

PRESIDENTIAL AD HOC FACT-FINDING COMMITTEE ON BEHEST LOANS, REPRESENTED BY ORLANDO L. SALVADOR, PETITIONER, VS. OMBUDSMAN ANIANO A. DESIERTO, PANFILO O. DOMINGO, CONRADO S. REYE...

G.R. NO. 135703. April 15, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On challenge by the Presidential Ad Hoc Fact Finding Committee on Behest Loans, represented by Orlando L. Salvador (petitioner), is the Resolution of then Ombudsman Aniano A. Desierto (Ombudsman) dated August 19, 1998 in OMB-0-97-1911 dismissing its complaint against Panfilo O. Domingo, Conrado S. Reyes, Zosimo C. Malabanan, Jose R. Tengco, Jr., Placido L. Mapa, Jr., Verden C. Dangilan, Armando T. Romualdez, Vilma S. Romualdez, Juan L. Syquian, and Alfredo T. Romualdez, for violation of Section 3(e) and (g) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

On October 8, 1992, then President Fidel V. Ramos issued Administrative Order No. 13 creating the Presidential Ad Hoc Fact-Finding Committee on Behest Loans (Committee) which was tasked to conduct an inventory of all behest loans, determine the parties involved, and recommend the appropriate action to be pursued. The Committee was composed of the Chairman of the Presidential Commission on Good Government (PCGG) as Chairman, the Solicitor General, representatives from the Office of the Executive Secretary, the Department of Finance, the Department of Justice, the Development Bank of the Philippines (DBP), the Philippine National Bank, the Asset Privatization Trust, the Philippine Export and Foreign Loan Guarantee Corporation, and the Government Corporate Counsel, as members.[1]

The Committee's functions were later expanded by President Ramos via Memorandum Order No. 61 dated November 9, 1992 to include the inventory and review of all non-performing loans, whether behest or non-behest. For this purpose, the following criteria were established as a frame of reference in determining a behest loan:

- It is undercollateralized;
 - The borrower corporation is under-capitalized;
 - Direct or indirect endorsement by high government officials like presence of marginal notes;
 - Stockholders, officers or agents of the borrower corporation are identified as cronies;
 - Deviation of use of loan proceeds from the purpose intended;
 - Use of corporate layering;
 - Non-feasibility of the project for which financing is being sought; [and]
- (a) Extra-ordinary speed in which the loan release was made.[2]

Among the accounts referred to the Committee for investigation were those of Golden Country Farms, Inc. (GCFI), which involved loans from the National Investment Development Corporation (NIDC) and DBP.

After its investigation, the Committee concluded that GCFI's loan transactions with NIDC and DBP bore badges of a behest loan, particularly the following: (1) the loans were undercollateralized; (2) the GCFI was undercapitalized; (3) stockholders, officers, or agents of GCFI were identified as cronies; (4) direct or indirect endorsement by high government officials like the presence of marginal notes; and (5) extraordinary speed in which the proceeds of the loan were released.

Atty. Orlando L. Salvador (Atty. Salvador), PCGG consultant of the Committee, thereupon filed a sworn complaint^[3] with the Ombudsman alleging that GCFI's loan transactions were behest loans that violated R.A. No. 3019, specifically Section 3(e) and (g) thereof:

Sec. 3. Corrupt Practice of Public Officers. -- In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful.

Xxx xxx xxx

e. Causing any undue injury to any party, including the Government or giving any private party any unwarranted benefit, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

Xxx xxx xxx

(a) Entering on behalf of the Government into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

Atty. Salvador identified ten individuals who could be held liable. Six of them - Panfilo O. Domingo, Conrado S. Reyes, Zosimo C. Malabanan, Jose R. Tengco, Jr., Placido L. Mapa, Jr., and Verden C. Dangilan - were officers and members of the board of directors of NIDC and DBP. The remaining four - Armando T. Romualdez, Vilma S. Romualdez, Juan L. Syquian, and Alfredo T. Romualdez - were stockholders and officers of GCFI.

In his accompanying sworn statement,^[4] Atty. Salvador detailed the Committee's findings as follows:

GCFI applied for a credit facility of \$5.7 million (P43 million at the then prevailing exchange rate) and a letter of guarantee in the amount of \$7.6 million (P57 million), or a total of \$13.3 million (P100 million). Panfilo O. Domingo endorsed the loan on October 17, 1975 to the NIDC board of directors and the latter approved a credit facility of \$5.7 million (P43 million) in favor of GCFI on October 22, 1975. The documents pertinent to GCFI's application for a letter of guarantee for \$7.6 million (P57 million) were thereafter forwarded to DBP and approved on May 5, 1976.

At the time the NIDC loan of P43 million was approved, GCFI had a paid-up capital of only P3.5 million; whereas at the time the DBP loan of P57 million was approved, it had a paid-up capital of only P10 million. The loans were also undercollateralized, the appraised value of GCFI's collateral having amounted to only P50,540,301 as of April 29, 1977, while the loan releases then had already totaled P72 million.

GCFI loan proponents Armando T. Romualdez, Vilma S. Romualdez, and Alfredo T. Romualdez are related to then First Lady Imelda R. Marcos. On five occasions, then President Ferdinand E. Marcos gave instructions to DBP regarding the management of GCFI's loan and disposition of its assets, viz:

- On December 7, 1978, President Marcos instructed Chairman Placido Mapa to grant the request for the restructuring of the maturity period of the loans and condonation of interest. (Annex 9, Evidence 21)
- On June 26, 1980, President Marcos gave instructions to Chairman Rafael Sison to release the balance of P18.9 million and restructure the entire loan. (Annex 10, Evidence 22)
- On July 15, 1980, President Marcos approved the takeover by DBP and NIDC of GCFI for its rehabilitation. (Annex 11, Evidence 23)
- On March 4, 1981, President Marcos instructed Chairman Rafael Sison to approve the request for tax exemption. (Annex 12, Evidence 24)
- (a) On January 11, 1983, President Marcos gave clearance to Chairman Cesar Zalamea on the proposed disposition of the assets of GCFI. (Annex 13, Evidence 25)[5]

GCFI had an outstanding balance of P211,950,520.76 owing to NIDC as of June 30, 1986, and of P302,685,193.31 to DBP as of December 31, 1986.

Only Armando T. Romualdez and Vilma S. Romualdez (spouses Romualdez) complied with the Ombudsman's order to file a counter-affidavit.

In their Joint Counter-Affidavit dated August 17, 1998, spouses Romualdez alleged, among other things, that the offenses charged had prescribed and not all the elements of a behest loan were present; and that GCFI had infused an additional capital of P100 million, as well as caused the installation of NIDC and DBP comptrollers at GCFI as signatories to all its disbursements.[6]

By Resolution of August 19, 1998,[7] the Ombudsman dismissed the complaint, finding that there was insufficient evidence to warrant the indictment of the persons charged, and that the alleged offenses had prescribed. The Ombudsman explained:

To hold herein respondents for violation of Sec. 3(e) of R.A. 3019, it is but significant to establish the injury suffered by the offended party or the unwarranted benefit afforded to any party and the means employed to accomplish the object of the questioned act or deed. For such purpose, concrete and convincing evidence pointing to such facts are necessary.

A cursory look at the records at hand discloses that there was absence of a clear proof showing that the government has suffered damage by reason of the questioned financial transaction. On record is the fact that even prior to the issuance of the Sequestration Order, dated July 27, 1987, by the herein complainant, former President Marcos or per the allegation of the complainant had already approved the take-over by DBP and NIDC of the GCFI's management and operation. This was likewise the response of the GCFI's Corporate Secretary in a letter, dated September 2, 1997, to the Sequestration Order issued by the complainant. The said letter tacitly disclosed that GCFI's management and operation had been taken over by DBP, PNB and NFA, its major creditors, since August of 1980.

X x x Absent such indispensable element of the act complained of, the respondents cannot be held liable herefore.

Moreover, prescription has already intervened in the prosecution of the offenses charged.

X x x x

x x x [T]he reckoning period for purposes of prescription shall begin to run from the time the public instruments came into existence.

In the case at bar, the subject financial accommodations were entered into by virtue of public documents

during the period of 1975 to 1976 and for purposes of computing the prescriptive period, the aforementioned principles in the Dinsay, Villalon and Sandiganbayan cases will apply. Records show that the complaint was referred and filed with this Office on October 1, 1997 or after the lapse of more than twenty (20) years from the violation of the law. Deducibly therefore, the offenses charged have already prescribed or forever barred by the Statute of Limitations.

It must be pointed out that the acts complained of were committed before the issuance of BP 195 on March 2, 1982. Hence, the prescriptive period in the instant case is ten (10) years as provided in Section 11 of R.A. 3019, as originally enacted.[8] (Emphasis and underscoring supplied)

Hence, this petition for review on certiorari.[9]

The Court initially referred the case to the Court of Appeals for appropriate action by Resolution dated November 25, 1998.[10] On the Ombudsman's motion for reconsideration, however, the Court recalled the November 25, 1998 Resolution and required respondents to comment on the petition within ten days from notice.[11]

The Committee argued that the Ombudsman erred in holding that the Government did not suffer any damage as its takeover of GCFI's management and operation was actually prompted by the losses it had incurred;[12] that the right of the State to recover behest loans as ill-gotten wealth is imprescriptible under Section 15, Article XI of the 1987 Constitution;[13] and that assuming that the period to file criminal charges herefore is subject to prescription, the prescriptive period should be counted from the time of discovery of the behest loans or sometime in 1992 when the Committee was constituted.[14]

The Ombudsman, in his Comment,[15] countered that his finding of insufficiency of evidence to warrant an indictment must be accorded full faith and credit; that the offenses charged had prescribed, more than ten years having elapsed from the time of their commission; and that absent any showing of jurisdictional error, his dismissal of the complaint must be upheld.

Alfredo T. Romualdez, for his part, contended that the proper remedy to challenge the Ombudsman's findings is a petition for certiorari under Rule 65 of the Rules of Court, and not a petition for review on certiorari under Rule 45 thereof; that the Committee's failure to move for reconsideration with the Ombudsman warrants the outright dismissal of its petition; that the courts should not interfere with the Ombudsman's exercise of his constitutional power to determine the sufficiency of a complaint to merit an indictment; and that the State had lost its right to prosecute the alleged offenses by prescription.[16]

In their Comment,[17] spouses Romualdez averred that the Ombudsman has ample discretion to determine whether to prosecute or dismiss a complaint, and that the Committee has no legal right to question his findings. They also posited that Section 15, Article XI of the 1987 Constitution applies only to civil cases and not to criminal cases involving supposedly ill-gotten wealth, hence, the Committee's action has prescribed, the complaint having been filed only in 1997 or more than ten years from the approval of the loans in 1975 and 1976. They added that the same is true even if the prescriptive period of ten years is counted from the time the Marcoses left the country and the Aquino administration took over in 1986.

Jose R. Tengco, Jr., on the other hand, filed a Comment[18] and a Manifestation in further support thereof,[19] wherein he maintained that the Ombudsman's findings are supported by the records and should not be disturbed; that the Court has articulated a policy of non-interference with the Ombudsman's exercise of discretion in the discharge of his investigatory power; and that the Court had previously upheld the Ombudsman's dismissal of the Committee's complaints in other behest loans cases.

Verden C. Dangilan stated in his Comment[20] that no evidence had been presented to substantiate the alleged violations of R.A. No. 3019; and that the subject loans are not behest loans since no short-cuts were taken in the

approval thereof.

Panfilo O. Domingo asseverated that the sworn statement of Atty. Salvador and its attachments failed to establish probable cause; that the Government had not quantified its actual injury; and that the action had prescribed.[21]

Placido L. Mapa, Jr. pleaded transactional immunity from all PCGG-initiated civil cases and criminal proceedings or investigations, pursuant to an Agreement with the Government affirmed by this Court in Mapa, Jr. v. Sandiganbayan.[22] And he argued that the offenses charged had prescribed since the discovery thereof should be reckoned, at the latest, from the time GCFI was sequestered by the PCGG on July 27, 1987, which was more than ten years before the filing of the complaint with the Ombudsman (the date of filing, as determined by the Ombudsman, is October 1, 1997); and that at any rate, the DBP loan actually released was only P29 million and the same was secured by collateral worth P116,754,760 more or less.[23]

With respect to the other respondents, the Court, by Resolution of February 20, 2002,[24] considered Zosimo C. Malabanan and Juan L. Syquian to have waived the filing of a Comment, they having failed to do so. The same should also apply to Conrado S. Reyes who similarly failed to heed the Court's directive to file a Comment.

The Court shall first deal with procedural issues.

Indeed, the remedy from an adverse resolution of the Ombudsman is a petition for certiorari under Rule 65,[25] but what was filed with the Court is a petition for review on certiorari under Rule 45. Nevertheless, the Court will treat this petition as one filed under Rule 65 since a reading of its contents shows that the Committee imputes grave abuse of discretion to the Ombudsman for dismissing the complaint.[26]

Respecting the Committee's failure to file a motion for reconsideration with the Ombudsman, the general rule is that before filing a petition for certiorari under Rule 65, the petitioner is mandated to comply with a condition precedent: the filing of a motion for reconsideration of the assailed order, which motion is denied. The rule, however, is subject to the following recognized exceptions:

(a) where the order is a patent nullity, as where the court a quo has no jurisdiction; (b) where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceeding was ex parte or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or public interest is involved.[27] (Emphasis and underscoring supplied.)

As will be shown later, the challenged Resolution of the Ombudsman dismissing the complaint on the grounds of prescription and insufficiency of evidence was issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and thus a nullity. At all events, the case involves public interest warranting a relaxation of the rule.

In the matter of prescription, the computation of the prescriptive period for offenses involving the acquisition of behest loans has been laid to rest in Presidential Ad Hoc Committee on Behest Loans v. Hon. Desierto:[28]

[I]t was well-nigh impossible for the State, the aggrieved party, to have known the violations of R.A. No. 3019 at the time the questioned transactions were made because, as alleged, the public officials concerned connived or conspired with the "beneficiaries of the loans." Thus, we agree with the COMMITTEE that the prescriptive period for the offenses with which the respondents in OMB-0-96-0968 were charged should be computed from

the discovery of the commission thereof and not from the day of such commission.[29] (Emphasis and underscoring supplied)

The ruling was reiterated and explained in *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Ombudsman Desierto*:[30]

In cases involving violations of R.A. No. 3019 committed prior to the February 1986 EDSA Revolution that ousted President Ferdinand E. Marcos, we ruled that the government as the aggrieved party could not have known of the violations at the time the questioned transactions were made. Moreover, no person would have dared to question the legality of those transactions. Thus, the counting of the prescriptive period commenced from the date of discovery of the offense in 1992 after an exhaustive investigation by the Presidential Ad Hoc Committee on Behest Loans.[31] (Emphasis and underscoring supplied.)

Applying the foregoing settled rule, the counting of the prescriptive period commenced from the discovery of the offenses in 1992 after an exhaustive investigation by the Committee. When the complaint was filed in 1997 or after about five years, prescription had not set in.[32]

On the merits. Ordinarily, the Court will not interfere with the Ombudsman's determination as to the existence or non-existence of probable cause. The rule, however, does not apply if there is grave abuse of discretion.[33]

After a considered review of the records and the respective positions of the parties, the Court finds that the case calls for the exercise of its power of supervision over the Ombudsman.

Private respondents are charged with violation of Section 3(e) and (g) of R.A. No. 3019.

The elements of the offense in Section 3(e) are: (1) that the accused are public officers or private persons charged in conspiracy with them; (2) that said public officers commit the prohibited acts during the performance of their official duties or in relation to their public positions; (3) that they cause undue injury to any party, whether the Government or a private party; (4) that such injury is caused by giving unwarranted benefits, advantage or preference to such parties; and (5) that the public officers have acted with manifest partiality, evident bad faith or gross inexcusable negligence.

On the other hand, the elements of the offense in Section 3(g), are: (1) that the accused is a public officer; (2) that he entered into a contract or transaction on behalf of the Government; and (3) that such contract or transaction is grossly and manifestly disadvantageous to the Government.

There are two phases that demarcate the questioned acts, the demarcation line pertaining to the legal relationship that evolved between GCFI on the one hand, and NIDC and DBP on the other. The first phase encompasses GCFI's application for a loan and its approval by NIDC and DBP. This phase covers the period prior to the takeover of GCFI by NIDC and DBP, when GCFI's identity and interests were clearly distinct from those of NIDC and DBP. The second phase commenced when NIDC and DBP assumed ownership over GCFI, thereby incorporating the latter's assets and obligations into theirs. At that point, the interest of NIDC and DBP in GCFI was no longer confined to ensuring that the latter pay its loan obligations, but rather, expanded to making it a profitable venture.

Applying the earlier stated elements, it is apparent that in theory there can be liability for violating Section 3(e) and (g) of R.A. No. 3019 with respect to the pre-takeover transactions, but there can be liability for violating only Section 3(g) with respect to post-takeover transactions.[34]

A Section 3(e) violation requires that there be injury caused by giving unwarranted benefits, advantages or preferences to private parties who conspire with public officers. This element no longer exists after the takeover since the stockholders in their private capacity had already been effectively excluded from the management of the

corporation they previously controlled. In contrast, Section 3(g) does not require the giving of unwarranted benefits, advantages or preferences to private parties, the core element being the engagement in a transaction or contract that is grossly and manifestly disadvantageous to the Government.

These distinctions were totally lost in the Ombudsman's challenged Resolution, which seemingly regarded the takeover as a magic formula that had cured lock, stock and barrel all alleged violations of R.A. No. 3019.

The Ombudsman in fact failed to properly resolve the issues raised by the parties, he having predicated his finding of insufficiency of evidence solely on the alleged lack of injury suffered by the Government in view of, again, the takeover. The Court finds that, on the contrary, that the loan had remained unpaid at the time of the takeover should have been enough basis for a finding of injury to the Government.

AT ALL EVENTS, as reflected earlier, injury to the Government is only required to support a charge under Section 3(e), but not under Section 3(g), of R.A. No. 3019; and there can still be a violation of Section 3(g) insofar as the post-takeover transactions are concerned.

The duty of the Ombudsman in the conduct of a preliminary investigation is to establish whether there exists probable cause to file an information in court against the accused. Considering the quantum of evidence needed to support a finding of probable cause, the Court holds that the Ombudsman gravely abused his discretion when he found such to be lacking here.

Preliminary investigation is not the occasion for the full and exhaustive display of the parties' evidence. It is for the presentation of such evidence only as may engender a well-founded belief that an offense has been committed and that the accused is probably guilty thereof. The validity and merits of a party's accusation or defense, as well as admissibility of testimonies and evidence, are better ventilated during the trial proper.[35]

In the proceedings before the Ombudsman, the Committee and spouses Romualdez presented conflicting accounts on whether GCFI was undercapitalized and the subject loans undercollateralized. While the Committee found that GCFI's capital was way below the amounts of the loan at the time of their approval, spouses Romualdez countered that GCFI had infused an additional capital of P100 million. Moreover, while the Committee averred that the appraised value of GCFI's collateral fell inadequate as of April 29, 1977, spouses Romualdez contended that GCFI furnished additional security by causing NIDC and DBP comptrollers to be installed at GCFI as signatories to all disbursements made by the latter. Clearly, these conflicting claims of the parties should be resolved in a full-blown trial.[36]

It behooves the Ombudsman, while he asks the Court to respect his findings, to also accord a proper modicum of respect towards the expertise of the Committee, which was formed precisely to determine the existence of behest loans. Considering the membership of the Committee -representatives from the Department of Finance, the Philippine National Bank, the Asset Privatization Trust, the Philippine Export and Foreign Loan Guarantee Corporation and even DBP itself - its recommendation should be given great weight. No doubt, the members of the Committee are experts in the field of banking. On account of their special knowledge and expertise, they are in a better position to determine whether standard banking practices are followed in the approval of a loan or what would generally constitute as adequate security for a given loan.[37] Absent a substantial showing that their findings were made from an erroneous estimation of the evidence presented, they are conclusive and, in the interest of stability of the governmental structure, should not be disturbed.[38]

It bears stressing that a finding of probable cause needs only to rest on evidence showing that more likely than not, a crime was committed and was committed by the suspects.[39] By this standard, the Court finds probable cause to bind over private respondents to stand trial for the offenses charged, except for Placido L. Mapa, Jr.

whom the Government had committed to exclude as party defendant or respondent in all PCGG-initiated civil cases and criminal proceedings or investigations in exchange for his having provided information relating to the prosecution of the Racketeer Influenced and Corrupt Organization Act cases against the Marcoses in New York.[40]

WHEREFORE, the petition is GRANTED. The Ombudsman's Resolution dated August 19, 1998 in OMB-0-97-1911 is REVERSED and SET ASIDE. The Ombudsman is ORDERED to file in the proper court the necessary information against Panfilo O. Domingo, Conrado S. Reyes, Zosimo C. Malabanan, Jose R. Tengco, Jr., Verden C. Dangilan, Armando T. Romualdez, Vilma S. Romualdez, Juan L. Syquian, and Alfredo T. Romualdez.

SO ORDERED.

Carpio Morales[*], J., Acting Chairperson

Tinga, Chico-Nazario[**], Velasco, Jr., and Peralta[***], JJ., concur.

[*] In lieu of Justice Leonardo A. Quisumbing who took no part.

[**] Additional member in lieu of Justice Quisumbing.

[***] Additional member in lieu of the leave of absence due to sickness of Justice Arturo D. Brion.

[1] CA rollo, pp. 10-11.

[2] Ibid.

[3] Id. at 46-51.

[4] Id at 47-49.

[5] Id. at 49.

[6] Id. at 38-39.

[7] Id. at 35-44.

[8] Id. at 41-42.

[9] Id. at 8-34.

[10] Rollo, p. 10.

[11] Id. at 20.

[12] CA rollo, pp. 15-16.

[13] Sec. 15. The right of the State to recover properties unlawfully acquired by public officials or employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel.

[14] CA rollo, pp. 16-28.

[15] Rollo, pp. 81-93.

[16] Vide Comment filed by Alfredo T. Romualdez dated August 18, 1999; rollo, pp. 58-76.

[17] Rollo, pp. 27-45.

[18] Id. at 168-177.

[19] Id. at 277-284.

[20] Id. at 182-192.

[21] Vide Comment filed by Panfilo O. Domingo dated March 20, 2001; Rollo, pp. 205-216.

[22] G.R. No. 100295, April 26, 1994, 231 SCRA 783; Rollo, pp. 243-245.

[23] Rollo, pp. 245-250.

[24] Id. at 304-305.

[25] Cabrera v. Lapid, G.R. No. 129098, December 6, 2006, 510 SCRA 55, 64.

[26] Vide Salvador v. Mapa, Jr., et al., G.R. No. 135080, November 28, 2007, 539 SCRA 34, 44.

[27] Vide Nisce v. Equitable PCI Bank, Inc., G.R. No. 167434, February 19, 2007, 516 SCRA 231, 251.

[28] 375 Phil. 697 (1999).

[29] Id. at 724.

[30] 415 Phil. 723 (2001).

[31] Id. at 729-730.

[32] This is true whether the prescriptive period is ten or fifteen years. In *People v. Pacificador*, G.R. No. 139405, March 13, 2001, 354 SCRA 310, 318, the Court explained:

Section 11 of R.A. No. 3019, as amended by B.P. Blg. 195, provides that the offenses committed under the said statute shall prescribe in fifteen (15) years. It appears however, that prior to the amendment of Section 11 of R.A. No. 3019 by B.P. Blg. 195 which was approved on March 16, 1982, the prescriptive period for offenses punishable under the said statute was only ten (10) years. The longer prescriptive period of fifteen (15) years, as provided in Section 11 of R.A. No. 3019 as amended by B.P. Blg. 195, does not apply in this case for the reason that the amendment, not being favorable to the accused (herein private respondent), cannot be given retroactive effect. Hence the crime prescribed on January 6, 1986 or ten (10) years from January 6, 1976.

[33] *Tetangco v. Ombudsman*, G.R. No. 156427, January 20, 2006, 479 SCRA 249, 253.

[34] Vide Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. *Desierto*, et al., G.R. No. 147723, August 22, 2008, 563 SCRA 1.

[35] *Drilon v. Court of Appeals*, G.R. No. 115825, July 5, 1996, 258 SCRA 280, 286.

[36] Vide Presidential Ad-Hoc Fact-Finding Committee On Behest Loans v. *Desierto*, et al., G.R. No. 136225, April 23, 2008, 552 SCRA 513, 526.

[37] Id. at 527.

[38] Vide *Juan v. Commission on Elections*, G.R. No. 166639, April 24, 2007, 522 SCRA 119, 129.

[39] *Webb v. De Leon*, G.R. No. 121234, August 23, 1995, 247 SCRA 652, 675.

[40] Vide *Mapa, Jr. v. Sandiganbayan*, *supra* note 22 at 803.

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