

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

PEOPLE OF THE PHILIPPINES, CTA *EB* CRIM. NO. 112
Petitioner, (CTA Crim. Case No. O-957)

For: Violation of Section 254,
of the National Internal
Revenue Code (NIRC) of 1997,
as amended

Present:

-versus-

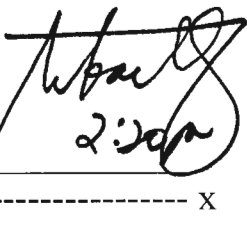
DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.

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

Respondent.

Promulgated:

AUG 04 2025



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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court’s resolution is petitioner’s *Motion for Reconsideration* (of the *Decision dated July 16, 2024*), filed via registered mail on August 6, 2024, without any comment from respondent,¹ assailing this Court’s *Decision*, dated July 16, 2024.

¹ While respondent filed a Comment to the petitioner’s Motion, the same was deemed as “not filed” by the Court due to respondent’s failure to file a softcopy of the Comment despite Order. See Minute Resolution, dated March 24, 2025, *Rollo*, unpaginated.

The Motion lacks merit.

First and most importantly, petitioner still fails to show that the Court in Division's use of *Rule 9, Section 2 of the Revised Rules of the Court of Tax Appeals, as amended* ("RRCTA"), was in error. His main arguments against such use are that (i) it "does not align with the principles on prescription applicable to criminal actions, in general", especially considering cases such as *People v. Lee*² ("Lee"), where the Supreme Court denied any differences between cases under the *Revised Penal Code* and those covered by special laws with respect to the interruption of the prescriptive period; and (ii) the provision "merely reiterates the fact that criminal actions filed before [the CTA] shall interrupt the running of the period of prescription because the prescriptive period does not begin to run anew after the investigating prosecutor's recommendation" to file an Information. Both arguments are unconvincing.

The argument that the assailed use of the *RRCTA* does not conform with general principles on prescription fails for two reasons. First, the general rules invoked here are *general rules*. The rules on prescription laid down by the *RRCTA*, meanwhile, are *special rules*, given that they govern a specific class of actions: the filing of criminal cases before the Court of Tax Appeals ("CTA"). As such, if the *RRCTA* does conflict with those general rules, then the *RRCTA* must prevail.

Second, and as already discussed in the assailed Decision, the pronouncement in *Lee* is based on *Act 3326, as amended by Act 3763*, whose purpose is to provide rules regarding the prescriptive periods for violations of special laws that *lacked* any such rules. Criminal cases heard before the CTA have such rules, however. As such, *Lee* is inapplicable here.

The claim that *Rule 9, Section 2 of the RRCTA* merely reiterates that the filing of a criminal action before the CTA interrupts a prescriptive period that was already interrupted also fails for two reasons. First, it makes no logical sense. According to it, the prescriptive period was already interrupted by the filing of a complaint with the Department of Justice and does not resume after proceedings there. If so, then *why* would the filing of an Information with the CTA interrupt the prescriptive period? *How* would it interrupt a period that had presumably already stopped and had not resumed? *Why* would the law have to explicitly state an interruption for a period assumed to have already been interrupted? The construction is redundant, self-contradictory, and thus illogical. *f*

² G.R. No. 234618, September 16, 2019.

Second, the provision *directly* identifies the filing of an information with the CTA as the act which institutes criminal actions and *directly* identifies the institution of criminal actions as the event that interrupts the prescriptive period. It identifies no other event that institutes the action. It identifies no other event that interrupts the prescriptive period. As such, it identifies only the filing of an information with the CTA as the event that interrupts the prescriptive period. In other words, respondent's interpretation of the provision is unsupported by and even contradicts the specific wording used, whereas the Court in Division's interpretation is clearly based on and faithful to such wording. The latter must thus prevail.

Considering, then, that petitioner failed to convincingly challenge the Court in Division's use of the *RRCTA*, his other arguments fail as well. All of these are directly based on the assertion that the Court in Division's use of the *RRCTA* was in error. Being grounded on a refuted assumption, these other arguments fail as well.

The Court *En Banc* consequently upholds Our ruling on the Petition for Review.

ACCORDINGLY, the instant *Motion for Reconsideration* (of the *Decision dated July 16, 2024*), filed via registered mail on August 6, 2024, is hereby **DENIED** for lack of merit.

SO ORDERED.



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

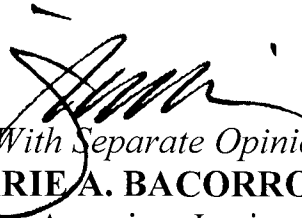


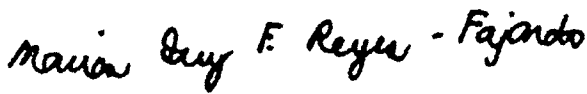
ROMAN G. DEL ROSARIO
Presiding Justice



MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


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


I join Justice Villena's Separate Opinion
MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

ON LEAVE
I concur as to the result
CORAZON G. FERRER-FLORES
Associate Justice


HENRY S. ANGELES
Associate Justice

EN BANC

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PREScription OF THE OFFENSE
CHARGED

At the outset, it is undeniable that the Court *En Banc*’s application of the ruling in *Lim, Sr.* deviates from the general rule on prescription applicable to criminal actions for offenses requiring preliminary investigation—whether under the Revised Penal Code² (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.

Section 281³ of the National Internal Revenue Code (NIRC) of 1997, as amended, which governs the prescriptive period for criminal tax actions, expressly states that the prescriptive period shall be interrupted when “**proceedings are instituted against the guilty persons.**” A meaningful resolution of the issue at hand 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 RPC, as amended, and Act No. 3326⁴, 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 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)	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 person , and shall begin to run again il the proceedings are dismissed for reasons not constituting jeopardy. (Emphasis supplied)

² AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS.
³ SEC. 281. *Prescription for Violations of any Provision of this Code.* — **All violations of any provision of this Code shall prescribe after five (5) years.**

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)
⁴ 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.

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Evidently, Section 28⁵ of the NIRC of 1997, as amended, substantially mirrors the prescriptive provisions cited above, particularly Section 2 of Act No. 3326⁶, as amended. Given that the NIRC of 1997, as amended, is itself a special law, 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*⁷ (**Olarte**), which was later cited in *People of the Philippines v. Mateo A. Lee, Jr.*⁸ (**Lee, Jr.**) and *People of the Philippines v. Ma. Theresa Pangilinan*⁹ (**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 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.

Then, in the 2004 case of *Roberto Brillante v. Court of Appeals and the People of the Philippines*¹⁰ (**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*¹¹ (**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**.

Relevantly, in the 2008 case of *Luis Panaguicon, Jr. v. Department of Justice, et al.*¹² (**Panaguicon**), the Supreme Court had the occasion to discuss the structure of the judicial system during the enactment of Act No. 3326, 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**. This conclusion is understandable, given that, during that period, it was the justice of the peace (or municipal judge) who was authorized to conduct the preliminary investigation.

⁵ Supra at note 3.

⁶ Supra at note 4.

⁷ G.R. No. L-22465. 28 February 1967.

⁸ G.R. No. 234618. 16 September 2019.

⁹ G.R. No. 152662. 13 June 2012.

¹⁰ G.R. Nos. 118757 & 121571. 19 October 2004.

¹¹ G.R. No. L-45674. 30 May 1983.

¹² G.R. No. 167571. 25 November 2008.

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Then, as emphasized in the 2012 case of *Pangilinan* and reiterated in the 2019 case of *Lee, Jr.*, the Supreme Court categorically ruled in *Panaguiton* 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 aforecited 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. Dicdican, Ingco, et al. v. Sandiganbayan, Brillante v. CA, and Sanrio Company Limited v. Lim*, 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,



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like the accused's delaying tactics or the delay and inefficiency of the investigating agencies.¹³

...

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 *Securities and Exchange Commission v. Interport Resources Corporation, et al.*¹⁴ (**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 also worth noting that, in his Concurring Opinion in *Interport*, 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* were to sustain the interpretation in the 1990 case of *Lim, Sr. vis-à-vis* Section 2¹⁵, Rule 9 of the Revised Rules of the Court 

¹³ Supra at note 9: Citations omitted. italics in the original text and emphasis supplied.

¹⁴ G.R. No. 135808. 06 October 2008.

¹⁵ 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. (*Rules of Court, Rule 110, Sec. 1, par. 2a*) (Emphasis supplied)

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of Tax Appeals¹⁶ (**RRCTA**)—that it is the filing of an Information with the Court which interrupts the five (5)-year prescriptive period under Section 281¹⁷ of the NIRC of 1997, as amended—such a ruling 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 a certain way, any subsequent case involving the same legal issue should be resolved in the same manner.¹⁸

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. The Supreme Court has consistently held, even 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 *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 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.

As for the finding that *Lim, Sr.* aligns with Section 2, Rule 9 of the **RRCTA**, it bears emphasizing that an alternative interpretation of the second paragraph of that provision exists—one that harmonizes it with the established doctrine cited above. Instead of construing it solely in relation to the first paragraph, as petitioner correctly argued, it may be read in conjunction with Section 1(a)¹⁹, Rule 110 of the Revised Rules of Criminal Procedure (**RRCP**), which provides that for offenses where a preliminary investigation is required, the criminal action shall be instituted by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation.

¹⁶ A.M. No. 05-11-07-CTA dated 22 November 2005.

¹⁷ Supra at note 3.

¹⁸ *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.

¹⁹ 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.** (Emphasis supplied)

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 2²⁰, Rule 9 of the RRCTA (specifically the italicized portion at the end) explicitly references Section 1(a)²¹, Rule 110 of the RRCP. 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.

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 281²² 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 *Petronila C. Tupaz v. Honorable Benedicto B. Ulep Presiding Judge of RTC Quezon City, Branch 105, and People of the Philippines*²³ (**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 Department of Justice (**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 fact, in the very recent case of *People of the Philippines v. Ulysses Palconit Consebido*²⁴ (**Consebido**), the Supreme Court held that the prescriptive period for prosecuting crimes is tolled upon the filing of a complaint with the DOJ—not when the case reaches the court. **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. This interpretation ensures that the intent of the law—to set a clear time limit for the prosecution of tax violations—is properly applied.**

²⁰ Supra at note 15.
²¹ Supra at note 19.
²² Supra at note 3.
²³ G.R. No. 127777. 01 October 1999.
²⁴ G.R. No. 258563. 02 April 2025.

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The Supreme Court's ruling in *Consebido*—that the prescriptive period for criminal tax offenses is interrupted by the institution of judicial proceedings, particularly the commencement of preliminary investigation—constitutes the proper and authoritative interpretation of Section 281²⁵ of the NIRC of 1997. Consequently, this interpretation must be applied retroactively, *i.e.*, from the time the NIRC of 1997 took effect, as may be inferred from the Supreme Court's discussion quoted below:

...

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.²⁶

...

From the foregoing, it is clear that the ruling in *Lim, Sr.*—which the CTA had long relied on to hold that preliminary investigation does not toll the running of the prescriptive period—was based on Section 354²⁷ of the NIRC of 1939. That provision was enacted at a time when preliminary investigations were conducted by justices of the peace, a procedural context that no longer applies. Having said that, the Supreme Court clarified that under Section 281²⁸ of the NIRC of 1997, the commencement of preliminary investigation interrupts the prescriptive period for the offense.

²⁵ Supra at note 3.

²⁶ Supra at note 24: Citation omitted. italics in the original text. emphasis and underscoring supplied.

²⁷ **SEC. 354.** *Prescription for Violations of Any Provisions of This Code.* — All violations of any provisions of this Code shall prescribe after five 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.

²⁸ Supra at note 3.

I also espouse the view that the latter portion of the decision in *Consebido*, which states that “[t]his new rule shall apply prospectively”, refers only to offenses covered by the 1991 Revised Rules on Summary Procedure and the 2022 Rules on Expedited Procedures in the First Level Courts (and thus, not to criminal tax offenses covered by the RRCTA). The Supreme Court found it necessary to revisit prior pronouncements on the tolling of prescription for offenses covered by these summary procedures, especially in light of its rulings in *Republic of the Philippines v. The Honorable Aniano A. Desierto as Ombudsman, et al.*²⁹ (**Desierto**), which held that prescription is interrupted by the institution of preliminary investigation only for special laws not covered by the 1991 Revised Rules on Summary Procedure, and *Pastor Corpus, Jr. y Belmoro v. People of the Philippines*³⁰ (**Corpus**), which held that for light offenses, the timely filing of the information in court is necessary to toll prescription.

To be clear, the Supreme Court has now abandoned the aforesaid rulings in *Desierto* and *Corpus*, as they are inconsistent with its definitive pronouncement in *Consebido*—that the filing of a criminal complaint before the DOJ tolls the running of the prescriptive period, even for offenses potentially covered by the 2022 Rules on Expedited Procedures in the First Level Courts. Accordingly, for offenses not covered by the 1991 Revised Rules on Summary Procedure or the 2022 Rules on Expedited Procedures in the First Level Courts, this definitive rule must apply retroactively.

Furthermore, as stated 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 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.”**

In light of the Supreme Court’s recent categorical pronouncement affirming that the established doctrine on prescription applies to criminal tax cases, I respectfully submit that 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. The five (5)-year prescriptive period is, instead, interrupted by

²⁹ G.R. No. 136506, 16 January 2023.
³⁰ G.R. No. 255740, 16 August 2023.

the filing of a complaint with the DOJ for purposes of preliminary investigation, not by the filing of the Information with the Court.

Accordingly, in this case, the five (5)-year prescriptive period began to run upon the discovery of respondent’s violation of Section 254³¹ of the NIRC of 1997, as amended, or willful attempt to evade or defeat the payment of value-added tax (VAT) for the fourth (4th) quarter of the taxable year (TY) 2011, and the institution of judicial proceedings for preliminary investigation on **05 July 2012**—when the Joint Complaint-Affidavit (JCA) 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 the Court *En Banc*’s 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**.

Now, although prescription should no longer be considered a ground for dismissal, I respectfully submit that the Court *En Banc* must also address the separate issue raised by respondent regarding the alleged violation of his constitutional right to speedy disposition of cases. As this issue is independent of the issue of prescription and may, on its own, justify the dismissal of the case, the Court *En Banc* remains duty-bound to consider and resolve the matter.

RESPONDENT’S RIGHT TO SPEEDY
DISPOSITION OF CASES

Respondent seeks the dismissal of the case on the ground of inordinate delay, invoking his constitutional right to speedy disposition of cases under Section 16³², Article III³³ of the 1987 Philippine Constitution, as interpreted in *Cesar Matas Cagang v. Sandiganbayan, Fifth Division, et al.*³⁴ (**Cagang**). He argues that the prosecution took over ten (10) years—from the filing of the JCA on 05 July 2012 to the filing of the Information on 26 October 2022—to file the Information before the CTA, far exceeding the timeframe prescribed under Section 3(f)³⁵, Rule 112 of the RRCPP. 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

³¹ SEC. 254. *Attempt to Evade or Defeat Tax.*
³² SEC. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.
³³ Bill of Rights.
³⁴ G.R. Nos. 206438 and 206458 & 210141-42. 31 July 2018.
³⁵ SEC. 3. *Procedure.* — The preliminary investigation shall be conducted in the following manner:
...
(1) **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)

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motion for reconsideration, with the Information being filed over five (5) years thereafter.

Citing *Francisco S. Tatad v. The Sandiganbayan and the Tanodbayan*³⁶ (**Tatad**) and *People of the Philippines v. Hon. Sandiganbayan, First Division & Third Division, et al.*³⁷ (**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 speedy disposition of cases in his “Comment/Opposition”³⁸ to the present Petition for Review, thus entitling him to relief.

Respectfully, I find merit in respondent’s arguments.

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.

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.³⁹

...

³⁶ G.R. Nos. 72335-39, 21 March 1988.
³⁷ G.R. Nos. 188165 & 189063, 11 December 2013.
³⁸ *Rollo*, pp. 249-268.
³⁹ Supra at note 34: Emphasis supplied.

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In line with the “balancing test” adopted from the American case of *Willie Mae Barker v. John W. Wingo*⁴⁰, 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.⁴¹

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 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 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



⁴⁰ 407 U.S. 514 (1972).

⁴¹ Supra at note 34.

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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.⁴²

...

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.



⁴²

Supra at note 34: Citations omitted. italics in the original text and emphasis supplied.

In this case, from the time the JCA was filed on 05 July 2012 until the filing of the Information 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 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/Opposition⁴³ to the Petition for Review, and reiterated the same in his Comment/Opposition⁴⁴ 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 Information 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.

To my mind, such unexplained delay cannot be countenanced. 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*⁴⁵, 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.”



⁴³ Supra at note 38.
⁴⁴ *Rollo*, pp. 345-360.
⁴⁵ G.R. Nos. 234435-36. 06 February 2023.

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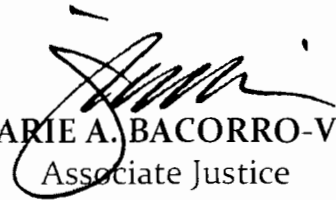
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Considering that nothing in the records indicates that respondent committed any overt act that contributed to the delay in the filing of the Information against him, this Court must indulge every reasonable presumption against the existence and validity of such waiver of his right to speedy disposition of cases.⁴⁶ Pertinently, as held in *Rene C. Figueroa v. Sandiganbayan, Special Third Division, et al.*⁴⁷ (**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.⁴⁸ 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.⁴⁹

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.⁵⁰

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

All told, I vote to (1) partially grant petitioner's "Motion for Reconsideration (of the Decision dated July 16, 2024)", (2) reverse and set aside the First Division's assailed Resolutions dated 15 December 2022 and 09 February 2023 in CTA Crim. Case No. O-957, and (3) instead dismiss the criminal case on the ground of violation of respondent's right to speedy disposition of cases.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

⁴⁶ See *People of the Philippines v. Ricardo Bodoso y Bolor*, G.R. Nos. 149382-149383, 05 March 2003.
⁴⁷ G.R. Nos. 235965-66, 15 February 2022.
⁴⁸ Id.
⁴⁹ Id.
⁵⁰ Id., citing *Rafael L. Coscolluela v. Sandiganbayan (First Division) and People of the Philippines*, G.R. Nos. 191411 & 191871, 15 July 2013.