

SECOND DIVISION

[G.R. No. 139405, March 13, 2001]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. ARTURO F. PACIFICADOR, RESPONDENT.

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Resolution^[1] dated February 3, 1999 of the Sandiganbayan (Fifth Division) granting the Motion for Reconsideration of the Resolution^[2] dated October 20, 1998 denying herein respondent's Motion to Dismiss the Information in Criminal Case No. 13044 and the Resolution^[3] dated July 23, 1999 which denied petitioner's urgent motion for reconsideration.

On October 27, 1988, herein respondent, Arturo Pacificador y Fullon, and his erstwhile co-accused, Jose T. Marcelo,^[4] were charged before the Sandiganbayan with the crime of violation of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, in an Information^[5] that reads:

That on or about and during the period from December 6, 1975 to January 6, 1976, in Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, said accused, Arturo Pacificador, then Chairman of the Board of the National Shipyard and Steel Corporation, a government-owned corporation, and therefore, a public officer, and Jose T. Marcelo, Jr., then President of the Philippine Smelters Corporation, a private corporation, conspiring and confederating with one another and with other individuals, did then and there, wilfully, unlawfully and knowingly, and with evident bad faith promote, facilitate, effect and cause the sale, transfer and conveyance by the National Shipyard and Steel Corporation of its ownership and all its titles, rights and interests over parcels of land in Jose Panganiban, Camarines Norte where the Jose Panganiban Smelting Plant is located including all the reclaimed and foreshore areas of about 50 hectares to the Philippine Smelters Corporation by virtue of a contract, the terms and conditions of which are manifestly and grossly disadvantageous to the Government as the consideration thereof is only P85,144.50 while the fair market value thereof at that time was P862,150.00, thereby giving the Philippine Smelters Corporation unwarranted benefits, advantages and profits and causing undue injury, damage and prejudice to the government in the amount of P777,005.50.

After his arraignment, the respondent filed a Motion to Dismiss the Information in Criminal Case No. 13044 on July 15, 1998 on the following grounds:

- 1) The court has no jurisdiction since the crime charged had

been extinguished by prescription; and

- 2) The information does not charge an offense in view of the decision of the Supreme Court in the case of San Mauricio Mining Corporation, et al., vs. Hon. Constante A. Ancheta, et al., G.R. No. L-47859 and L-57132 dated July 10, 1981.

On August 21, 1998 the petitioner filed an Opposition to the Motion to Dismiss.

On November 10, 1998, the Sandiganbayan issued a Resolution denying the Motion to Dismiss the Information ruling that:

The information in this case, dated October 19, 1988, was filed with the Sandiganbayan on October 27, 1988 on which date the existing jurisprudence on matters of prescription of the offense was the ruling enunciated in Francisco v. Court of Appeals (May 30, 1983, 122 SCRA 538) to the effect that the filing of the complaint with the fiscal's office also interrupts the period of prescription of the offense.

The offense charged was allegedly committed from December 16, 1975 to January 6, 1976. The running of the period of prescription of the offense may have started on January 6, 1976 but was interrupted by the filing of the complaint with the appropriate investigating body. In the case at bench, We find in the record no proof, or even an allegation, of the precise date of filing of the complaint with the appropriate investigating body which investigated this case, to enable us to determine with certainty if the offense charged have (sic) indeed prescribed.

The second ground submitted by the accused-movant is precipitate at this stage of the proceedings, as it involves a matter of defense.

Thereupon, on December 7, 1998, respondent Pacificador moved for the reconsideration of the Resolution of the Sandiganbayan denying his Motion to Dismiss, contending that:

- 1) The prosecution of the crime charged is time-barred by prescription as shown by facts and circumstances on record and of judicial notice; and
- 2) It is not precipitate for the Honorable Court to consider the Supreme Court ruling in San Mauricio Mining Co. vs. Hon. Constante A. Ancheta, et al., declaring the basic deed of sale as not illegal and with justly adequate consideration.

On February 3, 1999, the Sandiganbayan reconsidered its Resolution of November 10, 1998 and dismissed the Information in Criminal Case No. 139405 against the respondent on the ground of prescription. It ruled thus:

In Our resolution denying accused Pacificador's Motion to Dismiss, We applied Article 91 of the Revised Penal Code and the doctrine laid down in Francisco vs. CA (122 SCRA 538) to the effect that the filing of the complaint with the fiscal's office or investigating body interrupts the running of the period of prescription. This is where We committed an oversight. Instead of applying Act No. 3326, as amended, xxx, We

utilized Article 91 of the Revised Penal Code.

In this case, as the offense involved is the violation of R.A. 3019, a special law, it follows that in computing the prescriptive period of the offense, it is not the provision contained in the Revised Penal Code that should govern but that of Act No. 3326. xxx

In *Zaldivia vs. Reyes, Jr.*, (211 SCRA 277), the Supreme Court, in a clear language, held that the proceedings referred to in Section 2 of Act No. 3326 are "judicial proceedings" and do not include administrative proceedings. xxx

The offense imputed on accused was allegedly committed from December 6, 1975 to January 6, 1976. The offense prescribed on January 3, 1986, or ten years from January 6, 1976.

The Urgent Motion for Reconsideration of petitioner was denied by the Sandiganbayan on July 23, 1999.

Hence, the petition.

In its Brief,^[6] the petitioner contends that, contrary to the ruling of the Sandiganbayan, the provision of Act No. 3326^[7] on prescription of offenses punishable under special laws is not applicable to the instant criminal case for the reason that Republic Act No. 3019 provides for its own prescriptive period. Section 11 thereof provides that offenses committed and punishable under the said law shall prescribe in fifteen (15) years. However, inasmuch as Republic Act No. 3019 does not state exactly when the fifteen-year prescriptive period begins to run, Article 91 of the Revised Penal Code should be applied suppletorily.^[8] Article 91 of the Revised Penal Code, which adopts the "discovery rule" for the prescription of offenses, provides:

ART. 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 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.

Petitioner also contends that the crime, subject of this case should be deemed as discovered only on May 13, 1987 when a complaint was filed with the Presidential Commission on Good Government (PCGG) by the then Solicitor General Francisco Chavez. Hence, the filing of the information on October 27, 1988 with the Sandiganbayan was well within the prescriptive period.

Additionally, petitioner contends that the ordinary principles of prescription do not apply in this case for the reason that the respondent effectively concealed his criminal acts which prevented the discovery of the offense until May 13, 1987. Even

on the assumption that the registration of the Deed of Sale was on December 29, 1975 when that document was executed by the parties, and thus, amounted to a constructive notice to the whole world of the existence of the said Deed of Sale, the registration thereof could not have given notice of fraudulent acts of the parties to the sale. The situation prevailing at that time, that is, during the authoritarian regime of then President Ferdinand E. Marcos, did not permit the investigative and prosecuting arms of the government to institute complaints against him, his wife and his cronies.

In his Comment,^[9] respondent Arturo Pacificador argued that Act No. 3326 governs the prescription of offenses punishable under special laws; that the registration of the Deed of Sale in question is the correct reckoning or starting point for prescription inasmuch as the fact of registration of said Deed of Sale in effect gave notice to the whole world not only of its existence but also of all the facts contained therein; that, aside from the ground of prescription, the Information in Criminal Case No. 13044 should be dismissed on the ground that it does not charge an offense inasmuch as the issue of whether or not the contract of sale was disadvantageous to the government had long been settled in the case of *San Mauricio Mining Co. v. Hon. Constante A. Ancheta, et al.*,^[10] and that the dismissal of the criminal case against him by the Sandiganbayan on the ground of prescription is tantamount to acquittal which bars prosecution of the respondent for the same offense under Section 6, Rule 117 of the Rules of Court.

The petition is not impressed with merit.

It has been settled that Section 2 of Act No. 3326 governs the computation of prescription of offenses defined and penalized by special laws. In the case of *People v. Sandiganbayan*,^[11] this Court ruled that Section 2 of Act No. 3326 was correctly applied by the anti-graft court in determining the reckoning period for prescription in a case involving the crime of violation of Republic Act No. 3019, as amended. In the fairly recent case of *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*,^[12] we categorically ruled that:

Since the law alleged to have been violated, i.e., paragraphs (e) and (g) of Section 3, R.A. No. 3019, as amended, is a special law, the applicable rule in the computation of the prescriptive period is Section 2 of Act No. 3326, as amended, which provides:

Sec. 2. Prescription should 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 institution of judicial proceedings for its investigation and punishment. (Emphasis ours)

The prescription shall be interrupted when the proceedings are instituted against the guilty person and shall begin to run again if the proceedings are dismissed for reasons not constituting double jeopardy.

This simply means that if the commission of the crime is known, the prescriptive period shall commence to run on the day it was committed.