

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

6 JUN -7 P4:36

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SENATE


S. No. 2368

INTRODUCED BY HON. MANNY VILLAR

EXPLANATORY NOTE


The attached bill amends Articles 217, 309 and 315 of the Revised Penal Code pertaining to the value of money on which the penalties for the crimes referred to therein are based. These crimes are *malversation of public funds or property, theft, and estafa*. This bill takes into consideration the present economic value of money and seeks the commensurate penalty to be imposed on the offender based on the present value of money malversed, stolen or swindled as the case may be. Moreover, this bill will inure to the benefit of the accused where Section 4 thereof provides for the retroactivity with regard to the principal and accessory penalties in all cases of *malversation* and *estafa*.

Accordingly, the urgent passage of the bill is hereby recommended.


MANNY VILLAR

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Senate Bill No. 2368

INTRODUCED BY SEN. MANNY VILLAR

AN ACT
INCREASING THE VALUE OF MONEY UPON WHICH THE PENALTIES OF
SOME CRIMES AGAINST PROPERTY ARE MEASURED, AMENDING FOR
THE PURPOSE ARTICLES 217, 309 AND 315 OF ACT NO. 3815,
OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER
PURPOSES

Be ^{it} enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:

SECTION 1. Article 217 of the Revised Penal Code is hereby amended to
read as follows:

"ART. 217. Malversation of public funds or property. – Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation of malversation of such or such property, shall suffer:

1. The penalty of *prision correccional* in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed [two hundred] FIVE THOUSAND Pesos (5,000.00).
2. The penalty of *prision mayor* in its minimum and medium periods, if the amount involved is more than [two hundred] FIVE THOUSAND Pesos (P5,000.00) but does not exceed [six] ONE HUNDRED FIFTY Thousand Pesos (P150,000.00).
3. The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its minimum period, if the amount involved is more than [six] ONE HUNDRED FIFTY

Thousand Pesos (P150,000.00) [but is less than twelve] DOES NOT EXCEED THREE HUNDRED Thousand Pesos (P300,000.00).

4. The penalty of *reclusion temporal* in its medium and maximum periods, if the amount involved is more than [twelve] THREE HUNDRED Thousand Pesos (P300,000.00) but [is less than twenty-two] DOES NOT EXCEED FIVE HUNDRED FIFTY Thousand Pesos (P550,000.00). If the amount exceeds the latter, the penalty shall be [*reclusion temporal* in its maximum period to] *reclusion perpetua*.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine of equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use."

SECTION 2. Article 309 of the same Code is hereby amended to read as follows:

"ART. 309. Penalties. – Any person guilty of theft shall be punished by:

1. The penalty of *prision mayor* in its minimum and medium periods, if the value of the thing stolen is more than [12,000] Three Hundred Thousand Pesos (P300,000.00) but does not exceed [22,000] Five Hundred Fifty Thousand Pesos (P550,000.00); but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one (1) year for each additional [ten] TWO HUNDRED FIFTY Thousand Pesos (P250,000.00), but the total of the penalty shall not exceed twenty (20) 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.

2. The penalty of *prision correccional* in its medium and maximum periods, if the value of the thing stolen is more than [6,000] One Hundred Fifty Thousand Pesos (P150,000.00) but does not exceed [12,000] Three Hundred Thousand Pesos (P300,000.00).

3. The penalty of *prision correccional* in its minimum and medium periods, if the value of the property stolen is more than [200] Five Thousand Pesos (P5,000.00) but does not exceed [6,000] One Hundred Fifty Thousand Pesos (P150,000.00).

4. *Arresto mayor* in its medium period to *prision correccional* in its minimum period, if the value of the property stolen is over [50] One Thousand Two Hundred Fifty Pesos (P1,250.00) but does not exceed [200] Five Thousand Pesos (P5,000.00).

5. *Arresto mayor* to its full extent, if such value is over [5] One Hundred Twenty Five Pesos (P125.00) but does not exceed [200] Five Thousand Pesos (P5,000.00).

6. *Arresto mayor* in its minimum and maximum periods, if such value does not exceed [5] One Hundred Twenty Five Pesos (P125.00).

7. *Arresto menor* or a fine not exceeding Two Hundred Pesos (P200.00), the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed [5] One Hundred Twenty Five Pesos (P125.00). If such value exceed said amount, the provisions of any of the five preceding subdivisions shall be made applicable.

8. *Arresto menor* in its minimum period or a fine not exceeding Fifty Pesos (P50.00), when the value of the things stolen is not over Five Pesos (P5.00) [125], and the offender shall have acted under the impulse of hunger, poverty or the difficulty or earning a livelihood for the support of himself or his family.

SECTION 3. Article 315 of the Same Code is hereby amended to read as

follows:

Art. 315. *Swindling (estafa)*. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

1st. The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over [12,000] Three Hundred Thousand Pesos (P300,000.00) but does not exceed [22,000] Five Hundred Fifty Thousand Pesos (P550,000.00), and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one (1) year for each additional [10,000] Two Hundred Fifty Thousand Pesos (P250,000.00); but the total penalty which may be imposed shall not exceed twenty (20) years. In such cases, and in connection with the accessory penalties which may be imposed under the provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

2nd. The penalty of *prision correccional* in its minimum and medium periods, if the amount of the fraud is over [6,000] One Hundred Fifty Thousand Pesos (P150,000.00) but does not exceed [12,000] Three Hundred Thousand Pesos (P300,000.00);

3rd. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period if such amount is over [200] Five Thousand Pesos (P5,000.00) but does not exceed [6,000] One Hundred Fifty Thousand Pesos (P150,000.00); and

4th. By *arresto mayor* in its maximum period, if such amount does not exceed Twenty Pesos (P20.00) [500], provided that in the four cases mentioned, the fraud be committed by any of the following means:

1. With unfaithfulness or abuse of confidence, namely:

(a) By altering the substance, quantity, or quality or anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration.

(b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

(c) By taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or of any third person.

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

(b) By altering the quality, fineness or weight of anything pertaining to his art or business.

(c) By pretending to have bribed any Government employee, without prejudice to the action for calumny which the offended party may deem proper to bring against the offender. In this case, the offender shall be punished by the maximum period of the penalty.

(d) By post-dating a check, or issuing a check in payment of an obligation when the offender therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack of insufficiency of funds shall be *prima facie* evidence of deceit constituting false pretense or fraudulent act.

(e) By obtaining any food, refreshment or accommodation at a hotel, inn, restaurant, boarding house, lodging house, or apartment house and the like without paying therefor, with intent to defraud the proprietor or manager thereof, or by obtaining credit at hotel, inn, restaurant, boarding house, lodging house, or apartment house by the use of any false pretense, or by abandoning or surreptitiously removing any part of his baggage from a hotel, inn, restaurant, boarding house, lodging house or apartment house after obtaining credit, food, refreshment or accommodation therein without paying for his food, refreshment or accommodation.

3. Through any of the following fraudulent means:

(a) By inducing another, by means of deceit, to sign any document.

(b) By resorting to some fraudulent practice to insure success in a gambling game.

(c) By removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

SECTION 4. This Act shall apply retroactively to the principal and accessory penalties in all cases of malversation provided in Article 217, Articles 309 and 310, and estafa provided in Article 315 of the Revised Penal Code, as amended, committed before the effectivity of this Act whether already filed in court, still pending or already decided with finality.

In case the penalty of imprisonment as adjusted under this Act is reduced to six (6) years or less, the accused whose case is pending appeal or the convict who is serving sentence shall have the right to apply for the benefits of the Probation Law of 1976, as amended: *Provided*, That if the penalty as reduced herein has already been fully served together with the adjustments for good behavior under Article 97 of the Revised Penal Code, the convict shall be released immediately or, if he is out on parole or under the Indeterminate Sentence Law, as amended, he shall be entitled to final release and discharge: *Provided, Further*, That all other convicts benefited by this Act shall be released as soon as they shall have served their reduced penalties.

As regards cases where the accused are already serving final sentence, the application for probation hereunder, if proper, shall be filed within six (6) months from the effectivity of this Act with the trial court which originally took cognizance of the case of the applicant. With respect to cases pending appeal, the penalty imposed under the decision appealed from shall be automatically adjusted hereunder without need of any motion or notice from the accused. Thereupon, the accused may opt to desist from the appeal. Within six (6) months from the effectivity of this Act, said accused may apply for probation either with the appellate tribunal where the appeal may still be pending or with the court of origin where, in either case, the application for probation shall be disposed of. If the accused does not opt to desist from his appeal within six (6) months from the effectivity of this Act, he shall not be entitled to apply for probation regardless of the penalty imposed by final judgment.

SECTION 5. All laws, decrees or executive orders and issuances and rules and regulations which are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modifies accordingly.

SECTION 6. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,