

³ *Rollo*, pp. 356-372.

Petitioner seeks the reversal of the Court *En Banc*'s Decision dated 30 August 2024⁴ (**assailed Decision**), which denied petitioner's "Verified Petition for Review (of the Resolution dated January 31, 2023)"⁵ (**Verified Petition for Review**) for lack of merit and affirmed the First Division's Resolutions dated 12 December 2022⁶ and 31 January 2023.⁷

In the present MR⁸, petitioner *first* argues that the Court *En Banc*'s interpretation of the Supreme Court's ruling in *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*⁹ (**Lim, Sr.**), i.e., that the five (5)-year prescriptive period under Section 281¹⁰ of the National Internal Revenue Code (NIRC) of 1997, as amended, commences upon discovery of the violation and the institution of judicial proceedings for its investigation and punishment, and is tolled only by the filing of an Information before the Court, does not align with the general principles on prescription applicable to criminal actions. Petitioner contends that there is no compelling reason to treat criminal actions under the NIRC differently, and that jurisprudence supports the application of these principles uniformly across all criminal cases, without distinction.

As such, petitioner maintains its position that the filing of the Joint Complaint-Affidavit¹¹ (JCA) before the Department of Justice (DOJ) for preliminary investigation interrupted the running of the five (5)-year prescriptive period, and the period remained tolled upon the subsequent filing of the Information¹² before the Court of Tax Appeals (CTA).

Petitioner notes that in *Lim, Sr.*, the Separate Concurring Opinion of Supreme Court Associate Justice Hugo E. Gutierrez, Jr.

⁴ Id., pp. 263-281.

⁵ Id., pp. 1-224, with annexes.

⁶ Division Docket, pp. 213-219.

⁷ Id., pp. 244-247.

⁸ Supra at note 1.

⁹ G.R. Nos. L-48134-37, 18 October 1990.

¹⁰ **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.**

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.** (Emphasis and underscoring supplied)

¹¹ Division Docket, pp. 23-37.

¹² Id., pp. 5-6.

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(Ret.) (Justice Gutierrez) emphasized that making the discovery of the fraud and the institution of judicial proceedings conjunctive is illogical, as judicial proceedings necessarily follow discovery. The opinion further observed that, unless the law is clarified, treating these two events as conjunctive would render the date of discovery effectively meaningless.

While petitioner agrees that it is judicially sound and consistent for courts to adhere to the precedent set in *Lim, Sr.* regarding the prescription of criminal tax cases, particularly since Section 281¹³ of the NIRC of 1997, as amended, is a verbatim reiteration of Section 354 of the NIRC of 1939, it strongly endorses the view of Justice Gutierrez. Petitioner emphasizes that it would be illogical to interpret Section 354 (now Section 281) as requiring the institution of judicial proceedings to initiate or trigger the prescriptive period, since judicial proceedings necessarily follow discovery. Such an interpretation would render the date of discovery meaningless, which is inconsistent with more recent jurisprudence on the prescription of criminal actions.

Although Section 281 of the NIRC of 1997, as amended, and Section 2¹⁴, Rule 9 of the Revised Rules of the Court of Tax Appeals¹⁵ (RRCTA) are special provisions governing criminal violations under the NIRC that may justify a distinct application of the principles of prescription, petitioner contends that the Supreme Court has nonetheless applied the general rules on prescription in one case involving a criminal tax violation under the same law. In this regard, petitioner cites *Petronila C. Tupaz v. Hon. Benedicto B. Ulep Presiding Judge of RTC Quezon City, Branch 105, and People of the Philippines*¹⁶ (**Tupaz**), which involved the offense of willful failure to pay deficiency income tax (IT). In that case, petitioner claims that the

¹³ Supra at note 10.

¹⁴ 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.

¹⁵ A.M. No. 05-11-07-CTA dated 22 November 2005.

¹⁶ G.R. No. 127777, 01 October 1999.

Supreme Court categorically held that the filing of a criminal complaint before the DOJ tolls the running of the prescriptive period.

Petitioner argues that the ruling in *Tupaz* should prevail over *Lim, Sr.* as *Tupaz* was decided in 1999 or nine (9) years after the promulgation of *Lim, Sr.* and involved the application of Section 281¹⁷ of the NIRC of 1997, as amended. In contrast, *Lim, Sr.* interpreted Section 354 of the NIRC of 1939.

Petitioner also invokes the ruling in *People of the Philippines v. Mateo A. Lee, Jr.*¹⁸ (**Lee, Jr.**), citing *People of the Philippines v. Ma. Theresa Pangilinan*¹⁹ (**Pangilinan**), where the Supreme Court ruled that there is no more distinction between cases under the Revised Penal Code²⁰ (RPC) and those covered by special laws with respect to the interruption of the period of prescription and that the period of prescription is interrupted by the filing of the complaint before the fiscal's office for purposes of preliminary investigation against the accused.

Petitioner then mentions the more recent ruling in *Pastor Corpus, Jr. y Belmoro v. People of the Philippines*²¹ (**Corpus**), citing *Hermis Carlos Perez v. Sandiganbayan and the Ombudsman*²² (**Perez**) and *Luis Panaguiton, Jr. v. Department of Justice, et al.*²³ (**Panaguiton**), that to rule that the commencement of the proceedings for the prosecution of the accused before the prosecutor's office does not effectively interrupt the prescriptive period for the offense would deprive the injured party the right to obtain vindication on account of delays that are not under his control.

Petitioner further notes that in *Corpus*, the Supreme Court distinguished, clarified and reiterated that for crimes (whether arising under the RPC or special penal laws) requiring preliminary investigation, the applicable rule on prescription is as established in *Perez*, *Pangilinan*, and *Panaguiton*. In contrast, for crimes that do not require preliminary investigation, the applicable ruling is *Jadewell*

¹⁷ Supra at note 10.

¹⁸ G.R. No. 234618, 16 September 2019.

¹⁹ G.R. No. 152662, 13 June 2012.

²⁰ AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS.

²¹ G.R. No. 255740, 16 August 2023.

²² G.R. No. 245862, 03 November 2020.

²³ G.R. No. 167571, 25 November 2008.

*Parking Systems Corporation v. Hon. Judge Nelson F. Lidua, Sr., et al.*²⁴ (**Jadewell**), where only the filing of an Information tolls the prescriptive period. In this case, since the criminal tax violation under Section 255²⁵ of the NIRC of 1997, as amended, requires preliminary investigation, petitioner insists that the prescriptive period is interrupted by the filing of the complaint before the fiscal's office for purposes of preliminary investigation against the accused.

Second, petitioner submits that the term "proceedings" should be understood as either executive or judicial in character.

In arguing that it is the filing of a complaint for purposes of preliminary investigation that tolls the prescriptive period, petitioner points out that in *Panaguiton*, the Supreme Court discussed the set-up of the Philippine judicial system in place during the passage of Act No. 3326.²⁶ It was explained therein that when the said law was passed, justices of the peace conducted the preliminary investigation, thus, the phraseology in the law "institution of judicial proceedings for its investigation and punishment." As such, prescription of the offense is tolled once a complaint is filed with the justice of the peace for preliminary investigation.

Petitioner adds that *Panaguiton* was thereafter followed by the cases of *Domingo Ingco, et al. v. Sandiganbayan*²⁷ (**Ingco**), *Sanrio Company Limited v. Edgar C. Lim, doing business as Orignamura Trading*²⁸ (**Sanrio**), *Securities and Exchange Commission v. Interport Resources Corporation, et al.*²⁹ (**Interport**) and *Pangilinan*. Petitioner argues that, in the cited cases, it was commonly held that the institution of proceedings for preliminary investigation against the accused interrupts the period of prescription. There is no reason to treat the prescriptive period of violations of the NIRC of 1997, as amended, different from other special laws.

²⁴ G.R. No. 169588, 07 October 2013.

²⁵ SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.*

²⁶ 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.

²⁷ G.R. No. 112584, 23 May 1997.

²⁸ G.R. No. 168662, 19 February 2008.

²⁹ G.R. No. 135808, 06 October 2008.

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Thus, based on the provisions of Section 281³⁰ of the NIRC of 1997, as amended, and the aforementioned Supreme Court rulings, petitioner insists that the filing of the JCA³¹ on 05 July 2012 (before the DOJ), whereby the investigation of the charge for purposes of prosecution has become the exclusive function of the executive branch, should be sufficient to toll prescription.

According to petitioner, the present criminal case against respondent should not have prescribed yet as the JCA was timely filed on 05 July 2012, consistent with the rulings in *Lim, Sr., Tupaz, and Panaguiton* that the criminal action was instituted within the five (5)-year prescriptive period.

Third, petitioner reiterates that the filing of the JCA with the DOJ on 05 July 2012 effectively tolled the running of the prescriptive period.

In this regard, petitioner advances the following arguments: (1) the filing of a complaint with the prosecutor's office suspends the running of the prescriptive period; (2) the proceedings against respondent were not terminated upon the approval of the investigating prosecutor's recommendation to file an Information in court; and (3) the prescriptive period does not begin to run anew upon approval of the investigating prosecutor's recommendation to file the Information against respondent.

Petitioner further contends that Section 2³², Rule 9 of the RRCTA merely reiterates the principle that the filing of criminal actions before the CTA interrupts the running of the prescriptive period. Petitioner emphasizes that this rule does not negate the established principle that the filing of a complaint with the prosecutor's office likewise suspends the prescriptive period.

Accordingly, petitioner maintains that prescription has not set in, as the period of discovery and the institution of judicial proceedings for violation of Section 255³³ of the NIRC of 1997, as amended, against respondent not only trigger the commencement of

³⁰ Supra at note 10.

³¹ Supra at note 11.

³² SEC. 2. *Institution of Criminal Actions.*

³³ Supra at note 25.

the prescriptive period but also simultaneously interrupts its running on 05 July 2012, the date of filing of the JCA with the DOJ.

Fourth, petitioner asserts that the mere fact that time has passed should not prejudice the right of the government to collect taxes as taxes are the lifeblood of the government. Like respondent, the State also has the right to due process which must not be curtailed.

Lastly, petitioner contends that, as held in *Panaguiton*, aggrieved parties (such as the State in this case), especially those who do not sleep on their rights and actively pursue their causes, should not be allowed to suffer unnecessarily further simply because of circumstances beyond their control, like the accused's delaying tactics or the delay and inefficiency of the investigating agencies.

Respondent, on the other hand, counter-argues that the Court *En Banc* correctly upheld the First Division's finding that the right of the government to prosecute him has already prescribed, after carefully applying the ruling in *Lim, Sr.*

As held in *Lim, Sr.*, the prescription of criminal cases for violations of the provisions of the NIRC is 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, the government's right to file an action will not prescribe.

According to respondent, sustaining petitioner's contention would render Section 281³⁴ of the NIRC of 1997, as amended, ineffective and thus, contradicts the principles of logic and would lead to a clear absurdity of the law. The Supreme Court's pronouncement in *Lim, Sr.* remains the prevailing jurisprudence on the matter and, under the principle of *stare decisis et non quieta movere*, should be followed in subsequent cases involving a similar legal issue.

Respondent further submits that the Supreme Court clarified the application of Section 281 of the NIRC of 1997, as amended, and

³⁴ Supra at note 10.

the ruling in *Lim, Sr.* when it approved the RRCTA, Section 2, Rule 9 of which provides that the institution of the criminal action shall interrupt the running of the prescriptive period. This provision clearly discredits petitioner's argument that the filing of the criminal complaint against respondent on 05 July 2012 not only triggers the commencement of the prescriptive period, it also tolls the same prescriptive period.

Additionally, citing the guidelines laid down in *Cesar Matas Cagang v. Sandiganbayan, Fifth Division, et al.*³⁵ (**Cagang**), respondent argues that the case must be dismissed for violation of his right to speedy disposition of cases guaranteed under Section 16³⁶, Article III³⁷ of the 1987 Philippine Constitution, as the prosecution took more than ten (10) years from the filing of the JCA³⁸ to file the Information³⁹ in Court.

Respondent further emphasizes that when a delay extends beyond the time periods prescribed by the rules for resolving a case, the burden shifts to the prosecution to demonstrate that respondent's right to a speedy disposition of cases was not violated. In this regard, Section 3(f)⁴⁰, Rule 112⁴¹ of the Revised Rules of Criminal Procedure (RRCP) provides that the investigating prosecutor has ten (10) days after the conclusion of the preliminary investigation to determine whether there is sufficient ground to hold respondent for trial. Given that the prosecution took more than ten (10) years to complete the preliminary investigation, the burden of proof has shifted to the prosecution to establish that the delay was not unreasonable.

Respondent also cites the rulings in *Francisco S. Tatad v. The Sandiganbayan, and the Tanodbayan*⁴² (**Tatad**) and *People of the Philippines v. Hon. Sandiganbayan, First Division & Third Division, et al.*⁴³ (**Sandiganbayan**) that a delay of almost three (3) years and five

³⁵ G.R. Nos. 206438 and 206458 & 210141-42, 31 July 2018.

³⁶ SEC. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

³⁷ Bill of Rights.

³⁸ Supra at note 11.

³⁹ Supra at note 12.

⁴⁰ SEC. 3. *Procedure.* — The preliminary investigation shall be conducted in the following manner:

...

(f) **Within ten (10) days after the investigation**, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial. (Emphasis supplied)

⁴¹ PRELIMINARY INVESTIGATION.

⁴² G.R. Nos. 72335-39, 21 March 1988.

⁴³ G.R. Nos. 188165 & 189063, 11 December 2013.

(5) years and five (5) months, respectively, in the termination of the preliminary investigation constituted an inordinate delay, enough to merit the dismissal of the criminal charges.

In this case, respondent claims that there is inordinate delay in the filing of the Information⁴⁴ because: (1) more than ten (10) years lapsed from the institution of the criminal case on 05 July 2012 to the filing of the Information in Court on 26 October 2022; (2) it took more than two (2) years from 05 July 2012, *i.e.*, until 01 September 2014 to initially resolve the complaint and almost three (3) years therefrom, *i.e.*, until 11 May 2017 to resolve the case on motion for reconsideration; and (3) while the DOJ resolved the case as early as 11 May 2017, the Information was only filed before the CTA on 26 October 2022, equivalent to a lapse of more than five (5) years.

Moreover, respondent asserts that the delay was unjustified and remains unexplained, with no apparent reason offered for its occurrence. Accordingly, he argues that there is no valid basis for such inordinate delay, and the case must be dismissed for violation of his right to a speedy disposition of cases.

Lastly, respondent alleges that he invoked his right to speedy disposition of cases at the earliest opportunity, specifically in his "Comment/Opposition (*Re: Verified Petition for Review of the Resolution dated 31 January 2023*)."⁴⁵ Having timely asserted this right against the prosecution's inordinate delay, respondent maintains that the case must also be dismissed for violation of his constitutional right to a speedy disposition of cases.

We resolve.

PRESCRIPTION OF THE OFFENSE CHARGED

The crux of the controversy lies on whether *Lim, Sr.* remains binding jurisprudence for purposes of determining when the prescriptive period for violations of the NIRC of 1997, as amended, is interrupted or tolled.

⁴⁴ Supra at note 12.

⁴⁵ *Rollo*, pp. 241-260.

After an assiduous review and a second hard look at the case records and the parties' expounded arguments *vis-à-vis* relevant jurisprudence, the Court *En Banc* is constrained to reconsider its earlier disquisitions articulated in the assailed Decision.⁴⁶

To recall, the Court *En Banc* affirmed the dismissal of the subject criminal action against respondent on the ground of prescription since more than five (5) years have passed from the filing of the JCA⁴⁷ with the DOJ on 05 July 2012 until the filing of the subject Information⁴⁸ with this Court on 26 October 2022.

Applying *Lim, Sr.*, which held that tax cases are practically imprescriptible so long as the period from discovery *and* initiation of judicial proceedings **up to the filing of the information in court** does not exceed five (5) years, and in light of the express provision of Section 2, Rule 9 of the RRCTA, the Court *En Banc* ruled that for violations under a tax law, the five (5)-year prescriptive period is interrupted by the filing of the Information in Court—not by the filing of a complaint with the DOJ.

Admittedly, Our ruling above deviates from the general rule on prescription applicable to criminal actions for offenses requiring preliminary investigation—whether under the RPC or special laws—that the prescriptive period is interrupted by the filing of a complaint with the fiscal's office for purposes of preliminary investigation against the accused.

In reexamining the merits of Our ruling above, We begin by closely reviewing the relevant provisions of Section 281 of the NIRC of 1997, as amended, which governs the prescriptive period for criminal tax actions, *viz*:

...

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.

Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not

⁴⁶ Supra at note 4.

⁴⁷ Supra at note 11.

⁴⁸ Supra at note 12.

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.⁴⁹

...

The aforequoted provision expressly states that the prescriptive period shall be interrupted when “proceedings are instituted against the guilty persons.” This language raises two (2) key questions: *first*, what type of “proceedings” is contemplated—executive or judicial? And *second*, what is the proper legal meaning of the term “instituted”? Addressing these questions is essential to clarifying the scope and application of the provision, and to resolving the issue at hand.

Stated otherwise, a meaningful resolution of the issue requires a clear understanding of what constitutes the “institution of proceedings” sufficient to interrupt the running of the prescriptive period. To this end, it is necessary to refer to established jurisprudence interpreting similar provisions under both the RPC⁵⁰ and Act No. 3326⁵¹, as amended, which respectively govern the prescription of felonies and violations of special laws, to wit:

RPC, as amended	Act No. 3326, as amended
ART. 91. <i>Computation of prescription of offenses.</i> — 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	SEC. 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

⁴⁹ Italics in the original text, emphasis and underscoring supplied.
⁵⁰ Supra at note 20.
⁵¹ Supra at note 26.

RPC, as amended	Act No. 3326, as amended
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. (Emphasis supplied)	person , and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy. (Emphasis supplied)

Evidently, Section 281 of the NIRC of 1997, as amended, substantially mirrors the prescriptive provisions cited above, particularly Section 2 of Act No. 3326⁵², as amended. Given that the NIRC of 1997, as amended, is itself a special law, petitioner is correct in asserting that there is no justification for treating it differently from other special laws when determining the point at which the prescriptive period is deemed interrupted.

In the 1967 case of *People of the Philippines, et al. v. Ascencion P. Olarte*⁵³ (**Olarte**), which was later cited in *Lee, Jr.* and *Pangilinan*, the Supreme Court settled divergent views as to the **effect of filing a complaint** with the Municipal Trial Court **for purposes of preliminary investigation** on the prescriptive period of the offense. The High Court therein held that the filing of the complaint for purposes of preliminary investigation **interrupts the period of prescription of criminal responsibility**. It explained thus:

...
Analysis of the precedents on the issue of prescription discloses that there are two lines of decisions following differing criteria in determining whether prescription of crimes has been interrupted. **One line of precedents holds that the filing of the complaint with the justice of the peace (or municipal judge) does interrupt the course of the prescriptive term:** *People vs. Olarte*, L-13027, June 30, 1960 and case cited therein; *People vs. Uba*, L-13106, October 16, 1959; *People vs. Aquino*, 68 Phil. 588, 590. **Another series of decisions declares that to produce interruption the complaint or information must have been filed in the proper court that has jurisdiction to try the case on its merits:** *People vs. Del Rosario*, L-15140, December 29, 1960; *People vs. Coquia*, L-15456, June 29, 1963.

⁵² Supra at note 26.
⁵³ G.R. No. L-22465, 28 February 1967; Italics in the original text, emphasis and underscoring supplied.

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In view of this diversity of precedents, and in order to provide guidance for Bench and Bar, this Court has reexamined the question and, after mature consideration, has arrived at the conclusion that the doctrine is, and should be, the one established by the decisions holding that the filing of the complaint in the Municipal Court, even if it be merely for purposes of preliminary examination or investigation, should, and does, interrupt the period of prescription of the criminal responsibility, even if the court where the complaint or information is filed cannot try the case on its merits. Several reasons buttress this conclusion: first, the text of article 91 of the Revised Penal Code, in declaring that the period of prescription “shall be interrupted by the filing of the complaint or information” without distinguishing whether the complaint is filed in the court for preliminary examination or investigation merely, or for action on the merits. Second, even if the court where the complaint or information is filed may only proceed to investigate the case, its actuations already represent the initial step of the proceedings against the offender. Third, 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.

And it is no argument that Article 91 also expresses that the interrupted prescription “shall commence to run again when such proceedings terminate without the accused being convicted or acquitted”, thereby indicating that the court in which the complaint or information is filed must have power to acquit or convict the accused. Precisely, the trial on the merits usually terminates in conviction or acquittal, not otherwise. But it is in the court conducting a preliminary investigation where the proceedings may terminate without conviction or acquittal, if the court should discharge the accused because no *prima facie* case has been shown.

Considering the foregoing reasons, the Court hereby overrules the doctrine of the cases of *People vs. Del Rosario*, L-15140, December 29, 1960; and *People vs. Coquia*, L-15456, promulgated June 29, 1963.

...

As can be gleaned from the foregoing, the Supreme Court explicitly adopted the ordinary sense of the word “instituted,” ruling that it includes the initiation of proceedings for preliminary investigation, not just the formal filing of an Information in Court. ↗

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Then, in the 2004 case of *Roberto Brillante v. Court of Appeals and the People of the Philippines*⁵⁴ (**Brillante**), citing the 1983 case of *Emiliano A. Francisco and Harry B. Bernardino v. The Honorable Court of Appeals and the People of the Philippines*⁵⁵ (**Francisco**), the Supreme Court said that the ruling in *Francisco* amplified the *Olarte* doctrine when it categorically ruled that **the filing of a complaint with the fiscal's office suspends the running of the prescriptive period of a criminal offense, viz:**

...

[T]he Court in *Francisco v. Court of Appeals* clarified that **the filing of the complaint with the fiscal's office also suspends the running of the prescriptive period of a crime:**

As is a well-known fact, **like the proceedings in the court conducting a preliminary investigation, a proceeding in the Fiscal's Office may terminate without conviction or acquittal.**

As Justice Claudio Teehankee has observed:

To the writer's mind, these reasons logically call with equal force, for the express overruling also of the doctrine in *People vs. Tayco*, 73 Phil. 509, (1941) that the filing of a complaint or *denuncia* by the offended party with the City Fiscal's Office which is required by law to conduct the preliminary investigation does not interrupt the period of prescription. In chartered cities, criminal prosecution is generally initiated by the filing of the complaint or *denuncia* with the city fiscal for preliminary investigation. In the case of provincial fiscals, besides being empowered like municipal judges to conduct preliminary investigations, they may even reverse actions of municipal judges with respect to charges triable by Courts of First instance. ...

There is no conflict in the pronouncements of the Court in *Olarte* and *Francisco* as *Brillante* erroneously suggests. **Olarte laid down the doctrine that a complaint filed for purposes of preliminary investigation tolls the running of the prescriptive period of a criminal offense.** The criminal complaint for libel in that case was filed, for the purpose of preliminary investigation, with the Justice of the Peace Court in Pozorrubio, Pangasinan. Hence, in setting the doctrine, the Court referred to the "filing of the complaint in the Municipal

⁵⁴ G.R. Nos. 118757 & 121571, 19 October 2004; Citations omitted, italics in the original text and emphasis and underscoring supplied.

⁵⁵ G.R. No. L-45674, 30 May 1983.

Court.” The question of whether the doctrine laid down in *Olarte* also applies to criminal complaints filed with the prosecutor’s office was settled in *Francisco*. Specifically, the Court in *Francisco* amplified the *Olarte* doctrine when it categorically ruled that the filing of a complaint with the fiscal’s office suspends the running of the prescriptive period of a criminal offense.

...

Relevantly, in the 2008 case of *Panaguiton*, the Supreme Court had the occasion to discuss the structure of the judicial system during the enactment of Act No. 3326⁵⁶, as well as the prevailing jurisprudence at the time, which recognized that the filing of a complaint before the justice of the peace for purposes of preliminary investigation was sufficient to toll the prescriptive period. The Hight Court discussed as follows:

...

It must be pointed out that when Act No. 3326 was passed on 4 December 1926, preliminary investigation of criminal offenses was conducted by justices of the peace, thus, the phraseology in the law, “institution of judicial proceedings for its investigation and punishment”, and the prevailing rule at the time was that once a complaint is filed with the justice of the peace for preliminary investigation, the prescription of the offense is halted.

The historical perspective on the application of Act No. 3326 is illuminating. Act No. 3226 was approved on 4 December 1926 at a time when the function of conducting the preliminary investigation of criminal offenses was vested in the justices of the peace. Thus, the prevailing rule at the time, as shown in the cases of *U.S. v. Lazada* and *People v. Joson*, is that the prescription of the offense is tolled once a complaint is filed with the justice of the peace for preliminary investigation inasmuch as the filing of the complaint signifies the institution of the criminal proceedings against the accused. These cases were followed by our declaration in *People v. Parao and Parao* that the first step taken in the investigation or examination of offenses partakes the nature of a judicial proceeding which suspends the prescription of the offense. Subsequently, in *People v. Olarte*, we held that the filing of the complaint in the Municipal Court, even if it be merely for purposes of preliminary examination or investigation, should, and does, interrupt the period of prescription of the criminal responsibility, even if the court where the complaint

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or information is filed cannot try the case on the merits. In addition, even if the court where the complaint or information is filed may only proceed to investigate the case, its actuations already represent the initial step of the proceedings against the offender, and hence, the prescriptive period should be interrupted.⁵⁷

...

Then, as emphasized in the 2012 case of *Pangilinan* and reiterated in the 2019 case of *Lee, Jr.*, the Supreme Court categorically ruled in *Panaguition* that the **commencement of the proceedings for the prosecution of the accused before the Office of the City Prosecutor effectively interrupted the prescriptive period for the offenses charged under Batas Pambansa (BP) Blg. 22**. This followed the Supreme Court's declaration that **there is no longer any distinction between cases prosecuted under the RPC and those covered by special laws with respect to the interruption of the period of prescription, viz:**

...

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

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

Respondent's contention that a different rule should be applied to cases involving special laws is bereft of merit. **There is no more distinction between cases under the RPC and those covered by special laws with respect to the interruption of the period of prescription**. The ruling in *Zaldivia v. Reyes, Jr.* is not controlling in special laws. In *Llenes v. Dicedican, Ingco, et al. v. Sandiganbayan, Brillante v. CA, and Sanrio Company Limited v. Lim*,

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cases involving special laws, this Court held that the institution of proceedings for preliminary investigation against the accused interrupts the period of prescription. In *Securities and Exchange Commission v. Interport Resources Corporation, et al.*, the Court even ruled that investigations conducted by the Securities and Exchange Commission for violations of the Revised Securities Act and the Securities Regulation Code effectively interrupts the prescription period because it is equivalent to the preliminary investigation conducted by the DOJ in criminal cases.

In fact, in the case of *Panaguiton, Jr. v. Department of Justice*, which is in all fours with the instant case, this Court categorically ruled that commencement of the proceedings for the prosecution of the accused before the Office of the City Prosecutor effectively interrupted the prescriptive period for the offenses they had been charged under BP Blg. 22. Aggrieved parties, especially those who do not sleep on their rights and actively pursue their causes, should not be allowed to suffer unnecessarily further simply because of circumstances beyond their control, like the accused's delaying tactics or the delay and inefficiency of the investigating agencies.⁵⁸

...

From the foregoing declarations, it can be inferred that the phrase "when proceedings are instituted against the guilty person," as used in the law, was understood—even then—to include the filing of a complaint for purposes of preliminary investigation, and not merely the filing of an Information before the Court. As such, it is evident that the law intends for the prescriptive period to be interrupted at the very first formal investigative step, as preliminary investigation is deemed to partake of the nature of a judicial proceeding that suspends the running of prescription.

Furthermore, in *Interport*, the Supreme Court explained that it is a well-settled doctrine that the conduct of a preliminary investigation—which serves as a procedural safeguard to determine whether a crime has been committed and whether there is probable cause to charge the accused—interrupts the running of the prescriptive period:

...

It is an established doctrine that a preliminary investigation interrupts the prescription period. A preliminary investigation is

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essentially a determination whether an offense has been committed, and whether there is probable cause for the accused to have committed an offense:

A preliminary investigation is merely inquisitorial, and it is often the only means of discovering the persons who may be reasonably charged with a crime, to enable the fiscal to prepare the complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed or whether there is probable cause to believe that the accused is guilty thereof.

...

While the SEC investigation serves the same purpose and entails substantially similar duties as the preliminary investigation conducted by the DOJ, this process cannot simply be disregarded. In *Baviera v. Paglinawan*, this Court enunciated that a criminal complaint is first filed with the SEC, which determines the existence of **probable cause**, before a preliminary investigation can be commenced by the DOJ. In the aforecited case, the complaint filed directly with the DOJ was dismissed on the ground that it should have been filed first with the SEC. Similarly, the offense was a violation of the Securities Regulation Code, wherein the procedure for criminal prosecution was reproduced from Section 45 of the Revised Securities Act. This Court affirmed the dismissal...

...

Indubitably, the prescription period is interrupted by commencing the proceedings for the prosecution of the accused. In criminal cases, this is accomplished by initiating the preliminary investigation. The prosecution of offenses punishable under the Revised Securities Act and the Securities Regulation Code is initiated by the filing of a complaint with the SEC or by an investigation conducted by the SEC *motu proprio*. Only after a finding of probable cause is made by the SEC can the DOJ instigate a preliminary investigation. **Thus, the investigation that was commenced by the SEC in 1995, soon after it discovered the questionable acts of the respondents, effectively interrupted the prescription period. Given the nature and purpose of the investigation conducted by the SEC, which is equivalent to the preliminary investigation conducted by the DOJ in criminal cases, such investigation would surely interrupt the prescription period.⁵⁹**

...

⁵⁹

Supra at note 29; Citations omitted, italics in the original text, emphasis in the original text and supplied, and underscoring supplied.

It is also worth noting that, in his Concurring Opinion in *Interport*, then Supreme Court Associate Justice Dante O. Tiña (Ret.) emphasized that any form of investigation instituted against the guilty person which may ultimately lead to prosecution, as provided by law, is sufficient to toll the running of the prescriptive period.

Clearly, from the foregoing, **in all criminal cases—whether prosecuted under the RPC or special laws—the prescriptive period is interrupted upon the commencement of proceedings for the prosecution of the accused, which is effectively accomplished through the initiation of a preliminary investigation, the first formal investigative step that marks the institution of criminal proceedings against the accused.**

Now, if the Court *En Banc* will continue to uphold the interpretation in the 1990 case of *Lim, Sr. vis-à-vis* Section 2, Rule 9 of the RRCTA—that it is the filing of an Information with the Court which interrupts the five (5)-year prescriptive period under Section 281 of the NIRC of 1997, as amended—such would constitute a clear departure from the established doctrine on prescription applicable to *all* criminal cases. This would run counter to the principle of *stare decisis et non quieta movere*, which holds that once a case has been decided in a certain way, any subsequent case involving the same legal issue should be resolved in the same manner.⁶⁰

In this regard, to hold that the NIRC of 1997, as amended, should be treated differently simply because it is a special law is unpersuasive. As aptly pointed out by petitioner and evident from the aforequoted disquisitions, the Supreme Court has consistently held in criminal cases involving violations of special laws that the prescriptive period is interrupted by the institution of proceedings for preliminary investigation against the accused.

Specifically, in the aforequoted ruling in *Pangilinan*, the Supreme Court emphasized that the cases of *Ingco* (involving Republic Act [RA] No. 3019 or the Anti-Graft and Corrupt Practices Act), *Sanrio* (involving RA 8293 or the Intellectual Property Code), and *Interport* (involving the Revised Securities Act and the Securities

⁶⁰ *First Planters Pawnshop, Inc. v. Commissioner of Internal Revenue*, G.R. No. 174134, 30 July 2008, citing *Commissioner of Internal Revenue v. Trustworthy Pawnshop, Inc.*, G.R. No. 149834, 02 May 2006.

Regulation Code) all concerned violations of special laws. Yet, in each of these cases, the Supreme Court consistently ruled that the institution of proceedings for preliminary investigation against the accused interrupts the running of the prescriptive period.

We now turn to the final basis upon which Our previous ruling rests, *i.e.*, that the ruling in *Lim, Sr.* appears to align with Section 2, Rule 9 of the RRCTA, which provides:

...

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. (*Rules of Court, Rule 110, Sec. 2a; n*)

The institution of the criminal action shall interrupt the running of the period of prescription. (*Rules of Court, Rule 110, Sec. 1, par. 2a*)⁶¹

...

The second paragraph of Section 2, Rule 9 of the RRCTA—which states that “[t]he institution of the criminal action shall interrupt the running of the period of prescription”—has been construed in relation to the first paragraph. Specifically, the phrase “institution of the criminal action” has been interpreted to mean the filing of the Information before the Court in Division, since the first paragraph explicitly provides that criminal actions within the Court’s original jurisdiction are to be instituted by such filing. This interpretation links the interruption of the prescriptive period to a judicial act, rather than to earlier procedural steps such as the filing of a complaint for preliminary investigation. Thus, based on the structure and language of the provision, the commencement of prescription is tied to the moment the Court formally acquires jurisdiction over the criminal case through the filing of the Information.

⁶¹ Emphasis supplied and italics in the original text.

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However, as previously noted, the foregoing interpretation is inconsistent with the Supreme Court's established doctrine that the prescriptive period is interrupted by the institution of proceedings for preliminary investigation against the accused.

On this point, it bears noting that there is an alternative interpretation of the second paragraph of Section 2, Rule 9 of the RRCTA that would render it consistent with the established doctrine cited above. Rather than construing it solely in relation to the first paragraph—as petitioner correctly argued—it may instead be read in conjunction with Section 1, Rule 110 of the RRCP, which provides:

...

SEC. 1. *Institution of Criminal Actions.* — Criminal actions shall be instituted as follows:

- (a) **For offenses where a preliminary investigation is required pursuant to section 1 of Rule 112, by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation.**
- (b) For all other offenses, by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charters.

The institution of the criminal action shall interrupt the running of the period of prescription of the offense charged unless otherwise provided in special laws.⁶²

...

While it is true that the provisions of the RRCP apply only suppletorily to the RRCTA, it is nonetheless important to emphasize that the second paragraph of Section 2, Rule 9 of the RRCTA (specifically the italicized portion at the end) explicitly references the highlighted paragraph of Section 1, Rule 110 of the RRCP above. That provision clearly states that, for offenses requiring preliminary investigation, a criminal action is deemed instituted upon the filing of a complaint with the proper officer for the purpose of conducting the required preliminary investigation.

⁶²

Emphasis supplied and italics in the original text.

On the other hand, the first paragraph of Section 2, Rule 9 of the RRCTA may be construed as referring exclusively to the institution of proceedings before the Court in Division, which is effected solely through the filing of an Information. This must be distinguished from the institution of proceedings against guilty persons—which, under Section 281 of the NIRC of 1997, as amended, interrupts the running of the prescriptive period—as already settled by the Supreme Court to refer to the filing of a complaint for purposes of preliminary investigation.

Moreover, petitioner correctly observed that in *Tupaz*, which involved the offense of willful failure to pay deficiency IT, the Supreme Court held that the offense had not prescribed because the filing of the complaint for preliminary investigation with the DOJ constituted the institution of the criminal action within the five (5)-year prescriptive period. This conclusion was reached despite the earlier ruling in *Lim, Sr.*, which held that the prescriptive period continues to run until the filing of the Information in Court.

In the recent case of *People of the Philippines v. Ulysses Palconet Consebido*⁶³ (**Consebido**), the Supreme Court declared that the time limit or prescriptive period for prosecuting crimes stops running once a complaint is filed with the DOJ—not when the case reaches the court.⁶⁴ **The High Court specifically clarified that under Section 281 of the NIRC of 1997, as amended, the prescriptive period for criminal tax offenses that are not immediately known starts from the time the violation is discovered and is interrupted once a preliminary investigation begins.**⁶⁵ This interpretation ensures that the intent of the law—to set a clear time limit for prosecuting tax violations—is properly applied.⁶⁶

It should be noted that, as held in *Consebido*, the Supreme Court recognized that while criminal cases should ideally be resolved promptly, delays are sometimes unavoidable. Therefore, the State, as the offended party, should not be disadvantaged by delays in the DOJ's preliminary investigations. **The Supreme Court also reiterated its ruling in *Olarte*, emphasizing that “it is unjust to**

⁶³ G.R. No. 258563, 02 April 2025.

⁶⁴ See Press Release dated 04 April 2025, available at <<https://sc.judiciary.gov.ph/sc-filing-of-complaint-before-doj-stops-prescriptive-period-for-crimes/>> (Last accessed on 21 April 2025).

⁶⁵ Id.

⁶⁶ Id.

deprive the injured party of the right to obtain vindication on account of delays that are not under [their] control. All that the victim of the offense may do on [their] part to initiate the prosecution is to file the requisite complaint.”

With this recent categorical pronouncement of the Supreme Court, this Court, sitting *En Banc*, is now bound to abandon its previous position of applying *Lim, Sr.* to hold that, in criminal tax cases, the prescriptive period is tolled only upon the filing of the Information in Court.

Accordingly, in this case, the five (5)-year prescriptive period began to run upon the discovery of respondent’s violation of Section 255⁶⁷ of the NIRC of 1997, as amended, or deliberate failure to supply correct and accurate information in his Annual Income Tax Return (ITR) for the taxable year (TY) 2010, and the institution of judicial proceedings for preliminary investigation on 05 July 2012—when the JCA⁶⁸ of the concerned Revenue Officers was referred to the DOJ. That same act also interrupted or tolled the running of the prescriptive period. Thus, contrary to Our earlier ruling, the right of the government to institute the case against respondent had not yet prescribed when the Information⁶⁹ was filed on 26 October 2022.

Now, *although* prescription has been ruled out as a ground for dismissal, We cannot ignore the separate issue raised by respondent concerning an alleged violation of his constitutional right to a speedy disposition of cases. As this right is independent of the issue of prescription and may, on its own, justify the dismissal of the case, this Court remains duty-bound to consider and resolve the matter.

RESPONDENT’S RIGHT TO A SPEEDY DISPOSITION OF CASES

Respondent seeks the dismissal of the case on the ground of inordinate delay, invoking his constitutional right to a speedy disposition of cases under Section 16⁷⁰, Article III of the 1987 Constitution, as interpreted in *Cagang*. He argues that the

⁶⁷ Supra at note 25.

⁶⁸ Supra at note 11.

⁶⁹ Supra at note 12.

⁷⁰ Supra at note 36.

prosecution took over ten (10) years—from the filing of the JCA⁷¹ on 05 July 2012 to the filing of the Information⁷² on 26 October 2022—to file the Information before the CTA, far exceeding the timeframe prescribed under Section 3(f)⁷³, Rule 112 of the RRCP. Respondent highlights that the DOJ initially resolved the complaint only on 01 September 2014—more than two (2) years after its filing—and further took until 11 May 2017 to resolve the motion for reconsideration, with the Information being filed over five (5) years thereafter.

Citing *Tatad* and *Sandiganbayan*, respondent maintains that delays far shorter than those in the present case were previously deemed inordinate and sufficient to warrant dismissal. He stresses that the delay remains unjustified and unexplained, and asserts that the burden has shifted to the prosecution to prove that such delay was reasonable. Finally, respondent claims that he timely invoked his right to a speedy disposition of cases in his “Comment/Opposition”⁷⁴ to the present Petition for Review, thus entitling him to relief.

We agree with respondent.

In *Cagang*, the Supreme Court laid down definitive guidelines in resolving the issue involving the right to speedy disposition of cases, synthesized as follows:

...
[I]nordinate delay in the resolution and termination of a preliminary investigation violates the accused’s right to due process and the speedy disposition of cases, and may result in the dismissal of the case against the accused. The burden of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.

⁷¹ Supra at note 11.

⁷² Supra at note 12.

⁷³ Supra at note 40.

⁷⁴ Supra at note 45.

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The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis.⁷⁵

...

The concept of inordinate delay was explained in *Tatad*, where the Supreme Court was constrained to apply the "radical relief" of dismissing the criminal complaint against an accused due to the delay in the termination of the preliminary investigation, to wit:

...

In a number of cases, this Court has not hesitated to grant the so-called "radical relief" and to spare the accused from undergoing the rigors and expense of a full-blown trial where it is clear that he has been deprived of due process of law or other constitutionally guaranteed rights. Of course, it goes without saying that in the application of the doctrine enunciated in those cases, particular regard must be taken of the facts and circumstances peculiar to each case.

...

A painstaking review of the facts can not but leave the impression that political motivations played a vital role in activating and propelling the prosecutorial process in this case. Firstly, the complaint came to life, as it were, only after petitioner Tatad had a falling out with President Marcos. Secondly, departing from established procedures prescribed by law for preliminary investigation, which require the submission of affidavits and counter-affidavits by the Tanodbayan referred the complaint to the Presidential Security Command for fact-finding investigation and report.

We find such blatant departure from the established procedure as a dubious, but revealing attempt to involve an office directly under the President in the prosecution was politically motivated. We cannot emphasize too strongly that prosecutors should not allow, and should avoid, giving the impression that their noble office is being used or prostituted, wittingly or unwittingly,

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for political ends or other purposes alien to, or subversive of, the basic and fundamental objective of serving the interest of justice evenhandedly, without fear or favor to any and all litigants alike, whether rich or poor, weak or strong, powerless or mighty. Only by strict adherence to the established procedure may the public's perception of the impartiality of the prosecutor be enhanced.

Moreover, the long delay in resolving the case under preliminary investigation can not be justified on the basis of the facts on record. The law (P.D. No. 911) prescribes a ten-day period for the prosecutor to resolve a case under preliminary investigation by him from its termination. While we agree with the respondent court that this period fixed by law is merely "directory," yet, on the other hand, it can not be disregarded or ignored completely, with absolute impunity. It certainly can not be assumed that the law has included a provision that is deliberately intended to become meaningless and to be treated as a dead letter.

We find the long delay in the termination of the preliminary investigation by the Tanodbayan in the instant case to be violative of the constitutional right of the accused to due process. Substantial adherence to the requirements of the law governing the conduct of preliminary investigation, including substantial compliance with the time limitation prescribed by the law for the resolution of the case by the prosecutor, is part of the procedural due process constitutionally guaranteed by the fundamental law. Not only under the broad umbrella of the due process clause, but under the constitutional guarantee of "speedy disposition" of cases as embodied in Section 16 of the Bill of Rights (both in the 1973 and the 1987 Constitutions), the inordinate delay is violative of the petitioner's constitutional rights. A delay of close to three (3) years can not be deemed reasonable or justifiable in the light of the circumstance obtaining in the case at bar. We are not impressed by the attempt of the Sandiganbayan to sanitize the long delay by indulging in the speculative assumption that "the delay may be due to a painstaking and grueling scrutiny by the Tanodbayan as to whether the evidence presented during the preliminary investigation merited prosecution of a former high-ranking government official." In the first place, such a statement suggests a double standard of treatment, which must be emphatically rejected. Secondly, three out of the five charges against the petitioner were for his alleged failure to file his sworn statement of assets and liabilities required by Republic Act No. 3019, which certainly did not involve complicated legal and factual issues necessitating such "painstaking and grueling scrutiny" as would justify a delay of almost three years in terminating the preliminary investigation. The other two charges relating to alleged bribery and alleged giving of unwarranted benefits to a relative, while presenting more substantial legal and factual issues, certainly do



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not warrant or justify the period of three years, which it took the Tanodbayan to resolve the case.

It has been suggested that the long delay in terminating the preliminary investigation should not be deemed fatal, for even the complete absence of a preliminary investigation does not warrant dismissal of the information. True — but the absence of a preliminary investigation can be corrected by giving the accused such investigation. But an undue delay in the conduct of a preliminary investigation can not be corrected, for until now, man has not yet invented a device for setting back time.

After a careful review of the facts and circumstances of this case, we are constrained to hold that the inordinate delay in terminating the preliminary investigation and filing the information in the instant case is violative of the constitutionally guaranteed right of the petitioner to due process and to a speedy disposition of the cases against him. Accordingly, the informations in Criminal Cases Nos. 10499, 10500, 10501, 10502 and 10503 should be dismissed. In view of the foregoing, we find it unnecessary to rule on the other issues raised by petitioner.⁷⁶

...

In line with the “balancing test” adopted from the American case of *Willie Mae Barker v. John W. Wingo*⁷⁷, the Supreme Court in *Cagang* stressed that courts must consider the following factors when determining the existence of inordinate delay: (1) the length of delay; (2) the reason for delay; (3) the defendant’s assertion or non-assertion of his or her right; and (4) the prejudice to the defendant as a result of the delay.⁷⁸

As regards the burden of proving delay, the Supreme Court held in *Cagang* that if the alleged delay extends beyond the prescribed periods, the burden shifts to the prosecution to demonstrate that the delay was reasonable under the circumstances and that the accused did not suffer prejudice as a result of such delay, viz:

...

For the court to appreciate a violation of the right to speedy disposition of cases, delay must not be attributable to the defense. Certain unreasonable actions by the accused will be taken against

⁷⁶ Supra at note 42; Emphasis supplied.

⁷⁷ 407 U.S. 514 (1972).

⁷⁸ Supra at note 35.

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them. This includes delaying tactics like failing to appear despite summons, filing needless motions against interlocutory actions, or requesting unnecessary postponements that will prevent courts or tribunals to properly adjudicate the case. When proven, this may constitute a waiver of the right to speedy trial or the right to speedy disposition of cases.

If it has been alleged that there was delay beyond the given time periods, the burden of proof shifts. The prosecution will now have the burden to prove that there was no violation of the right to speedy trial or the right to speedy disposition of cases. *Gonzales v. Sandiganbayan* states that “vexatious, capricious, and oppressive delays,” “unjustified postponements of the trial,” or “when without cause or justifiable motive a long period of time is allowed to elapse without the party having his [or her] case tried” are instances that may be considered as violations of the right to speedy disposition of cases. The prosecution must be able to prove that it followed established procedure in prosecuting the case. It must also prove that any delay incurred was justified, such as the complexity of the cases involved or the vast amount of evidence that must be presented.

The prosecution must likewise prove that no prejudice was suffered by the accused as a result of the delay. ...

The consequences of delay, however, do not only affect the accused. The prosecution of the case will also be made difficult the longer the period of time passes. ...

The consequences of the prosecution’s failure to discharge this burden are severe. Rule 119, Section 9 of the Rules of Court requires that the case against the accused be dismissed if there has been a violation of the right to speedy trial[.]

Tatad, as qualified by *Angchangco*, likewise mandates the dismissal of the case if there is a violation of the right to speedy disposition of cases. The immediate dismissal of cases is also warranted if it is proven that there was malicious prosecution, if the cases were politically motivated, or other similar instances. Once these circumstances have been proven, there is no need for the defense to discharge its burden to prove that the delay was inordinate.

To summarize, inordinate delay in the resolution and termination of a preliminary investigation violates the accused’s right to due process and the speedy disposition of cases, and may result in the dismissal of the case against the accused. **The burden**

of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. **If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.**

The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. **If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result.** The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis.⁷⁹

...

Clearly from the foregoing parameters, determining inordinate delay requires a holistic assessment of the circumstances, focusing on three (3) main factors: (1) the reasonableness of the time taken to resolve the case; (2) the complexity of the issues involved, and (3) the timely invocation of the right to speedy disposition of cases. Delay must not be attributed to the defense, as actions like unjustified absences or dilatory motions may constitute a waiver of the right. Importantly, when the delay alleged exceeds the timeframes provided by law or rules, the burden shifts to the prosecution to prove that the delay was justified—such as by case complexity or the volume of evidence—and that no prejudice was suffered by the accused. Failure to discharge this burden may lead to the dismissal of the case.

In this case, from the time the JCA was filed on 05 July 2012 until the filing of the Information⁸⁰ on 26 October 2022, more than ten (10) years have lapsed. Of this period: (1) it took over two (2) years to resolve the initial complaint (until 01 September 2014); (2) nearly three (3) more years to resolve the motion for reconsideration (until

⁷⁹ Supra at note 35; Citations omitted, italics in the original text and emphasis supplied.

⁸⁰ Supra at note 12.

11 May 2017); and (3) over five (5) additional years passed before the Information was filed (on 26 October 2022).

Such delays were neither sufficiently explained nor justified by petitioner. Following the guidelines in *Cagang*, the burden shifted to the prosecution to prove that the delay was reasonable and not oppressive. Petitioner failed to discharge this burden. Moreover, respondent timely invoked his right to speedy disposition of cases in his Comment/Opposition⁸¹ to the Petition for Review, and reiterated the same in his Comment/Opposition⁸² to the present MR. He was unable to assert this right before the First Division, understandably so, as the case had already been dismissed on the ground of prescription prior to his arraignment.

What underscores the gravity of the delay in this case is the fact that the DOJ had already determined the existence of probable cause to charge respondent as early as 01 September 2014. At that point, the legal and factual issues had been sufficiently addressed, and no further investigation was warranted. Yet, despite this clear finding, the prosecution failed to file the Information⁸³ for over eight (8) years, offering no satisfactory justification for such inordinate lapse of time. This prolonged inaction, absent any compelling reason, runs afoul of the constitutional guarantee of a speedy disposition of cases and undermines the fair and efficient administration of justice.

We cannot countenance such unexplained delay. The right to speedy disposition of cases is not a mere technicality—it is a fundamental right guaranteed by the Constitution to prevent oppression and harassment through vexatious legal processes.

In the case of *Tahira S. Ismael and Aida U. Ajijon v. People of the Philippines*⁸⁴, the Supreme Court acknowledged that “the silence of the accused during the period of delay cannot be easily construed as a waiver or surrender of the right to speedy disposition of cases. Indeed, the actual intention to relinquish the right must be shown.”

⁸¹ Supra at note 45.

⁸² Supra at note 3.

⁸³ Supra at note 12.

⁸⁴ G.R. Nos. 234435-36, 06 February 2023.

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Considering that nothing in the records indicates that respondent committed any overt act that contributed to the delay in the filing of the Information against him, this Court must indulge every reasonable presumption against the existence and validity of such waiver of his right to a speedy disposition of cases.⁸⁵ Pertinently, as held in *Rene C. Figueroa v. Sandiganbayan, Special Third Division, et al.*⁸⁶ (**Figueroa**), the burden is not upon the accused to ensure that the wheels of justice continue to turn. Rather, it is for the State to guarantee that the cases are disposed of within a reasonable period.⁸⁷ Thus, as similarly ruled in *Figueroa*, it is sufficient that herein respondent raised the constitutional violation after the First Division admitted the Information and prior to his arraignment.⁸⁸

At this point, it is worth stressing that the objective of the right to speedy disposition of cases is to spur dispatch in the administration of justice and to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to a speedy trial, its objective is to assure that an innocent person may be free from the anxiety and expense of litigation or if otherwise, to have his guilt determined within the shortest possible time compatible with the presentation and consideration of whatever legitimate defense he may raise. This unrest and the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual.⁸⁹

In fine, while the Court *En Banc* now holds that the criminal action has not yet prescribed, the prolonged and unjustified delay of more than ten (10) years between the filing of the JCA⁹⁰ and the subsequent filing of the Information⁹¹ before the First Division constitutes a violation of respondent's right to a speedy disposition of cases, thereby warranting the dismissal of this case.

⁸⁵ See *People of the Philippines v. Ricardo Bodoso y Bolor*, G.R. Nos. 149382-149383, 05 March 2003.

⁸⁶ G.R. Nos. 235965-66, 15 February 2022.

⁸⁷ Id.

⁸⁸ Id.

⁸⁹ Id., citing *Rafael L. Coscolluela v. Sandiganbayan (First Division) and People of the Philippines*, G.R. Nos. 191411 & 191871, 15 July 2013.

⁹⁰ Supra at note 11.

⁹¹ Supra at note 12.

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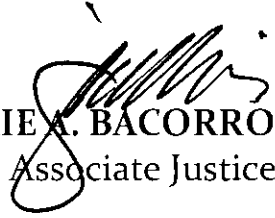
x-----x

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration (of the Decision dated August 30, 2024)" filed on 17 September 2024, is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Court *En Banc*'s Decision dated 30 August 2024, is hereby amended to read as follows:

"**WHEREFORE**, with the foregoing considerations, the present "Verified Petition for Review (of the Resolution dated January 31, 2023)" filed by petitioner People of the Philippines on 20 February 2023 is hereby **PARTIALLY GRANTED**. Accordingly, the First Division's assailed Resolutions dated 12 December 2022 and 31 January 2023 in CTA Crim. Case No. O-938, declaring that the offense charged has prescribed, are **REVERSED** and **SET ASIDE**. Nonetheless, the criminal case is hereby **DISMISSED** on the ground of violation of respondent Ziegfried Loo Tian's right to speedy disposition of cases.

SO ORDERED."

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:


I concur "en toto".
ROMAN G. DEL ROSARIO
Presiding Justice


I concur in the result. With Separate Opinion.
MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice

AMENDED DECISION

CTA EB CRIM. NO. 102 (CTA Crim. Case No. O-938)

People of the Philippines v. Ziegfried Loo Tian

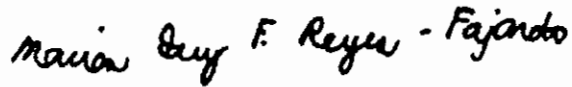
Page 33 of 33

x-----x



MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice



MARIAN IVY F. REYES-FAJARDO

Associate Justice



I join J. Liban's Separate Opinion.

LANEE S. CUI-DAVID

Associate Justice

ON OFFICIAL BUSINESS

CORAZON G. FERRER-FLORES

Associate Justice



I concur in the result.

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 Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



ROMAN G. DEL ROSARIO

Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

CTA EB CRIM. NO. 102
(CTA Crim. Case No. O-938)

Present:

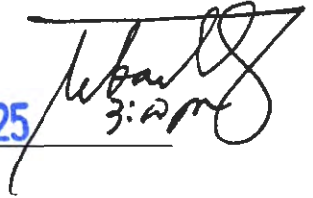
Del Rosario, P.J.,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, JL.

- *versus* -

ZIEGFRIED LOO TIAN,
(No. 1013 Juan Luna Street,
Brgy. 27, Zone 1, Tondo, Manila)
Respondent.

Promulgated:

MAY 30 2025



X-----X

SEPARATE OPINION

RINGPIS-LIBAN, JL:

I concur in the result.

I maintain the view that petitioner's right to prosecute the respondent for the offense charged has prescribed. *Lim v. Court of Appeals*¹ remains controlling insofar as the issue of proper computation of the prescriptive period applicable to the criminal offenses under the National Internal Revenue Code of 1997, as amended (1997 NIRC). To be sure, it is the one and only case which actually involved facts directly bearing upon such issue. The proper construction of the rules of prescription applicable to criminal tax offenses constitutes the very *lis*

¹ G.R. Nos. L-48134-37, October 18, 1990 ("*Lim*").

SEPARATE OPINION

CTA EB Crim. No. 102 (CTA Crim. Case No. O-938)

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mota of the case. Until and unless the Supreme Court itself convincingly abandons *Lim* in a subsequent case with unquestionable precedential value, this Court must faithfully adhere to it and apply the same to all future cases with substantially similar facts.

Accordingly, I disagree with the reasoning advanced in the *draft* Amended Decision aimed at justifying the reversal of the Assailed Decision with respect to the issue of prescription.

It is unnecessary to refer to the language of both Article 91 of the Revised Penal Code (RPC) and Section 2 of Act No. 3326, as amended, as well as to the string of Supreme Court cases expounding on these provisions for purposes of construing the wording of Section 281 of 1997 NIRC when questions on its interpretation were already put to rest in *Lim*. It is also improper because these laws are not applicable to criminal tax offenses under the 1997 NIRC. Article 10 of the RPC plainly excludes from the coverage of the statute those offenses punishable under special laws. On the other hand, Act No. 3326, as amended, is only applicable to offenses under special laws which do not provide their own prescriptive periods.² Inasmuch as these laws have no application to criminal tax offenses under the 1997 NIRC, the jurisprudence related to these cannot be applied to criminal tax cases as well.

It is true that Section 281 of the 1997 NIRC contains substantially similar phrasology as compared to Section 2 of Act No. 3326, as amended. Despite this, the construction given by the Supreme Court to the latter law cannot be extended to Section 281 of the 1997 NIRC precisely because of *Lim*. In fact, while cases³ have been invoked in the *draft* Amended Decision wherein the Supreme Court, in construing Act No. 3326, as amended, purportedly held that the filing of a complaint for purposes of preliminary investigation effectively interrupts the running of the prescriptive period, the *draft* Amended Decision failed to mention the other line of jurisprudence⁴ espousing the contrary view, *i.e.*, the “judicial proceeding” that could have interrupted the period was the filing of the information before the court and not the filing of a complaint before the Office of the Prosecutor. Thus, it cannot be claimed that there is a consistent and stable doctrine on prescriptive periods involving violations of special laws under Act No. 3326, as amended.

I take exception to the view that the continuous adherence to *Lim* would constitute a clear departure from the established doctrine on prescription applicable to all criminal cases, contrary to the principle of *stare decisis*. If truth be told, what is violative of the doctrine of *stare decisis* is precisely for this Court to

² *Panaguiton, Jr. v. Department of Justice*, G.R. No. 167571, November 25, 2008.

³ *Panaguiton, Jr. v. Department of Justice*, G.R. No. 167571, November 25, 2008; *People v. Pangilinan*, G.R. No. 152662, June 13, 2012; *Securities and Exchange Commission v. Interport Resources Corporation et. al.*, G.R. No. 135808, October 6, 2008.

⁴ *Zaldivia v. Reyes*, G.R. No. 102342, July 3, 1992; *Jadewell Parking Systems Corporation v. Lidua, Sr.*, G.R. No. 169588, October 7, 2013; *Republic v. Desierto*, G.R. No. 136506, January 16, 2023; *Corpus v. People*, G.R. No. 255740, August 16, 2023.

SEPARATE OPINION

CTA EB Crim. No. 102 (CTA Crim. Case No. O-938)

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refrain from applying *Lim* when resolving cases with identical or substantially similar facts without any compelling reason for such departure. As aptly held in *Abaria v. National Labor Relations Commission*,⁵ to wit:

Under the doctrine of *stare decisis*, once a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, **absent any powerful countervailing considerations, like cases ought to be decided alike.** Thus, where the same questions relating to the same event have been put forward by parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue. (*Emphasis supplied and citations omitted*)

To reiterate, under Section 281 of the 1997 NIRC as illuminated by *Lim*, the running of the prescriptive period is interrupted by the institution of criminal action. It is the filing of the Information before the court and not the filing of the Complaint before the prosecutor's office that interrupts the prescriptive period. *Lim* is also in congruence with Rule 2, Section 9 of the RRCTA which states that "the institution of the criminal action shall interrupt the running of the period of prescription." The same rule also provides that the institution of all criminal actions before this Court shall be done "by the filing of an Information."

I also cannot subscribe to the "alternative interpretation" suggested by the *draft* Amended Decision. Its suggestion is to read Section 2, Rule 9 of RRCTA in conjunction with Section 1, Rule 110 of the Rules of Court and to limit the construction of the 1st paragraph of Section 2, Rule 9 of the RRCTA as referring exclusively to the institution of proceedings before the Court in Division as distinguished from "the institution of proceedings against guilty persons" as mentioned in Section 281 of the 1997 NIRC.

The Rules of Court only has suppletory application to RRCTA.⁶ Suppletory is defined as "supplying deficiencies." It means that the provisions in the Rules of Court will be made to apply only where there is an insufficiency in the applicable rule.⁷ In this regard, Section 1, Rule 110 of the Rules of Court cannot be suppletorily applied to Section 2, Rule 9 of the RRCTA because the latter sufficiently provides for the rules to be followed in the institution of criminal actions before this Court. The reference to Section 1, Rule 110 of the Rules of Court at the end of 2nd paragraph of Section 2, Rule 9 of RRCTA cannot be taken with much significance due to its patent ambiguity. I find it much of a stretch to construe the same as an invitation for harmonization of Section 1, Rule 110 of the Rules of Court and Section 2, Rule 9 of the RRCTA. It is plausible that such reference merely indicates that both provisions cover the same subject-

⁵ G.R. Nos. 154113, 187778, 187861 & 196156, December 7, 2011.

⁶ Section 3, Rule 1 of RRCTA.

⁷ *Government Service Insurance System (GSIS) v. Villaviza et. al.*, G.R. No. 180291, July 27, 2010.

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matter and that the specific rule prevails over the general in the specific circumstance contemplated by the former.

I am not convinced that *Lim* has been impliedly abandoned or even, at the very least, modified by the Supreme Court in *Tupaz v. Ulep*.⁸ The discussion in *Tupaz* centers on when should the 5-year prescriptive period be reckoned and not on when the prescriptive period is considered tolled or interrupted. That the filing of the complaint with the Department of Justice (DOJ) was treated as the institution of criminal action for purposes of tolling the prescriptive period was merely accepted as a given without any analysis much less any definite pronouncement that *Tupaz* should be taken as a reversal or modification of *Lim*. The relevant portion of *Tupaz* is quoted below for reference:

“Petitioner also asserts that the offense has prescribed. Petitioner invokes Section 340 (now 281 of 1997 NIRC) of the Tax Code which provides that violations of any provision of the Code prescribe in five (5) years. Petitioner asserts that in this case, it began to run in 1979, when she failed to pay the correct corporate tax due during that taxable year. Hence, when the BIR instituted criminal proceedings on June 8, 1989, by filing a complaint for violation of the Tax Code with the Department of Justice for preliminary investigation it was beyond the prescriptive period of five (5) years. At most, the BIR had until 1984 to institute criminal proceedings.

On the other hand, the Solicitor General avers that the information for violation of the Tax Code was filed within the prescriptive period of five (5) years provided in Section 340 (now 281 in 1997 NIRC) of the Code. It is only when the assessment has become final and unappealable that the five (5)-year period commences to run. A notice of assessment was issued on July 16, 1984. When petitioner failed to question or protest the deficiency assessment thirty (30) days therefrom, or on August 16, 1984, it became final and unappealable. Consequently, it was from this period that the prescriptive period of five (5) years commenced. Thus, the complaint filed with the Department of Justice on June 8, 1989 was within the prescribed period.

We agree with the Solicitor General that the offense has not prescribed. Petitioner was charged with failure to pay deficiency income tax after repeated demands by the taxing authority. In *Lim, Sr. v. Court of Appeals*, we stated that by its nature the violation could only be committed after service of notice and demand for payment of the deficiency taxes upon the taxpayer. Hence, it cannot be said that the offense has been committed as early as 1980, upon filing of the income tax return. This is so because prior to the finality of the assessment, the taxpayer has not committed any violation for nonpayment of the tax. The offense was committed only after the finality of the assessment coupled with taxpayer's willful refusal to pay the taxes within the allotted period. In this case, when the notice of assessment was issued on July 16, 1984, the taxpayer still had thirty (30) days from receipt thereof to

⁸ G.R. No. 127777, October 1, 1999 (“*Tupaz*”).

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protest or question the assessment. Otherwise, the assessment would become final and unappealable. As he did not protest, the assessment became final and unappealable on August 16, 1984. Consequently, when the complaint for preliminary investigation was filed with the Department of Justice on June 8, 1989, the criminal action was instituted within the five (5) year prescriptive period. (*Citation omitted*)

At any rate, *Tupas* cannot be considered as a reversal or modification of the doctrine laid down in *Lim* because it was only rendered by a division (First Division) of the Supreme Court. Section 4(3), Article VIII of the 1987 Constitution emphatically provides that “no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc*.”

I am aware of the press release issued by the Supreme Court announcing the promulgation of its decision in the case entitled *People v. Consebido* (G.R. No. 258563, April 2, 2025). In the said press release, the Supreme Court apparently “clarified that the time limit or prescriptive period for prosecuting crimes, including those under the 2022 Rules on Expedited Procedures in the First Level Courts (Rules of Expedited Procedures), stops running once a complaint is filed with the Department of Justice (DOJ), not when the case reaches the court.” It also added that “under Section 281 of the 1997 National Internal Revenue Code, the prescriptive period for criminal tax offenses that are not immediately known starts from the time the violation is discovered. The prescriptive period is interrupted once a preliminary investigation begins.” At this point, however, I believe it is still premature for this Court to take cognizance of such ruling. There is no indication that it was already final and, in fact, the full text of the decision is not yet available. There is simply no way to determine with reasonable certainty its precedential value to the present case or whether the said ruling can be taken as a reversal or modification of *Lim*. This Court cannot just rely on a mere press release as it cannot be taken as an official act of Supreme Court subject to mandatory judicial notice. In any case, there is a statement in the press release that **“the SC’s ruling on the interruption of the prescriptive period for prosecuting crimes will apply prospectively.”**⁹ With this, there is more reason for this Court not to rely on the above ruling in the resolution of the present case.

Finally, I take issue with the conclusion reached in the Amended Decision as quoted below:

“Accordingly, in this case, the five (5)-year prescriptive period began to run upon the discovery of respondent’s violation of Section 255 of the NIRC of 1997, as amended, or deliberate failure to supply correct and accurate information in his Annual Income Tax Return (ITR) for the taxable year (TY) 2010, and the institution of judicial proceedings for preliminary investigation on **05 July 2012** - when the JCA of the

⁹ Available at < <https://sc.judiciary.gov.ph/sc-filing-of-complaint-before-doj-stops-prescriptive-period-for-crimes/> > (Last accessed on 30 April 2025).

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concerned Revenue Officers was referred to the DOJ. That same act also interrupted or tolled the running of the prescriptive period. Thus, contrary to Our earlier ruling, the right of the government to institute the case against respondent had not yet prescribed when the Information was filed on **26 October 2022.**” (*Underscoring supplied*)

I cannot accept the view that the legislators have intended that the same act that would trigger the commencement of the prescriptive period should also be the very same act that would interrupt the running thereof. Such interpretation will practically render the 5-year prescriptive period meaningless and will effectively reduce the entirety of Section 281 of the 1997 NIRC to an absurdity. As the Supreme Court fittingly held in *Spouses Belo v. Philippine National Bank*,¹⁰ to wit:

“It is well settled that courts are not to give a statute a meaning that would lead to absurdities. If the words of a statute are susceptible of more than one meaning, the absurdity of the result of one construction is a strong argument against its adoption, and in favor of such sensible interpretation.”

All told, I vote to **DENY** petitioner’s Motion for Reconsideration (of the Decision dated August 30, 2024) for lack of merit.



MA. BELEN M. RINGPIS-LIBAN
Associate Justice

¹⁰ G.R. No. 134330, March 1, 2001.