

HERMINIO T. DISINI, PETITIONER, VS. THE HON. SANDIGANBAYAN, FIRST DIVISION, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 169823-24. September 11, 2013

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-169823-24/>

BERSAMIN, J.:

The Sandiganbayan has exclusive original jurisdiction over the criminal action involving petitioner notwithstanding that he is a private individual considering that his criminal prosecution is intimately related to the recovery of ill-gotten wealth of the Marcoses, their immediate family, subordinates and close associates.

The Case

Petitioner Herminio T. Disini assails via petition for certiorari the resolutions promulgated by the Sandiganbayan in Criminal Case No. 28001 and Criminal Case No. 28002, both entitled *People v. Herminio T. Disini*, on January 17, 2005 (denying his motion to quash the informations)[1] and August 10, 2005 (denying his motion for reconsideration of the denial of his motion to quash),[2] alleging that the Sandiganbayan (First Division) thereby committed grave abuse of discretion amounting to lack or excess of jurisdiction.

Antecedents

The Office of the Ombudsman filed two informations dated June 30, 2004 charging Disini in the Sandiganbayan with corruption of public officials, penalized under Article 212 in relation to Article 210 of the Revised Penal Code (Criminal Case No. 28001), and with a violation of Section 4(a) of Republic Act 3019 (R.A. No. 3019), also known as the Anti-Graft and Corrupt Practices Act (Criminal Case No. 28002).

The accusatory portions of the informations read as follows:

Criminal Case No. 28001

That during the period from 1974 to February 1986, in Manila, Philippines, and within the jurisdiction of this Honorable Court, accused HERMINIO T. DISINI, conspiring together and confederating with the then President of the Philippines Ferdinand E. Marcos, did then and there, wil[l]fully, unlawfully and feloniously offer, promise and give gifts and presents to said Ferdinand E. Marcos, consisting of accused DISINI's ownership of two billion and five hundred (2.5 billion) shares of stock in Vulcan Industrial and Mining Corporation and four billion (4 billion) shares of stock in The Energy Corporation, with both shares of stock having then a book value of P100.00 per share of stock, and subcontracts, to Engineering and Construction Company of Asia, owned and controlled by said Ferdinand E. Marcos, on the mechanical and electrical construction work on the Philippine Nuclear Power Plant Project ("Project") of the National Power Corporation at Morong, Bataan, all for and in consideration of accused Disini seeking and obtaining for Burns and Roe and Westinghouse Electrical Corporation (Westinghouse), the contracts to do the engineering and architectural design and to construct, respectively, the Project, as in fact said Ferdinand E. Marcos, taking undue advantage of his position and committing the offense in relation to his office and in consideration of the

aforesaid gifts and presents, did award or cause to be awarded to said Burns and Roe and Westinghouse, the contracts to do the engineering and architectural design and to construct the Project, respectively, which acts constitute the crime of corruption of public officials.

CONTRARY TO LAW.[3]

Criminal Case No. 28002

That during the period 1974 to February 1986, in Manila, Philippines, and within the jurisdiction of the Honorable Court, accused HERMINIO T. DISINI, conspiring together and confederating with the then President of the Philippines, Ferdinand E. Marcos, being then the close personal friend and golfing partner of said Ferdinand E. Marcos, and being further the husband of Paciencia Escolin-Disini who was the first cousin of then First Lady Imelda Romualdez-Marcos and family physician of the Marcos family, taking advantage of such close personal relation, intimacy and free access, did then and there, willfully, unlawfully and criminally, in connection with the Philippine Nuclear Power Plant (PNPP) Project ("PROJECT") of the National Power Corporation (NPC) at Morong, Bataan, request and receive from Burns and Roe, a foreign consultant, the total amount of One Million U.S. Dollars (\$1,000,000.00), more or less, and also from Westinghouse Electric Corporation (WESTINGHOUSE), the total amount of Seventeen Million U.S. Dollars (\$17,000,000.00), more or less, both of which entities were then having business, transaction, and application with the Government of the Republic of the Philippines, all for and in consideration of accused DISINI securing and obtaining, as accused Disini did secure and obtain, the contract for the said Burns and Roe and Westinghouse to do the engineering and architectural design, and construct, respectively, the said PROJECT, and subsequently, request and receive subcontracts for Power Contractors, Inc. owned by accused DISINI, and Engineering and Construction Company of Asia (ECCO-Asia), owned and controlled by said Ferdinand E. Marcos, which stated amounts and subcontracts constituted kickbacks, commissions and gifts as material or pecuniary advantages, for securing and obtaining, as accused DISINI did secure and obtain, through the direct intervention of said Ferdinand E. Marcos, for Burns and Roe the engineering and architectural contract, and for Westinghouse the construction contract, for the PROJECT.

CONTRARY TO LAW.[4]

On August 2, 2004, Disini filed a motion to quash,[5] alleging that the criminal actions had been extinguished by prescription, and that the informations did not conform to the prescribed form. The Prosecution opposed the motion to quash.[6]

On September 16, 2004, Disini voluntarily submitted himself for arraignment to obtain the Sandiganbayan's favorable action on his motion for permission to travel abroad.[7] He then entered a plea of not guilty to both informations.

As stated, on January 17, 2005, the Sandiganbayan (First Division) promulgated its first assailed resolution denying the motion to quash.[8]

Disini moved for the reconsideration of the resolution dated January 17, 2005,[9] but the Sandiganbayan (First Division) denied his motion on August 10, 2005 through the second assailed resolution.[10]

Issues

Undaunted, Disini commenced this special civil action for certiorari, alleging that:

- THE RESPONDENT COURT HAS NO JURISDICTION OVER THE OFFENSES CHARGED.
- THE RESPONDENT COURT GRAVELY ERRED WHEN IT RULED THAT SECTION 4, PARAGRAPHS (A) AND (B) OF REPUBLIC ACT NO. 8249 DO NOT APPLY SINCE THE INFORMATIONS WERE "FILED

PURSUANT TO E.O. NOS. 1, 2, 14 AND 14-A”.

- THE RESPONDENT COURT GRAVELY ERRED WHEN IT ASSUMED JURISDICTION WITHOUT HAVING MET THE REQUISITE UNDER SECTION 4 OF R.A. 8249 THAT THE ACCUSED MUST BE A PUBLIC OFFICER.
- THE RESPONDENT COURT ACTED WITH SUCH GRAVE ABUSE OF DISCRETION WHEN IT EFFECTIVELY IGNORED, DISREGARDED, AND DENIED PETITIONER’S CONSTITUTIONAL AND STATUTORY RIGHT TO PRESCRIPTION.
- THE RESPONDENT COURT GRAVELY ERRED IN DETERMINING THE APPLICABLE PRESCRIPTIVE PERIOD.
- THE RESPONDENT COURT GRAVELY ERRED IN DETERMINING THE COMMENCEMENT OF THE PRESCRIPTIVE PERIOD.
- THE RESPONDENT COURT GRAVELY ERRED IN DETERMINING THE POINT OF INTERRUPTION OF THE PRESCRIPTIVE PERIOD.
- BY MERELY ASSUMING THE PRESENCE OF GLARINGLY ABSENT ELEMENTS IN THE OFFENSES CHARGED TO UPHOLD THE ‘SUFFICIENCY’ OF THE INFORMATIONS IN CRIMINAL CASE NOS. 28001 AND 28002, THE RESPONDENT COURT DEMONSTRATED ITS PREJUDGMENT OVER THE SUBJECT CASES AND ACTED WITH GRAVE ABUSE OF ITS DISCRETION.
- THE RESPONDENT COURT ACTED WITH GRAVE ABUSE OF DISCRETION IN REFUSING TO QUASH THE INFORMATIONS DESPITE THEIR UTTER FAILURE TO COMPLY WITH THE PRESCRIBED FORM, THUS EFFECTIVELY DENYING THE ACCUSED HIS CONSTITUTIONAL AND STATUTORY RIGHT TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION AGAINST HIM.[11]

Ruling

The petition for certiorari has no merit.

1.

Preliminary Considerations

To properly resolve this case, reference is made to the ruling of the Court in G.R. No. 175730 entitled *Herminio Disini v. Sandiganbayan*,[12] which involved the civil action for reconveyance, reversion, accounting, restitution, and damages (Civil Case No. 0013 entitled *Republic v. Herminio T. Disini, et al.*) filed by the Presidential Commission on Good Government (PCGG) against Disini and others.[13] The amended complaint in Civil Case No. 0013 alleged that Disini had acted in unlawful concert with his co-defendants in acquiring and accumulating ill-gotten wealth through the misappropriation of public funds, plunder of the nation’s wealth, extortion, embezzlement, and other acts of corruption,[14] as follows:

4. Defendant HERMINIO T. DISINI is a close associate of defendant Ferdinand E. Marcos and the husband of the first cousin of Defendant Imelda R. Marcos. By reason of this relationship x x x defendant Herminio Disini obtained staggering commissions from the Westinghouse in exchange for securing the nuclear power plant contract from the Philippine government.

x x x x

13. Defendants Herminio T. Disini and Rodolfo Jacob, by themselves and/or in unlawful concert, active

collaboration and willing participation of defendants Ferdinand E. Marcos and Imelda R. Marcos, and taking undue advantage of their association and influence with the latter defendant spouses in order to prevent disclosure and recovery of ill-gotten assets, engaged in devices, schemes, and stratagems such as:

x x x x

(c) unlawfully utilizing the Herdis Group of Companies and Asia Industries, Inc. as conduits through which defendants received, kept, and/or invested improper payments such as unconscionably large commissions from foreign corporations like the Westinghouse Corporation;

(d) secured special concessions, privileges and/or benefits from defendants Ferdinand E. Marcos and Imelda R. Marcos, such as a contract awarded to Westinghouse Corporation which built an inoperable nuclear facility in the country for a scandalously exorbitant amount that included defendant's staggering commissions – defendant Rodolfo Jacob executed for HGI the contract for the aforesaid nuclear plant;[15]

Through its letter dated April 8, 1991,[16] the PCGG transmitted the records of Criminal Case No. 28001 and Criminal Case No. 28002 to then Ombudsman Conrado M. Vasquez for appropriate action, to wit:

In line with the decision of the Supreme Court in the case of Eduardo M. Cojuangco, Jr. versus the PCGG (G.R. Nos. 92319–92320) dated October 2, 1990, we are hereby transmitting to your Office for appropriate action the records of the attached criminal case which we believe is similar to the said Cojuangco case in certain aspects, such as: (i) some parts or elements are also parts of the causes of action in the civil complaints[-] filed with the Sandiganbayan; (ii) some properties or assets of the respondents have been sequestered; (iii) some of the respondents are also party defendants in the civil cases.

Although the authority of the PCGG has been upheld by the Supreme Court, we are constrained to refer to you for proper action the herein-attached case in view of the suspicion that the PCGG cannot conduct an impartial investigation in cases similar to that of the Cojuangco case. x x x

Ostensibly, the PCGG's letter of transmittal was adverting to the ruling in *Cojuangco, Jr. v. Presidential Commission on Good Government (Cojuangco, Jr.)*,[17] viz:

x x x [T]he PCGG and the Solicitor General finding a prima facie basis filed a civil complaint against petitioner and intervenors alleging substantially the same illegal or criminal acts subject of the subsequent criminal complaints the Solicitor General filed with the PCGG for preliminary investigation. x x x.

Moreover, when the PCGG issued the sequestration and freeze orders against petitioner's properties, it was on the basis of a prima facie finding that the same were ill-gotten and/or were acquired in relation to the illegal disposition of coconut levy funds. Thus, the Court finds that the PCGG cannot possibly conduct the preliminary investigation of said criminal complaints with the "cold neutrality of an impartial judge," as it has prejudged the matter. x x x[18]

x x x x

The Court finds that under the circumstances of the case, the PCGG cannot inspire belief that it could be impartial in the conduct of the preliminary investigation of the aforesaid complaints against petitioner and intervenors. It cannot possibly preside in the said preliminary investigation with an even hand.

The Court holds that a just and fair administration of justice can be promoted if the PCGG would be prohibited from conducting the preliminary investigation of the complaints subject of this petition and the petition for intervention and that the records of the same should be forwarded to the Ombudsman, who as an independent constitutional officer has primary jurisdiction over cases of this nature, to conduct such preliminary investigation and take appropriate action.[19] (Bold emphasis supplied)

It appears that the resolutions of the Office of the Ombudsman, following its conduct of the preliminary

investigation on the criminal complaints thus transmitted by the PCGG, were reversed and set aside by the Court in Presidential Commission on Good Government v. Desierto,[20] with the Court requiring the Office of the Ombudsman to file the informations that became the subject of Disini's motion to quash in Criminal Case No. 28001 and Criminal Case No. 28002.

2.

Sandiganbayan has exclusive and original jurisdiction over the offenses charged

Disini challenges the jurisdiction of the Sandiganbayan over the offenses charged in Criminal Case No. 28001 and Criminal Case No. 28002. He contends that: (1) the informations did not allege that the charges were being filed pursuant to and in connection with Executive Order (E.O.) Nos. 1, 2, 14 and 14-A; (2) the offenses charged were not of the nature contemplated by E.O. Nos. 1, 2, 14 and 14-A because the allegations in the informations neither pertained to the recovery of ill-gotten wealth, nor involved sequestration cases; (3) the cases were filed by the Office of the Ombudsman instead of by the PCGG; and (4) being a private individual not charged as a co-principal, accomplice or accessory of a public officer, he should be prosecuted in the regular courts instead of in the Sandiganbayan.

The Office of the Solicitor General (OSG) counters that the Sandiganbayan has jurisdiction over the offenses charged because Criminal Case No. 28001 and Criminal Case No. 28002 were filed within the purview of Section 4(c) of R.A. No. 8249; and that both cases stemmed from the criminal complaints initially filed by the PCGG pursuant to its mandate under E.O. Nos. 1, 2, 14 and 14-A to investigate and file the appropriate civil or criminal cases to recover ill-gotten wealth not only of the Marcoses and their immediately family but also of their relatives, subordinates and close associates.

We hold that the Sandiganbayan has jurisdiction over Criminal Case No. 28001 and Criminal Case No. 28002.

Presidential Decree (P.D.) No. 1606 was the law that established the Sandiganbayan and defined its jurisdiction. The law was amended by R.A. No. 7975 and R.A. No. 8249. Under Section 4 of R.A. No. 8249, the Sandiganbayan was vested with original and exclusive jurisdiction over all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

x x x x

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986. (Bold emphasis supplied)

In cases where none of the accused are occupying positions corresponding to salary grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military or PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court and municipal circuit trial court, as the case may be, pursuant to their respective jurisdiction as provided in Batas Pambansa Blg. 129, as amended.

x x x x

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried

jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

X X X X

It is underscored that it was the PCGG that had initially filed the criminal complaints in the Sandiganbayan, with the Office of the Ombudsman taking over the investigation of Disini only after the Court issued in Cojuangco, Jr. the directive to the PCGG to refer the criminal cases to the Office of the Ombudsman on the ground that the PCGG would not be an impartial office following its finding of a prima facie case being established against Disini to sustain the institution of Civil Case No. 0013.

Also underscored is that the complaint in Civil Case No. 0013 and the informations in Criminal Case No. 28001 and Criminal Case No. 28002 involved the same transaction, specifically the contracts awarded through the intervention of Disini and President Marcos in favor of Burns & Roe to do the engineering and architectural design, and Westinghouse to do the construction of the Philippine Nuclear Power Plant Project (PNPPP). Given their sameness in subject matter, to still expressly aver in Criminal Case No. 28001 and Criminal Case No. 28002 that the charges involved the recovery of ill-gotten wealth was no longer necessary.[21] With Criminal Case No. 28001 and Criminal Case No. 28002 being intertwined with Civil Case No. 0013, the PCGG had the authority to institute the criminal prosecutions against Disini pursuant to E.O. Nos. 1, 2, 14 and 14-A.

That Disini was a private individual did not remove the offenses charged from the jurisdiction of the Sandiganbayan. Section 2 of E.O. No. 1, which tasked the PCGG with assisting the President in “[t]he recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship,” expressly granted the authority of the PCGG to recover ill-gotten wealth covered President Marcos’ immediate family, relatives, subordinates and close associates, without distinction as to their private or public status.

Contrary to Disini’s argument, too, the qualifying clause found in Section 4 of R.A. No. 8249[22] applied only to the cases listed in Subsection 4a and Subsection 4b of R.A. No. 8249, the full text of which follows:

X X X X

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade ‘27’ and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan and provincial treasurers, assessors, engineers and other provincial department heads;

(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors engineers and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

- (d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
 - (e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;
 - (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
 - (g) Presidents, directors or trustees, or managers of government-owned or -controlled corporations, state universities or educational institutions or foundations;
 - (2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;
 - (3) Members of the judiciary without prejudice to the provisions of the Constitution;
 - (4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and
 - (5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.
- b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office. (bold emphasis supplied)

x x x x

Unquestionably, public officials occupying positions classified as Grade 27 or higher are mentioned only in Subsection 4a and Subsection 4b, signifying the plain legislative intent of limiting the qualifying clause to such public officials. To include within the ambit of the qualifying clause the persons covered by Subsection 4c would contravene the exclusive mandate of the PCGG to bring the civil and criminal cases pursuant to and in connection with E.O. Nos. 1, 2, 14 and 14-A. In view of this, the Sandiganbayan properly took cognizance of Criminal Case No. 28001 and Criminal Case No. 28002 despite Disini's being a private individual, and despite the lack of any allegation of his being the co-principal, accomplice or accessory of a public official in the commission of the offenses charged.

3.

The offenses charged in the informations have not yet prescribed

In resolving the issue of prescription, the following must be considered, namely: (1) the period of prescription for the offense charged; (2) the time when the period of prescription starts to run; and (3) the time when the prescriptive period is interrupted.[23]

The information in Criminal Case No. 28001 alleged that Disini had offered, promised and given gifts and presents to Ferdinand E. Marcos; that said gifts were in consideration of Disini obtaining for Burns & Roe and Westinghouse Electrical Corporation (Westinghouse) the contracts, respectively, to do the engineering and architectural design of and to construct the PNPPP; and that President Marcos did award or cause to be awarded the respective contracts to Burns & Roe and Westinghouse, which acts constituted the crime of corruption of public officials.[24]

The crime of corruption of public officials charged in Criminal Case No. 28001 is punished by Article 212 of the Revised Penal Code with the "same penalties imposed upon the officer corrupted." [25] Under the second paragraph of Article 210 of the Revised Penal Code (direct bribery), [26] if the gift was accepted by the officer in

consideration of the execution of an act that does not constitute a crime, and the officer executes the act, he shall suffer the penalty of prision mayor in its medium and minimum periods and a fine of not less than three times the value of the gift. Conformably with Article 90 of the Revised Penal Code,[27] the period of prescription for this specie of corruption of public officials charged against Disini is 15 years.

As for Criminal Case No. 28002, Disini was charged with a violation of Section 4(a) of R.A. No. 3019. By express provision of Section 11 of R.A. No. 3019, as amended by Batas Pambansa Blg. 195, the offenses committed under R.A. No. 3019 shall prescribe in 15 years. Prior to the amendment, the prescriptive period was only 10 years. It became settled in *People v. Pacificador*,[28] however, that the longer prescriptive period of 15 years would not apply to crimes committed prior to the effectivity of Batas Pambansa Blg. 195, which was approved on March 16, 1982, because the longer period could not be given retroactive effect for not being favorable to the accused. With the information alleging the period from 1974 to February 1986 as the time of the commission of the crime charged, the applicable prescriptive period is 10 years in order to accord with *People v. Pacificador*.

For crimes punishable by the Revised Penal Code, Article 91 thereof provides that prescription starts to run from the day on which the crime is discovered by the offended party, the authorities, or their agents. As to offenses punishable by R.A. No. 3019, Section 2 of R.A. No. 3326[29] states:

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 double jeopardy.

The ruling on the issue of prescription in *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*[30] is also enlightening, viz:

Generally, the prescriptive period shall commence to run on the day the crime is committed. That an aggrieved person “entitled to an action has no knowledge of his right to sue or of the facts out of which his right arises,” does not prevent the running of the prescriptive period. An exception to this rule is the “blameless ignorance” doctrine, incorporated in Section 2 of Act No. 3326. Under this doctrine, “the statute of limitations runs only upon discovery of the fact of the invasion of a right which will support a cause of action. In other words, the courts would decline to apply the statute of limitations where the plaintiff does not know or has no reasonable means of knowing the existence of a cause of action.” It was in this accord that the Court confronted the question on the running of the prescriptive period in *People v. Duque* which became the cornerstone of our 1999 Decision in *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto* (G.R. No. 130149), and the subsequent cases which Ombudsman Desierto dismissed, emphatically, on the ground of prescription too. Thus, we held in a catena of cases, that if the violation of the special law was not known at the time of its commission, the prescription begins to run only from the discovery thereof, i.e., discovery of the unlawful nature of the constitutive act or acts.

Corollary, it is safe to conclude that the prescriptive period for the crime which is the subject herein, commenced from the date of its discovery in 1992 after the Committee made an exhaustive investigation. When the complaint was filed in 1997, only five years have elapsed, and, hence, prescription has not yet set in. The rationale for this was succinctly discussed in the 1999 Presidential Ad Hoc Fact-Finding Committee on Behest Loans, that “it was well-high impossible for the State, the aggrieved party, to have known these crimes committed prior to the 1986 EDSA Revolution, because of the alleged connivance and conspiracy among involved public officials and the beneficiaries of the loans.” In yet another pronouncement, in the 2001 Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto (G.R. No. 130817), the Court held

that during the Marcos regime, no person would have dared to question the legality of these transactions. (Citations omitted)[31]

Accordingly, we are not persuaded to hold here that the prescriptive period began to run from 1974, the time when the contracts for the PNPP Project were awarded to Burns & Roe and Westinghouse. Although the criminal cases were the offshoot of the sequestration case to recover ill-gotten wealth instead of behest loans like in Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto, the connivance and conspiracy among the public officials involved and the beneficiaries of the favors illegally extended rendered it similarly well-nigh impossible for the State, as the aggrieved party, to have known of the commission of the crimes charged prior to the EDSA Revolution in 1986. Notwithstanding the highly publicized and widely-known nature of the PNPPP, the unlawful acts or transactions in relation to it were discovered only through the PCGG's exhaustive investigation, resulting in the establishment of a prima facie case sufficient for the PCGG to institute Civil Case No. 0013 against Disini. Before the discovery, the PNPPP contracts, which partook of a public character, enjoyed the presumption of their execution having been regularly done in the course of official functions.[32] Considering further that during the Marcos regime, no person would have dared to assail the legality of the transactions, it would be unreasonable to expect that the discovery of the unlawful transactions was possible prior to 1986.

We note, too, that the criminal complaints were filed and their records transmitted by the PCGG to the Office of the Ombudsman on April 8, 1991 for the conduct the preliminary investigation.[33] In accordance with Article 91 of the Revised Penal Code[34] and the ruling in Panaguiton, Jr. v. Department of Justice,[35] the filing of the criminal complaints in the Office of the Ombudsman effectively interrupted the running of the period of prescription. According to Panaguiton:[36]

In *Ingo v. Sandiganbayan and Sanrio Company Limited v. Lim*, which involved violations of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019) and the Intellectual Property Code (R.A. No. 8293), which are both special laws, the Court ruled that the prescriptive period is interrupted by the institution of proceedings for preliminary investigation against the accused. In the more recent case of *Securities and Exchange Commission v. Interport Resources Corporation*, the Court ruled that the nature and purpose of the investigation conducted by the Securities and Exchange Commission on violations of the Revised Securities Act, another special law, is equivalent to the preliminary investigation conducted by the DOJ in criminal cases, and thus effectively interrupts the prescriptive period.

The following disquisition in the *Interport Resources* case is instructive, thus:

While it may be observed that the term "judicial proceedings" in Sec. 2 of Act No. 3326 appears before "investigation and punishment" in the old law, with the subsequent change in set-up whereby the investigation of the charge for purposes of prosecution has become the exclusive function of the executive branch, the term "proceedings" should now be understood either executive or judicial in character: executive when it involves the investigation phase and judicial when it refers to the trial and judgment stage. With this clarification, any kind of investigative proceeding instituted against the guilty person which may ultimately lead to his prosecution should be sufficient to toll prescription.

Indeed, to rule otherwise would deprive the injured party the right to obtain vindication on account of delays that are not under his control.

The prevailing rule is, therefore, that irrespective of whether the offense charged is punishable by the Revised Penal Code or by a special law, it is the filing of the complaint or information in the office of the public prosecutor for purposes of the preliminary investigation that interrupts the period of prescription. Consequently, prescription did not yet set in because only five years elapsed from 1986, the time of the discovery of the offenses charged, up to April 1991, the time of the filing of the criminal complaints in the Office of the Ombudsman.

4.

The informations were sufficient in form and substance

It is axiomatic that a complaint or information must state every single fact necessary to constitute the offense charged; otherwise, a motion to dismiss or to quash on the ground that the complaint or information charges no offense may be properly sustained. The fundamental test in determining whether a motion to quash may be sustained based on this ground is whether the facts alleged, if hypothetically admitted, will establish the essential elements of the offense as defined in the law.[37] Extrinsic matters or evidence aliunde are not considered.[38] The test does not require absolute certainty as to the presence of the elements of the offense; otherwise, there would no longer be any need for the Prosecution to proceed to trial.

The informations in Criminal Case No. 28001 (corruption of public officials) and Criminal Case No. 28002 (violation of Section 4(a) of RA No. 3019) have sufficiently complied with the requirements of Section 6, Rule 110 of the Rules of Court, viz:

Section 6. Sufficiency of complaint or information. — A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When the offense is committed by more than one person, all of them shall be included in the complaint or information.

The information in Criminal Case No. 28001 alleging corruption of public officers specifically put forth that Disini, in the period from 1974 to February 1986 in Manila, Philippines, conspiring and confederating with then President Marcos, willfully, unlawfully and feloniously offered, promised and gave gifts and presents to President Marcos, who, by taking undue advantage of his position as President, committed the offense in relation to his office, and in consideration of the gifts and presents offered, promised and given by Disini, President Marcos caused to be awarded to Burns & Roe and Westinghouse the respective contracts to do the engineering and architectural design of and to construct the PNPPP. The felonious act consisted of causing the contracts for the PNPPP to be awarded to Burns & Roe and Westinghouse by reason of the gifts and promises offered by Disini to President Marcos.

The elements of corruption of public officials under Article 212 of the Revised Penal Code are:

- That the offender makes offers or promises, or gives gifts or presents to a public officer; and
- That the offers or promises are made or the gifts or presents are given to a public officer under circumstances that will make the public officer liable for direct bribery or indirect bribery.

The allegations in the information for corruption of public officials, if hypothetically admitted, would establish the essential elements of the crime. The information stated that: (1) Disini made an offer and promise, and gave gifts to President Marcos, a public officer; and (2) in consideration of the offers, promises and gifts, President Marcos, in causing the award of the contracts to Burns & Roe and Westinghouse by taking advantage of his position and in committing said act in relation to his office, was placed under circumstances that would make him liable for direct bribery.[39] The second element of corruption of public officers simply required the public officer to be placed under circumstances, not absolute certainty, that would make him liable for direct or indirect bribery. Thus, even without alleging that President Marcos received or accepted Disini's offers, promises and gifts – an essential element in direct bribery – the allegation that President Marcos caused the award of the contracts to Burns & Roe and Westinghouse sufficed to place him under circumstances of being liable for direct bribery.

The sufficiency of the allegations in the information charging the violation of Section 4(a) of R.A. No. 3019 is similarly upheld. The elements of the offense under Section 4(a) of R.A. No. 3019 are:

- That the offender has family or close personal relation with a public official;
- That he capitalizes or exploits or takes advantage of such family or close personal relation by directly or indirectly requesting or receiving any present, gift, material or pecuniary advantage from any person having some business, transaction, application, request, or contract with the government;
- That the public official with whom the offender has family or close personal relation has to intervene in the business transaction, application, request, or contract with the government.

The allegations in the information charging the violation of Section 4(a) of R.A. No. 3019, if hypothetically admitted, would establish the elements of the offense, considering that: (1) Disini, being the husband of Paciencia Escolin-Disini, the first cousin of First Lady Imelda Romualdez-Marcos, and at the same time the family physician of the Marcoses, had close personal relations and intimacy with and free access to President Marcos, a public official; (2) Disini, taking advantage of such family and close personal relations, requested and received \$1,000,000.00 from Burns & Roe and \$17,000,000.00 from Westinghouse, the entities then having business, transaction, and application with the Government in connection with the PNPPP; (3) President Marcos, the public officer with whom Disini had family or close personal relations, intervened to secure and obtain for Burns & Roe the engineering and architectural contract, and for Westinghouse the construction of the PNPPP.

WHEREFORE, the Court DISMISSES the petition for certiorari; AFFIRMS the resolutions promulgated on January 17, 2005 and August 16, 2005 by the Sandiganbayan (First Division) in Criminal Case No. 28001 and Criminal Case No. 28002; and DIRECTS petitioner to pay the costs of suit.

SO ORDERED.

Sereno, C.J., Villarama, Jr., Perez,[*] and Reyes, JJ., concur.

[*] In lieu of Associate Justice Teresita J. Leonardo-De Castro, who took part in the Sandiganbayan, per the raffle of October 3, 2011.

[1] Rollo, pp. 51-55; penned by Associate Justice Diosdado M. Peralta (now a Member of the Court), and concurred in by Associate Justice Teresita J. Leonardo-De Castro (now a Member of the Court) and Associate Justice Efren N. De la Cruz.

[2] Id. at 57-73; penned by Associate Justice Peralta, and still joined by Associate Justice Leonardo-De Castro and Associate Justice De la Cruz.

[3] Id. at 104-105.

[4] Id. at 108-109.

[5] Id. at 111-116.

[6] Id. at 117-128.

[7] Id. at 129-130.

[8] Supra note 1.

[9] Rollo, pp. 74-103.

[10] Supra note 2.

[11] Rollo, pp. 10-11.

[12] G.R. No. 175730, July 5, 2010, 623 SCRA 354.

[13] Id. at 358.

[14] Id. at 359.

[15] Id. at 359-360.

[16] Sandiganbayan, rollo, Vol. 1, pp. 164-165.

[17] G.R. Nos. 92319-20, October 2, 1991, 190 SCRA 226.

[18] Id. at 254-255.

[19] Id. at 256-257.

[20] G.R. No. 132120, February 10, 2003, 397 SCRA 171.

[21] See the Section 1(A), Rules and Regulations of the PCGG, to wit:

Section 1. Definition. – (A) “Ill-gotten wealth” is hereby defined as any asset, property, business enterprise or material possession of persons within the purview of Executive Orders 1 and 2, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

(1) Through misappropriation, conversion, or misuse or malversation of public funds or raids on the public treasury;

(2) Through the receipt, directly or indirectly, of any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by the reason of the office or position of the official concerned;

(3) By the illegal or fraudulent conveyance or disposition of assets belonging to the government or any of its subdivisions, agencies or instrumentalities or government-owned or controlled corporations;

(4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation in any business enterprise or undertaking;

(5) Through the establishment of agricultural, industrial or commercial monopolies or other combination and/or by the issuance, promulgation and/or implementation of decrees and orders intended to benefit particular persons or special interests; and

(6) By taking undue advantage of official position, authority, relationship or influence for personal gain or benefit. (Bold emphasis supplied)

[22] “In cases where none of the accused are occupying positions corresponding to salary grade ‘27’ or higher, as prescribed in the said Republic Act No. 6758, or military or PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court and municipal circuit trial court as the case may be, pursuant to their respective jurisdiction as provided in Batas Pambansa Blg. 129, as amended.”

[23] Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto, G.R. No. 130817, August 22,

2001, 363 SCRA 489, 493.

[24] *Supra*, Note 3.

[25] Article 212. Corruption of public officials. — The same penalties imposed upon the officer corrupted, except those of disqualification and suspension, shall be imposed upon any person who shall have made the offers or promises or given gifts or presents described in the preceding articles.”

[26] Article 210. Direct bribery. — Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of this official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine [of not less than the value of the gift and] not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional, in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period and a fine [of not less than the value of the gift and] not less than three times the value of such gift.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

[27] Article 90. Prescription of crime. — Crimes punishable by death, reclusion perpetua or reclusion temporal shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by arresto mayor, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in one year.

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

Light offenses prescribe in two months.

When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.

[28] G.R. No. 139405, March 13, 2001, 354 SCRA 310, 318.

[29] 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.

[30] G.R. No. 135715, April 13, 2011, 648 SCRA 586.

[31] *Id.* at 596-597.

[32] Section 3(m), Rule 131, Rules of Court.

[33] Records, Vol. 1, p. 164.

[34] 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.

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

[36] Id. at 560-561.

[37] Cruz, Jr. v. Court of Appeals, G.R. No. 83754, February 18, 1991, 194 SCRA 145, 150.

[38] People v. Balao, G.R. No. 176819, January 26, 2011, 640 SCRA 565, 573.

[39] The elements of direct bribery are:

1. The offender is a public officer;
2. The offender accepts an offer or promise or receives a gift or present by himself or through another;
3. That such offer or promise be accepted or gift or present be received by the public officer with a view to committing some crime, or in consideration of the execution of an act which does not constitute a crime but the act must be unjust, or to refrain from doing something which it is his official duty to do; and
4. The act which the offender agrees to perform or which he executes is connected with the performance of his official duties (Magno v. Commission on Elections, G.R. No. 147904, October 4, 2002, 390 SCRA 495, 499).

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.