

FIRST DIVISION

[G.R. Nos. 186659-710, February 01, 2012]

**ZACARIA A. CANDAO, ABAS A. CANDAO AND ISRAEL B. HARON,
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND
SANDIGANBAYAN, RESPONDENTS.**

R E S O L U T I O N

VILLARAMA, JR., J.:

Acting on the motion for reconsideration of our Decision dated October 19, 2011 filed by the petitioners, the Court finds no compelling reason to warrant reversal of the said decision which affirmed with modifications the conviction of petitioners for malversation of public funds.

However, the suggestion of our esteemed colleague, Justice Lucas P. Bersamin to correct the *maximum* of the indeterminate sentence, which our decision erroneously fixed at 17 years and 4 months of *reclusion temporal* medium, is well-taken. Justice Bersamin explained the matter as follows:

The penalty of imprisonment prescribed for malversation when the amount involved exceeds P22,000.00 is ***reclusion temporal in its maximum period to reclusion perpetua***. Such penalty is *not composed* of three periods. Pursuant to Article 65 of the *Revised Penal Code*, when the penalty prescribed by law is not composed of three periods, the court shall apply the rules contained in the articles of the *Revised Penal Code* preceding Article 65, ***dividing into three equal portions of time included in the penalty prescribed, and forming one period of each of the three portions***. Accordingly, *reclusion perpetua* being indivisible, is at once the maximum period, while *reclusion temporal* in its maximum period is divided into two to determine the medium and minimum periods of the penalty.

Conformably with Article 65, therefore, the periods of ***reclusion temporal in its maximum period to reclusion perpetua*** are the following:

- *Minimum period* - **17 years, 4 months, and 1 day to
18 years, 8 months;**
- *Medium period* - **18 years, 8 months, and 1 day to
20 years;**