

20 MAY 19 P2:00

SENATE
S. No. 1537

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Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
AMENDING SECTION 11 OF REPUBLIC ACT NO. 3019, OTHERWISE
KNOWN AS THE "ANTI-GRAFT AND CORRUPT PRACTICES ACT", AS
AMENDED**

EXPLANATORY NOTE

Section 27, Article II, of the 1987 Constitution provides that "[t]he State shall maintain honesty and integrity in public service and take positive and effective measures against graft and corruption."

Section 1 of Republic Act (R.A.) No. 3019, or the "Anti-Graft and Corrupt Practices Act" also provides that "[i]t is the policy of the Philippine Government, in line with the principle that a public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto."

In the 2006 case of *Romualdez v. Marcelo*¹, the Supreme Court granted the Motion for Reconsideration filed by therein petitioner Benjamin T. Romualdez and dismissed the twenty-four (24) criminal cases for violation of Section 7 of R.A. No. 3019 filed against him on the grounds that the offenses had already prescribed, despite the fact that the accused was admittedly absent from the Philippines from 1986 to 27 April 2000.

Associate Justice Antonio T. Carpio dissented, reasoning that the second paragraph of Article 91 of the Revised Penal Code (RPC), stating that the absence of the accused from the Philippines tolls the prescriptive period, can be suppletorily applied to R.A. No. 3019.

¹ G.R. Nos. 165510-33, July 28, 2006.

Addressing this point, the prevailing majority in the Supreme Court ruled that the second paragraph of Article 91 of the RPC cannot be given such suppletory application to R.A. No. 3019 because the latter law is not, in fact, silent on the particular matter of the running of the prescriptive period for the offenses defined and punished therein. The Supreme Court held that it is Section 2 of Act No. 3326,² which provides that “[t]he prescription shall be interrupted when proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy,” that is applicable to R.A. No. 3019, the latter being a “special act” covered by the application of Act. No. 3326,³ and not Article 91 of the RPC.

The Supreme Court further ratiocinated that:

Even on the assumption that there is in fact a legislative gap caused by such an omission, neither could the Court presume otherwise and supply the details thereof, because a legislative lacuna cannot be filled by judicial fiat.

This measure, therefore, seeks to address the so-called legislative gap by amending R.A. No. 3019 and aligning it with the second paragraph of Article 91 of the RPC. In other words, for crimes under R.A. No. 3019, absence of the accused in the Philippines will now be a ground for tolling of the prescriptive period.

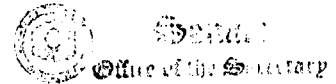
In view of the foregoing, the passage of this measure is earnestly sought.


LEILA M. DE LIMA

² “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,” which has been in effect since 4 December 1926.

³ Under Section 3 thereof and for purposes of said law, “special acts shall be acts defining and penalizing violations of the law not included in the Penal Code”.

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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REC'D EDITOR

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**AN ACT
AMENDING SECTION 11 OF REPUBLIC ACT NO. 3019, OTHERWISE
KNOWN AS THE "ANTI-GRAFT AND CORRUPT PRACTICES ACT", AS
AMENDED**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1. Section 11 of Republic Act. No. 3019, otherwise known as "Anti-Graft
2 And Corrupt Practices Act", as amended by Republic Act 10910, is hereby amended to
3 read as follows:

4 "Sec. 11. Prescription of offenses – All offenses punishable under this Act
5 shall prescribe in twenty years.

6 PROVIDED, THE TERM OF PRESCRIPTION SHALL NOT RUN
7 WHEN THE OFFENDER IS ABSENT FROM THE PHILIPPINE
8 TERRITORY.

9 Sec. 2. *Separability Clause.* – If any provision of this Act is declared
10 unconstitutional or invalid, other parts or provisions hereof not affected shall continue
11 to be in full force and effect.

12 Sec. 3. *Repealing Clause.* – All laws, executive orders, presidential decrees,
13 presidential proclamations, letters of instruction, rules and regulations or parts
14 thereof which are inconsistent with the provisions of this Act are hereby repealed or
15 modified accordingly.

16 Sec. 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following
17 its publication in the Official Gazette or in two (2) newspapers of general circulation
18 in the Philippines.

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Approved,