



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**IN THE MATTER OF THE  
 PETITION FOR WRIT OF  
 HABEAS CORPUS OF BOY  
 FRANCO y MANGAOANG, joined  
 by his wife WILFREDA R.  
 FRANCO,**

Petitioners,

**G.R. No. 235483**

**Present:**

PERALTA, C.J., Chairperson,  
 CAGUIOA,  
 REYES, J. JR.,  
 LAZARO-JAVIER, and  
 LOPEZ, JJ.

- versus -

**THE DIRECTOR OF PRISONS or  
 REPRESENTATIVES,**

Respondent.

**Promulgated:**

**JUN 08 2020**

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**RESOLUTION**

**REYES, J. JR., J.:**

In this petition for the issuance of a writ of *habeas corpus* filed directly before the Court, Boy Franco y Mangaoang (petitioner), who is detained at the National Bilibid Prison, is seeking his immediate release from prison on the basis of the automatic reduction of his sentence in view of the colonist status grant by the Director of Prisons and the retroactive application of Republic Act (R.A.) No. 10592.<sup>1</sup>

Petitioner was sentenced to suffer the penalty of *reclusion perpetua* following his conviction for the crime of kidnapping with ransom by the Regional Trial Court of Makati City, Branch 66.<sup>2</sup>

<sup>1</sup> AN ACT AMENDING ARTICLES 29, 94, 97, 98 AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.

<sup>2</sup> *Rollo*, p. 11.

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Petitioner alleged that he had been under detention since July 17, 1993<sup>3</sup> until his commitment to the National Bilibid Prison on October 12, 1995 to commence the service of his sentence.<sup>4</sup>

On April 21, 2009, petitioner was granted the status as a colonist.<sup>5</sup> Among the privileges granted upon a colonist are the automatic reduction of the life sentence imposed on the colonist to a sentence of 30 years and the credit of an additional Good Conduct Time Allowance (GCTA) of 10 days for each calendar month while retaining said classification.<sup>6</sup>

Allegedly, petitioner served 34 years, 11 months, and 18 days of his sentence of *reclusion perpetua*, as well as his credit for preventive imprisonment of eight years more or less. Thus, applying the privileges of a colonist and the ruling of the Court in *Cruz III v. Go*,<sup>7</sup> petitioner insists that he should be released from confinement.<sup>8</sup>

In his Comment,<sup>9</sup> the Director of Prisons (respondent) counters that the application of the privileges of a colonist necessitates an executive approval under Section 5<sup>10</sup> of Act No. 2489 and Section 19, Article VII<sup>11</sup> of the 1987 Constitution. Verily, these laws provide that only the President can commute the service of sentences of convicted persons. Moreover, the respondent asserts that the ruling of the Court in *Cruz III* is not a binding precedent as it was not a decision, but a mere resolution.

Said Comment was adopted by the Office of the Solicitor General in its manifestation.<sup>12</sup>

In his Reply,<sup>13</sup> petitioner insists that the executive approval for the reduction of sentence of a colonist may be delegated by the President to his alter egos since the Act No. 2489 requires only an “Executive” approval, and not the approval of the “Chief Executive.”

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<sup>3</sup> Id. at 12.

<sup>4</sup> Supra note 2.

<sup>5</sup> Id. at 4.

<sup>6</sup> Bureau of Corrections Operating Manual, Book 1, Part II, Chapter 3, Sec. 7.

<sup>7</sup> G.R. No. 223446, November 28, 2016 (Minute Resolution).

<sup>8</sup> *Rollo*, p. 6.

<sup>9</sup> Id. at 28-32.

<sup>10</sup> Sec. 5. Prisoners serving sentences of life imprisonment receiving and retaining the classification of penal colonists or trusties will automatically have the sentence of life imprisonment modified to a sentence of thirty years when receiving the executive approval for this classification upon which the regular credit now authorized by law and special credit authorized in the preceding paragraph, for good conduct, may be made.

<sup>11</sup> Sec. 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment.

<sup>12</sup> *Rollo*, pp. 19-21.

<sup>13</sup> Id. at 36-39.

In his Manifestation, petitioner seeks the retroactive application of R.A. No. 10592 as discussed in the case of *Inmates of the New Bilibid Prison, Muntinlupa City v. Secretary De Lima*.<sup>14</sup>

The Court resolves.

Colonist is a prisoner who is: (1) at least a first class inmate;<sup>16</sup> (2) has served one year immediately preceding the completion of the period specified in the following qualifications; and (3) has served imprisonment with good conduct for a period equivalent to one-fifth of the maximum term of his prison sentence, or seven years in the case of a life sentence.<sup>17</sup>

The classification of a prisoner as a colonist lies within the sound discretion of the Director of Prisons, upon recommendation of the Classification Board.<sup>18</sup>

Provided that the colonist retains his status as such, he is entitled to the following benefits:

SEC. 7. *Privileges of a Colonist.* — A colonist shall have the following privileges:

- a. credit of an additional GCTA of five (5) days for each calendar month while he retains said classification aside from the regular GCTA authorized under Article 97 of the Revised Penal Code;
- b. automatic reduction of the life sentence imposed on the colonist to a sentence of thirty (30) years;
- c. subject to the approval of the Director, to have his wife and children, or the woman he desires to marry, live with him in the prison and penal farm. Transportation expenses of the family going to and the discharge of the colonist from the prison and penal farm shall be for the account of the government. The family may avail of all prison facilities such as hospital, church and school free of charge. All the members of the family of a colonist shall be subject to the rules governing the prison and penal farm;
- d. as a special reward to a deserving colonist, the issuance of a reasonable amount of clothing and ordinarily household

<sup>14</sup> G.R. No. 212719, June 25, 2019.

<sup>16</sup> Bureau of Corrections Operating Manual, Book I, Part II, Chapter 3, Section 5, provides:  
Sec. 5. x x x

d) First Class Inmate- one whose known character and credit for work while in detention earned assignment to this class upon commencement of sentence; or one who has been promoted from the second class.

<sup>17</sup> Id. at Sec. 6.

<sup>18</sup> Id.

supplies from the government commissary in addition to free subsistence; and

- e. to wear civilian clothes on such special occasions as may be designated by the Superintendent.

Section 7(b) provides for the privilege of an automatic reduction of sentence. However, the word “automatic” does not imply that the reduction of sentence occurs as a natural consequence by the mere conferral of a “colonist” status. Act No. 2489<sup>19</sup> specifically requires an executive approval before such kind of benefit may be allowed:

SEC. 5. Prisoners serving sentences of life imprisonment receiving and retaining the classification of penal colonists or trusties will automatically have the sentence of life imprisonment modified to a sentence of thirty years when receiving the **executive approval** for this classification upon which the regular credit now authorized by law and special credit authorized in the preceding paragraph, for good conduct, may be made. (Emphasis supplied)

In the case of *Tiu v. Dizon*,<sup>20</sup> the Court expounded on such requirement, which is posterior to the act of classifying a prisoner as a colonist:

**The wording of the law is such that the act of classification as a penal colonist or trustie is separate from and necessarily precedes the act of approval by the Executive.** Under Section 6, Chapter 3, Part II, Book I of the BuCor-OM quoted earlier, the Director of Corrections may, upon the recommendation of the Classification the Bureau of Corrections, classify an inmate as a colonist. It is crucial, however, that the prisoner not only receives, but retains such classification, because the grant of a colonist status may, for cause, be revoked at any time by the Superintendent with the approval of the Director of Corrections pursuant to Section 946 of the same Chapter. It is the classification of the penal colonist and trustie of the Director of Corrections which subsequently receives executive approval. (Emphasis and underscoring in the original)

The indispensability of an executive approval is further highlighted by the 1987 Constitution, expressly vesting upon the President the exclusive prerogative to grant acts of clemency.

In *Tiu*, the Court elucidated that the reduction of a prisoner’s sentence is a form of partial pardon, which entails the exercise of the President’s constitutionally-vested authority. Contrary to petitioner’s assertion, the

<sup>19</sup> AN ACT AUTHORIZING SPECIAL COMPENSATION, CREDITS, AND MODIFICATION IN THE SENTENCE OF PRISONERS AS A REWARD FOR EXCEPTIONAL CONDUCT AND WORKMANSHIP, AND FOR OTHER PURPOSES.

<sup>20</sup> 787 Phil. 427, 438-439 (2016).

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Constitution requires the President to act on such matter *personally*; thus, he may not delegate the same in the guise of doctrine of qualified political agency.

In this case, nowhere in the records does it show that the President signified his approval to the release of petitioner in view of his status as a colonist. Thus, at this point, there is no reason to allow the release of petitioner based on such ground.

Moreover, petitioner's reliance in the case of *Cruz III*<sup>21</sup> does not hold water. As explained by the Court, Go was released from prison not because of the automatic reduction privilege as a colonist, but because of the application of the provisions of Articles 70<sup>22</sup> and 97<sup>23</sup> of the Revised Penal Code, which allow the reduction or commutation of sentences based on the computation of GCTA.

Nevertheless, petitioner's entitlement to the benefits of R.A. No. 10592, which has been given retroactive effect in the case of *Inmates of the New Bilibid Prison, Muntinlupa City*, must be examined in view of the attendant factual circumstances.

Among the amendments introduced by R.A. No. 10592 are the increase in the number of days which may be credited for GCTA; expansion of the application of GCTA for prisoners even during preventive imprisonment; and deduction of 15 days for each month of study, teaching, or mentoring service.

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<sup>21</sup> Supra note 7.

<sup>22</sup> Art. 70. *Successive Service of Sentences; Exception.* — When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit; otherwise, said penalties shall be executed successively, following the order of their respective severity, which shall be determined in accordance with the following scale:

1. Death
2. *Reclusion perpetua*
3. *Reclusion temporal*
4. *Prision mayor*
5. *Prision correccional*
6. *Arresto mayor*
7. *Arresto menor*

A person sentenced to *destierro* who is also sentenced to the penalty of *prisión* or *arresto* shall be required to serve these latter penalties before serving the penalty of *destierro*.

<sup>23</sup> Art. 97. *Allowance for Good Conduct.* — The good conduct of any prisoner in any penal institution shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of his imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of eight days for each month of good behavior;
3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

Section 3, Rule V and Section 1, Rule VIII of the Implementing Rules and Regulations of R.A. No. 10592 reposed upon the Director of Prisons, the Chief of the Bureau of Jail Management and Penology and the wardens the grant of allowances for good conduct to deserving prisoners, upon recommendation of the Management, Screening and Evaluation Committee. The Director, the Chief, or the warden may either approve or disapprove the recommendation or order the return of the same for correction.

Relevantly, Sections 3 and 4, Rule V of the same law mandates the Bureau of Corrections to assess and compute the time allowance due to the prisoners:

SEC. 3. Management, Screening and Evaluation Committee (MSEC). — a. The Director of the BUCOR, Chief of the BJMP and Wardens of various provinces, cities, districts and municipalities are mandated to assess, evaluate and grant time deduction to a deserving prisoner, whether detained or convicted by final judgment, in the form of GCTA, STAL and TASTM as prescribed by these Rules through the creation of the MSEC.

x x x x

SEC. 4. Procedures for the Grant of Good Conduct Time Allowance.-- The following procedures shall be followed in the grant of GCTA:

x x x x

e. The appropriate official concerned shall ensure that GCTAs are processed each month and that there is proper recording of a prisoner's good behavior in the jail or prison records.

In fact, Section 5, Rule V of said law requires the use of computer-generated template, capable of incorporating time allowances that may be granted to detainees and prisoners alike, to monitor their progress.

Based on petitioner's Prison Records,<sup>24</sup> it appears that he earned regular GCTA; time allowance for study, teaching and mentoring; and credit for preventive imprisonment under R.A. No. 6127. Moreover, based on respondent's Comment, petitioner's time served with GCTA in prison is 32 years, 10 months, and 7 days. However, these were all computed prior the promulgation of the *Inmates of the New Bilibid Prison, Muntinlupa City* case.

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<sup>24</sup> Rollo, pp. 11 and 33.

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The determination of the legality of petitioner's confinement based on R.A. No. 10592 necessitates the recomputation of the time allowances due for petitioner.

In the case of *In Re: Correction/Adjustment of Penalty Pursuant to [R.A.] No. 10951, in relation to Hernan v. Sandiganbayan*,<sup>25</sup> the Court recognized the competency of trial courts to ascertain both findings of fact and law such as the actual length of time that the convict has actually been in confinement and whether time allowance for good conduct in determining the propriety of his immediate release from confinement on account of full service of the recomputed sentence. Hence, matters relating thereto must be referred to the trial courts as they are relatively more equipped to act on such matters.

**WHEREFORE**, premises considered, the petition for the issuance of a writ of *habeas corpus* is **PARTLY GRANTED**. The case is referred to the Regional Trial Court of Muntinlupa for the receipt of records for the determination of: (1) the length of time that petitioner Boy Franco y Mangaoang has been in actual confinement; (2) his earned Good Conduct Time Allowance and other privileges granted to him under Republic Act No. 10592 and their computation; and (3) whether he is entitled to immediate release from confinement on account of the full service of his sentence based on the recomputed sentence, as modified.

**SO ORDERED.**

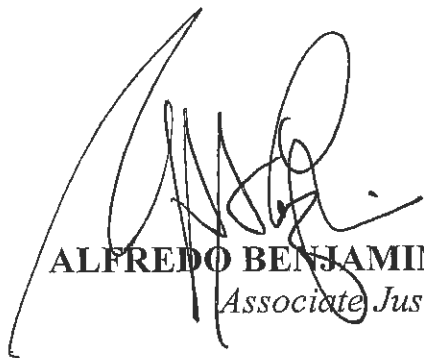
  
**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
*Chief Justice*

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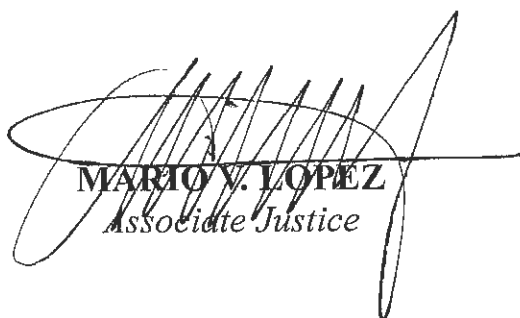
<sup>25</sup> G.R. No. 237721, July 31, 2018.



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



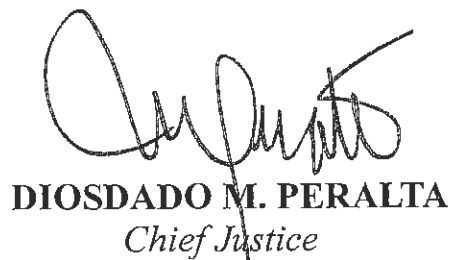
**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*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.



**DIOSDADO M. PERALTA**  
*Chief Justice*