

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE SANDIGANBAYAN AND CEFERINO S. PAREDES, JR., RESPONDENTS.

G.R. No. 101724. July 03, 1992

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Assailed in this petition for certiorari under Rule 45 of the Rules of Court is the resolution promulgated on August 1, 1991 by the Sandiganbayan which granted the private respondent's motion to quash the information for violation of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019) on the ground of prescription or the crime charged.

Two letter-complaints were filed on October 28, 1986 and December 9, 1986, with the Tanodbayan by Teofilo Gelacio, a political leader of Governor Valentina Plaza, wife of Congressman Democrito O. Plaza of Agusan del Sur, shortly after the private respondent had replaced Mrs. Plaza as OIC/provincial governor of Agusan del Sur in March 1986 (p. 235, Rollo). Gelacio's complaint questioned the issuance to Governor Paredes, when he was still the provincial attorney in 1976, of a free patent title for Lot No. 3097-8, Pls. 67, with an area of 1,391 sq.m., more or less, in the Rosario public land subdivision in San Francisco, Agusan del Sur.

On February 23, 1989, the Tanodbayan referred the complaint to the City Fiscal of Butuan City who subpoenaed Governor Paredes. However, the subpoena was served on, and received by, the Station Commander of San Francisco, Agusan del Sur, who did not serve it on Paredes. Despite the absence of notice to Paredes, Deputized Tanodbayan/City Fiscal Ernesto Brocoy conducted a preliminary investigation ex parte. He recommended that an information be filed in court. His recommendation was approved by the Tanodbayan who, on August 10, 1989, filed the following information in the Sandiganbayan where it was docketed as TBP Case No. 86-03368:

"That on or about January 21, 1976, or sometime prior or subsequent thereto, in San Francisco, Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Provincial Attorney of Agusan del Sur, having been duly appointed and qualified as such, taking advantage of his public position, did, then and there, wilfully and unlawfully persuade, influence and induce the Land Inspector of the Bureau of Lands, by the name of Armando L. Luison to violate an existing rule or regulation duly promulgated by competent authority by misrepresenting to the latter that the land subject of an application filed by the accused with the Bureau of Lands is disposable by a free patent when the accused well knew that the said land had already been reserved for a school site, thus by the accused's personal misrepresentation in his capacity as Provincial Attorney of Agusan del Sur and applicant for a free patent, a report favorably recommending the issuance of a free patent was given by the said Armando L. Luison, land inspector, thereby paving the way to the release of a decree of title, by the Register of Deeds of Agusan del Sur, an act committed by the accused, in outright prejudice of the public interest." (pp. 3-4, Rollo.)

Paredes was arrested upon a warrant issued by the Sandiganbayan. Claiming that the information and the warrant of arrest were null and void because he had been denied his right to a preliminary investigation, Paredes refused to post bail. His wife filed a petition for habeas corpus praying this Court to order his release (Paredes vs.

Sandiganbayan, 193 SCRA 464), but we denied her petition because the proper remedy was for Paredes to file a bail bond of P20,000 fixed by the Sandiganbayan for his provisional liberty, and move to quash the information before being arraigned.

On April 5, 1991, Paredes filed in the Sandiganbayan "An Urgent Motion to Quash Information and to Recall Warrant of Arrest" alleging that:

1. he is charged for an offense which has prescribed;
2. the preliminary investigation, as well as the Information prepared by the Tanodbayan and the Warrant of Arrest issued by the Sandiganbayan were invalid for lack of notice to him of the preliminary investigation conducted by Deputized Tanodbayan Ernesto M. Brocoy and Tanodbayan Prosecutor Josephine Z. Fernandez; and
3. his constitutional right to due process had been violated by the long delay in the termination of the preliminary investigation.

After the parties had filed their written arguments, the Sandiganbayan issued a resolution on August 1, 1991 granting the motion to quash on the ground of prescription of the offense charged. The Sandiganbayan's ratiocination of its resolution is quoted below:

"The crime charged is alleged to have been committed on or about January 21, 1976 when the accused allegedly misrepresented to a Lands inspector of the Bureau of Lands that the land subject of the herein movant's Application for a Free Patent was disposable land. This misrepresentation allegedly resulted in the issuance of a Torrens Title under a Free Patent to the herein accused-movant. This, the Information avers, was prejudicial to the public interest because the land in question had been reserved for a school site and was, therefore, not disposable.

"Thus, the charge is for the violation of Sec. 3(a) of R.A. No. 3019 because the accused had allegedly persuaded, induced and influenced the Public Lands Inspector to violate existing law, rules and regulations by recommending approval of the free patent application.

"The accused asserts that since at the time of the alleged commission of the crime (January 21, 1976) the period of prescription was ten (10) years under Sec. 11 of R.A. No. 3019, the crime should have prescribed in 1986. The prosecution seems to agree with the movant's statement as to the term of the prescriptive period with the qualification that the period of prescription should have commenced to run from March 28, 1985, when the complaint was allegedly filed by the Republic for the cancellation of the title.

"xxx xxx xxx.

"The question then is this: when should the period of prescription have commenced to run as to the alleged misrepresentation which persuaded, influenced and induced the Lands Inspector of the Bureau of Lands resulting in the approval or the application or the accused for a free patent?

"xxx xxx xxx.

"The Supreme Court has clearly stated that even in the case of falsification of public documents, prescription commences from its recording with the Registry of Deeds when the existence of the document and the averments therein theoretically become a matter of public knowledge.

"xxx xxx xxx.

"The matter of improper inducement, persuasion or influence upon the Lands Inspector allegedly applied by the accused through his misrepresentation may have been unknown to others besides the two of them because their interaction would presumably have been private. The fact of the improper segregation of the piece of land

in question and the grant thereof to the accused, however, became, presumptively at least, a matter of public knowledge upon the issuance of a Torrens Title over that parcel of non-disposable public land.

"xxx xxx xxx.

"4. Notice to the whole world must be presumed at the very latest on May 28, 1976 when the Register of Deeds of Agusan del Sur issued Original Certificate of Title No. 8379 in the name of the accused as a result of the grant of the patent on the school site reservation;

"5. The act of filing the approved free patent with the Registry of Deeds is notice duly given to the various offices and officials of the government, e.g., the Department (Ministry) of Agriculture and the Bureau of Lands, who are affected thereby specially because it is the Bureau of Lands which files the approved patent application with the Registry of Deeds. If the land in question was indeed reserved for a school site, then the Department (Ministry) of Education would also know or would be presumed to know." (pp. 28-33, Rollo.)

The Sandiganbayan could not abide the fact that the Lands Inspector (Luison) who was supposedly induced by Paredes to violate the law, and who did violate it by recommending approval of Paredes free patent application was not charged with a crime. The Sandiganbayan concluded:

"It would seriously strain credulity to say that while the violation of law rules or regulation by the Lands Inspector was obvious and public (since the school site had been titled in the name of the alleged inducer Pimentel*), the beneficiary thereof could not have been suspected of having induced the violation itself. It would be grossly unfair and unjust to say that prescription would run in favor of the Lands Inspector who had actually violated the law put not to the public official who had benefited therefrom and who may have, therefore, instigated the favorable recommendation for the disposition of non-disposable land.

"In view of all the foregoing, the Motion to Quash the Information is granted." (p. 36, Rollo.)

The Sandiganbayan further observed that since R.A. No. 3019 is a special law, the computation of the period for the prescription of the crime of violating it is governed by Section 29 of Act No. 3326 which provides as follows:

"Sec. 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

"The 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."

The Sandiganbayan correctly observed that "the date of the violation of the law becomes the operative date for the commencement of the period of prescription" (p. 34, Rollo).

Assuming that Paredes did induce Lands Inspector Luison to recommend approval of his application for free patent (which both of them denied doing), the date of the violation, for the purpose of computing the period or prescription, would be the date of filing his application on January 21, 1976.

The theory of the prosecution that the prescriptive period should not commence upon the filing of Paredes' application because no one could have known about it except Paredes and Lands Inspector Luison, is not correct for, as the Sandiganbayan pointedly observed: "it is not only the Lands Inspector who passes upon the disposability or public land x x x other public officials pass upon the application for a free patent including the location of the land and, therefore, the disposable character thereof" (p. 30, Rollo). Indeed, practically all the department personnel, who had a hand in processing and approving the application, namely: (1) the lands inspector who inspected the land to ascertain its location and occupancy; (2) the surveyor who prepared its technical description; (3) the regional director who assessed the application and determined the land classification;

(4) the Director of Lands who prepared the free patent; and (5) the Department Secretary who signed it, could not have helped "discovering" that the subject of the application was nondisposable public agricultural land.

The Sandiganbayan correctly observed that the "crime" whether it was the filing of Paredes' application for a free patent in January 1976 or his supposedly having induced Luison to recommend its approval, prescribed ten (10) years later, on January 21, 1986. Gelacio's complaint, dated October 28, 1986, was filed late.

The reason for the extinction of the State's right to prosecute a crime after the lapse of the statutory limitation period for filing the criminal action, is that:

"Statutes of Limitation are construed as being acts of grace, and as a surrendering by the sovereign of its right to prosecute or of its right to prosecute at its discretion, and they are considered as equivalent to acts of amnesty. Such statutes are founded on the liberal theory that prosecutions should not be allowed to ferment endlessly in the files of the government to explode only after witnesses and proofs necessary to the protection of accused have by sheer lapse of time passed beyond availability. They serve, not only to bar prosecutions on aged and untrustworthy evidence, but also to cut off prosecution for crimes a reasonable time after completion, when no further danger to society is contemplated from the criminal activity." (22 CJS 573-574.)

"In the absence of a special provision otherwise, the statute of limitations begins to run on the commission of an offense and not from the time when the offense is discovered or when the offender becomes known, or it normally begins to run when the crime is complete." (22 CJS 585; Underscoring ours.)

Even if the ten-year prescriptive period commenced to run from the registration and issuance of the free patent title by the Register of Deeds on May 28, 1976, registration being constructive notice to the whole world, the prescriptive period would have fully run its course on May 28, 1986, or five (5) months before Gelacio filed his complaint, and more than thirteen (13) years before judicial proceedings were initiated in the Sandiganbayan August 10, 1989 by the filing of the information therein.

Batas Pambansa Blg. 195 which was approved on March 16, 1982, amending Section 11 of R.A. No. 3019 by increasing from ten (10) to fifteen (15) years the period for the prescription or extinguishment of a violation of the Anti-Graft and Corrupt Practices Act, may not be given retroactive application to the "crime" which was committed by Paredes in January 1976 yet, for it would be prejudicial to the accused. It would deprive him or the substantive benefit of the shorter (10 years) prescriptive period under Section 11, R.A. 3019 which was an essential element of the "crime" at the time he committed it.

"Protection from prosecution under a statute of limitation is a substantive right. Where the statute fixes a period of limitation as to a prosecution for a particular offense, the limitation so fixed is jurisdictional, and the time within which the offense is committed is a jurisdictional fact, it being necessary that the indictment or information be actually filed within the time prescribed." (22 CJS 574.)

"Fact that the statute of limitations is jurisdictional necessarily determined that a prosecution within the period specified is an essential element of the offense." (People vs. Allen, 118 P 2d, 927; Emphasis supplied.)

"Unless statutes of limitation are clearly retrospective in their terms, they do not apply to crimes previously committed (22 CJS 576; People vs. Lurd, 12 Hun 282; Martine vs. State, 24 Tex 61; Underscoring ours.)

To apply B.P. Blg. 195 to Paredes would make it an ex post facto law for it would alter his situation to his disadvantage by making him criminally liable for a crime that had already been extinguished under the law existing when it was committed. An ex post facto law is defined as:

"A law passed after the occurrence of a fact or commission of an act, which retrospectively changes the legal consequences or relations of such fact of deed. By Art. 1 Sec. 10 of U.S. Const., the states are forbidden to pass 'any ex post facto law.' Most all state constitutions contain similar prohibitions against ex post facto laws.

"An 'ex post facto law' is defined as a law which provides for the infliction of punishment upon a person for an act done which, when it was committed, was innocent; a law which aggravates a crime or makes it greater than when it was committed; a law that changes the punishment or inflicts a greater punishment than the law annexed to the crime when it was committed; a law that changes the rules of evidence and receives less or different testimony than was required at the time of the commission of the offense in order to convict the offender; a law which, assuming to regulate civil rights and remedies only, in effect imposes a penalty or the deprivation of a right which, when done, was lawful; a law which deprives persons accused of crime of some lawful protection to which they have become entitled, such as the protection of a former conviction or acquittal, or of the proclamation of amnesty; every law which, in relation to the offense or its consequences, alters the situation of a person to his disadvantage. *Wilensky v. Fields*, Fla., 267 So. 2d 1, 5." (Black's Law Dictionary, Fifth Edition, p. 520.)

Since an ex post facto law is prescribed by our Constitution (Sec. 22, Article III, 1987 Constitution), the Sandiganbayan committed no reversible error in ruling that Paredes may no longer be prosecuted for his supposed violation of R.A. 3019 in 1976, six (6) years before B.P. Blg. 195 was approved on March 16, 1982. The new prescriptive period under that law should apply only to those offenses which were committed after the approval of B.P. Blg. 195.

WHEREFORE, the petition for review is DENIED for lack of merit. The resolution dated August 1, 1991 of the Sandiganbayan in Crim. Case No. 13800 is AFFIRMED. No costs.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Medialdea, Regalado, Davide, Jr., Romero, Nocon, and Bellosillo, JJ., concur.

* Paredes.

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