REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, *Petitioner,*	**CTA EB CRIM No. 176** (CTA Crim Case No. O-1193)
	Present:
-versus-	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** and **ANGELES,** *JJ.*
JCLN GLOBAL PROPERTIES DEVELOPMENT CORP., JAMES CHRISTOPHER L. NAPOLES, and JO CHRISTINE L. NAPOLES, *Respondents.*	Promulgated: JUN 08 2026 11:40am

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DECISION

REYES-FAJARDO, J.:

THE CASE

Before the Court *En Banc* is a Verified Petition for Review assailing the Resolutions dated August 20, 2024[1] and November 18, 2024[2] (collectively, the "assailed Resolutions") of the Second Division of this Court (the "Court in Division") in *People v. JCLN Global Properties Development Corp., James Christopher L. Napoles, and Jo Christine L. Napoles,* docketed as CTA Crim. Case No. O-1193.[3]

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1 Docket – pp. 36 to 41.
2 Docket – pp. 62 to 65.
3 Petition for Review, Docket – pp. 1 to 21.

The assailed Resolutions dismissed the case for lack of jurisdiction and/or prescription of tax offense under Section 281 of the National Internal Revenue Code (NIRC) of 1997, as amended.

THE PARTIES

Petitioner is represented by the Bureau of Internal Revenue (BIR), a government agency mandated to collect national revenue taxes, and is further represented by Commissioner of Internal Revenue whose postal address is BIR National Office Building, Senator Miriam Defensor-Santiago Avenue, Diliman, Quezon City.[4]

Respondent corporation is registered with the Securities and Exchange Commission on June 3, 2005 under Registration No. CS200509843, and with the BIR RDO No. 033 with Taxpayer Identification Number 239-184-456-000. Its registered address is at 06 Dakota Residences, 555 General Malvar St Cor Adriatico St., Malate, Manila.[5]

Respondent James Christopher L. Napoles, whose residential address is at 9-D La Fayette Condo, Libis, Quezon City, is the President of respondent corporation, while respondent Jo Christine L. Napoles, whose residential address is at 635 San Juan Isidro St. Ayala Alabang, Muntinlupa City, is its Treasurer.[6]

THE FACTS

On July 19, 2024, an Information indicting respondents for violation of Section 255, in relation to Section 253(d) and 256, of the NIRC of 1997, as amended, for willful failure to supply correct and accurate information in its income tax return for the taxable year 2010 was filed before the Court in Division. It reads:

> That on or before 15th day of April 2011, in the City of Manila, Philippines and within the jurisdiction of this Honorable Court, accused **JCLN GLOBAL PROPERTIES DEVELOPMENT CORPORATION (JCLN)**, a domestic corporation duly registered with the Securities and Exchange Commission, **JAMES CHRISTOPHER L. NAPOLES** and **JO CHRISTINE L. NAPOLES**,

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[4] *Id.* at p. 3.
[5] *Id.*
[6] *Id.*

> president and treasurer of **JCLN** respectively, did then and there willfully, unlawfully and knowingly through fraudulent means, deliberately file a fraudulent return for taxable year 2010 having intentionally and willfully failed to supply correct and accurate information in the subject income tax return by falsely and fraudulently stating therein the amount of Php1,742,073.00 only as its gross sales/revenues for taxable year 2010 when in truth and in fact, it earned income in the total amount of Php44,192,418.96 which was used in the acquisition of real properties for the same taxable year and was deliberately was reported as part of its current assets in the Comparative Audited Financial Statements (CAPS), deliberately concealing the existence of the acquired property which resulted in under-declaring its true and correct income in the amount of Php36,065,884.05 and failed to pay the correct tax which constitutes more than thirty percent (30%) of its declared revenues/income as stated in the subject return thereby incurring the basic deficiency income tax in the amount of Php13,257,725.69, exclusive of interest and penalty charges, knowing full well that the information stated in the subject return is inaccurate and erroneous to the damage and prejudice of the government.
>
> **CONTRARY TO LAW.**

On August 20, 2024, after a review of the Information and the attached supporting documents, the Court in Division rendered the assailed Resolution, the *fallo* of which reads:[7]

> **WHEREFORE**, The Court finds no probable cause to issue a warrant of arrest, on the ground of prescription. Accordingly, this case is **DISMISSED.**
>
> **SO ORDERED.**

On September 23, 2024, petitioner filed a Formal Entry of Appearance with Motion for Reconsideration by registered mail.

On November 18, 2024, the Court in Division denied said motion for lack of merit, thus:

> **WHEREFORE**, the Motion for Reconsideration (To the Resolution dated August 20, 2024) filed on September 23, 2024 is **DENIED** for lack of merit.
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> **SO ORDERED.**

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[7] Docket – p. 41.

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On December 19, 2024, petitioner filed this Verified Petition for Review. On April 7, 2025, respondents filed their Comment.[8]

In a Resolution dated June 25, 2025, this case was submitted for decision.[9]

THE ISSUE

Did the Court in Division err in dismissing CTA Crim. Case No. O-1193 on the ground of prescription?

Petitioner's arguments:

Petitioner argues that: 1) prescription has not set in because, under Section 281 of the NIRC of 1997, as amended, the discovery of the violation and the institution of proceedings operate concurrently to commence and interrupt the prescriptive period; and 2) that the filing of the criminal complaint with the prosecutor's office for purposes of preliminary investigation interrupts or suspends the running of prescription.[10]

Respondents' counter-arguments:

Respondents contend that: 1) the prescriptive period commenced on September 17, 2015, upon the filing by the BIR of the criminal complaint before the DOJ; 2) such filing did not interrupt the running of prescription, which continued uninterrupted until it lapsed on September 17, 2020; and 3) consequently, when the Information was filed before the Court on July 19, 2024, the criminal action was already barred by prescription.[11]

RULING

The Verified Petition for Review is denied.

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8 Docket – pp. 381 to 394. Filed via registered mail on April 07, 2025 and received by the Court on April 15, 2025.

9 Docket – pp. 399.

10 Petition for Review, Docket – p. 6.

11 Comment, Docket – p. 387.

Section 281 of the NIRC of 1997, as amended, provides that violations of the Code shall prescribe after five (5) years, reckoned from the date of commission of the offense, if known, or, if not known, from the discovery thereof. The institution of judicial proceedings for the investigation and punishment of the offense interrupts the running of the prescriptive period, *viz.*:

> SECTION 281. Prescription for Violations of any Provision of this Code. -All violations of any provision of this Code shall prescribe after five (5) years.
>
> 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 persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy. . .

Notably, Section 281 of the NIRC, as amended, is a replica of Section 354 of the 1939 NIRC. In *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines* (*"Lim"*),[12] the Supreme Court interpreted Section 354 of the 1939 NIRC, as follows:

> The Solicitor General stresses that Section 354 speaks not only of discovery of the fraud but also institution of judicial proceedings. **Note the conjunctive word "and" between the phrases "the discovery thereof" and "the institution of judicial proceedings for its investigation and proceedings." In other words, in addition to the fact of discovery, there must be a judicial proceeding for the investigation and punishment of the tax offense before the five-year limiting period begins to run.** It was on September 1, 1969 that the offenses subject of Criminal Cases Nos. 1790 and 1791 were indorsed to the Fiscal's Office for preliminary investigation. Inasmuch as a preliminary investigation is a proceeding for investigation and punishment of a crime, it was only on September 1, 1969 that the prescriptive period commences.
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> . . .
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> As Section 354 stands in the statute book (and to this day it has remained unchanged) it would indeed seem that tax cases, such as the present ones, are practically imprescriptible **for as long as**

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12 G.R. Nos. L-48134-37, October 18, 1990.

> **the period from the discovery and institution of judicial proceedings for its investigation and punishment, *up to* the filing of the information in court does not exceed five (5) years.**[13]

Indeed, *Lim* ordained that tax offenses are imprescriptible so long as the period from its discovery and institution of judicial proceedings for investigation and punishment, up to the filing of information in court **do not exceed five (5) years.** Conversely, where more than five (5) years elapse from the institution of judicial proceedings for investigation to the filing of the Information in court, the government's right to institute the corresponding criminal action is barred by prescription.

In light of the foregoing pronouncements, the Court in Division correctly dismissed CTA Crim. Case No. O-1193 on the ground of prescription. Specifically, petitioner instituted the criminal complaint against respondents by filing the Joint Complaint-Affidavit and Referral Letter with the Department of Justice on September 17, 2015. Thereafter, on December 1, 2016, Senior Assistant State Prosecutor Ma. Cristina A. Montera-Barot issued a Resolution finding probable cause to indict respondents for alleged violations of Sections 254 and 255 of the NIRC of 1997, as amended. Reckoned from September 17, 2015, the five-year prescriptive period lapsed on September 17, 2020. Thus, when petitioner filed the Information before the Court in Division on July 19, 2024, the criminal action had already prescribed. Accordingly, the dismissal of CTA Crim. Case No. O-1193 on the ground of prescription is justified.

We are mindful of the Supreme Court's ruling in *People v. Consebido,*[14] promulgated on April 2, 2025, wherein the Supreme Court adopted a unified rule that the filing of the criminal complaint before the prosecution office tolls the running of the prescriptive period. However, the Supreme Court expressly declared that this new doctrine shall apply prospectively and is therefore inapplicable to the present case, thus:

> **With this dilemma, the Court takes this opportunity to pronounce that the filing of the complaint before the prosecution office and the conduct of the summary investigation should toll the running of the prescriptive period.** While it is ideal that all cases are resolved promptly, the reality is that this is not done at all times, whether for valid reasons or not. The offended party, which is

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[13] Emphasis supplied.

[14] G.R. No. 258563, April 2, 2025.

> primarily the State, should not be prejudiced by any delay in the conduct of the preliminary investigation even for cases covered by summary procedure. The Court reiterates its reasoning in *People v. Olarte* that "it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. All that the victim of the offense may do on his part to initiate the prosecution is to file the requisite complaint."
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> . . .
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> **But in line with the time-honored principle that the interpretation that is most favorable to the accused should be adopted with respect to laws on prescription of crimes, this new rule shall apply prospectively.**[15]

In *precis*, the Court in Division did not err in finding that petitioner's right to file the Information had already prescribed, thereby warranting the dismissal of the case.

WHEREFORE, the Verified Petition for Review is **DENIED**, for lack of merit. The Resolutions dated August 20, 2024 and November 18, 2024 in CTA Crim. Case No. O-1193, are hereby **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

(With Separate Concurring Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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15 Emphasis supplied.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(Inhibited)
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, Petitioner,	**CTA EB CRIM. No. 176** (CTA Crim. Case No. O-1193)
- versus -	Present: **RINGPIS-LIBAN, *P.J.*, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES, *and* ANGELES, *JJ.***
JCLN GLOBAL PROPERTIES DEVELOPMENT CORP., JAMES CHRISTOPHER L. NAPOLES, and JO CHRISTINE L. NAPOLES, Respondent.	Promulgated: JUN 08 2026 11:40 am

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SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* in the denial of petitioner People of the Philippines' (**petitioner**'s) Verified Petition for Review for lack of merit, and in the affirmation of the Second Division's Resolutions dated 20 August 2024[1] and 18 November 2024,[2] on the ground of prescription of petitioner's right to file the Information in the instant case, *albeit* on grounds that reflect a reconsideration of my earlier position. The pivotal question in this case concerns the interpretation of Section 281[3] of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

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[1] Division Docket, pp. 326-331.
[2] Id., pp. 355-358.
[3] SEC. 281. *Prescription for Violations of any Provision of this Code.* – All violations of any provision of this Code shall prescribe after five (5) years.

In *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*[4] (***Lim***), the Supreme Court interpreted Section 281 of the NIRC of 1997, as amended, *vis-à-vis* Section 2,[5] Rule 9, of the Revised Rules of the Court of Tax Appeals (**RRCTA**),[6] in that, in case the date of commission of the offense is unknown, the five (5)-year prescriptive period for the filing of criminal actions would begin to run from the discovery *and* institution of judicial proceedings for its investigation and punishment. Critically, in addition to the fact of discovery, there must be a judicial proceeding for the investigation and punishment of the tax offense (*i.e.*, indorsement to the fiscal's office for preliminary investigation) before the prescriptive period begins to run. As such, it would seem that criminal tax offenses are practically imprescriptible for as long as the period from the discovery and institution of judicial proceedings for its investigation and punishment, up to the filing of the information in court, does not exceed five (5) years.

On the other hand, in *People of the Philippines v. Ulysses Palconit Consebido*[7] (***Consebido***), the Supreme Court re-examined its ruling in *Lim* –

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> Notably, *Lim, Sr.* applied Section 354 of the 1939 NIRC. Associate Justice Japar B. Dimaampao (Associate Justice Dimaampao) astutely noted that the 1939 NIRC was passed when justices of the peace conducted preliminary investigations. This is no longer the case now, as observed in *Panaguiton*. Thus, in consideration of the foregoing, **the Court clarifies that under Section 281 of the 1997 NIRC, prescription for criminal offenses where the commission of the violation is not known shall begin to run from its discovery.** The adoption of the interpretation in Duque is apt in order to harmonize the second and third paragraphs of Section 281 of the 1997 NIRC. **The institution of proceedings, specifically the commencement of preliminary investigation, shall interrupt the prescriptive period for the offense.** This clarification is necessary as a literal interpretation of the law should be rejected if it would lead to absurd results. Prescription would not run under a literal reading of Section 281 of the 1997 NIRC, as it would both begin and be interrupted by the institution of proceedings. The Court must give effect to the clear intent of the

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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 persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

The term of prescription shall not run when the offender is absent from the Philippines.

[4] G.R. Nos. 48134-37, 18 October 1990.

[5] SEC. 2. *Institution of criminal actions.* — All criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the Tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing.

The institution of the criminal action shall interrupt the running of the period of prescription.

[6] A.M. No. 05-11-07-CTA.

[7] G.R. No. 258563, 02 April 2025; Citation omitted, emphasis supplied and italics in the original text.

> Legislature to set a prescriptive period for violations of the 1997 NIRC. Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) judiciously expressed that the prevailing interpretation renders nugatory or lifeless the prescriptive period set by the Legislature itself.
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> ...

Thereafter, the Supreme Court instituted a uniform rule that criminal cases shall be deemed instituted upon the commencement of preliminary investigation. Accordingly, it is also the **filing of the complaint before the prosecution office of the Department of Justice (DOJ) and the conduct of the summary investigation which toll the running of the prescriptive period.**[8]

The Supreme Court also introduced a doctrinal clarification in *Consebido*, when it provided for the qualification that: "in line with the time-honored principle that the interpretation that is most favorable to the accused should be adopted with respect to laws on prescription of crimes, this **new rule shall apply prospectively**."

I previously espoused the view that because it constitutes the proper and authoritative interpretation of Section 281 of the NIRC, the pronouncement in *Consebido* should be applied retroactively, dating back to the effectivity of the NIRC.[9] Upon further reflection, however, I find sufficient doctrinal basis to revisit that position.

Accordingly, I take this opportunity to supply the necessary discussion in order to clarify the prospective application of *Consebido* in light of its significant procedural ramifications, especially when applied in criminal tax cases which are governed by rules specific to the Court of Tax Appeals (**CTA**).

It is readily apparent that the new rule in *Consebido, i.e.*, that criminal tax cases are deemed instituted upon the filing of a complaint before the prosecution office, while now controlling, necessarily contradicts Section 2,[10] Rule 9, of the RRCTA which clearly provides that criminal tax actions are instituted, and the prescriptive period interrupted, by the filing of an

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[8] See *People of the Philippines v. Ulysses Palconit Consebido*, supra at note 7.

[9] In, among others: *People of the Philippines v. Lemuel Sibuma Consolacion*, CTA EB Crim. Case No. 150 (CTA Crim. Case No. O-983), 29 May 2025; *People of the Philippines v. Ziegfried Loo Tian*, CTA EB Crim. Case No. 116 (CTA Crim. Case No. O-944) (Resolution), 16 July 2025; *People of the Philippines v. Ziegfried Loo Tian*, CTA EB Crim. Case No. 112 (CTA Crim. Case No. O-957) (Resolution), 04 August 2025; *People of the Philippines v. Shelmark Builders Phils., Inc.*, CTA EB Crim. Case No. 138 (CTA Crim. Case No. O-1054), 22 October 2025; *People of the Philippines v. PGU General Merchandise, Inc., Fook Seong Yong and Rocelle Francisco*, CTA EB Crim. Case No. 144 (CTA Crim. Case No. O-1081), 18 November 2025; and *People of the Philippines v. Logistics.com Corporation, Jovan G. Trias, Armand R. Ong and Erma O. Aunario*, CTA EB Crim. Case No. 114 (CTA Crim. Case No. O-973) (Resolution), 24 February 2026.

[10] Supra at note 5.

information in court. While *Consebido* espoused the "institution-by-complaint" rule, the RRCTA expressly provides for "institution-by-information", thereby creating a genuine interpretative tension between the two.

Stated differently, *Consebido* introduced an uncertainty as to the precise point at which prescription is interrupted, at least for cases falling within this Court's original criminal jurisdiction. Litigants, particularly the accused, who, for as long as the RRCTA has been in existence, reasonably believed that the filing of an Information before this Court is the operative act that both institutes the criminal action and tolls prescription, are now faced with a starkly different jurisprudential interpretation in *Consebido* that shifted the reckoning point of interruption of the prescriptive period to an earlier stage in the proceedings, *i.e.*, upon filing of a complaint with the DOJ, instead of upon the filing of an information before this Court.

In resolving the interpretative tension between the differing rules under the RRCTA and *Consebido*, it is crucial to examine the nature of prescription laws, as this would dictate how subsequent changes in interpreting such laws are to be applied.

The 1923 cases of Moran and Parel

The discussion on the effect and interpretation of the law on prescription dates to 1923 in the case of *The People of the Philippine Islands v. Juan Moran, et al.*[11] (***Moran***), where the Supreme Court cited Fiore, an eminent professor of international law and author of "Irretroactivity and Interpretation of Statutes", and **leaned towards his interpretation that regardless of the nature of the law on prescription, any new construction of prescription law must be applied if it is more favorable to the accused, but not if it is more prejudicial, considering that prescription affects the very substance of criminal prosecutions:**

> ...
>
> After examining the different opinions of the writers on the matter, Fiore has come, as seen from the above quotation, to the conclusion that, whether the statute relative to prescription be considered as of a procedural or formal, or substantive, nature, **the new statute must be applied if it is less severe or more favorable to the accused, but not if it is more prejudicial, notwithstanding the general rule that all procedural laws are retroactive in regard to prescription.** In view of the special motion filed by the accused on May 2, 1922, it does not matter and it is of no

[11] G.R. No. 17905, 27 January 1923; Emphasis supplied.

importance, so far as the question herein raised is concerned, whether the provision contained in section 71 of Act No. 3030 be considered as of a substantive, procedural, or adjective character, because applying the principles above enunciated, the result is the same, and **the more severe law in the matter of prescription** extends, as Fiore says, the field of the criminal action and **affects the very substance thereof, because it determines the basis and the sphere of the rights to punish.**

...

Thus, the Supreme Court concluded by saying that:

...

[N]o period of prescription having been fixed in the former law, those offense were imprescriptible, and the offender could be prosecuted and punished at any time and indefinitely, even ten, twenty, or more years after the commission thereof, whereas the new law, that is, Act No. 3030 in providing the period of one year for the prescription, has, in effect, shortened the time of prescription fixed in the old law by virtue of the silence thereof, reducing it to one year and has established less difficult conditions for the application of the same as regards those offenses, which is evidently more favorable and lenient to the violators of the said former law, and, as Fiore says in one of the paragraph above quoted from his book, **the reduction made by the new law implies a recognition on the part of the sovereign power that the greater severity of the former law, as regards the substance of the criminal action, is unjust, and it would contradict itself if it would attempt to enforce its right under the conditions of the former law which has already been regarded by the conscientious public opinion as juridically burdensome, and, therefore, unjust,** and the sovereign power cannot exercise the right to punish except within the limits regarded by it as just at the time of exercising it.[12]

...

This portion of the *Moran* case went on to be cited by the Supreme Court in later and even more recent cases interpreting the laws on prescription in criminal offenses.

Promulgated at the same time as *Moran* was the case of *The People of the Philippine Islands v. Norberto Parel*[13] (***Parel***), where the Court, citing Fiore anew, declared that **changes in the law on prescription must not be applied retroactively if the same would prejudice the accused:**

...

[W]hen the new prescriptive law is more rigid than the former, whether as to the admissibility of the prescription itself or as to the conditions and time required for its effectiveness, care must be taken that law is not applied to crimes committed before its enactment, not

[12] Id.; Emphasis supplied.
[13] G.R. No. 18260, 27 January 1923; Emphasis supplied.

> because the accused has acquired any right so to prevent its application, but for the reasons that we have already stated. What right can the accused have to endeavor to prevent that which the sovereign power has the right to do in order to preserve public order? Let us not talk therefore of vested rights of the accused, but let us say it, and with emphasis, that the reason for the irretroactivity of the more severe law is found in the principle that the **sovereign power cannot, without committing an injustice, apply the more severe prescriptive provisions; and those provisions cannot be justly applied if they have not been previously promulgated. And the right itself to punish does not arise except by virtue of a law promulgated and in force at the time of the commission of the crime. The more rigid the prescriptive law the more enlarged the field of criminal prosecution and this affects the substance thereof, because it fixes the basis and the sphere of the right to punish.** And can all of these be done by the sovereign power without any law? Can that power, without doing an injustice, extend the effects of the new law to said acts committed before its enactment? For the same reasons which prevent the sovereign power from punishing those acts that have not expressly been made punishable as crimes by the former law or from imposing the more severe penalties provided in the new law when such acts have been committed before those penalties were established by legislative enactment, so also it cannot enlarge the criminal action (that is to say, its right to punish) by a subsequent law and apply to acts executed before its enactment the less favorable provisions of prescription therein established . . .
>
> For the reasons stated, we come to the conclusion that, as a matter of justice which must regulate all the elements of a criminal action, that **the accused must be given the benefit of the provisions of the new law when more favorable to him** and that, unless there should be a final and conclusive judgment at the time, **we must also admit in matters of prescription that the new law, when less severe, should be applied.** The same principle applies when the modifications introduced by the law refer to the prescription of the penalty, because in its substance the prescription of the penalty is equivalent to the prescription of the criminal action. (Fiore, *Irretroactividad e Interpretacion de las Leyes*, pp. 426-428.)
>
> ...

The *Parel* case remains to be good law and was recently cited in the 2024 case of *Dexter Bargado y Morgado v. People of the Philippines.*[14]

Jurisprudence on prescription being a matter of substantive law

After 1923, the Supreme Court was more definitive in stating that **prescription is indeed a matter of substantive law**. To be sure, in the 1954 case of *The People of the Philippines v. Pascual Castro,*[15] the Supreme Court declared that:

[14] G.R. No. 271081. 29 July 2024.
[15] G.R. No. L-6407. 29 July 1954; Emphasis supplied.

> ...
> Hence, the rule provides that the plea of prescription should be set up before arraignment, or before the accused pleads to the charge, as otherwise the defense would be deemed waived; but, as was well said in the Moran case, this rule is not of absolute application, especially when it conflicts with a **substantive provision of the law, such as that which refers to prescription of crimes.** Since, under the Constitution, the Supreme Court has only the power to promulgate rules concerning pleadings, practice and procedure, and the admission to the practice of law, and cannot cover substantive rights (section 13, article VII, of the Constitution), the rule we are considering cannot be interpreted or given such scope or extent that would come into conflict or defeat an **express provision of our substantive law. One of such provisions is article 89 of the Revised Penal Code which provides that the prescription of crime has the effect of totally extinguishing the criminal liability.**
> ...

The conclusion that prescription is a matter of substantive law was reiterated in the 1992 case of *Luz M. Zaldivia v. Hon. Andres B. Reyes, Jr., et al.,*[16] as well as in the 2013 case of *Jadewell Parking Systems Corporation v. Hon. Judge Nelson F. Lidua, Sr., et al,*[17] both of which were discussed in *Consebido*:

> ...
> [I]f there be a conflict between the Rule on Summary Procedure and Section 1 of Rule 110 of the Rules on Criminal Procedure, the former should prevail as the special law. And if there be a conflict between Act No. 3326 and Rule 110 of the Rules on Criminal Procedure, the latter must again yield because **this Court, in the exercise of its rule-making power, is not allowed to "diminish, increase or modify substantive rights"** under Article VIII, Section 5(5) of the Constitution. **<u>Prescription in criminal cases is a substantive right.</u>**[18]
> ...

Jurisprudence on the liberal interpretation of prescription laws

Having defined prescription to be a matter of substantive right of the accused in criminal cases, the Supreme Court went further to declare that laws on prescription must be accorded a liberal interpretation.

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16 G.R. No. 102342. 03 July 1992.
17 G.R. No. 169588. 07 October 2013.
18 Emphasis and underscoring supplied.

In the 1989 case of *People of the Philippines v. Mizpah R. Reyes,*[19] which was cited in the 1992 case of *People of the Philippines v. Napoleon Duque,*[20] the Supreme Court ruled that in the interpretation of the law on prescription of crimes, that which is most favorable to the accused is to be adopted:

> ...
> However, the law on prescription of crimes rests on a more fundamental principle. Being more than a statute of repose, **it is an act of grace whereby the state, after the lapse of a certain period of time, surrenders its sovereign power to prosecute the criminal act.** While the law on prescription of civil suits is interposed by the legislature as an impartial arbiter between two contending parties, the law on prescription of crimes is an **act of amnesty and liberality on the part of the state** in favor of the offender [People v. Moran, supra, at p. 405]. **Hence, in the interpretation of the law on prescription of crimes, that which is most favorable to the accused is to be adopted.** [People v. Moran, supra; People v. Parel, 44 Phil. 437 (1923); People v. Yu Hai, 99 Phil. 725 (1956)].[21]
> ...

This doctrine was reiterated in the 2001 case of *People of the Philippines v. Arturo F. Pacificador*[22] (***Pacificador***):

> ...
> It bears emphasis, as held in a number of cases, that **in the interpretation of the law on prescription of crimes, that which is more favorable to the accused is to be adopted.** The said legal principle takes into account the nature of the law on prescription of crimes which is an **act of amnesty and liberality on the part of the state in favor of the offender.** In the case of *People v. Moran,* this Court amply discussed the nature of the statute of limitations in criminal cases, as follows:
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> > The statute is not a statute of process, to be scantily and grudgingly applied, but an amnesty, declaring that after a certain time oblivion shall be cast over the offense; that the offender shall be at liberty to return to his country, and resume his immunities as a citizen; and that from henceforth he may cease to preserve the proofs of his innocence, for the proofs of his guilt are blotted out. Hence, it is that **statutes of limitation are to be liberally construed in favor of the defendant,** not only because such liberality of construction belongs to all acts of amnesty and grace, but because the very existence of the statute is a **recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt**.
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> ...

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19 G.R. Nos. 74226-27, 27 July 1989.
20 G.R. No. 100285, 13 August 1992.
21 Emphasis supplied.
22 G.R. No. 139405, 13 March 2001; Citations omitted and emphasis supplied.

Citing *Pacificador,* the Supreme Court, in the 2006 case of *Benjamin "(Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo,*[23] declared that any doubt on the bar or cause of interruption of prescriptive periods must be resolved in favor of the accused:

> ...
>
> Indeed, there is no reason why we should deny petitioner the benefits accruing from the liberal construction of prescriptive laws on criminal statutes. **Prescription emanates from the liberality of the State. Any bar to or cause of interruption in the operation of prescriptive periods cannot simply be implied nor derived by mere implication.** Any diminution of this endowment must be directly and expressly sanctioned by the source itself, the State. Any **doubt on this matter must be resolved in favor of the grantee thereof, the accused.**
>
> The foregoing conclusion is logical considering the nature of the laws on prescription. The exceptions to the running of or the causes for the interruption of the prescriptive periods may and should not be easily implied. The prescriptive period may only be prevented from operating or may only be tolled for reasons explicitly provided by the law.
>
> ...

In sum, the Supreme Court has been consistent in holding that prescription laws, and interpretation of the same by the Supreme Court, which form part of the law of the land, are more than just procedural rules. Instead, **prescription is a matter of substantive law affecting the substantive rights of the accused,** as prescription laws reach the very right of the State to prosecute a criminal offense and thus, spell the difference between an accused being punished or absolved on the ground of lapse of time.

Given this characterization, there is sufficient jurisprudential basis to conclude that, based on the spirit of the law and the intent of legislature, **any changes in the interpretation of prescription laws must be applied liberally in favor of the accused.** Applying this in order to resolve the present genuine interpretative tension between the RRCTA and *Consebido* would lead this Court to decide the matter based on the interpretation that favors the protection of herein accused respondents' substantive rights.

We now arrive at the resolution of the primordial issue in the case at bar.

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[23] G.R. Nos. 165510-33, 28 July 2006; Emphasis supplied.

In deciding the sole issue on whether the Court in division erred in dismissing the instant case on the ground of prescription, the following factors should be considered: (1) the period of prescription for the offense charged; (2) the time when the prescriptive period starts to run; and (3) the time when the prescriptive period is interrupted.[24]

As to the period of prescription – Section 281 of the NIRC of 1997, as amended, is explicit that the prescriptive period for all violations of the NIRC is five (5) years.[25]

As to the commencement of the prescriptive period – Section 281 of the NIRC of 1997, as amended, also provides that: (**a**) if the date of commission of the violation of the law is known, prescription shall run from such date, and (**b**) if the date of commission is unknown, prescription shall begin to run from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.[26]

The Information in the case at bar charges the accused respondents with violation of Section 255, in relation to Section 253(d) and 256, of the NIRC of 1997, as amended, for willful failure to supply correct and accurate information in its income tax return for taxable year 2010. Since this is a violation of the provisions of the NIRC, the prescriptive period for the filing of the criminal information is five (5) years. Considering that the date of commission is unknown, the same shall be deemed to run from the discovery and institution of judicial proceedings for investigation and punishment. Given that the preliminary investigation before the DOJ is a proceeding for investigation and punishment, the prescriptive period shall commence to run from such date, which, in this case, is 17 September 2015.

As to the interruption of the prescriptive period – this is where differing interpretations arise. Notably, the Information in this case was filed in Court on 19 July 2024.

If We are to apply the "institution-by-information" rule in the RRCTA, the five (5)-year prescriptive period commenced to run from 17 September 2015 and ended on 17 September 2020. It was only upon the filing of the instant Information on 19 July 2024 that the prescriptive period was supposedly interrupted. However, such filing of the Information was already three (3) years, ten (10) months, and two (2) days too late. Under the RRCTA provision, therefore, the prosecution's filing of the instant Information on 19 July 2024 was already time-barred.

[24] *See Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo*, supra at note 24.
[25] Supra at note 3.
[26] Id.

If, on the other hand, We apply the "institution-by-complaint" rule in *Consebido,* the five (5)-year prescriptive period commenced to run from 17 September 2015 and was likewise interrupted on the same date. Under *Consebido,* therefore, the prosecution seasonably filed the instant Information on 19 July 2024, as the offense had become practically imprescriptible.

Between the two interpretations, **the application of the "institution-by-information" rule in the RRCTA, and coincidentally, the prospective application of the ruling in *Consebido,* favors the accused in the instant case.** As correctly ruled by the Second Division, since the Information was filed only on 19 July 2024, or after the lapse of the five (5)-year prescriptive period, which ended on 17 September 2020, the State's right to prosecute or to institute a criminal action against respondents in this case had already prescribed.

Considering that the present criminal action was instituted prior to *Consebido*, this Court cannot sustain petitioner's position that the filing of the criminal complaint with the DOJ on 17 September 2015 interrupted the prescriptive period. To do so would operate to the prejudice of accused respondents by rendering the offense practically imprescriptible and perpetually exposing them to the threat of criminal prosecution regardless of the lapse of time, in contravention of the plethora of Supreme Court cases declaring that changes in the interpretation of prescription laws must be construed liberally in favor of the accused.

In fine, as held in the *ponencia*, the Court in Division is correct in finding that the case shall be dismissed on the ground of prescription of the petitioner's right to file the instant Information.

All told, I vote to **DENY** the present *Petition for Review* for lack of merit.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice