even have crossed his mind precisely since the penalty he got was not probationable.
>
> **The question in this case is ultimately one of fairness. Is it fair to deny Arnel the right to apply for probation when the new penalty that the Court imposes on him is, unlike the one erroneously imposed by the trial court, subject to probation?** (Emphases supplied)

In our Decision, we set aside the RTC and the CA judgments and found Tecson *et al.* ultimately liable for the crime of reckless imprudence resulting in homicide. Pursuant to Article 365 of the Revised Penal Code, the offense is punishable by *arresto mayor* in its maximum period (from 4 months and 1 day to 6 months) to *prisión correccional* in its medium period (from 2 years, 4 months, and 1 day to 4 years and 2 months). Considering that the new ruling in *Colinares* is more favorable to Tecson *et al.*, we rule that they are now eligible to apply for probation. Since Fidelito Dizon (Dizon) was convicted of the same crime, we hereby clarify that Dizon is also eligible for probation.

While we cannot recognize the validity of the Orders of RTC Branch 130, which granted the Applications for Probation, we cannot disregard the fact that Tecson *et al.* have fulfilled the terms and conditions of their previous probation program and have eventually been discharged therefrom. Thus, should they reapply for probation, the trial court may, at its discretion, consider their antecedent probation service in resolving whether to place them under probation at this time and in determining the terms, conditions, and period thereof.

Final clarificatory matters

We now take this opportunity to correct an unintentional typographical error in the minimum term of the penalty imposed on the accused Dizon and Tecson *et al*. While this issue was not raised by any of the parties before us, this Court deems it proper to discuss the matter *ex proprio motu* in the interest of justice. In the first paragraph of the dispositive portion of our Decision dated 1 February 2012, the fourth sentence reads as follows:

> They are hereby sentenced to suffer an indeterminate prison term of four (4) months and one (1) day of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prisión correccional*, as maximum.

As we had intended to impose on the accused the maximum term of the "penalty next lower" than that prescribed by the Revised Penal Code for the offense of reckless imprudence resulting in homicide, in accordance with the Indeterminate Sentence Law (ISL),[70] the phrase "and one (1) day," which had been inadvertently added, must be removed. Consequently, in the first paragraph of the dispositive portion, the fourth sentence should now read as follows:

> They are hereby sentenced to suffer an indeterminate prison term of four (4) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prisión correccional*, as maximum.

In this instance, we further find it important to clarify the accessory penalties inherent to the principal penalty imposed on Dizon and Tecson *et al*.

By operation of Articles 40 to 45 and 73 of the Revised Penal Code, a corresponding accessory penalty automatically attaches every time a court lays down a principal penalty outlined in Articles 25 and 27 thereof.[71] The applicable accessory penalty is determined by using as reference the **principal penalty** imposed by the court **before the prison sentence is computed in accordance with the ISL**.[72] This determination is made in spite of the two classes of penalties mentioned in an indeterminate sentence. It must be emphasized that the provisions on the inclusion of accessory penalties specifically allude to the actual "penalty"[73] imposed, not to the

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[70] *See, e.g.*: *People v. Temporada*, G.R. No. 173473, 17 December 2008, 574 SCRA 258; *People v. Gabres*, 335 Phil. 242 (1997); and *People v. Ducosin*, 59 Phil. 109 (1933).

[71] Revised Penal Code, Art. 73. *People v. Silvallana*, 61 Phil. 636, 644 (1935). According to *Silvallana*: "It is therefore unnecessary to express the accessory penalties in the sentence."

[72] *See, e.g.*: *Moreno v. Commission on Elections*, 530 Phil. 279 (2006); *Baclayon v. Mutia*, supra note 58.

[73] Article 73 of the Revised Penal Code provides: "*Presumption in Regard to the Imposition of Accessory Penalties*. — **Whenever the courts shall impose** a **penalty** which, by provision of law, carries with it other penalties, according to the provisions of articles 40, 41, 42, 43, 44, and 45 of this Code, it must be understood that the accessory penalties are also imposed upon the convict."

"prison sentence"[74] set by a court. We believe that the ISL did not intend to have the effect of imposing on the convict two distinct sets of accessory penalties for the same offense.[75] The two penalties are only relevant insofar as setting the minimum imprisonment period is concerned, after which the convict may apply for parole and eventually seek the shortening of the prison term.[76]

Under Article 365 of the Revised Penal Code, the **prescribed penalty** for the crime of reckless imprudence resulting in homicide is *arresto mayor* in its maximum period to *prisión correccional* in its medium period. As this provision grants courts the discretion to lay down a penalty without regard to the presence of mitigating and aggravating circumstances, the **imposable penalty** must also be within the aforementioned range.[77] Hence, before applying the ISL, we ultimately imposed on Dizon and Tecson *et al*. the **actual (straight) penalty**[78] of four years and two months of *prisión correccional*.[79] Pursuant to Article 43 of the Revised Penal Code, the penalty of *prisión correccional* automatically carries with it[80] the following accessory penalties:

> ARTICLE 43. *Prisión Correccional — Its accessory penalties*. — The penalty of *prisión correccional* shall carry with it that of suspension from public office, from the right to follow a profession or calling, and that of perpetual special disqualification from the right of suffrage, if the duration of said imprisonment shall exceed eighteen months. The offender shall suffer the disqualification provided in this article although pardoned as to the principal penalty, unless the same shall have been expressly remitted in the pardon.

The duration of their suspension shall be the same as that of their principal penalty *sans* the ISL; that is, for four years and two months[81] or

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[74] Section 1 of the Indeterminate Sentence Law, as amended, provides: "Hereafter, **in imposing a prison sentence** for an offense punished by the Revised Penal Code, or its amendments, 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 the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; x x x."

[75] The law should not apply if its application would be unfavorable to the accused. *See generally* RAMON C. AQUINO, THE REVISED PENAL CODE – VOL. 1, 720-721 (1987).

[76] *See* ISL, Sec. 5; RAMON C. AQUINO, THE REVISED PENAL CODE – VOL. 1, 718-720 (1987).

[77] Article 365 provides: "In the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in article sixty-four."

[78] *People v. Temporada*, supra note 70; *People v. Ducosin*, supra. *See, e.g.*: *Bongalon v. People*, G.R. No. 169533, 20 March 2013, 694 SCRA 12; *Guinhawa v. People*, 505 Phil. 383 (2005); *People v. Dy*, 425 Phil 608 (2002); *People v. Darilay*, 465 Phil. 747 (2004); *People v. Bustamante*, 445 Phil. 345 (2003); *People v. Catuiran*, 397 Phil. 325 (2000); *People v. Barro*, 392 Phil. 857 (2000); *Austria v. Court of Appeals*, 384 Phil. 408 (2000); *Ladino v. People*, 333 Phil. 254 (1996); *People v. Parohinog*, 185 Phil. 266 (1980); *People v. Dimalanta*, 92 Phil. 239 (1952).

[79] *People v. Temporada*, supra note 70. The case explained the difference between a "prescribed penalty," "imposable penalty," and "penalty actually imposed."

[80] *See*: *Jalosjos v. Commission on Elections*, G.R. Nos. 193237 and 193536, 9 October 2012, 683 SCRA 1; *Aratea v. Commission on Elections*, G.R. No. 195229, 9 October 2012, 683 SCRA 105; and *People v. Silvallana*, supra note 71.

[81] *See* Art. 27 of the Revised Penal Code, which provides: "*Prisión correccional*, *suspensión*, and *destierro*. — The duration of the penalties of *prisión correccional*, *suspensión*, and *destierro* shall be from six months and one day to six years, except **when the suspension is imposed as an accessory penalty, in which case, its duration shall be that of the principal penalty**" and Art. 33, which states: "*Effects of the Penalties of*

until they have served their sentence in accordance with law. Their suspension takes effect immediately, once the judgment of conviction becomes final.[82]

We further point out that if the length of their imprisonment exceeds 18 months, they shall furthermore suffer a **perpetual** special disqualification from the right of suffrage. Under Article 32 of the Revised Penal Code, if this accessory penalty attaches, it shall forever deprive them of the exercise of their right (a) to vote in any popular election for any public office; (b) to be elected to that office; and (c) to hold any public office.[83] Any public office that they may be holding becomes vacant upon finality of the judgment.[84] The aforementioned accessory penalties can only be wiped out if expressly remitted in a pardon.[85]

Of course, the aforementioned accessory penalties are without prejudice to a grant of probation, should the trial court find them eligible therefor. As we explained in *Baclayon*,[86] the grant of probation suspends the execution of the principal penalty of imprisonment, as well as that of the accessory penalties. We have reiterated this point in *Moreno v. Commission on Elections*:[87]

> In *Baclayon v. Mutia*, the Court declared that an order placing defendant on probation is not a sentence but is rather, in effect, a suspension of the imposition of sentence. We held that **the grant of probation to petitioner suspended the imposition of the principal penalty of imprisonment, as well as the accessory penalties of suspension from public office and from the right to follow a profession or calling**, and that of perpetual special disqualification from the right of suffrage. We thus deleted from the order granting probation the paragraph which required that petitioner refrain from continuing with her teaching profession.
>
> **Applying this doctrine to the instant case, the accessory penalties of suspension from public office, from the right to follow a**

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cont.
Suspension from Any Public Office, Profession or Calling, or the Right of Suffrage. — The **suspension from public office, profession or calling**, and the exercise of the right of suffrage **shall disqualify** the offender from holding such office or exercising such profession or calling or right of suffrage **during the term of the sentence.** The person suspended from holding public office shall not hold another having similar functions during the period of his suspension." (Emphases supplied). *Cf*: *Lacuna v. Abes*, 133 Phil. 770 (1968). The Court *En Banc* explained therein that then Mayor-elect Benjamin Abes was released from confinement on 7 April 1959 by virtue of a conditional pardon granted by the President of the Philippines, remitting only the unexpired portion of the prison term and fine. It then clarified that without the pardon, his maximum sentence would have been served on 13 October 1961. Accordingly, the Court said that the accessory penalty of temporary absolute disqualification would have barred him for seeking public office and for exercising his right to vote until 13 October 1961.

[82] *Jalosjos v. Commission on Elections*, supra note 80.

[83] *See*: *Jalosjos v. Commission on Elections*, supra note 80 (citing *Lacuna v. Abes*, supra); *Aratea v. Commission on Elections*, supra note 80; *People v. Silvallana*, supra note 71.

[84] *Jalosjos v. Commission on Elections*, supra note 80.

[85] Revised Penal Code, Art. 36. *See*: *Jalosjos v. Commission on Elections*, G.R. No. 205033, 18 June 2013, 698 SCRA 742; *Monsanto v. Factoran*, 252 Phil. 192 (1989); *Lacuna v. Abes*, supra note 81.

[86] Supra note 58.

[87] Supra note 72.

> **profession or calling**, and that of perpetual special disqualification from the right of suffrage, attendant to the penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period **imposed upon Moreno were similarly suspended upon the grant of probation.**
>
> It appears then that **during the period of probation, the probationer is not even disqualified from running for a public office because the accessory penalty of suspension from public office is put on hold for the duration of the probation.** x x x x. During the period of probation, the probationer does not serve the penalty imposed upon him by the court but is **merely required to comply with all the conditions prescribed in the probation order.**

WHEREFORE, premises considered, the Motion for Partial Reconsideration of petitioner Gerarda H. Villa in connection with G.R. Nos. 178057 & 178080 is hereby **DENIED**. The Motion for Reconsideration filed by the Office of the Solicitor General concerning G.R. Nos. 155101 and 154954 is also **DENIED**.

The respective Motions for Clarification or Reconsideration of Antonio Mariano Almeda, Junel Anthony D. Ama, Renato Bantug, Jr., and Vincent Tecson are likewise **DENIED**. In light of the finding that Caloocan City Regional Trial Court Branch 130 acted without or in excess of its jurisdiction in taking cognizance of the aforementioned Applications for Probation, we hereby **ANNUL** the entire probation proceedings and **SET ASIDE** all orders, resolutions, or judgments issued in connection thereto. We, however, **CLARIFY** that Antonio Mariano Almeda, Junel Anthony D. Ama, Renato Bantug, Jr., Vincent Tecson, and Fidelito Dizon are eligible to apply or reapply for probation in view of our recent ruling in *Colinares v. People of the Philippines*,[88] without prejudice to their remaining civil liability, if any.

Furthermore, we issue a **CORRECTION** of the dispositive portion of our Decision dated 1 February 2012 and hereby delete the phrase "and one (1) day" located in the fourth sentence of the first paragraph thereof. The sentence shall now read as follows: "They are hereby sentenced to suffer an indeterminate prison term of four (4) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prisión correccional*, as maximum."

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

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[88] Supra note 68.

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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