Republic of the Philippines
Supreme Court
Manila

EN BANC

EFREN S. ALMUETE,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 179611

Present:

SERENO, *C.J.,*
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,*
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ.*

Promulgated:
MARCH 12, 2013

x - x

DECISION

DEL CASTILLO, *J.*:

Section 6,[1] Rule 120 of the 1985 Rules on Criminal Procedure allows promulgation of judgment *in absentia* and gives the accused a period of fifteen

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* On official leave.

[1] Section 6. *Promulgation of judgment* – The judgment is promulgated by reading the same in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside of the province or city, the judgment may be promulgated by the clerk of court.

If the accused is confined or detained in another province or city, the judgment may be promulgated by the executive judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon request of the court that rendered the judgment. The court promulgating the judgment shall have authority to accept the notice of appeal and to approve the bail bond pending appeal.

(15) days from notice to him or his counsel within which to appeal; otherwise, the decision becomes final.[2]

This Petition for Review on *Certiorari*[3] under Rule 45 of the Rules of Court assails the May 4, 2007 Resolution[4] and the September 4, 2007 Resolution[5] of the Court of Appeals (CA) in CA-G.R. SP No. 98502.

Factual Antecedents

This case is an offshoot of *People v. Court of Appeals*,[6] docketed as G.R. No. 144332 and promulgated on June 10, 2004.

Efren D. Almuete (petitioner), Johnny Ila (Ila) and Joel Lloren (Lloren) were charged before the Regional Trial Court (RTC) of Nueva Vizcaya, Branch 27, with violation of Section 68[7] of Presidential Decree (P.D.) No. 705, otherwise known as the "Revised Forestry Code of the Philippines," as amended by Executive Order (E.O.) No. 277,[8] docketed as Criminal Case No. 2672.[9]

On the scheduled date of promulgation of judgment, petitioner's counsel

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The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. In case the accused fails to appear thereat the promulgation shall consist in the recording of the judgment in the criminal docket and a copy thereof shall be served upon the accused or counsel. If the judgment is for conviction and the accused's failure to appear was without justifiable cause, the court shall further order the arrest of the accused, who may appeal within fifteen (15) days from notice of the decision to him or his counsel. (Now amended by the 2000 Rules of Criminal Procedure)

2 *Estrada v. People*, 505 Phil. 339, 354-357 (2005).

3 *Rollo*, pp. 9-23.

4 Id. at 24-29; penned by Associate Justice Marina L. Buzon and concurred in by Associate Justices Mario L. Guariña III and Monina Arevalo-Zenarosa.

5 Id. at 30-31.

6 G.R. No. 144332, June 10, 2004, 431 SCRA 610.

7 Sec. 68. Cutting, Gathering and/or collecting Timber, or Other Forest Products Without License. Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code: Provided, That in the case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found.

8 AMENDING SECTION 68 OF PRESIDENTIAL DECREE NO. 705, AS AMENDED, OTHERWISE KNOWN AS THE REVISED FORESTRY CODE OF THE PHILIPPINES, FOR THE PURPOSE OF PENALIZING POSSESSION OF TIMBER OR OTHER FOREST PRODUCTS WITHOUT THE LEGAL DOCUMENTS REQUIRED BY EXISTING FOREST LAWS, AUTHORIZING THE CONFISCATION OF ILLEGALLY CUT, GATHERED. REMOVED AND POSSESSED FOREST PRODUCTS, AND GRANTING REWARDS TO INFORMERS OF VIOLATIONS OF FORESTRY LAWS, RULES AND REGULATIONS.

9 Supra note 6 at 612.

informed the trial court that petitioner and Lloren were ill while Ila was not notified of the scheduled promulgation.[10] The RTC, however, found their absence inexcusable and proceeded to promulgate its Decision as scheduled.[11] The dispositive portion of the September 8, 1998 Decision reads:

> WHEREFORE, finding the accused, namely, Efren S. Almuete, Johnny Ila y Ramel and Joel Lloren y dela Cruz GUILTY beyond reasonable doubt of violation of Section 68, P.D. No. 705, as amended, they are each sentenced to suffer the penalty of 18 years, 2 months and 21 days of reclusion temporal, as minimum period to 40 years of reclusion perpetua as maximum period. Costs against the said accused.
>
> SO ORDERED.[12]

Accordingly, the RTC cancelled the bail bonds of petitioner, Ila and Lloren[13] and issued warrants of arrest against them.[14]

Petitioner and his co-accused moved for reconsideration, questioning the validity of the promulgation, the factual and legal bases of their conviction, and the correctness of the penalty imposed.[15]

On October 12, 1998, the RTC denied their motion for lack of merit.[16]

Instead of filing an appeal, petitioner and his co-accused filed a Petition for *Certiorari*, docketed as CA-G.R. SP No. 49953, with the CA.[17]

On May 19, 2000, the CA granted the Petition and disposed of the case in this wise:

> WHEREFORE, premises considered, the present petition is hereby GRANTED. On the basis of the evidence on record, accused Efren S. Almuete should be, as he is hereby ACQUITTED of the charge against him.
>
> The court *a quo* is ORDERED to re-promulgate the decision in the presence of the accused Ila and Lloren, duly assisted by counsel of their own choice, after notice and allow them to appeal. Let the complete records of this case be remanded to the court *a quo*.
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> SO ORDERED.[18]

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10 Id. at 613.
11 Id.
12 Id.
13 Id.
14 Id. at 621.
15 Id. at 613.
16 Id. at 614.
17 Id.
18 Id. at 615.

The acquittal of petitioner prompted the People of the Philippines to elevate the case to this Court *via* a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, docketed as G.R. No. 144332.

On June 10, 2004, this Court reversed petitioner's acquittal and reinstated the RTC's September 8, 1998 Decision and its October 12, 1998 Order, to wit:

> **IN LIGHT OF ALL THE FOREGOING,** the petition is **GRANTED**. The assailed decision and resolution of the Court of Appeals are **REVERSED AND SET ASIDE**. The Decision of the Regional Trial Court dated September 8, 1998 and its Order dated October 12, 1998 are **REINSTATED**. No costs.
>
> **SO ORDERED**.[19]

Aggrieved, petitioner moved for reconsideration but his motion was denied by this Court in a Resolution dated January 17, 2005.[20]

On February 15, 2005, this Court issued an Entry of Judgment.[21]

Unfazed, petitioner filed a second and a third Motion for Reconsideration, which were denied by this Court in its March 28, 2005 and November 9, 2005 Resolutions, respectively.[22]

Petitioner then filed a Motion for Clarification[23] on whether he could still appeal the RTC's September 8, 1998 Decision. This Court noted without action his Motion for Clarification in its July 26, 2006 Resolution.[24]

On December 13, 2006, petitioner filed with the RTC a Motion for Repromulgation[25] of the September 8, 1998 Decision.

Ruling of the Regional Trial Court

The RTC, in its January 17, 2007 Order,[26] denied the Motion for Repromulgation.

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19 Id. at 622; penned by Associate Justice Romeo J. Callejo, Sr. and concurred in by Associate Justices Reynato S. Puno, Leonardo A. Quisumbing, Ma. Alicia Austria-Martinez and Dante O. Tinga.
20 *Rollo*, pp. 190-191.
21 Id. at 191.
22 Id.
23 Id. at 62-65.
24 Id. at 66.
25 Id. at 67-71.
26 Id. at 32-35; penned by Acting Presiding Judge Menrado V. Corpuz.

Petitioner sought reconsideration but the RTC denied the same in its February 20, 2007 Order.[27]

Ruling of the Court of Appeals

Imputing grave abuse of discretion on the part of the RTC, petitioner filed a Petition for *Certiorari*[28] with the CA. On May 4, 2007, the CA rendered its Resolution[29] which dismissed the Petition for lack of merit.

Petitioner's Motion for Reconsideration[30] was likewise denied by the CA in its September 4, 2007 Resolution.[31]

Issues

Hence, this recourse, with petitioner raising the following issues:

1. Whether x x x the Decision of the [RTC] convicting [p]etitioner Almuete of the charge against him passed the requisite conviction beyond reasonable doubt.

2. Whether x x x the promulgation of the Decision of the [RTC] convicting the petitioner was valid despite the absence of the petitioner and regardless of petitioner's intention to be present at the promulgation of the Decision.

3. Whether x x x the Honorable [CA] committed grave abuse of discretion when it acquitted petitioner Almuete in a Petition for Certiorari under Rule 65 of the Rules of Court.

4. Whether x x x the judgment of acquittal by the Honorable [CA] bars further proceedings and that to do so would constitute a violation of petitioner's constitutional right against double jeopardy.

5. Whether x x x the denial of the [RTC] of petitioner's motion for re-promulgation is in order, the denial being based on an inappropriate Administrative Order of this Honorable Supreme Court (Administrative Order No. 16-93).[32]

Petitioner's Arguments

Petitioner maintains his innocence and asserts that he was wrongly

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27 Id. at 36.
28 Id. at 72-83.
29 Id. at 24-29.
30 CA *rollo*, pp. 67-71.
31 *Rollo*, pp. 30-31.
32 Id. at 156-157.

convicted by the RTC because his guilt was not proven beyond reasonable doubt.[33] He argues that his conviction was based on circumstantial and hearsay evidence as he was convicted only because he owns the truck containing the lumber.[34] Thus, he contends that his earlier acquittal by the CA was proper,[35] and that his acquittal can no longer be assailed without violating the principle of double jeopardy.[36]

Petitioner likewise assails the validity of the promulgation of the judgment against him since it was made in his absence.[37] He insists that he had a valid reason for not attending the promulgation of the judgment as he was suffering from stress, anxiety, and some physiological disturbance, and thus, was advised to rest.[38] He also claims that the RTC's denial of his Motion for Repromulgation was not proper.[39] Hence, a repromulgation of the judgment should be made to allow him to avail of his right to appeal.[40]

Respondent's Arguments

The Solicitor General, on behalf of the People, contends that the issues and arguments raised by petitioner may no longer be entertained as these have been addressed in *People v. Court of Appeals*,[41] which is already the "law of the case."[42] He likewise points out that the promulgation of judgment *in absentia* is allowed under Section 6[43] of Rule 120 of the 1985 Rules of Criminal Procedure,[44] and that the denial of petitioner's Motion for Repromulgation of the September 8, 1998 Decision is proper as the same is in accordance with Administrative Circular No. 16-93.[45]

As to petitioner's right to appeal, respondent opines that petitioner's right has prescribed,[46] as the same should have been filed within 15 days from the time he or his counsel received a copy of the September 8, 1998 Decision instead of filing a Petition for *Certiorari* with the CA.[47]

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33 Id. at 157-170.
34 Id. at 157-158.
35 Id. at 173-176.
36 Id. at 176-178.
37 Id. at 170-173.
38 Id. at 171.
39 Id. at 178-179.
40 Id. at 180.
41 Supra note 6.
42 *Rollo*, pp. 195-199.
43 Supra note 1.
44 *Rollo*, pp. 199-201.
45 Dated September 9, 1993; Re: PROCEDURE AFTER AFFIRMANCE OR MODIFICATION BY THE SUPREME COURT OR COURT OF APPEALS OF JUDGMENTS OF CONVICTION IN CRIMINAL CASES.
46 Id. at 205-213.
47 Id. at 207-208.

However, notwithstanding the finality of petitioner's conviction, respondent recommends that the penalty be modified by reducing the same to six (6) years and one (1) day to ten (10) years in accordance with the Indeterminate Sentence Law (ISL).[48]

Our Ruling

The petition lacks merit.

The denial of the Motion for Repromulgation is in accordance with Administrative Circular No. 16-93

Administrative Circular No. 16-93, issued on September 9, 1993, provides that:

> **TO:** ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS
>
> **RE:** PROCEDURE AFTER AFFIRMANCE OR MODIFICATION BY SUPREME COURT OR COURT OF APPEALS OF JUDGMENTS OF CONVICTION IN CRIMINAL CASES
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> To ensure uniformity in the procedure to be observed by the trial courts in criminal cases after their judgments of conviction shall have been affirmed or modified by the Supreme Court or the Court of Appeals, attention is invited to the decisional and statutory guidelines set out hereunder.
>
> 1. The procedure for the promulgation of judgments in the trial courts in criminal cases, differs from that prescribed for the Supreme Court and the Court of Appeals where promulgation is effected by filing the signed copy of the judgment with the Clerk of Court who causes true copies thereof to be served upon the parties. The procedural consequence of this distinction was reiterated in *Jesus Alvarado, etc. vs. The Director of Prisons*, to wit:
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> By sections 8 and 9 of Rule 53 (now Sections 10 and 11 of Rule 51) in relation to section 17 of Rule 120 (now Section 17 of Rule 124), a judgment is entered 15 days after its promulgation, and 10 days thereafter, the records are remanded to the court below including a certified copy of the judgment for execution.
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> In the case of *People vs. Sumilang* (44 Off. Gaz., 881, 883; 77 Phil. 764), it was explained that "the certified copy of the judgment is sent by the clerk of the appellate court to the lower court under section 9 of rule 53, not for the promulgation or reading thereof to the defendant, but for the execution of the judgment against him," it "not being necessary to promulgate or read it to the

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[48] Id. at 216.

> defendant, because it is to be presumed that accused or his attorney had already been notified thereof in accordance with sections 7 and 8, as amended, of the same Rules 53 (now sections 9 and 10 of Rule 51)," and that the duty of the court of first instance in respect to such judgment is merely to see that it is duly executed when in their nature the intervention of the court of first instance is necessary to that end.
>
> 2. **The practice of requiring the convict to appear before the trial court for "promulgation" of the judgment of the appellate court should, therefore, be immediately discontinued.** It is not only an unauthorized surplusage entailing unnecessary expense, but it could also create security problems where the convict was already under detention during the pendency of the appeal, and the place of confinement is at some distance from the station of the court. Upon receipt of the certified copy of the judgment of the appellate court if the convict is under detention, the trial court should issue forthwith the corresponding mittimus or commitment order so that the prisoner may be considered remitted or may be transferred to the corresponding prison facility for confinement and service of sentence. When the convict is out on bail, the trial court shall immediately order the bondsman to surrender the convict to it within ten (10) days from notice and thereafter issue the corresponding mittimus. In both cases, the trial court shall submit to this Court proof of the execution of judgment within fifteen (15) days from date of such execution. (Emphasis supplied)
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> x x x x

It is clear from the foregoing that the practice of requiring convicts to appear before the trial courts for promulgation of the affirmance or modification by this Court or the CA of judgments of conviction in criminal cases is no longer allowed. Hence, we find no error on the part of the RTC in denying the Motion for Repromulgation of the RTC's September 8, 1998 Decision which was reinstated in *People v. Court of Appeals.*[49]

The promulgation of judgment is valid.

Petitioner's attempt to assail the validity of the promulgation of the RTC's September 8, 1998 Decision must likewise fail as this has already been addressed by this Court in *People v. Court of Appeals.*[50] As this Court has explained, there was no reason to postpone the promulgation because petitioner's absence was unjustifiable.[51] Hence, no abuse of discretion could be attributed to the RTC in promulgating its Decision despite the absence of petitioner.[52]

It bears stressing that the June 10, 2004 Decision of this Court has attained finality. In fact, an Entry of Judgment was made by this Court on February 15, 2005.

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49 Supra note 6.
50 Id.
51 Id. at 620-622.
52 Id. at 622.

Petitioner's right to appeal has prescribed.

As to whether petitioner may still appeal the RTC's September 8, 1998 Decision, we rule in the negative.

In *People v. Court of Appeals*,[53] this Court reversed petitioner's acquittal by the CA as it was made with grave abuse of discretion. This Court explained that an acquittal via a Petition for *Certiorari* is not allowed because "the authority to review perceived errors of the trial court in the exercise of its judgment and discretion x x x are correctible only by appeal by writ of error."[54] Thus, in filing a Petition for *Certiorari* instead of an appeal, petitioner availed of the wrong remedy. Thus:

> In this case, the RTC rendered judgment finding all the accused, respondents herein, guilty of the crime charged based on the evidence on record and the law involved, and sentenced them to suffer the penalty of imprisonment as provided for in P.D. No. 705, in relation to Articles 304 and 305 of the Revised Penal Code. They had a plain, speedy and adequate remedy at law to overturn the decision as, in fact, they even filed a motion for reconsideration of the decision on its merits, and for the nullification of the promulgation of the said decision. Upon the trial court's denial of their motion for reconsideration, the petitioners had the right to appeal, by writ of error, from the decision on its merits on questions of facts and of law. The appeal of the petitioners in due course was a plain, speedy and adequate remedy. In such appeal, the petitioners could question the findings of facts of the trial court, its conclusions based on the said findings, as well as the penalty imposed by the court. It bears stressing that an appeal in a criminal case throws the whole case open for review and that the appellate court can reverse any errors of the trial court, whether assigned or unassigned, found in its judgment. **However, instead of appealing the decision by writ of error, the respondents filed their petition for certiorari with the CA assailing the decision of the trial court on its merits.** They questioned their conviction and the penalty imposed on them, alleging that the prosecution failed to prove their guilt for the crime charged, the evidence against them being merely hearsay and based on mere inferences. In fine, the respondents alleged mere errors of judgment of the trial court in their petition. It behooved the appellate court to have dismissed the petition, instead of giving it due course and granting it.
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> The CA reviewed the trial court's assessment of the evidence on record, its findings of facts, and its conclusions based on the said findings. The CA forthwith concluded that the said evidence was utterly insufficient on which to anchor a judgment of conviction, and acquitted respondent Almuete of the crime charged.
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> The appellate court acted with grave abuse of its discretion when it ventured beyond the sphere of its authority and arrogated unto itself, in the certiorari proceedings, the authority to review perceived errors of the trial court in

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53 Supra note 6.
54 Id. at 619.

> the exercise of its judgment and discretion, which are correctible only by appeal by writ of error. Consequently, the decision of the CA acquitting respondent Almuete of the crime charged is a nullity. If a court is authorized by statute to entertain jurisdiction in a particular case only, and undertakes to exercise the jurisdiction conferred in a case to which the statute has no application, the judgment rendered is void. The lack of statutory authority to make a particular judgment is akin to lack of subject-matter jurisdiction. In this case, the CA is authorized to entertain and resolve only errors of jurisdiction and not errors of judgment.
>
> A void judgment has no legal and binding effect, force or efficacy for any purpose. In contemplation of law, it is non-existent. It cannot impair or create rights; nor can any right be based on it. **Thus, respondent Almuete cannot base his claim of double jeopardy on the appellate court's decision**.[55] (Emphasis supplied)

Clearly, petitioner's right to appeal the RTC's September 8, 1998 Decision has long prescribed. Consequently, the said Decision is no longer open to an appeal.

The penalty imposed must be modified.

Nonetheless, we agree with the suggestion of the Office of the Solicitor General that the penalty imposed by the RTC in its September 8, 1998 Decision must be modified. Concededly, this case is an offshoot of G.R. No. 144332 which the Court decided on June 10, 2004 which found grave abuse of discretion on the part of the CA in acquitting Almuete.

Section 68 of P.D. No. 705, as amended by E.O. No. 277, provides that:

> Sec. 68. Cutting, Gathering and/or collecting Timber, or Other Forest Products Without License. Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be **punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code:** Provided, That in the case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.
>
> The court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed as well as the machinery, equipment, implements and tools illegally

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[55] Id. at 618-619.

used in the area where the timber or forest products are found. (Emphasis supplied)

On the other hand, Articles 309 and 310 of the Revised Penal Code state that:

> Art. 309. *Penalties.* – Any person guilty of theft shall be punished by:
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> 1. The **penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more than 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceed[s] the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos,** but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be. (Emphasis supplied)
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> x x x x
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> Art. 310. *Qualified theft.* – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding articles, **if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance**. (Emphasis supplied)

Perusal of the records would show that the trial court imposed the penalty as prescribed in Article 310 which is two degrees higher than those specified in Article 309.[56] This is erroneous considering that the penalty prescribed in Article 310 would apply only if the theft was committed under any the following circumstances: a) by a domestic servant, or with grave abuse of confidence, or b) if the stolen property is motor vehicle, mail matter or large cattle, or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or c) if the property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance. None of these circumstances is present in the instant case. Thus, the proper imposable penalty should be that which is prescribed under Article 309.

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[56] The trial court stated:

> Under Article 309 in relation to Article 310 of the Revised Penal Code, the penalty imposable is two degrees higher than prision mayor in its minimum and medium periods, with the additional penalty of one year for each additional ten thousand pesos to 22,000 pesos. The penalty imposable to all the accused, therefore is reclusion temporal in its medium and maximum periods and an additional three years to the maximum period of reclusion temporal.
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> Adding three (3) years to the maximum period of reclusion temporal maximum which is 20 years will make the maximum penalty include reclusion perpetua whose maximum imposable penalty is 40 years. (*See* Decision in Criminal Case No. 2672, p. 11, records, Vol. 1, p. 11.)

In this case, the amount of the timber involved is ₱57,012.00. Since the amount exceeds ₱22,000.00, the penalty of *prision mayor* in its minimum and medium periods[57] should be imposed in its maximum period[58] plus an additional one (1) year for each additional ₱10,000 pesos in excess of ₱22,000.00 or three more years.[59] Thus, the correct imposable maximum penalty is anywhere between eleven (11) years, eight (8) months and one (1) day of *prision mayor* to thirteen (13) years of *reclusion temporal*.

Applying the Indeterminate Sentence Law, the minimum penalty is one degree lower than that prescribed by the law. In this case, the minimum penalty should be *prision correccional* in its medium and maximum periods, which is anywhere between two (2) years, four (4) months and one (1) day to six (6) years.

This Court is not unaware of the rule that "a final judgment may no longer be altered, amended or modified, even if the alteration, amendment or modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of what court, be it the highest court of the land, rendered it."[60] However, this Court has suspended the application of this rule based on certain recognized exceptions, *viz*:

> Aside from matters of life, liberty, honor or property which would warrant the suspension of the Rules of the most mandatory character and an examination and review by the appellate court of the lower court's findings of fact, the other elements that should be considered are the following: (a) the existence of special or compelling circumstances, (b) the merits of the case, (c) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (d) a lack of any showing that the review sought is merely frivolous and dilatory, and (e) the other party will not be unjustly prejudiced thereby.[61]

In this case, it cannot be gainsaid that what is involved is the life and liberty of petitioner. If his penalty of imprisonment remains uncorrected, it would be not conformable with law and he would be made to suffer the penalty of imprisonment of 18 years, 2 months and 21 days of *reclusion temporal* as minimum, to 40 years of *reclusion perpetua*, as maximum, which is outside the range of the penalty prescribed by law. Contrast this to the proper imposable

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57 *Prision mayor* in its minimum and medium periods ranges from six (6) years and one (1) day to ten (10) years.
Minimum – six (6) years and one (1) day to seven (7) years and eight (8) months.
Medium – seven (7) years, four (4) months and one (1) to eight (8) years and eight (8) months.
Maximum – eight (8) years, eight (8) months and one (1) day to ten (10) years.

58 Eight (8) years, 8 months and one (1) day to ten (10) years.

59 ₱57,012.00 - 22,000.00 = ₱35,012.00

60 *Apo Fruits Corporation v. Land Bank of the Philippines*, G.R. No. 164195, October 12, 2010, 632 SCRA 727, 760. Citation omitted. See *Peña v. Government Service Insurance System*, 533 Phil. 670, 689-690 (2006).

61 *Sanchez v. Court of Appeals*, 452 Phil. 665, 674 (2003). Citations omitted. See *Dra. Baylon v. Fact-Finding Intelligence Bureau*, 442 Phil. 217, 230-231 (2002).

penalty the minimum of which should only be within the range of 2 years, 4 months and 1 day to 6 years of *prision correccional*, while the maximum should only be anywhere between 11 years, 8 months and 1 day of *prision mayor* to 13 years of *reclusion temporal*. Substantial justice demands that we suspend our Rules in this case. "It is always within the power of the court to suspend its own [R]ules or except a particular case from its operation, whenever the purposes of justice require. x x x Indeed, when there is a strong showing that a grave miscarriage of justice would result from the strict application of the Rules, this Court will not hesitate to relax the same in the interest of substantial justice."[62] Suspending the Rules is justified "where there exist strong compelling reasons, such as serving the ends of justice and preventing a miscarriage thereof."[63] After all, the Court's "primordial and most important duty is to render justice x x x."[64]

Surely, this is not the first time that the Court modified the penalty imposed notwithstanding the finality of the assailed decision.

In *People v. Barro*,[65] Benigno Barro (Benigno), Joel Florin (Florin) and Joel Barro (Joel) were charged with murder. After trial, the trial court convicted them as charged. Only Benigno and Florin filed their notice of appeal. Joel failed to appeal as he escaped from confinement. Hence, the trial court's Decision insofar as Joel is concerned had become final and executory. In the Court's Decision of August 17, 2000, the appeal filed by Benigno and Florin was found without merit. However, the Court noted that as regards Joel, the penalty imposed by the trial court was "outside the range"[66] of the penalty prescribed for the offense. Consequently, the Court modified the penalty imposed on him notwithstanding that the same had already become final and executory. The Court ratiocinated that:

> Joel Barro, below 15 years old at the time of the commission of the offense, is entitled to the privileged mitigating circumstance of minority pursuant to Article 68, par. 1 of the Revised Penal Code. The penalty for murder is *reclusion temporal* in its maximum period to death. Two degrees lower is *prision correccional* maximum to *prision mayor* medium. Joel Barro escaped from jail, hence, he is disqualified from the benefits of the Indeterminate Sentence Law. He should, therefore, be meted the straight penalty of eight years which is within the medium period (6 years 1 month and 11 days to 8 years and 20 days) of the said penalty. **The trial court erred in imposing the penalty of imprisonment of 8 years and 8 months because it is outside the range of said penalty. The records show that Joel Barro did not appeal. However, where the penalty imposed on the co-accused who did not appeal was a nullity because it was never authorized by law, that penalty imposed on the accused can be corrected to make it conform to the penalty prescribed by**

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62 *People v. Flores*, 336 Phil. 58, 62-63 (1997). Citation omitted.
63 *Dizon v. Court of Appeals*, 444 Phil. 161, 165 (2003). Citation omitted.
64 *Apo Fruits Corporation v. Land Bank of the Philippines*, supra note 60 at 763-764.
65 392 Phil. 857 (2000).
66 Id. at 875.

> **law, the reason being that, said penalty can never become final and executory and it is within the duty and inherent power of the Court to have it conformable with law**.[67]

In *Estrada v. People*,[68] petitioner was charged with the crime of estafa. While the trial was pending, petitioner jumped bail. Understandably, during the promulgation of judgment in 1997, petitioner was absent. Two years later, or in 1999, petitioner was arrested. She then moved for reconsideration of the trial court's Decision. The same was denied for having been filed out of time. Thus, petitioner filed a Petition for *Certiorari* before the CA which was denied. Hence, petitioner brought the case before this Court. In its Decision dated August 25, 2005, the Court ruled that petitioner's trial in absentia was proper; that she was not denied due process; and that the denial by the trial court of her motion for reconsideration was proper as the same was filed beyond the reglementary period. However, the Court noted that the penalty imposed by the trial court (which is 12 years of *prision mayor* to 24 years as maximum) on petitioner was erroneous. As computed by the Court, considering that the amount defrauded is only ₱68,700.00, the proper *minimum* imposable penalty should only be within the range of "6 months, and 1 day of *prision correccional* in its minimum period and 4 years and 2 months of *prision correccional* in its medium period"[69] while the proper *maximum* imposable penalty should only be within the range of "10 years, 8 months and 21 days and 12 years of *prision mayor* in its maximum period."[70] Hence, notwithstanding the finality of the trial court's Decision, the Court modified the penalty imposed, as the same was outside the range prescribed by law.

In *Rigor v. The Superintendent, New Bilibid Prison*,[71] this Court also modified the penalty imposed on the petitioner notwithstanding the finality of the trial court's Decision based on the observation that the penalty imposed by the trial court was erroneous because it was outside the range prescribed by law. The Court ruled thus:

> However, the Court noted a palpable error apparent in the Joint Decision of the trial court that must be rectified in order to avoid its repetition. The trial court erroneously included an additional one day on the maximum period of *arresto mayor* imposed on petitioner, which is incorrect, as it is outside the range of said penalty. The duration of *arresto mayor* is only from one month and one day to six months. Adding one day to the maximum penalty will place it within the range of *prision correccional.*

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67 Id. at 875-876. Emphasis supplied.
68 Supra note 2.
69 Id. at 359.
70 Id.
71 458 Phil. 561 (2003).

> Moreover, imposing the maximum penalty of imprisonment of four years, four months and one day of *prision correccional* is also incorrect as it is outside the range of the penalty imposable in this case. x x x
>
> x x x x
>
> [T]he error of the trial court in the present case can be corrected to make it conform to the penalty prescribed by law as it is within the Court's duty and inherent power. x x x
>
> x x x x
>
> Thus, the correction to be made by this Court is meant only for the penalty imposed against petitioner to be in accordance with the law and nothing else. It is not tantamount to a reduction in order to be favorable to the petitioner nor an increase so as to be prejudicial to him.[72]

In *People v. Gatward*[73] the Court explicitly stated that by merely modifying the penalty imposed, it is not reopening the case; neither is it saying that there was error in judgment. In the same manner, in this case, we are not reopening G.R. No. 144332, much more reversing it. Thus:

> x x x In the case of U Aung Win, and the same hold true with respect to Gatward, the penalty inflicted by the court *a quo* was a nullity because it was never authorized by law as a valid punishment. The penalties which consisted of aliquot *one-third portions of an indivisible penalty* are self-contradictory in terms and unknown in penal law. Without intending to sound sardonic or facetious, it was akin to imposing the indivisible penalties of public censure, or perpetual absolute or special disqualification, or death in their minimum or maximum periods.
>
> This was not a case of a court rendering an erroneous judgment by inflicting a penalty higher or lower than the one imposable under the law but with both penalties being legally recognized and authorized as valid punishments. An erroneous judgment, as thus understood, is a valid judgment. But a judgment which ordains a penalty which does not exist in the catalogue of penalties or which is an impossible version of that in the roster of lawful penalties is necessarily void, since the error goes into the very essence of the penalty and does not merely arise from the misapplication thereof. Corollarily, such a judgment can never become final and executory.
>
> Nor can it be said that, despite the failure of the accused to appeal, his case was reopened in order that a higher penalty may be imposed on him. There is here no reopening of the case, as in fact the judgment is being affirmed but with a correction of the very substance of the penalty to make it conformable to law, pursuant to a duty and power inherent in this Court. The penalty has not been changed since what was decreed by the trial court and is now being likewise affirmed by this Court is the same penalty of *reclusion perpetua* which, unfortunately, was imposed by the lower court in an elemental form which is non-existent in and not authorized by law. Just as the penalty has not been

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72 Id. at 567-568.

73 335 Phil. 441 (1997).

> reduced in order to be favorable to the accused, neither has it been increased so as to be prejudicial to him.
>
> Finally, no constitutional or legal right of this accused is violated by the imposition upon him of the corrected duration, inherent in the essence and concept, of the penalty. Otherwise, he would be serving a void sentence with an illegitimate penalty born out of a figurative liaison between judicial legislation and unequal protection of law. He would thus be the victim of an inadvertence which could result in the nullification, not only of the judgment and the penalty meted therein, but also of the sentence he may actually have served. Far from violating any right of U Aung Win, therefore, the remedial and corrective measures interposed by this opinion protect him against the risk of another trial and review aimed at determining the correct period of imprisonment.[74]

Also, it would not be amiss to mention that the Office of the Solicitor General prayed for the modification of the imposable penalty.[75]

Finally, pursuant to Section 11(a),[76] Rule 122 of the Revised Rules on Criminal Procedure, the favorable modification of the penalty should likewise apply to petitioner's co-accused who failed to appeal.[77]

WHEREFORE, the Petition is hereby **DENIED**. The May 4, 2007 and the September 4, 2007 Resolutions of the Court of Appeals in CA-G.R. SP No. 98502 are hereby **AFFIRMED**. In addition, for reasons stated above, the September 8, 1998 Decision of the Regional Trial Court of Nueva Vizcaya, Branch 27, docketed as Criminal Case No. 2672, is hereby **MODIFIED** insofar as the penalty of imprisonment is concerned. The accused, namely, Efren S. Almuete, Johnny Ila *y* Ramel and Joel Lloren *y* dela Cruz are each sentenced to suffer the indeterminate penalty of six (6) years of *prision correccional*, as minimum, to thirteen (13) years of *reclusion temporal*, as maximum.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

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74 Id. at 460-461.

75 *See* Comment (with prayer for the modification of the imposable penalty), p. 33-35; *rollo*, pp. 123-125; Memorandum (of the Office of the Solicitor General), pp. 33-35; *rollo*, pp. 214-216.

76 SECTION 11. *Effect of appeal by any of several accused.* –

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

77 *People v. Barro*, supra note 65 at 875-876.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

(On official leave)
JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice