

LUZ M. ZALDIVIA, PETITIONER, VS. HON. ANDRES B. REYES, JR., IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, FOURTH JUDICIAL REGION, BRANCH 76, SAN MATEO, ...

G.R. No. 102342. July 03, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

The Court is asked to determine the applicable law specifying the prescriptive period for violations of municipal ordinances.

The petitioner is charged with quarrying for commercial purposes without a mayor's permit in violation of Ordinance No. 2, Series of 1988, of the Municipality of Rodriguez, in the Province of Rizal.

The offense was allegedly committed on May 11, 1990.[1] The referral-complaint of the police was received by the Office of the Provincial Prosecutor of Rizal on May 30, 1990.[2] The corresponding information was filed with the Municipal Trial Court of Rodriguez on October 2, 1990.[3]

The petitioner moved to quash the information on the ground that the crime had prescribed, but the motion was denied. On appeal to the Regional Trial Court of Rizal, the denial was sustained by the respondent judge.[4]

In the present petition for review on certiorari, the petitioner first argues that the charge against her is governed by the following provisions of the Rule on Summary Procedure:

Section 1. Scope. -- This rule shall govern the procedure in the Metropolitan Trial Courts, the Municipal Trial Courts, and the Municipal Circuit Trial Courts in the following cases:

x x x

B. Criminal Cases:

1. Violations of traffic laws, rules and regulations;
2. Violations of rental law;
3. Violations of municipal or city ordinances;
4. All other criminal cases where the penalty prescribed by law for the offense charged does not exceed six months imprisonment, or a fine of one thousand pesos (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom. x x x" (Emphasis supplied.)

x x x

Section 9. How commenced. – The prosecution of criminal cases falling within the scope of this Rule shall be either by complaint or by information filed directly in court without need of a prior preliminary examination or

preliminary investigation: Provided, however, That in Metropolitan Manila and chartered cities, such cases shall be commenced only by information; Provided, further, That when the offense cannot be prosecuted de oficio, the corresponding complaint shall be signed and sworn to before the fiscal by the offended party.

She then invokes Act No. 3326, as amended, entitled "An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run," reading as follows:

Section 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: x x x Violations penalized by municipal ordinances shall prescribe after two months.

Section 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.

Section 3. For the purposes of this Act, special acts shall be acts defining and penalizing violations of law not included in the Penal Code." (Emphasis supplied)

Her conclusion is that as the information was filed way beyond the two-month statutory period from the date of the alleged commission of the offense, the charge against her should have been dismissed on the ground of prescription.

For its part, the prosecution contends that the prescriptive period was suspended upon the filing of the complaint against her with the Office of the Provincial Prosecutor. Agreeing with the respondent judge, the Solicitor General also invokes Section 1, Rule 110 of the 1985 Rules on Criminal Procedure, providing as follows:

Section 1. How Instituted - For offenses not subject to the rule on summary procedure in special cases, the institution of criminal action shall be as follows:

- a) For offenses falling under the jurisdiction of the Regional Trial Court, by filing the complaint with the appropriate officer for the purpose of conducting the requisite preliminary investigation therein;
- b) For offenses falling under the jurisdiction of the Municipal Trial Courts and Municipal Circuit Trial Courts, by filing the complaint directly with the said courts, or a complaint with the fiscals office. However, in Metropolitan Manila and other chartered cities, the complaint may be filed only with the office of the fiscal.

In all cases such institution interrupts the period of prescription of the offense charged. (Emphasis supplied.)

Emphasis is laid on the last paragraph. The respondent maintains that the filing of the complaint with the Office of the Provincial Prosecutor comes under the phrase "such institution" and that the phrase "in all cases" applies to all cases, without distinction, including those falling under the Rule on Summary Procedure.

The said paragraph, according to the respondent, was an adoption of the following dictum in *Francisco v. Court of Appeals*:^[5]

In view of this diversity of precedents, and in order to provide guidance for Bench and Bar, this Court has re-examined 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 is

filed 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 represent 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.

It is important to note that this decision was promulgated on May 30, 1983, two months before the promulgation of the Rule on Summary Procedure on August 1, 1983. On the other hand, Section 1 of Rule 110 is new, having been incorporated therein with the revision of the Rules on Criminal Procedure on January 1, 1985, except for the last paragraph, which was added on October 1, 1988.

That section meaningfully begins with the phrase, "for offenses not subject to the rule on summary procedure in special cases," which plainly signifies that the section does not apply to offenses which are subject to summary procedure. The phrase "in all cases" appearing in the last paragraph obviously refers to the cases covered by the Section, that is, those offenses not governed by the Rule on Summary Procedure. This interpretation conforms to the canon that words in a statute should be read in relation to and not isolation from the rest of the measure, to discover the true legislative intent.

As it is clearly provided in the Rule on Summary Procedure that among the offenses it covers are violations of municipal or city ordinances, it should follow that the charge against the petitioner, which is for violation of a municipal ordinance of Rodriguez, is governed by that rule and not Section 1 of Rule 110.

Where paragraph (b) of the section does speak of "offenses falling under the jurisdiction of the Municipal Trial Courts and Municipal Circuit Trial Courts," the obvious reference is to Section 32(2) of B.P. No. 129, vesting in such courts:

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment of not exceeding four years and two months, or a fine of not more than four thousand pesos, or both such fine and imprisonment, regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value, or amount thereof; Provided, however, That in offenses involving damage to property through criminal negligence they shall have exclusive original jurisdiction where the imposable fine does not exceed twenty thousand pesos.

These offenses are not covered by the Rule on Summary Procedure.

Under Section 9 of the Rule on Summary Procedure, "the complaint or information shall be filed directly in court without need of a prior preliminary examination or preliminary investigation." [6] Both parties agree that this provision does not prevent the prosecutor from conducting a preliminary investigation if he wants to. However, the case shall be deemed commenced only when it is filed in court, whether or not the prosecution decides to conduct a preliminary investigation. This means that the running of the prescriptive period shall be halted on the date the case is actually filed in court and not on any date before that.

This interpretation is in consonance with the afore-quoted Act No. 3326 which says that the period of prescription shall be suspended "when proceedings are instituted against the guilty party." The proceedings referred to in Section 2 thereof are "judicial proceedings," contrary to the submission of the Solicitor General that they include administrative proceedings. His contention is that we must not distinguish as the law does not distinguish. As a matter of fact, it does.

At any rate, the Court feels that if there be a conflict between the Rule on Summary Procedure and Section 1 of Rule 110 of the Rules on Criminal Procedure, the former should prevail as the special law. And if there be a conflict between Act No. 3326 and Rule 110 of the Rules on Criminal Procedure, the latter must again yield because this Court, in the exercise of its rule-making power, is not allowed to "diminish, increase or modify substantive rights" under Article VIII, Section 5(5) of the Constitution. Prescription in criminal cases is a substantive right.[7]

Going back to the Francisco case, we find it not irrelevant to observe that the decision would have been conformable to Section 1, Rule 110, as the offense involved was grave oral defamation punishable under the Revised Penal Code with arresto mayor in its maximum period to prision correccional in its minimum period. By contrast, the prosecution in the instant case is for violation of a municipal ordinance, for which the penalty cannot exceed six months,[8] and is thus covered by the Rule on Summary Procedure.

The Court realizes that under the above interpretation, a crime may prescribe even if the complaint is filed seasonably with the prosecutor's office if, intentionally or not, he delays the institution of the necessary judicial proceedings until its too late. However, that possibility should not justify a misreading of the applicable rules beyond their obvious intent as reasonably deduced from their plain language. The remedy is not a distortion of the meaning of the rules but a rewording thereof to prevent the problem here sought to be corrected.

Our conclusion is that the prescriptive period for the crime imputed to the petitioner commenced from its alleged commission on May 11, 1990, and ended two months thereafter, on July 11, 1990, in accordance with Section 1 of Act No. 3326. It was not interrupted by the filing of the complaint with the Office of the Provincial Prosecutor on May 30, 1990, as this was not a judicial proceeding. The judicial proceeding that could have interrupted the period was the filing of the information with the Municipal Trial Court of Rodriguez, but this was done only on October 2, 1990, after the crime had already prescribed.

WHEREFORE, the petition is GRANTED, and the challenged Order dated October 2, 1991 is SET ASIDE. Criminal Case No. 90-089 in the Municipal Trial Court of Rodriguez, Rizal, is hereby DISMISSED on the ground of prescription. It is so ordered.

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

[1] Rollo, p. 18.

[2] Ibid.

[3] Id., p. 19; Through Judge Andres B. Reyes, Jr.

[4] id., p. 21.

[5] 122 SCRA 538.

[6] The phrase "filed directly in court without need of prior preliminary examination or preliminary investigation" was deleted under the Revised Rule on Summary Procedure effective on November 15, 1991.

[7] People vs. Castro, 95 Phil. 463.

[8] Section 447, Local Government Code.

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