

**BIENVENIDO A. EBARLE, SANTIAGO EISMA, MIRUFO CELERIAN,
JOSE SAYSON, CESAR TABILIRAN, AND MAXIMO ADLAWAN,
PETITIONERS, VS. HON. JUDGE MELQUIADES B. SUCALDITO, RUFINO
LABANG, MENE...**

G.R. No. L-33628. December 29, 1987

Ponente: SARMIENTO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b9fe4e3c7228/>

SARMIENTO, J.:

The petitioner, then Provincial Governor of Zamboanga del Sur and a candidate for reelection in the local elections of 1971, seeks injunctive relief in two separate petitions, to enjoin further proceedings in Criminal Cases No. CCC XVI-4-ZDS, CCC XVI-6-ZDS, and CCC XVI-8-ZDS of the then Circuit Criminal Court sitting in Pagadian City, as well as I.S. Nos. 1-70, 2-71, 4-71, 5-71, 6-71, and 7-71 of the respondent Fiscal's office of the said city, all in the nature of prosecutions for violation of certain provisions of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) and various provisions of the Revised Penal Code, commenced by the respondent Anti-Graft League of the Philippines, Inc.

On June 16, 1971 and October 8, 1971, respectively, we issued temporary restraining orders directing the respondents (in both petitions) to desist from further proceedings in the cases in question until further orders from the Court. At the same time, we gave due course to the petitions and accordingly, required the respondents to answer.

The petitions raise pure question of law. The facts are hence, undisputed.

On September 26, 1970, the private respondent Anti-Graft League of the Philippines, Inc., filed a complaint with the respondent City Fiscal, docketed as Criminal Case No. 1-70 thereof, for violation of the provisions of the Anti-Graft Law as well as Article 171 of the Revised Penal Code, as follows:

xxx xxx xxx

SPECIFICATION NO. I ?

That on or about October 10, 1969, above-named respondents, conspiring and confabulating together, allegedly conducted a bidding for the supply of gravel and sand for the Province of Zamboanga del Sur; that it was made to appear that Tabiliran Trucking Company won the bidding; that, thereafter, the award and contract pursuant to the said simulated bidding were effected and executed in favor of Tabiliran Trucking Company; that, in truth and in fact, the said bidding was really simulated and the papers on the same were falsified to favor Tabiliran Trucking Company, represented by the private secretary of respondent Bienvenido Ebarle, formerly confidential secretary of the latter; that said awardee was given wholly unwarranted advantage and preference by means of manifest partiality; that respondent officials are hereby also charged with interest for personal gain for approving said award which was manifestly irregular and grossly unlawful because the same was facilitated and committed by means of falsification of official documents.

SPECIFICATION NO. II

That after the aforecited award and contract, Tabiliran Trucking Company, represented by respondent Cesar Tabiliran, attempted to collect advances under his trucking contract in the under his trucking contract in the amount of P4,823.95 under PTA No. 3654; that the same was not passed in audit by the Provincial Auditor in view of the then subsisting contract with Teoson Trucking Company; which was to expire on November 2, 1969; that nevertheless the said amount was paid and it was made to appear that it was collected by Teoson Trucking Company, although there was nothing due from the latter and the voucher was never indorsed or signed by the operator of Teoson Trucking; and that in facilitating and consummating the aforecited collection, respondent officials, hereinabove cited, conspired and connived to the great prejudice and damage of the Provincial Government of Zamboanga del Sur.[1]

xxx xxx xxx

On the same date, the private respondent commenced Criminal Case No. 2-71 of the respondent City Fiscal, another proceeding for violation of Republic Act No. 3019 as well as Article 171 of the Revised Penal Code. The complaint reads as follows:

xxx xxx xxx

That on or about April 8, 1970, a bidding was held for the construction of the right wing portion of the Capitol Building of the Province of Zamboanga del Sur, by the Bidding Committee composed of respondents cited hereinabove; that the said building was maliciously manipulated so as to give wholly unwarranted advantage and preference in favor of the supposed winning bidder, Codeniera Construction, allegedly owned and managed by Wenceslao Codeniera, brother-in-law of the wife of respondent Bienvenido Ebarle; that respondent official is interested for personal gain because he is responsible for the approval of the manifestly irregular and unlawful award and contract aforecited; and that, furthermore, respondent, being a Member of the Bidding Committee, also violated Article 171 of the Revised Penal Code, by making it appear in the very abstract of bids that another interested bidder, was not interested in the bidding, when in truth and in fact, it was not so.[2]

xxx xxx xxx

On January 26, 1971, the private respondent instituted I.S. No. 4-71 of the respondent Fiscal, a prosecution for violation of Articles 182, 183, and 318 of the Revised Penal Code, as follows:

xxx xxx xxx

That on or about April 4, 1967, in Pagadian City, said respondent testified falsely under oath in Cadastral Case No. N-17, LRC CAD REC. NO. N-468, for registration of title to Lot No. 2545 in particular;

That respondent BIENVENIDO EBARLE testified falsely under oath during the hearing and reception of evidence that he acquired said lot by purchase from a certain Brigido Sanchez and that he is the owner, when in truth and in fact Lot 2545 had been previously acquired and is owned by the Provincial Government of Zamboanga del Sur, where the provincial jail building is now located.

2. That aforesaid deceit, false testimony and untruthful statement of respondent in said Cadastral case were made knowingly to the great damage and prejudice of the Provincial Government of Zamboanga del Sur in violation of aforecited provisions of the Revised Penal Code.[3]

On February 10, 1971, finally, the private respondent filed a complaint, docketed as I.S. No. 5-71 of the respondent Fiscal, an action for violation of Republic Act No. 3019 and Articles 171 and 213 of the Revised Penal Code, as follows:

xxx xxx xxx

We hereby respectfully charge the above-named respondents for violation of Sec. 3, R. A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, Articles 171 and 213, Revised Penal Code and the rules and regulations of public bidding, committed as follows:

1. That on June 16, 1970, without publication, respondents conducted the so-called "bidding" for the supply of gravel and sand for the province of Zamboanga del Sur; that said respondents, without any valid or legal ground, did not include or even open the bid of one Jesus Teoson that was seasonably submitted, despite the fact that he is a registered duly qualified operator of "Teoson Trucking Service", and notwithstanding his compliance with all the rules and requirements on public bidding; that, instead, aforesaid respondents illegally and irregularly awarded said contract to Cesar Tabiliran, an associate of respondent Governor Bienvenido Ebarle; and
2. That in truth and in fact, aforesaid "bidding" was really simulated and papers were falsified or otherwise "doctored" to favor respondent Cesar Tabiliran thereby giving him wholly unwarranted advantage, preference and benefits by means of manifest partiality; and that there is a statutory presumption of interest for personal gain because the transaction and award were manifestly irregular and contrary to applicable law, rules and regulations.[4]

xxx xxx xxx

The petitioner initially moved to dismiss the aforesaid preliminary investigations, but the same having been denied, he went to the respondent Court of First Instance of Zamboanga del Sur, the Honorable Melquiades Sucaldito presiding, on prohibition and mandamus (Special Case No. 1000) praying at the same time, for a writ of preliminary injunction to enjoin further proceedings therein. The court granted preliminary injunctive relief (restraining order) for which the Anti-Graft League filed a motion to have the restraining order lifted and to have the petition itself dismissed.

On May 14, 1971, the respondent, Judge Sucaldito, handed down the first of the two challenged orders, granting Anti-Graft League's motion and dismissing Special Case No. 1000.

On June 11, 1971, the petitioner came to this Court on certiorari with prayer for a temporary restraining order (G.R. No. 33628). As we said, we issued a temporary restraining order on June 16, 1971.

Meanwhile, and in what would begin yet another series of criminal prosecutions, the private respondent, on April 26, 1971, filed three complaints, subsequently docketed as Criminal Cases Nos. CCC XVI-4-ZDS, CCC XVI-6-ZDS, and CCC XVI-8-ZDS of the Circuit Criminal Court of Pagadian City, for violation of various provisions of the Anti-Graft Law as well as Article 171(4) of the Revised Penal Code, as follows:

xxx xxx xx

That on or about December 18, 1969, in Pagadian City, and within the jurisdiction of this Honorable Court, BIENVENIDO A. EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extended and gave ELIZABETH EBARLE MONTESCLAROS, daughter of his brother, his relative by consanguinity within the third degree, and appointment as Private Secretary in the Office of the Provincial Governor of Zamboanga del Sur, although he well know that the latter is related with him within the third degree by consanguinity.

CONTRARY TO LAW.[5]

xxx xxx xxx

xxx xxx xxx

That on or about December 18, 1969, in Pagadian City, and within the jurisdiction of this Honorable Court, BIENVENIDO A. EBARLE, then and there unlawfully and feloniously made untruthful statements in a narration of facts by accomplishing and issuing a certificate, to wit:

"c. That the provisions of law and rules on promotion, seniority and nepotism have been observed."

required by law in such cases, in support of the appointment he extended to ELIZABETH EBARLE-MONTESCLAROS, as Private Secretary in the Office of the Provincial Governor of Zamboanga del Sur, although he well know that the latter is related with him within the third degree of consanguinity.

CONTRARY TO LAW.[6]

xxx xxx xxx

xxx xxx xxx

That on or about December 18, 1969, in Pagadian City, and within the jurisdiction of this Honorable Court, BIENVENIDO A. EBARLE, then and there unlawfully and feloniously made untruthful statements in a narration of facts by accomplishing and issuing a certificate, to wit:

"c. That the provisions of law and rules on promotion, seniority and nepotism have been observed."

required by law in such cases, in support of the appointment he extended to TERESITO MONTESCLAROS, husband of his niece Elizabeth Ebarle, as Motor Pool Dispatcher, Office of the Provincial Engineer of Zamboanga del Sur, although he well knew that the latter is related with him within the third degree affinity.

CONTRARY TO LAW.[7]

xxx xxx xxx

Subsequently, on August 23, 1971, the private respondent brought I.S. No. 6-71 of the respondent Pagadian City Fiscal against the petitioner, still another proceeding for violation of Republic Act No. 3019 and Article 171 (4) of the Revised Penal Code, thus:

xxx xxx xxx

First Count:

That on or about December 1, 1969, in Pagadian City, BIENVENIDO A. EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extended and gave MARIO EBARLE, son of his brother, his relative by consanguinity within the third degree, an appointment as SECURITY GUARD in the Office of the Provincial Engineer of Zamboanga del Sur although he well knew that the latter is related with him in the third degree by consanguinity and is not qualified under the Civil Service Law.

Second Count:

That in January, 1970, at Pagadian City, Gov. BIENVENIDO A. EBARLE replaced JOHNNY ABABON who was then the incumbent Motor Pool Dispatcher in the Office of the Provincial Engineer of Zamboanga del Sur with his nephew-in-law TERESITO MONTESCLAROS relative by affinity within the third Civil degree, in violation of the Civil Service Law, this knowingly causing undue injury in the discharge of his administrative function through manifest partiality against said complaining employee.

Third Count:

That on or about December 18, 1969, in Pagadian City, BIENVENIDO A. EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extended and gave ELIZABETH EBARLE MONSTESCLAROS, daughter of his brother, his relative by consanguinity within the third degree, an

appointment as Private Secretary in the Office of the Provincial Governor of Zamboanga del Sur, although he well know that the latter is related with him within the third degree of consanguinity, and said appointment is in violation of the Civil Service Law.

Fourth Count:

That on or about January 22, 1970, in Pagadian City, BIENVENIDO A. EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extended and gave ZACARIAS UGSOD, JR., son of the younger sister of Governor Ebarle, his relative by consanguinity within the third degree, an appointment as Architectural Draftsman in the Office of the Provincial Engineer of Zamboanga del Sur although he well know that the latter is related with him in the third degree of consanguinity.

Fifth Count:

That on February 5, 1970, at Pagadian City, BIENVENIDO A. EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extended and gave TERESITO MONTESCLAROS, husband of his niece ELIZABETH EBARLE, his relative by affinity within the third degree, an appointment as Motor Pool Dispatcher, Office of the Provincial Engineer of Zamboanga del Sur, although he well knew then that the latter was not qualified to such appointment as it was in violation of the Civil Service Law, thereby knowingly granting and giving unwarranted advantage and preference in the discharge of his administrative function through manifest partiality.

II. SPECIFICATION FOR VIOLATION OF SECTION 4 (b), R.A. 3019

That on August 19, 1967, respondent BIENVENIDO A. EBARLE, Governor of Zamboanga del Sur, taking advantage of his position, caused, persuaded, induced, or influence the Presiding Judge to perform irregular and felonious act in violation of applicable law or constituting an offense into awarding and decreeing Lot 2545 of the Pagadian Public Lands subdivision to him who, according to the records of the case, failed to establish his rights of ownership pursuant to the provisions of the Land Registration Law and the Public Land Act, it appearing that the Provincial Government of Zamboanga del Sur as and is a claimant and in adverse possession of Lot 2545 whereon the Provincial Jail Building thereon still stands.

III. SPECIFICATION FOR VIOLATION OF ARTICLE 171 (4), REVISED PENAL CODE:

First Count:

That on or about December 18, 1969, in Pagadian City, BIENVENIDO A. EBARLE, then and there unlawfully and feloniously made untruthful statement in a narration of facts by accomplishing and issuing a certificate, to wit:

"c. That the provisions of law and rules on promotion, seniority and nepotism have been observed."

required by law in such cases, in support of the appointment he extended to TERESITO MONTESCLAROS, husband of his niece ELIZABETH EBARLE, as Motor Pool Dispatcher, Office of the Provincial Engineer of Zamboanga del Sur, although he well knew that the latter is related with him within the third degree of affinity and is in violation of the Civil Service Law.

Second Count:

That on or about December 18, 1969, in Pagadian City, BIEVENIDO A. EBARLE, then and there unlawfully and feloniously made untruthful statements a certificate, to wit:

"c. That the provisions of the law and rules on promotion, seniority and nepotism have been observed."

required by law in such cases, in support of the appointment he extended to ELIZABETH EBARLE-MONTESCLAROS, as Private Secretary in the Office of the Provincial Governor of Zamboanga del

Sur, although he well knew that the latter is related with him within the third degree of consanguinity, and is in violation of the Civil Service Law.

CONTRARY to aforecited laws.[8]

xxx xxx xxx

On September 21, 1971, the private respondent instituted I.S. No. 7-71 of the said City Fiscal, again charging the petitioner with further violations of Republic Act No. 3019 thus:

xxx xxx xxx

First Count:

That on or about December 2, 1969, in Pagadian City, BIENVENIDO EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extend and give unwarranted benefits and privileges BONINDA EBARLE, wife of his brother Bertuldo Ebarle, the former being his relative by affinity within the second civil degree, an appointment as LABORATORY TECHNICIAN in Pagadian City, although he well knew that the latter is related to him in the second degree by affinity and is not qualified under the Civil Service Law.

Second Count:

That on or about January 1, 1970, at Pagadian City, BIEVENIDO EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extend and give unwarranted benefits and privileges JESUS EBARLE, nephew of said respondent, an appointment as DRIVER of the Provincial Engineer's Office, Pagadian City, although he well knew that Jesus Ebarle is related to him within the third civil degree by consanguinity and is not qualified under the Civil Service Law.

Third Count:

That on or about November 1, 1969, at Pagadian City, BIENVENIDO EBARLE, Provincial Governor of Zamboanga del Sur, did then and there unlawfully and feloniously extend and give unwarranted benefits and privileges PHENINA CODINERA, sister-in-law of said respondent, an appointment as CONFIDENTIAL ASSISTANT in the Office of the Provincial Governor, Pagadian City, although he well knew that Phenina Codinera is related to him in the second civil degree of consanguinity and is not qualified under the Civil Service Law.

ALL CONTRARY TO AFORECITED LAW.

Please give due course to the above complaint and please set the case for immediate preliminary investigation pursuant to the First Indorsement dated August 27, 1971 of the Secretary of Justice, and in the paramount interest of good government.[9]

xxx xxx xxx

The petitioner thereafter went to the respondent Court of First Instance of Zamboanga del Sur, the Honorable Asali Isnani presiding, on a special civil action (Special Civil Case No. 1048) for prohibition and certiorari with preliminary injunction. The respondent Court issued a restraining order. The respondent Anti-Graft League moved to have the same lifted and the case itself dismissed.

On September 27, 1971, Judge Isnani issued an order, dismissing the case.

On October 6, 1971, the petitioner instituted G.R. No. 34162 of this Court, a special civil action for certiorari with preliminary injunction. As earlier noted, we, on October 8, 1971, stayed the implementation of dismissal order.

Subsequently, we consolidated both petitions and considered the same submitted for decision.

Principally, the petitioner relies (in both petitions) on the failure of the respondents City Fiscal and the Anti-Graft League to comply with the provisions of Executive Order No. 264, "OUTLINING THE PROCEDURE BY WHICH COMPLAINANTS CHARGING GOVERNMENT OFFICIALS AND EMPLOYEES WITH COMMISSION OF IRREGULARITIES SHOULD BE GUIDED,"[10] preliminary to their criminal recourses. At the same time, he assails the standing of the respondent Anti-Graft League to commence the series of prosecutions below (G.R. No. 33628). He likewise contends that the respondent Fiscal (in G.R. No. 34162), in giving due course to the complaints notwithstanding the restraining order we had issued (in G.R. No. 33628), which he claims applies as well thereto, committed a grave abuse of discretion. He likewise submits that the prosecutions in question are politically motivated, initiated by his rivals, he being, as we said, a candidate for reelection as Governor of Zamboanga del Sur.

We dismiss these petitions.

The petitioner's reliance upon the provisions of Executive Order No. 264 has no merit. We reproduce the Order in toto:

MALACANANG
RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA
BY THE PRESIDENT OF THE PHILIPPINES
EXECUTIVE ORDER NO. 264

OUTLINING THE PROCEDURE BY WHICH COMPLAINANTS CHARGING GOVERNMENT OFFICIALS AND EMPLOYEES WITH COMMISSION OF IRREGULARITIES SHOULD BE GUIDED.

WHEREAS, it is necessary that the general public be duly informed or reminded of the procedure provided by law and regulations by which complaints against public officials and employees should be presented and prosecuted;

WHEREAS, actions on complaints are at times delayed because of the failure to observe the formal requisites therefor, to indicate with sufficient clearness and particularity the charges or offenses being aired or denounced, and to file the complaint with the proper office or authority;

WHEREAS, without in any way curtailing the constitutional guarantee of freedom of expression, the Administration believes that many complaints or grievances could be resolved at the lower levels of government if only the provisions of law and regulations on the matter are duly observed by the parties concerned; and

WHEREAS, while all sorts of officials misconduct should be eliminated and punished, it is equally compelling that public officials and employees be given opportunity afforded them by the constitution and law to defend themselves in accordance with the procedure prescribed by law and regulations;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

1. Complaints against public officials and employees shall be in writing, subscribed and sworn to by the complainants, describing in sufficient detail and particularity the acts or conduct complained of, instead of generalizations.
2. Complaints against presidential appointees shall be filed with the Office of the President or the Department Head having direct supervision or control over the official involved.
3. Those against subordinate officials and employees shall be lodged with the proper department or agency head.
4. Those against elective local officials shall be filed with the Office of the President in case of provincial and city officials, with the provincial governor or board secretary in case of municipal officials, and with the municipal or city mayor or secretary in case of barrio officials.
5. Those against members of police forces shall be filed with the corresponding local board of investigators headed by the city or municipal treasurer, except in the case of those appointed by the President which should be filed with the Office of the President.
6. Complaints against public officials and employees shall be promptly acted upon and disposed of by the officials or authorities concerned in accordance with pertinent laws and regulations so that the erring officials or employees can be soonest removed or otherwise disciplined and the innocent, exonerated or vindicated in like manner, and to the end also that other remedies, including court action, may be pursued forthwith by the interested parties after administrative remedies shall have been exhausted.

Done in the City of Manila, this 6th day of October, in the year of Our Lord, nineteen hundred and seventy.

(Sgd.) FERDINAND E. MARCOS

President of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary^[11]

It is plain from the very wordings of the Order that it has exclusive application to administrative, not criminal, complaints. The Order itself shows why.

The very title speaks of "COMMISSION OF IRREGULARITIES." There is no mention, not even by implication, of criminal "offenses," that is to say, "crimes." While "crimes" amount to "irregularities," the Executive Order could have very well referred to the more specific term had it intended to make itself applicable thereto.

The first perambulatory clause states the necessity for informing the public "of the procedure provided by law and regulations by which complaints against public officials and employees should be presented and prosecuted."^[12] To our mind, the "procedure provided by law and regulations" referred to pertains to existing procedural rules with respect to the presentation of administrative charges against erring government officials. And in fact, the aforequoted paragraphs are but restatements thereof. That presidential appointees are subject to the disciplinary jurisdiction of the President, for instance, is a reecho of the long-standing doctrine that the President exercises the power of control over his appointees.^[13] Paragraph 3, on the other hand, regarding subordinate officials, is a mere reiteration of Section 33 of Republic Act No. 2260, the Civil Service Act (of 1959) then in force, placing jurisdiction upon "the proper Head of Department, the chief of a bureau or office"^[14] to investigate and decide on matters involving disciplinary action.

Paragraph 4, which refers to complaints filed against elective local officials, reiterates, on the other hand, the Decentralization Act of 1967, providing that "charges against any elective provincial and city officials shall be preferred before the President of the Philippines; against any elective municipal official before the provincial governor or the secretary of the provincial board concerned; and against any elective barrio official before the municipal or secretary concerned." [15]

Paragraph 5, meanwhile, is a reproduction of the provisions of the Police Act of 1966, vesting upon a "Board of Investigators" [16] the jurisdiction to try and decide complaints against members of the Philippine police.

Clearly, the Executive Order simply consolidates these existing rules and streamlines the administrative apparatus in the matter of complaints against public officials. Furthermore, the fact is that there is no reference therein to judicial or pre-judicial (like a preliminary investigation conducted by the fiscal) recourse, not because it makes such a resort a secondary measure, but because it does not intend to serve as a condition precedent to, much less supplant, such a court resort.

To be sure, there is mention therein of "court action[s] [being] pursued forthwith by the interested parties," [17] but that does not, so we hold, cover proceedings such as criminal actions, which do not require a prior administrative course of action. It will indeed be noted that the term is closely shadowed by the qualification, "after administrative remedies shall have been exhausted," [18] which suggests civil suits subject to previous administrative action.

It is moreover significant that the Executive Order in question makes specific reference to "erring officials or employees x x x removed or otherwise vindicated." [19] If it were intended to apply to criminal prosecutions, it would have employed such technical terms as "accused," "convicted", or "acquitted". While this is not necessarily a controlling parameter for all cases, it is here material in construing the intent of the measure.

What is even more compelling is the Constitutional implications if the petitioner's arguments were accepted. For Executive Order No. 264 was promulgated under the 1935 Constitution in which legislative power was vested exclusively in Congress. The regime of Presidential lawmaking was to usher in yet some seven years later. If we were to consider the Executive Order law, we would be forced to say that it is an amendment to Republic Act No. 5180, the law on preliminary investigations then in effect, a situation that would give rise to a Constitutional anomaly. We cannot accordingly countenance such a view.

The challenge the petitioner presents against the personality of the Anti-Graft League of the Philippines to bring suit is equally without merit. That the Anti-Graft League is not an "offended party" within the meaning of Section 2, Rule 110, of the Rules of Court (now Section 3 of the 1985 Rules on Criminal Procedure), cannot abate the complaints in question.

A complaint for purposes of preliminary investigation by the fiscal need not be filed by the "offended party." The rule has been that, unless the offense subject thereof is one that cannot be prosecuted de oficio, the same may be filed, for preliminary investigation purposes, by any competent person. [20] The "complaint" referred to in the Rule 110 contemplates one filed in court, not with the fiscal. In the that case, the proceeding must be started by the aggrieved party himself. [21]

For as a general rule, a criminal action is commenced by complaint or information, both of which are filed in court. In case of a complaint, it must be filed by the offended party; with respect to an information, it is the fiscal who files it. But a "complaint" filed with the fiscal prior to a judicial action may be filed by any person.

The next question is whether or not the temporary restraining order we issued in G.R. No. 33628 embraced as well the complaint subject of G.R. No. 34162.

It is noteworthy that the charges levelled against the petitioner -- whether in G.R. No. 33628 or 34162 -- refer invariably to violations of the Anti-Graft law or the Revised Penal Code. That does not, however, make such charges identical to one another.

The complaints involved in G.R. No. 34162 are, in general, nepotism under Sections 3(c) and (j) of Republic Act No. 3019; exerting influence upon the presiding Judge of the Court of First Instance of Zamboanga del Sur to award a certain parcel of land in his favor, over which the provincial government itself lays claims, contrary to the provisions of Section 4(b) of Republic Act No. 3019; and making untruthful statements in the certificates of appointment of certain employees in his office. On the other hand, the complaints subject matter of G.R. No. 33628 involve charges of simulating bids for the supply of gravel and sand for certain public works projects, in breach of Section 3 of the Anti-Graft statute; manipulating bids with respect to the construction of the capitol building; testifying falsely in connection with Cadastral Case No. N-17, LRC Cad. Rec. N-468, in which the petitioner alleged that he was the owner of a piece of land, in violation of Articles 182, 183, and 318 of the Revised Penal Code; and simulating bids for the supply of gravel and sand in connection with another public works project.

It is clear that the twin sets of complaints are characterized by major differences. When, therefore, we restrained further proceedings in I.S. Nos. 1-71, 2-71, and 4-71, subject of G.R. No. 33628, we did not consequently stay the proceedings in CCC XVI-4-ZDS, CCC XVI-6-ZDS, CCC XVI-8-ZDS, and I.S. Nos. 6-71 and 7-71, the same proceedings we did restrain in G.R. No. 34162.

This brings us to the last issue: whether or not the complaints in question are tainted with a political color.

It is not our business to resolve complaints the disposition of which belongs to another agency, in this case, the respondent Fiscal. But more than that, and as a general rule, injunction does not lie to enjoin criminal prosecutions.[22] The rule is subject to exceptions, to wit: (1) for the orderly administration of justice; (2) to prevent the use of the strong arm of the law in an oppressive and vindictive manner; (3) to avoid multiplicity of actions; (4) to afford adequate protection to constitutional rights; and (5) because the statute relied on is constitutionally infirm or otherwise void.[23] We cannot perceive any of the exceptions applicable here. The petitioner cries foul, in a manner of speaking, with respect to the deluge of complaints commenced by the private respondent below, but whether or not they were filed for harassment purposes is a question we are not in a position to decide. The proper venue, we believe, for the petitioner's complaints is precisely in the preliminary investigations he wishes blocked here.

WHEREFORE, the petitions are DISMISSED. The temporary restraining orders are LIFTED and SET ASIDE. Costs against the petitioner.

It is so ORDERED.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Rollo, G.R. No. 33628, 40-41.

[2] Id., 42.

[3] Id., 43.

[4] Id., 45-46.

[5] Rollo, G.R. No. 34162, 98 (Crim. Case No. CCC XVI-4-ZDS).

[6] Id., 99 (Crim. Case No. CCC XVI-6-ZDS).

[7] Id., 100 (Crim. Case No. CCC XVI-8-ZDS).

[8] Id., 32-35.

[9] Id., 94-95.

[10] Exec. Order No. 264 (1970), 66 O.G. 9344 (Oct., 1970).

[11] Supra, 9394-9395.

[12] Supra, 9394.

[13] See supra, par. 2; Ang-Angco v. Castillo, No. L-17169, November 30, 1963, 9 SCRA 619 (1963).

[14] Rep. Act No. 2260, sec. 33 (1959)

[15] Rep. Act No. 5185, sec. 5 (1967).

[16] Rep. Act No. 4864, sec. 15 (1966).

[17] Supra, par. 6.

[18] Supra.

[19] Supra.

[20] Hernandez v. Albano, No. L-17081, May 31, 1961, 2 SCRA 607 (1961)

[21] Supra.

[22] Asutilla v. Philippine National Bank, No. L-51354, January 15, 1986, 141 SCRA 40 (1986); Guingona, Jr. v. City Fiscal of Manila, No. L-60033, April 4, 1984, 128 SCRA 577 (1984).

[23] Supra.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.