

## FIRST DIVISION

[ G.R. No. 235483, June 08, 2020 ]

**IN THE MATTER OF THE PETITION FOR WRIT OF HABEAS  
CORPUS OF BOY FRANCO Y MANGAOANG, JOINED BY HIS WIFE  
WILFREDA R. FRANCO, PETITIONERS, VS. THE DIRECTOR OF  
PRISONS OR REPRESENTATIVES, RESPONDENT.**

### 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>

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."

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 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 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