

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2252



INTRODUCED BY REPRESENTATIVE XAVIER JESUS "XJ" D. ROMUALDO

EXPLANATORY NOTE

The late Representative Pedro P. Romualdo originally filed this bill in the previous Congress. The Explanatory Note of the late Representative Romualdo is herein reproduced and adopted as the explanation for the filing of this bill:

During the Third Congress, it passed Republic Act (RA) No. 1060, entitled "An Act Increasing the Penalty for the Crime of Malversation of Public Funds or Property, By Amending Article Two Hundred Seventeen of the Revised Penal Code", approved on 12 June 1954.

For nearly fifty-five (55) years, we have been implementing the penalties prescribed under the Revised Penal Code as amended by R.A. No. 1060. It is high time that we revisit the existing provisions of the Revised Penal Code on the subject of "Malversation of Public Funds or Property" as found in Articles 217 - 222 of Chapter Four.

The intent of this proposal is to upgrade the existing penalty structure and modify accordingly the equivalent misappropriated monetary value to reflect the prevailing value of our Philippine peso.

In the present provisions, the monetary classification is too small and yet, the penalties imposed are quite onerous. There are some cases which involved less than twelve thousand pesos and the corresponding penalty ranges from prison correccional to reclusion temporal in its minimum. Up to this day, many persons are still languishing in jail serving their jail sentences and have been meted out permanent disqualifications by the courts based on these existing provisions.

We need to revisit these provisions to promote a just and equitable law.

In view of the foregoing, the support of the Members of Congress for the prompt and timely passage of this proposed measure is earnestly requested.

XAVIER JESUS "XJ" D. ROMUALDO

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AN ACT FURTHER
AMENDING ARTICLES 217, 218, 219, 220, 221, AND 222 OF ACT NO. 3815,
OTHERWISE KNOWN AS THE REVISED PENAL CODE

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

Section 1. Article 217, as amended, of Act No. 3815, otherwise known as the Revised Penal Code, is hereby further amended to read, as follows:

Art. 217. *Malversation of public funds or property; Presumption of malversation.* — Any public officer who, by reason of the duties of his OR HER 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 or malversation of such funds or property, shall suffer:

1. THE PENALTY OF ARRESTO MAYOR IN ITS MEDIUM PERIOD, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED DOES NOT EXCEED TEN THOUSAND PESOS.
2. THE PENALTY OF ARRESTO MAYOR IN ITS MAXIMUM PERIOD, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED IS MORE THAN TEN THOUSAND PESOS BUT DOES NOT EXCEED TWENTY THOUSAND PESOS.
3. THE PENALTY OF PRISION CORRECCIONAL IN ITS MINIMUM PERIOD, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED IS MORE THAN TWENTY THOUSAND PESOS BUT DOES NOT EXCEED THIRTY THOUSAND PESOS.
4. THE PENALTY OF PRISION CORRECCIONAL IN ITS MEDIUM AND MAXIMUM PERIODS, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED IS MORE THAN THIRTY THOUSAND PESOS BUT DOES NOT EXCEED FIFTY THOUSAND PESOS.
5. THE PENALTY OF PRISION MAYOR IN ITS MINIMUM AND MEDIUM PERIODS, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED IS MORE THAN FIFTY THOUSAND PESOS BUT DOES NOT EXCEED ONE HUNDRED THOUSAND PESOS.

6. THE PENALTY OF PRISION MAYOR IN ITS MAXIMUM PERIOD TO RECLUSION TEMPORAL IN ITS MINIMUM PERIOD, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED IS MORE THAN ONE HUNDRED THOUSAND PESOS BUT DOES NOT EXCEED TWO HUNDRED FIFTY THOUSAND PESOS.
7. THE PENALTY OF RECLUSION TEMPORAL, IN ITS MEDIUM AND MAXIMUM PERIODS, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED IS MORE THAN TWO HUNDRED FIFTY THOUSAND PESOS BUT DOES NOT EXCEED FIVE HUNDRED THOUSAND PESOS.
8. THE PENALTY OF RECLUSION PERPETUA, IF THE AMOUNT OR VALUE OF THE PROPERTY INVOLVED EXCEEDS FIVE HUNDRED THOUSAND PESOS.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine 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 OR SHE is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he OR SHE has put such missing funds or property to personal use.

Section 2. Article 218 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read, as follows:

Art. 218. *Failure of accountable officer to render accounts.* — Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the COMMISSION ON AUDIT [~~Insular Auditor, or to a provincial auditor~~] and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by prision correccional in its minimum period, or by a fine OF TWENTY THOUSAND PESOS [~~ranging from 200 to 6,000 pesos~~], or both.

Section 3. Article 219 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read, as follows:

Art. 219. *Failure of a responsible public officer to render accounts before leaving the country.* — Any public officer who unlawfully leaves or attempts to leave the PHILIPPINES [~~Philippine Islands~~] without securing a certificate from the COMMISSION ON AUDIT [~~Insular Auditor~~] showing that his OR HER accounts have been finally settled, shall be punished by arresto mayor, or a fine ranging from TWENTY THOUSAND TO FIFTY THOUSAND [~~200 to 1,000~~] pesos, or both.

Section 4. Article 220 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read, as follows:

Art. 220. *TECHNICAL MALVERSION [Illegal use of public funds or property].* — Any public officer who shall apply any public funds or property under his OR HER administration to any public use other than for which such funds or property were appropriated by law or ordinance shall suffer the penalty of prision correccional in its minimum period or a fine EQUIVALENT TO FIFTY PERCENT OF THE SUM OR VALUE OF THE PROPERTY [~~ranging from one-half to the total value of the sum~~] misapplied, if by reason of such misapplication, any damage or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from FIVE TO FIFTY PERCENT OF THE SUM OR VALUE OF THE PROPERTY [~~5 to 50 per cent of the sum~~] misapplied.

Section 5. Article 221 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read, as follows:

Art. 221. *Failure to make delivery of public funds or property.* — Any public officer under obligation to make payment from Government funds in his possession, who shall fail to make such payment, shall be punished by arresto mayor and a fine from FIVE TO TWENTY-FIVE PERCENT [~~5 to 25 per cent~~] of the sum which he OR SHE failed to pay.

This provision shall apply to any public officer who, being ordered by competent authority to deliver any property in his OR HER custody or under his OR HER administration shall refuse to make such delivery.

The fine shall be graduated in such case by the value of the thing, provided that it shall not be less than FIVE THOUSAND [~~50~~] pesos.

Section 6. Article 222 of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read, as follows:

Art. 222. *PERSONS [~~Officers~~] included in the preceding provisions.* — The provisions of this chapter shall apply to private individuals who, in any capacity WHATSOEVER [whatever], have charge of any PUBLIC [~~insular, provincial, or municipal~~] funds, revenues, or property and to any administrator or depository of funds or property attached, seized, or deposited by public authority, even if such property belongs to a private individual.

Section 7. If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

Section 8. All laws, decrees, executive orders, proclamations, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 9. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,