



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 September 2020** which reads as follows:*

“**G.R. No. 251886 – (Gomer Chica y Langitan v. People of the Philippines)** – This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the August 19, 2019 Decision¹ and February 10, 2020 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 40633. The CA affirmed the October 9, 2017 Decision³ of the Regional Trial Court (RTC), Branch 23 of Naga City, which found petitioner guilty beyond reasonable doubt for violation of Section 28(a) of Republic Act (RA) No. 10591 in relation to Section 28(e) of the same law.

We have judiciously reviewed the case and resolved to **DENY** the instant petition for failing to show any reversible error in the assailed CA Decision to warrant this Court’s discretionary appellate jurisdiction.

However, the Court finds that there is a need to modify the penalty imposed against petitioner. Section 28(a) in relation to Section 28(e)(1) of RA No. 10591 expressly provides for the penalty of Illegal Possession of Small Firearm loaded with ammunition, to wit:

Section 28. Unlawful Acquisition or Possession of Firearms and Ammunition. – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

- (a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;

x x x x

¹ *Rollo*, pp. 37-54; Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Maria Filomena D. Singh and Louis P. Acosta.

² *Id.* at pp. 56-57.

³ *Id.* at pp. 77-84; Penned by Presiding Judge Valentin E. Pura, Jr.

09/02/20

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:


(1) Loaded with ammunition or inserted with a loaded magazine.

Moreover, pursuant to *Jacaban v. People*⁴, although a special law is *malum prohibitum* and that the Revised Penal Code (RPC) is generally not applicable, the latter shall apply if the special law adopts the technical nomenclature of the penalties of the RPC. The penalty thereof is *prision mayor* in its maximum period which is one degree higher than *prision mayor* in its medium period and ranges from ten (10) years and one (1) day to twelve (12) years. Applying the Indeterminate Sentence Law, there being no modifying circumstances, the maximum penalty therefore cannot exceed *prision mayor* in its maximum period which ranges from ten (10) years and one (1) day to twelve (12) years, while the minimum penalty should be *prision mayor* in its medium period which is the penalty next lower than *prision mayor* in its maximum period and ranges from eight (8) years and one (1) day to ten (10) years. Hence, the indeterminate penalty of nine (9) years and four (4) months of *prision mayor*, as minimum, to ten (10) years, eight (8) months, and one (1) day of *prision mayor*, as maximum shall be imposed upon the petitioner.

WHEREFORE, the Petition for Review is **DENIED**. The August 19, 2019 Decision and February 10, 2020 Resolution of the Court of Appeals in CA-G.R. CR No. 40633 are **AFFIRMED with MODIFICATION**. Petitioner Gomer Chica y Langitan is found **GUILTY** beyond reasonable doubt for violation of Section 28(a) of Republic Act No. 10591 in relation to Section 28(e) of the same law. He is sentenced to suffer the indeterminate penalty of imprisonment of nine (9) years and four (4) months of *prision mayor*, as minimum, to ten (10) years, eight (8) months, and one (1) day of *prision mayor*, as maximum.

SO ORDERED." (Baltazar-Padilla, *J.*, on leave.)

By authority of the Court:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court p 9/24

⁴ 756 Phil. 523 (2015).

*PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

*OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

*GOMER CHICA y LANGITAN (reg)
Petitioner
c/o The Jail Warden
BJMP-Naga City District Jail
Camarines Sur

THE JAIL WARDEN (reg)
BJMP- Naga City District Jail
Camarines Sur

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 23
Naga City
(Crim. Case No. 2017-0235)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR No. 40633

*with copies of CA Decision dated 19 August 2019 and
Resolution dated 10 February 2020.

Please notify the Court of any change in your address.
GR251886. 9/02/2020B(185)URES *19/2*