

FEDERICO QUIZON AND PROFITISA QUIZON, PETITIONERS, VS. HON. JOSE L. BALTAZAR, MUNICIPAL JUDGE OF SAN FERNANDO, PAMPANGA; ELIODORO B. GUINTO, ASSISTANT PROVINCIAL FISCAL OF PAMPA...*G.R. Nos. L-23779-80. April 29, 1977*

Ponente: BARREDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fa9b0eb6d5df/>**BARREDO, J.:**

Petition for certiorari and prohibition to declare null and void the orders of the Municipal Court of San Fernando, Pampanga, issued in Criminal Cases Nos. 4203; People vs. Federico Quizon and 4204, People vs. Profitisa Quizon, dated July 11 and August 17, 1964, respectively, denying petitioners' motion to quash the criminal complaints against them based on the ground of prescription of the offense of serious oral defamation of which they were charged, and to prohibit said court from proceeding further with the said criminal cases, except to dismiss the same.

On May 11, 1964, private respondent, Cecilia Sangalang, with the assistance of Assistant Provincial Fiscal Eliodoro B. Guinto, who had conducted the preliminary investigation, filed with respondent court two separate criminal complaints both for serious oral defamation, the one against petitioner Federico Quizon in Criminal Case No. 4203 and the other petitioner Profitisa Quizon in Criminal Case No. 4204, committed, according to the said complaints on the same day, November 11, 1963. Upon being called for arraignment, petitioners presented a written motion to quash contending principally that the offense charged had already prescribed as of May 9, 1964.

In support of their motion, petitioners argued that by express provision of Article 90 of the Revised Penal Code, the offense of oral defamation prescribes in six months and under the authority of People vs. del Rosario, 97 Phil. 67, the correct computation of said six months for the purposes of their particular case is as follows:

"From Nov. 12 to 30, 1963 there were..... 19 days
December, 1963 had..... 31 days
January, 1964 had..... 31 days
February, 1964 had..... 29 days
March, 1964 had..... 31 days
April, 1964 had..... 30 days
From May 1 to 9, 1964 was a matter of..... 9 days
From Nov. 12, 1963 to May 9, 1964 were..... 180 days"

(Page 26, Record.)

Overruling their motion, respondent court reasoned out thus:

"The prosecution opposed the motion to dismiss by making a computation of time as follows:

"From Nov. 12 to 30, 1964, there are..... 19 days

December..... 30 days

January..... 30 days

February 30 days

March..... 30 days

April..... 30 days

From May 1 to 11, 1964, there are..... 11 days

From Nov. 12, 1963 to May 11, 1964 are 180 days

(Opposition to the Motion to Quash, p. 2)

"A study of the provisions of the laws pertinent to the issue at bar leads one to agree with the mode of computation submitted by the public prosecutor because Article 90 of the Revised Penal Code, in providing for the prescriptive period for oral defamation, speaks of month, not of day, as the basic unit in reckoning the duration of the prescription, when it says that 'offenses of oral defamation x x x shall prescribe in six months.' Article 13 of the new Civil Code says that 'when the laws speak of x x x, months, x x x, it shall be understood that x x x month x x x of thirty days each x x x. It says further that 'If months are designated by their name, they shall be computed by the number of days which they respectively have. Conformably to these legal provisions and applying the same to the case at bar, the computation given by the public prosecutor appears to be correct. The month of November was designated in the complaint so it will be given the number of days it has in the calendar which is 30 days. But the succeeding months of December, January, February, March and April, which are the months comprised within the prescriptive period of six (6) months are nowhere specifically designated by their name, consequently they should be given the 30-day period of duration in accordance with the first paragraph of Article 13 aforesaid. It is believed, and the Court so holds, that this formula or mode of computation is more squarely in accordance with the one adopted in the case of *People vs. Del Rosario* (G. R. No. L-7234) quoted in the motion to quash. The month of May, having been designated in the complaint, was given the number of 31 days it has in the calendar, the succeeding month of June comprised within the prescriptive period was given 30-day duration, so it resulted to be thus:

May 28 to 31----- 3 days (the 28th was excluded)

June----- 30 days

July 27----- 27 days (the 27th was included)

60 days

"In pursuance thereto, the Supreme Court in the *Del Rosario* Case finally held that the filing of the action on July 27 was on the 60th day.

"If the formula for computation of the defense is to be followed, Article 13 in so far as a month is to be understood to be of 30 days, unless the month is designated by its name, will be rendered nugatory, for the simple reason that there are months that have 31 days in the calendar to be reckoned with as they will be within the prescriptive period. The basic unit of computation used by the defense is by the day and not by the month of 30-day duration as provided for in Article 90 of the Revised Penal Code, the counting of which is to be

made in relation to Article 13 of the Civil Code (new).

"The contention of the private prosecutor no longer needs discussion in view of the conclusion arrived at above." (Pp. 37-40, Record.)

Surely, such ratiocination is plainly erroneous. In the case of *People vs. del Rosario*, supra, which was properly brought to the attention of the court in petitioners' motion to quash, this Court held very clearly that:

"The pertinent provisions of Articles 90 and 91 of the Revised Penal Code are as follows:

'Art. 90. Prescription of crimes. - * * *.

The offenses of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.'

'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, * * *.'

"The court a quo held that in accordance with Article 13 of the new Civil Code the 'month' mentioned in Article 90 of the Revised Penal Code should be one of 30 days, and since the period of prescription commences to run from the day 'on which the crime is discovered by the offended party,' i.e., in this case on May 28, 1953 when it was committed, the two months period provided for the prescription of the offense already expired when the information was filed, because the filing was on the 61st day. The Solicitor General in this appeal argues that in the same manner that Article 13 of the new Civil Code is applied to determine the length of the two months period required for the prescription of the offense, its provision (of the said Article 13) contained in paragraph 3 which reads 'In computing a period, the first day shall be excluded, and the last day included' should also be applied, so that the information should be considered as filed on the 60th day and not on the 61st day after the offense has been committed. The resolution of the appeal involves the determination of two legal issues, first, whether the prescriptive period should commence from the very day on which the crime was committed, or from the day following that in which it was committed, in accordance with the third paragraph of Article 13 of the Civil Code of the Philippines, and second, whether the term 'month' in the Revised Penal Code should be understood to be a month of 30 days, instead of the civil or calendar month.

"As to the first question, we note that Article 91 of the Revised Penal Code provides that the period shall commence to run from the day on which the offense is committed or discovered. The title indicates that the provision merely purports to prescribe the manner of computing the period of prescription. In the computation of a period of time within which an act is to be done, the law in this jurisdiction has always directed the first day be excluded and the last included (See section 1, Rule 28 of the Rules of Court; section 13, Rev. Adm. Code and Art. 13, Civil Code of the Philippines). And in the case of *Surbano vs. Gloria*, 51 Phil., 415, where the question involved was whether an offense had prescribed, we held that from February 18 to March 15, 1927 only a period of 25 days elapsed, because we excluded the first day (February 18) and included the last day (March 15). The above method of computation was in force in this jurisdiction even before the advent of the American regime (Article 7, Spanish Civil Code). It is logical to presume, therefore, that the Legislature in enacting Article 91 of the Revised Penal Code meant or intended to mean that in the computation of the period provided for therein, the first day is to be excluded and the last one included, in accord with existing laws.

"We find much sense in the argument of the Solicitor General that if the Civil Code of the Philippines is to be resorted to in the interpretation of the length of the month, so should it be resorted to in the computation of the period of prescription. Besides, Article 18 of the Civil Code (Article 16 of the old Civil Code) expressly directs that any deficiency in any special law (such as the Revised Penal Code) must be supplied by its provisions. As

the Revised Penal Code is deficient in that it does not explicitly define how the period is to be computed, resort must be had to its Article 13, which contains in detail the manner of computing a period. We find, therefore, that the trial court committed error in not excluding the first day in the computation of the period of prescription of the offense.

"The other question is whether a month mentioned in Article 90 should be considered as the calendar month and not the 30-day month. It is to be noted that no provision of the Revised Penal Code defines the length of the month. Article 7 of the old Civil Code provided that a month shall be understood as containing 30 days; but this concept was modified by section 13 of the Revised Administrative Code which provides that a month means the civil or calendar month and not the regular 30-day month (*Gutierrez vs. Carpio*, 53 Phil., 334). With the approval of the Civil Code of the Philippines (R. A. No. 386), however, we have reverted to the provisions of the Spanish Civil Code in accordance with which a month is to be considered as the regular 30-day month (Article 13). This provision of the new Civil Code has been intended for general application in the interpretation of the laws. As the offense charged in the information in the case at bar took place on May 28, 1953, after the new Civil Code had come into effect, this new provision should apply, and in accordance therewith the month in Article 90 of the Revised Penal Code should be understood to mean the regular 30-day month.

"In our conclusion that the term 'month' used in the Revised Penal Code should be interpreted in the sense that the new Civil Code defines the said term, we find persuasive authority in a decision of the Supreme Court of Spain. In a case decided by it in the year 1887 (*S. de 30 de Marzo de 1887*), prior to the approval of the Civil Code of Spain, it had declared that when the law spoke of months, it meant the natural month or the solar month, in the absence of express provisions to the contrary. But after the promulgation of the Civil Code of Spain, which provided in its Article 7 a general rule for the interpretation of the laws, and with particular respect to months, that a month shall be understood as a 30-day month, said court held that the two months period for the prescription of a light offense should be understood to mean 60 days, a month being a 30-day month. (*S. de 6 de Abril de 1895*, 3 Viada, p. 45). Similarly, we hold that in view of the express provisions of Article 13 of the new Civil Code the term 'month' used in Article 90 of the Revised Penal Code should be understood to mean the 30-day month and not the solar or civil month.

"We hold, therefore, that the offense charged in the information prescribed in 60 days, said period to be counted by excluding May 28, the commission of the offense, and we find that when the information was filed on July 27, 1953 the offense had not yet prescribed because July 27 is the sixtieth day from May 29." (97 Phil., pp. 68-72.)

In the light of the foregoing pronouncements of this Court, the insistence of respondents that the factual situation in this case is substantially different from the one in *del Rosario* is too tenuous to merit consideration. Respondents have not shown any ponderous reason why We have to depart from the above rulings.

Indeed, it being obvious that respondent court disregarded the construction of the pertinent legal provisions by this Court, the charge of petitioners that it has committed grave abuse of discretion must be sustained.

As to the contention of respondents that the denial of a motion to quash is not a ground for certiorari or prohibition, suffice it to state that to allow an accused to undergo the ordeals of trial and conviction when the information or complaint against him is patently defective or the offense charged therein has been indisputably shown to have already prescribed is unfair and unjust, for which reason, procedurally, the ordinary remedy of appeal cannot be plain and adequate.

WHEREFORE, the petition is granted and the criminal complaints in the aforementioned cases are hereby ordered dismissed. No costs.[1]

Fernando, (Chairman), Antonio, Aquino, and Martin*, JJ., concur.

Concepcion, Jr., J., no part.

[1] In the interest of speedy administration of justice, We are overlooking the omission to join in the petition the People of the Philippines.

* Mr. Justice Ruperto G. Martin was designated to sit in the Second Division.

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.