



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**JADEWELL PARKING
SYSTEMS CORPORATION**
represented by its manager and
authorized representative Norma
Tan,

Petitioner,

- versus -

G.R. No. 169588

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

**HON. JUDGE NELSON F.
LIDUA SR.**, Presiding Judge of
The Municipal Trial Court
Branch 3, Baguio City,
**BENEDICTO BALAJADIA,
EDWIN ANG, "JOHN DOES"**
and **"PETER DOES"**

Respondents.

Promulgated:
October 7, 2013

Alfonso

X-----X

DECISION

LEONEN, J.:

We are asked to rule on this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the assailed Decision of Branch 7 of the Regional Trial Court of Baguio City and Order dated August 15, 2005 be reversed and that Criminal Case Nos. 112934 and 112935 be ordered reinstated and prosecuted before the Municipal Trial Court of Baguio City.

Petitioner Jadewell Parking Systems Corporation is a private parking operator duly authorized to operate and manage the parking spaces in Baguio City pursuant to City Ordinance 003-2000. It is also authorized under Section 13 of the City Ordinance to render any motor vehicle immobile by placing its wheels in a clamp if the vehicle is illegally parked.¹

According to the Resolution of the Office of the Provincial Prosecutor, San Fernando City, La Union, the facts leading to the filing of the Informations are the following:

Jadewell Parking Systems Corporation (Jadewell), thru [sic] its General Manager Norma Tan and Jadewell personnel Januario S. Ulpindo and Renato B. Dulay alleged in their affidavit-complaint that on May 17, 2003, the respondents in I.S No. 2003-1996 Edwin Ang, Benedicto Balajadia and John Doe dismantled, took and carried away the clamp attached to the left front wheel of a Mitsubishi Adventure with Plate No. WRK 624 owned by Edwin Ang. Accordingly, the car was then illegally parked and [left] unattended at a Loading and Unloading Zone. The value of the clamp belonging to Jadewell which was allegedly forcibly removed with a piece of metal is ₱26,250.00. The fines of ₱500.00 for illegal parking and the declamping fee of ₱500.00 were also not paid by the respondents herein.

In I.S. No., 2003-1997, Jadewell thru [sic] its General Manager Norina C. Tan, Renato B. Dulay and Ringo Sacliwan alleged in their affidavit-complaint that on May 7, 2003, along Upper Mabini Street, Baguio City, herein respondents Benedicto Balajadia, Jeffrey Walan and two (2) John Does forcibly removed the clamp on the wheel of a Nissan Cefiro car with Plate No. UTD 933, belonging to Jeffrey Walan which was then considered illegally parked for failure to pay the prescribed parking fee. Such car was earlier rendered immobile by such clamp by Jadewell personnel. After forcibly removing the clamp, respondents took and carried it away depriving its owner, Jadewell[,] its use and value which is ₱26,250.00. According to complainants, the fine of ₱500.00 and the declamping fee of ₱500.00 were not paid by the respondents.²

The incident resulted in two cases filed by petitioner and respondents against each other. Petitioner Jadewell filed two cases against respondents: Robbery under I.S. Nos. 2003-1996 and 2003-1997. Petitioner filed an Affidavit-Complaint against respondents Benedicto Balajadia, Jeffrey Walan, and three (3) John Does, one of whom was eventually identified as respondent Ramon Ang. The Affidavit-Complaint was filed with the Office of the City Prosecutor of Baguio City on May 23, 2003.³ A preliminary investigation took place on May 28, 2003. Respondent Benedicto Balajadia likewise filed a case charging Jadewell president, Rogelio Tan, and four (4)

¹ Baguio City Ordinance Numbered 003, Series of 2000, Sec. 13.

² *Rollo*, p. 34.

³ *Id.* at 21-24.

of Jadewell's employees with Usurpation of Authority/Grave Coercion in I.S. No. 2003-1935.

In his Counter-affidavit for the two cases he filed for himself and on behalf of his co-respondents, respondent Benedicto Balajadia denied that his car was parked illegally. He admitted that he removed the clamp restricting the wheel of his car since he alleged that the placing of a clamp on the wheel of the vehicle was an illegal act. He alleged further that he removed the clamp not to steal it but to remove the vehicle from its clamp so that he and his family could continue using the car. He also confirmed that he had the clamp with him, and he intended to use it as a piece of evidence to support the Complaint he filed against Jadewell.⁴

In the Resolution⁵ of the Office of the Provincial Prosecutor of San Fernando City, La Union, Acting City Prosecutor Mario Anacleto Banez found probable cause to file a case of Usurpation of Authority against the petitioner. Regarding the case of Robbery against respondents, Prosecutor Banez stated that:

We find no probable cause to charge respondents in these two (2) cases for the felony of Robbery. The elements of Robbery, specifically the intent to gain and force upon things are absent in the instant cases, thereby negating the existence of the crime.

X X X X

We, however, respectfully submit that the acts of respondents in removing the wheel clamps on the wheels of the cars involved in these cases and their failure to pay the prescribed fees were in violation of Sec. 21 of Baguio City Ordinance No. 003-2000 which prescribes fines and penalties for violations of the provisions of such ordinance. Certainly, they should not have put the law into their own hands. (Emphasis supplied)

WHEREFORE, premises considered, there is probable cause against all the respondents, except Jeffrey Walan or Joseph Walan (who has been dragged into this controversy only by virtue of the fact that he was still the registered owner of the Nissan Cefiro car) for violation of Section 21 of City Ord. No. 003-2000 in both cases and we hereby file the corresponding informations against them in Court.⁶

Prosecutor Banez issued this Resolution on July 25, 2003.

⁴ Id. at 34.

⁵ Id. at 32-35.

⁶ Id. at 34-35.

On October 2, 2003, two criminal Informations were filed with the Municipal Trial Court of Baguio City dated July 25, 2003, stating:

That on May 17, 2003 at Baguio City and within the jurisdiction of this Honorable Court, the above-named accused with unity of action and concerted design, did then and there, with unity of action and concerted design, willfully, unlawfully and feloniously forcibly dismantled [sic] and took [sic] an immobilizing clamp then attached to the left front wheel of a Mitsubishi Adventure vehicle with Plate No. WRK 624 belonging to Edwin Ang which was earlier rendered immobilized by such clamp by Jadewell Personnel's for violation of the Baguio City ordinance No. 003-2600 to the damage and prejudice of private complainant Jadewell Parking System Corporation (Jadewell) which owns such clamp worth ₱26,250.00 and other consequential damages.

CONTRARY TO LAW,

San Fernando City, La Union for Baguio City, this 25th day of July 2003.⁷

The cases were docketed as Criminal Case Nos. 112934 and 112935 with the Municipal Trial Court of Baguio City, Branch 3. Respondent Benedicto Balajadia and the other accused through their counsel Paterno Aquino filed a January 20, 2004 Motion to Quash and/or Manifestation⁸ on February 2, 2004. The Motion to Quash and/or Manifestation sought the quashal of the two Informations on the following grounds: extinguishment of criminal action or liability due to prescription; failure of the Information to state facts that charged an offense; and the imposition of charges on respondents with more than one offense.

In their Motion to Quash, respondents argued that:

1. The accused in this case are charged with violation of Baguio City Ordinance No. 003-2000.
2. Article 89 of the Revised Penal [sic] provides that criminal liability is totally extinguished by prescription of the crime.
3. Act No. 3326, as amended by Act No. 3763, provides:

“Section 1. x x x Violations penalized by municipal ordinances shall prescribed [sic] after two months.”
4. As alleged in the Information, the offense charged in this case was committed on May 7, 2003.
5. As can be seen from the right hand corner of the Information, the latter was filed with this Honorable Court on

⁷ Id. at 37.

⁸ Id. at 38.

October 2, 2003, almost five (5) months after the alleged commission of the offense charged. Hence, criminal liability of the accused in this case, if any, was already extinguished by prescription when the Information was filed.⁹

In an Order¹⁰ dated February 10, 2004, respondent Judge Nelson F. Lidua, Sr., Presiding Judge of the Municipal Trial Court of Baguio City, Branch 3, granted the accused's Motion to Quash and dismissed the cases.

Petitioner filed a Motion for Reconsideration on February 27, 2004 responding to the February 10, 2004 Order¹¹ to argue among other points that:

6.b. For another, the offenses charged have not yet prescribed. Under the law, the period of prescription of offenses shall be interrupted by the filing of the complaint or information. While it may be true that the **Informations** in these cases have been filed only on October 2, 2003, the private complainant has, however, filed its criminal complaint on May 23, 2003, well within the prescribed period.¹²

Respondents filed their Opposition¹³ on March 24, 2004, and petitioner filed a Reply¹⁴ on April 1, 2004.

The respondent judge released a Resolution¹⁵ dated April 16, 2004 upholding the Order granting respondents' Motion to Quash. The Resolution held that:

For the guidance of the parties, the Court will make an extended resolution on one of the ground [sic] for the motion to quash, which is that the criminal action has been extinguished on grounds of prescription.

These offenses are covered by the Rules on Summary Procedure being alleged violations of City Ordinances.

Under Section 9 of the Rule [sic] on Summary Procedure, the running of the prescriptive period shall be halted on the date the case is filed in Court and not on any date before that (**Zaldivia vs. Reyes, Jr.** G.R. No. 102342, July 3, 1992, *En Banc*).

In case of conflict, the Rule on Summary Procedure as the special law prevails over Sec. 1 of Rule 110 of the Rules on Criminal

⁹ Id. at 39.

¹⁰ Id. at 43.

¹¹ Id. at 44.

¹² Id. at 46.

¹³ Id. at 48-49.

¹⁴ Id. at 50-52.

¹⁵ Id. at 53-54.

Procedure and also Rule 110 of the Rules of Criminal Procedure must yield to Act No. 3326 or “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” (Ibid).

Petitioner then filed a Petition¹⁶ for *Certiorari* under Rule 65 with the Regional Trial Court of Baguio City. The case was raffled to Branch 7 of the Regional Trial Court of Baguio City. Petitioners contended that the respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing Criminal Case Nos. 112934 and 112935 on the ground of prescription. Petitioners argued that the respondent judge ruled erroneously saying that the prescriptive period for the offenses charged against the private respondents was halted by the filing of the Complaint/Information in court and not when the Affidavit-Complaints were filed with the Office of the City Prosecutor of Baguio City. Petitioner cited Section 1 of Rule 110 of the Rules on Criminal Procedure:

x x x “[c]riminal actions shall be instituted x x x [i]n x x x other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charter” and the last paragraph thereof states that “[t]he institution of the criminal action shall interrupt the running of the period of prescription of the offense charged unless otherwise provided in special laws.”¹⁷

Petitioner contended further that:

[the] filing of the criminal complaint with the Office of the City Prosecutor of Baguio City, not the filing of the criminal information before this Honorable Court, is the reckoning point in determining whether or not the criminal action in these cases had prescribed.

x x x x

The offenses charged in Criminal Case Nos. 112934 and 112935 are covered by the Revised Rules on Summary Procedure, not by the old Rules on Summary Procedure. Considering that the offenses charged are for violations of a City Ordinance, the criminal cases can only be commenced by informations. Thus, it was only legally and procedurally proper for the petitioner to file its complaint with the Office of the City Prosecutor of Baguio City as required by Section 11 of the new Rules on Summary Procedure, these criminal cases “shall be commenced only by information.” These criminal cases cannot be commenced in any other way.

¹⁶ Id. at 55-63. The Petition was dated June 18, 2004.

¹⁷ Id. at 59.

Moreover, the ruling of the Supreme Court in **Zaldivia vs. Reyes** cited in the assailed Resolution does not apply in this case. The offense charged in **Zaldivia** is [a] violation of **municipal** ordinance in which case, the complaint should have been filed directly in court as required by Section 9 of the old Rules on Summary Procedure. On the other hand, Criminal Case Nos. 112934 and 112935 are for violations of a **city** ordinance and as aforesated, “shall be commenced only by information.”¹⁸

Thus, petitioner contended that the filing of the criminal complaint with the Office of the City Prosecutor stopped the running of the two-month prescriptive period. Hence, the offenses charged have not prescribed.

In their Comment,¹⁹ respondents maintained that the respondent judge did not gravely abuse his discretion. They held that Section 2 of Act No. 3326, as amended, provides that:

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 proceeding for its investigation and punishment.

The prescription shall be interrupted when **proceedings** are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.²⁰ (Emphasis supplied)

Respondents argued that *Zaldivia v. Reyes*²¹ held that the proceedings mentioned in Section 2 of Act No. 3326, as amended, refer to **judicial proceedings**. Thus, this Court, in *Zaldivia*, held that the filing of the Complaint with the Office of the Provincial Prosecutor was not a judicial proceeding. The prescriptive period commenced from the alleged date of the commission of the crime on May 7, 2003 and ended two months after on July 7, 2003. Since the Informations were filed with the Municipal Trial Court on October 2, 2003, the respondent judge did not abuse its discretion in dismissing Criminal Case Nos. 112934 and 112935.

In a Decision dated April 20, 2005, the Regional Trial Court of Baguio City Branch 7, through Judge Clarence F. Villanueva, dismissed the Petition for *Certiorari*. The Regional Trial Court held that, since cases of city ordinance violations may only be commenced by the filing of an Information, then the two-month prescription period may only be interrupted

¹⁸ Id. at 59 and 60.

¹⁹ Id. at 64.

²⁰ Id. at 65 *citing* Act No. 3326.

²¹ G.R. No. 102342, July 3, 1992, 211 SCRA 277.

by the filing of Informations (for violation of City Ordinance 003-2000) against the respondents in court. The Regional Trial Court of Baguio City, Branch 7, ruled in favor of the respondents and upheld the respondent judge's Order dated February 10, 2004 and the Resolution dated April 16, 2004.

Petitioners then filed a May 17, 2005 Motion for Reconsideration which was denied by the Regional Trial Court in an August 15, 2005 Order.

Hence, this Petition.

The principal question in this case is whether the filing of the Complaint with the Office of the City Prosecutor on May 23, 2003 tolled the prescription period of the commission of the offense charged against respondents Balajadia, Ang, "John Does," and "Peter Does."

Petitioner contends that the prescription period of the offense in Act No. 3326, as amended by Act No. 3763, does not apply because respondents were charged with the violation of a city ordinance and not a municipal ordinance. In any case, assuming *arguendo* that the prescriptive period is indeed two months, filing a Complaint with the Office of the City Prosecutor tolled the prescription period of two months. This is because Rule 110 of the Rules of Court provides that, in Manila and in other chartered cities, the Complaint shall be filed with the Office of the Prosecutor unless otherwise provided in their charters.

In their Comment,²² respondents maintain that respondent Judge Lidua did not err in dismissing the cases based on prescription. Also, respondents raise that the other grounds for dismissal they raised in their Motion to Quash, namely, that the facts charged constituted no offense and that respondents were charged with more than one offense, were sustained by the Metropolitan Trial Court. Also, respondents argue that petitioner had no legal personality to assail the Orders, since Jadewell was not assailing the civil liability of the case but the assailed Order and Resolution. This was contrary to the ruling in *People v. Judge Santiago*²³ which held that the private complainant may only appeal the civil aspect of the criminal offense and not the crime itself.

In the Reply,²⁴ petitioner argues that the respondent judge only dismissed the case on the ground of prescription, since the Resolution dated April 16, 2004 only cited that ground. The Order dated February 10, 2004 merely stated but did not specify the grounds on which the cases were

²² *Rollo*, p. 92.

²³ 255 Phil. 851 (1989).

²⁴ *Rollo*, p. 100.

dismissed. Petitioner also maintains that the proceedings contemplated in Section 2 of Act No. 3326 must include the preliminary investigation proceedings before the National Prosecution Service in light of the Rules on Criminal Procedure²⁵ and Revised Rules on Summary Procedure.

Lastly, petitioner maintains that it did have legal personality, since in a Petition for *Certiorari*, “persons aggrieved x x x may file a verified petition”²⁶ before the court.

The Petition is denied.

The resolution of this case requires an examination of both the substantive law and the procedural rules governing the prosecution of the offense. With regard to the prescription period, Act No. 3326, as amended, is the only statute that provides for any prescriptive period for the violation of special laws and municipal ordinances. No other special law provides any other prescriptive period, and the law does not provide any other distinction. Petitioner may not argue that Act No. 3326 as amended does not apply.

In *Romualdez v. Hon. Marcelo*,²⁷ this Court defined the parameters of prescription:

[I]n resolving the issue of prescription of the offense charged, the following should be considered: (1) the period of prescription for the offense charged; (2) the time the period of prescription starts to run; and (3) the time the prescriptive period was interrupted.²⁸ (Citation omitted)

With regard to the period of prescription, it is now without question that it is two months for the offense charged under City Ordinance 003-2000.

The commencement of the prescription period is also governed by statute. Article 91 of the Revised Penal Code reads:

Art. 91. Computation of prescription of offenses. — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or

²⁵ A.M. No. 00-5-03-SC, effective December 1, 2000.

²⁶ Rules of Civil Procedure (1997), Rule 65, Sec. 1.

²⁷ 507 Phil. 727 (2005).

²⁸ Id. at 741.

acquitted, or are unjustifiably stopped for any reason not imputable to him.

The offense was committed on May 7, 2003 and was discovered by the attendants of the petitioner on the same day. These actions effectively commenced the running of the prescription period.

The procedural rules that govern this case are the 1991 Revised Rules on Summary Procedure.

SECTION 1. Scope – This rule shall govern the summary procedure in the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts in the following cases falling within their jurisdiction:

x x x x

B. Criminal Cases:

- (1) Violations of traffic laws, rules and regulations;
- (2) Violations of the rental law;
- (3) Violations of municipal or **city ordinances**
(Emphasis supplied)

Section 11 of the Rules provides that:

Sec. 11. How commenced. — The filing of criminal cases falling within the scope of this Rule shall be either by complaint or by information: **Provided, however, that in Metropolitan Manila and in Chartered Cities, such cases shall be commenced only by information, except when the offense cannot be prosecuted de officio.**

The Local Government Code provides for the classification of cities. Section 451 reads:

SEC. 451. *Cities, Classified.* – A city may either be component or highly urbanized: *Provided, however,* that the criteria established in this Code shall not affect the classification and corporate status of existing cities. Independent component cities are those component cities whose charters prohibit their voters from voting for provincial elective officials. Independent component cities shall be independent of the province.

Cities in the Philippines that were created by law can either be highly urbanized cities or component cities. An independent component city has a charter that proscribes its voters from voting for provincial elective officials.

It stands that all cities as defined by Congress are chartered cities. In cases as early as *United States v. Pascual Pacis*,²⁹ this Court recognized the validity of the Baguio Incorporation Act or Act No. 1963 of 1909, otherwise known as the charter of Baguio City.

As provided in the Revised Rules on Summary Procedure, only the filing of an Information tolls the prescriptive period where the crime charged is involved in an ordinance. The respondent judge was correct when he applied the rule in *Zaldivia v. Reyes*.

In *Zaldivia v. Reyes*, the violation of a municipal ordinance in Rodriguez, Rizal also featured similar facts and issues with the present case. In that case, the offense was committed on May 11, 1990. The Complaint was received on May 30, 1990, and the Information was filed with the Metropolitan Trial Court of Rodriguez on October 2, 1990. This Court ruled that:

As it is clearly provided in the Rule on Summary Procedure that among the offenses it covers are violations of municipal or city ordinances, it should follow that the charge against the petitioner, which is for violation of a municipal ordinance of Rodriguez, is governed by that rule and not Section 1 of Rule 110.

Where paragraph (b) of the section does speak of “offenses falling under the jurisdiction of the Municipal Trial Courts and Municipal Circuit Trial Courts,” the obvious reference is to Section 32(2) of B.P. No. 129, vesting in such courts:

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment of not exceeding four years and two months, or a fine of not more than four thousand pesos, or both such fine and imprisonment, regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value, or amount thereof; Provided, however, That in offenses involving damage to property through criminal negligence they shall have exclusive original jurisdiction where the imposable fine does not exceed twenty thousand pesos.

These offenses are not covered by the Rules on Summary Procedure.

Under Section 9 of the Rules on Summary Procedure, “the complaint or information shall be filed directly in court without need of a prior preliminary examination or preliminary investigation.” Both parties agree that this provision does not

²⁹ 31 Phil. 524 (1915).

prevent the prosecutor from conducting a preliminary investigation if he wants to. However, the case shall be deemed commenced only when it is filed in court, whether or not the prosecution decides to conduct a preliminary investigation. This means that the running of the prescriptive period shall be halted on the date the case is actually filed in court and not on any date before that.

This interpretation is in consonance with the afore-quoted Act No. 3326 which says that the period of prescription shall be suspended “when proceedings are instituted against the guilty party.” The proceedings referred to in Section 2 thereof are “judicial proceedings,” contrary to the submission of the Solicitor General that they include administrative proceedings. His contention is that we must not distinguish as the law does not distinguish. As a matter of fact, it does.

At any rate, the Court feels that if 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. Prescription in criminal cases is a substantive right.³⁰

Jurisprudence exists showing that when the Complaint is filed with the Office of the Prosecutor who then files the Information in court, this already has the effect of tolling the prescription period. The recent *People v. Pangilinan*³¹ categorically stated that *Zaldivia v. Reyes* is not controlling as far as special laws are concerned. *Pangilinan* referred to other cases that upheld this principle as well. However, the doctrine of *Pangilinan* pertains to violations of special laws but *not* to ordinances.

There is no distinction between the filing of the Information contemplated in the Rules of Criminal Procedure and in the Rules of Summary Procedure. When the representatives of the petitioner filed the Complaint before the Provincial Prosecutor of Baguio, the prescription period was running. It continued to run until the filing of the Information. They had two months to file the Information and institute the judicial proceedings by filing the Information with the Municipal Trial Court. The conduct of the preliminary investigation, the original charge of Robbery, and the subsequent finding of the violation of the ordinance did not alter the period within which to file the Information. Respondents were correct in arguing that the petitioner only had two months from the discovery and commission of the offense before it prescribed within which to file the Information with the Municipal Trial Court.

³⁰ *Zaldivia v. Reyes*, supra note 21, at 282-284.

³¹ G.R. No. 152662, June 13, 2012, 672 SCRA 105.

Unfortunately, when the Office of the Prosecutor filed the Informations on October 5, 2003, the period had already prescribed. Thus, respondent Judge Nestor Lidua, Sr. did not err when he ordered the dismissal of the case against respondents. According to the Department of Justice – National Prosecutors Service Manual for Prosecutors, an Information is defined under Part I, Section 5 as:

SEC. 5. Information. - An information is the accusation in writing charging a person with an offense, subscribed by the prosecutor, and filed with the court. The information need not be placed under oath by the prosecutor signing the same.

The prosecutor must, however, certify under oath that –

- a) he has examined the complainant and his witnesses;
- b) there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof;
- c) the accused was informed of the complaint and of the evidence submitted against him; and
- d) the accused was given an opportunity to submit controverting evidence.

As for the place of the filing of the Information, the Manual also provides that:

SEC. 12. Place of the commission of offense. - The complaint or information is sufficient if it states that the crime charged was committed or some of the ingredients thereof occurred at some place within the jurisdiction of the court, unless the particular place in which the crime was committed is an essential element of the crime [,] e.g. in a prosecution for violation of the provision of the Election Code which punishes the carrying of a deadly weapon in a "polling place," or if it is necessary to identify the offense charged [,] e.g., the domicile in the offense of "violation of domicile."

Finally, as for the prescription period, the Manual provides that:

SEC. 20. How Period of Prescription Computed and Interrupted. - For an offense penalized under the Revised Penal Code, the period of prescription commences to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted:

- a) by the filing of the complaint with the Office of the City/Provincial Prosecutor; or wit[h] the Office of the Ombudsman; or

b) by the filing of the complaint or information with the court even if it is merely for purposes of preliminary examination or investigation, or even if the court where the complaint or information is filed cannot try the case on its merits.

However, for an offense covered by the Rules on Summary Procedure, the period of prescription is interrupted only by the filing of the complaint or information in court.

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For violation of a special law or ordinance, the period of prescription shall commence to run from the day of the commission of the violation, and if the same is not known at the time, from the discovery and the institution of judicial proceedings for its investigation and punishment. The prescription shall be interrupted only by the filing of the complaint or information in court and shall begin to run again if the proceedings are dismissed for reasons not constituting double jeopardy. (Emphasis supplied).

Presidential Decree No. 1275³² reorganized the Department of Justice's Prosecution Staff and established Regional State Prosecution Offices. These Regional State Prosecution Offices were assigned centers for particular regions where the Informations will be filed. Section 6 provides that the area of responsibility of the Region 1 Center located in San Fernando, La Union includes Abra, Benguet, Ilocos Norte, Ilocos Sur, La Union, Mt. Province, Pangasinan, and the cities of Baguio, Dagupan, Laoag, and San Carlos.

The Regional Prosecutor for Region 1 or his/her duly assigned prosecutor was designated to file the Information within the two-month period provided for in Act No. 3326, as amended.

The failure of the prosecutor to seasonably file the Information is unfortunate as it resulted in the dismissal of the case against the private respondents. It stands that the doctrine of *Zaldivia* is applicable to ordinances and their prescription period. It also upholds the necessity of filing the Information in court in order to toll the period. *Zaldivia* also has this to say concerning the effects of its ruling:

The Court realizes that under the above interpretation, a crime may prescribe even if the complaint is filed seasonably with the prosecutor's office if, intentionally or not, he delays the institution of the necessary judicial proceedings until it is too late. However, that possibility should not justify a misreading of the applicable rules beyond their obvious intent as reasonably deduced from their

³² Presidential Decree No. 1275, "Reorganizing the Prosecution Staff of the Department of Justice and the Offices of the Provincial and City Fiscals, Regionalizing the Prosecution Service, And Creating the National Prosecution Service" (1978), Sec. 6.

plain language. The remedy is not a distortion of the meaning of the rules but a rewording thereof to prevent the problem here sought to be corrected.³³


WHEREFORE, the Petition is **DENIED**.

SO ORDERED.

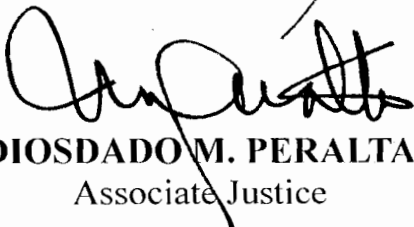


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



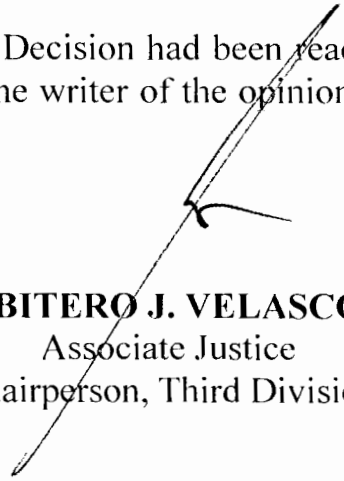
ROBERTO A. ABAD
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

³³ Id., per note 18, 284.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice