

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
DOLORES COQUIA, DEFENDANT AND APPELLEE.***G.R. No. L-16456. June 29, 1963*

Ponente: REGALA, J.

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From an incident which occurred on July 1, 1957, one David C. Naval filed with the Municipal Court of the City of Naga a complaint for grave oral defamation against the herein defendant-appellee, Dolores Coquia. Thereafter and by virtue of that complaint, the same court ordered her arrest. On July 22, 1957, however, the same court forwarded the records of the case to the Court of First Instance of Camarines Sur for the continuance of the proceedings since the accused had renounced her right to the second stage of preliminary investigation. In turn, on August 2, 1957, the last mentioned court endorsed the case to the Office of the City Attorney for reinformation. For some unexplained reasons, the case was left completely unacted on by the City Fiscal's office until January 26, 1959 when the City Fiscal filed with the Court of First Instance of Camarines Sur the corresponding information for grave oral defamation against the accused, appellee herein.

The defense filed a Motion to Dismiss on the ground of prescription which was opposed by the prosecution. Ruling on the motion, the court a quo sustained the movant and dismissed the case. A motion for reconsideration therefor having been denied, the City Attorney, represented by the Solicitor General's Office, appealed to this Court.

The Solicitor General concedes that the delay in the filing of the information for this case had been unduly long. Quite subtly even, the concession extends to an admission that prescription had indeed set in. It was expressed, however, that the instant appeal was never the less interposed so that a ruling may be secured as to the precise period when a criminal proceeding should be considered as having been "unjustifiably stopped to mark the resumption of the running of the period of prescription" pursuant to the provisions of Article 91 of the Revised Penal Code, hereunder quoted:

"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 acquitted; or are unjustifiably stopped for any reason not imputable to him. "The term of prescription shall not run when the offender is absent from the Philippine Archipelago."

We do not believe that the facts of this case warrant a resolution of the issue raised. It is sufficient to indicate and conformably to the doctrine expressed in the case of *People vs. Juan del Rosario*, 110 Phil., 476, December 29, 1960, the prescriptive period for the case at bar was never interrupted. In the said case, We declared that—

"Under Article 90 of the Revised Penal Code, light offenses prescribe in two months. Article 91 of the same Code provides that 'the period of prescription shall commence' to run from the day on which the crime was 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 acquitted, or are unjustifiably stopped for any reason not imputable to him.' The complaint or information referred to in the above provisions which interrupts the running of the prescriptive period, as ruled in the case of *People vs. Tayco* (73 Phil., 509), accusation lodged by the offended party in the Fiscal's Office * * *."

It should be recalled that the proper court in the present litigation was the Court of First Instance of Camarines Sur. The record of this case clearly show that no formal complaint or information as contemplated by the aforementioned Article 91 of the Penal Code was ever filed therein within the reglementary period. As a matter of fact, the said formal complaint or information was filed only after the lapse of more than one year. Considering that under the Code, the prescriptive period for grave oral defamation is six months (Art. 90, Revised Penal Code), the only conclusion deducible is that the same has prescribed.

Applying the principle laid down in the aforecited case of *People vs. Del Rosario*, supra, We cannot speak of the resumption of the prescriptive period since it has never been interrupted.

Wherefore, the appeal taken by the Government is hereby dismissed and the order dismissing the information is hereby affirmed in full. Costs de officio.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L. Barrera Paredes, Dizon and Makalintal, JJ., concur.

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