

## THIRD DIVISION

[ G.R. No. 135119, October 21, 2004 ]

**PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT  
(REPRESENTED BY DANILO R.V. DANIEL), PETITIONER, VS. THE  
HONORABLE OMBUDSMAN ANIANO A. DESIERTO, ALICIA LL.  
REYES, DON M. FERRY, PLACIDO MAPA, MR. AND MRS. PEDRO  
GARCIA, SR., AND SANTIAGO DURLAO, JR., RESPONDENTS.**

### D E C I S I O N

#### **SANDOVAL-GUTIERREZ, J.:**

This petition for *certiorari* and *mandamus* under Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeks to nullify the Order<sup>[1]</sup> dated June 19, 1998, dismissing the complaint in OMB Case No. 0-97-1740, issued by then Ombudsman Aniano A. Desierto (Ombudsman), public respondent.

The facts that gave rise to the instant case are:

On October 8, 1992, then President Fidel V. Ramos issued Administrative Order No. 13 creating the Presidential Ad Hoc Committee on Behest Loans<sup>[2]</sup> (Committee) headed by the Chairman of the Presidential Commission on Good Government (PCGG). Under this Administrative Order, the Committee was tasked to:

- (1) Inventory all behest loans; identify the lenders and borrowers, including the principal officers and stockholders of the borrowing firms, as well as the persons responsible for granting the loans or who influenced the grant thereof;
- (2) Identify the borrowers who were granted "friendly waivers" as well as the government officials who granted these waivers, determine the validity of these waivers;
- (3) Determine the courses of action that the government should take to recover these loans, and to recommend appropriate actions to the Office of the President within sixty (60) days from date hereof.

Behest loans are part of the ill-gotten wealth which former President Ferdinand Marcos and his cronies accumulated and which the government, through the PCGG, seeks to recover.<sup>[3]</sup>

Pursuant to its mandate, the Committee investigated the loan transactions between the Selectra Electronics Corporation (SELEC) and the Development Bank of the Philippines (DBP).

On September 8, 1997, the Committee found that on September 20, 1976, SELEC

filed with the DBP an application for a foreign currency loan in the amounts of US\$320,110.95 and US\$104,062.50 under the International Bank for Reconstruction and Development credit line and a straight peso loan of P797,600.00, or an aggregate amount of P3,151,396.64.

SELEC negotiated with the DBP through respondents Mr. and Mrs. Pedro Garcia, Sr., members of its board of directors, and Santiago Dumlao, Jr., its president. They have been impleaded herein as private respondents. The DBP Board of Directors, represented by Alicia Ll. Reyes, Don M. Ferry and Placido Mapa, public respondents, approved the loan application through Resolution No. 1203 dated April 20, 1977.

Subsequently, SELEC applied for and obtained additional foreign currency loan in the sum of US\$1,483,688.00.

The Committee concluded that the foregoing loans are behest loans since SELEC has no sufficient capital and collateral. Also, the project for which financing is being sought is non-feasible. Accordingly, on September 15, 1997, the Committee filed with the Office of the Ombudsman a criminal complaint for violation of Section 3(a) and (g) of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act)<sup>[4]</sup> against spouses Garcia, Santiago Dumlao, Jr., Alicia Ll. Reyes, Don M. Ferry, and Placido Mapa, docketed as OMB Case No. 0-97-1740.

The Ombudsman dismissed OMB Case No. 0-97-1740 by reason of prescription. Section 11 of Republic Act No. 3019 provides that all offenses punishable under this Act shall prescribe in ten years.<sup>[5]</sup> The Ombudsman held that "the transactions made the bases of the complaint occurred between 1976 to 1980, while the complaint was filed only on September 15, 1997, or after the lapse of more than ten (10) years." Since the entire series of transactions were made through duly recorded public instruments, then following *People vs. Dinsay*,<sup>[6]</sup> and *People vs. Sandiganbayan*,<sup>[7]</sup> the period of prescription should commence to run from the time of the commission of the offense.

Hence, the instant petition anchored on the following grounds:

## "I

PUBLIC RESPONDENT OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AND/OR ACTED IN EXCESS OF JURISDICTION IN HOLDING THAT THERE WAS NO CAUSE TO PROCEED AGAINST ANY OF THE RESPONDENTS.

## II

PUBLIC RESPONDENT OMBUDSMAN COMMITTED GRAVE ABUSE OF DISCRETION AND/OR ACTED IN EXCESS OF JURISDICTION IN HOLDING THAT THE OFFENSE HAD ALREADY PRESCRIBED."

The threshold issue before us is whether the Ombudsman committed grave abuse of discretion in ruling that the offense leveled against the said respondents has prescribed.

Petitioner PCGG argues that the applicable rule on prescription in this case is Article