

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. MA. THERESA PANGILINAN, RESPONDENT.

G.R. No. 152662. June 13, 2012

Ponente: PEREZ, J.

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PEREZ, J.:

The Office of the Solicitor General (OSG) filed this petition for certiorari^[1] under Rule 45 of the Rules of Court, on behalf of the Republic of the Philippines, praying for the nullification and setting aside of the Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 66936, entitled “Ma. Theresa Pangilinan vs. People of the Philippines and Private Complainant Virginia C. Malolos.”

The fallo of the assailed Decision reads:

WHEREFORE, the instant petition is GRANTED. Accordingly, the assailed Decision of the Regional Trial Court of Quezon City, Branch 218, is REVERSED and SET ASIDE and Criminal Cases Nos. 89152 and 89153 against petitioner Ma. Theresa Pangilinan are hereby ordered DISMISSED.^[3]

Culled from the record are the following undisputed facts:

On 16 September 1997, Virginia C. Malolos (private complainant) filed an affidavit-complaint for estafa and violation of Batas Pambansa (BP) Blg. 22 against Ma. Theresa Pangilinan (respondent) with the Office of the City Prosecutor of Quezon City. The complaint alleges that respondent issued nine (9) checks with an aggregate amount of Nine Million Six Hundred Fifty-Eight Thousand Five Hundred Ninety-Two Pesos (P9,658,592.00) in favor of private complainant which were dishonored upon presentment for payment.

On 5 December 1997, respondent filed a civil case for accounting, recovery of commercial documents, enforceability and effectivity of contract and specific performance against private complainant before the Regional Trial Court (RTC) of Valenzuela City. This was docketed as Civil Case No. 1429-V-97.

Five days thereafter or on 10 December 1997, respondent filed a “Petition to Suspend Proceedings on the Ground of Prejudicial Question” before the Office of the City Prosecutor of Quezon City, citing as basis the pendency of the civil action she filed with the RTC of Valenzuela City.

On 2 March 1998, Assistant City Prosecutor Ruben Catubay recommended the suspension of the criminal proceedings pending the outcome of the civil action respondent filed against private complainant with the RTC of Valenzuela City. The recommendation was approved by the City Prosecutor of Quezon City.

Aggrieved, private complainant raised the matter before the Department of Justice (DOJ).

On 5 January 1999, then Secretary of Justice Serafin P. Cuevas reversed the resolution of the City Prosecutor of Quezon City and ordered the filing of informations for violation of BP Blg. 22 against respondent in connection with her issuance of City Trust Check No. 127219 in the amount of P4,129,400.00 and RCBC Check No. 423773 in the amount of P4,475,000.00, both checks totaling the amount of P8,604,000.00. The estafa and violation of BP

Blg. 22 charges involving the seven other checks included in the affidavit-complaint filed on 16 September 1997 were, however, dismissed.

Consequently, two counts for violation of BP Blg. 22, both dated 18 November 1999, were filed against respondent Ma. Theresa Pangilinan on 3 February 2000 before the Office of the Clerk of Court, Metropolitan Trial Court (MeTC), Quezon City. These cases were raffled to MeTC, Branch 31 on 7 June 2000.

On 17 June 2000, respondent filed an "Omnibus Motion to Quash the Information and to Defer the Issuance of Warrant of Arrest" before MeTC, Branch 31, Quezon City. She alleged that her criminal liability has been extinguished by reason of prescription.

The presiding judge of MeTC, Branch 31, Quezon City granted the motion in an Order dated 5 October 2000.

On 26 October 2000, private complainant filed a notice of appeal. The criminal cases were raffled to RTC, Branch 218, Quezon City.

In a Decision dated 27 July 2001, the presiding judge of RTC, Branch 218, Quezon City reversed the 5 October 2000 Order of the MeTC. The pertinent portion of the decision reads:

xxx Inasmuch as the informations in this case were filed on 03 February 2000 with the Clerk of Court although received by the Court itself only on 07 June 2000, they are covered by the Rule as it was worded before the latest amendment. The criminal action on two counts for violation of BP Blg. 22, had, therefore, not yet prescribed when the same was filed with the court a quo considering the appropriate complaint that started the proceedings having been filed with the Office of the Prosecutor on 16 September 1997 yet.

WHEREFORE, the assailed Order dated 05 October 2000 is hereby REVERSED AND SET ASIDE. The Court a quo is hereby directed to proceed with the hearing of Criminal Cases Nos. 89152 and 89153.[4]

Dissatisfied with the RTC Decision, respondent filed with the Supreme Court a petition for review[5] on certiorari under Rule 45 of the Rules of Court. This was docketed as G.R. Nos. 149486-87.

In a resolution[6] dated 24 September 2000, this Court referred the petition to the CA for appropriate action.

On 26 October 2001, the CA gave due course to the petition by requiring respondent and private complainant to comment on the petition.

In a Decision dated 12 March 2002, the CA reversed the 27 July 2001 Decision of RTC, Branch 218, Quezon City, thereby dismissing Criminal Case Nos. 89152 and 89153 for the reason that the cases for violation of BP Blg. 22 had already prescribed.

In reversing the RTC Decision, the appellate court ratiocinated that:

xxx this Court reckons the commencement of the period of prescription for violations of Batas Pambansa Blg. 22 imputed to [respondent] sometime in the latter part of 1995, as it was within this period that the [respondent] was notified by the private [complainant] of the fact of dishonor of the subject checks and, the five (5) days grace period granted by law had elapsed. The private respondent then had, pursuant to Section 1 of Act 3326, as amended, four years therefrom or until the latter part of 1999 to file her complaint or information against the petitioner before the proper court.

The informations docketed as Criminal Cases Nos. 89152 and 89152(sic) against the petitioner having been filed with the Metropolitan Trial Court of Quezon City only on 03 February 2000, the said cases had therefore, clearly prescribed.

xxx

Pursuant to Section 2 of Act 3326, as amended, prescription shall be interrupted when proceedings are instituted against the guilty person.

In the case of *Zaldivia vs. Reyes*[7] the Supreme Court held that the proceedings referred to in Section 2 of Act No. 3326, as amended, are ‘judicial proceedings’, which means the filing of the complaint or information with the proper court. Otherwise stated, the running of the prescriptive period shall be stayed on the date the case is actually filed in court and not on any date before that, which is in consonance with Section 2 of Act 3326, as amended.

While the aforesaid case involved a violation of a municipal ordinance, this Court, considering that Section 2 of Act 3326, as amended, governs the computation of the prescriptive period of both ordinances and special laws, finds that the ruling of the Supreme Court in *Zaldivia v. Reyes*[8] likewise applies to special laws, such as *Batas Pambansa Blg. 22*.^[9]

The OSG sought relief to this Court in the instant petition for review. According to the OSG, while it admits that Act No. 3326, as amended by Act No. 3585 and further amended by Act No. 3763 dated 23 November 1930, governs the period of prescription for violations of special laws, it is the institution of criminal actions, whether filed with the court or with the Office of the City Prosecutor, that interrupts the period of prescription of the offense charged.^[10] It submits that the filing of the complaint-affidavit by private complainant Virginia C. Malolos on 16 September 1997 with the Office of the City Prosecutor of Quezon City effectively interrupted the running of the prescriptive period of the subject BP Blg. 22 cases.

Petitioner further submits that the CA erred in its decision when it relied on the doctrine laid down by this Court in the case of *Zaldivia v. Reyes, Jr.*^[11] that the filing of the complaint with the Office of the City Prosecutor is not the “judicial proceeding” that could have interrupted the period of prescription. In relying on *Zaldivia*,^[12] the CA allegedly failed to consider the subsequent jurisprudence superseding the aforesaid ruling.

Petitioner contends that in a catena of cases,^[13] the Supreme Court ruled that the filing of a complaint with the Fiscal’s Office for preliminary investigation suspends the running of the prescriptive period. It therefore concluded that the filing of the informations with the MeTC of Quezon City on 3 February 2000 was still within the allowable period of four years within which to file the criminal cases for violation of BP Blg. 22 in accordance with Act No. 3326, as amended.

In her comment-opposition dated 26 July 2002, respondent avers that the petition of the OSG should be dismissed outright for its failure to comply with the mandatory requirements on the submission of a certified true copy of the decision of the CA and the required proof of service. Such procedural lapses are allegedly fatal to the cause of the petitioner.

Respondent reiterates the ruling of the CA that the filing of the complaint before the City Prosecutor’s Office did not interrupt the running of the prescriptive period considering that the offense charged is a violation of a special law.

Respondent contends that the arguments advanced by petitioner are anchored on erroneous premises. She claims that the cases relied upon by petitioner involved felonies punishable under the Revised Penal Code and are therefore covered by Article 91 of the Revised Penal Code (RPC)^[14] and Section 1, Rule 110 of the Revised Rules on Criminal Procedure.^[15] Respondent pointed out that the crime imputed against her is for violation of BP Blg. 22, which is indisputably a special law and as such, is governed by Act No. 3326, as amended. She submits that a distinction should thus be made between offenses covered by municipal ordinances or special laws, as in this case, and offenses covered by the RPC.

The key issue raised in this petition is whether the filing of the affidavit-complaint for estafa and violation of BP

Blg. 22 against respondent with the Office of the City Prosecutor of Quezon City on 16 September 1997 interrupted the period of prescription of such offense.

We find merit in this petition.

Initially, we see that the respondent's claim that the OSG failed to attach to the petition a duplicate original or certified true copy of the 12 March 2002 decision of the CA and the required proof of service is refuted by the record. A perusal of the record reveals that attached to the original copy of the petition is a certified true copy of the CA decision. It was also observed that annexed to the petition was the proof of service undertaken by the Docket Division of the OSG.

With regard to the main issue of the petition, we find that the CA reversively erred in ruling that the offense committed by respondent had already prescribed. Indeed, Act No. 3326 entitled "An Act to Establish Prescription for Violations of Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin," as amended, is the law applicable to BP Blg. 22 cases. Appositely, the law reads:

SECTION 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) xxx; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) xxx.

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.

Since BP Blg. 22 is a special law that imposes a penalty of imprisonment of not less than thirty (30) days but not more than one year or by a fine for its violation, it therefor prescribes in four (4) years in accordance with the aforecited law. The running of the prescriptive period, however, should be tolled upon the institution of proceedings against the guilty person.

In the old but oft-cited case of *People v. Olarte*,^[16] this Court ruled that the filing of the complaint in the Municipal Court even if it be merely for purposes of preliminary examination or investigation, should, and thus, interrupt the period of prescription of the criminal responsibility, even if the court where the complaint or information is filed cannot try the case on the merits. This ruling was broadened by the Court in the case of *Francisco, et.al. v. Court of Appeals, et. al.*^[17] when it held that the filing of the complaint with the Fiscal's Office also suspends the running of the prescriptive period of a criminal offense.

Respondent's contention that a different rule should be applied to cases involving special laws is bereft of merit. There is no more distinction between cases under the RPC and those covered by special laws with respect to the interruption of the period of prescription. The ruling in *Zaldivia v. Reyes, Jr.*^[18] is not controlling in special laws. In *Llenes v. Dicdican*,^[19] *Ingco, et al. v. Sandiganbayan*,^[20] *Brillante v. CA*,^[21] and *Sanrio Company Limited v. Lim*,^[22] cases involving special laws, this Court held that the institution of proceedings for preliminary investigation against the accused interrupts the period of prescription. In *Securities and Exchange Commission v. Interport Resources Corporation, et. al.*,^[23] the Court even ruled that investigations conducted by the Securities and Exchange Commission for violations of the Revised Securities Act and the Securities Regulations Code effectively interrupts the prescription period because it is equivalent to the preliminary investigation conducted by the DOJ in criminal cases.

In fact, in the case of *Panaguaiton, Jr. v. Department of Justice*,^[24] which is in all fours with the instant case, this

Court categorically ruled that commencement of the proceedings for the prosecution of the accused before the Office of the City Prosecutor effectively interrupted the prescriptive period for the offenses they had been charged under BP Blg. 22. Aggrieved parties, especially those who do not sleep on their rights and actively pursue their causes, should not be allowed to suffer unnecessarily further simply because of circumstances beyond their control, like the accused's delaying tactics or the delay and inefficiency of the investigating agencies.

We follow the factual finding of the CA that "sometime in the latter part of 1995" is the reckoning date of the commencement of presumption for violations of BP Blg. 22, such being the period within which herein respondent was notified by private complainant of the fact of dishonor of the checks and the five-day grace period granted by law elapsed.

The affidavit-complaints for the violations were filed against respondent on 16 September 1997. The cases reached the MeTC of Quezon City only on 13 February 2000 because in the meanwhile, respondent filed a civil case for accounting followed by a petition before the City Prosecutor for suspension of proceedings on the ground of "prejudicial question". The matter was raised before the Secretary of Justice after the City Prosecutor approved the petition to suspend proceedings. It was only after the Secretary of Justice so ordered that the informations for the violation of BP Blg. 22 were filed with the MeTC of Quezon City.

Clearly, it was respondent's own motion for the suspension of the criminal proceedings, which motion she predicated on her civil case for accounting, that caused the filing in court of the 1997 initiated proceedings only in 2000.

As laid down in *Olarte*,^[25] it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. The only thing the offended must do to initiate the prosecution of the offender is to file the requisite complaint.

IN LIGHT OF ALL THE FOREGOING, the instant petition is GRANTED. The 12 March 2002 Decision of the Court of Appeals is hereby REVERSED and SET ASIDE. The Department of Justice is ORDERED to re-file the informations for violation of BP Blg. 22 against the respondent.

SO ORDERED.

Carpio, Chairperson, Brion, Sereno, and Reyes, JJ., concur.

[1] Rollo, pp. 33-66.

[2] Penned by Associate Justice Perlita J. Tria Tirona with Associate Justices Eubulo G. Verzola and Bernardo P. Abesamis, concurring. CA rollo, pp. 162-170.

[3] *Id.* at 169.

[4] Rollo, p. 133.

[5] *Id.* at 134-167.

[6] *Id.* at 169.

[7] G.R. No. 102342, 3 July 1992, 211 SCRA 277.

[8] *Id.*

[9] CA rollo, pp. 167-168.

[10] Section 1, Rule 110 of the 1997 Rules of Criminal Procedure

[11] Supra note 7 at 284-285.

[12] Supra.

[13] Calderon-Bargas v. RTC of Pasig, Metro Manila, Br. 162, G.R. Nos. 103259-61, 1 October 1993, 227 SCRA 56; Francisco v. CA, G.R. No. L-45674, 30 May 1983, 122 SCRA 538; Ingco v. Sandiganbayan, G.R. No. 112584, 23 May 1997, 272 SCRA 563.

[14] Article 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.

[15] Section 1. Institution of criminal actions.—Criminal actions shall be instituted as follows:

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The institution of the criminal action shall interrupt the running of the period of prescription of the offense charged unless otherwise provided in special laws.

[16] G.R. No. L-22465, 28 February 1967, 19 SCRA 494, 500.

[17] 207 Phil 471, 477 (1983).

[18] Supra note 7.

[19] 328 Phil. 1272 (1996).

[20] Supra note 13.

[21] 483 Phil. 568 (2004)

[22] G.R. No. 168662, 19 February 2008, 546 SCRA 303.

[23] G.R. No. 135808, 6 October 2008, 567 SCRA 354, 415-416.

[24] G.R. No. 167571, 25 November 2008, 571 SCRA 549, 562.

[25] Supra note 16.

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