

****Title:****

Intengan, Neri, and Brawner vs. Court of Appeals, Department of Justice, Rajkotwala, Ferguson, Reyes, and Lim: A Case Study on the Secrecy of Foreign Currency Deposits in Philippine Law

****Facts:****

On September 21, 1993, Citibank filed a complaint against two of its officers, Dante L. Santos and Marilou Genuino, for activities in conflict with the bank's operations. Private respondent Vic Lim, a Citibank vice-president, executed an affidavit disclosing anomalous activities and attached bank records of petitioners Intengan, Neri, and Brawner among others, showing transfers of funds to Torrance and Global corporations - entities with personal financial interest to Santos and Genuino.

The Provincial Prosecutor initially recommended dismissal, but this was overruled, and charges for violating the Bank Secrecy Law (Republic Act No. 1405) were filed against the private respondents. However, upon appeal to the Department of Justice (DOJ), the charges were ordered withdrawn. Petitioners' subsequent appeal to the Court of Appeals (CA) and then the Supreme Court followed the trajectory of the judicial process to challenge the DOJ's resolution.

****Issues:****

1. Whether the private respondents' disclosure of the petitioners' bank records violated Republic Act No. 1405 or the Bank Secrecy Law.
2. Whether the specific circumstances of the case justified the disclosure under any exception to the Bank Secrecy Law.
3. The correct application of laws with respect to foreign currency deposits, specifically Republic Act (RA) No. 6426, the Foreign Currency Deposit Act of the Philippines, vis-à-vis Republic Act No. 1405.

****Court's Decision:****

The Supreme Court denied the petition, clarifying that the bank accounts in question were U.S. dollar deposits and hence were protected under RA No. 6426, not RA No. 1405 as claimed. The court highlighted that RA No. 6426 mandates the absolute confidentiality of foreign currency deposits, save for the depositor's written consent for disclosure. The court also discussed the malum prohibitum nature of violations against the Foreign Currency Deposit Act and concluded that the disclosure by the private respondents warranted charges under the correct statute. However, the opportunity to file such charges was barred

by prescription, as the offense prescribed in eight years and this period had elapsed.

****Doctrine:****

The Supreme Court elucidated the doctrine of absolute confidentiality of foreign currency deposits under Republic Act No. 6426, emphasizing that disclosure is permissible solely with the depositor's written consent. Exceptions under the Bank Secrecy Law do not apply to foreign currency deposits. Moreover, it clarified the application of Act No. 3326 regarding the prescription of offenses penalized by special laws.

****Class Notes:****

1. ****Republic Act No. 1405 (Bank Secrecy Law)**** vs ****Republic Act No. 6426 (Foreign Currency Deposit Act)****: RA No. 1405 protects peso deposits and restricts their disclosure, subject to certain exceptions. RA No. 6426 provides for the absolute confidentiality of foreign currency deposits except upon the depositor's written permission.
2. ****Principle of Malum Prohibitum:**** Actions that are criminalized by special laws (e.g., unauthorized disclosure under RA No. 6426) do not require proof of criminal intent for conviction.
3. ****Prescription of Offenses Under Special Laws:**** Governed by Act No. 3326, as amended, prescribing periods after which offenses are barred from prosecution based on the prescribed penalties.
4. Understanding the ****Application and Intersection of Banking Laws****: It is crucial to correctly identify the governing law for banking transactions (pursuant to currency and specific transactions) before proceeding with legal action.

****Historical Background:****

This case reflects the evolving nature of banking regulation in the Philippines, emphasizing the special protection afforded to foreign currency deposits starting from the Marcos regime to encourage foreign currency inflow to the country. It illustrates the judicial system's interpretation and application of these specialized banking laws, encompassing the principle of confidentiality and its exceptions, the legislative intention behind such laws, and the procedural nuances in prosecuting violations of these laws vis-à-vis the general principles of criminal law, especially regarding the prescription of offenses and the necessity of filing charges under the correct statute to toll the prescriptive period.