

**\*\*Title:\*\*** \*Salvador v. Mapa, Jr. et al.\*: A Landmark Decision on the Prescription of Offenses and the Constitutionality of Administrative Orders in the Context of Recovering Behest Loans in the Philippines

**\*\*Facts:\*\***

In October 1992, then-President Fidel V. Ramos established the Presidential Ad Hoc Fact-Finding Committee on Behest Loans via Administrative Order No. 13. This was in response to allegations that government-owned and controlled banks or financial institutions had granted financial accommodations influenced by former government officials, to the detriment of the Philippine government. The committee's mandate was broadened by Memorandum Order No. 61 to include examining all non-performing loans, setting specific criteria to identify behest loans.

The investigation by the committee identified several transactions between Metals Exploration Asia, Inc. (PEMI) and the Development Bank of the Philippines (DBP) as behest loans, citing characteristics such as under-collateralization, undercapitalization, and association with known cronies of then-President Ferdinand Marcos.

Atty. Orlando L. Salvador, representing the committee and the Presidential Commission on Good Government (PCGG), filed a complaint with the Office of the Ombudsman against respondents associated with the loans, alleging violations of the Anti-Graft and Corrupt Practices Act. However, the Ombudsman dismissed the complaint on the grounds of prescription, reasoning that the offenses had been committed beyond the prescriptive period as defined by relevant laws and Supreme Court precedents. The committee's motion for reconsideration was also denied.

**\*\*Issues:\*\***

1. Whether the alleged offenses under Section 3(e) and (g) of Republic Act No. 3019 have already prescribed at the time the petitioner filed its complaint.
2. Whether Administrative Order No. 13 and Memorandum Order No. 61 are ex post facto laws.

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

The Supreme Court granted the petitioner's appeal, setting aside the Ombudsman's resolutions. It addressed the procedural issue by acknowledging the mislabeling of the

petition but opted to treat it as a petition for certiorari due to the grave abuse of discretion by the Ombudsman.

On the substantive issues, the Court determined that the offenses had not prescribed, relying on the doctrine that the prescriptive period for offenses that could not have been discovered by the State at the time of commission begins at the point of discovery. The Court found that discovery could not have occurred before the creation of the committee in 1992, well within the window for filing the complaint in 1996.

The Court also ruled that Administrative Order No. 13 and Memorandum Order No. 61 do not constitute ex post facto laws, as they do not retroactively penalize actions that were legal at the time they were committed. They were created to establish criteria for identifying behest loans and did not impart criminal penalties.

**\*\*Doctrine:\*\***

1. The prescriptive period for offenses under special laws like the Anti-Graft and Corrupt Practices Act begins from the discovery of the offense if it was not immediately apparent at the time of commission.
2. Administrative orders setting criteria for identifying wrongful financial transactions do not constitute ex post facto laws as they do not retroactively impose criminal penalties on lawful actions.

**\*\*Class Notes:\*\***

- The prescription of offenses under special laws can begin from the point of discovery rather than the date of commission if the State was unaware of the offense due to deliberate concealment.
- Administrative and memorandum orders focused on procedural or definitional frameworks do not violate the prohibition against ex post facto laws since they do not penalize actions retroactively.
- Issues of procedural mislabeling of appeals can be set aside in favor of substance over form, particularly in cases where grave abuse of discretion is alleged.

**\*\*Historical Background:\*\***

This case underscores the post-Marcos efforts of the Philippine government to address and rectify abuses committed during the dictatorship, particularly in terms of financial

manipulations detrimental to the state's interests. The establishment of the Presidential Ad Hoc Fact-Finding Committee on Behest Loans represented a significant step towards transparency and accountability, aiming to recover unlawfully acquired wealth and correct systemic injustices. The Supreme Court's decision in *\*Salvador v. Mapa, Jr. et al.\** reflects the judiciary's role in these efforts, interpreting laws and orders in a manner that facilitates, rather than obstructs, the uncovering and prosecution of past abuses.