

## EN BANC

[ G.R. No. 240347, August 14, 2018 ]

**IN RE: CORRECTION/ ADJUSTMENT OF PENALTY PURSUANT TO  
REPUBLIC ACT NO. 10951, IN RELATION TO *HERNAN v.  
SANDIGANBAYAN*,**

**SAMUEL SAGANIB Y LUTONG, PETITIONER**

### RESOLUTION

**TIJAM, J.:**

Before Us is a Petition for Release,<sup>[1]</sup> praying for the immediate release of Samuel Saganib y Lutong (petitioner) pursuant to the provisions of Republic Act (R.A.) No. 10951<sup>[2]</sup> and this Court's ruling in *Hernan v. Sandiganbayan*.<sup>[3]</sup>

#### The Facts

Petitioner was convicted of the crime of *Estafa* under Article 315, paragraph 2(a) of the Revised Penal Code for pretending to be a lawyer, a certain "Atty. Amos Saganib Sabling" that will help private complainants to facilitate the release of their friend from jail for P100,000.00 as attorneys fees. Despite receipt of the said amount, however, the prisoner was never released and worse, he died in jail.<sup>[4]</sup> The dispositive portion of the Decision<sup>[5]</sup> dated January 28, 2011 of the Regional Trial Court (RTC) of Baguio City, Branch 3 in Criminal Case No. 27487-R, reads:

**WHEREFORE**, [petitioner] is hereby **FOUND GUILTY BEYOND REASONABLE DOUBT**, for the crime of *Estafa*, and he is hereby sentenced to suffer the penalty of imprisonment from **FIVE (5) YEARS of prision correccional as minimum to NINE (9) YEARS of prision mayor as maximum** at the National Bilibid Prisons (NBP), Muntinlupa City, Metro Manila, and to indemnify private complainant Ruben Iglesias the amount of One Hundred Thousand Pesos (P100,000.00) as Actual Damages, with legal interest from January 2007, until the amount is fully paid; Moral Damages of Fifty Thousand Pesos (P50,000.00) each to private complainants Nenita Catabay, and Ruben Iglesias; and Exemplary Damages of Thirty Thousand Pesos (P30,000.00) each to the said private complainants, plus costs of suit.

**IT IS SO ORDERED.**<sup>[6]</sup>

The RTC Decision became final and executory on February 12, 2012 per the said court's Entry of Judgment<sup>[7]</sup> dated February 20, 2012.

Per his Prison Record,<sup>[8]</sup> petitioner already has two (2) years, seven (7) months, and six (6) days time served with earned good conduct time allowance as of June 6, 2018.

Meanwhile, R.A. No. 10951 was promulgated on August 29, 2017, which provides under Article 315, paragraph 3 that *estafa*, involving an amount of over P40,000.00 but not exceeding P1,200,000.00 shall be punishable by *arresto mayor* in the maximum period to *prision correccional* in its minimum period.

Applying, thus, the Indeterminate Sentence Law and invoking our ruling in *Hernan*, allowing for the re-opening of an already terminated case and the recall of an Entry of Judgment for purposes of modifying/reducing the penalty to be served, petitioner comes before this Court averring that he is entitled to have his sentence modified in accordance with R.A. No. 10951 and be released immediately from confinement in view of the aforesaid circumstances.

### **The Issue**

Is petitioner entitled to the relief prayed for?

### **Ruling of the Court**

While the petitioner correctly invoked R.A. No. 10951 for the modification of his sentence, in the recent case of *In Re: Correction/Adjustment of Penalty pursuant to R.A. No. 10951 in Relation to Hernan v. Sandiganbayan - Rolando Elbanbuena y Marfil*,<sup>[9]</sup> this Court, however, ruled that the determination of whether the petitioner is entitled to immediate release would necessarily involve ascertaining, among others, the actual length of time actually served and whether good conduct time allowance should actually be allowed, and thus should be better undertaken by the trial court, which is relatively more equipped to make findings of both fact and law. In the said case, the Court also had the occasion to issue Guidelines considering the anticipated influx of similar petitions, in the interest of justice and efficiency, which states:

#### *I. Scope.*

These guidelines shall govern the procedure for actions seeking (1) the modification, based on the amendments introduced by R[.]A[.] No. 10951, of penalties imposed by final judgments; and, (2) the immediate release of the petitioner-convict on account of full service of the penalty/penalties, as modified.

#### *II. Who may file.*

The Public Attorney's Office, the concerned inmate, or his/her counsel/representative, may file the petition.

#### *III. Where to file.*

The petition shall be filed with the Regional Trial Court exercising territorial jurisdiction over the locality where the petitioner-convict is confined. The case shall be raffled and referred to the branch to which it is assigned within three (3) days from the filing of the petition.

#### *IV. Pleadings.*

(A) *Pleadings allowed.* - The only pleadings allowed to be filed are the petition and the comment from the OSG. No motions for extension of time, or other dilatory motions for postponement shall be allowed. The