

LINO G. DAVID, SERAFIN DAVID, ORLANDO DAVID, VICTOR PAS-CUAL, JAIME REYES, TROADIO ESPINOSA, JOSE JUNTADO, CAS-TOR SARMIENTO, ANTONIO LICU, GREGORIO DIMATALO, EVARISTO INES, MAR...

G.R. No. L-26336. February 27, 1970

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this original action for certiorari and prohibition, we hold that the filing of a complaint for alleged violation of the Revised Election Code with the Court of First Instance which is vested with the exclusive jurisdiction to conduct the pre-liminary investigation thereof properly interrupts the period of prescription.

Petitioner Lino David and private respondent Jose Geronimo were official candidates of their respective political parties for mayor of the Municipality of Tarlac, Province of Tarlac, in the local elections of November 12, 1963, which resulted in the pro-clamation of said petitioner as the victor.

Aside from the election protest filed in early January, 1964 against petitioner Lino David, respondent filed on January 25, 1964 with respondent Court of First Instance of Tarlac, a criminal complaint against said petitioner and his co-petitioners for alleged violation of the provisions of Section 49 of the Revised Election Code on unlawful expenditures, penalized by Sections 183 and 185 thereof and allegedly committed in the Municipality of Tarlac during the campaign before the said elections of November 12, 1963.

Respondent Court scheduled the preliminary investigation of the complaint on February 5, 1964, on which date it received evidence for the complainant-respondent, after denying an urgent motion for postponement filed by petitioners on the preceding day.

At the resumption of the preliminary investigation scheduled on February 12, 1964, petitioners orally moved for dismissal of the complaint, later formalized by them pursuant to the Court's order in their written motion for dismissal of March 7, 1964. Petitioners contended that respondent was not an "offended party", nor was he legally authorized under Rule 110, section 2 of the Rules of Court to file the complaint. Petitioners did not set their motion for hearing and respondent filed his opposition thereto a year later on March 19, 1965. Respondent Court, in its Order of February 6, 1966 denied the motion to dismiss, ruling in favor of the personal-ity of respondent as offended party to file the complaint and point-ing out that the complaint was "still in the process of preliminary investigation where the Court is precisely called upon to determine whether or not there exists reasonable ground to believe that the respondents (petitioners at bar) have committed the offense charged and whether or not the case should be referred to the Fiscal for the filing of the corresponding information." It accordingly scheduled the continuation of the preliminary investigation for February 26, and March 5, 1966.

On February 26, 1966, petitioners again orally moved for dismissal of the complaint, asserting the additional ground of prescription of the offense charged. Petitioners contended that the State had lost the right to prosecute

them for alleged violation of Section 49 of the Revised Election Code, due to the superven-tion of prescription of the offense as the two-year prescriptive period under Section 188 of the Revised Election Code had lapsed without any valid information against them having been filed by the Fiscal in the name of the People, and that the preliminary investigation proceedings to determine the existence of a prima facie case against them had therefore become moot and futile, with the consequent loss of jurisdiction of respondent court over the same. Respondent Court ordered the parties to present in written form their arguments and continued with the reception of respondent's evidence.

After receipt of petitioners' second motion to dismiss of February 28, 1966 and respondent's reply to March 6, 1966, it issued its Order of March 23, 1966 denying petitioners' prayer to reconsider its first Order of February 6, 1966 and rejecting petitioners' claim of prescription, as follows:

"Hence, the proceedings against the accused respon-dents were initiated and have commenced from January 25, 1964 when the criminal complaint was filed with this Court. From said date, the Court acquired jurisdiction of the case and the running of the prescriptive period was then ipso facto interrupted. Such jurisdiction of the case continues to be lodged with this Court because, under Section 187 of the Revised Election Code, its jurisdiction over elec-tion cases is exclusive and a continuing one from the stage of preliminary investigation to the trial of the merits. Hence, it follows as a corollary that the prescriptive period did not also commence to run again."

xx x x x

"In the case at bar, the complainant initiated the proceedings by filing a formal criminal complaint with this Court, which is the proper court to conduct the preliminary investigation, to issue warrants of arrest, and to try and decide the case, and not merely by lodging a denuncia in the Office of the Provincial Fiscal."

Respondent Court also explained in its said order the delays entailed in the preliminary investigation proceedings thus: "that the preliminary investigation was partially commenced on February 5, 1964; and that the continuation thereof had to take some-time due to the transfer of the former Presiding Judge of this Court, Hon. Simeon Gopengco, the long period of time during which there was no permanent Presiding Judge, and the clogged docket of this Court resulting from the lack of a regular Presiding Judge."

Petitioners, after their motion for reconsideration of March 31, 1966 was turned down by respondent Court in its order of April 12, 1966, then filed on July 28, 1966 their present petition of certiorari and prohibition praying for judgment to annul the questioned orders and to declare instead that the offense imputed to them has prescribed.

The petition must fail. The offense imputed to petitioners has not prescribed. By virtue of the filing on January 25, 1964 by respondent of the criminal complaint against petitioners, respondent Court acquired jurisdiction of the case and the two-year pres-criptive period provided by Section 188 of the Revised Election Code was interrupted and remains tolled pending termination of the pro-ceedings pursuant to Article 91 of the Revised Penal Code, which provides:

"ART. 91. Computation of prescription of offenses. -- The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquit-ted, or are unjustifiably stopped for any reason not im-putable to him. x x x "

Contrary to the fallacious contention of petitioners that Arti-cle 91 of the Revised Penal Code should not be applicable to election offenses, on the ground that Section 188 of the Election Code does not contain any express provision for interruption of the prescriptive per-iod, said Article 91 of the Penal Code on interruption of the

prescriptive period precisely supplements the Election Code, as the latter Code does not specially provide the contrary and Article 10 of the Revised Penal Code expressly provides that "(T)his Code shall be supplementary to (special) laws, unless the latter should specially provide the contrary." Assuming said Article 91 to be inapplicable, then Section 2 of Act 3326 (1926) establishing periods of prescription for violations of special laws, which provides that "(T)he prescription shall be interrupted when proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy" would govern and likewise ordain the tolling of the prescriptive period in question.

The aversion of the Election Code against the period of prescription just running out is shown from the special provision in Section 188 thereof that "if the discovery of such (election) offenses be made in election contest proceedings, the period of such prescription shall commence on the date on which the judgment in such proceedings becomes final." As the late Justice Laurel observed, this special provision prevents a guilty person from evading a well-deserved punishment, even if the trial of the election contest, during which the commission of the offense is incidentally discovered, is protracted for several years. Similarly, under the supplementary provisions of Article 91 of the Penal Code, the interruption of the two-year prescriptive period for the offense charged from the date of filing of the complaint with respondent Court, preserves the right of the State to prosecute and punish the guilty, even if the preliminary investigation thereof has been protracted for many years, as in the case at bar.

The main thrust of the petition is that the jurisdiction acquired by respondent Court through the filing of the complaint by the private respondent as offended party was only "legally effective for Purposes of preliminary investigation but not for the purpose of acquiring jurisdiction to try the criminal action", i.e., that it was a mere denuncia of a private party and that the only complaint or information that could properly interrupt the prescriptive period is that filed by the Fiscal with the proper Court for and in behalf and in the name of the People. Petitioners contend that as no such information was filed by the Fiscal after the lapse of the two-year prescriptive period, the preliminary investigation proceedings should have been dismissed by respondent Court by virtue of the supervening prescription of the offense charged, citing the 1963 case of *People vs. Coquia*.^[1]

The *Coquia* case supporting this line of reasoning has been expressly overruled by the Court in the second *People vs. Olarte* case^[2] decided in 1967 after submittal of the case at bar by the parties. The Court speaking through Mr. Justice J.B.L. Reyes, there specifically noted that "Analysis of the precedents on the issue of prescription discloses that there are two lines of decisions following differing criteria in determining whether prescription of crimes has been interrupted. One line of precedents holds that the filing of the complaint with the justice of the peace (or municipal judge) does interrupt the course of the prescriptive term: *People vs. Olarte*, L-13027, June 30, 1960 and cases cited therein; *People vs. Uba*, L-13106, October 16, 1959; *People vs. Aquino*, 68 Phil. 588, 590. Another series of decisions declares that to produce interruption the complaint or information must have been filed in the proper court that has jurisdiction to try the case on its merits: *People vs. Del Rosario*, L-15140, December 29, 1960; *People vs. Coquia*, L-15456, June 29, 1963." (19 SCRA, pp. 499-500)

The Court then restated the true and prevailing doctrine, which it hereby reaffirms as follows: "In view of this diversity of precedents, and in order to provide guidance for Bench and Bar, this Court has reexamined the question and, after mature consideration, has arrived at the conclusion that the true doctrine is, and should be, the one established by the decisions holding that the filing of the complaint in the Municipal Court, even if it be merely for purposes of preliminary examination or investigation, should, and does, interrupt the period of prescription of the criminal responsibility, even if the court where the complaint or information can not try the case on its merits. Several reasons buttress this conclusion: first, the text of Article 91 of the Revised Penal Code, in declaring that the period of prescription 'shall be interrupted by the filing of the complaint or information'

without distinguishing whether the complaint is filed in the court for preliminary examination or investigation merely, or for action on the merits. Second, even if the Court where the complaint or information is filed may only proceed to investigate the case, its actuations already present the initial step of the proceedings against the offender. Third, it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. All that the victim of the offense may do on his part to initiate the prosecution is to file the requisite complaint.

“And it is no argument that Article 91 also expresses that the interrupted prescription 'shall commence to run again when such proceedings terminate without the accused being convicted or acquitted', thereby indicating that the court in which the complaint or information is filed must have power to acquit or convict the accused. Precisely, the trial on the merits usually terminates in conviction or acquittal, not otherwise. But it is in the court conducting a preliminary investigation where the proceedings may terminate without conviction or acquittal, if the court should discharge the accused because no prima facie case has been shown.

"Considering the foregoing reasons, the Court hereby overrules the doctrine of the cases of *People vs. Del Rosario*, L-15140, December 29, 1960; and *People vs. Coquia*, L-15456, promulgated June 29, 1963." [3]

Aside from the three reasons above given for the prevailing *Olarte* doctrine, there is a fourth and Overriding reason that calls for the dismissal of the present case, to wit, that it involves an election offense and Section 187 of the Revised Election Code vests Courts of First Instance, such as respondent Court, with "exclusive original jurisdiction to make preliminary investigations, issue warrants of arrest and try and decide any criminal action or proceeding for violation of this Code." The complaint was therefore filed with respondent Court as the proper Court with exclusive jurisdiction to try the case on its merits, and under either line of precedents discussed in the *Olarte* case, *supra*, the prescriptive period was unquestionably tolled.

The complaint for an election offense could be filed only with respondent Court, which was thereby called upon exclusively to conduct the preliminary investigation as an essential part of the criminal process.[4] Respondent Court's exclusive original jurisdiction over the case was thus vested and the running of the prescriptive period ipso facto interrupted. The case does not present the complication of the initial complaint for an ordinary offense being filed with the municipal court or the fiscal's office which have no jurisdiction to try the case on its merits, giving rise to the two lines of precedents discussed in the *Olarte* case, *supra*, with the Court finally sustaining one line and setting the doctrine that the filing of the complaint in the municipal court even if it be merely for purposes of preliminary examination or investigation interrupts the period of prescription, although such inferior court could not try the case on its merits, over the discarded line that to produce interruption, the complaint should be filed in the proper court with jurisdiction to try the case on its merits.

The ensuing trial by respondent Court, should it determine from the evidence adduced by the parties at the preliminary investigation that there exists reasonable ground to believe that petitioners have committed the election offense charged, is but a continuation of the criminal process in the exercise of its exclusive jurisdiction. Should it determine otherwise, however, the proceedings would then terminate without conviction or acquittal as respondent court would then dismiss the complaint, and the prescriptive period would thereupon commence to run again, as provided in Article 91 of the Penal Code.

ACCORDINGLY, the petition and the writ prayed for therein are denied, with costs jointly and severally against petitioners.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, and Villamor, JJ., concur.
Ruiz Castro and Barredo, JJ., no part.

[1] Prom. June 29, 1963 (8 SCRA 349).

[2] Prom. February 28, 1967 (19 SCRA 494).

[3] Emphasis supplied. To the writer's mind, these reasons logically call with equal force, for the express overruling also of the doctrine in *People vs. Tayco*, 73 Phil. 509, (1941) that the filing of a complaint or denuncia by the offended party with the City Fiscal's Office which is required by law to conduct the preliminary investigation does not interrupt the period of prescription. In chartered cities, criminal prosecution is generally initiated by the filing of the complaint or denuncia with the city fiscal for preliminary investigation. In the case of provincial fiscals, besides being empowered like municipal judges to conduct preliminary investigations, they may even reverse actions of municipal judges with respect to charges triable by Courts of First Instance. The Court, however, makes no pronouncement on the matter, as it is not involved in the issues of the case at bar.

[4] The procedure for the conduct of such preliminary investigation by the Judge of First Instance is found in Rule 112, sec. 13, providing that "should he find reason-able ground to believe that the defendant has committed the offense charged, he shall issue a warrant for (defendant's) arrest, and thereafter refer the case to the fiscal for the filing of the corresponding informa-tion."

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