REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

***EN BANC***

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| **PEOPLE OF THE PHILIPPINES,** Petitioner, | **CTA EB CRIM. NO. 159** (CTA Crim. Case No. O-427) |
| - versus - | Present: **RINGPIS-LIBAN,** ***P.J.*****, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.*** |
| **WILLIE REYES,** Respondent. | Promulgated: JUL 28 2026 |

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# DECISION

***BACORRO-VILLENA, J.:***

Before the Court *En Banc* is the Petition for Review[1] filed by petitioner People of the Philippines (**petitioner**), assailing the:

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[1] Filed on 12 September 2024, *rollo*, pp. 5-20, with annexes.

Rule 9 - Procedure in Criminal Cases, Section 9(b), Revised Rules of the Court of Tax Appeals (**RRCTA**).

**Section 9**. *Appeal; period to appeal.* —

...

(b) An appeal to the Court *en banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or resolution appealed from. The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days.

(1) Resolution dated 20 June 2024[2] (**first assailed Resolution**); and (2) Resolution dated 05 August 2024[3] (**second assailed Resolution**), of the Second Division[4] in CTA Crim. Case No. O-427, entitled *People of the Philippines v. Willie Reyes.*

The first assailed Resolution dismissed the criminal case on the ground of prescription and recalled the Alias Warrant of Arrest dated 20 March 2015 issued against respondent Willie Reyes (**respondent**), whereas the second assailed Resolution denied petitioner's "Motion for Reconsideration with Entry of Appearance (Re: Resolution dated 20 June 2024)"[5] (**MR**), filed on 15 July 2024, for lack of merit.

## PARTIES TO THE CASE

Petitioner is represented by the Bureau of Internal Revenue (**BIR**), the government agency mandated to collect national revenue taxes. Petitioner, through the deputized special prosecutors from the BIR, may be served with notices and processes of this Court *En Banc* at its office address at the Legal Division, Revenue Region No. 6, 5th Floor, BIR Building I, Solana Street, Intramuros, Manila.[6]

Meanwhile, respondent is the accused in CTA Crim. Case No. O-427 and may be served with summons and other legal processes of this Court *En Banc* at his known address at 924 Delpan St., Tondo, Manila.[7]

## FACTS OF THE CASE

On 25 September 2014, petitioner filed before the Third Division an Information[8] against respondent for violation of Section 255[9] of the

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2 Division Docket, pp. 63-65.
3 Id., pp. 72-74.
4 The Second Division is composed of Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban, as Chairperson, and Associate Justice Maria Rowena Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores, as Members.
5 Division Docket, pp. 66-70.
6 THE PARTIES, Petition for Review, *rollo*, p. 6.
7 Id.
8 Division Docket, pp. 8-9.
9 **SEC. 255**. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* – Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such

National Internal Revenue Code (**NIRC**) of 1997, as amended. The Information charged respondent with failure to pay tax under the said provision. The accusatory portion of the Information reads as follows:

> ...
>
> That during the period year 2000 and for sometime prior or subsequent thereto, in the City of Manila, Philippines, the said accused being then the Manager and President and therefore a responsible officer of WSR Fruits, Inc., with business address at **924 Delpan St., Tondo,** this City, did then and there willfully and unlawfully and feloniously fail to pay the following overdue internal revenue tax obligations, to wit:
>
> | <u>**KIND OF TAX**</u> | **YEAR** | **AMOUNT** |
> |---|---|---|
> | Deficiency Income | 2000 | ₱835,947.39 |
> | VAT Deficiency | 2000 | 360,413.04 |
> | EWT Deficiency | 2000 | 1,438.99 |
> | Late Filing Tax Return | 2000 | 2,682.27 |
> | Compromise Penalty | 2000 | 47,400.00 |
>
> for the year 2000, under Assessment No. 29-2000 issued on January 24, 2004, in violation of said Section 255 Tax Code of 1997.
>
> Contrary to law.
>
> ...

The Information was initially raffled to the Third Division.[10] To substantiate the charges, petitioner attached the following supporting documents to the said Information:

1. Original Copy of the Resolution dated 14 May 2014,[11] signed by Senior Assistant City Prosecutor Exequiel V. Sison, Jr., with recommending approval of Senior Assistant City Prosecutor

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return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of an internal revenue office wherein the same was actually filed shall, upon conviction therefor, be punished by a fine of not less than Ten thousand pesos (P10,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years.

10 The Third Division is composed of Associate Justice Lovell R. Bautista (Ret.), as Chairperson, and Associate Justice Esperanza R. Fabon-Victorino (Ret.) and Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban, as Members.

11 Division Docket, p. 10.

and Chief of the Third Division, Maria Gene J. Sarmiento, and approved by City Prosecutor Edward M. Togonon;

2. Certified True Copy of the Recommendation for Criminal Prosecution dated 01 March 2007,[12] signed by Regional Director Alfredo V. Misajon, and certified by Assistant Chief of the Legal Division Yolanda C. Magsumbol; and

3. Certified True Copy of the Affidavit dated 01 March 2007,[13] signed by Maki T. Datu-Ramos II, and certified by Assistant Chief of the Legal Division Yolanda C. Magsumbol.

In its Resolution dated 11 November 2014,[14] the Third Division found probable cause to issue a Warrant of Arrest (**WOA**) against respondent. On 14 November 2014, the Third Division issued the WOA.[15] On 11 February 2015, the WOA was returned, stating that respondent could not be located at the address provided despite diligent efforts.[16] Thereafter, in the Resolution dated 04 March 2015,[17] the Third Division ordered the issuance of an Alias WOA,[18] which was, in turn, issued on 20 March 2015.

Respondent remained at-large. Thus, so as not to let the case remain pending in the Court's docket for an indefinite period of time, the Third Division ordered that it be archived, subject to its revival upon the arrest of respondent.[19]

After more than eight (8) years, on 20 June 2024, the Second Division issued the first assailed Resolution, noting that several cases were archived after the authorities failed to have the accused arrested.[20] Thereafter, as part of its ongoing efforts to decongest its dockets, it withdrew this case from the archives. The Second Division also reviewed the same and found sufficient basis for its dismissal:

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12 Id., pp. 33-34.
13 Id., pp. 35-46, with annexes.
14 Id., pp. 48-49.
15 Id., p. 50.
16 Id., p. 52.
17 Id., p. 54.
18 Id., p. 55.
19 See Resolution dated 26 November 2015, id., p. 57.
20 See Resolution dated 20 June 2024, id., pp. 63-65.

> ...
>
> The Information was filed on September 25, 2014, nearly two years after the expiration of the prescriptive period. Therefore, the government's right to prosecute this case had prescribed long before the present Information was filed, and the CTA never truly gained jurisdiction over this case.
>
> There is consequently nothing left for this Court to do but to dismiss the case.[21]
>
> ...

As held by the Court, under Section 281[22] of the NIRC of 1997, as amended, the government has five (5) years from either the commission of the crime or date of discovery thereof to prosecute any violation of the NIRC of 1997, as amended. Said period is interrupted when proceedings are instituted against guilty persons. Counting the five (5)-year prescriptive period from the date of execution of the Affidavit-Complaint on 01 March 2007, which is deemed as the date of discovery of commission of the crime, **petitioner only had until 01 March 2012 to file the criminal case before the Court. Considering that the Information was filed on 25 September 2014, the government's right to prosecute the case has already prescribed.**

On 15 July 2024, petitioner filed the MR,[23] arguing that in *People of the Philippines v. Mateo A. Lee, Jr.*[24] (**Lee**), the Supreme Court held that the filing of a complaint with the Office of the City Prosecutor tolls the running of the prescriptive period. Since the complaint in the instant case was filed with the Department of Justice (**DOJ**) on the same date as its execution (which, according to the Second Division, was the start of the prescriptive period), then the same was timely filed.

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[21] Id., p. 64.

[22] **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.

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.

[23] Supra at note 5.

[24] G.R. No. 234618, 16 September 2019.

On 05 August 2024, the Second Division issued the second assailed Resolution,[25] ruling that contrary to petitioner's proposition, in *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines*[26] (**Lim**), the Supreme Court unequivocally declared that proceedings before the Court of Tax Appeals (**CTA**) are instituted upon the filing of an Information in Court. Moreover, petitioner's interpretation that the filing of the complaint before the prosecutor's office commenced the five (5)-year period and interrupted it at the same time reduced to absurdity the meaning of Section 281 of the NIRC of 1997, as amended.

## PROCEEDINGS BEFORE THE COURT *EN BANC*

Undeterred, on 12 September 2024, the petitioner filed the instant Petition for Review[27] before the Court *En Banc*.

Thereafter, the Court *En Banc*, on 06 November 2024,[28] and again on 21 April 2025,[29] ordered respondent to file his comment on the Petition for Review. Both resolutions, however, were returned to this Court with notification "Not Found".[30] Based on these circumstances, the case was submitted for decision on 13 August 2025.[31]

## ISSUE

Based on the Petition for Review, the sole issue for the Court *En Banc*'s resolution is —

> WHETHER THE COURT IN DIVISION ERRED IN DISMISSING THE INSTANT CASE ON THE GROUND THAT THE INFORMATION WAS FILED BEYOND THE FIVE (5)-YEAR PRESCRIPTIVE PERIOD.

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25 Supra at note 3.
26 G.R. Nos. 48134-37, 18 October 1990.
27 Supra at note 1.
28 Division Docket, p. 76; *rollo*, p. 23.
29 Id, p. 78; id., p. 30.
30 See Records Verification dated 03 January 2025 and Records Verification dated 19 June 2025, *rollo*, pp. 24 and 31, respectively.
31 See Resolution dated 13 August 2025, Division Docket, p. 79; *rollo*, p. 32.

## ARGUMENTS

In its Petition for Review, the petitioner presents an exact reproduction of its argument in the MR that pursuant to *Lee,* the filing of a complaint with the Office of the City Prosecutor tolls the running of the prescriptive period. Since the complaint in the instant case was filed with the DOJ on the same date as its execution, which, according to the Second Division was the start of the prescriptive period, then the same is timely filed.

Before going into the merits of the case, We shall first determine whether the Court *En Banc* has jurisdiction over the present Petition for Review insofar as the timeliness of the same is concerned.

THE PETITION FOR REVIEW WAS TIMELY FILED AND THE COURT *EN BANC* ACQUIRED JURISDICTION OVER THE CASE

The Second Division issued the second assailed Resolution[32] denying petitioner's MR[33] on 05 August 2024, and petitioner received the same on 13 August 2024.[34] Under Section 2(f),[35] Rule 4 in relation to Section 9(b),[36] Rule 9 of the Revised Rules of the Court of Tax Appeals[37] (**RRCTA**), petitioner had fifteen (15) days from receipt of a copy of the decision or resolution appealed from, or until 28 August 2024, to file the Petition for Review.

However, on 27 August 2024, petitioner filed a "Motion for Extension of Time to File Petition for Review",[38] requesting for an additional period of fifteen (15) days from 28 August 2024, or **until**

[32] Supra at note 3.

[33] Supra at note 5.

[34] See Notice of Resolution dated 05 August 2024, Division Docket, p. 71; see also par. 1, Motion for Extension of Time to File Petition for Review, *rollo*, p. 1.

[35] **SEC 2.** *Cases Within the Jurisdiction of the Court En Banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(f) Decisions, **resolutions** or orders on motions for reconsideration or new trial **of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code** or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs[.] (Emphasis supplied)

[36] Supra at note 1.

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

[38] *Rollo*, pp. 1-3.

**12 September 2024,** within which to file its Petition for Review. The Court *En Banc* granted the same in its Minute Resolution dated 30 August 2024.[39] Accordingly, petitioner timely filed the instant Petition for Review on 12 September 2024.[40] Consequently, the Court *En Banc* has jurisdiction over the present case.

We now proceed to address the merits of the case.

After thoroughly reviewing the records and evaluating the parties' arguments *vis-à-vis* the pertinent laws, rules, and jurisprudence, the Court *En Banc* finds the instant Petition for Review lacking in merit.

The pivotal question in this case concerns the interpretation of Section 281 of the NIRC of 1997, as amended, which states that –

> ...
>
> **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.
>
> 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.
>
> ...

In *Lim*, the Supreme Court interpreted Section 281 of the NIRC of 1997, as amended, *vis-à-vis* Section 2,[41] Rule 9, of the RRCTA. According

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39 Id., p. 4.

40 Supra at note 1.

41 **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.

to it, 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.

However, in the 2025 case of *People of the Philippines v. Ulysses Palconit Consebido*[42] (**Consebido**), the Supreme Court re-examined its ruling in *Lim* –

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

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

In *Consebido,* therefore, the Supreme Court reiterated what has always been the rule, that is, that **criminal cases shall be deemed instituted upon the commencement of preliminary investigation. Accordingly, in tax cases, it is also the filing of the complaint before the prosecution office of the DOJ and the conduct of the summary investigation which toll the running of the prescriptive period.**

This notwithstanding, the Supreme Court 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.[43] Upon further reflection, however, I find sufficient doctrinal basis to revisit that position.

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

> ...
> **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

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

> 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.**[44]
>
> ...

Therefore, 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 the CTA'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 the CTA Division 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 the CTA Division.

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.*[45] (**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**

[44] Emphasis supplied and italics in the original text.
[45] G.R. No. 17905, 27 January 1923; Emphasis supplied.

**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 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.[46]

...

The Supreme Court went on to cite this portion of the *Moran* case 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*[47] (**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 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.** <u>**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.**</u> 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

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[46] Id.; Emphasis supplied.
[47] G.R. No. 18260, 27 January 1923; Emphasis and underscoring supplied.

> 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.*[48]

***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,*[49] the Supreme Court declared that:

> ...
> 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**

[48] G.R. No. 271081, 29 July 2024.
[49] G.R. No. L-6407, 29 July 1954; Emphasis supplied.

**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.*,[50] as well as in the 2013 case of *Jadewell Parking Systems Corporation v. Hon. Judge Nelson F. Lidua, Sr., et al*,[51] 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>**[52]
>
> ...

***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 with a liberal interpretation.**

In the 1989 case of *People of the Philippines v. Mizpah R. Reyes*,[53] which was cited in the 1992 case of *People of the Philippines v. Napoleon Duque*,[54] 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:

[50] G.R. No. 102342, 03 July 1992.
[51] G.R. No. 169588, 07 October 2013.
[52] Supra at note 50; Emphasis and underscoring supplied.
[53] G.R. Nos. 74226-27, 27 July 1989.
[54] G.R. No. 100285, 13 August 1992.

> ...
> 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)].[55]
> ...

This doctrine was reiterated in the 2001 case of *People of the Philippines v. Arturo F. Pacificador*[56] (**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:
>
>> 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,**

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[55] Supra at note 53; Emphasis supplied.

[56] G.R. No. 139405, 13 March 2001; Citations omitted, emphasis supplied and italics in the original text.

> **has assigned to it fixed and positive periods in which it destroys proofs of guilt.**
>
> ...

Citing *Pacificador,* the Supreme Court, in the 2006 case of *Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo, et al.,*[57] 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

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

RRCTA and *Consebido* would lead this Court to decide the matter based on the interpretation that favors the protection of herein accused respondent's substantive rights.

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

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.[58]

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 same is five (5) years.[59]

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.[60]

The Information in the case at bar charges the accused respondent with violation of Section 255 of the NIRC of 1997, as amended, for willful failure to pay tax. Since this is a violation of the provisions of the NIRC of 1997, as amended, 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 deemed as a proceeding for investigation and punishment, the prescriptive period shall commence to run from such date, which, in this case, is 01 March 2007.

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58 *See Benjamin ("Kokoy") T. Romualdez v. Hon. Simeon V. Marcelo, et al.*, supra at note 57.
59 Supra at note 22.
60 Id.

As to the interruption of the prescriptive period – this is where differing interpretations arise. Notably, the Information in this case was filed before the Third Division on 25 September 2014.

If We are to apply the "institution-by-information" rule in the RRCTA, the five (5)-year prescriptive period commenced to run from 01 March 2007 and ended on 01 March 2012. It was only upon the filing of the instant Information on 25 September 2014 that the prescriptive period was supposedly interrupted. However, such filing of the Information was already two (2) years, six (6) months, and twenty-four (24) days too late. Under the RRCTA provision, therefore, the prosecution's filing of the instant Information on 25 September 2014 was already time-barred.

If, on the other hand, We apply the "institution-by-complaint" rule in *Consebido,* the five (5)-year prescriptive period commenced to run from 01 March 2007 and was likewise interrupted on the same date. Under *Consebido,* therefore, the prosecution seasonably filed the instant Information on 25 September 2014, despite the fact that more than seven (7) years has lapsed. In other words, the offense had become practically imprescriptible.

Between the two (2) 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.** Since the Information was filed only on 25 September 2014, or after the lapse of the five (5)-year prescriptive period, which ended on 01 March 2012, the State's right to prosecute or to institute a criminal action against respondent 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 01 March 2007 interrupted the prescriptive period. To do so would operate to the prejudice of accused respondent by rendering the offense practically imprescriptible and perpetually exposing him 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 *Moran*, the Supreme Court emphasized that more than being an act of grace, prescription is also a check upon the State itself to be vigilant in the prosecution of crimes:

> ...
> But it is otherwise when a statute of limitation is granted by the State. Here **the State is the grantor, surrendering by act of grace its rights to prosecute,** and declaring the offense to be no longer the subject of prosecution. 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. Independently of these views, it must be remembered that **delay in instituting prosecutions is not only productive of expense to the State, but of peril to public justice in the attenuation and distortion,** even by mere natural lapse of memory, of testimony. It is the policy of the law that **prosecutions should be prompt, and that statutes enforcing such promptitude should be vigorously maintained. They are not merely acts of grace, but checks imposed by the State upon itself, to exact vigilant activity from its subaltern, and to secure for criminal trials the best evidence that can be obtained.**[61]
> ...

In view of all the foregoing, and after a careful review of petitioner's arguments in its Petition for Review, the Court *En Banc* finds no reason to reverse or modify the first and second assailed Resolutions of the Second Division in CTA Crim. Case No. O-427.

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61 Supra at note 45; Emphasis supplied.

**WHEREFORE**, premises considered, the Petition for Review filed by petitioner People of the Philippines, docketed as CTA EB Crim. No. 159, is hereby **DENIED** for lack of merit. The Second Division's Resolution dated 20 June 2024 and Resolution dated 05 August 2024 in CTA Crim. Case No. O-427 entitled *People of the Philippines v. Willie Reyes*, are hereby **AFFIRMED**.

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**WE CONCUR:**

**MA. BELEN M. RINGPIS-LIBAN**
Presiding Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**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