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SUPREME COURT

OF THE

PHILIPPINES

FROM

APRIL 19, 2016 TO MAY 31, 2016

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MANILA
2017

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by

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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A.C. No. 11139. April 19, 2016]

PHILCOMSAT[*] HOLDINGS CORPORATION, duly represented by ERLINDA I. BILDNER, *complainant, vs.* **ATTY. LUIS K. LOKIN, JR. and ATTY. SIKINI C. LABASTILLA,** *respondents.*

SYLLABUS

1. LEGAL ETHICS; DISBARMENT AND DISCIPLINE OF ATTORNEYS; IT IS WELL SETTLED THAT A DISBARMENT PROCEEDING IS SEPARATE AND DISTINCT FROM A CRIMINAL ACTION FILED AGAINST A LAWYER DESPITE BEING INVOLVED IN THE SAME SETS OF FACTS; RATIONALE.— At the outset, the Court notes that the indirect contempt case originally filed before the Sandiganbayan is in the nature of a criminal contempt. "[C]riminal contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrespute or disrespect." "[C]riminal contempt, being directed against the dignity and authority of the court, is an offense against organized society and, in addition, is also held to be an offense against public justice which raises an issue between the public and the accused, and

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[*] "PHILCOMSAT" stands for "Philippine Communications Satellite Corporation."

the proceedings to punish it are punitive." Since the indirect contempt case is criminal in nature, ·respondents cannot insist that the filing of an administrative case against them on the basis of the Sandiganbayan's ruling in the aforesaid case is premature on the premise that their conviction has not attained finality. It is well-settled that a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer despite being involved in the same set of facts. Case law instructs that a finding of guilt in the criminal case will not necessarily result in a finding of liability in the administrative case. Conversely, the lawyer's acquittal does not necessarily exculpate them administratively.

2. ID.; ID.; IT IS A SWORN DUTY AS A LAWYER AND OFFICER OF THE COURT TO UPHOLD THE DIGNITY AND AUTHORITY OF THE COURTS; VIOLATION IN CASE AT BAR.— As members of the Bar, respondents should not perform acts that would tend to undermine and/or denigrate the integrity of the courts, such as the subject checkbook entry which contumaciously imputed corruption against the Sandiganbayan. It is their sworn duty as lawyers and officers of the court to uphold the dignity and authority of the courts. Respect for the courts guarantees the stability of the judicial institution; without this guarantee, the institution would be resting on very shaky foundations. This is the very thrust of Canon 11 of the CPR, which provides that "[a] lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others." Hence, lawyers who are remiss in performing such sworn duty violate the aforesaid Canon 11, and as such, should be held administratively liable and penalized accordingly, as in this case.

3. ID.; ID.; IT IS EVERY LAWYER'S DUTY TO MAINTAIN HIGH REGARD TO THE PROFESSION BY STAYING TRUE TO HIS OATH AND KEEPING HIS ACTIONS BEYOND REPROACH; BREACH THEREOF IN CASE AT BAR.— Canon 7 of the CPR commands every lawyer to "at all times uphold the integrity and dignity of the legal profession" for the strength of the legal profession lies in the dignity and integrity of its members. It is every lawyer's duty to maintain the high regard to the profession by staying true to his oath and keeping his actions beyond reproach. It must be

reiterated that as an officer of the court, it is a lawyer's sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice; as acts and/or omissions emanating from lawyers which tend to undermine the judicial edifice is disastrous to the continuity of the government and to the attainment of the liberties of the people. Thus, all lawyers should be bound not only to safeguard the good name of the legal profession, but also to keep inviolable the honor, prestige, and reputation of the judiciary. In this case, respondents compromised the integrity of the judiciary by maliciously imputing corrupt motives against the Sandiganbayan through the subject checkbook entry. Clearly, respondents also violated Canon 7 of the CPR and, thus, should be held administratively liable therefor.

4. ID.; CODE OF PROFESSIONAL RESPONSIBILITY (CPR); WHEN VIOLATED; IMPOSABLE PENALTY.— Anent the proper penalty to be meted to respondents, jurisprudence provides that in similar cases where lawyers perform acts which tend to erode the public confidence in the courts, put the courts in a bad light, and bring the justice system into disrepute, the Court imposed upon them the penalty of suspension from the practice of law. In *Baculi v. Battung*, the Court meted the aforesaid penalty to a lawyer for his disrespect to the courts, to the point of being scandalous and offensive to the integrity of the judicial system itself. Under the foregoing circumstances, the Court imposes upon Atty. Labastilla the penalty of suspension from the practice of law for a period of one (1) year for his complicity in the making of the subject checkbook entry. On the other hand, since Atty. Lokin, Jr. was the one directly responsible for the making of the subject checkbook entry, the Court deems it appropriate to impose upon him the graver penalty of suspension from the practice of law for a period of three (3) years, as recommended by the IBP.

APPEARANCES OF COUNSEL

Nizer Comia Rosales for complainant.
Ricardo C. De Los Santos III for respondent Luis K. Lokin, Jr.

D E C I S I O N

PERLAS-BERNABE, *J.*:

For the Court's resolution is a Complaint[1] dated August 20, 2009 filed by complainant PHILCOMSAT Holdings Corporation, represented by Erlinda I. Bildner[2] (complainant), against respondents Atty. Luis K. Lokin, Jr. (Atty. Lokin, Jr.) and Atty. Sikini C. Labastilla (Atty. Labastilla; collectively, respondents) before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP), praying for the disbarment of respondents for insinuating that the Sandiganbayan received the amount of ₱2,000,000.00 in exchange for the issuance of a temporary restraining order (TRO).

The Facts

The Complaint alleged that sometime in June 2007, the Senate, through its Committee on Government Corporations and Public Enterprises, conducted an investigation concerning the anomalies that plagued the PHILCOMSAT group of companies, which includes complainant, particularly in its huge disbursements of monies and/or assets. In the course of the said investigation, the Senate examined various financial records and documents of the company, which at that time, were under the control and management of Atty. Lokin, Jr. and his co-directors. Among the records examined by the Senate was an entry in complainant's checkbook stub which reads "Cash for Sandiganbayan, tro, potc-philcomsat case — ₱2,000,000"[3] (subject checkbook entry). It was then discovered that the check was issued in connection with complainant's injunction case against Philippine Overseas Telecommunications Corporation (POTC) before the Sandiganbayan, which was filed by Atty. Lokin, Jr.'s group,

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[1] *Rollo*, Vol. I, pp. 374-385. (NB: page numbers are apparently misarranged.)

[2] Erlinda I. Bildner is presently the director and treasurer of PHILCOMSAT Holdings Corporation (see *id.* at 376).

[3] *Id.*

as its representatives, with Atty. Labastilla as its external counsel (POTC case). As the investigation was publicized by the media, the Sandiganbayan learned about the subject checkbook entry and, accordingly, *motu proprio* initiated indirect contempt proceedings against respondents, along several others, which was docketed as Case No. SB-07-SCA-005[4] (indirect contempt case).[5]

After due proceedings, the Sandiganbayan promulgated a Resolution[6] dated May 7, 2009, finding respondents guilty beyond reasonable doubt of indirect contempt and, accordingly, sentenced each of them to pay a fine in the amount of ₱30,000.00 and to suffer imprisonment for a period of six (6) months.[7] In finding respondents guilty, the Sandiganbayan opined that: (a) any person reading the subject checkbook entry would come to the conclusion that a check in the amount of ₱2,000,000.00 was issued to the Sandiganbayan in exchange for the latter's issuance of a TRO, thereby degrading its integrity and honor; (b) Atty. Lokin, Jr. caused the creation of the said entry in complainant's checkbook which as testified upon by complainant's bookkeeper, Desideria D. Casas, was the proximate cause thereof;[8] and (c) circumstantial evidence showed that Atty. Labastilla conspired with Atty. Lokin, Jr. in causing such contemptuous entry, considering, inter alia, that the former was the counsel who applied for a TRO and that he admitted receipt of the proceeds of the check, although allegedly for legal fees[9] and that Sheriffs Manuel Gregorio Mendoza Torio

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[4] Entitled "*In Re: Contempt Proceedings against Johnny Tan, Manuel Nieto, Philip Brodett, Atty. Luis K. Lokin, Jr., Enrique/Henry Locsin, Atty. Sikini Labastilla and Virgilio Santos.*" See *id.* at 387 and 745.

[5] *Id.* at 376-377.

[6] *Id.* at 745-756. Penned by Associate Justice Rodolfo A. Ponferrada with Associate Justices Norberto Y. Geraldez and Efren N. De La Cruz concurring.

[7] *Id.* at 755A-756.

[8] *Id.* at 723 and 750.

[9] *Id.* at 753-755-A.

and Romulo C. Barrozo of the Sandiganbayan similarly testified that such TRO was only effected/served upon payment of the corresponding fees.[10]

Following the promulgation of the Sandiganbayan's May 7, 2009 Resolution, the complainant instituted the instant complaint.

In his defense, Atty. Lokin, Jr. maintained that he did not perform acts violative of the Code of Professional Responsibility (CPR), insisting that the Sandiganbayan's findings in the indirect contempt case were erroneous and contrary to the pertinent evidence and records. He likewise pointed out that the Sandiganbayan ruling was appealed — albeit not by him but by Atty. Labastilla — to the Court, *i.e.*, G.R. No. 187699,[11] which appeal remains unresolved. Therefore, it cannot be the basis for his administrative liability.[12]

For his part, Atty. Labastilla harped on the fact that an appeal questioning the Sandiganbayan ruling is still pending before the Court; thus, it was premature to file an administrative complaint against him. He further maintained that he had no participation in the creation of the subject checkbook entry and, even if he had any such participation, there was nothing contemptuous about it.[13]

The IBP's Report and Recommendation

In a Report and Recommendation[14] dated January 23, 2013, the IBP Investigating Commissioner found Atty. Lokin, Jr. administratively liable and, accordingly, recommended that he be meted the penalty of suspension from the practice of law

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[10] *Id.* at 751-752.

[11] Entitled *"Atty. Sikini C. Labastilla v. Hon. Sandiganbayan (First Division)."*

[12] See Answer dated December 9, 2009; *rollo*, Vol. I, pp. 483-503. See also *rollo*, Vol. II, pp. 142-144.

[13] See Answer dated January 8, 2010; *rollo*, Vol. I, pp. 540-566. See also *rollo*, Vol. II, pp. 144-145.

[14] *Rollo*, Vol. II, pp. 135-155. Penned by Commissioner Mario V. Andres.

for a period of one (1) year. However, Atty. Labastilla was absolved from any administrative liability.[15]

Similar to the Sandiganbayan, the IBP Investigating Commissioner found Atty. Lokin, Jr. responsible for the creation of the subject checkbook entry. In this relation, it was pointed out that while Atty. Lokin, Jr. offered an explanation regarding the said entry, such explanation was more in the nature of an avoidance and confession posturing, and therefore, was not helpful to his cause as it only served to further implicate him in the making of the aforesaid entry.[16]

On the other hand, the IBP Investigating Commissioner found no evidence showing that Atty. Labastilla had any participation in the making of the subject checkbook entry, and as such, could not be reasonably implicated therein. In absolving Atty. Labastilla, the IBP Investigating Commissioner stressed that the instant administrative case's concern was only with the actual making of the subject checkbook entry, and not as to whether Atty. Labastilla actually participated in the disbursement of the proceeds of the check and/or in the attempt to bribe any officials and employees of the Sandiganbayan to obtain a TRO.[17]

In a Resolution[18] dated March 21, 2013, the IBP Board of Governors adopted and approved the aforesaid report and recommendation. Atty. Lokin, Jr. moved for reconsideration,[19] but the same was denied in a Resolution[20] dated June 6, 2015 with modification increasing the recommended period of suspension from the practice of law to three (3) years.

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[15] *Id.* at 155.

[16] *Id.* at 146-148.

[17] *Id.* at 148.

[18] See Notice of Resolution No. XX-2013-333 signed by National Secretary Nasser A. Marohomsalic; *id.* at 133-134.

[19] See Motion for Reconsideration (Re: Resolution No. XX-2013-333) dated July 5, 2013; *id.* at 156-174.

[20] See Notice of Resolution No. XXI-2015-416; *id.* at 348-349.

The Issue Before the Court

The essential issue in this case is whether or not respondents should be held administratively liable.

The Court's Ruling

As will be explained hereunder, the Court: (a) concurs with the IBP's findings as to Atty. Lokin, Jr.'s administrative liability; and (b) disagrees with the IBP's recommendation to absolve Atty. Labastilla from administrative liability.

At the outset, the Court notes that the indirect contempt case originally filed before the Sandiganbayan is in the nature of a criminal contempt.[21] "[C]riminal contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrespute or disrespect."[22] "[C]riminal contempt, being directed against the dignity and authority of the court, is an offense against organized society and, in addition, is also held to be an offense against public justice which raises an issue between the public and the accused, and the proceedings to punish it are punitive."[23]

Since the indirect contempt case is criminal in nature, respondents cannot insist that the filing of an administrative case against them on the basis of the Sandiganbayan's ruling in the aforesaid case is premature on the premise that their conviction has not attained finality. It is well-settled that a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer despite being involved in the same set of facts. Case law instructs that a finding of guilt in the criminal case will not necessarily result in a finding of liability in the administrative case. Conversely, the lawyer's acquittal

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[21] See *rollo*, Vol. I, pp. 753-754.

[22] *Fortun v. Quinsayas*, G.R. No. 194578, February 13, 2013, 690 SCRA 623, 637, citing *People v. Godoy*, 312 Phil. 977, 999 (1995).

[23] *Id*.

does not necessarily exculpate them administratively.[24] In *Spouses Saunders v. Pagano-Calde*:[25]

> **[A]dministrative cases against lawyers belong to a class of their own. They are distinct from and they may proceed independently of criminal cases. A criminal prosecution will not constitute a prejudicial question even if the same facts and circumstances are attendant in the administrative proceedings.** Besides, it is not sound judicial policy to await the final resolution of a criminal case before a complaint against a lawyer may be acted upon; otherwise, this Court will be rendered helpless to apply the rules on admission to, and continuing membership in, the legal profession during the whole period that the criminal case is pending final disposition, when the objectives of the two proceedings are vastly disparate. **Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare and for preserving courts of justice from the official ministration of persons unfit to practice law.** The attorney is called to answer to the court for his conduct as an officer of the court.[26] (Emphases and underscoring supplied)

To note, while it is undisputed that Atty. Labastilla indeed filed a petition before the Court questioning the Sandiganbayan ruling, *i.e.*, G.R. No. 187699, records are bereft of any showing that Atty. Lokin, Jr, joined Atty. Labastilla in said petition or that he separately filed an appeal on his own. Thus, the Sandiganbayan ruling had long become deemed final and executory as to him. Moreover, Atty. Labastilla's appeal before the Court was already resolved through a Minute Resolution[27] dated August 3, 2009 denying the same for failure to sufficiently show that the Sandiganbayan committed any reversible error in issuing the challenged ruling. Atty. Labastilla twice moved

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[24] See *Bengco v. Bernardo*, A.C. No. 6368, June 13, 2012, 672 SCRA 8, 19, citing *Gatchalian Promotions Talents Pools, Inc. v. Naldoza*, 374 Phil. 1, 10 (1999).

[25] See A.C. No. 8708, August 12, 2015.

[26] *Id.*, citing *Yu v. Palaña*, 580 Phil. 19, 26 (2008).

[27] *Rollo*, Vol. I, p. 627.

for reconsideration, but were denied with finality in Resolutions dated February 1, 2010[28] and August 11, 2010.[29] In light of the foregoing, the Sandiganbayan's ruling that respondents committed contumacious acts which tend to undermine and/or denigrate the integrity of such court has become final and executory and, thus, conclusive as to them, at least in the indirect contempt case.[30]

In this administrative case, the Court, after a thorough assessment of the merits of the case, finds itself in agreement with the IBP's finding that the subject checkbook entry contained a contumacious imputation against the Sandiganbayan, *i.e.*, that a check in the amount of ₱2,000,000.00 was issued and given to the Sandiganbayan in order to secure a favorable TRO in the POTC case. As the records show, Atty. Lokin, Jr. was the one who caused the making of the subject checkbook entry, considering that: (*a*) during the time the said entry was made, complainant's financial records and documents were under his and his co-directors' control and management; (*b*) the complainant's bookkeeper, Desideria D. Casas, categorically testified that it was Atty. Lokin, Jr. who requested for the issuance and disbursement of the check in the amount of ₱2,000,000.00, and that he was also the one who instructed her to write the subject checkbook entry in the complainant's checkbook;[31] (*c*) Atty. Lokin, Jr. never denied participation and knowledge of the issuance of the check and the consequent creation of the

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[28] See Third Division Minute Resolution dated February 1, 2010 in G.R. No. 187699.

[29] See Second Division Minute Resolution dated August 11, 2010 in G.R. No. 187699.

[30] "*In In Re: Disbarment of Rodolfo Pajo* [(203 Phil. 79, 83 (1983)], the Court held that in disbarment cases, it is no longer called upon to review the judgment of conviction which has become final. The review of the conviction no longer rests upon this Court." (*Re: SC Decision Dated May 20, 2008 in G.R. No. 161455 under Rule 139-B of the Rules of Court v. Pactolin,* A.C. No. 7940, April 24, 2012, 670 SCRA 366, 370.)

[31] See *rollo,* Vol. I, pp. 723 and 750.

subject checkbook entry;[32] and (*c*) when asked to explain during the Senate investigation, Atty. Lokin, Jr. failed to give a credible justification for the making of such entry, and instead, resorted to avoidance and confession posturing.[33] Thus, the IBP correctly concluded that Atty. Lokin, Jr. caused the making of the subject checkbook entry in complainant's financial records.

However, the Court does not agree with the IBP's finding that Atty. Labastilla could not reasonably be implicated in the making of the subject checkbook entry. The Court is more inclined to concur with the Sandiganbayan's findings in the indirect contempt case that Atty. Labastilla also had a hand, direct or indirect, in the creation of the subject checkbook entry in light of the following circumstances: (a) he was complainant's external counsel who applied for the TRO in the POTC case; (b) he admitted receipt of the proceeds of the check in the amount of ₱2,000,000.00, although allegedly for legal fees but with no supporting evidence therefor;[34] (c) the TRO was only effected/served upon payment of the corresponding fees per the testimonies of Sheriffs Manuel Gregorio Mendoza Torio and Romulo C. Barrozo of the Sandiganbayan;[35] and (d) the TRO and the aforesaid check were both dated September 23, 2005, thereby establishing an unmistakeable connection between the TRO and the check.[36] Moreover, and as correctly pointed out by complainant, while Atty. Labastilla claims that he received the amount of ₱2,000,000.00 as payment for his legal fees, he failed to properly account the aforesaid amount.[37] In addition,

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[32] See *rollo*, Vol. II, p. 148.

[33] See *rollo*, Vol. II, p. 148; see *rollo*, Vol. I, pp. 713-714.

[34] "A party alleging a critical fact must support his allegation with substantial evidence for any decision based on unsubstantiated allegation cannot stand as it will offend due process." (*General Milling Corporation v. Casio*, 629 Phil. 12, 33 (2010), citing *Great Southern Maritime Services Corporation v. Acuña*, 492 Phil. 518, 530-531 (2005).

[35] See *rollo*, Vol. I, pp. 751-752.

[36] See *id.* at 755-755A.

[37] See *id.* at 735-736.

complainant's summary of legal fees paid to Atty. Labastilla did not reflect the ₱2,000,000.00 check which he purportedly received as legal fees.[38] Therefore, Atty. Labastilla should also be held administratively liable for his complicity in the making of the subject checkbook entry.

As members of the Bar, respondents should not perform acts that would tend to undermine and/or denigrate the integrity of the courts, such as the subject checkbook entry which contumaciously imputed corruption against the Sandiganbayan. It is their sworn duty as lawyers and officers of the court to uphold the dignity and authority of the courts. Respect for the courts guarantees the stability of the judicial institution; without this guarantee, the institution would be resting on very shaky foundations.[39] This is the very thrust of Canon 11 of the CPR, which provides that "[a] lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others." Hence, lawyers who are remiss in performing such sworn duty violate the aforesaid Canon 11, and as such, should be held administratively liable and penalized accordingly, as in this case.

Furthermore, Canon 7 of the CPR commands every lawyer to "at all times uphold the integrity and dignity of the legal profession" for the strength of the legal profession lies in the dignity and integrity of its members. It is every lawyer's duty to maintain the high regard to the profession by staying true to his oath and keeping his actions beyond reproach.[40] It must be reiterated that as an officer of the court, it is a lawyer's sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice; as acts and/or omissions

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[38] See Recap of Sikini C. Labastilla's Legal & Professional Fees Paid by PHC [(PHILCOMSAT)]; *id.* at 767.

[39] See *Baculi v. Battung*, 674 Phil. 1, 8-9 (2011), citing *Roxas v. De Zuzuarregui, Jr.*, 554 Phil. 323, 341-342 (2007).

[40] See *Francia v. Abdon*, A.C. No. 10031, July 23, 2014, 730 SCRA 341, 354

emanating from lawyers which tend to undermine the judicial edifice is disastrous to the continuity of the government and to the attainment of the liberties of the people. Thus, all lawyers should be bound not only to safeguard the good name of the legal profession, but also to keep inviolable the honor, prestige, and reputation of the judiciary.[41] In this case, respondents compromised the integrity of the judiciary by maliciously imputing corrupt motives against the Sandiganbayan through the subject checkbook entry. Clearly, respondents also violated Canon 7 of the CPR and, thus, should be held administratively liable therefor.

Anent the proper penalty to be meted to respondents, jurisprudence provides that in similar cases where lawyers perform acts which tend to erode the public confidence in the courts, put the courts in a bad light, and bring the justice system into disrepute, the Court imposed upon them the penalty of suspension from the practice of law. In *Baculi v. Battung*,[42] the Court meted the aforesaid penalty to a lawyer for his disrespect to the courts, to the point of being scandalous and offensive to the integrity of the judicial system itself. Under the foregoing circumstances, the Court imposes upon Atty. Labastilla the penalty of suspension from the practice of law for a period of one (1) year for his complicity in the making of the subject checkbook entry. On the other hand, since Atty. Lokin, Jr. was the one directly responsible for the making of the subject checkbook entry, the Court deems it appropriate to impose upon him the graver penalty of suspension from the practice of law for a period of three (3) years, as recommended by the IBP.

WHEREFORE, respondents Atty. Luis K. Lokin, Jr. and Atty. Sikini C. Labastilla are found **GUILTY** of violating Canons 7 and 11 of the Code of Professional Responsibility. Accordingly, Atty. Luis K. Lokin, Jr. is hereby **SUSPENDED** from the practice of law for a period of three (3) years, while Atty. Sikini C.

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[41] See *id.* at 354-355.

[42] *Supra* note 39.

Labastilla is hereby **SUSPENDED** from the practice of law for a period of one (1) year, effective upon the receipt of this Decision, with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

Let copies of this Decision be attached to respondents' personal record as members of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country for their information and guidance.

SO ORDERED.

Sereno, C.J., Brion, Bersamin, del Castillo, Perez, Mendoza, Reyes, Leonen, and *Jardeleza, JJ.,* concur.

Carpio, J., no part due to prior inhibition.

Velasco, Jr. and *Caguioa, JJ.,* no part due to relationship to a party.

Leonardo-de Castro, J., no part due to prior participation in a related case.

Peralta, J., no part due to prior participation in a related case in Sandiganbayan.

EN BANC

[A.M. No. 15-09-314-RTC. April 19, 2016]

RE: EVALUATION OF ADMINISTRATIVE LIABILITY OF HON. ANTONIO C. LUBAO, BRANCH 22, REGIONAL TRIAL COURT, GENERAL SANTOS CITY, WHO COMPULSORILY RETIRED ON JANUARY 13, 2015, IN CONNECTION WITH THE CASES SUBJECT OF THE JUDICIAL AUDIT

CONDUCTED THEREAT FROM MAY 19-22, 2014, AND OTHER RELEVANT DIRECTIVES ISSUED BY THE OFFICE OF THE COURT ADMINISTRATOR.

SYLLABUS

1. JUIDICIAL ETHICS; JUDGES; UNDUE DELAY IN RENDERING DECISIONS; POOR HEALTH CONDITION CANNOT BE CONSIDERED AS MITIGATING CIRCUMSTANCE WHEN THE JUDGE FAILED TO REQUEST FOR A REASONABLE EXTENSION OF TIME TO DISPOSE OF HIS CASES.— As the OCA did, we find Judge Lubao's reasons to be inadequate. Usually, we consider the poor health condition of a judge as a mitigating circumstance in determining the imposable administrative penalty. However, in this case, Judge Lubao knew from the start of his career in the Judiciary that he is afflicted with the illnesses mentioned in his letter-explanation but never bothered to inform this Court early on about his condition. Aware of his condition, Judge Lubao could have simply asked this Court for a reasonable extension of time to dispose of his cases. The Court, cognizant of the heavy case load of some of our judges and mindful of the difficulties they encounter in the disposition of their cases, is almost always disposed to grant such requests on meritorious grounds. Because of his silence, the litigants before Judge Lubao's court have long suffered from the delays in his disposition and resolution of cases and incidents and, thus, ultimately tainted the image of the Judiciary. We have stressed that "delay in case disposition is a major culprit in the erosion of public faith and confidence in the judiciary and the lowering of its standards." For this reason, we cannot apply as mitigating circumstance the poor state of Judge Lubao's health in the resolution of the present administrative matter.

2. ID.; ID.; PROPER PENALTIES WHERE THE JUDGE COMMITTED GROSS MISCONDUCT, UNDUE DELAY IN RENDERING DECISIONS AND IN THE SUBMISSION OF MONTHLY REPORTS; THE COURT IMPOSED THE PENALTY OF FINE IN THE TOTAL AMOUNT OF ₱65,000.— Judge Lubao's deliberate and repeated failure to

comply with several memoranda from the OCA constitutes Gross Misconduct, which is a *serious* offense under Section 8, Rule 140 of the Rules of Court. x x x And we held, in *Alonto-Frayna v. Astih*, that a judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination. Section 11(A) of Rule 140 provides that if the respondent is guilty of a serious charge, any of the following may be imposed: (i) Dismissal from the service, (ii) Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months, or (iii) **a Fine of more than ₱20,000.00 but not exceeding ₱40,000.00.** Under Section 9 of Rule 140, 'Violation of Supreme Court rules, directives, and circulars,' and 'Undue delay in rendering a decision or order' constitute *less serious* offenses. Section 11(B) of Rule 140 provides that if the respondent is guilty of a less serious charge, any of the following may be imposed: (i) Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or (ii) **a Fine of more than ₱10,000.00 but not exceeding ₱20,000.00.**Under Section 10 of the same Rule 140, 'Undue delay in the submission of monthly reports' is considered a *light* offense. Section 11(C) of Rule 140 provides that if the respondent is guilty of a light charge, any of the following may be imposed: (i) **a Fine of not less than ₱1,000.00 but not exceeding ₱10,000.00;** and/or (ii) Censure, (iii) Reprimand, (iv) Admonition with warning. Since Judge Lubao has already retired from the service and was even paid his retirement benefits (except for the ₱100,000.00 ordered withheld by the Court), **the only alternative for us is to impose upon him the penalty of a fine in the medium amounts,** in the absence of proven mitigating and aggravating circumstances. x x x Judge Lubao is hereby meted the penalty of a **FINE** in the **total amount of SIXTY-FIVE THOUSAND PESOS (₱65,000.00).** Considering that the Court has already withheld the amount of one hundred thousand pesos (₱100,000.00) from Judge Lubao's retirement benefits, we shall declare the amount of sixty-five thousand pesos (₱65,000.00) forfeited as payment for the fine imposed herein and the amount of thirty-five thousand pesos (₱35,000.00) returned to Judge Lubao.

D E C I S I O N

BRION, *J.*:

For this Court's consideration is the Memorandum[1] dated September 11, 2015 from the Office of the Court Administrator (*OCA*) on the administrative liability of Hon. Antonio C. Lubao (*Judge Lubao*) of the Regional Trial Court (*RTC*), Branch 22, General Santos City, in connection with the cases subject of the judicial audit and physical inventory conducted by the OCA on his court from May 19 to 22, 2014. The judicial audit was conducted in anticipation of Judge Lubao's compulsory retirement on January 13, 2015.

From the audit and inventory conducted by the OCA, the number of pending cases and matters discovered were: sixty-eight (68) cases submitted for decision, sixty-one (61) cases already beyond the reglementary period to decide, forty-one (41) cases with pending incidents, twenty-nine (29) cases already beyond the prescribed period to resolve, forty-one (41) cases have yet to be acted upon (composed of seven [7] newly-filed cases and cases with no initial action taken, thirty-two [32] cases with no further action, and two [2] cases with no further setting), one hundred fifty-one (151) court processes (six [6] in civil cases and one hundred forty-five [145] in criminal cases) — which returns have yet to be received by the court, with most cases already due for archiving.[2]

In a July 21, 2014 Memorandum, the OCA asked Judge Lubao to take appropriate action on the cases subject of the audit, including the observations made by the Audit Team in their report, and to submit his compliance within sixty (60) days from notice. Also, the OCA required Judge Lubao to submit an explanation within fifteen (15) days from notice for his omissions. The OCA reiterated its directives in a November 11, 2014 Memorandum to Judge Lubao, who failed to comply with the OCA's earlier memorandum.

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[1] *Rollo,* pp. 1-10.

[2] *Id.* at 1.

On December 9, 2014, Clerk of Court Atty. Marivic E. Fillalan of RTC Branch 22, General Santos City submitted to the OCA copies of the decisions and orders in some of the cases subject of the audit, in partial compliance to the OCA's July 21, 2014 Memorandum. She mentioned in her submission that Judge Lubao's explanation will soon follow, but the OCA never received the promised explanation.

In a January 27, 2015 Memorandum, the OCA directed Clerk of Court Atty. Fillalan to submit a supplemental status report on the case left pending by Judge Lubao after his retirement on January 13, 2015. The OCA received Atty. Fillalan's compliance on March 24, 2015.

Judge Lubao submitted his compliance only in August 2015, in what he described as a "Post Retirement Explanation for My Failure to Comment on Your Several Memoranda regarding My Failure to Resolve Pending Incidents and to Decide Cases Submitted for Decision within the Reglementary Period with Request to Refer this Comment to the Supreme Court Doctors and Psychologist."

Based on the submissions of Atty. Fillalan and Judge Lubao, the actions (or inaction) taken by Judge Lubao on the OCA's directives are summarized in the table below:

DIRECTIVE	COMPLIANCE
(a) SUBMIT, within fifteen (15) days from notice, a comment on the findings, if any, and/ or EXPLAIN, your failure to decide/ resolve the cases submitted for decision or cases with pending incidents, which already fall beyond the reglementary period;	**NO EXPLANATION SUBMITTED**
(b) DECIDE/RESOLVE the same with dispatch; x x x	**There were 60 cases decided beyond the reglementary period** (*civil cases — **31** on Table 1.1, **1** on Table 1.2, and **2** on Table 14;*

	*and criminal cases — **24** on Table 2.1, and **5** on Table 2.2*), to wit: Sp. Civil 685, Sp. Civil 691, Sp. Civil 698, SP 1708, SP 1890, SP 1906, 4277, 5283, 5426, 5503, 5638, 5801, 5910, 5921, 5954, 6016, 6021, 6367, 6542, 6761, 6818, 6989, 7403, 7533, 7757, 7795, 7813, 7899, 7924, 7933, 8162, SP 1879, 7970, and 8063; and Criminal Cases Nos. 4926, 10863, 11995, 12621-23, 12918, 13035, 13149, 13831, 14187, 15143, 15724, 16075, 16494, 16839, 17528, 18023, 18030, 19074, 20039-40, 20041, 22879, 13335-36, and 15100-103. **There were also 35 cases with pending incidents resolved beyond the reglementary period** (*civil cases — **8** on Table 3.1, and* 2 *on Table 3.2; and criminal cases — **18** on Table 4.1, and **7** on Table 4.2*), to wit: SP 810, SP 1272, 5233 and Sp. Civil Action 672, 7018, 7062, 8195, 8267, 2862, and 7918; and Criminal Cases Nos. 13055-56, 15100-103, 18118-19, 20044-50, 21029-30, 24671, 19006-09, 19914 and 20258, and 24180. **Left unresolved were 3 cases with pending incidents,** to wit: Civil Cases Nos. 1358 (motion pending since 2005, where the adverse party was belatedly required to comment thereon), and 7067 and 5150 (motion to dismiss filed on 1-15-13, where the incident was belatedly set for hearing), *see Table 3.1*
(c) TAKE APPROPRIATE ACTION on the cases which have not advanced or progressed as of audit date, within fifteen (15 days from notice;	**There were 47 cases which have not progressed as of audit date, which were belatedly acted upon** *(civil cases — **6** on Table 5, **21** on Table 7, **2** on Table 9; and criminal cases — **1** on Table 1, **11** on Table*

	*8, **6** on Table 10*), to wit: Civil Cases Nos. 8399, 8400, 8405, Misc. Case No. 3668, SP 2020, SP 2021, SP 1339, 483, Sp. Civil 668, SP 1024, SP 1702, SP 1897, SP 1992, 6786, 8107, 8172, 8175, 8176, 8180, 8252, 8262, 8276, 8289, 8297, 8309, 8318, 8349, 8251, and SP 1974; and Criminal Cases Nos. 7403, 16695, 17437, 20714-15, 22761-63, 23415, 23972, 24888, 24944, 7460, 8256, 8278, 8359, 8368, and 8379. **Left unacted upon were 7 cases**, to wit: Criminal Cases Nos. 15397, 18374, and 22629 — no directive for the SPMC to periodically submit results of examination although per 12-9-14 letter of Atty. Fillalan, SPMC undertook to henceforth furnish the court with the exam results (see Table 8), and 5 cases which warrants of arrest against co-accused were without returns thereby tolerating non-compliance with Sec. 4, Rule 113 of the Rules of Court by peace officers (s e e Table 11), to wit: 19104, 18437, 18430, 21035, and 6115.
(d) EXPLAIN why the court does not act on the failure of the public prosecutor/other officers of concerned government institutions to comply with the orders of the court, despite a showing of total disregard thereof by the said officers/ government entities, and which appears to largely contribute to the delay in the speedy disposition of cases;	**NO EXPLANATION SUBMITTED**
(e) Henceforth ENSURE that cases awaiting compliance are	**Not complied with** - no action taken after the lapse of the period given

	PROPERLY MONITORED so that the court may act accordingly immediately afer the lapse of the period given to the parties and/or other government concerned;	to prosecutor to submit collusion report in the following cases: Civil Cases Nos. 8399 (see Table 5); 8252 and 8318 (see Table 7); 8242, 8303, 8342, and 8350 (see Table 12)
(f)	SUBMIT, within sixty (60) days from notice, copies of the decisions and certifications of promulgation, orders, or other court processes issued as proof of compliance with the above directives;	**Late submission**
As regards the observations mentioned in Table I, Annex "A" hereof, you are further directed to:		
(g)	(a) Work with the Branch Clerk of Court to DEVISE A SYSTEM so that the observations mentioned therein are properly addressed; and (b) SUBMIT, within fifteen (15) days from notice: (i) a REPORT on the action taken thereon; (ii) AMENDED REPORTS with respect to the inaccurate Monthly Report of Cases for the months affected by the dates subject of Item **13** of Table I, and the July to December 2013 Docket Inventory Report relative to the unreported cases mentioned in Item **14** of the same Table; (iii) COPIES OF THE DECISIONS/ORDERS in the cases enumerated in Item **15** of the same Table; and (iv) a RESPONSE to the clarifications sought for under Item **16** also of the same Table.	**NO REPORT SUBMITTED ON THE ACTIONS TAKEN; NO AMENDED REPORTS SUBMITTED**

The OCA noted that Judge Lubao had also failed to comply with several memoranda issued prior to the conduct of the subject judicial audit, namely: a) **Memorandum dated January 15, 2014** directing Judge Lubao to strictly comply with Administrative Circular Nos. 4-2004 and 81-2012, and to explain his failure to decide on forty-three (43) cases within the reglementary period and to decide on these cases within sixty (60) days from notice; (b) **Memorandum dated April 23, 2015** reiterating the directives of the January 15, 2014 Memorandum; and (c) **Memorandum dated May 7, 2014** enjoining all judges of General Santos City, including Judge Lubao, to comply with Court's issuances on the timely submission of their Monthly Report of Cases.

Judge Lubao's Explanation

In his "Post Retirement Explanation" letter[3] dated August 11, 2015, Judge Lubao admitted to his failure to resolve many incidents and to decide cases submitted for decision within the reglementary period. He expounded on his medical history and attached several medical certificates showing that he has minimal cognitive impairment caused by a stroke he had in 2012, coronary artery disease, arthritis, gastroesophageal or laryngopharyngeal reflux aggravated by stress, and had underwent major surgical operations such as resection of the prostrate, brain surgery, and removal of gallstone; and that he was hospitalized on numerous occasions due to stress and hypertension, acute hemorrhagic cystitis and benign prostatic hyperplasia, acute gastroenteritis with hypokalemia, pneumonia, moderate risk hypertensive cardiovascular disease, and ischemic heart disease. He explained that his health condition and frequent hospitalizations prevented him from deciding cases submitted for decision, resolving incidents within the reglementary period, and submitting an explanation to the memoranda issued by the OCA.

He mentioned that he *intentionally* opted not to make any comment on the memoranda issued to him because of the

[3] *Id*. at 12-17.

unbearable stress caused to him by the preparation of such comment/explanation; that, due to the stress, he experiences loss of appetite, sleepless nights, feeling of an empty chest, weakening of the knees, elevation of blood pressure and prostrate bleeding; and that the fact that he was always late in filing comments to the administrative complaints filed against him would confirm his condition.

Judge Lubao concluded his letter by requesting: (*i*) to have his case referred to the Court's doctors and psychologist for assistance in the technical evaluation of the merits of his case, and (*ii*) to have his retirement check be prepared and authorized as soon as possible because he would be needing money for a stent operation for two (2) cardio arterial blockages and another operation on his lower spine.

The OCA's Recommendation

In its September 11, 2015 Memorandum, the OCA found Judge Lubao to have committed the following offenses:

1. repeated failure to comply with the directives of this Office, to wit Memorandum dated January 15, 2014; Memorandum dated April 23, 2014; Memorandum dated May 7, 2014; Memorandum dated July 21, 2014; and Memorandum dated November 11, 2014;

2. violation of the following Supreme Court rules, directives, and circulars: Administrative Circular No. 4-2004; Administrative Circular No. 81-2012; and OCA Circular No. 81-2012;

3. undue delay in rendering decisions or orders, among others: 60 cases decided beyond the reglementary period; 35 cases with pending incidents resolved beyond the reglementary period; and 47 cases which have not progressed as of audit date, and failure to resolve cases with pending incidents and act upon 7 cases; and

4. undue delay in the submission of Monthly Reports of Cases from January to December, 2014.[4]

In view of these offenses, the OCA recommended that: (i) Judge Lubao's August 11, 2015 letter be noted, (ii) Judge Lubao's request to have his letter referred to the doctors of the Supreme Court be denied considering that the medical findings were not disputed in the course of the proceedings, (iii) its September 11, 2015 Memorandum/Report be re-docketed as a regular administrative matter against Judge Lubao, and (iv) **Judge Lubao be fined the amount of ₱100,000.00.**[5]

On October 22, 2015, the OCA received a motion[6] from Judge Lubao for the urgent approval of his application for retirement. Judge Lubao, who retired in January 13, 2015, prayed that the Court approve his retirement application and order the immediate payment of his retirement benefits as he needed the money for a stent operation and capital to start a small business; also, that he was scheduled to leave for the United States on October 28, 2015 for a medical check-up sponsored by his niece. He manifested that he was willing to have the amount of ₱100,000.00, or any amount that the Court may deem sufficient, withheld from his retirement benefits for the payment of whatever fine that the Court may impose upon him in the present administrative matter.

In a resolution[7] dated November 10, 2015, the Court favorably granted Judge Lubao's urgent motion and approved his application for retirement benefits but ordered the Financial Management Office to set aside the amount of ₱100,000.00 to ensure full satisfaction of any fine that may be imposed on Judge Lubao.

OUR RULING

We concur with the OCA's findings and recommendations.

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[4] *Id.* at 7.

[5] *Id.* at 10.

[6] *Id.* at 160-161.

[7] *Id.* at 164.

We reiterate and affirm the OCA's findings that Judge Lubao had committed the following offenses:

1. Repeated failure to comply with the directives of the Office of the Court Administrator in Memorandum dated January 15, 2014, Memorandum dated April 23, 2014, Memorandum dated May 7, 2014, Memorandum dated July 21, 2014, and Memorandum dated November 11, 2014;
2. Violation of Supreme Court Administrative Circular Nos. 4-2004 and 81-2012, and OCA Circular No. 81-2012;
3. Undue delay in rendering decisions or orders, having sixty (60) cases decided beyond the reglementary period, thirty-five (35) cases with pending incidents resolved beyond the reglementary period, forty-seven (47) cases which have not progressed as of audit date, three (3) unresolved cases with pending incidents, and seven (7) cases not acted upon; and
4. Undue delay in the submission of Monthly Reports of Cases from January to December, 2014.

We note that the OCA, in its September 11, 2015 Memorandum, concluded its findings, stating that:

> In the instant case, Judge Lubao was able to decide/resolve all the cases submitted for decision/resolution and majority of the cases with pending incidents/for appropriate action before he retires. However, this Office has to underscore his gross inefficiency considering that among the cases he neglected were cases that were already due as early as year 2004 (cases submitted for decision) and 2001 (case [sic] with pending incidents) — the period of delay in the bulk of the cases submitted for decision ranges from 4 to 10 years. As to cases with pending incidents for resolution, the delay ranged from 2 to 13 years. To compound his omissions, he belatedly submitted his compliance with the numerous directives of this Office, and repeatedly ignored the show-cause orders sent to him, which, to reiterate, constitute misconduct and insubordination.[8]

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[8] *Id.* at 10.

Judge Lubao does not dispute the results of the inventory and judicial audit conducted by the Audit Team. Instead, he cites his poor health condition as the cause of his failure to timely decide on cases and resolve incidents, and to file his comments to the memoranda issued to him by the OCA. He stated in his letter-explanation that:

> The foregoing shows that I am very susceptible to stress that triggers dangerous bouts of hypertension, bleeding of my prostate, swelling of my finger joints, profuse coughing due to acid reflux. In fact it has been an ordinary occurrence for me to be confined for several hours at the emergency room of St. Elizabeth for stress and hypertension and for placing of catheter for my bleeding prostate. xxx **Simply put my health had prevented me from deciding cases submitted for decision and resolving incidents submitted for resolution seasonably and the same also prohibited me in making any explanation for the said delay mentioned in your memoranda.**[9] (Emphasis and underscoring in the original)

As the OCA did, we find Judge Lubao's reasons to be inadequate. Usually, we consider the poor health condition of a judge as a mitigating circumstance in determining the imposable administrative penalty. However, in this case, Judge Lubao knew from the start of his career in the Judiciary that he is afflicted with the illnesses mentioned in his letter-explanation but never bothered to inform this Court early on about his condition. Aware of his condition, Judge Lubao could have simply asked this Court for a reasonable extension of time to dispose of his cases. The Court, cognizant of the heavy case load of some of our judges and mindful of the difficulties they encounter in the disposition of their cases, is almost always disposed to grant such requests on meritorious grounds.[10]

Because of his silence, the litigants before Judge Lubao's court have long suffered from the delays in his disposition and resolution of cases and incidents and, thus, ultimately tainted

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[9] *Id.* at 16.

[10] *Gonzalez-Decano v. Siapno*, A.M. No. MTJ-00-1279, March 1, 2001, 353 SCRA 269, 278.

the image of the Judiciary. We have stressed that "delay in case disposition is a major culprit in the erosion of public faith and confidence in the judiciary and the lowering of its standards."[11] For this reason, we cannot apply as mitigating circumstance the poor state of Judge Lubao's health in the resolution of the present administrative matter.

We then proceed to determine the proper penalties to be imposed against Judge Lubao for his offenses.

Judge Lubao's deliberate and repeated failure to comply with several memoranda from the OCA constitutes Gross Misconduct,[12] which is a *serious* offense under Section 8, Rule 140[13] of the Rules of Court. In *Re: Audit Report in Attendance of Court Personnel of Regional Trial Court, Branch 32, Manila*,[14] we held that:

> It is gross misconduct, even outright disrespect for the Court, for respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaint thoroughly and substantially. After all, a resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply accordingly betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful order and directive.[15]

And we held, in *Alonto-Frayna v. Astih*,[16] that a judge who deliberately and continuously fails and refuses to comply with

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[11] *Re: Report of Deputy Court Administrator Bernardo T. Ponferada Re: Judicial Audit Conducted in the RTC, Branch 26, Argao, Cebu*, A.M. No. 00-4-09-SC, February 23, 2005, 452 SCRA 125, 133.

[12] *Soria, et al. v. Judge Villegas*, 461 Phil. 665, 670 (2003).

[13] As amended by A.M. No. 01-8-10-SC, effective October 1, 2001.

[14] A.M. No. P-04-1838, August 31, 2006, 500 SCRA 351.

[15] *Id.*, citing *Imbang v. Del Rosario*, A.M. No. 03-1515-MTJ, November 19, 2004, 443 SCRA 79, 83.

[16] 360 Phil. 385 (1998).

the resolution of this Court is guilty of gross misconduct and insubordination.

Section 11 (A) of Rule 140 provides that if the respondent is guilty of a serious charge, any of the following may be imposed: (i) Dismissal from the service, (ii) Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months, or (iii) **a Fine of more than ₱20,000.00 but not exceeding ₱40,000.00.**

Under Section 9 of Rule 140, 'Violation of Supreme Court rules, directives, and circulars,' and 'Undue delay in rendering a decision or order' constitute *less serious* offenses.

Section 11 (B) of Rule 140 provides that if the respondent is guilty of a less serious charge, any of the following may be imposed: (i) Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or (ii) **a Fine of more than ₱10,000.00 but not exceeding ₱20,000.00.**

Under Section 10 of the same Rule 140, 'Undue delay in the submission of monthly reports' is considered a *light* offense.

Section 11 (C) of Rule 140 provides that if the respondent is guilty of a light charge, any of the following may be imposed: (i) **a Fine of not less than ₱1,000.00 but not exceeding ₱10,000.00**; and/or (ii) Censure, (iii) Reprimand, (iv) Admonition with warning.

Since Judge Lubao has already retired from the service and was even paid his retirement benefits (except for the ₱100,000.00 ordered withheld by the Court), **the only alternative for us is to impose upon him the penalty of a fine in the medium amounts**, in the absence of proven mitigating and aggravating circumstances.

WHEREFORE, the Court adjudges former Judge Antonio C. Lubao of the Regional Trial Court, Branch 22, General Santos City **GUILTY** of the following offenses:

1. **GROSS MISCONDUCT**, a serious offense, for his repeated failure to comply with several memoranda from the Office of the Court Administrator (*OCA*), namely: Memorandum dated January 15, 2014, Memorandum dated April 23, 2014, Memorandum dated May 7, 2014, Memorandum dated July 21, 2014, and Memorandum dated November 11, 2014. For this offense, Judge Lubao is imposed the penalty of fine in the amount of thirty thousand pesos (₱30,000.00);

2. **VIOLATION OF SUPREME COURT RULES, DIRECTIVES, AND CIRCULARS**, a less serious offense, for violating Administrative Circular Nos. 4-2004 and 81-2012, and OCA Circular No. 81-2012. For this offense, Judge Lubao is imposed the penalty of fine in the amount of fifteen thousand pesos (₱15,000.00);

3. **UNDUE DELAY IN RENDERING A DECISION OR ORDER**, a less serious offense, due to his (*i*) failure to decide sixty (60) cases beyond the reglementary period, thirty-five (35) cases with pending incidents resolved beyond the reglementary period, and forty-seven (47) cases which have not progressed as of audit date, and (*ii*) failure to resolve three (3) cases with pending incidents and to act on seven (7) cases. For this offense, Judge Lubao is imposed the penalty of fine in the amount of fifteen thousand pesos (₱15,000.00); and

4. **UNDUE DELAY IN THE SUBMISSION OF MONTHLY REPORTS**, a light offense, for his failure to submit on time Monthly Reports of Cases from January to December, 2014. For this offense, Judge Lubao is imposed the penalty of fine in the amount of five thousand pesos (₱5,000.00).

Judge Lubao is hereby meted the penalty of a **FINE** in the **total amount of SIXTY-FIVE THOUSAND PESOS (₱65,000.00)**. Considering that the Court has already withheld the amount of one hundred thousand pesos (₱100,000.00) from

Judge Lubao's retirement benefits, we shall declare the amount of sixty-five thousand pesos (₱65,000.00) forfeited as payment for the fine imposed herein and the amount of thirty-five thousand pesos (₱35,000.00) returned to Judge Lubao.

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-de Castro, Peralta, Bersamin, del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and *Caguioa, JJ.,* concur.

Velasco, Jr., J., no part.

EN BANC

[A.M. No. P-16-3447. April 19, 2016]
(Formerly OCA I.P.I. No. 08-2915-P)

LUALHATI C. GUBATANGA, Clerk of Court II, Municipal Trial Court, Balagtas, Bulacan, *complainant, vs.* **RENATO V. BODOY, Utility Worker I, Municipal Trial Court, Balagtas, Bulacan,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; UNAUTHORIZED WITHDRAWAL FROM THE TRIAL COURT'S FUNDS CONSTITUTES DISHONESTY.— It is without doubt that Bodoy is guilty of dishonesty. He made a categorical admission that he withdrew the amount of Php60,000.00 from the trial court's bank account because he was hard pressed for money. His admission was confirmed by COC Gubatanga that there was an unauthorized withdrawal from the trial court's funds, as well as, by the documents from the bank proving that such withdrawal was

indeed effected. It is hornbook doctrine that a judicial admission binds the person who makes the same, and absent any showing that this was made thru palpable mistake, no amount of rationalization can offset it. Bodoy's act of surreptitiously withdrawing Php60,000.00 from the trial court's bank account without any stamp of authority constitutes dishonesty, x x x. This Court will not tolerate dishonesty. Persons involved in the dispensation of justice, from the highest official to the lowest employee, must live up to the strictest standards of integrity, probity, uprightness and diligence in the public service.

2. ID.; ID.; ID.; ID.; DISHONESTY IS A GRAVE OFFENSE WHICH IS PUNISHABLE WITH DISMISSAL EVEN FOR THE FIRST OFFENSE.— Dishonesty is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity. It is a malevolent act that has no place in the judiciary, as no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary. Significantly, under Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order 292, the Administrative Code of 1987 and other Pertinent Civil Service Laws, the designation of the administrative offense is of no consequence in this case because dishonesty, like grave misconduct, is considered a grave offense for which the penalty of dismissal is prescribed even for the first offense. Section 9 of said Rule likewise provides that the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification from re-employment in the government service. This penalty is without prejudice to criminal liability of the respondent. In fine, this Court emphasizes that every employee of the judiciary should be an example of integrity, uprightness and honesty. Like any public servant, he must exhibit the highest sense of honesty and integrity not only in the performance of his official duties but in his personal and private dealings with other people, to preserve the court's good name and, standing. Bodoy indubitably failed to meet this strict standard set for a court employee, hence, he does not deserve to remain in the judiciary.

D E C I S I O N

***PER CURIAM*:**

For our resolution is the administrative complaint filed by Clerk of Court Lualhati C. Gubatanga (COC Gubatanga) against Utility Worker Renato V. Bodoy (Bodoy), both of the Municipal Trial Court (MTC) of Balagtas, Bulacan.

The case stemmed from the Affidavit Complaint[1] filed by COC Gubatanga charging Bodoy with grave misconduct and falsification of commercial document.

COC Gubatanga alleged that on 14 May 2008, she noticed that their court's savings account reflected an unauthorized withdrawal in the amount of Php60,000.00 on 19 March 2008. She reported that inquiries made with the bank disclosed that the withdrawn amount was received by Bodoy. She was allegedly surprised as she has never ever authorized Bodoy to make any deposit or withdrawal from their court's bank account. Records reveal that COC Gubatanga and then acting presiding judge of MTC Balagtas, Bulacan Luis Enriquez Reyes (Judge Reyes) were the only accountable officer's allowed to withdraw from the MTC's bank account, particularly Saving's Account No. 1301-0172-40, maintained at the Land Bank of the Philippines, Balagtas, Bulacan branch.

COC Gubatanga further alleged that since 24 March 2008, Bodoy has not been reporting for work. On 15 May 2008, however, he reported for duty and sought an audience with Hon. Myrna S. Lagrosa (Judge Lagrosa), then newly appointed judge of MTC Balagtas, Bulacan. Bodoy wished to talk to Judge Lagrosa and tender to her his resignation.

When Judge Lagrosa summoned COC Gubatanga to discuss the clearance requested by Bodoy, COC Gubatanga seized the opportunity to inform Judge Lagrosa regarding the unauthorized withdrawal of Php60,000.00 from their court's savings account.

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

In the presence of COC Gubatanga, Judge Lagrosa confronted Bodoy on the matter. At first, Bodoy denied the accusation. He eventually admitted committing the offense when he was informed by Judge Lagrosa that his signature appears on the copy of the withdrawal slip left in the possession of the bank as the recipient of the amount withdrawn.

When Judge Lagrosa asked how he was able to withdraw the amount from the court's savings account, Bodoy explained that he inserted an extra withdrawal slip among the other withdrawal slips that are to be signed by COC Gubatanga and Judge Reyes in order to avail of their signatures. He also admitted that he used an ordinary key to open COC Gubatanga's drawer to get the passbook.

COC Gubatanga, however, dismissed Bodoy's explanation and maintained that the latter falsified her signature in the withdrawal slip, as the signature is not the customary way she signs her name. She alleged that the same holds true with respect to the signature of Judge Reyes since the latter meticulously goes over the bunch of papers, including withdrawal slips, one by one before he affixes his signature on them.

Finally, COC Gubatanga informed the Office of the Court Administrator (OCA) that she filed a criminal complaint against Bodoy involving the matter alleged in her administrative complaint and the same is pending preliminary investigation with the Office of the Provincial Prosecutor of Bulacan. COC Gubatanga attached to her affidavit complaint the affidavits of Judges Lagrosa and Reyes.

In his Affidavit dated 5 June 2008,[2] Judge Reyes denied having signed the withdrawal slip used by Bodoy to withdraw the amount of Php60,000.00 on 19 March 2008. He averred that his supposed signature appearing thereon was forged. He maintained that he never signed documents and duplicate copies thereof using carbon paper and it is more likely that Bodoy imitated his signature in the said withdrawal slip. Judge Reyes also reported that Bodoy has not been reporting for work since 14 March 2008.

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[2] *Id.* at 11-15.

Bodoy vehemently denied the allegations in the complaint. He contended that the narrations of facts cited in the complaint are self-serving statements. He further contended that the filing of the instant administrative complaint is pre-mature and has as yet, no basis in fact or law.

He argued that the basis of the administrative case is dependent upon the result of the criminal case. He maintained that giving consideration to the administrative complaint would result in an injustice. He further maintained that the allegations contained in the Complaint-Affidavit filed with the Office of the Prosecutor do not constitute the crime of Qualified Theft and Falsification of Commercial Documents.

On 16 September 2009, Atty. Caridad A. Pabello, Chief of Office, Office of Administrative Services, OCA, issued a Certification stating that no Daily Time Record has been submitted by Bodoy since 2008.

In a Resolution dated 22 June 2011,[3] this Court referred the administrative complaint to the Executive Judge of the Regional Trial Court (RTC), Malolos, Bulacan for investigation, report and recommendation.

In compliance with the directive, Executive Judge Renato C. Francisco (EJ Francisco), RTC, Malolos, Bulacan submitted his investigation report[4] dated 4 October 2011. He recommended that respondent Bodoy be found guilty of serious misconduct and be dismissed from the service. Salient portion of his investigation report reads:

In the hearing conducted by the undersigned Executive Judge, respondent Renato Bodoy openly admitted that he withdrew the amount of Php60,000.00 subject of this present action. He was also confronted with his signature appearing in the withdrawal slip (Annex "B") to which respondent Bodoy admitted to affixing his signature therein.

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[3] *Id*. at 65-66.

[4] *Id*. at 72-74.

According to the private complainant, she has already retired since June 2011 and because of this administrative case, her benefits and pension had not been approved and she prays for speedy resolution of this administrative action.

Upon judicious and sedulous examination of the evidence extant in the records, more particularly the passbook and withdrawal slip, substantial evidence point to the respondent Bodoy as having stealthily and clandestinely withdrawn the amount of Php60,000.00 from the passbook of MTC-Balagtas, Bulacan last March 19, 2008. **In fact, in the proceedings before this [c]ourt respondent Bodoy freely and openly admitted his withdrawal of the said amount of Php60,000.00 as he claimed that he was hard-pressed for cash at that time.** His culpability is buttressed by the fact that he has been AWOL or absent without leave since March 14, 2008 and he could not have done so had he not committed the act of withdrawal of the amount of Php60,000.00.

In sum, substantial evidence clearly established the irregular and anomalous withdrawal of the amount of Php60,000.00 from the passbook of the MTC-Balagtas, Bulacan committed by respondent on March 19, 2008, to the damage and prejudice of the government.

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WHEREFORE, it is respectfully recommended to the Supreme Court through the Office of the Court Administrator that respondent Renato Bodoy be dismissed for serious misconduct.[5] (Emphasis supplied)

In this Court's resolution dated 23 November 2011, the investigation report submitted by EJ Francisco was referred to the OCA for evaluation, report and recommendation within sixty (60) days from receipt of the record.

In its Memorandum dated 6 June 2013,[6] the OCA recommended that:

(1) This case be re-docketed as a regular administrative case against Mr. Renato V. Bodoy, Utility Worker I, Municipal Trial Court, Balagtas, Bulacan, for Dishonesty; [and]

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[5] *Id.* at 73-74.

[6] *Id.* at (no proper pagination, should be pp. 83-88).

(2) Mr. Renato V. Bodoy, Municipal Trial Court, Balagtas, Bulacan, be **DISMISSED** from the service with forfeiture of retirement benefits except accrued leave credits, with perpetual disqualification for re-employment in government service.

The OCA agreed with the conclusions of fact and recommendation of EJ Francisco.

The OCA, however, found Bodoy not guilty of grave misconduct but of dishonesty. It explained that misconduct, by uniform legal definition, is a transgression of some established and definite rule of action, more particularly, unlawful behaviour as well as gross negligence by a public officer. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.[7] The OCA held that in this case, there is no direct connection between the performance of Bodoy's official functions as a Utility Worker I and his unauthorized withdrawal of the amount of Php60,000.00 from the trial court's bank account.

This Court agrees with the observation of the OCA.

It is without doubt that Bodoy is guilty of dishonesty. He made a categorical admission that he withdrew the amount of Php60,000.00 from the trial court's bank account because he was hard pressed for money. His admission was confirmed by COC Gubatanga that there was an unauthorized withdrawal from the trial court's funds, as well as, by the documents from the bank proving that such withdrawal was indeed effected.[8] It is hornbook doctrine that a judicial admission binds the person who makes the same, and absent any showing that this was made thru palpable mistake, no amount of rationalization can offset it.[9] Bodoy's act of surreptitiously withdrawing

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[7] *Civil Service Commission v. Perocho, Jr.*, 555 Phil. 157, 167 (2007).

[8] *Rollo*, p. 9.

[9] *Heirs of Miguel Franco v. Court of Appeals*, 463 Phil. 417, 428 (2003).

Php60,000.00 from the trial court's bank account without any stamp of authority constitutes dishonesty, which is defined as follows:

> [T]he disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.[10]

This Court will not tolerate dishonesty. Persons involved in the dispensation of justice, from the highest official to the lowest employee, must live up to the strictest standards of integrity, probity, uprightness and diligence in the public service. As the assumption of public office is impressed with paramount public interest, which requires the highest standards of ethical standards, persons aspiring for public office must observe honesty, candor and faithful compliance with the law.[11] It has been consistently stressed that even minor employees mirror the image of the courts they serve; thus, they are required to preserve the judiciary's good name and standing as a true temple of justice.[12]

Dishonesty is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity. It is a malevolent act that has no place in the judiciary, as no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary.[13]

Significantly, under Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order 292, the Administrative Code of 1987 and other Pertinent Civil Service Laws, the designation of the administrative offense is of no

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[10] *Re: Irregularity in the Use of Bundy Clock by Castro and Tayag, Social Welfare Officers II, both of the RTC, OCC, Angeles City*, 626 Phil. 16, 22 (2010) citing *Estardo-Teodoro v. Segismundo*, A.M. No. P-08-2523, April 7, 2009, 584 SCRA 18, 30.

[11] *De Guzman v. Delos Santos*, 442 Phil. 428, 441 (2002).

[12] *Judge Pizarro v. Villegas*, 398 Phil. 837, 844 (2000).

[13] *OCA v. Bermejo*, 572 Phil. 6, 14 (2008).

consequence in this case because dishonesty, like grave misconduct, is considered a grave offense for which the penalty of dismissal is prescribed even for the first offense. Section 9 of said Rule likewise provides that the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification from re-employment in the government service. This penalty is without prejudice to criminal liability of the respondent.[14]

In fine, this Court emphasizes that every employee of the judiciary should be an example of integrity, uprightness and honesty. Like any public servant, he must exhibit the highest sense of honesty and integrity not only in the performance of his official duties but in his personal and private dealings with other people, to preserve the court's good name and standing.[15] Bodoy indubitably failed to meet this strict standard set for a court employee, hence, he does not deserve to remain in the judiciary.

Contrary to the contention of Bodoy, the instant administrative complaint can proceed even before there is judgment in the criminal case involving the same matter. In administrative proceedings, such as this case, the quantum of proof required to establish the administrative liability of respondent is substantial evidence, not proof beyond reasonable doubt. Substantial evidence means such relevant evidence as reasonable mind might accept as adequate to support a conclusion.[16]

Records reveal that on 29 May 2009, the Office of the Provincial Prosecutor of Malolos City, Bulacan, in I.S. No. 08-06-2769 to 2770, recommended the filing in court of the appropriate information for Estafa thru Falsification of Official Document against Bodoy. The criminal case was docketed as Criminal Case No. 3763-M-09 and was raffled to RTC, Branch 81, Malolos, Bulacan.

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[14] *Civil Service Commission v. Sta. Ana*, 450 Phil. 59, 69 (2003).

[15] *Adm. Case for Dishonesty & Falsification Against Luna*, 463 Phil. 878, 889 (2003).

[16] *Mariano v. Roxas*, 434 Phil. 742, 749 (2002).

Although COC Gubatanga is the complainant in the criminal case, she is in the strict sense only a witness in the case. The real party prejudiced by the act of Bodoy is MTC, Balagtas, Bulacan because the amount withdrawn without authority came from the bank account of the aforesaid court. To date, there has been no report received on the outcome of the criminal case filed against Bodoy or on whether the full amount withdrawn without authority has been returned to the trial court's bank account. Thus, it is necessary for the OCA to step in and ensure that the full amount illegally withdrawn by Bodoy is restituted back to the coffers of the court.

WHEREFORE, respondent Renato V. Bodoy is **DISMISSED** from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch, agency or instrumentality of the government including government-owned or controlled corporations.

The Legal Office of the Office of the Court Administrator is **DIRECTED** to coordinate with the Office of the Provincial Prosecutor of Malolos City, Bulacan; oversee the prosecution of the criminal case against Bodoy; and ensure the restitution of the amount withdrawn without authority from the fiduciary fund account of Municipal Trial Court, Balagtas, Bulacan.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and *Caguioa, JJ.,* concur.

EN BANC

[G.R. No. 181892. April 19, 2016]

REPUBLIC OF THE PHILIPPINES, represented by Executive Secretary Eduardo R. Ermita, the DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, AND MANILA INTERNATIONAL AIRPORT AUTHORITY, *petitioners, vs.* **HON. JESUS M. MUPAS, in his capacity as Acting Presiding Judge of the Regional Trial Court, National Capital Judicial Region, Branch 117, Pasay City, AND PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC.,** *respondents.*

[G.R. No. 209917. April 19, 2016]

REPUBLIC OF THE PHILIPPINES, represented by Executive Secretary Eduardo Ermita, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, AND MANILA INTERNATIONAL AIRPORT AUTHORITY, *petitioners, vs.* **PHILIPPINE INTERNATIONAL AIR TERMINALS COMPANY, INC., TAKENAKA CORPORATION AND ASAHIKOSAN CORPORATION,** *respondents.*

[G.R. No. 209696. April 19, 2016]

TAKENAKA CORPORATION AND ASAHIKOSAN CORPORATION, *petitioners, vs.* **REPUBLIC OF THE PHILIPPINES, represented by Executive Secretary Eduardo Ermita, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, MANILA INTERNATIONAL AIRPORT AUTHORITY, AND PHILIPPINE INTERNATIONAL AIR TERMINALS COMPANY, INC.,** *respondents.*

[G.R. No. 209731. April 19, 2016]

PHILIPPINE INTERNATIONAL AIR TERMINALS CO., INC., *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES, as represented by EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, MANILA INTERNATIONAL AIRPORT AUTHORITY, TAKENAKA CORPORATION, AND ASAHIKOSAN CORPORATION,** *respondents.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; EMINENT DOMAIN; DETERMINATION OF JUST COMPENSATION; DEPRECIATED REPLACEMENT COST METHOD RECONCILED WITH THE FUNDAMENTAL MEASURE TO COMPENSATE THE PROPERTY OWNER FOR HIS ACTUAL LOSS AT THE DATE OF TAKING THE PROPERTY, APPLIED.— The payment for property in expropriation cases is enshrined in Section 9, Article III of the 1987 Constitution, which mandates that no private property shall be taken for public use without payment of just compensation. The measure of just compensation is **not the taker's gain, but the owner's loss.** We have ruled that just compensation **must not extend beyond the property owner's loss or injury.** This is the only way for the compensation paid to be truly just, not only to the individual whose property is taken, but also to the public who shoulders the cost of expropriation. Even as undervaluation would deprive the owner of his property without due process, so too would its overvaluation unduly favor him to the prejudice of the public. To this end, statutes such as RA 8974 have been enacted, laying down guiding principles to facilitate the expropriation of private property and payment of just compensation. However, we must bear in mind that the determination of just compensation is primarily a judicial function that may not be usurped by any other branch or official of the Republic. In *National Power Corporation v. Bagui*, this Court ruled that any valuation for just compensation laid down in the statutes may serve **only as a guiding principle** x x x but it may not substitute the court's own judgment as to

what amount should be awarded and how to arrive at such amount. x x x The nature of provisions in RA 8974 a mere guidelines to this Court, as opposed to being mandatory rules, cannot be denied. x x x [T]he Court may consider the guidelines set, but it cannot be bound by these guidelines. At best, any finding on just compensation using the methods set forth in the statute is merely a preliminary determination by the Implementing Agency, subject to the final review and determination by the Court. While we may be guided by the replacement cost of the property, just compensation will be ultimately based on the payment due to the private property owner for his actual loss – the fundamental measure of just compensation compliant with the Constitution. *Further, when acting within the parameters set by the law itself, courts are not strictly bound to apply the formula to its minutest detail, particularly when faced with situations that do not warrant the formula's strict application.* The courts may, in the exercise of their discretion, relax the formula's application to fit the factual situations before them. x x x In these lights, we maintain our ruling that **the depreciated replacement cost applies** in computing just compensation in the present case. In applying this method, the owner is compensated for his actual loss at the date of taking of the expropriated property. Consequently, the deduction from the construction cost of the deterioration and depreciation items is permissible under RA 8974.

2. ID.; ID.; ID.; ID.; CONTINUED DELAY IN PAYING THE FULL AMOUNT OF JUST COMPENSATION WARRANTS THE IMPOSITION OF INTEREST.— As explained in our Decision, "the interest in eminent domain cases runs *as a matter of law* and follows *as a matter of course* from the right of the [owner] to be placed in as good a position as money can accomplish, *as of the date of taking*." We also recognized that the just compensation due to the property owner is effectively a *forbearance of money*. Forbearance of money refers to "arrangements other than loan agreements, where a person acquiesces to the temporary use of his money, goods or credits pending happening of certain events or fulfilment of certain conditions." In such arrangements, "the [*creditors*] are entitled not only to the return of the principal amount paid, but also to compensation for the use of their money. And the compensation for the use of their money, absent any stipulation, should be the same rate of legal interest applicable to a loan since the use or *deprivation of funds is similar to a loan*."

Applying these concepts in the present case; it can readily be seen that *PIATCO "acquiesced" to the temporary use of its money* (the monetary value of NAIA-IPT III) *by the Republic while the expropriation case was pending.* We note that during the pendency of the expropriation case, PIATCO had already been dispossessed of NAIA-IPT III but had not yet received the monetary equivalent of the property taken from it. Plainly, PIATCO is entitled to the award of interest as compensation for the use of *its money*, computed from the time of taking of the NAIA-IPT III until full payment of the just compensation.

3. ID.; ID.; ID.; ID.; ID.; THE LEGAL BASIS FOR THE IMPOSITION OF INTEREST IS THE DELAY IN THE PAYMENT OF JUST COMPENSATION, AND NOT THE DELAY IN THE PROCEEDINGS FOR ITS COMPUTATION; CONCEPT OF DELAY FOR PURPOSES OF IMPOSING INTEREST ON THE UNPAID JUST COMPENSATION, EXPLAINED.— [T]he Republic forgets that the *delay* in the *payment* of just compensation, *and not the delay in the proceedings for its computation,* is the legal basis for the imposition of interest on the unpaid just compensation. x x x In expropriation cases, the State must pay for the shortfall in the earning potential immediately lost due to the taking, and the absence of a replacement property from which income can be derived. We established this rule in order to comply with the constitutional mandate that the owner of the expropriated property must be compensated for his actual loss; the income-generating potential is part of this loss and should therefore be fully taken into account. Clearly, the concept of delay for purposes of the imposition of interest on the unpaid just compensation is based on the *effect on the owner's rights* of the Republic's non-payment of the full amount of just compensation at the date the possession and effective taking of the expropriated property took place. While the delay in the computation of just compensation (because of the protracted proceeding) may also delay the payment of just compensation, we note that, in this case, the delay was *not* entirely attributable to any particular party, *i.e.*, to PIATCO and/or Takenaka and Asahikosan, as the Republic contends. The "delay" arose because all the parties to the case had *taken procedurally permissible steps* in order to protect their respective interests; the complexity, too, of appraising a specialized property like the NAIA-IPT III cannot likewise be discounted. We remind the Republic that the computation of just compensation

is not always a simple affair and may take time, particularly in the case of a specialized property like the NAIA-IPT III. Delay should not be imputed on the owner alone unless it delayed the proceedings purposely and unreasonably. The facts of the present case do not show that neither PIATCO nor Takenaka and Asahikosan purposely and unreasonably acted to cause delay. The more tenable view is that all the parties took remedial measures, within legitimate and reasonable limits, to protect their respective claims, thus, the belated determination of the just compensation. For all these reasons, the Republic would have to pay the amount of just compensation computed as of the date of the effective taking (December 21, 2004) plus the interest which runs from the date it took possession and *actually* took over the property (September 11, 2006), regardless of the perceived delay in the determination of just compensation.

4. ID.; ID.; ID.; ID.; ID.; INTEREST RATE IS APPLIED ON A *PER ANNUM* BASIS REGARDLESS IF IT IS COMPOSED OF 365 OR 366 DAYS.— We compute interest rates of 12% or 6% per *annum* on a yearly basis, as the term suggests, without distinguishing whether it is a leap year or not. While our computation on pages 123-124 of our Decision indicated that 2008 and 2012 had 365 days, we computed the 12% per *annum* interest equivalent to one whole year of interest for these years. Notably, Article 13 of the New Civil Code states that "*when the laws speak of years, it shall be understood that years are of three hundred sixty-five days each.*" Since our interest rate is applied on a per *annum* basis or per **year** basis, we apply the general rule that the imposition of interest rate per *annum* means the imposition of the *whole interest rate for one whole* **year**, regardless if it is composed of 365 or 366 days.

5. ID.; ID.; ID.; UPON FULL PAYMENT OF JUST COMPENSATION, TITLE TO PROPERTY SHALL BE FULLY VESTED IN THE REPUBLIC BUT THE COURT CANNOT CATEGORICALLY RULE THAT THE REPUBLIC'S OWNERSHIP SHALL BE FREE FROM ALL LIENS AND ENCUMBRANCES.— [W]e grant the Republic's prayer that upon full payment of the just compensation finally adjudged in this decision, the title to the property shall be fully vested in the Republic. However, **we cannot categorically rule in the present case that the Republic's ownership of NAIA-**

IPT III – after full payment of just compensation – shall be free from all liens and encumbrances. Before us are the narrow issues of an expropriation case. We cannot make an all-encompassing ruling that would cover cases and issues that had not been raised and resolved in the present case. To do so would not only be purely speculative but may also be reckless and highly improper.

APPEARANCES OF COUNSEL

Castillo Laman Tan Pantaleon & San Jose for Takenaka Corporation and Asahikosan Corporation.

Quasha Ancheta Peña & Nolasco for Philippine International Air Terminals Co., Inc. (PIATCO).

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R E S O L U T I O N

BRION, *J.*:

Before the Court are the motion for reconsideration filed by the Republic of the Philippines (Department of Transportation and Communications) and the Manila International Airport Authority (*Republic* for brevity), and the respective partial motions for reconsideration of Philippine International Airport Terminals Co., Inc. (*PIATCO*) and of Takenaka Corporation (*Takenaka*) and Asahikosan Corporation (*Asahikosan*). In these motions, the parties assail the Court's Decision dated September 8, 2015 (Decision).[1]

I. The Factual Antecedents

A. The concession agreement between the Republic and PIATCO; PIATCO's subcontract agreements with Takenaka and Asahikosan

[1] *Rollo*, Volume II, pp. 873-1037.

On July 12, 1997, the Republic executed a ***concession agreement*** with PIATCO for the construction, development, and operation of the Ninoy Aquino International Airport Passenger Terminal III (*NAIA-IPT III*) under a ***build-operate-transfer scheme***. The parties subsequently amended their concession agreement and entered into several supplemental agreements (collectively referred to as the *PIATCO contracts*).[2]

In the PIATCO contracts, the Republic authorized PIATCO to build, operate, and maintain the NAIA-IPT III during the concession period of twenty-five (25) years.[3]

On March 31, 2000, ***PIATCO engaged the services of Takenaka for the construction of the NAIA-IPT III*** under an **Onshore Construction Contract**. On the same date, ***PIATCO*** also entered into an **Offshore Procurement Contract** with ***Asahikosan*** for the design, manufacture, purchase, test and delivery of the Plant in the NAIA-IPT III. Both contracts were supplemented by succeeding agreements.[4]

In May 2002, ***PIATCO failed to pay for the services rendered by Takenaka and Asahikosan.***[5]

B. The Agan v. PIATCO[6] *case: the nullification of the PIATCO contracts*

On May 5, 2003, the Court nullified the PIATCO contracts in ***Agan v. PIATCO***[7] on the grounds that: (a) the Paircargo Consortium (that later incorporated into PIATCO) was not a duly pre-qualified bidder; and (b) the PIATCO contracts contained provisions that substantially departed from the draft Concession Agreement.[8]

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[2] Decision dated September 8, 2015, p. 8.

[3] *Id.*

[4] *Id.* at 8-9.

[5] *Id.* at 9.

[6] 450 Phil. 744-902 (2003).

[7] *Id.*

[8] *Supra* note 1, at 899-900.

On **January 21, 2004,** the Court issued a resolution (*2004 Agan Resolution*), denying PIATCO, et al.'s motion for reconsideration.[9] Significantly, we stated in the resolution that the ***Republic should first pay PIATCO before it could take over the NAIA-IPT III.*** We further ruled that "*the compensation must be just and in accordance with law and equity for the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors.*"[10]

C. The expropriation case before the RTC

On **December 21, 2004**, the Republic filed a **complaint for the expropriation** of the NAIA-IPT III before the Regional Trial Court (*RTC*) of Pasay, Branch 117, docketed as Civil Case No. 04-0876. Notably, the property to be expropriated only involves the NAIA-IPT III structure and did not include the land which the Republic already owns.[11]

On the same day, the RTC issued a **writ of possession** in favor of the Republic **pursuant to Rule 67** of the Rules of Court (*Rule 67*). The writ was issued based on the Republic's manifestation that it had deposited with the Land Bank of the Philippines (*Land Bank*) the amount of ₱3,002,125,000.00, representing the NAIA-IPT III's **assessed value**.[12]

On **January 4, 2005**, the RTC **supplemented its December 21, 2004 order**. The RTC applied Republic Act (*RA*) No. 8974 instead of Rule 67 as basis for the effectivity of the writ of possession. The RTC ruled, among others, that the Land Bank should immediately release to PIATCO the amount of **US$62,343,175.77**,[13] to be deducted eventually from the just compensation.[14]

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[9] *Agan v. PIATCO*, 465 Phil. 545-586 (2004).

[10] *Id.* at 582.

[11] *Supra* note 1, at 900 and 905.

[12] *Id.* at 900.

[13] The MIAA held guaranty deposits in the sum of $62,343,175.77 with Land Bank for purposes of expropriating the NAIA-IPT III. See *rollo* in G.R. No. 209731, Volume I, pp. 380-382.

[14] *Supra* note 1, at 900-901.

In the course of the RTC expropriation proceedings, the RTC allowed Takenaka and Asahikosan to intervene in the case. Takenaka and Asahikosan based their intervention on the foreign judgments issued in their favor in the two collection cases that they filed against PIATCO (*London awards*). Takenaka and Asahikosan asked the RTC to: (a) hold in abeyance the release of just compensation to PIATCO until the London awards are recognized and enforced in the Philippines; and (b) order that the just compensation be deposited with the RTC for the benefit of PIATCO's creditors.[15]

The Republic questioned the **January 4, 2005** RTC order and two other RTC orders[16] before this Court in the case entitled ***Republic v. Gingoyon***.[17]

On January 14, 2005, we issued a temporary restraining order and preliminary injunction against the implementation of the assailed RTC orders, including the January 4, 2005 RTC order.[18]

D. Developments pending the expropriation case: the Republic v. Gingoyon case

In *Gingoyon*, the Court partly granted the Republic's petition on December 19, 2005.

We adopted the 2004 *Agan* Resolution in ruling that the Republic is barred from taking over the NAIA-IPT III until just compensation is paid to PIATCO as the builder and owner of the structure.

We also ruled that RA No. 8974 applies insofar as it: (a) provides **valuation standards** in determining the amount of just compensation; and (b) requires the Republic to ***immediately pay*** PIATCO at least the **proffered value** of the NAIA-IPT III

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[15] *Id.* at 901-903.

[16] RTC orders dated January 7, 2005 on the RTC's appointment of three commissioners and the January 10, 2005 order denying the motion for inhibition of the then RTC hearing judge, Judge Gingoyon; *id.* at 903-907.

[17] 514 Phil. 657-781 (2005).

[18] *Id.* at 681.

for purposes of ***determining the effectivity of the writ of possession.***

We also held that ***Rule 67*** shall apply ***to the procedural matters*** of the expropriation proceedings insofar as it is consistent with RA 8974 and its implementing rules and regulations (*IRR*), and *Agan*.

Applying RA No. 8974, ***we held in abeyance the implementation of the writ of possession*** until the Republic **directly** pays PIATCO the **proffered value** of ₱3 billion. We also authorized the Republic **to perform acts essential to the operation of the NAIA-IPT III *once* the writ of possession becomes *effective*.**

For purposes of computing just compensation, we held that PIATCO should only be paid the **value of the improvements and/or structures** using the **replacement cost method** under Section 10 of RA 8974 IRR.[19] We added, however, that the replacement cost method is only one of the factors to be considered in determining just compensation; **equity** should also be considered.

On February 1, 2006, we denied the Republic, et al.'s motion for partial reconsideration. Citing procedural errors, we also denied the motions or intervention of Asahikosan, Takenaka, and Rep. Salacnib F. Baterina.[20]

E. The continuation of the expropriation proceedings after the finality of the Gingoyon case; the present cases before the Court

Pursuant to our mandate in *Gingoyon*, the RTC proceeded to determine the amount of just compensation.

In compliance with the RTC's order, the Republic tendered to PIATCO the ₱3 billion proffered value on **September 11,**

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[19] *Id.* at 710.

[20] 517 Phil. 1-22 (2006).

2006. ***On the same day,*** **the RTC** ***reinstated the writ of possession*** **in favor of the Republic**.[21]

In compliance with the RTC order dated August 5, 2010, the parties and the BOC submitted their appraisal reports on NAIA-IPT III, as follows: (1) the Republic's appraisal was US$149,448,037.00; (2) PIATCO's appraisal was US$905,867,549.47; (3) Takenaka and Asahikosan's appraisal was US$360,969,790.82; and (4) the BOC's appraisal was US$376,149,742.56, plus interest and commissioner's fees.[22]

In the RTC's decision dated May 23, 2011, the RTC computed just compensation at US$116,348,641.10. The RTC further directed the Republic and the team of Takenaka and Asahikosan to pay their respective shares in the BOC expenses.[23]

On appeal with the CA, docketed as CA-G.R. CV No. 98029, the CA issued its amended decision, computing the just compensation at US$371,426,688.24 as of July 31, 2013 plus 6% *per annum* on the amount due from finality of judgment until fully paid. The CA further held that Takenaka and Asahikosan are both liable to share in the BOC expenses.[24]

The RTC rulings and CA decision in the expropriation cases led to the present consolidated cases before us, specifically:

G.R. No. 181892 was filed by the Republic to question the RTC's orders: (1) appointing DG Jones and Partners as independent appraiser; (2) directing the Republic to submit a Certificate of Availability of Funds to cover DG Jones and Partners' US$1.9 Million appraisal fee; and (3) sustaining the appointment of DG Jones and Partners as an independent appraiser.[25]

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[21] *Supra* note 1, at 910.

[22] *Id.* at 913-922.

[23] *Id.* at 923-924.

[24] *Id.* at 929-932.

[25] *Id.* at 935.

G.R. Nos. 209917, 209731, and ***209696*** were filed by the Republic, PIATCO, and Takenaka and Asahikosan, respectively questioning the CA's decision.[26]

II. Our ruling dated September 8, 2015 in G.R. Nos. 181892, 209917, 209696, 209731

In our **Decision dated September 8, 2015**, we applied the standards laid down under Section 7, RA 8974 and Section 10 of RA 8974 IRR. We likewise applied equity pursuant to *Gingoyon*.

We ruled that PIATCO, as the owner of the NAIA-IPT III, is the **sole recipient** of the just compensation even though Takenaka and Asahikosan actually built the NAIA-IPT III.

We did not grant Takenaka and Asahikosan's prayer to set aside a portion of just compensation to secure their claims, as we would be pre-empting the Court's ruling in the enforcement case, specifically, G.R. No. 202166, which is still pending before the Court.

We ruled that the Republic shall only have ownership of the NAIA-IPT III **after** it **fully** pays PIATCO the just compensation due. However, the determination of whether the NAIA-IPT III shall be burdened by liens and mortgages even after the full payment of just compensation is still premature.

In **computing the just compensation**, we applied the **depreciated replacement cost method** consistent with Section 10 of RA 8974 IRR and the principle that the property owner of the expropriated property shall be compensated for his ***actual loss***. We therefore agreed with the Gleeds' deduction of depreciation and deterioration from the construction cost.

We adopted Gleeds' construction cost at US$300,206,693.00 as the base value at December 2002. We also rejected the Republic's argument that the amounts pertaining to the *unnecessary areas, structural defect,* and *costs for rectification for contract compliance* should be excluded from the base value.

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[26] *Id.* at 934-935.

We likewise did not add attendant costs as it already formed part of the Gleeds' computation of construction cost.

Applying equity, we adjusted the replacement cost computed at December 2002 to December 2004 values using the Consumer Price Index.

We likewise imposed interest on the unpaid amount of just compensation, reckoned from September 11, 2006 when the writ of possession was reinstated in favor of the Republic.

In summary, we computed the just compensation as of December 21, 2004 at US$326,932,221.26. We deducted from this sum the proffered value of US$59,438,604.00. We ruled that the resulting difference of US$267,493,617.26 shall earn a straight interest of 12% per annum from September 11, 2006 until June 30, 2013, and a straight interest of 6% per annum from July 1, 2013, until full payment.[27]

Finally, we reversed the CA's ruling that Takenaka and Asahikosan were liable to share in the BOC expenses. We ruled that the Republic shall solely bear these expenses as part of the costs of expropriation. We however ruled that PIATCO, which voluntarily paid a portion of the BOC expenses and did not question the rulings ordering it to pay, is deemed to have waived its right not to share in these expenses.

III. The parties' motion for reconsideration and motions for partial reconsideration of our September 8, 2015 Decision

The parties assail our Decision. The Republic filed its motion for reconsideration while PIATCO and Takenaka and Asahikosan filed their respective partial motions for reconsideration.

A. The Republic's motion for reconsideration

The Republic argues as follows:

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[27] In view of BSP Circular No. 799's effectivity on July 1, 2013; the circular reduced the legal interest on loans and forbearance of money from 12% to 6% per annum.

First, the Court should declare that, upon payment of just compensation, full ownership shall be vested in the Republic, *free from liens and encumbrances*.[28]

Second, the just compensation *should not earn interest*. The Republic prays for the deletion of US$242,810,918.54 awarded to PIATCO by way of interest.

According to the Republic, the present case is *sui generis* as the expropriation resulted from the nullification of the concession agreement; hence, the traditional notion of "just compensation" is inapplicable.[29]

The Republic cites our rulings in *Agan* and *Gingoyon* that the *principle of unjust enrichment or solutio indebiti* is the standard in fixing just compensation in the present case. According to the Republic, this principle results in the application of the doctrine of restitution which arose as a consequence of *Agan*'s nullification of the concession agreements.[30] The Republic referred to Justice Panganiban's concurring opinion in *Agan* that the *quantum meruit* principle should be applied.[31]

The Republic further argues that the award of interest is unjustifiable because: (*a*) PIATCO has no "income-generating capacity" from the expropriated structures due to the nullification of the concession agreements; and (*b*) the Republic should not be made liable to pay interest as the delay in the prompt payment of just compensation was due to the deliberate refusal of PIATCO, Takenaka and Asahikosan to submit the valuation of the NAIA-IPT III.[32]

The Republic concludes that the Court's award of interest in the present case is contrary to *Agan* and *Gingoyon* and would

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[28] G.R. No. 209917, *rollo*, Volume IV, pp. 3114-3116.

[29] *Id.* at 3111.

[30] *Id.* at 3112 and 3117-3119.

[31] *Id.* at 3117-3119.

[32] *Id.* at 3119-3131.

result in PIATCO "profiting" from its own misdeed that caused the nullification of the concession agreements.[33]

Third, the Court erred in not deducting from the computed just compensation the *amounts pertaining to structural defects, unnecessary areas,* and *rectification* for contract compliance.[34]

The Republic asserts that the amounts pertaining to NAIA-IPT III's **structural defects** should be excluded from the computation of just compensation. According to the Republic, the equiponderance of evidence rule is inapplicable because it had proven by overwhelming evidence that the NAIA-IPT III suffered from massive structural defects. PIATCO allegedly admitted this fact in the Scott Wilson Report.[35]

The Republic also points to the structural remediation programs that MIAA conducted prior to the NAIA-IPT III's operation, showing that it was structurally defective. PIATCO also failed to refute the findings of TGCI, one of the Republic's engineering experts, that the NAIA-IPT III would not have been damaged by the 2008 Pangasinan earthquake if it had been structurally sound.

The Republic posits that it was forced to expropriate a structure that does not conform with the design intended to serve its purpose; worse, the design contains facilities that are not essential for an airport (such as the retail mall and excess retail concession space). PIATCO should not be compensated for these structures as the Republic had to spend for the rectification expenses.

B. PIATCO's partial motion for reconsideration

PIATCO seeks the partial reconsideration of our decision under the following arguments:

First, the Court erred in applying the *depreciated replacement cost method in computing just compensation*.[36]

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[33] *Id.* at 3113.

[34] *Id.* at 3130, 3135.

[35] *Id.* at 3133.

[36] *Id.* at 3145.

RA 8974 and its IRR never used the terms "depreciated replacement cost," "deterioration," or any other type of adjustment to the replacement cost.[37]

Second, the financial *concept of depreciation is inapplicable* in the determination of just compensation in expropriation cases. *An asset may still be valuable and yet appear as fully depreciated in financial statements*.[38]

Third, assuming the accounting concept of "depreciation" is relevant, *depreciation of an asset begins when it is available for use*. The Republic should therefore bear the cost of depreciation since the NAIA-IPT III was available for use only in December 21, 2004 when the Republic operated it.[39]

PIATCO further argues that Gleeds which first visited NAIA-IPT III only on May 2006, could not have possibly evaluated deterioration in the structure that supposedly occurred between 2002 and 2004.[40]

Fourth, PIATCO argues that the Court erred in *excluding* PIATCO's computation of *attendant costs.*

According to PIATCO, the photocopied documents evidencing its attendant costs are admissible and have probative value. These documents were accompanied by the affidavit dated December 14, 2010 of PIATCO's VP for Legal and Corporate Affairs, Atty. Moises S. Tolentino, Jr. (*Atty. Tolentino*). In his affidavit, he identified the documents and affirmed that these photocopies were certified true copies and/or faithful reproductions of the originals in his possession.[41]

PIATCO further argues that these documents were submitted in a summary and informal proceeding before the BOC. The

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[37] *Id.*

[38] *Id.* at 3147-3148.

[39] *Id.* at 3149.

[40] *Id.*

[41] *Id.* at 3150.

parties' failure to object to the offered evidence rendered the photocopy documents admissible.[42]

Furthermore, PIATCO points out that the construction cost in the Gleeds report, which the Court had adopted in the present case, excluded attendant costs, financing costs, and other associated costs as confirmed by the Scott Wilson Report. *Even Gleeds admitted that the attendant costs reflected in its report excluded the financing cost* in the amount of US$26,602,890.00.[43] As such, at the very least, PIATCO should be awarded financing costs on top of the construction cost as supported by documents submitted to the lower court.

PIATCO further avers that the Court has misquoted item 3.1.17 of the Scott Wilson Report in page 99 of our Decision. The quote in our Decision states that PIATCO has paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC, and this appears **"not reasonable."** PIATCO alleged that the correct provision of clause 3.1.17 in the Scott Wilson Report states that these PIATCO payments appear **"not unreasonable."**[44]

The Court should award PIATCO's attendant costs in view of Scott Wilson's findings that the paid fees under clause 3.1.17 are **reasonable**.[45]

Fifth, PIATCO argues that the Court erred in reckoning the period for the interest payment only on September 11, 2006. PIATCO avers that the Court is **mistaken** in its impression that the *Republic took possession of NAIA-IPT III only on September 11, 2006.*[46]

PIATCO insists that the interest should be computed from the date of the actual taking or on December 21, 2004 when the

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[42] *Id.* at 3151-3152.

[43] *Id.* at 3153-3154.

[44] *Id.* at 3154-3155.

[45] *Id.* at 3155.

[46] *Id.*

Republic filed the expropriation complaint and **actually** took physical possession of NAIA-IPT III. According to PIATCO, the RTC order dated January 7, 2005 confirms this fact.[47]

PIATCO also argues that the Republic stubbornly refused to pay the proffered value, thus resulting in the delay of the reinstatement of the writ of possession.[48]

In the computation of interest, PIATCO further argues that the Court should consider the leap years, specifically years 2008 and 2012, with 366 days instead of just 365 days as stated in our Decision.[49]

PIATCO likewise brings to the Court's attention the *discrepancy on the dates mentioned in the Decision*. PIATCO notes the Court's statement on page 41 of the Decision that the CA reckoned the period for the computation of interest *on September 11, 2006*. However, page 42 of our Decision shows in tabular form that the CA computed the interest from December 21, 2004.[50]

According to PIATCO, the abovementioned date of "September 11, 2006" in page 41 of the Decision might have been a typographical error since the other statements in the Decision were consistent that the CA computed interest from December 21, 2004. In any case, PIATCO reiterates its position that the interest rate of 12% per *annum* should be computed from December 21, 2004.[51]

Sixth, PIATCO argues that it should *not be held liable to share the BOC expenses* in view of the Court's Decision that the Republic should solely bear the cost of expropriation. PIATCO disagrees with the Court's statement that PIATCO's voluntary

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[47] *Id.* at 3156-3162.

[48] *Id.* at 3160-3161.

[49] *Id.* at 3161-3162.

[50] *Id.* at 3162-3163.

[51] *Id.*

payment served as a waiver of its right not to share in the BOC expenses.

According to PIATCO, its payment was out of faithful compliance with the RTC's order dated March 11, 2011, directing the Republic, PIATCO and Takenaka and Asahikosan to proportionately share in the BOC's mobilization fund.[52] Consequently, PIATCO invokes the principle of *solutio indebiti* and equity in arguing that it should be refunded the ₱2.550 million that it had mistakenly paid as its share in the BOC expenses.[53]

Seventh, PIATCO argues that the Bureau of Internal Revenue's (*BIR*) present and future tax assessments against PIATCO in relation to the supply for and construction of the NAIA-IPT III should be added to the just compensation. This approach is consistent with the definition of "replacement cost" under Section 10 of RA 8974 IRR. PIATCO manifested that the BIR had intensified its harassment on PIATCO since the promulgation of our Decision.[54]

C. Asahikosan and Takenaka's motion for partial reconsideration

Takenaka and Asahikosan argue that the Court misconstrued their prayers in the petition. They clarified that they are not asking the Court to order that any part of the just compensation be paid directly to them. They are also not asserting any form of title to the NAIA-IPT III or enforcing any liens that they may have thereto.[55]

They are only asking the Court to partially reconsider its decision insofar as it ordered the direct payment to PIATCO of the computed just compensation. Takenaka and Asahikosan, as the unpaid builders and largest contractors, pray that the

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[52] *Id.* at 3163-3164.

[53] *Id.* at 3164.

[54] *Id.* at 3164-3171.

[55] *Id.* at 3087-3093.

Court also apply equity in their favor by ordering that a portion of the just compensation in the amount of at least US$85.7 million be ***set aside in escrow*** to cover for their claims in the enforcement case.[56]

IV. Comments

The Republic's Consolidated Comment

The Republic maintains that the Court correctly applied the depreciated replacement cost method in determining just compensation; that RA 8974 is not the sole basis for such determination as *Agan* held that compensation must be in accordance with ***law and equity***.[57]

The Republic insists that the award of interest is unwarranted and reiterates its arguments that PIATCO is not an innocent property owner; that the award of interest detracts from *Agan* and *Gingoyon*, which predicated compensation on "unjust enrichment."[58] The award of interest would allow PIATCO to profit from its own wrong.[59]

The Republic likewise argues that PIATCO is not entitled to be compensated for loss of its income-generating potential because the concession agreements were nullified.[60]

The Republic further resists the payment of interests, by stressing that the delay is not attributable to it.[61] Rather, the delay was caused by: (a) the private parties' deliberate refusal to provide valuation and (b) the protracted court proceedings (*i.e.*, numerous interventions, the appointment and replacements of commissioners, the appointment of appraisers, the death of Judge Gingoyon, and the appeals).[62] To place the entire weight

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[56] *Id.* at 3094-3106.

[57] *Supra* note 1, at 1284-1286.

[58] *Id.* at 1302-1303.

[59] *Id.* at 1306.

[60] *Id.* at 1312.

[61] *Id.* at 1308 and 1313.

[62] *Id.* at 1316-1328.

of delay solely on the Republic by imposing interest of $242,810,918.54 (more than half of the awarded just compensation) is neither just nor equitable.[63]

The Republic maintains that the depreciation and deterioration were properly excluded from the total amount of just compensation. NAIA-IPT III did not have the full economic and functional utility of a brand new airport.[64]

The Republic agrees that the Court correctly denied PIATCO's claim for attendant costs.[65] The Republic echoes the Court's discussion on PIATCO's secondary evidence[66] and contends that Atty. Tolentino's affidavit and the photocopied documents are hearsay evidence even if no one objected to their admissibility. [67] Moreover, the computation of the construction cost valuation already included the attendant costs.[68]

The Republic refutes PIATCO's claim for the refund of the amount it paid for the BOC expenses.[69] *First, solutio indebiti* does not apply because PIATCO voluntarily paid.[70] It cannot claim that it paid the BOC's expenses "through a misapprehension of fact."[71] *Second,* even assuming that *solutio indebiti* applies, PIATCO's claim for refund has prescribed. A quasi-contract claim must be made within six (6) years from the date of payment. In the present case, PIATCO first paid the BOC expenses in 2006; thus, the claim has prescribed.[72]

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[63] *Id.* at 1328.

[64] *Id.* at 1292.

[65] *Id.* at 1294.

[66] *Id.* at 1295-1298.

[67] *Id.* at 1297.

[68] *Id.* at 1299.

[69] *Id.* at 1331.

[70] *Id.* at 1333-1334.

[71] *Id.* at 1336.

[72] *Id.* at 1337.

Anent PIATCO's deficiency tax liability, the Republic argues that it cannot form part of just compensation.[73] PIATCO's liability arose from its filing of false returns.[74] Moreover, PIATCO failed to present proof that its deficiency tax liability is part of the replacement cost of NAIA-IPT III facilities.[75]

Finally, the Republic submits that Takenaka and Asahikosan's plea that the Court set aside a portion of the just compensation in the amount of at least US$85.7 million to cover the London Awards lacks legal basis. Besides, their claims as unpaid credits are still premature given the pendency of the enforcement case in G.R. No. 202166.[76]

PIATCO's Comment to the Republic's Motion for Reconsideration

PIATCO asserts that the Republic is not the victim in this case; that the Republic was not forced to award the NAIA-IPT III project to PIATCO; and that the Republic acted deliberately and voluntarily.[77] PIATCO insists that there is no finding in *Agan* that supports the notion that PIATCO is the "guilty party," while the Republic is the "innocent party."[78] PIATCO also stresses that the Republic voluntarily expropriated NAIA-IPT III.[79]

PIATCO refutes the Republic's reliance on the concept of *solutio indebiti*, unjust enrichment, and *quantum meruit* as standards in the computation of just compensation. Rather, and as held by the Court in *Gingoyon*, the substantive law applicable is RA 8974 and its IRR.[80]

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[73] *Id.*

[74] *Id.* at 1340.

[75] *Id.* at 1344.

[76] *Id.* at 1346.

[77] *Id.* at 1227.

[78] *Id.* at 1228.

[79] *Id.* at 1229.

[80] *Id.* at 1230-1241.

PIATCO underscores that the principle of unjust enrichment does not apply because PIATCO has not received anything from the Republic that the latter believes is not owed. Instead, it is the Republic that has taken and benefited from NAIA-IPT III, and that has withheld the just compensation due to PIATCO.[81] Thus, just compensation determined as of the time of taking correctly earns interest from the time of taking until fully paid to the property owner.[82]

Finally, PIATCO maintains that the Republic failed to establish that NAIA-IPT III was structurally defective.[83] And since the Republic is expropriating the entire terminal, then it shall also pay for the value of the "unnecessary areas."[84]

PIATCO's Comment to Takenaka and Asahikosan's Partial Motion for Reconsideration

PIATCO argues that Takenaka and Asahikosan's prayer for the Court to set aside a certain portion of the just compensation to cover the London awards lacks legal basis. Section 4(a) of RA 8974 (i.e., direct payment to the property owner) applies when the issue of ownership of the expropriated property is not disputed as in the present case.[85]

On this point, PIATCO invokes the Court's Decision where it held that "in Philippine jurisdiction, the person who is solely entitled to just compensation is the owner of the property at the time of taking. The test of who shall receive just compensation is not who built the terminal but rather who its true owner is."[86] The Court has consistently recognized that PIATCO is the owner

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[81] *Id.* at 1240.

[82] *Id.* at 1241-1252.

[83] *Id.* at 1252.

[84] *Id.* at 1253.

[85] *Id.* at 1213-1214.

[86] *Id.* at 1214.

of NAIA-IPT III. Takenaka and Asahikosan have not shown that they possess legal title to the NAIA-IPT III.[87]

PIATCO further claims that, contrary to Takenaka and Asahikosan's claim, there is no "secured valid money judgments" against it, considering that the enforcement of the London awards is still pending with the Court in G.R. No. 202166.[88]

Takenaka and Asahikosan's Comment to the Republic's Motion for Reconsideration

Takenaka and Asahikosan urge the Court to set aside, in an escrow account, a portion of the just compensation. They argue that this method would relieve the NAIA-IPT III of the biggest possible lien that could be asserted against it.[89]

While Takenaka and Asahikosan admit that the enforcement of the London awards is still awaiting decision, they propose that the Court opt for either of two actions: (1) set aside the amount of US$87.5Million; or (2) await the decision of the Second Division in the enforcement case (G.R. No. 202166).[90]

Takenaka and Asahikosan maintain that the design of the NAIA-IPT III is, and always has been, structurally sound. They insist that the Republic failed to prove its claim that the NAIA-IPT III was structurally defective.[91]

We note Takenaka and Asahikosan's *Reply*[92] reiterating their position that they are not asking to be directly paid a portion of the just compensation, but merely for the Court to set aside the amount corresponding to the London awards. They posit that if the Court does not set aside the said amount and they eventually prevail in the enforcement case, there is a danger

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[87] *Id.* at 1215-1216.

[88] *Id.* at 1217.

[89] *Id.* at 1203.

[90] *Id.* at 1205.

[91] *Id.* at 1205-1206.

[92] *Id.* at 1360-1366.

that they would not be paid if PIATCO chooses to ignore their claim and absconds with the money.

V. Our Ruling

We **partly grant** the Republic's motion for reconsideration and **deny** the partial motions for reconsideration of PIATCO and Takenaka and Asahikosan.

A. On the application of the depreciated replacement cost method in computing just compensation in the present case

We disagree with PIATCO's arguments that the application of the depreciated replacement cost method is not allowed under RA 8974.

The payment for property in expropriation cases is enshrined in Section 9, Article III of the 1987 Constitution, which mandates that no private property shall be taken for public use without payment of just compensation.[93] The measure of just compensation is **not the taker's gain, but the owner's loss**.[94] We have ruled that just compensation **must not extend beyond the property owner's loss or injury**. This is the only way for the compensation paid to be truly just, not only to the individual whose property is taken, but also to the public who shoulders the cost of expropriation. Even as undervaluation would deprive the owner of his property without due process, so too would its overvaluation unduly favor him to the prejudice of the public.[95]

To this end, statutes such as RA 8974 have been enacted, laying down guiding principles to facilitate the expropriation of private property and payment of just compensation.[96]

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[93] *NPC v. Tuazon, et al.*, 668 Phil. 301, 312 (2011).

[94] *Republic v. Asia Pacific Integrated Steel Corp.*, G.R. No. 192100, March 12, 2014, 719 SCRA 50, 63.

[95] *B.H. Berkenkotter & Co. v. Court of Appeals*, G.R. No. 89980 December 14, 1992, 216 SCRA 584, 586.

[96] Also see RA 6657, otherwise known as the Comprehensive Agrarian Reform Program, and RA 6395, or the legislative charter of the National Power Corporation.

However, we must bear in mind that the determination of just compensation is primarily a judicial function that may not be usurped by any other branch or official of the Republic. In *National Power Corporation v. Bagui*,[97] this Court ruled that any valuation for just compensation laid down in the statutes may serve **only as a guiding principle** or one of the factors in determining just compensation but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount. In fact, in *National Power Corporation v. Purefoods Corporation*,[98] we held that just compensation standards derived from statutes such as RA 8974, are not binding on this Court.

The nature of the provisions in RA 8974 as mere guidelines to this Court, as opposed to being mandatory rules, cannot be denied. *First,* while Section 10, RA 8974 IRR uses the word "shall" in referring to the use of the replacement cost method in determining valuation of the improvements and/or structures on the land to be expropriated, connoting that such use is mandatory, the directive/mandate is *addressed, not to this Court, but to the Implementing Agency*[99] or the department, bureau,

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[97] 590 Phil. 424, 434-435 (2008), citing *Export Processing Zone Authority v. Dulay,* G.R. No. 59603, April 29, 1987, 149 SCRA 305.

[98] 586 Phil. 587, 603 (2008), citing *Land Bank of the Philippines v. Celada,* 515 Phil. 467 (2006). This Court held, "While Section 3(a) of R.A. No. 6395, as amended, and the implementing rule of R.A. No. 8974 indeed state that only 10% of the market value of the property is due to the owner of the property subject to an easement of right-of-way, said rule is not binding on the Court. Well-settled is the rule that the determination of just compensation in eminent domain cases is a judicial function."

[99] Section 10, RA 8974 IRR provides, "Pursuant to Section 7 of the Act, **the Implementing Agency shall** determine the valuation of the improvements and/or structures on the land to be acquired using the replacement cost method. The replacement cost of the improvements/ structures is defined as the amount necessary to replace improvements/ structures, based on the current market prices for materials, equipment, labor, contractor's profit and overhead, and all other attendant costs associated with the acquisition and installation in place of the affected improvements/ structures. In the valuation of the affected improvements/structures, the

office, commission, authority, or agency of the national government, including any government-owned and -controlled corporation or state college or university, concerned and authorized by law or its respective charter to undertake national government projects.[100] *Second*, Section 13, RA 8974 IRR explicitly states that the court *shall* determine the just compensation to be paid to the owner of the property, *considering* the standards set out in Sections 8, 9, and 10 thereof.[101] Clearly, the Court may consider the guidelines set, but it cannot be bound by these guidelines.

At best, any finding on just compensation using the methods set forth in the statute is merely a preliminary determination by the Implementing Agency, subject to the final review and determination by the Court. While we may be guided by the replacement cost of the property, just compensation will be ultimately based on the payment due to the private property owner for his actual loss — the fundamental measure of just compensation compliant with the Constitution.[102]

Implementing Agency shall consider, among other things, the kinds and quantities of materials/equipment used, the location, configuration and other physical features of the properties, and prevailing construction prices." (Emphasis supplied)

[100] See Section 2 (b), RA 8974 IRR.

[101] Section 13, RA 8974 IRR provides, "Payment of Compensation — Should the property owner concerned contest the proffered value of the Implementing Agency, the Court shall determine the just compensation to be paid by the owner within sixty (60) days from the date of filing of the expropriation case, **considering the standards set out in Sections 8, 9 and 10 hereof,** pursuant to Section 5 of the Act. When the decision of the Court becomes final and executory, the Implementing Agency shall pay the owner the difference between the amount already paid as provided in Section 8 (a) hereof and **the just compensation determined by the Court,** pursuant to Section 4 of the Act." (emphasis supplied)

[102] *Manansan v. Republic of the Philippines*, 530 Phil. 104, 117-118 (2006); *Eslaban, Jr. v. Vda. de Onorio*, 412 Phil. 667 (2001); *Bank of the Philippine Islands v. CA*, 484 Phil. 601 (2004); *National Power Corp. v. Manubay Agro-Industrial Development Corporation*, 480 Phil. 470 (2004), citing *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, 256 Phil. 777 (1989).

Further, when acting within the parameters set by the law itself, courts are not strictly bound to apply the formula to its minutest detail, particularly when faced with situations that do not warrant the formula's strict application. The courts may, in the exercise of their discretion, relax the formula's application to fit the factual situations before them.[103]

In the present case, we adopted the depreciated replacement cost method as a guideline in the computation of just compensation; at the same time, we reconciled this method with our duty to award just compensation as a constitutional mandate to compensate the owner with his *actual loss*.[104]

In our Decision, we compared the different replacement cost methods,[105] such as the **replacement cost new method** and the **depreciated replacement cost method.** Notably, these are recognized methods in appraising properties.

As we clearly explained, we did not adopt the *new replacement cost method* because in doing so, PIATCO would be compensated for *more than it actually lost*.[106] We emphasize our ruling that "*[i]njustice would result if we award PIATCO just compensation based on the new replacement cost of the NAIA-IPT III, and disregard the fact that the Republic expropriated a terminal that is not brand new; the NAIA-IPT III simply does not have the full economic and functional utility of a brand new airport.*" [107]

We therefore ruled that PIATCO would be compensated for its **actual loss** if we adopt the ***depreciated replacement cost approach***.[108] It is defined as a "method of valuation which provides the current cost of replacing an asset with its modern

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[103] *Land Bank of the Philippines v. Eusebio, Jr.*, G.R. No. 160143, July 2, 2014, 728 SCRA 447.

[104] *Supra* note 1, at 966.

[105] *Id.* at 960-963.

[106] *Id.* at 967.

[107] *Id.* at 966.

[108] *Id.* at 1031.

equivalent asset *less deductions for all physical deterioration and all relevant forms of obsolescence and optima[z]ation.*"[109]

Adjustments for depreciation should be made to reflect the differences between the modern equivalent asset and the actual asset or the NAIA-IPT III. The reason is that depreciation involves the loss of value caused by the property's reduced utility as a result of damage, advancement of technology, current trends and tastes, or environmental changes.[110]

PIATCO, however, argues that depreciation begins when the asset is available for use and continues until the asset is derecognized and, as such, NAIA-IPT III could be subject to depreciation only in the hand of the Republic after the Republic operated it, which took place after the taking on December 21, 2004.[111]

In our Decision, we clarified the difference between "depreciation" in the contexts of valuation and financial accounting. In financial accounting, depreciation is a process of allocating[112] the cost of a plant asset over its useful (service) life.[113] The need exists to determine when an asset is available for use in order to identify the periods within which cost must be allocated.

Depreciation in valuation/appraisal, on the other hand, is the "reduction or writing down of the cost of a modern equivalent asset to reflect the obsolescence and relative disabilities affecting the actual asset" or "loss in any value from any cause."[114] Hence, for purposes of appraisal, an asset may not yet be available for use within the context of financial accounting, but its value

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[109] *Id.* at 963. (emphasis added)

[110] *Id.* at 966-967.

[111] *Supra* note 39.

[112] *Supra* note 1, at 999.

[113] *Id.*

[114] *Id.*

has nevertheless depreciated due to factors affecting its intended use and function.

In sum, even *assuming* PIATCO's claim that an asset only begins to depreciate when it is available for use (that is, the NAIA-IPT III only began to depreciate when the Republic filed the expropriation complaint on December 21, 2004, not on December 2002 when construction was suspended), is *accurate*, we are not precluded from adopting a method that is more in line with the settled jurisprudence that the measure of the award of just compensation is the owner's *actual loss and not the taker's gain.*

In these lights, we maintain our ruling that **the depreciated replacement cost applies** in computing just compensation in the present case. In applying this method, the owner is compensated for his actual loss at the date of taking of the expropriated property. Consequently, the deduction from the construction cost of the deterioration and depreciation items is permissible under RA 8974.

B. PIATCO's arguments against the Gleeds'computation of the deterioration items

We also disagree with PIATCO's argument that Gleeds could not have correctly computed the deterioration items of the NAIA-IPT III structure from December 2002 to December 2004 because Gleeds first visited NAIA-IPT III only in May 2006. PIATCO adds that Gleeds failed to show how the sums for deterioration were derived, and Scott Wilson stated that Gleeds' computation did not **seem** fair and reasonable.

We find that the Gleeds Report contains sufficient explanation on the methodology that Gleeds followed in arriving at its conclusion on deterioration since the suspension of the NAIA-IPT III's construction in December 2002.

At pages 2 and 28 of Gleeds Report dated November 15, 2010, Tim Lunt stated that:[115]

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[115] *Rollo*, G.R. No. 209917, Volume I, pp. 582, 607-608.

1.1 Instructions

x x x x x x x x x

1.1.2

- With the help of the Republic's airport architectural and engineering experts, determine the cost to remedy the deterioration in the Terminal 3 facility stemming from the suspension of work in early 2002 x x x.

Deterioration

x x x x x x x x x

3.2.7 The Arup Site Observation Report identifies a number of items which have deteriorated since suspension of the construction of Terminal 3 in December 2002.

3.2.8 A provisional value has been assessed against the items identified in the Arup report at $1,738,318. The deterioration items have been costed with a base date of 2Q09. Calculation of this amount is contained in Appendix 'E.' Further examination and costing of each of the identified items are required and, therefore, the costs of these items will require adjustment based on the actual date when the rectification works are carried out.

At pages 26-27 of the Scott Wilson Report dated December 1, 2010,[116] Scott Wilson replied to the above Gleeds findings. Scott Wilson commented that the sum arrived at had no documentary support. Thus:

3.6.1 Gleeds have deducted from the Base Value CCV deterioration items made up as follows x x x.

3.6.2 The major deduction is for the baggage system but the Gleeds document does not show how any of these sums are derived.

3.6.3 It is noted the baggage system requirements was to handle 8000 bags per hour. According to section 8.3 of the Arup March 2007 report that following 9/11 that significant changes were made to the Employers Requirements to

[116] *Rollo*, G.R. No. 209731, Volume II, pp. 1754-1755.

> incorporates (*sic*) alternative screening technology, requiring a reduced capacity of 6500 bags per hour (Section 8.3.3.4 Arup March 2007 Report) and testing showed it handling between 6250 to 6500 bags per hour.
>
> 3.6.4 Of the 80 items listed against the baggage system in Volume 2, Section K of the Arup March 2007 none are noted as Non Code Compliant, 10 fall under the "Not Best Practice" headings. There are none in the "Does Not Confirm to Technical Requirements."
>
> 3.6.5 **We therefore do not understand how the above reduction of US$1.13 million has been derived and it <u>does not seem fair and reasonable</u>.** (emphasis supplied)

PIATCO relies on the above statement of Scott Wilson that Gleeds' computation of deterioration "does not seem fair and reasonable."

PIATCO's reliance on the Scott Wilson's findings was misplaced. Scott Wilson's statement on the unreasonableness of Gleeds' computation only pertains to the baggage handling item out of the seven (7) deterioration items.

At any rate, Gleeds sufficiently showed how it arrived at the amount of deterioration. We quote Gleeds' answer in page 16 of its Reply dated December 22, 2010[117] to the Scott Wilson Report, as follows:

> 54. The cost associated with deterioration are (*sic*) set out in Appendix E, Part 1 of the CCV. The detailed calculation of the amounts for deterioration was included in the Appendices to the CCVs. **Scott Wilson does not appear to have been provided with the relevant appendices to my CCV**. The cost of deterioration to the baggage handling system is shown in the detailed calculation. The total deduction from the CCV associated with deterioration is US$1,738,318.

We therefore maintain our ruling applying the depreciated replacement cost method to serve the purpose of just compensation, which is to compensate the owner for his actual loss.

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[117] *Id.*, Volume I, p. 1113.

C. The arguments of the Republic and PIATCO on the imposition of interest

Before we separately address the Republic and PIATCO's arguments, we first expound on the reason for the imposition of interest in case of delay in the payment of just compensation. While we have exhaustively discussed in our Decision the legal and jurisprudential bases for the imposition of interest,[118] we find it helpful to review the basic facts of the case and highlight key legal concepts that can illuminate our ruling.

We stress that the Republic **chose** to expropriate the NAIA-IPT III, and was fully cognizant of the legal and practical effects of filing an expropriation complaint. After choosing this legal remedy, the Republic cannot now disclaim knowledge or feign ignorance of the implications of this choice in an attempt to evade paying interest.

□ ***The Republic owes PIATCO a specific sum of money.***

We remind the Republic that PIATCO, through its subcontractors, built the NAIA-IPT III.

The Republic later took over the NAIA-IPT III in the exercise of its power of eminent domain. By so doing, the Republic became legally obliged to pay PIATCO the value of the property taken. This obligation arises from the constitutional mandate that private property shall not be taken for public use without just compensation.[119]

Subsequently, the Court determined the monetary value of the NAIA-IPT III, which sum the Republic now owes PIATCO as payment for the NAIA-IPT III. In short, it is currently *indebted* to PIATCO for the monetary value of the NAIA-IPT III *less* the proffered value.

□ ***The Republic has not yet fully paid its debt.***

The Republic took over the NAIA-IPT III on September 11, 2006 upon payment of the proffered value. The Republic's

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[118] *Supra* note 1, at 1006-1011.

[119] CONSTITUTION, Article III, Section 9.

possession of the NAIA-IPT III had twin effects: (1) PIATCO was effectively deprived of the possession of the property; and (2) PIATCO's right to the payment of the just compensation accrued as a matter of right.

Applying Section 10 of Rule 67, we held in our Decision that the condemnor incurs delay if it does not pay the property owner the full amount of just compensation on the date of taking.[120] This rule requires the Republic to perform two essential acts in order *not* to incur delay: (1) pay the full amount of just compensation and (2) pay the full amount of just compensation on time, *i.e.*, on the date of taking.

Upon its failure to pay, the Republic has been in *continuing delay*, which delay carries legal consequences.

□ ***As a consequence of the Republic's continuing delay in paying the full amount of just compensation, it is legally obliged to pay interest.***

As explained in our Decision, "the interest in eminent domain cases runs *as a matter of law* and follows *as a matter of course* from the right of the [owner] to be placed in as good a position as money can accomplish, *as of the date of taking.*"[121]

We also recognized that the just compensation due to the property owner is effectively a *forbearance of money*.[122] Forbearance of money refers to "arrangements other than loan agreements, where a person acquiesces to the temporary use of his money, goods or credits pending happening of certain events or fulfillment of certain conditions."[123]

In such arrangements, "the [*creditors*] are entitled not only to the return of the principal amount paid, but also to compensation for the use of their money. And the compensation for the use

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[120] *Supra* note 1, at 1007. See footnote 338 of the Decision.

[121] *Id.* at 1008. (citation omitted, emphasis supplied)

[122] *Id.* at 1010, citing *Republic v. Court of Appeals.*

[123] *Estores v. Spouses Supangan*, 686 Phil. 86, 97 (2012).

of their money, absent any stipulation, should be the same rate of legal interest applicable to a loan since the use or *deprivation of funds is similar to a loan.*"[124]

Applying these concepts in the present case; it can readily be seen that *PIATCO "acquiesced" to the temporary use of its money* (the monetary value of NAIA-IPT III) *by the Republic while the expropriation case was pending*. We note that during the pendency of the expropriation case, PIATCO had already been dispossessed of NAIA-IPT III but had not yet received the monetary equivalent of the property taken from it.

Plainly, PIATCO is entitled to the award of interest as compensation for the use of *its money*, computed from the time of taking of the NAIA-IPT III until full payment of the just compensation.

As we also noted in the Decision, Central Bank Circular No. 905, later amended by BSP Circular No. 799, provides for the rate of legal interest for forbearance of money (*i.e.*, from 12% per annum to 6% per annum, effective July 1, 2013).

In sum, **the Republic owes PIATCO the unpaid portion of the just compensation and the interest on that unpaid portion, which interest runs from the date of taking (September 11, 2006) until full payment of the just compensation.** Thus, any argument that wholly or partly assails this legal conclusion must fail.

C.1. On the Republic's argument that PIATCO is not entitled to the interest award on the unpaid portion of the just compensation because the traditional notion of expropriation is inapplicable.

The Republic alleges that the traditional notion of expropriation is inapplicable in the present case and that the principles of restitution and unjust enrichment should apply, supposedly pursuant to *Agan* and *Gingoyon*.

[124] *Id.* (emphasis supplied)

The Republic's contention lacks merit.

In our 2004 *Agan* Resolution, we held that *"[f]or the Republic to take over the said facility, it has to compensate respondent PIATCO as builder of the said structures. The compensation must be just and in accordance with law and equity for the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors."*[125]

The statement in our 2004 *Agan* Resolution that the *"Republic cannot unjustly enrich itself at the expense of PIATCO and its investors"* should be understood in a way consistent with its preceding statement that *"[f]or the Republic to take over the said facility, it has to compensate respondent PIATCO as builder of the said structures."* We would read too much in the above *Agan* pronouncement if we adopt the Republic's view that the Court had already envisioned the applicability of the principles of restitution and unjust enrichment on the yet unfiled expropriation case.

We should remember that the core of *Agan* was **merely** the nullification of the concession agreements. The Republic had not yet taken any legal step at that point to acquire the NAIA-IPT III; hence, the Court could not have validly and finally ruled in *Agan* on the applicable laws in relation to the Republic's acquisition of the NAIA-IPT III. The statement in *Agan* merely instructs that the Republic cannot take over the NAIA-IPT III without paying PIATCO compensation for the structure to avoid the Republic's unjust enrichment at the expense of PIATCO and its investors.

It is undisputed that **the Republic subsequently chose to acquire the NAIA-IPT III by exercising its power of eminent domain** when it filed its expropriation complaint on December 21, 2004. The RTC's several early rulings in this expropriation case led to *Gingoyon*.

We ruled in *Gingoyon* that *"[i]n addition to Rep. Act No. 8974, the 2004 Resolution in Agan also mandated that the*

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[125] *Supra* note 9.

payment of just compensation should be in ***accordance with equity as well****. Thus, in ascertaining the ultimate amount of just compensation, the duty of the trial court is to ensure that such amount conforms not only to the law, such as Rep. Act No. 8974, but to principles of equity as well."*[126]

In our Decision now on reconsideration, *we simply pursued the above directive in Gingoyon*. Specifically, we applied the *law*, RA 8974, *and equity* in: (1) adopting the depreciated replacement cost method in computing just compensation; and (2) adjusting the computed 2002 replacement cost of NAIA-IPT III to its 2004 value.

By adopting the depreciated replacement cost method, we took into consideration that the Republic did not expropriate a brand new airport at the time of taking on December 21, 2004.[127] Similarly, we considered that PIATCO should be compensated for the 2004 value of the airport by adjusting the 2002 computed construction cost to its 2004 value by using the consumer price index.[128]

In applying RA 8974 and equity in our computation of just compensation, **we** *thus complied with the mandate of Agan* that the Republic cannot unjustly enrich itself at the expense of PIATCO and its investors. We did this by ordering the Republic to pay just compensation, *in the context of expropriation, which the Republic itself filed to acquire the NAIA-IPT III.*

In applying *Agan* and *Gingoyon*, we also fulfilled our duty to award compensation that is fair and just both to the Republic and PIATCO.

Consequently, we cannot adopt Justice Panganiban's concurring opinion in *Agan* prescribing the application of the principle of *quantum meruit*; his opinion — it should be noted — had never been made a part of the majority decision.

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[126] *Supra* note 17, at 696.

[127] *Supra* note 1, at 966.

[128] *Id.* at 1005.

In these lights, we deny the Republic's argument that we should not impose interest on the just compensation award to PIATCO.

C.2. On the Republic's argument that PIATCO is not entitled to the interest award in view of PIATCO's bad faith, leading to the nullification of the concession agreement.

We remind the Republic that what it filed before the RTC was an action for expropriation. Hence, there is no reason to doubt that the Republic was fully aware of the *legal realities* (*i.e.*, the law, rules and prevailing jurisprudence governing expropriation cases) attendant to such filing. We thus reject any opposition to the imposition of interest that has no relation to the settled rules on expropriation, such as PIATCO's alleged bad faith.

In expropriation cases, our jurisprudence has established that interest should be paid on the computed just compensation due when delay in payment takes place, *i.e., regardless* of PIATCO's *alleged* bad faith in contracting with the Republic.

We have consistently ruled that just compensation does not only refer to the full and fair equivalent of the property taken; it also means, equally if not more than anything else, payment in full without delay.[129] The basis for the imposition of interest in cases of delay is none other than our Constitution which commands the condemnor to pay the property owner the *full and fair equivalent* of the property *from the date of taking.* This provision likewise presupposes that the condemnor incurs *delay* if it does not pay the property owner the *full amount of just compensation on the date of taking.*[130]

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[129] *Secretary of the Department of Public Works and Highways v. Sps. Tecson*, G.R. No. 179334, April 21, 2015.

[130] RA 8974 is silent on the reckoning period of interests in the expropriation of property for national infrastructure projects. Pursuant to Section 14 of RA 8974 IRR, the Rules of Court suppletorily applies. In this respect, Section 10, Rule 67 of the Rules of Court provides:

In other words, interest on the unpaid compensation becomes due as compliance with the constitutional mandate on eminent domain and as a basic measure of fairness.[131] The owners' loss is not only his property but also its income-generating potential.[132]

We disagree with the Republic's position that PIATCO's bad faith in the nullified concession agreements should negate any award of interest in its favor. We disagree, too, with the Republic's argument that PIATCO has no income-generating capacity as it no longer has the right to operate the NAIA-IPT III under the nullified concession agreements.

In advancing these arguments, the Republic confuses its *right of action arising from the nullification of the concession agreement and its right of action arising from the exercise of its power of eminent domain.* These two rights of action are totally distinct from each other, giving rise to distinct rights and obligations among the parties to the case, and prescribing distinct proceedings before the courts.

Section 10. Rights of plaintiff after judgment and payment. — Upon payment by the plaintiff to the defendant of the compensation fixed by the judgment, with legal interest thereon from the taking of the possession of the property, or after tender to him of the amount so fixed and payment of the costs, the plaintiff shall have the right to enter upon the property expropriated and to appropriate it for the public use or purpose defined in the judgment, or to retain it should he have taken immediate possession thereof under the provisions of Section 2 hereof. If the defendant and his counsel absent themselves from the court, or decline to receive the amount tendered, the same shall be ordered to be deposited in court and such deposit shall have the same effect as actual payment thereof to the defendant or the person ultimately adjudged entitled thereto. (10a) (underscoring supplied)

However, even without this provision, interest on just compensation will still accrue on the date of taking since the Section 9, Article III of the 1987 Constitution provides that just compensation must be paid on the date of taking.

[131] *Id.*

[132] *Apo Fruits Corporation v. Land Bank of the Philippines*, 647 Phil. 251, 276 (2010).

At the risk of repetition, we stress that *the Republic availed of the remedy of expropriation* rather than a case arising from the nullification of contract. Thus, issues such as PIATCO's bad faith resulting in the nullification of the concession agreements may not be properly considered in the present case.

Since the Republic *chose* to file the present expropriation case to acquire NAIA-ITP III, we are bound to follow the appropriate expropriation proceeding, the settled jurisprudence in expropriation case, and use the applicable expropriation laws and rules as guiding principles.

For these reasons, we maintain our ruling imposing interest on the computed just compensation (less the proffered value).

C.3. On the Republic's argument that PIATCO is not entitled to the interest award as it caused the delay in the computation of just compensation.

We now resolve the Republic's argument that PIATCO is not entitled to interest, as it is guilty of delay in the expropriation proceedings for the computation of just compensation.

In pursuing this argument, the Republic forgets that the *delay* in the *payment* of just compensation, *and not the delay in the proceedings for its computation*, is the legal basis for the imposition of interest on the unpaid just compensation.

In our Decision, we imposed the interest on the unpaid just compensation starting September 11, 2006 when the writ of possession granted in favor of the Republic became effective. We ruled that, in view of the effectivity of the writ of possession on September 11, 2006, *the Republic effectively deprived PIATCO of the ordinary use of the NAIA-IPT III as of this date*[133] and PIATCO could no longer exercise all the attributes of ownership over NAIA-IPT III, particularly the right of possession.

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[133] *Supra* note 1, at 1028.

In expropriation cases, the State must pay for the shortfall in the earning potential immediately lost due to the taking, and the absence of a replacement property from which income can be derived. We established this rule in order to comply with the constitutional mandate that the owner of the expropriated property must be compensated for his actual loss; the income-generating potential is part of this loss and should therefore be fully taken into account.[134]

Clearly, the concept of delay for purposes of the imposition of interest on the unpaid just compensation is based on the *effect on the owner's rights* of the Republic's non-payment of the full amount of just compensation at the date the possession and effective taking of the expropriated property took place.

While the delay in the computation of just compensation (because of the protracted proceeding) may also delay the payment of just compensation, we note that, in this case, the delay was *not* entirely attributable to any particular party, *i.e.*, to PIATCO and/or Takenaka and Asahikosan, as the Republic contends. The "delay" arose because all the parties to the case had *taken procedurally permissible steps* in order to protect their respective interests; the complexity, too, of appraising a specialized property like the NAIA-IPT III cannot likewise be discounted.

We remind the Republic that the computation of just compensation is not always a simple affair and may take time, particularly in the case of a specialized property like the NAIA-IPT III. Delay should not be imputed on the owner alone unless it delayed the proceedings purposely and unreasonably. The facts of the present case do not show that neither PIATCO nor Takenaka and Asahikosan purposely and unreasonably acted to cause delay. The more tenable view is that all the parties took remedial measures, within legitimate and reasonable limits, to protect their respective claims, thus, the belated determination of the just compensation.

For all these reasons, the Republic would have to pay the amount of just compensation computed as of the date of the

[134] *Id.* at 1007.

effective taking (December 21, 2004) plus the interest which runs from the date it took possession and *actually* took over the property (September 11, 2006), regardless of the perceived delay in the determination of just compensation.

C.4 PIATCO's arguments on the reckoning period of the interest award from September 11, 2006

We now address PIATCO's arguments on the imposition of interest on the unpaid just compensation awarded to it.

PIATCO first questions the reckoning period of the interest that we imposed on the unpaid just compensation. PIATCO argues that since the Republic *actually* took possession of NAIA-IPT III on December 21, 2004 (the date of filing of the complaint for expropriation), then it should be the reckoning period of the interest payment and *not* on September 11, 2006 when the writ of possession was reinstated. Furthermore, the delay in the payment of the proffered value on September 11, 2006 was due to the Republic's fault, which should not prejudice PIATCO.

We do not find PIATCO's arguments persuasive.

PIATCO's unsupported claim that the Republic *actually* took possession of the NAIA-IPT III on December 21, 2004 cannot be a valid basis for us to reckon the accrual of the interest on that date.

We cannot also accord merit to PIATCO's reliance on the RTC's order dated January 7, 2005 where it stated that the Republic actually took possession of NAIA-IPT III on December 21, 2004.

We note that the RTC issued its January 7, 2005 order *without motion and hearing*[135] from which it could properly infer its *factual* statement on the Republic's actual possession of the NAIA-IPT III on December 21, 2004.

Significantly, *Gingoyon* noted that this January 7, 2005 order was issued without prior consultation with either the Republic

[135] *Supra* note 2, at 11.

or PIATCO.[136] Furthermore, we note that the Republic's alleged possession was not the issue resolved in the RTC order; the crux of the order was the RTC's appointment of commissioners.

Gingoyon is the case that settled the basis and standards for the *effectivity of the writ of possession in favor of the Republic.* In ruling, therefore, that the interest should be reckoned from September 11, 2006, our basis was our final and executory ruling in *Gingoyon*, which is undisputably applicable in the present case.

To recall, the writ of possession was the subject of two (2) conflicting RTC orders — the first was the December 21, 2004 order based on Rule 67; the second was the January 4, 2005 order based on RA 8974 instead of Rule 67.

The January 4, 2005 order ***supplemented*** the December 21, 2004 order and effectively imposed more stringent requirements as conditions for the effectivity of the December 21 writ of possession. Notably, the Republic, pending *Gingoyon*, did not have to comply with the conditions in the January 4, 2005 order as we had issued in its favor a temporary restraining order and preliminary injunction against its implementation. The effectivity of the writ of possession was therefore *still then* at issue in *Gingoyon*.

In *Gingoyon*, we reconciled *Agan*, RA 8974 and Rule 67 in: (1) resolving the *effectivity of the writ of possession* issued in favor of the Republic; and (2) determining the standards in computing just compensation. We pointed out that the RTC erroneously relied on Rule 67 in issuing the December 21, 2004 writ of possession; we also ruled on the RTC's misapplication of RA 8974 in issuing the January 4, 2005 order.

On the pre-requisites for the effectivity of the writ of possession, we ruled that RA 8974 *guarantees compliance* with the *Agan* requirement that just compensation be first paid to PIATCO before the Republic could take-over the NAIA-IPT III. Specifically, RA 8974 assures the private property owner

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[136] *Supra* note 17.

the payment of, *at the very least*, the proffered value of the property to be seized. We also ruled that *the payment of the proffered value to the owner, followed by the issuance of the writ of possession* in favor of the Republic, is precisely the scheme under RA 8974, one that facially complied with the prescription laid down in the 2004 *Agan* Resolution.

Consequently, in *Gingoyon, we held in abeyance the writ of possession dated December 21, 2004* pending proof of the Republic's actual payment to PIATCO of the proffered value of the NAIA-IPT III of ₱3,002,125,000.00. *We expressly ruled that the Republic would be entitled to the writ of possession only once it pays PIATCO the amount of the proffered value.*

On the effects of an effective writ of possession, we also held in Gingoyon that *upon the effectivity of the writ of possession, the Republic is authorized to perform the acts that are essential to the operation of the NAIA-IPT III as an international airport terminal.* These acts include the repair, reconditioning, and improvement of the complex, maintenance of the existing facilities and equipment, installation of new facilities and equipment, provision for services and facilities pertaining to the facilitation of air traffic and transport, and other services that are integral to a modern-day international airport.[137]

It is undisputed that **the Republic tendered to PIATCO the proffered value on September 11, 2006, *leading to the reinstatement of the writ of possession in favor of the Republic on the same day.***[138]

Thus, applying *Gingoyon*, we ruled in our Decision now under challenge, that *the reinstatement of the writ of possession on September 11, 2006 empowered the Republic to take the property for public use, and to effectively deprive PIATCO of the ordinary use of the NAIA-IPT III.*[139]

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[137] *Id.* at 717.

[138] *Rollo*, G.R. No. 209696, Volume I, p. 331.

[139] *Supra* note 1, at 1028.

Based on these considerations, we maintain our ruling that the interest on the just compensation (less proffered value) should accrue only from September 11, 2006 when the Republic effectively deprived PIATCO of the ordinary use of the NAIA-IPT III.

C.5 On PIATCO's arguments that it should not be prejudiced by the Republic's delay in paying the proffered value

We disagree with PIATCO that the Republic deliberately refused to pay the proffered value, resulting in the delay of its payment.

We find that the Republic's filing of the *Gingoyon* case was a reasonable legal move in view of the two (2) RTC orders relative to the effectivity of the writ of possession. These two orders contained different bases, amounts, and modes for payment for purposes of the effectivity of the writ of possession. Furthermore, we note that in *Gingoyon*, we issued a temporary restraining order and preliminary injunction against the RTC order dated January 4, 2005 and only lifted the TRO in our decision dated December 19, 2005.

We further note that we resolved the motion for reconsideration in *Gingoyon* on February 1, 2006. Thereafter, supervening events occurred that delayed the payment of the ₱3 billion proffered value. Thus:

- On April 11, 2006, the RTC ordered the BOC to resume its duties.
- On April 26, 2006, the Republic asked the RTC to stop the payment of ₱3 billion proffered value in view of an alleged supervening event — the collapse of the ceiling of the arrival lobby section of the north side of the NAIA-IPT III on March 27, 2006. The Republic informed the Court that the MIAA requested the Association of Structural Engineers of the Philippines (*ASEP*) to investigate the cause of the collapse. [140]

[140] *Id.*

- On June 20, 2006, the RTC ordered Land Bank to immediately release the amount of ₱3 billion to PIATCO. The RTC ruled that the collapse of a portion of the NAIA-IPT III was not a supervening event that would hinder the payment of the proffered value to PIATCO. *In compliance with this order, the Republic tendered to PIATCO a ₱3 billion check on September 11, 2006. On the same day, the RTC reinstated the writ of possession in favor of the Republic*.[141]

In view of these RTC proceedings prior to the payment of the ₱3 billion proffered value on September 11, 2006, we cannot agree with PIATCO that the Republic *deliberately refused to pay* this amount. The supervening events leading to the Republic's filing of cases and motions before the RTC and the lapse of less than three (3) months from the RTC's order to release the ₱3 billion proffered value until its payment are reasonable developments in the case that could not be taken against the Republic.

C.6 On PIATCO's arguments that the computation of interest should consider leap years 2008 and 2012

We now resolve PIATCO's argument that the interest awarded to it should include leap years. According to PIATCO, the Court may have failed to consider the leap years, specifically years 2008 and 2012, where there were supposed to be 366 days instead of just 365 days as stated in the Decision.

We disagree with PIATCO's contention.

We compute interest rates of 12% or 6% per *annum* on a yearly basis, as the term suggests, without distinguishing whether it is a leap year or not. While our computation on pages 123-124 of our Decision indicated that 2008 and 2012 had 365 days, we computed the 12% per *annum* interest equivalent to one whole year of interest for these years.

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[141] *Id.* at 910.

Notably, Article 13 of the New Civil Code states that *"when the laws speak of years, it shall be understood that years are of three hundred sixty-five days each."* Since our interest rate is applied on a per *annum* basis or per **year** basis, we apply the general rule that the imposition of interest rate per *annum* means the imposition of the *whole interest rate for one whole* **year**, regardless if it is composed of 365 or 366 days.

Nevertheless, we correct pages 123-124 of the Decision to reflect the proper number of days in years 2008 and 2012, which is 366 days.

C.7 On PIATCO's reference to the typographical errors in our Decision on the CA's ruling on interest

We agree with PIATCO's observation that the correct CA's ruling was its computation of interest starting December 21, 2004 as reflected at page 42 of our decision. Hence, we correct page 41 of our decision to read as follows:

Interest. The CA further held that interest shall be added to just compensation as of December 21, 2004. xxx

Nevertheless, for reasons already explained above, we maintain our ruling that the reckoning period for the computation of interest on the just compensation is September 11, 2006.

D. PIATCO's arguments on the attendant costs

We disagree with PIATCO's argument that the Court should have considered the photocopies of PIATCO's documents supporting attendant costs.

PIATCO cannot rely on the affidavit of Atty. Tolentino who allegedly identified the photocopied documents supporting attendant costs. The Court observed that *the alleged affidavit of Atty. Tolentino does not have any signature above his name as the affiant.*[142] Hence, his affidavit cannot be said to have at

[142] *Rollo,* G.R. No. 209731, Volume I, p. 547.

least substantially complied with the requirements laid down in Sections 3 (a), (b), and/or (d) of Rule 130 of the Rules of Court for the admissibility of photocopies as secondary evidence.

We therefore maintain our ruling that PIATCO's documents allegedly supporting the attendant costs are hearsay evidence.[143]

With respect to the effect of the alleged non-objection of the parties to the presentation of these photocopy documents, we have ruled in *PNOC Shipping and Transport Corporation v. CA, et al.*[144] that a hearsay evidence has no probative value and should be disregarded *whether objected to or not*.

The courts differ as to the weight to be given to hearsay evidence admitted without objection. Some hold that when hearsay has been admitted without objection, the same may be considered as any other properly admitted testimony. **Others maintain that it is entitled to no more consideration than if it had been excluded.**

The rule prevailing in this jurisdiction is the latter one. Our Supreme Court held that although the question of admissibility of evidence cannot be raised for the first time on appeal, yet **if the evidence is hearsay it has no probative value and should be disregarded whether objected to or not.** "If no objection is made" — quoting Jones on Evidence — "it (hearsay) becomes evidence by reason of the want of such objection even though its admission does not confer upon it any new attribute in point of weight. **Its nature and quality remain the same, so far as its intrinsic weakness and incompetency to satisfy the mind are concerned, and as opposed to direct primary evidence, the latter always prevails.**

The failure of the defense counsel to object to the presentation of incompetent evidence, like hearsay evidence or evidence that violates the rules of *res inter alios acta*, or his failure to ask for the striking out of the same does not give such evidence any probative value. But admissibility of evidence should not be equated with weight of evidence. Hearsay evidence whether objected to or not has no probative value. (Emphasis supplied)

Notably, the BOC, the RTC, and the CA unanimously disregarded PIATCO's documents in considering the attendant

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[143] *Supra* note 1, at 994.

[144] 358 Phil. 38, 59-60 (1998).

costs in their respective computations of the just compensation. The BOC and the RTC awarded the attendant costs based only on industry practice because PIATCO failed to substantiate its claimed attendant costs.

More importantly, we reiterate that we cannot give weight to the summary prepared by Reyes, Tacandong & Co. for being double hearsay. Aside from failing to state that it examined the original documents allegedly proving attendant costs, it also stated that it did not "express any assurance on the attendant costs."[145] Thus, our ruling on attendant costs remains.

D.1 On PIATCO's statement that the Court misquoted item 3.1.17 of the Scott Wilson Report on attendant costs

We now address PIATCO's averment that the Court should revisit its ruling on the attendant costs as we misquoted item 3.1.17 of the Scott Wilson Report at page 99 of our Decision.

The quote in our Decision states that PIATCO paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC, and these payments appear **"not reasonable."** PIATCO pointed out that the correct phrase is **"not unreasonable."** Hence, we should award the attendant costs on the basis of the Scott Wilson's finding that these are **reasonable.**

We disagree with PIATCO's reasoning.

While it is true that there had been a misquote of item 3.1.17 of the Scott Wilson Report, our findings in disregarding the attendant cost did not rise and fall on this quoted item of the report. The relevance of this quote, as is obvious in the Decision, was merely to compare the Scott Wilson Report and the Gleeds report on attendant cost. We did not grant PIATCO's claimed attendant costs, as it *failed* to substantiate its claim.

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[145] *Supra* note 1, at 995.

Nevertheless, we correct page 99 of the Decision to reflect the correct quote of item 3.1.17 of the Scott Wilson Report, as follows:

> 3.1.17 On the basis of a construction cost valuation of the order of US$322 million we would expect the cost of construction supervision to be a minimum of US$9.5 million. It is understood that PIATCO have paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC and this therefore appears not unreasonable.

E. On the Republic's arguments on structural defect, unnecessary areas, and rectification for contract compliance

We deny the Republic's argument that the amount pertaining to structural defects should be deducted from the construction cost.

The Republic's arguments on the *structural defects* of the NAIA IPT-III were sufficiently discussed in our Decision. Although the Scott Wilson Report admitted that retrofit works needed to be done, the Republic failed to submit documents before the lower courts supporting the retrofit project. Furthermore, we noted that the retrofit bid took place in 2012, or after the promulgation of the RTC's ruling.[146]

In view of the equally persuasive arguments of the Republic on the one hand, and PIATCO, Takenaka and Asahikosan, on the other, the equiponderance rule applies against the Republic.

Similarly, we sufficiently explained in our Decision our ruling on the Republic's arguments pertaining to the unnecessary areas and the rectification for contract compliance.

In computing the just compensation in the present case, we have included the amount allegedly pertaining to the *unnecessary areas*, such as the excess concession space and the four-level retail complex. We ruled that since the Republic would expropriate

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[146] *Id.* at 988.

the *entire* NAIA-IPT III, the Republic should pay for these structures.

We reiterate that the present case stemmed from an expropriation case. Hence, the standards and parameters for computing just compensation should be in line with the nature of the action before us.[147]

Notably, just compensation in expropriation cases is defined *"as the full and fair equivalent of the property taken from its owner by the expropriator.* The Court repeatedly stressed that the true measure is not the taker's gain but the owner's loss. The word 'just' is used to modify the meaning of the word 'compensation' to convey the idea that *the equivalent to be given for the property to be taken shall be real, substantial, full and ample.*"[148]

We therefore consider the NAIA-IPT III structure as a whole for purposes of computing just compensation.

On the issue of *rectification for contract compliance*, we maintain our ruling that this should *not* be excluded from the computation of just compensation. We ruled that there could not be rectification works to comply with a void contract.[149]

We have succinctly ruled that "*the [Republic] cannot complain of contract noncompliance in an eminent domain case, whose cause of action is not based on a breach of contract, but on the peremptory power of the State to take private property for public use.*"[150]

Additionally, we referred to Scott Wilson's observation that the non-compliant items, except for the moving walkway, are "functional."[151] It is therefore proper that these form part of

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[147] *Id.*

[148] *Supra* note 132, at 271.

[149] *Id.* at 1003-1004.

[150] *Id.* at 1003.

[151] *Id.*

the just compensation in order to serve its purpose to fully compensate the owner for its actual loss.

We noted in our Decision that should the Republic decide to construct the moving walkway, the amount spent therefore cannot be determined in the present expropriation case as we are merely tasked to determine the value of NAIA-IPT III at the time of taking.[152]

We therefore deny the Republic's arguments in its motion for reconsideration with respect to the structural defects, unnecessary areas, and rectification for contract compliance.

F. On PIATCO's arguments that it should be refunded of the amount it paid for the BOC expense

We disagree with PIATCO's argument that the Court erred in ruling that PIATCO had waived its right not to share in the BOC expenses.

In resolving this issue, it is necessary to trace the proceedings relating to the parties' sharing of the BOC expenses.

On June 15, 2006, the BOC filed a request for the release of a mobilization fund of ₱1,600,000.00.[153] The RTC approved the request and directed a **Republic** and **PIATCO** to equally share the BOC's expenses.[154] *The Republic and* ***PIATCO*** *complied with this order and tendered the sum of ₱1,600,000.00 to the BOC.*[155]

On December 7, 2010, the RTC directed PIATCO and the Republic to pay the amount of ₱5,250,000.00 on a fifty-fifty basis or for ₱2,625,000.00 each to defray the BOC expenses. *Aside from paying the amount ordered by the RTC, PIATCO*

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[152] *Id.* at 1003-1004.

[153] RTC *rollo*, Volume XVII, pp. 11175-11181.

[154] *Id.*

[155] *Id.*

did not question the RTC orders dated June 15, 2006 and December 7, 2010. The Republic, on the other hand, filed a motion for partial reconsideration, on the grounds that the amount was excessive and arbitrary and that the Intervenors (Takenaka and Asahikosan) should likewise shoulder part of the BOC expenses.

The RTC issued an order on March 11, 2011, granting the Republic's prayer that the Intervenors Takenaka and Asahikosan should share in the BOC expenses but denied the Republic's argument that the expenses were excessive. The RTC thus ordered each party to pay ₱1,750,000.00. *PIATCO did not question the March 11, 2011 order; instead, PIATCO complied with this order and paid the amount of ₱1,750,000.00 to the BOC*.[156]

Takenaka and Asahikosan filed a partial motion for reconsideration of the March 11, 2011 order on the ground that it has no legal basis.

The RTC rendered its decision on May 23, 2011 on the computation of just compensation and directed both the Republic and Takenaka and Asahikosan to pay their proportionate shares of the BOC expenses with dispatch.

The Republic, PIATCO, and Takenaka and Asahikosan filed their respective appeals with the CA, which are subject of the present case. *Takenaka and Asahikosan questioned the RTC's ruling directing them to pay their proportionate shares in the BOC expenses; PIATCO again did not question the RTC's decision on the BOC expenses.*

The CA denied Takenaka and Asahikosan's prayer to be exempt from paying the BOC expenses. Consequently, Takenaka and Asahikosan raised this issue in its appeal before the Court.

In the cases before the Court, *PIATCO never lifted a finger to question the rulings of the RTC and the CA*; *it likewise did not raise this issue in the pleadings before the Court except in the present partial motion for reconsideration.*

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[156] *Id.*

In view of PIATCO's failure to promptly and vigorously question the imposition of the BOC expenses, we confirm our ruling that PIATCO is deemed to have waived its right to question the rulings directing it to share in the BOC expenses. PIATCO's payment pursuant to the RTC rulings, which it did not assail, served as its conformity with these rulings, whose finality against PIATCO we cannot modify in the present case.

PIATCO should have questioned the rulings that are adverse to it; that it did not and even willingly complied means that it had accepted the ruling. It is well-settled, too, that the negligence and mistakes of counsel bind the client. Hence, the principle of unjust enrichment cannot be applied in the present case in favor of PIATCO.[157]

G. On the Republic's prayer for the Court to declare that, upon payment of just compensation, full ownership shall be vested in the Republic, free from any liens and encumbrances.

We **grant** the Republic's prayer that upon payment of just compensation, **full ownership shall fully vest with the Republic**; however, we **deny** its prayer **that this ownership shall be free from any liens and encumbrances.**

We ruled in *Agan* that *"[f]or the Republic to take over the said facility, it has to compensate respondent PIATCO as builder of the said structures."*

We however clarified in Gingoyon that, *"[t]he recognized rule is that title to the property expropriated shall pass from the owner to the expropriator only* ***upon full payment of the just compensation****. Jurisprudence on this settled principle is consistent both here and in other democratic jurisdictions."*

In *Association of Small Landowners in the Philippines, Inc., et al. v. Secretary of Agrarian Reform*,[158] we ruled that *"[t]itle*

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[157] *Building Care Corporation, et al. v. Macaraeg*, G.R. No. 198357, 687 SCRA 643, December 10, 2012.

[158] G.R. No. 78742, July 14, 1989, 175 SCRA 343.

to property which is the subject of condemnation proceedings does not vest [with] the condemnor until the judgment fixing just compensation is entered and paid xxx title to the property taken remains in the owner until payment is actually made."

In view of these jurisprudential precedents, we grant the Republic's prayer that upon full payment of the just compensation finally adjudged in this decision, the title to the property shall be fully vested in the Republic.

However, **we cannot categorically rule in the present case that the Republic's ownership of NAIA-IPT III — after full payment of just compensation — shall be free from all liens and encumbrances.**

Before us are the narrow issues of an expropriation case. We cannot make an all-encompassing ruling that would cover cases and issues that had not been raised and resolved in the present case. To do so would not only be purely speculative but may also be reckless and highly improper.

H. On Takenaka and Asahikosan's claims

We cannot grant Takenaka and Asahikosan's argument that a portion of the just compensation be set aside to cover for their claims against PIATCO. Takenaka and Asahikosan's arguments are contrary to the constitutional and jurisprudential mandates on just compensation and our final and executory rulings in *Agan* and *Gingoyon.*

To reiterate, just compensation should be paid to the *owner and it should be real, substantial, full and ample.*[159] Therefore, the Republic must pay PIATCO the *full amount* of the just compensation computed in the present case.

Furthermore, if we set aside a portion of the just compensation to cover Takenaka and Asahikosan's claims, we would also be running against our final and executory rulings in *Agan* and *Gingoyon* mandating that just compensation should be *fully* paid to PIATCO as the *owner* of the NAIA-IPT III.

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[159] *Supra* note 1, at 1007.

Stated differently, the *mere* setting aside of a definite portion of the just compensation to cover the claim of a *non-owner* (especially if the non-owner's claim is *not yet fixed or confirmed* by a final ruling) would defeat the constitutional mandate that *full payment* be made to the property owner. We thus cannot grant Takenaka and Asahikosan's plea even if we can later release to PIATCO the portion that is set aside (in the event that Takenaka and Asahikosan's claims turn out to be excessive or totally unjustified).

Takenaka and Asahikosan also conveniently ignore the adverse consequences of their request. They do not seem to realize that the Court would deprive PIATCO of the *uses of its money* during the *entire period* a portion of the just compensation is put in escrow.

Worse, if Takenaka and Asahikosan's claims are later *partially or wholly denied*, there is the matter of interest: who will pay the interest on the amount set aside? Will it be the Republic or will it be Takenaka and Asahikosan? Will they equally share the burden? These are the complications that Takenaka and Asahikosan avoided in their insistence to have a portion of the just compensation set aside to cover claims that have not even been judicially confirmed with finality in the Philippines.

Finally, we *clarify* our holding that if we grant Takenaka and Asahikosan's prayer to *merely* set aside a portion of the just compensation to secure their claims, we would thereby pre-empt the Court's ruling in the pending enforcement case (G.R. No. 202166).

In truth, we would *not* pre-empt the Court's ruling in the enforcement case if we set aside a portion of the just compensation in favor Takenaka and Asahikosan. *The Court would still have to apply the law to the unique facts of that case regardless of our holding in the present case.*

Nevertheless, there is simply no basis to set aside a portion of the just compensation in favor of a *non-owner*. As explained, setting aside Takenaka and Asahikosan's claim purportedly in the interest of "equity and justice" would defeat the essence of

just compensation. We remind Takenaka and Asahikosan that the invocation of the Court's equity jurisdiction can never be used to violate the law and the Constitution.[160]

In light of the discussion above, we deny Takenaka and Asahikosan's arguments in its partial motion for reconsideration.

I. On PIATCO's argument that the tax assessments against it should be included as part of the just compensation

We deny PIATCO's argument that the tax assessments against it should be added to the just compensation in the present case.

The tax assessments should first go through the appropriate tax proceedings prescribed by law. The present case is neither the proper venue nor the forum to determine the validity of these alleged pending tax assessments or to declare its inclusion in the computation of just compensation inasmuch as these were not presented before the lower courts.

WHEREFORE, premises considered we:

(1) **SUSTAIN** our September 8, 2015 Decision, thus:

a. The principal amount of just compensation is fixed at $326,932,221.26 as of December 21, 2004. Thereafter, the amount of $267,493,617.26, which is the difference between $326,932,221.26 and the proffered value of $59,438,604.00, shall earn a straight interest of 12% per annum from September 11, 2006 until June 30, 2013, and a straight interest of 6% per annum from July 1, 2013 until full payment;

b. The Republic is hereby ordered to make direct payment of the just compensation due to PIATCO; and

c. The Republic is hereby ordered to defray the expenses of the BOC in the sum of ₱3,500,000.00.

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[160] See *Reyes v. Lim*, 456 Phil. 1 (2003); *Arsenal v. IAC*, 227 Phil. 36 (1986); and *Sps. Alvendia v. Intermediate Appellate Court*, 260 Phil. 265 (1990).

(2) **PARTLY GRANT** the Republic's motion for reconsideration by declaring that full ownership over the NAIA-IPT III shall be vested in the Republic upon full payment of the just compensation as computed in the immediately preceding paragraph;

(3) **DENY** PIATCO's motion for partial reconsideration;

(4) **DENY** Takenaka and Asahikosan's motion for partial reconsideration; and

(5) **RECTIFY THE FOLLOWING *TYPOGRAPHICAL ERRORS*** in our Decision dated September 8, 2015:

(a) The last paragraph of page 41 of our Decision should read as follows:

Interest. The CA further held that interest shall be added to just compensation as of December 21, 2004. x x x

(b) Page 99 of the Decision should reflect the proper quote of item 3.1.17 of the Scott Wilson Report, as follows:

3.1.17 On the basis of a construction cost valuation of the order of US$322 million we would expect the cost of construction supervision to be a minimum of US$9.5 million. It is understood that PIATCO has paid US$7.9 million to the QA Inspectors (JAC) and US$4.2 million to PCI, SOM, PACICON and JGC and this therefore appears not unreasonable.

(c) Pages 123-124 of the Decision should reflect the proper number of days in years 2008 and 2012, which is 366 days, and hence should be corrected as follows:

Period	Formula	Number of Days	Interest Rate	Principal Amount	Straight Interest
September 11, 2006 to December 31, 2006	principal*rate *(113/365)	113 days	12%	$267,493,617.26	$9,937,571.10
January 1, 2007 to December 31, 2007	principal*rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2008 to December 31, 2008	principal*rate	**366 days**	12%	$267,493,617.26	$32,099,234.07
January 1, 2009 to December 31, 2009	principal*rate	365 days	12%	$267,493,617.26	$32,099,234.07

January 1, 2010 to December 31, 2010	principal*rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2011 to December 31, 2011	principal*rate	365 days	12%	$267,493,617.26	$32,099,234.07
January 1, 2012 to December 31, 2012	principal*rate	**366 days**	12%	$267,493,617.26	$32,099,234.07
January 1, 2013 to June 30, 2013	principal*rate* (181/365)	181 days	12%	$267,493,617.26	$15,917,702.38
July 1, 2013 to December 31, 2013	principal*rate *(189/365)	189 days	6%	$267,493,617.26	$8,310,623.62
January 1, 2014 to December 31, 2014	principal*rate	365 days	6%	$267,493,617.26	$16,049,617.04
Total					$242,810,918.54

This Resolution is final and no further pleadings shall be entertained. Let judgment be entered in due course.

SO ORDERED.

Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, Perez, Mendoza, Reyes, and *Perlas-Bernabe, JJ.,* concur.

Leonen, J., see separate concurring opinion.

Sereno, C.J., Carpio, del Castillo, Jardeleza, and *Caguioa, JJ.,* no part.

CONCURRING OPINION

LEONEN, *J.*:

I concur, subject to the views I have expressed in the September 8, 2015 Decision of this Court En Banc. I also reiterate my reservations in the computation of interest rates for delayed payments for expropriated properties, as explained in my Separate Opinions in *Secretary of the Department of Public Works and*

Highways v. Spouses Tecson[1] and *Heirs of Spouses Tria v. Land Bank of the Philippines*.[2]

FIRST DIVISION

[G.R. No. 184068. April 19, 2016]

SIMNY G. GUY, as minority stockholder and for and in behalf of GOODLAND COMPANY, INC., *petitioner, vs.* **GILBERT G. GUY, ALVIN AGUSTIN T. IGNACIO and JOHN and/or JANE DOES,** *respondents.*

SYLLABUS

1. COMMERCIAL LAW; CORPORATIONS; STOCKHOLDERS' MEETING; THE LAW ONLY REQUIRES SENDING OR MAILING OF THE NOTICE OF THE STOCKHOLDERS' MEETING; STOCKHOLDER IS DEEMED TO HAVE RECEIVED THE NOTICE AFTER IT WAS PROPERLY MAILED TO HIM.— [W]e find that the provisions under Section 50 of the Corporation Code and the by-laws of GCl are clear and unambiguous. They do not admit of two or more meanings; nor do they make reference to two or more things at the same time. The provisions only require the sending/mailing

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[1] *J.* Leonen, Dissenting Opinion in *Department of Public Works and Highways v. Spouses Tecson* (Decision), G.R. No. 179334, July 1, 2013, 700 SCRA 243, 274-279 [Per *J.* Peralta, Third Division]; and *J.* Leonen,Dissenting Opinion in *Department of Public Works and Highways v. Spouses Tecson* (Resolution), G.R. No. 179334, April 21, 2015 <http:/ /sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/ april2015/179334_leonen.pdf> [Per *J.* Peralta, Third Division].

[2] *J.* Leonen, Separate Opinion in *Heirs of Spouses Tria v. Land Bank of the Philippines*, G.R. No. 170245, July 1, 2013, 700 SCRA 188, 200-209 [Per *J.* Peralta, Third Division].

of the notice of a stockholders' meeting to the stockholders of the corporation. Sending/mailing is different from filing or service under the Rules of Court. Had the lawmakers intended to include the stockholder's receipt of the notice, they would have clearly reflected such requirement in the law. Absent that requirement, the word "send" should be understood in its plain meaning: "Send" means to **deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed** x x x Clearly, respondents are only mandated to notify petitioner by depositing in the mail the notice of the stockholders' special meeting, with postage or cost of transmission provided and the name and address of the stockholder properly specified. With respect to the latter part of the definition of "send" under *Black's Law Dictionary*, the term "receipt" only has the effect of proper sending when a mail matter is received in the usual course of transmission. As found by both the RTC to the CA, petitioner admitted that the notice of the special stockholders' meeting was sent to him through registered mail by respondents on 2 September 2004 x x x Therefore, petitioner is considered to have received notice of the special stockholders' meeting after said notice was properly mailed by respondents.

2. ID.; ID.; ID.; A PERSON WHO WAS NOT A STOCKHOLDER OF RECORD IS NOT ENTITLED TO BE NOTIFIED OF THE STOCKHOLDERS' MEETING.— [T]he RTC and the CA found that Cheu was not a stockholder of record of GCI. Hence, she was not entitled to be notified of the subject special stockholders' meeting. Clearly then, the evidence presented by Cheu to prove that she was a stockholder of record -— valid, existing and uncancelled Goodland Stock Certificate Nos. 49, 50, 58 and 59 in the names of Paulino Delfin Pe and Benjamin C. Lim — does not satisfy the requirements imposed by the Corporation Code and the by-laws of GCI.

APPEARANCES OF COUNSEL

Zamora Poblador Vasquez & Bretaña for petitioner S. Guy.

Mondragon & Montoya Law Offices for respondents G.G. Guy and A.E. Ignacio.

Cadiz Tabayoyong & Valmores for Estate of the the late G. Cheu.

D E C I S I O N

SERENO, *C.J.*:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 99749. The CA affirmed *in toto* the Decision[3] issued by the Regional Trial Court (RTC) of Manila, Branch 24. The challenged rulings upheld the validity of a special stockholders' meeting, the election of directors and officers of Goodland Company, Inc. (GCI), and any further proceedings, acts or resolutions resulting therefrom.

FACTUAL ANTECEDENTS

GCI is a family-owned corporation of the Guy family duly organized and existing under Philippine laws.[4] Petitioner Simny G. Guy (Simny) is a stockholder of record and member of the board of directors of the corporation. Respondents are also GCI stockholders of record who were allegedly elected as new directors by virtue of the assailed stockholders' meeting held on 7 September 2004.[5]

On 10 September 2004, Paulino Delfin Pe and Benjamin Lim (stockholders of record of GCI) informed petitioner that they had received a notice dated 31 August 2004 calling for the holding of a special stockholders' meeting on 7 September 2004 at the Manila Diamond Hotel.[6] The notice[7] reads:

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[1] *Rollo*. pp. 54-67; Decision dated 30 April 2008, penned by Associate Justice Josefina Guevara-Salonga, with Associate Justices Magdangal M. de Leon and Normandie B. Pizarro concurring.

[2] *Id.* at 68; Resolution dated 6 August 2008.

[3] *Id.* at 626-632; Decision dated 25 June 2007, penned by Judge Antonio M. Eugenio, Jr.

[4] *Id.* at 55.

[5] *Id.* at 96-97.

[6] *Id.* at 55.

[7] *Id.* at 60.

NOTICE OF MEETING

Please take notice that the Special Stockholders' meeting of Goodland Company, Inc. shall be held on 7 September 2004 at 10:00 a.m. at the Manila Diamond Hotel located at Roxas Boulevard corner Dr. J. Quintos Street, Ermita, Manila, for the purposes, among others, of the election of the Board of Directors for the year 2004-2005, and consideration of such other matters as may arise during the meeting.

If you are unable to be present at the stockholders' meeting, please nominate and authorize your proxy representative by executing, signing and delivering to the undersigned the proxy for the meeting of the stockholders.

The newly elected Board of Directors may meet thereafter for the purposes, among others, of election and appointment of officers, and consideration of such other matters as may arise during the meeting.

Quezon City, 31 August 2004.

(Sgd)
GILBERT G. GUY
Executive Vice-President

On 22 September 2004, or fifteen (15) days after the stockholders' meeting, petitioner received the aforementioned notice.[8]

On 30 September 2004, petitioner, for himself and on behalf of GCI and Grace Guy Cheu (Cheu), filed a Complaint against respondents before the RTC of Manila[9] for the "Nullification of Stockholders' Meeting and Election of Directors, Nullification of Acts and Resolutions, Injunction and Damages with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction."[10]

Petitioner assailed the election held on 7 September 2004 on the following grounds: (1) there was no previous notice to

[8] *Id.* at 801.

[9] *Id.* at 94-109.

[10] *Id.* to 55.

petitioner and Cheu; (2) the meeting was not called by the proper person; and (3) the notices were not issued by the person who had the legal authority to do so.[11]

In his Answer, respondent Gilbert G. Guy (Gilbert) argued that the stockholders' meeting on 7 September 2004 was legally called and held; that the notice of meeting was signed by the authorized officer of GCI and sent in accordance with the by-laws of the corporation; and that Cheu was not a stockholder of record of the corporation, a status that would have entitled her to receive a notice of the meeting.[12]

On 18 October 2004, the RTC issued a Temporary Restraining Order (TRO) enjoining respondents and their officers, agents, assigns, and all other persons deriving authority from them from acting or holding themselves out as new directors/officers of the corporation.[13]

In a Manifestation dated 10 August 2005, respondents disclosed that an annual stockholders' meeting of GCI for the year 2005 had been held. They prayed for the dismissal of the Complaint, claiming that the issues raised therein had already become moot and academic by virtue of the 2005 annual stockholders' meeting.[14] The pertinent portions of the Manifestation read:

> 4. On March 30, 2005, defendant Gilbert G. Guy [herein respondent], in his capacity as Acting President, Vice-President, Director and majority stockholder of GOODLAND, sent a "**Notice of 2005 Annual Meeting of Stockholders**" to all stockholders of record of GOODLAND notifying all stockholders that "*pursuant to Art. II, Sec. 1 of the By-Laws of GOODLAND COMPANY, INC., the annual meeting of the stockholders of the Corporation shall be held on the SECOND MONDAY OF APRIL," or on APRIL 11, 2005, at 2:00 o'clock in the afternoon, at Taal Conference Room, Upper Lobby, Century Park Sheraton Hotel, P. Ocampo, Sr., St. Manila"* xxx.

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[11] *Id.* at 626.

[12] *Id.* at 56.

[13] *Id.*

[14] *Id.*

5. The said Notice complies with the provisions of Art. II, Sec[tions] 2 and 3 of the By-Laws of GOODLAND, which provide that:

"Sec. 2. Special meeting of the stockholders may be called at the principal office of the company at any time by resolution of the Board of Directors or by order of the President and must be called upon the written request of stockholders registered as the owners of one-third (1/3) of the total outstanding stock."

"Section 3. Notice of meeting written or printed for every regular or special meeting of the stockholders shall be ***prepared*** *and* ***mailed*** *to the registered post office address of each stockholder not less than five (5) days prior to the date set for such meeting, and if for a special meeting, such notice shall state the object or objects of the same. No failure or irregularity of notice of any meeting shall invalidate such meeting at which all the stockholders are present and voting without protest."*

6. Plaintiff SIMNY G. GUY [herein petitioner] was notified three (3) times by the post office of the said **"Notice of 2005 Annual Meeting of Stockholders"** on April 6, 2005, April 11, 2005 and April 20, 2005, respectively, but the same was (sic) ignored by plaintiff SIMNY G. GUY [petitioner] and the said "Notice of 2005 Annual Meeting of Stockholders" was "**UNCLAIMED**" x x x.

7. The Notices sent to Paulino Delfin Pe and Benjamin Lim were duly received by them on April 5, 2005 as evidenced by their respective Registry Return Receipts x x x.

8. No Notice was sent to plaintiff GRACE GUY CHEU as she is **not** a stockholder of record of GOODLAND.[15]

On 26 October 2005, the RTC denied the prayer for dismissal and ruled that the case had not been mooted by the holding of the 2005 annual stockholders' meeting. It said that respondents' issuance and sending of notices were part of the acts arising from the special stockholders' meeting held on 7 September 2004, the validity of which is being assailed in the present case.[16]

In their Manifestation and Motion,[17] petitioner and Cheu averred that their application for preliminary injunction had

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[15] *Id.* at 579-580.

[16] *Id.* at 56.

[17] *Id.* at 603-605.

been mooted by supervening events. One of these events was the holding of the 2005 annual stockholders' meeting of the corporation on 11 April 2005, during which a new set of directors and officers for the ensuing year was elected.[18]

In a Decision[19] dated 25 June 2007, the RTC dismissed the Complaint filed by petitioner and Cheu. The trial court ruled:

> On the issue that there was no previous notice to the plaintiffs, the evidence clearly shows that the Notice of the Special Stockholders' meeting was sent to plaintiff Simny [petitioner] by registered mail on September 2, 2004, or five days before the said meeting held on September 7, 2004, in accordance with Art. II, Section 3 of the By-Laws of Goodland. In fact, plaintiffs admitted in par. 13 of the complaint that plaintiffs were informed by Paulino Delfin Pe and Benjamin Lim that they received a Notice dated 31 August 2004 calling for the holding of a special stockholders' meeting on 7 September 2004.[20]
>
> The evidence on record consisting of the GIS of Goodland, duly filed with SEC, for the years 1998, 1999, 2001, 2002, and 2003 xxx, show that plaintiff Simny G. Guy [petitioner] owns 7,982 shares of the total 80,000 subscribed and issued shares of Goodland or equivalent to around 9.97% of the total subscribed shares of Goodland.[21]
>
> Plaintiff Grace Cheu failed to show proof of her alleged ownership of shares in Goodland as in fact, the evidence she presented during trial are the valid, existing, and uncancelled Goodland Stock Certificate Nos. 49 and 58 in the name of one Paulino Delfin Pe for a total of 8 shares x x x, and Goodland Stock Certificate Nos. 50 and 59 in the name of one Benjamin Lim for a total of 7 shares x x x.[22]
>
> On the other hand, respondent Gilbert Guy was shown to own 63,996 shares or around 79.99% of the total subscribed shares of Goodland x x x.[23]

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[18] *Id.* at 56.

[19] *Supra* note 3.

[20] *Id.* at 629.

[21] *Id.* at 628.

[22] *Id.*

[23] *Id.*

As correctly pointed out by defendants the applicable provisions of the By-laws of Goodland are Art. II, Sec. 2 which provides that the "special meeting of the stockholders may be called x x x by order of the President and must be called upon the written request of stockholders registered as the owners of one-third the total outstanding stock" and Art. IV, Section 3 which provides that "the Vice President, if qualified, shall exercise all of the functions and perform all the duties of the President in the absence or disability, for any cause, of the latter."[24]

Based on the evidence on record and considering the above quoted provisions of Goodland's By-Laws, we rule in favor of defendants [herein respondents]. The evidence conclusively shows that defendant Gilbert is the owner of more than one-third of the outstanding stock of Goodland. In fact, it is around 79.99%. Thus, pursuant to Art. II, Sec. 2 of the By-laws of Goodland, defendant Gilbert may validly call such special stockholders' meeting.[25]

Plaintiffs have not disputed defendants' allegation that the then incumbent President of Goodland Francisco Guy Co Chia was incapacitated by Alzheimer's Disease. Thus, pursuant to Art. IV, Section 3 of the By-Laws of Goodland, defendant Gilbert, as the duly elected Vice President of Goodland (which is likewise not disputed by plaintiffs), shall exercise all of the functions and perform all the duties of the President in the absence or disability, for any cause of the latter. We likewise rule that the qualifying phrase in Art. IV, Section 3 of the By-Laws of Goodland that the Vice-President, "if qualified," refers to the qualification that the Vice President must also be a director since one of the qualifications to become a President of the corporation is that he must first be a director of the corporation. A Vice President of Goodland who is not also a director is not qualified to act as President. And since defendant Gilbert is both the duly elected Vice President and an incumbent director, we find that he is qualified to act as President. Thus, as acting President of Goodland, defendant Gilbert may validly order the calling of the said special stockholders' meeting.[26]

In view of the said findings, plaintiffs' prayer for damages against defendants must perforce fail.[27]

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[24] *Id.* at 630.

[25] *Id.*

[26] *Id.* at 630-631.

[27] *Id.* at 631.

Aggrieved, petitioner filed a Petition for Review[28] under Rule 43 of the Rules of Court based on Section 1 of A.M. No. 04-9-07-SC dated 18 July 2007 and docketed as CA-G.R. No. 99749. According to this provision, "[all] decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court."[29]

In a Decision[30] dated 30 April 2008, the CA affirmed the RTC ruling *in toto*.

Hence, this Petition for Review on *Certiorari* claiming that the special stockholders' meeting held on 7 September 2004 was void for lack of due notice.

Respondents filed their Comment[31] praying for the dismissal of the Petition for lack of merit and for being moot and academic.

OUR RULING

The Petition is denied.

Notice of the stockholders' meeting was properly sent in compliance with law and the by-laws of the corporation.

Section 50 of *Batas Pambansa Blg*. 68 (B.P. 68) or the Corporation Code of the Philippines reads as follows:

SECTION 50. *Regular and Special Meetings of Stockholders or Members*. — Regular meetings of stockholders or members shall be held annually on a date fixed in the by-laws, or if not so fixed, on any date in April of every year as determined by the board of directors or trustees: *Provided*, That written notice of regular meetings

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[28] *Id.* at 248-278.

[29] *Id.* at 27.

[30] *Supra* note 1.

[31] *Id.* at 473-515.

shall be sent to all stockholders or members of record at least two (2) weeks prior to the meeting, unless a different period is required by the by-laws.

Special meetings of stockholders or members shall be held at any time deemed necessary or as provided in the by-laws: Provided, however, That **at least one (1) week written notice shall be sent to all stockholders or members, unless otherwise provided in the by-laws.**

Notice of any meeting may be waived, expressly or impliedly, by any stockholder or member.

Whenever, for any cause, there is no person authorized to call a meeting, the Securities and Exchange Commission, upon petition of a stockholder or member, and on the showing of good cause therefor, may issue an order to the petitioning stockholder or member directing him to call a meeting of the corporation by giving proper notice required by this Code or by the by-laws. The petitioning stockholder or member shall preside thereat until at least a majority of the stockholders or members present have chosen one of their number as presiding officer. (Emphasis supplied)

For a stockholders' special meeting[32] to be valid, certain requirements must be met with respect to notice, quorum and place.[33] In relation to the above provision of B.P. 68, one of the requirements is a previous written notice sent to all stockholders at least one (1) week prior to the scheduled meeting, *unless otherwise provided in the by-laws*.[34]

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[32] Stockholders' meetings are called for corporate purposes like the election of directors (Sec. 24), amendment of the articles of incorporation involving investment for purposes other than the primary purpose, or investment in another corporation or business (Secs. 16 and 42), adoption of by-laws (Sec. 46), increase or decrease of capital stock (Sec. 38), merger or consolidation (Sec. 76), etc. [Lopez, Rosario N., *The Corporation Code of the Philippines* (Annotated) Volume Two, 685 (1994)].

[33] Campos, Jose C. Jr. and Lopez-Campos, Maria Clara, *The Corporation Code: Comments, Notes and Selected Cases* Vol. I, 413 (1990).

[34] The by-laws may either shorten or extend the time required by the Code for giving notice. (*Id.* at 414).

Under the by-laws[35] of GCI, the notice of meeting shall be mailed not less than five (5) days prior to the date set for the special meeting. The pertinent provision reads:

> Section 3. Notice of meeting written or printed for every regular or special meeting of the stockholders shall be **prepared and mailed to the registered post office address of each stockholder not less than five (5) days prior to the date set for such meeting**, and if for a special meeting, such notice shall state the object or objects of the same. No failure or irregularity of notice of any meeting shall invalidate such meeting at which all the stockholders are present and voting without protest.[36] (Emphasis supplied)

The Corporation Code itself permits the shortening (or lengthening) of the period within which to send the notice to call a special (or regular) meeting. Thus, no irregularity exists in the mailing of the notice sent by respondent Gilbert G. Guy on 2 September 2004 calling for the special stockholders' meeting to be held on 7 September 2004, since it abides by what is stated in GCI's by-laws as quoted above.

Petitioner avers that although the notice was sent by registered mail on 2 September 2004, the registry return card shows that he received it only on 22 September 2004 or fifteen (15) days after the stockholders' meeting was held.[37] He insists that actual receipt of the notice of the stockholders' meeting prior to the date of the meeting is mandatory.[38]

Petitioner begs the Court to interpret the provisions on notice in Section 50 of the Corporation Code and GCI's by-laws pursuant to a rule in statutory construction that states: "Statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion."[39]

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[35] *Rollo,* pp. 326-332.

[36] *Id.* at 328.

[37] *Id.* at 33.

[38] *Id.* at 30.

[39] *Id.* at 31.

Petitioner persists in his view that to achieve the intent of the law, the notice must be actually received, and not just sent, prior to the date of the meeting.[40] Petitioner cites the provision on "completeness of service" under the Rules of Court, which states that service by registered mail is deemed complete upon actual receipt by the addressee or after five (5) days from the date of receipt of the first notice of the postmaster, whichever date is earlier.[41]

We are not persuaded.

The first and fundamental duty of the Court is to apply the law.[42] Where the law speaks in clear and categorical language, there is no room for interpretation;[43] there is only room for application.[44] Only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent.[45]

Rizal Commercial Banking Corp. v. Intermediate Appellate Court[46] describes when the law becomes ambiguous:

> Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. A statute is ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent.

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[40] *Id.* at 32.

[41] *Id.* at 32-33.

[42] *Rizal Commercial Banking Corp. v. Intermediate Appellate Court*, 378 Phil. 10-31 (1999).

[43] *United Paracale Mining Co., Inc. v. Dela Rosa*, G.R. Nos. 63786-87, 70423, 73931, 7 April 1993, 221 SCRA 1080.

[44] *Id.*, citing *Cebu Portland Cement Company v. Municipality of Naga*, 133 Phil. 695-702 (1968).

[45] *Rizal Commercial Banking Corp. v. Intermediate Appellate Court*, *supra* note 43.

[46] *Id.*

Applying this ruling, we find that the provisions under Section 50 of the Corporation Code and the by-laws of GCI are clear and unambiguous. They do not admit of two or more meanings, nor do they make reference to two or more things at the same time. The provisions only require the sending/mailing of the notice of a stockholders' meeting to the stockholders of the corporation. Sending/mailing is different from filing or service under the Rules of Court. Had the lawmakers intended to include the stockholder's receipt of the notice, they would have clearly reflected such requirement in the law. Absent that requirement, the word "send" should be understood in its plain meaning:[47]

> "Send" means to **deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed** and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none, to any address reasonable under the circumstances. The **receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.** (U.C.C. Sections 1-201 [38]).[48] (Emphasis supplied)

Clearly, respondents are only mandated to notify petitioner by depositing in the mail the notice of the stockholders' special meeting, with postage or cost of transmission provided and the name and address of the stockholder properly specified. With respect to the latter part of the definition of "send" under *Black's*

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[47] Under the principles of statutory construction, if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This plain-meaning rule or *verba legis* derived from the maxim *index animi sermo est* (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing the statute differently. The legislature is presumed to know the meaning of the words, to have used those words advisedly, and to have expressed its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or "from the words of a statute there should be no departure." (*Pioneer Texturizing Corp. v. NLRC*, 345 Phil. 1057-1077 [1997]).

[48] Black, Henry Campbell, M.A., *Black's Law Dictionary* Sixth Edition.

Law Dictionary, the term "receipt" only has the effect of proper sending when a mail matter is received in the usual course of transmission.

As found by both the RTC to the CA, petitioner admitted that the notice of the special stockholders' meeting was sent to him through registered mail by respondents on 2 September 2004.[49] Respondents further argued:

> It should be emphasized here that the period of mailing, that is, at least **five (5) days prior mailing of notice of meeting** as provided in the By-laws of GOODLAND is **reasonable enough** for the petitioner Simny Guy to receive the notice of meeting prior to the holding of the subject stockholders' meeting considering the **relative distance of the Post Office (Meralco Post Office, Pasig City) where the said notice of meeting was mailed *vis-à-vis* the place of residence of petitioner Simny Guy located at Greenmeadows, Quezon City**.[50] (Emphases supplied)

Therefore, petitioner is considered to have received notice of the special stockholders' meeting after said notice was properly mailed by respondents.

Petitioner further claims that (1) the notice suffered some fatal defects when it was not issued by the corporate secretary of GCI pursuant to its by-laws; and (2) the stockholders' meeting was not "called" by the proper person under the Corporation Code and the by-laws of GCI.

These claims are without merit.

The RTC correctly ruled:

> As correctly pointed out by defendants [respondents], the applicable provisions of the by-laws of Goodland are Article II, Sec. 2 which provides that the "special meeting of the stockholders may be called x x x by order of the President and must be called upon the written request of stockholders registered as the owners of one-third (1/3) of the total outstanding stock and Article IV, Section 3 which provides

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[49] *Rollo*, pp. 61 and 629.

[50] *Id.* at 487-488.

that "the Vice President, if qualified, shall exercise all of the functions and perform all the duties of the President, in the absence or disability, for any cause, of the latter."

Based on the evidence on record and considering the above quoted provisions of Goodland's By-laws, we rule in favor of defendants [respondents]. **The evidence conclusively show that defendant Gilbert [respondent Guy] is the owner of more than one-third (1/3) of the outstanding stock of Goodland.** In fact, it is around 79.99%. **Thus, pursuant to Art. II, Sec. 2 of the By-laws of Goodland, defendant Gilbert [respondent Guy] may validly call such special stockholders' meeting.**[51] (Emphasis supplied)

The CA, in affirming the RTC ruling, further said:

Significantly, Section 25 of the Corporation Code states:

SECTION 25. *Corporate Officers, Quorum*. — Immediately after their election, the directors of a corporation must formally organize by the election of a president, who shall be a director, a treasurer who may or may not be a director, a secretary who shall be a resident and citizen of the Philippines, and such other officers as may be provided for in the by-laws. Any two (2) or more positions may be held concurrently by the same person, except that no one shall act as president and secretary or as president and treasurer at the same time.

From the above provision, the requirement imposed on a president of the corporation is that he should be a member of the Board of Directors and he should not be at the same time the treasurer or secretary of the corporation. Therefore, under Section 3, Article IV of the By-laws of Goodland, respondent Gilbert G. Guy as Vice-President of the corporation is qualified to act as president.

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From the above exposition, it is undisputed that x x x **the special stockholder's meeting was xxx prepared and called by the proper person**. The notice of meeting and the calling thereof by the Vice-President acting as President complied with the provisions in the by-laws of the corporation and the Corporation Code.[52] (Emphasis supplied)

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[51] *Id.* at 630.

[52] *Id.* at 63-66.

We, therefore, find no reversible error either in the CA or in the RTC Decision after finding that notice of the special stockholders' meeting was properly issued and the meeting properly called by respondent Gilbert.

Cheu was not a stockholder of record of GCI and was therefore not entitled to any notice of meeting.

Petitioner also asserts that the special stockholders' meeting on 7 September 2004 was invalid for lack of due notice to Grace Cheu, allegedly a stockholder of record of GCI. She was considered as such for having been in possession of the stock certificates of stockholders Paulino Delfin Pe and Benjamin Lim.[53]

This contention cannot be sustained.

A "stockholder of record" is defined as follows:

A person who desires to be recognized as stockholder for the purpose of exercising stockholders' right must secure standing by having his ownership of share recorded on the stock and transfer book. Thus, **only those whose ownership of shares are duly registered in the stock and transfer book are considered stockholders of record and are entitled to all rights of a stockholder**.[54] (Emphasis supplied)

More so, Section 63 of the Corporation Code provides:

SECTION 63. *Certificate of Stock and Transfer of Shares*. — The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice-president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. **No transfer, however, shall be valid, except**

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[53] *Id.* at 40.

[54] *Id.* at 61-62, *citing* SEC Opinions dated 23 May 1993, Victor Africa; and 7 March 1994, Pastora T. O'Connor.

as between the parties, until the transfer is recorded in the books of the corporation so as to show the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred. (Emphasis supplied)

The Court affirmed this provision in *Batangas Laguna Tayabas Bus Company, Inc. v. Bitanga*:[55]

Indeed, until registration is accomplished, the transfer, though valid between the parties, cannot be effective as against the corporation. Thus, the unrecorded transferee, the Bitanga group in this case, cannot vote nor be voted for. The purpose of registration, therefore, is two-fold: to enable the transferee to exercise all the rights of a stockholder, including the right to vote and to be voted for, and to inform the corporation of any change in share ownership so that it can ascertain the persons entitled to the rights and subject to the liabilities of a stockholder. Until challenged in a proper proceeding, a stockholder of record has a right to participate in any meeting; his vote can be properly counted to determine whether a stockholders' resolution was approved, despite the claim of the alleged transferee. **On the other hand, a person who has purchased stock, and who desires to be recognized as a stockholder for the purpose of voting, must secure such a standing by having the transfer recorded on the corporate books. Until the transfer is registered, the transferee is not a stockholder but an outsider.** (Emphasis supplied)

The above pronouncements are embodied in GCI's by-laws, specifically Article I, Sections 2, 3 and 4:[56]

Section 2. Every certificate surrendered for exchange or transfer shall be cancelled and affixed to the original stub in the certificate book and no new certificates shall be issued unless and until the old certificates have been so cancelled and returned to the corporation, or satisfactory proof of their loss is presented.

Section 3. Certificates of stock may be sold, transferred or hypot[h]ecated by indorsement or separate deed, but **the corporation**

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[55] 415 Phil. 43 (2001).

[56] *Rollo*, p. 327.

shall not consider any transfer effective until the indorsed certificate is submitted for cancellation and a new one issued in the name of the transferee. (Emphasis supplied)

Section 4. All certificates submitted for transfer to another name shall be marked "CANCELLED" by the Secretary and attached to its corresponding stub whereon the following data shall be shown:

a. The date when the shares were transferred.
b. To whom transferred.
c. Number of shares transferred.
d. Number or numbers of the new certificate or certificates.

Based on the foregoing, the RTC and the CA found that Cheu was not a stockholder of record of GCI. Hence, she was not entitled to be notified of the subject special stockholders' meeting.

Clearly then, the evidence presented by Cheu to prove that she was a stockholder of record — valid, existing and uncancelled Goodland Stock Certificate[57] Nos. 49, 50, 58 and 59 in the names of Paulino Delfin Pe and Benjamin C. Lim — does not satisfy the requirements imposed by the Corporation Code and the by-laws of GCI.[58]

All told, the validity of the special stockholders' meeting held on 7 September 2004 has been sufficiently established. Accordingly, we find no necessity to decide on the other issue of damages claimed by petitioner, as we find no merit therein.

WHEREFORE, the instant Petition for Review is **DENIED**. The Court of Appeals Decision in CA-G.R. SP No. 99749 is hereby **AFFIRMED**.

SO ORDERED.

Leonardo-de Castro, Bersamin, Perlas-Bernabe, and *Caguioa, JJ.*, concur.

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[57] *Id.* at 623-624; 796-799.

[58] *Id.* at 63.

FIRST DIVISION

[G.R. No. 191699. April 19, 2016]

WILLIAM GO QUE CONSTRUCTION and/or WILLIAM GO QUE, *petitioner, vs.* **COURT OF APPEALS and DANNY SINGSON, RODOLFO PASAQUI,[1] LENDO LOMINIQUI,[2] and JUN ANDALES,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; VERIFICATION/ CERTIFICATION AGAINST FORUM SHOPPING; NO SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENT THEREOF IN CASE AT BAR.— "Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct." Here, there was no substantial compliance with the verification requirement as it cannot be ascertained that any of the private respondents actually swore to the truth of the allegations in the petition for *certiorari* in CA-G.R. SP No. 109427 given the lack of competent evidence of any of their identities. Because of this, the fact that even one of the private respondents swore that the allegations in the pleading are true and correct of his knowledge and belief is shrouded in doubt. For the same reason, neither was there substantial compliance with the certification against forum shopping requirement. In *Fernandez,* the Court explained that "non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of 'substantial compliance' or presence of 'special circumstances or compelling reasons.'" Here, the CA did not mention — nor does there exist — any perceivable special circumstance or compelling reason which

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[1] "Sumagui" or "Pasagui" in some parts of the records.

[2] "Glendo Lominoque," "Lindo Lominoque," " Lominoque," "Lindo Lomeneque," or "Lominaqui" in some parts of the records.

justifies the rules' relaxation. At all events, it is uncertain if any of the private respondents certified under oath that no similar action has been filed or is pending in another forum. In fact, on both procedural aspects, the CA failed to address the evident variance in the signatures of the remaining private respondents, *i.e.*, Lominiqui and Andales, in their petition for *certiorari* and their previous pleadings. Earlier, petitioner had already questioned Andales's participation in the case as he was already missing when the complaint was filed, and his signature in the Verification attached to private respondents' Position Paper did not match those in the payroll documents. In sum, the authenticity of the signatures of Lominiqui and Andales, and their participation in the instant case were seriously put into question.

2. ID.; ID.; ID.; PURPOSE OF VERIFICATION/CERTIFICATION OF NON-FORUM SHOPPING REQUIREMENT; FAILURE TO COMPLY WITH THE REQUIREMENTS WARRANTS DISMISSAL OF THE PETITION.— Case law states that "[v]erification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative." On the other hand, "[t]he certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different *fora.*" The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation. In this case, proper justification is especially called for in light of the serious allegations of forgery as to the signatures of the remaining private respondents, *i.e.*, Lominiqui and Andales. Thus, by simply treating the insufficient submissions before it as compliance with its Resolution dated August 13, 2009 requiring anew the submission of a proper verification/certification against forum shopping, the CA patently and grossly ignored settled procedural rules and, hence, gravely abused its discretion. All things considered, the proper course of action was for it to dismiss the petition.

APPEARANCES OF COUNSEL

Law Firm of Tungol & Tibayan for petitioners.

Ricardo M. Perez for private respondents D. Singson and R. Pasaqui.

D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for *certiorari*[3] are the Resolutions dated November 12, 2009[4] and February 5, 2010[5] of the Court of Appeals (CA) in CA-G.R. SP No. 109427, holding that the photocopies of the identification cards (ID) submitted by private respondents Danny Singson (Singson), Rodolfo Pasaqui (Pasaqui), and Lendo Lominiqui (Lominiqui), as well as their Joint Affidavit[6] attesting to the identity of private respondent Jun Andales (Andales) and the fact that he was a co-petitioner in the case, served as competent evidence of private respondents' identities and, thus, cured the defect in the Verification/ Certification of Non-Forum Shopping of their petition for *certiorari* before the CA.

The Facts

Private respondents filed complaints[7] for illegal dismissal against petitioner William Go Que Construction and/or William Go Que (petitioner) before the National Labor Relations Commission (NLRC), National Capital Region-North Sector Arbitration Branch, claiming that they were hired as steelmen on various dates, and were regular employees of petitioner until their illegal dismissal on June 3, 2006. Moreover, they alleged

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[3] Erroneously titled as "Petition for Review on *Certiorari*." *Rollo*, pp. 3-20.

[4] *Id.* at 24-25. Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Jose L. Sabio, Jr. and Sixto C. Marella, Jr. concurring.

[5] *Id.* at 27-28. Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Arturo G. Tayag and Amy C. Lazaro-Javier concurring.

[6] Dated September 8, 2009. *Id.* at 194-195.

[7] See Complaint of Singson, Pasaqui, Lominiqui, and a certain Frederick A. Dulman dated September 15, 2006 (NLRC records, Vol. I, p. 2, including dorsal portion); and Complaint of Andales dated October 5, 2006 (NLRC records, Vol. II, p. 2, including dorsal portion).

that petitioner failed to pay their monetary benefits, such as service incentive leave pay, holiday pay, and 13th month pay.[8]

For his part, petitioner averred that private respondents were hired as project employees, and were informed of the specific period or phase of construction wherein their services were needed, Sometime in May 2006, petitioner learned that some workers were getting excess and cutting unused steel bars, and selling them to junk shops, prompting him to announce that he will bring the matter to the proper authorities. Thereafter, private respondents no longer reported for work, and were identified by the other workers as the thieves.[9]

Meanwhile, petitioner filed a complaint for theft against private respondents and a certain Jimmy Dulman before the Office of the City Prosecutor, Quezon City.[10] After preliminary investigation, the investigating prosecutor found probable cause against them[11] and filed the corresponding Information[12] before the Regional Trial Court of Quezon City, docketed as Criminal Case No. Q-07-149245.

The LA Ruling

In a Decision[13] dated March 23, 2007, the Labor Arbiter (LA) found petitioner to have illegally dismissed private respondents, and declared them to be regular employees entitled to reinstatement to their former positions without loss of seniority rights and backwages.[14]

The LA rejected petitioner's claim that private respondents were contractual or project employees, considering that petitioner:

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[8] See *rollo*, pp. 56 and 111-112.

[9] See *id.* at 57-58.

[10] *Id.* at 58.

[11] See *id.* at 62-63.

[12] *Id.* at 138-139.

[13] *Id.* at 111-118. Penned by LA Felipe P. Pati.

[14] See *id.* at 117-118.

(*a*) failed to present any written contract duly signed by private respondents containing details such as the work or service to be rendered, the place of work, the wage rate, and the term or duration of employment; (*b*) continuously employed private respondents to perform the same tasks for a period of two (2) to eight (8) years; and (*c*) failed to comply with the mandatory requirement of submitting termination reports to the appropriate Department of Labor and Employment (DOLE). The LA likewise rejected petitioner's claim that private respondents have abandoned their jobs in the absence of written notice requiring them to explain why they should not be dismissed on the ground of abandonment.[15]

On the other hand, the LA denied private respondents' monetary claims for lack of factual basis.[16]

Aggrieved, petitioner appealed[17] to the NLRC, arguing, among others, that Andales should not have been included as party litigant, considering the apparent falsification of his signature in the complaint and Verification[18] attached to their Position Paper,[19] and the fact that he could not be contacted.[20]

The NLRC Ruling

In a Decision[21] dated December 8, 2008 (December 8, 2008 Decision), the NLRC reversed and set aside the LA ruling, holding that private respondents were validly dismissed as they stole from petitioner. It noted the Resolution of the Quezon City Prosecutor's Office finding probable cause for theft against the

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[15] See *id.* at 115-117.

[16] See *id.* at 117.

[17] See Memorandum of Appeal dated April 30, 2007; *id.* at 119-132.

[18] *Id.* at 85.

[19] Dated November 28, 2006. *Id.* at 80-85.

[20] See *id.* at 120 and 126-127.

[21] *Id.* at 55-65. Penned by Presiding Commissioner Raul T. Aquino with Commissioner Victoriano R. Calaycay concurring. Commissioner Angelita A. Gacutan took no part.

private respondents and that the latter abandoned their employment after they were identified by their former co-workers as the thieves. However, considering petitioner's failure to accord them procedural due process, the NLRC ordered him to pay each of the private respondents the amount of ₱5,000.00 as nominal damages.[22]

Dissatisfied, private respondents moved for reconsideration,[23] which the NLRC denied in a Resolution[24] dated March 31, 2009, prompting them to elevate their case to the CA *via* a petition for *certiorari*,[25] docketed as CA-G.R. SP No. 109427,[26] with Motion to Litigate as Pauper[27] (motion).

The CA Proceedings

In a Resolution[28] dated July 3, 2009, the CA granted private respondents' motion but noted that the Affidavit of Service[29] and the Verification/Certification of Non-Forum Shopping[30] contained a defective *jurat*. Thus, private respondents were directed to cure the defects within five (5) days from notice.[31]

Meanwhile, the NLRC issued an entry of judgment[32] in the case on July 15, 2009.

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[22] See *id.* at 60-64.

[23] See motion for reconsideration dated January 23, 2009; *id.* at 69-78.

[24] *Id.* at 67-68. Penned by Presiding Commissioner Raul T. Aquino with Commissioner Angelita A. Gacutan concurring.

[25] Dated June 15, 2009. *Id.* at 29-53.

[26] Formerly CA-G.R. SP-UDK No. 6231. See *id.* at 150.

[27] *Id.* at 143-145.

[28] *Id.* at 150-151. Penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Josefina Guevara-Salonga and Romeo F. Barza concurring.

[29] CA *rollo*, p. 35.

[30] *Rollo*, p. 53.

[31] *Id.* at 151.

[32] NLRC records, Vol. I, p. 384.

Petitioner filed an Urgent Manifestation[33] before the CA pointing out the variance and dissimilarities in the signatures of private respondents as appearing in the annexes to their petition for *certiorari*.[34]

Private respondents submitted their Manifestation and Compliance[35] dated July 21, 2009, wherein they admitted that Andales could not be located as he was purportedly on vacation in Samar,[36] but they attached (*a*) a verification[37] dated December 7, 2006 bearing their signatures including Andales's; (*b*) a photocopy[38] of private subdivision IDs of Singson, Pasaqui, and Lominiqui; and (*c*) a photocopy of the driver's license[39] of the affiant in the Affidavit of Service.

In a Resolution[40] dated August 13, 2009, the CA required private respondents anew to submit a Verification/Certification of Non-Forum Shopping with a properly accomplished *jurat* indicating competent evidence of their identities.

On September 10, 2009, private respondents submitted a Manifestation and Compliance and Submission of Joint Affidavit[41] wherein Singson, Pasaqui, and Lominiqui stated that: (*a*) they personally knew Andales who used to be their co-worker[42] and one of the original complainants in the illegal dismissal case; (*b*) Andales is in the province and is not in a position to submit his ID; (*c*) despite Andales's absence and failure to submit his ID, he should be maintained as a petitioner before the CA; and (*d*) they had already submitted their IDs.[43]

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[33] Dated July 15, 2009. *Rollo*, pp. 154-156.

[34] See *id.* at 155.

[35] *Id.* at 168-169.

[36] *Id.* at 168.

[37] *Id.* at 170.

[38] *Id.* at 171.

[39] *Id.* at 172.

[40] *Id.* at 173.

[41] Dated September 8, 2009. *Id.* at 176-178.

[42] See Joint Affidavit dated September 8, 2009; *id.* at 194.

[43] See *id.* at 176-177.

Thereafter, in a Resolution[44] dated November 12, 2009, the CA held that the photocopies of the IDs submitted by Singson, Pasaqui, and Lominiqui, as well as their Joint-Affidavit[45] attesting to the identity of Andales who was unable to submit his ID, served as competent evidence of private respondents' identities and cured the defect in the Affidavit of Service, and Verification/ Certification of Non-Forum Shopping. Without giving due course to the petition, the CA directed petitioner to submit his Comment within ten (10) days from receipt of the Resolution, and private respondents to file their Reply within five (5) days from receipt of the said Comment.[46]

Unperturbed, petitioner moved for reconsideration,[47] which the CA denied in a Resolution[48] dated February 5, 2010; hence, the instant petition.

On June 15, 2010, Singson and Pasaqui, assisted by their counsel, Atty. Ricardo M. Perez (Atty. Perez), amicably settled with petitioner, and executed a Satisfaction of Judgment/Release of Claim[49] in the latter's favor, and, thereafter, filed the corresponding Motion to Withdraw Petition[50] (motion to withdraw) before the CA. On the other hand, the adjudged amount in favor of Lominiqui and Andales were deposited with the NLRC[51] because of their inability to show up and receive the amounts.

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[44] *Id.* at 24-25.

[45] *Id.* at 194-195.

[46] *Id.*

[47] See motion for reconsideration dated November 26, 2009; CA *rollo*, pp. 195-200.

[48] *Rollo*, pp. 27-28.

[49] CA *rollo*, pp. 226-227.

[50] Dated June 16, 2010. *Id.* at 224-225.

[51] See Official Receipt No. 7516048; NLRC records, Vol. I, p. 466.

In a Resolution[52] dated July 15, 2010, the CA partially granted the motion to withdraw and dismissed the petition insofar as Singson and Pasaqui are concerned.

On the other hand, the NLRC issued an Order[53] dated July 20, 2010 directing the release of the surety bond posted by petitioner.

Subsequently, the CA issued a Resolution[54] dated November 4, 2010 suspending the proceedings in view of the pendency of the petition for *certiorari* before the Court.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA acted with grave abuse of discretion in refusing to dismiss the petition for *certiorari* before it on the ground of non-compliance with the requirements of verification and certification against forum shopping.

The Court's Ruling

The petition is meritorious.

At the outset, it should be pointed out that in a Resolution[55] dated July 15, 2010, the CA had already dismissed the petition for *certiorari* in CA-G.R. SP No. 109427 with respect to private respondents Singson and Pasaqui on account of the Satisfaction of Judgment/Release of Claim[56] they executed in petitioner's favor subsequent to the filing of the instant case. Notably, Singson and Pasaqui, thru their counsel, Atty. Perez, moved that the instant petition be dismissed, without prejudice to the claims

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[52] CA *rollo*, p. 229. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario concurring.

[53] NLRC records, Vol. I, pp. 392-394.

[54] CA *rollo*, pp. 439-440. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario concurring.

[55] *Id.* at 229.

[56] *Id.* at 226-227.

of the other private respondents, Lominiqui and Andales, who are "on the run."[57] The settled rule is that legitimate waivers resulting from voluntary settlements of laborers' claims should be treated and upheld as the law between the parties.[58] In view of the foregoing developments, there is no longer any justiciable controversy between petitioner and private respondents Singson and Pasaqui, rendering the instant case moot and academic, and dismissible[59] with respect to them.

On the other hand, private respondents Lominiqui and Andales do not appear to have any proper representation before the Court in view of Atty. Perez's denial of any subsisting lawyer-client relationship with them. In fact, it was disclosed that they were reportedly in hiding for fear of being arrested.[60] Thus, in a Resolution[61] dated July 24, 2013, they were deemed to have waived the filing of their comment to the instant petition since the notices addressed to them were returned unserved.

The foregoing circumstances notwithstanding, the Court delved on the merits of the instant petition, and found the same to be well taken.

The instant controversy revolves on whether or not the CA gravely abused its discretion in holding that private respondents substantially complied with the requirements of a valid verification and certification against forum shopping.

Section 4, Rule 7 of the Rules of Civil Procedure states that "[a] pleading is **verified by an affidavit** that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records." "A pleading required to be verified which x x x lacks a proper verification, shall be treated as an unsigned pleading."

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[57] See Manifestation and Motion dated May 20, 2011; *rollo*, pp. 228-230.

[58] *Suarez, Jr. v. National Steel Corporation*, 590 Phil. 352, 368 (2008).

[59] See *Phil. Savings Bank v. Senate Impeachment Court*, 699 Phil. 34, 36 (2012).

[60] See *rollo*, p. 229.

[61] *Id.* at 260-261. Signed by Deputy Division Clerk of Court Teresita Aquino Tuazon in behalf of Division Clerk of Court Ma. Lourdes C. Perfecto.

On the other hand, Section 5, Rule 7 of the Rules of Civil Procedure provides that "[t]he plaintiff or principal party **shall certify under oath** in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (*a*) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (*b*) if there is such other pending action or claim, a complete statement of the present status thereof; and (*c*) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed." "Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided x x x."

In this case, it is undisputed that the Verification/Certification against Forum Shopping[62] attached to the petition for *certiorari* in CA-G.R. SP No. 109427 was not accompanied with a valid affidavit/properly certified under oath. This was because the *jurat* thereof was defective in that it did not indicate the pertinent details regarding the affiants' (*i.e.*, private respondents) competent evidence of identities.

Under Section 6, Rule II of A.M. No. 02-8-13-SC[63] dated July 6, 2004, entitled the "2004 Rules on Notarial Practice" (2004 Rules on Notarial Practice), a *jurat* refers to an act in which an individual on a single occasion:

(*a*) appears in person before the notary public and presents an instrument or document;

(*b*) is personally known to the notary public or **identified by the notary public through competent evidence of identity as defined by these Rules;**

[62] *Id.* at 53.

[63] Effective August 1, 2004.

(*c*) signs the instrument or document in the presence of the notary; and

(*d*) takes an oath or affirmation before the notary public as to such instrument or document.

Under Section 12, Rule II of the 2004 Rules on Notarial Practice, "competent evidence of identity" as used in the foregoing provision refers to the identification of an individual based on:

(*a*) **at least one current identification document issued by an official agency hearing the photograph and signature of the individual**, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or

(*b*) **the oath or affirmation of one credible witness not privy to the instrument, document or transaction** who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification.

Evidently, not being documents of identification issued by an official agency, the photocopies of the IDs[64] of private respondents Singson, Pasaqui, and Lominiqui from La Vista Association, Inc., R.O. Barra Builders & Electrical Services, and St. Charbel Executive Village, respectively, do not constitute

[64] *Rollo,* p. 171.

competent evidence of their identities under Section 12 (a), Rule II of the 2004 Rules on Notarial Practice. In the same vein, their Joint-Affidavit[65] identifying Andales and assuring the CA that he was a party-litigant is not competent evidence of Andales's identity under Section 12 (b), Rule II of the same rules, considering that they (*i.e.*, Singson, Pasaqui, and Lominiqui) themselves are privy to the instrument, *i.e.*, the Verification/Certification of Non-Forum Shopping, in which Andales's participation is sought to be proven. To note, it cannot be presumed that an affiant is personally known to the notary public, the *jurat* must contain a statement to that effect.[66] Tellingly, the notarial certificate of the Verification/Certification of Non-Forum Shopping[67] attached to private respondents' petition before the CA did not state whether they presented competent evidence of their identities, or that they were personally known to the notary public, and, thus, runs afoul of the requirements of verification and certification against forum shopping under Section 1,[68] Rule 65, in relation to Section 3,[69] Rule 46, of the Rules of Court.

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[65] Dated September 8, 2009. *Id.* at 194-195.

[66] See *Kilosbayan Foundation v. Janolo, Jr.*, 640 Phil. 33, 46 (2010).

[67] *Rollo*, p. 53.

[68] Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a *verified petition* in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a **sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.** (Emphases supplied)

[69] Section 3. Contents and filing of petition; effect of noncompliance with requirements. — x x x.

x x x x x x x x x

In *Fernandez v. Villegas*[70] *(Fernandez*), the Court pronounced that non-compliance with the verification requirement or a defect therein "does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby."[71] "Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct."[72] Here, there was no substantial compliance with the verification requirement as it cannot be ascertained that any of the private respondents actually swore to the truth of the allegations in the petition for *certiorari* in CA-G.R. SP No. 109427 given the lack of competent evidence of any of their identities. Because of this, the fact that even one of the private respondents swore that the allegations in the pleading are true and correct of his knowledge and belief is shrouded in doubt.

For the same reason, neither was there substantial compliance with the certification against forum shopping requirement. In

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The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

x x x x x x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis supplied)

[70] G.R. No. 200191, August 20, 2014, 733 SCRA 548.

[71] *Id.* at 556.

[72] *Id.* at 556-557.

Fernandez, the Court explained that "non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of 'substantial compliance' or presence of 'special circumstances or compelling reasons.'"[73] Here, the CA did not mention — nor does there exist — any perceivable special circumstance or compelling reason which justifies the rules' relaxation. At all events, it is uncertain if any of the private respondents certified under oath that no similar action has been filed or is pending in another forum.

In fact, on both procedural aspects, the CA failed to address the evident variance in the signatures[74] of the remaining private respondents, *i.e.*, Lominiqui and Andales, in their petition for *certiorari* and their previous pleadings. Earlier, petitioner had already questioned Andales's participation in the case as he was already missing when the complaint was filed, and his signature in the Verification attached to private respondents' Position Paper did not match those in the payroll documents.[75] In sum, the authenticity of the signatures of Lominiqui and Andales, and their participation in the instant case were seriously put into question.

Case law states that "[v]erification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative."[76] On the other hand, "[t]he certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different *fora*."[77] The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation. In this case, proper justification is

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[73] *Id.* at 557.

[74] See *rollo*, pp. 53, 85, and 135-136.

[75] See *id.* at 120 and 126-127.

[76] *Sps. Lim v. CA*, 702 Phil. 634, 642 (2013).

[77] *Id.* at 643.

especially called for in light of the serious allegations of forgery as to the signatures of the remaining private respondents, *i.e.*, Lominiqui and Andales. Thus, by simply treating the insufficient submissions before it as compliance with its Resolution[78] dated August 13, 2009 requiring anew the submission of a proper verification/certification against forum shopping, the CA patently and grossly ignored settled procedural rules and, hence, gravely abused its discretion. All things considered, the proper course of action was for it to dismiss the petition.

As a final word, it is well to stress that "procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. x x x. Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality."[79] Resort to the liberal application of procedural rules remains the exception rather than the rule; it cannot be made without any valid reasons underpinning the said course of action. To merit liberality, the one seeking such treatment must show reasonable cause justifying its non-compliance with the Rules, and must establish that the outright dismissal of the petition would defeat the administration of substantial justice.[80] Procedural rules must, at all times, be followed, save for instances when a litigant must be rescued from an injustice far graver than the degree of his carelessness in not complying with the prescribed procedure.[81] The limited exception does not obtain in this case.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated November 12, 2009 and February 5, 2010 of the Court

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[78] *Rollo*, p. 173.

[79] See *Abadilla v. Spouses Obrero*, G.R. No. 210855, December 9, 2015, citing *Bank of the Philippine Islands v. CA*, 646 Phil. 617, 627 (2010).

[80] See *Building Care Corp./Leopard Security & Investigation Agency v. Macaraeg*, 700 Phil. 749, 755 (2012), citing *Daikoku Electronics Phils., Inc. v. Raza*, 606 Phil. 796, 803-804 (2009).

[81] See S*ps. Dycoco v. CA*, 715 Phil. 550, 568 (2013), citing *Republic v. Kenrick Development Corporation*, 529 Phil. 876, 885-886 (2006).

of Appeals in CA-G.R. SP No. 109427 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the petition for *certiorari* in CA-G.R. SP No. 109427 is **DISMISSED.**

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Caguioa, JJ.,* concur.

FIRST DIVISION

[G.R. No. 192488. April 19, 2016]

BLUE EAGLE MANAGEMENT, INC., MA. AMELIA S. BONOAN, and CARMELITA S. DELA RAMA, *petitioners, vs.* **JOCELYN L. NAVAL,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; PETITION FOR *CERTIORARI*; ABSENT COMPELLING REASON FOR NON-COMPLIANCE WITH THE REQUIREMENT TO STATE MATERIAL DATES WARRANTS DISMISSAL OF THE PETITION.— [R]espondent's Petition for *Certiorari* not only failed to state all the material dates required by the Rules, but it also erroneously claimed that April 30, 2008 was the date respondent received the NLRC Resolution denying her Motion for Partial Reconsideration, when actually, it was the date said Resolution was issued. Respondent's Petition for *Certiorari* was totally silent as to the date when respondent received a copy of the NLRC Decision dated May 31, 2007; x x x Absent the date when respondent received the NLRC Decision dated May 31, 2007, there is no way to determine whether respondent's Motion for Partial Reconsideration of the same was timely filed. A late motion for reconsideration

would render the decision or resolution subject thereof already final and executory. x x x It is true that in a number of cases, the Court relaxed the application of procedural rules in the interest of substantial justice. x x x Respondent herein made no effort at all to explain her failure to state all the material dates in her Petition for *Certiorari* before the Court of Appeals. The bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel the Court to suspend procedural rules. Absent compelling reason to disregard the Rules, the Court of Appeals should have had no other choice but to enforce the same by dismissing the noncompliant Petition.

2. LABOR AND SOCIAL LEGISLATION; TERMINATION OF EMPLOYMENT; EMPLOYERS PRESENTED SUFFICIENT EVIDENCE TO PROVE THAT EMPLOYEE'S RESIGNATION WAS VOLUNTARY.— For the resignation of an employee to be a viable defense in an action for illegal dismissal, an employer must prove that the resignation was voluntary, and its evidence thereon must be clear, positive, and convincing. The employer cannot rely on the weakness of the employee's evidence. x x x [N]o fraud or deception was employed upon respondent to resign because petitioner BEMI was indeed about to implement in good faith a retrenchment of its employees in order to advance its interest and not merely to defeat or circumvent the respondent's right to security of tenure. Petitioners, moreover, were able to present respondent's resignation letter, written and signed in her own hand[.] x x x Both the Labor Arbiter and the Court of Appeals invoked the oft-repeated ruling of the Court that resignation is inconsistent with the filing of the complaint for illegal dismissal. However, the employee's filing of the complaint for illegal dismissal by itself is not sufficient to disprove that said employee voluntarily resigned. There must be other attendant circumstances and/or submitted evidence which would raise a cloud of doubt as to the voluntariness of the resignation. In the present case, respondent's actions were more consistent with an intentional relinquishment of her position pursuant to an agreement reached with petitioners. After respondent submitted her resignation letter on February 20, 2006, she no longer reported for work. There is no showing that respondent, before March 3, 2006, made any attempt to contest her resignation, or to report for work but

was prevented from doing so by petitioners. Respondent appeared at the premises of petitioner BEMI on March 3, 2006 when, as stated in her resignation letter, her salary for February 2006 and other benefits would have already been available for release. Respondent, unable to find new employment, merely took the chance of requesting to be rehired by petitioner BEMI and when she was refused, belatedly decried illegal dismissal.

3. ID.; ID.; ID.; IT CANNOT BE SAID THAT EMPLOYEE WAS COERCED OR INTIMIDATED TO EXECUTE THE RESIGNATION LETTER; IT IS INCONSEQUENTIAL THAT THE RESIGNATION LETTER WAS DICTATED BY THE EMPLOYER OR THAT IT READS MORE OF A QUITCLAIM THAN A RESIGNATION LETTER.— Aside from respondent's bare allegations, there is no proof of such threat ever being made. While respondent claimed that her husband's employment was also connected with petitioner BEMI, she did not provide any other details. Without such details, there is no basis for determining the extent of control or influence petitioners actually had over the employment of respondent's husband as to make said threat plausible. Therefore, it could not be said that respondent's consent to execute the resignation letter was vitiated by coercion or intimidation. x x x It is inconsequential that the contents of respondent's resignation letter was dictated by petitioner Dela Rama and, per the Labor Arbiter's observation, reads more of a quitclaim rather than a resignation letter, for as long as respondent wrote down and signed said letter by her own volition. In *Samaniego v. National Labor Relations Commission,* the Court accorded weight to the resignation letters of the employees because although said letters were prepared by the company, the employees signed the same voluntarily. Granted that the employees in *Samaniego* were managerial employees, while respondent in the present case was a rank and file employee, the financial situation of petitioner BEMI, the need for retrenchment, and the option to voluntarily resign and the financial package which respondent could avail herself of were duly explained to respondent during the meeting on February 20, 2006; and respondent's resignation letter was in Filipino, using simple terms which could be easily understood.

APPEARANCES OF COUNSEL

Paredes Garcia & Golez for petitioners.
Dolendo & Associates for respondent

D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by petitioners Blue Eagle Management, Inc. (BEMI), Ma. Amelia S. Bonoan (Bonoan), and Ma. Carmelita S. Dela Rama (Dela Rama), assailing the Decision[1] dated March 11, 2010 of the Court of Appeals in CA-G.R. SP No. 106037. The appellate court annulled and set aside the Decision[2] dated May 31, 2007 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 051363-07 and reinstated the Labor Arbiter's Decision[3] dated October 12, 2006 in NLRC-NCR Case No. 00-03-01845-06 finding that respondent Jocelyn L. Naval was illegally dismissed.

Petitioners and respondent presented two varying accounts of the circumstances that gave rise to this case.

Petitioners' Account

Petitioner BEMI is a domestic corporation registered with the Philippine Securities and Exchange Commission in 2004, with the primary purpose of establishing, owning, operating, or managing a sports complex, and performing any and all acts necessary and incidental to carrying out the same. It had an authorized capital stock of ₱100,000.00, divided into 100,000 shares with ₱1.00 par value per share; of which 25,000 shares

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[1] *Rollo*, pp. 26-39; penned by Associate Justice Romeo F. Barza with Associate Justices Magdangal M. de Leon and Ruben C. Ayson concurring.

[2] *Id.* at 40-46; penned by Commissioner Romeo L. Go with Presiding Commissioner Gerardo C. Nograles and Commissioner Perlita B. Velasco concurring.

[3] *Id.* at 136-145; penned by Labor Arbiter Virginia T. Luyas-Azarraga.

worth ₱25,000.00 were subscribed and fully paid for as of December 31, 2005. It commenced operation on January 2, 2005.

By virtue of a Memorandum of Agreement (MOA), finalized on September 29, 2006, Ateneo de Manila University (ADMU), owner of the Moro Lorenzo Sports Center (MLSC) located within the ADMU compound, gave petitioner BEMI the authority to manage and operate the following businesses at MLSC: (a) sports clinic; (b) fitness gym; (c) coffee shop; and (d) lease of basketball courts, badminton courts, locker rooms/storage facilities, weight training room, track oval, martial arts deck, and office spaces. Under the MOA, ADMU and petitioner BEMI agreed, among other terms and conditions, that (a) petitioner BEMI would operate the businesses on its own account and employ its own employees, secure the necessary business licenses and permits under its name, and pay all taxes related to its operations under its name; (b) profits or losses from operations would be for the account of petitioner BEMI; (c) petitioner BEMI would be responsible for the costs of maintaining MLSC in the same condition as it was when turned over by ADMU excluding ordinary wear and tear; (d) petitioner BEMI would reimburse ADMU the costs of electrical, water, telephone, and other utility charges, including the cost of installation fees and deposits related thereto, which had been separately and exclusively used and consumed by petitioner BEMI within MLSC; and (e) the agreement would be valid for a period of three years commencing on October 1, 2006. Petitioner BEMI was able to conduct its businesses at MLSC from January 2, 2005 to September 30, 2006 under a draft MOA, which was basically the same as the final MOA.[4] When petitioner BEMI took over the operations of MLSC on January 2, 2005, it also agreed to absorb all the employees of the previous operator.

Petitioners Bonoan and Dela Rama were then the General Manager[5] and Human Resources (HR) Manager, respectively, of petitioner BEMI.

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[4] *Id.* at 62-63.

[5] Petitioner Bonoan eventually became the Vice President for Operations of petitioner BEMI.

Respondent was hired on January 15, 2005 by petitioner BEMI as a member of its maintenance staff.

During its first year of operation in 2005, petitioner BEMI suffered financial losses in the total amount of ₱5,067,409.44. In an attempt to reduce its financial losses, the Management of petitioner BEMI (Management) resolved sometime in January 2006 to decrease the operational expenses of the company. Since the gross income of petitioner BEMI was not even enough to cover the costs of the salaries, wages, and other benefits of its employees, one of the measures the Management intended to implement was the downsizing of its workforce. Pursuant to such decision of the Management, petitioners Bonoan and Dela Rama evaluated and identified several employees who could be the subject of retrenchment proceedings, taking into consideration the employees' positions and tenures at petitioner BEMI. After their evaluation, petitioners Bonoan and Dela Rama identified five employees for retrenchment, namely, Arvin A. Aluad, Alghie B. Domdom, Randell S. Esureña, Edmund T. Tugay, and respondent. Respondent was included in the list because she was one of the employees with the shortest tenures.

Before actually commencing retrenchment proceedings (scheduled to be completed not later than March 31, 2006), petitioner Dela Rama separately met with each of the five aforementioned employees between February 16 and 24, 2006 and presented to them the option of resigning instead. The employees who would choose to resign would no longer be required to report for work after their resignation but would still be paid their full salary for February 2006 and their pro-rated 13th month pay, plus financial assistance in the amount of one month salary for every year of service at petitioner BEMI. This option would also give the employees free time to seek other employment while still receiving salary from petitioner BEMI.

Petitioner Dela Rama, together with Ferdinand Chiongson (Chiongson), the officer-in-charge of the maintenance staff, spoke to respondent on the morning of February 20, 2006. Petitioner Dela Rama and Chiongson presented to respondent her options

and gave her time to decide. Just several hours after the meeting, respondent returned to petitioner Dela Rama's office and informed petitioner Dela Rama that she would voluntarily resign. In petitioner Dela Rama's presence, respondent then executed a resignation letter in her own handwriting. Respondent's resignation letter was forwarded to and approved by petitioner Bonoan on the same day. The other four employees identified for retrenchment similarly opted to voluntarily resign and executed their respective resignation letters.

Since all the five employees identified for retrenchment decided to voluntarily resign instead and avail themselves of the financial package offered by petitioner BEMI, there was no more need for the company to initiate retrenchment proceedings. The five employees were instructed to return on February 28, 2006 to comply with the exit procedure of petitioner BEMI and receive the amounts due them by reason of their voluntary resignation.

On February 28, 2006, the resigned employees, except for respondent, appeared at the premises of petitioner BEMI, completed their exit procedures, received the amounts due them, and executed release waivers and quitclaims in favor of petitioner BEMI. Respondent's non-appearance on February 28, 2006 prompted petitioner Bonoan to write her a letter dated March 1, 2006 stating that in connection with respondent's voluntary resignation, she must comply with the exit procedures of petitioner BEMI; and upon her completion thereof, she would receive her separation pay, but less her ₱4,500.00 outstanding financial obligation[6] to the company. The said letter was mailed to respondent on March 2, 2006.

Respondent appeared at petitioner Bonoan's office on March 3, 2006. Because respondent was finding it difficult to find new employment, she asked if it was possible for her to return to work for petitioner BEMI. However, petitioner Bonoan replied that respondent's resignation had long been approved and that petitioner BEMI would not be able to rehire respondent given

[6] A loan extended to respondent by petitioner BEMI but remained unpaid as of respondent's resignation.

the difficult financial position of the company. Petitioner Bonoan advised respondent to just receive the amount she was entitled to by reason of her voluntary resignation. Petitioner Bonoan also attempted to furnish respondent with a copy of the letter dated March 1, 2006 but after reading the contents of said letter, respondent refused to receive the same. On the afternoon of March 3, 2006, respondent filed a complaint for illegal dismissal against petitioners before the NLRC.

Respondent's Account

According to respondent, she was employed by petitioner BEMI on January 17, 2005 as maintenance staff. Respondent was assigned to the Gym Department with the primary function of giving assistance to customers who were working-out or performing aerobic exercises.

In December 2005, one Dr. Florendo, a regular customer, visited the gym to exercise. As Dr. Florendo made her way to her favorite spot, she said to her companion, "*Andyan na naman yung mga referee*." Dr. Florendo was referring to a group of referees who were exercising on the other side of the gym and whose presence apparently irked the doctor. As Dr. Florendo was working-out, someone from the group of referees raised the volume of the television in the middle of the gym. Irritated by the noise, Dr. Florendo ordered respondent to lower the volume of the television, angrily uttering, "*Ano ba yan? Bakit hindi nyo binabantayan*." Dr. Florendo then immediately complained to the gym manager.

Meanwhile, Mr. Ilagan, who headed the group of referees, approached respondent to ask what was going on. Respondent relayed Dr. Florendo's complaint to Mr. Ilagan. Mr. Ilagan wanted to know who among his group raised the volume of the television, and upon respondent's suggestion, Mr. Ilagan directly approached Dr. Florendo. Unfortunately, an argument erupted between Mr. Ilagan and Dr. Florendo. Following the argument between the two customers, Dr. Florendo confronted respondent and demanded to know why respondent divulged to Mr. Ilagan the doctor's complaints against the group of referees. Dr. Florendo continued

to berate and insult respondent. Shocked by how Dr. Florendo was treating her, respondent was unable to defend herself and could only cry. Dr. Florendo's parting words to respondent were, "*Ipatatanggal kita*!"

Soon after, respondent was summoned before petitioner Dela Rama, the HR Manager. Petitioner Dela Rama purportedly received a complaint from a customer that respondent was not doing her work well, so petitioner Dela Rama would be issuing a memorandum suspending respondent for three days starting January 3, 2006. Yet, after respondent served just one day of suspension on January 3, 2006, petitioner Dela Rama already ordered respondent to return to work on January 4, 2006. Respondent was made to sign a document attesting that she was suspended for only one day, and was also instructed to tell her co-employees that she was not suspended and she merely took a leave of absence. Ever since respondent was allowed to return to work, though, petitioner Dela Rama's attitude towards her had completely become unpleasant. Petitioner Dela Rama was always critical of respondent's work.

On February 20, 2006, respondent was called to a meeting with petitioner Dela Rama and Ferdinand Tiongson (Tiongson).[7] During said meeting, Tiongson informed respondent that petitioner BEMI needed to reduce its manpower as part of the cost-cutting measures of the company, and respondent was a candidate for termination. Respondent inquired if the reduction in manpower was legitimate, and Tiongson, without directly answering respondent's question, warned respondent against filing a complaint with the NLRC, lest she also put in jeopardy her husband's employment, which happened to be connected with petitioner BEMI as well.

Respondent was then required to submit a handwritten resignation letter. Petitioner Dela Rama gave respondent a piece of paper and dictated to the latter the contents of her resignation letter, but respondent had her resignation letter typed on a

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[7] Presumably the same Ferdinand Chiongson referred to by the petitioners, there being a difference only in the spelling of the person's surname.

computer and printed. Petitioner Dela Rama insisted on a handwritten resignation letter and refused to accept respondent's printed letter. Petitioner Dela Rama additionally advised respondent to just do as she was instructed or she would not receive anything from petitioner BEMI. Since respondent was already pregnant at that time and afraid that her husband might also lose his job, respondent was compelled to prepare the handwritten resignation letter as it was dictated by petitioner Dela Rama and sign the said letter in petitioner Dela Rama's presence. After respondent submitted her resignation letter, she was told that she still needed to secure clearance before she could receive any amount from petitioner BEMI. Because respondent really had no intention of resigning, she did not secure clearance and claim any amount from petitioner BEMI, and instead, she filed with the NLRC a complaint for illegal dismissal with prayer for reinstatement and payment of backwages, damages, and attorney's fees.

Antecedent Proceedings

When conciliatory conferences were unsuccessful, the parties were directed to submit their respective position papers.

The Labor Arbiter rendered a Decision on October 12, 2006 finding that respondent was illegally dismissed. According to the Labor Arbiter, petitioners were not able to prove that petitioner BEMI was suffering from serious business losses that would have justified retrenchment of its employees. The Financial Statement of petitioner BEMI for 2005 by itself was not sufficient and convincing proof of substantial losses for it did not show whether the losses of the company increased or decreased compared to previous years. Although petitioner BEMI posted a loss for 2005, it could also be possible that such loss was considerably less than those previously incurred, thereby indicating the improving condition of the company. As a result, the Labor Arbiter held that respondent did not resign voluntarily. There was no factual or legal basis for giving respondent the option to resign in lieu of the alleged retrenchment to be implemented by petitioners. Respondent was obviously misled into believing that there was ground for retrenchment.

Respondent's resignation letter also did not deserve much weight. The resignation letter of respondent had uniform content as those of her four other co-employees. The assurances of payment of salaries, separation pay, and 13th month pay at a given date were words obviously coming from an employer. It was more of a quitclaim rather than a resignation letter. And the mere fact that respondent protested her act of signing a resignation letter by immediately filing a complaint for illegal dismissal against petitioners negated the allegation that respondent voluntarily resigned. Thus, the Labor Arbiter decreed:

> WHEREFORE, the foregoing premises considered, judgment is hereby rendered, declaring the dismissal of the [respondent] illegal and holding [petitioners] jointly and severally liable for the following:
>
> 1. To reinstate the [respondent] to her former position without loss of seniority rights and other benefits;
> 2. To pay [respondent's] full backwages from the time of her dismissal until actual reinstatement which up to this time has amounted to Php76,972.33[;]
> 3. To pay [respondent's] moral and exemplary damages in the amount Ten Thousand Pesos (₱10,000.00)[; and]
> 4. To pay [respondent's] attorney's fee equivalent to 10% of the total monetary award.[8]

Petitioners appealed before the NLRC. In its Decision dated May 31, 2007, the NLRC found merit in petitioners' appeal for the following reasons:

> In the case at bar, [petitioners] succeeded in persuading this Commission by presenting its income tax return for the year 2005 and financial statements that the company had incurred a net loss of three million two hundred ninety-three thousand eight hundred sixteen pesos and 14/100 (₱3,293,816.14) for the said year. Such amount of loss is likewise indicated in the company's Balance Sheet which was prepared by an independent auditor in September 2006. More specifically, the Balance Sheet would show that the company's gross profit (revenue less direct costs) in the amount of two million

[8] *Rollo,* pp. 144-145.

three hundred nineteen thousand eight hundred thirty-two pesos and 39/100 (₱2,319,832.39) was not even enough to cover the amount of salaries, wages and other benefits of the employees in the total amount of two million nine hundred sixty-nine thousand nine hundred eighty-six pesos and 15/100 (₱2,969,986.15). It must be noted that such amount corresponding to salaries, wages and other benefits constitutes only an item in the administrative expenses which need to be further deducted from the gross profit. Thus, after deducting the administrative expenses from the gross profit, the company showed a loss of more than ₱5,000,000.00.

While the company enjoys a tax benefit of more than one million pesos and its actual net loss was reduced to ₱3,293,816.14, such amount is still considered as substantial loss. In this regard, it was noted that the company has only one hundred thousand (100,000.00) shares as its authorized capital stock with a par value of one peso (₱1.00) per share.

In connection herewith, [petitioners] correctly noted as baseless the Labor Arbiter's pronouncement that the company's financial statement for [the] year 2005 does not sufficiently prove that it already suffered actual serious losses since it failed to present financial statements for the previous years. According to the Labor Arbiter, such past statements may show an improvement in its condition. As justified however by the company, its failure to present such financial statements for the previous years was brought by the fact that it went on its first year of commercial operations only in year 2005.

Considering the company's financial condition, We find good faith on its part when it decided to implement a retrenchment program and see no basis to hold that it was merely intended to defeat or circumvent the employees' right to security of tenure. Such finding is further supported by the criterion of shortest tenure in service which was used by the [petitioners] in determining the employees to be included in the program.

The company could have implemented a valid retrenchment program had the five (5) employees not opted to resign. Thus, [respondent] was neither deceived nor coerced when she was offered to voluntarily resign instead of being included in the program.[9]

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[9] *Id.* at 43-44.

Given its foregoing findings, the NLRC deemed the other issues in the case moot and academic, *viz.*:

> 1. the suspension of the [respondent] which took place prior to the information that the company is implementing a retrenchment program;
>
> 2. the similarity in the tenor of the resignation letters by the [respondent] and some other resigned employees; and
>
> 3. it was only herein [respondent], among the five employees who opted to resign, who filed a complaint against the [petitioners].[10]

In the end, the NLRC adjudged:

> The reversal of the assailed Decision is without prejudice to the right of the [respondent] to claim her reinstatement wages as granted by the Labor Arbiter.
>
> WHEREFORE, premises considered, [petitioners'] appeal is hereby **GRANTED**. Accordingly, the assailed Decision is hereby **SET ASIDE** and **A NEW ONE ENTERED** declaring [respondent] to have voluntarily resigned from her employment.[11]

Respondent filed a Partial Motion for Reconsideration of the foregoing Decision but said Motion was denied for lack of merit by the NLRC in a Resolution dated April 30, 2008.

This prompted respondent to file a Petition for *Certiorari* with the Court of Appeals, averring grave abuse of discretion on the part of the NLRC when it reversed the Labor Arbiter's Decision and declared that respondent voluntarily resigned. Petitioners sought the dismissal of respondent's Petition for *Certiorari*, insisting that respondent voluntarily opted to resign instead of being retrenched, as well as raising procedural defects of the Petition, to wit: (a) respondent failed to indicate the material dates that would show the timeliness of the Petition; (b) respondent should have served a copy of the Petition on petitioners directly, not on petitioners' counsel, because a special civil action under

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[10] *Id.* at 44-45.

[11] *Id.* at 45.

Rule 65 is an original action and not a mere continuation of the proceedings before the NLRC; and (c) the Verification and Certification of Non-Forum Shopping attached to the Petition was defective because respondent's BEMI identification card (ID) was already invalid given that she was no longer connected with the company, and it was also not a competent evidence of identity as it was not issued by an official agency.

The Court of Appeals, in a Decision dated March 11, 2010, favored respondent.

To the Court of Appeals, the procedural defects of respondent's Petition for *Certiorari* were not sufficient to warrant the dismissal of said Petition. Respondent's failure to state the material dates under "Timeliness of the Petition" could be excused considering that after perusal of the records of the case, the dates of respondent's filing of her Partial Motion for Reconsideration of the NLRC Decision (*i.e.*, July 13, 2007) and receipt of the NLRC Resolution denying said Motion (*i.e.*, June 11, 2008) could be respectively found under the "Nature of the Petition" and paragraph 14 of the Petition. In addition, it was already well-settled in jurisprudence that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases. Further, respondent had substantially complied with the requirement for competent evidence of identity by using her Social Security System (SSS) ID in executing the Verification and Certification of Non-Forum Shopping which she attached to her Reply.

The Court of Appeals proceeded to rule on the substantive issues of the case, as follows:

> Evidently in this case, the [respondent] had no intention to resign from office had she not been made to choose to resign or be one of the candidates for the planned retrenchment program of the company. There could not be any reason for the [respondent] to resign despite her allegation that she had not been treated well by her superiors after the incident at the gym where she was suspended for one (1) day, considering that the said employment was her only source of income and that at that time, she was already 2 months pregnant. In fact, it is quite unbelievable that [respondent] would voluntarily

resign from work, knowing fully well that she was only a candidate for the planned retrenchment and in such an event, would eventually legally receive benefits thereunder.

Also, the fact that the [respondent] was forced to prepare a handwritten resignation letter, with the words having been dictated to her by the HR Manager, casts doubt on the voluntariness of the resignation. It bears stressing that whether it be by redundancy or retrenchment or any of the other authorized causes, no employee may be dismissed without observance of the fundamentals of good faith. Further, even though the employer interposed the defense of resignation, it is still incumbent upon the [petitioners] to prove that the employee voluntarily resigned.

As held in the earlier case of *SMC v. NLRC*:

> "Even if private respondents were given the option to retire, be retrenched or dismissed, they were made to understand that they had no choice but to leave the company. More bluntly stated, they were forced to swallow the bitter pill of dismissal but afforded a chance to sweeten their separation from employment. They either had to voluntarily retire, be retrenched with benefits, or be dismissed without receiving any benefit at all."

Similarly in this case, the [respondent] was given no choice but to relinquish her employment, negating voluntariness in her act.

Moreover, as aptly argued by [respondent], her act of filing of a complaint for illegal dismissal negates voluntary resignation. Well-entrenched is the rule that resignation is inconsistent with the filing of a complaint for illegal dismissal. To be valid, the resignation must be unconditional, with the intent to operate as such; there must be a clear intention to relinquish the position. In this case, respondent actively pursued her illegal dismissal case against [petitioners], such that she cannot be said to have voluntarily resigned from her job.

Given the above disquisition, We hold that the Labor Arbiter correctly found the [respondent] to have been illegally dismissed and her monetary claims must be upheld.[12] (Citations omitted.)

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[12] *Id.* at 36-38.

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, the petition is **GRANTED** and the assailed decision is hereby **ANNULLED** and **SET ASIDE**. Accordingly, the Labor Arbiter's decision is hereby **REINSTATED**.[13]

In a Resolution dated June 2, 2010, the Court of Appeals denied the Motion for Reconsideration of petitioners.

Petitioners now come before the Court via the instant Petition for Review on *Certiorari* based on the following assignment of errors:

THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING THE PETITION OF RESPONDENT DESPITE ITS FAILURE TO COMPLY WITH RULES OF PROCEDURE.

THE HONORABLE COURT OF APPEALS ERRED IN GRANTING THE PETITION OF RESPONDENT DESPITE THE ABSENCE OF ANY FINDING OF GRAVE ABUSE OF DISCRETION ON THE PART OF THE NATIONAL LABOR RELATIONS COMMISSION.[14]

Ruling of the Court

There is merit in the present Petition.

On the matter of procedure, the Court of Appeals should have, at the outset, dismissed respondent's Petition for *Certiorari* in CA-G.R. SP No. 106037 for failure to state material dates.

A petition for *certiorari* must be filed within the prescribed periods under Section 4, Rule 65 of the Rules of Court, as amended:

Section 4. *When and Where to file the Petition*. — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.

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[13] *Id.* at 38-39.

[14] *Id.* at 11.

For the purpose of determining whether or not a petition for *certiorari* was timely filed, Section 3, Rule 46 of the Rules of Court, as amended, requires the petition itself to state the material dates:

SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* — x x x

In actions filed under Rule 65, the petition shall further indicate the **material dates** showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

x x x x x x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be **sufficient ground for the dismissal of the petition.** (Emphases supplied.)

The Court, in *Vinuya v. Romulo*,[15] expounded on the importance of stating the material dates in a petition for *certiorari*:

As the rule indicates, the 60-day period starts to run from the date petitioner receives the assailed judgment, final order or resolution, or the denial of the motion for reconsideration or new trial timely filed, whether such motion is required or not. To establish the timeliness of the petition for *certiorari*, the date of receipt of the assailed judgment, final order or resolution or the denial of the motion for reconsideration or new trial must be stated in the petition; otherwise, the petition for *certiorari* must be dismissed. The importance of the dates cannot be understated, for such dates determine the timeliness of the filing of the petition for *certiorari*. As the Court has emphasized in *Tambong v. R. Jorge Development Corporation:*

> There are three essential dates that must be stated in a petition for *certiorari* brought under Rule 65. *First*, the date when notice of the judgment or final order or resolution was received; *second*, when a motion for new trial or reconsideration was filed; and *third*, when notice of the denial thereof was received. **Failure of petitioner to comply with this requirement shall be sufficient ground for the dismissal of the petition. Substantial compliance**

[15] G.R. No. 162230, August 12, 2014, 732 SCRA 595, 605-606.

will not suffice in a matter involving strict observance with the Rules. (Emphasis supplied)

The Court has further said in *Santos v. Court of Appeals*:

> The requirement of setting forth the three (3) dates in a petition for *certiorari* under Rule 65 is for the purpose of determining its timeliness. Such a petition is required to be filed not later than sixty (60) days from notice of the judgment, order or *Resolution* sought to be assailed. Therefore, that the petition for *certiorari* was filed forty-one (41) days from receipt of the denial of the motion for reconsideration is hardly relevant. The Court of Appeals was not in any position to determine when this period commenced to run and whether the motion for reconsideration itself was filed on time since the material dates were not stated. It should not be assumed that in no event would the motion be filed later than fifteen (15) days. Technical rules of procedure are not designed to frustrate the ends of justice. These are provided to effect the proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets. Utter disregard of the Rules cannot justly be rationalized by harking on the policy of liberal construction. (Citations omitted.)

In respondent's Petition for *Certiorari* before the Court of Appeals, there was only one paragraph under the heading of "Timeliness of the Petition," which alleged:

> The undersigned counsel received a copy of the decision of the Honorable Commission denying the [respondent's] Motion for Reconsideration on April 30, 2008. Hence, [respondent had] 60 days from notice of the judgment within which to file a petition for certiorari pursuant to Sec. 4 of Rule 65.[16]

The aforequoted paragraph in respondent's Petition for *Certiorari* not only failed to state all the material dates required by the Rules, but it also erroneously claimed that April 30, 2008 was the date respondent received the NLRC Resolution denying her Motion for Partial Reconsideration, when actually, it was the date said Resolution was issued. Respondent's Petition

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[16] CA *rollo*, p. 3.

for *Certiorari* was totally silent as to the date when respondent received a copy of the NLRC Decision dated May 31, 2007; while it could be culled from other parts of the Petition that respondent filed her Motion for Partial Reconsideration of the NLRC Decision on July 13, 2007 and received the NLRC Resolution dated April 30, 2008 denying said Motion on June 11, 2008.

Absent the date when respondent received the NLRC Decision dated May 31, 2007, there is no way to determine whether respondent's Motion for Partial Reconsideration of the same was timely filed. A late motion for reconsideration would render the decision or resolution subject thereof already final and executory. Still, respondent argues that her receipt of the NLRC Decision dated May 31, 2007 on July 4, 2007 was stated in her Partial Motion for Reconsideration, which was attached to her Petition for *Certiorari.*

It is true that in a number of cases, the Court relaxed the application of procedural rules in the interest of substantial justice. Nevertheless, the Court is also guided accordingly in this case by its declarations in *Sebastian v. Morales*:[17]

> Under Rule 1, Section 6 of the 1997 Rules of Civil Procedure, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that procedural rules are to be ignored or disdained at will to suit the convenience of a party. Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes. Hence, it is a mistake to suppose that substantive law and procedural law are contradictory to each other, or as often suggested, that enforcement of procedural rules should never be permitted if it would result in prejudice to the substantive rights of the litigants.
>
> Litigation is not a game of technicalities, but every case must be prosecuted in accordance with the prescribed procedure so that issues

[17] 445 Phil. 595, 605 (2003).

may be properly presented and justly resolved. Hence, rules of procedure must be faithfully followed except only when for persuasive reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules. (Citations omitted.)

Respondent herein made no effort at all to explain her failure to state all the material dates in her Petition for *Certiorari* before the Court of Appeals. The bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel the Court to suspend procedural rules.[18] Absent compelling reason to disregard the Rules, the Court of Appeals should have had no other choice but to enforce the same by dismissing the noncompliant Petition.

There is also basis for granting the Petition at bar on substantive grounds.

The pivotal substantive issue in this case is whether or not respondent was illegally dismissed; which depends on the question of whether or not respondent's resignation was voluntary.

The Labor Arbiter held (and the Court of Appeals subsequently affirmed) that respondent's resignation was involuntary as she only resigned after being deceived into believing that her removal through retrenchment was inevitable, as well as after being threatened that her husband's employment would also be at risk if she did not submit her handwritten resignation letter. The NLRC though found that respondent, faced with retrenchment, opted to voluntarily resign and avail herself of the financial package petitioners offered.

Evidently, the instant Petition involves questions of fact that require the Court to review and re-examine the evidence on record. Generally, the Court does not review errors that raise factual questions. However, when there is conflict among the factual findings of the antecedent deciding bodies like the Labor Arbiter,

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[18] *Bergonia v. Court of Appeals*, 680 Phil. 334, 343 (2012).

the NLRC, and the Court of Appeals, it is proper, in the exercise of the equity jurisdiction of the Court, to review and re-evaluate the factual issues and to look into the records of the case and re-examine the questioned findings.[19]

The Court defined "resignation" in *Chiang Kai Shek College v. Torres*,[20] thus:

> Resignation is the voluntary act of an employee who is in a situation where one believes that personal reasons cannot be sacrificed for the favor of employment, and opts to leave rather than stay employed. It is a formal pronouncement or relinquishment of an office, with the intention of relinquishing the office accompanied by the act of relinquishment. As the intent to relinquish must concur with the overt act of relinquishment, the acts of the employee before and after the alleged resignation must be considered in determining whether, he or she, in fact, intended to sever his or her employment. (Citation omitted.)

For the resignation of an employee to be a viable defense in an action for illegal dismissal, an employer must prove that the resignation was voluntary, and its evidence thereon must be clear, positive, and convincing. The employer cannot rely on the weakness of the employee's evidence.[21]

In this case, petitioners, as employers, were able to present sufficient evidence to establish that respondent's resignation was voluntary.

As borne out by the Financial Statements for 2005 of petitioner BEMI, there was ground for the company to implement a retrenchment of its employees at the time respondent resigned.

Under Article 283[22] of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended,

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[19] *Javier v. Fly Ace Corporation/Flordelyn Castillo*, 682 Phil. 359, 371 (2012).

[20] G.R. No. 189456, April 2, 2014, 720 SCRA 424, 434.

[21] *D.M. Consunji Corporation v. Bello*, G.R. No. 159371, July 29, 2013, 702 SCRA 347, 358.

[22] ART. 283. *Closure of Establishment and Reduction of Personnel.* — The employer may also terminate the employment of any employee due

retrenchment is one of the authorized causes for termination of employment which the law accords an employer who is not making good in its operations in order to cut back on expenses for salaries and wages by laying off some employees. The purpose of retrenchment is to save a financially ailing business establishment from eventually collapsing.[23] The requirements for a valid retrenchment were laid down in *Asian Alcohol Corporation v. National Labor Relations Commission*:[24]

> The requirements for valid retrenchment which must be proved by clear and convincing evidence are: (1) that the retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely *de minimis*, but substantial, serious, actual and real, or if only expected, are reasonably imminent as perceived objectively and in good faith by the employer; (2) that the employer served written notice both to the employees and to the Department of Labor and Employment at least one month prior to the intended date of retrenchment; (3) that the employer pays the retrenched employees separation pay equivalent to one month pay or at least 1/2 month pay for every year of service, whichever is higher; (4) that the employer exercises its prerogative to retrench employees in good faith for the advancement of its interest and not

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to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the worker and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

[23] *J.A.T. General Services v. National Labor Relations Commission*, 465 Phil. 785, 794 (2004).

[24] 364 Phil. 912, 926-927 (1999).

to defeat or circumvent the employees' right to security of tenure; and (5) that the employer used fair and reasonable criteria in ascertaining who would be dismissed and who would be retained among the employees, such as status (*i.e.*, whether they are temporary, casual, regular or managerial employees), efficiency, seniority, physical fitness, age, and financial hardship for certain workers. (Citations omitted.)

Proof of financial losses becomes the determining factor in proving the legitimacy of retrenchment. In establishing a unilateral claim of actual or potential losses, financial statements audited by independent external auditors constitute the normal method of proof of profit and loss performance of a company. The condition of business losses justifying retrenchment is normally shown by audited financial documents like yearly balance sheets and profit and loss statements as well as annual income tax returns.[25] In *Hotel Enterprises of the Philippines, Inc., owner of Hyatt Regency Manila v. Samahan ng mga Manggagawa sa Hyatt-National Union of Workers in the Hotel and Restaurant and Allied Industries (SAMASAH-NUWHRAIN)*,[26] the Court affirmed the credence and weight accorded to audited financial statements as proof of the financial standing of a corporation:

Losses or gains of a business entity cannot be fully and satisfactorily assessed by isolating or highlighting only a particular part of its financial report. There are recognized accounting principles and methods by which a company's performance can be objectively and thoroughly evaluated at the end of every fiscal or calendar year. What is important is that the assessment is accurately reported, free from any manipulation of figures to suit the company's needs, so that the company's actual financial condition may be impartially and accurately gauged.

The audit of financial reports by independent external auditors is strictly governed by national and international standards and regulations for the accounting profession. It bears emphasis that the financial statements submitted by petitioner were audited by a reputable auditing firm and are clear and substantial enough to prove

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[25] *Waterfront Cebu City Hotel v. Jimenez*, 687 Phil. 171, 182 (2012).

[26] 606 Phil. 490, 506-507 (2009).

that the company was in a precarious financial condition. (Citation omitted.)

Petitioners submitted the Annual Income Tax Return and Financial Statements for 2005 of petitioner BEMI. Said Financial Statements of petitioner BEMI were audited by Armando J. Jimenez, a Certified Public Accountant (CPA) and independent auditor, whose credibility was never contested by respondent.

That petitioners were not able to present financial statements for years prior to 2005 should not be automatically taken against them. Petitioner BEMI was organized and registered as a corporation in 2004 and started business operations in 2005 only. While financial statements for previous years may be material in establishing the financial trend for an employer, these are not indispensable in all cases of retrenchment. The evidence required for each case of retrenchment will still depend on its particular circumstances. In fact, in *Revidad v. National Labor Relations Commission*,[27] the Court declared that "proof of actual financial losses incurred by the company is not a condition *sine qua non* for retrenchment," and retrenchment may be undertaken by the employer to prevent even future losses:

> In its ordinary connotation, the phrase "to prevent losses" means that retrenchment or termination of the services of some employees is authorized to be undertaken by the employer sometime before the anticipated losses are actually sustained or realized. It is not, in other words, the intention of the lawmaker to compel the employer to stay his hand and keep all his employees until after losses shall have in fact materialized. If such an intent were expressly written into the law, that law may well be vulnerable to constitutional attack as unduly taking property from one man to be given to another.

The Statement of Income[28] of petitioner BEMI for 2005 showed net loss in the amount of ₱3,293,816.14, computed as follows:

REVENUES	₱13,109,653.19
DIRECT COSTS	10,789,820.80

[27] 315 Phil. 372, 390 (1995).

[28] *Rollo*, p. 59.

GROSS PROFIT	2,319,832.39
ADMINISTRATIVE EXPENSES	7,387,241.83
LOSS BEFORE TAX	(5,067,409.44)
TAX BENEFIT — NOLCO	1,773,593.30
NET LOSS	₱(3,293,816.14)

Irrefragably, such loss was actual and substantial for a newly-established corporation during its first year of operation, and there is no showing that such loss would abate in the near future. By year end of 2005, the stockholders of petitioner BEMI had to infuse cash advances amounting to ₱7,361,743.30 to cover the deficit of ₱3,293,816.14 just so the company could continue its operations.[29] Actually, petitioner BEMI continued to suffer loss in 2006 which compelled it to close its coffee shop at MLSC by August 31, 2006.[30]

Petitioner BEMI had to act swiftly and decisively to avert its loss since its MOA with ADMU for the conduct of its business at MLSC was for a period of only a little over three years. The retrenchment of employees appears to be a practical course of action for petitioner BEMI to prevent more losses considering that: (1) among the direct costs of the company in 2005, the salaries of its coffee shop and gym employees was the highest item, totaling ₱3,791,671.81; and (2) as the NLRC pointed out, the gross profit of the company amounting to ₱2,319,832.39 was not even sufficient to cover its administrative employees' salaries and wages in the amount of ₱2,969,986.15, not to mention other administrative expenses. The Court also bears in mind that petitioner BEMI had to absorb all the employees of the previous operator when it took over the business.

The evaluation and identification of the employees to be retrenched were jointly undertaken by petitioners Bonoan and Dela Rama, as the General Manager and HR Manager, respectively, of petitioner BEMI, based on fair and reasonable criteria, *i.e.*, the employees' positions and tenures at the company.

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[29] *Id.* at 63.

[30] *Id.* at 71.

Respondent was included in the final list of five employees to be retrenched because she was one of the employees with the shortest tenures. That there were four other employees of petitioner BEMI who were to be retrenched and similarly offered the option of resigning in exchange for a more favorable financial package refutes respondent's insinuation of a scheme by petitioners to remove her because of Dr. Florendo's complaint against her for the incident that took place in December 2005.

Because the five employees to be retrenched opted to voluntarily resign instead and avail themselves of the financial package offered, there was no more need for petitioner BEMI to comply with the notice requirement to the Department of Labor and Employment. Said five employees were to receive more benefits than what the law prescribed in case of retrenchment, particularly: (a) full salary for February 2006 although they were no longer required to report to work after submission of their resignation letters in mid-February 2006; (b) pro-rated 13th month pay; and (c) financial assistance equivalent to one-month salary for every year of service.

The foregoing circumstances persuade the Court that no fraud or deception was employed upon respondent to resign because petitioner BEMI was indeed about to implement in good faith a retrenchment of its employees in order to advance its interest and not merely to defeat or circumvent the respondent's right to security of tenure.

Petitioners, moreover, were able to present respondent's resignation letter, written and signed in her own hand, the material portion of which is reproduced below:

Ako ay magbibitiw sa aking position bilang maintenance personnel sa Feb. 28, 2006. Makukuha ko ang aking huling sweldo sa Feb. 28, 2006. At makukuha ko ang aking separation pay at pro-rated 13th month pay sa Marso 2006.[31]

Both the Labor Arbiter and the Court of Appeals invoked the oft-repeated ruling of the Court that resignation is inconsistent

[31] *Id.* at 73.

with the filing of the complaint for illegal dismissal.[32] However, the employee's filing of the complaint for illegal dismissal by itself is not sufficient to disprove that said employee voluntarily resigned. There must be other attendant circumstances and/or submitted evidence which would raise a cloud of doubt as to the voluntariness of the resignation.

In the present case, respondent's actions were more consistent with an intentional relinquishment of her position pursuant to an agreement reached with petitioners. After respondent submitted her resignation letter on February 20, 2006, she no longer reported for work. There is no showing that respondent, before March 3, 2006, made any attempt to contest her resignation, or to report for work but was prevented from doing so by petitioners. Respondent appeared at the premises of petitioner BEMI on March 3, 2006 when, as stated in her resignation letter, her salary for February 2006 and other benefits would have already been available for release. Respondent, unable to find new employment, merely took the chance of requesting to be rehired by petitioner BEMI and when she was refused, belatedly decried illegal dismissal.

According to respondent, during her meeting with petitioner Dela Rama and Chiongson/Tiongson on February 20, 2006, she was threatened that if she did not follow instructions and execute a handwritten resignation letter, her husband's employment would also be in jeopardy.

The Court is not swayed.

Aside from respondent's bare allegations, there is no proof of such threat ever being made. While respondent claimed that her husband's employment was also connected with petitioner BEMI, she did not provide any other details. Without such details, there is no basis for determining the extent of control or influence petitioners actually had over the employment of respondent's husband as to make said threat plausible. Therefore, it could not be said that respondent's consent to execute the resignation

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[32] *Magis Young Achievers' Learning Center v. Manalo*, 598 Phil. 886, 905 (2009).

letter was vitiated by coercion or intimidation. Pertinent herein are the findings made by the Court in *Gan v. Galderma Philippines, Inc.*[33] that:

> Gan could not have been coerced. Coercion exists when there is a reasonable or well-grounded fear of an imminent evil upon a person or his property or upon the person or property of his spouse, descendants or ascendants. Neither do the facts of this case disclose that Gan was intimidated. In *St. Michael Academy v. NLRC*, we enumerated the requisites for intimidation to vitiate one's consent, thus:
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> > x x x (1) that the intimidation caused the consent to be given; (2) that the threatened act be unjust or unlawful; (3) that the threat be real or serious, there being evident disproportion between the evil and the resistance which all men can offer, leading to the choice of doing the act which is forced on the person to do as the lesser evil; and (4) that it produces a well-grounded fear from the fact that the person from whom it comes has the necessary means or ability to inflict the threatened injury to his person or property x x x.
>
> The instances of "harassment" alleged by Gan are more apparent than real. Aside from the need to treat his accusations with caution for being self-serving due to lack of substantial documentary or testimonial evidence to corroborate the same, the acts of "harassment," if true, do not suffice to be considered as "peculiar circumstances" material to the execution of the subject resignation letter. (Citations omitted.)

It is inconsequential that the contents of respondent's resignation letter was dictated by petitioner Dela Rama and, per the Labor Arbiter's observation, reads more of a quitclaim rather than a resignation letter, for as long as respondent wrote down and signed said letter by her own volition. In *Samaniego v. National Labor Relations Commission*,[34] the Court accorded weight to the resignation letters of the employees because although said letters were prepared by the company, the employees signed

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[33] 701 Phil. 612, 640-641 (2013).

[34] 275 Phil. 126, 134 (1991).

the same voluntarily. Granted that the employees in *Samaniego* were managerial employees, while respondent in the present case was a rank and file employee, the financial situation of petitioner BEMI, the need for retrenchment, and the option to voluntarily resign and the financial package which respondent could avail herself of were duly explained to respondent during the meeting on February 20, 2006; and respondent's resignation letter was in Filipino, using simple terms which could be easily understood.

Furthermore, even if said resignation letter also constituted a quitclaim, respondent cannot simply renege on the same. The Court once more quotes from *Asian Alcohol Corporation*:

> Finally, private respondents now claim that they signed the quitclaims, waivers and voluntary resignation letters only to get their separation package. They maintain that in principle, they did not believe that their dismissal was valid.
>
> It is true that this Court has generally held that quitclaims and releases are contrary to public policy and therefore, void. Nonetheless, voluntary agreements that represent a reasonable settlement are binding on the parties and should not later be disowned. It is only where there is clear proof that the waiver was wangled from an unsuspecting or gullible person, or the terms of the settlement are unconscionable, that the law will step in to bail out the employee. While it is our duty to prevent the exploitation of employees, it also behooves us to protect the sanctity of contracts that do not contravene our laws.
>
> In the case at bar, there is no showing that the quitclaims, waivers and voluntary resignation letters were executed by the private respondents under force or duress. In truth, the documents embodied separation benefits that were well beyond what the company was legally required to give private respondents. We note that out of more than one hundred workers that were retrenched by Asian Alcohol, only these six (6) private respondents were not impressed by the generosity of their employer. Their late complaints have no basis and deserve our scant consideration.[35]

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[35] *Asian Alcohol Corporation v. National Labor Relations Commission, supra* note 24 at 933-934.

As a final note in this case, it is worthy to reiterate the following pronouncements of the Court in *Solidbank Corporation v. National Labor Relations Commission*:[36]

> Withal, the law, in protecting the rights of the laborers, authorizes neither oppression nor self-destruction of the employer. While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every labor dispute will be automatically decided in favor of labor. The management also has its own rights, as such, are entitled to respect and enforcement in the interest of simple fair play. Out of its concern for those with less privileges in life, the Supreme Court has inclined more often than not toward the worker and upheld his cause in his conflicts with the employer. Such favoritism, however, has not blinded the Court to the rule that justice is in every case for the deserving, to be dispensed in the light of the established facts and applicable law and doctrine. (Citation omitted.)

WHEREFORE, premises considered, the instant Petition for Review on *Certiorari* is **GRANTED**. The Decision dated March 11, 2010 and Resolution dated June 2, 2010 of the Court of Appeals in CA-G.R. SP No. 106037 are **REVERSED and SET ASIDE**. The Decision dated May 31, 2007 of the National Labor Relations Commission in NLRC NCR CA No. 051363-07 is **REINSTATED**.

SO ORDERED.

Sereno, C.J. (Chairperson), Bersamin, Perlas-Bernabe, and *Caguioa, JJ.,* concur.

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[36] 631 Phil. 158, 174 (2010).

FIRST DIVISION

[G.R. No. 195728. April 19, 2016]

PARAMOUNT LIFE & GENERAL INSURANCE CORPORATION, *petitioner, vs.* **CHERRY T. CASTRO and GLENN ANTHONY T. CASTRO,** *respondents.*

[G.R. No. 211329. April 19, 2016]

CHERRY T. CASTRO and GLENN ANTHONY T. CASTRO, *petitioners, vs.* **PARAMOUNT LIFE & GENERAL INSURANCE CORPORATION,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; THIRD-PARTY COMPLAINT; ALLOWING A THIRD-PARTY COMPLAINT IN CASE AT BAR WOULD PREVENT MULTIPLICITY OF SUITS; THE COURT RECOGNIZED THE INSEPARABLE INTEREST OF THE THIRD-PARTY DEFENDANT, AS THE POLICY HOLDER OF THE GROUP POLICY, IN THE INDIVIDUAL INSURANCE CERTIFICATES ISSUED BY PETITIONER INSURANCE COMPANY.— In allowing the inclusion of the PPSBI as a third-party defendant, the Court recognizes the inseparable interest of the bank (as policyholder of the group policy) in the validity of the individual insurance certificates issued by Paramount. The PPSBI need not institute a separate case, considering that its cause of action is intimately related to that of Paramount as against the Castros. The soundness of admitting a third-party complaint hinges on causal connection between the claim of the plaintiff in his complaint and a claim for contribution, indemnity or other relief of the defendant against the third-party defendant. In this case, the Castros stand to incur a bad debt to the PPSBI — the exact event that is insured against by Group Master Policy No. G-086 - in the event that Paramount succeeds in nullifying Virgilio's Individual Insurance Certificate. x x x In *Firestone Tire &*

Rubber Co. of the Phil. v. Tempongko, We ruled that a defendant is permitted to bring in a third-party defendant to litigate a separate cause of action in respect of the plaintiff's claim against a third party in the original and principal case. The objective is to avoid circuitry of action and unnecessary proliferation of lawsuits, as well as to expeditiously dispose of the entire subject matter arising from one particular set of facts, in one litigation. The CA correctly ruled that to admit the Castros' Third-Party Complaint, in which they can assert against the PPSBI an independent claim they would otherwise assert in another action, would prevent multiplicity of suits. Considering also that the original case from which these present Petitions arose has not yet been resolved, the Court deems it proper to have all the parties air all their possible grievances in the original case still pending with the RTC.

2. ID.; ID.; DECLARATION OF DEFAULT UNDER SECTION 3, RULE 9 AND THE EFFECT OF FAILURE TO APPEAR UNDER SECTION 5, RULE 18, DISTINGUISHED; IN VIEW OF RESPONDENT'S FAILURE TO AVAIL OF THE PROPER LEGAL REMEDIES BEFORE THE COURT OF APPEALS, THEY CANNOT NOW BE ALLOWED TO RAISE THE ISSUE BEFORE THIS COURT.— [C]ounsel apparently confuses a declaration of default under Section 3 of Rule 9 with the effect of failure to appear under Section 5 of Rule 18. Failure to file a responsive pleading within the reglementary period is the sole ground for an order of default under Rule 9. On the other hand, under Rule 18, failure of the defendant to appear at the pre-trial conference results in the plaintiff being allowed to present evidence *ex parte*. The difference is that a declaration of default under Rule 9 allows the Court to proceed to render judgment granting the claimant such relief as his pleading may warrant; while the effect of default under Rule 18 allows the plaintiff to present evidence *ex parte* and for the Court to render judgment on the basis thereof. The lower court may have declared defendants therein *as* in default; however, it did not issue an order of default, rather, it ordered the plaintiff to present evidence *ex parte* in accordance with the Rules. In any case, the Castros could have availed themselves of appropriate legal remedies when the CA failed to resolve the issue, but they did not. They cannot now resurrect the issue through a Comment before this Court.

3. REMEDIAL LAW; DISMISSAL OF ACTIONS; RTC'S DENIAL OF A MOTION TO DISMISS WAS AN INTERLOCUTORY ORDER AND, HENCE, NOT APPEALABLE; THE PROPER RECOURSE OF THE AGGRIEVED PARTY IS TO FILE A SPECIAL CIVIL ACTION FOR *CERTIORARI* UNDER RULE 65 WITH THE COURT OF APPEALS.— [T]his Court finds that outright denial of the Petition is warranted, pursuant to our ruling in *Rayos v. City of Manila.* In that case, We ruled that an order denying a motion to dismiss is interlocutory and, hence, not appealable. x x x In the present case, the RTC's denial of the Motion to Dismiss was an interlocutory order, as it did not finally dispose of the case. On the contrary, the denial paved way for the case to proceed until final adjudication by the trial court. Upon denial of their Motion to Dismiss, the Castros were not left without any recourse. In such a situation, the aggrieved party's remedy is to file a special civil action for certiorari under Rule 65 of the Rules of Court. However, the aggrieved parties herein resorted to filing a Petition for Review under Rule 45 before this Court. Even if the present Petition is treated as one for certiorari under Rule 65, it must still be dismissed for violation of the principle of hierarchy of courts. This well-settled principle dictates that petitioners should have filed the Petition for Certiorari with the CA, and not directly with this Court.

APPEARANCES OF COUNSEL

A.V. Camara & Associates Law Office for Paramount Life & General Insurance Corp.

Conrad Ortiz Lasquite for Cherry & Glenn Anthony Castro.

Ferdie Q. Tejada for Phil. Postal Savings Bank.

D E C I S I O N

SERENO, *C.J.*:

These Petitions for Review on Certiorari under Rule 45 of the Rules of Court originate from a Complaint[1] for Declaration of

[1] *Rollo* (G.R. No. 195728), pp. 35-44.

Nullity of Individual Insurance Contract (Civil Case No. 09-599.)[2] The Complaint was instituted by Paramount Life & General Insurance Corporation (Paramount) against Cherry T. Castro and Glenn Anthony T. Castro (Castros) and filed before the Regional Trial Court, Makati City, Branch 61 (RTC), on 2 July 2009.

The Petition[3] docketed as G.R. No. 195728 assails the Court of Appeals (CA) Decision[4] dated 4 October 2010 and Resolution[5] dated 21 February 2011 in CA-G.R. SP No. 113972. The CA remanded the case to the RTC for the admission of the Castros' Third-Party Complaint against the Philippine Postal Savings Bank, Incorporated (PPSBI).[6]

On the other hand, the Petition[7] docketed as G.R. No. 211329 assails the Resolution[8] of the RTC in Civil Case No. 09-599 dated 11 February 2014. The trial court ordered that the Motion to Dismiss filed by the defendants (the Castros) be deemed expunged from the records, as they had previously been declared to be in default. Nonetheless, due to the protracted nature of the proceedings, the RTC allowed the plaintiff no more than two settings for the presentation of evidence.[9]

These Petitions have been consolidated as they involve the same parties, arise from an identical set of facts, and raise interrelated issues.[10] The Court resolves to dispose of these cases jointly.

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[2] In the Complaint, the case was denominated as "Civil Case No. 09-598," but was later referred to as "Civil Case No. 09-599" in subsequent pleadings of the parties and issuances of the trial and the appellate courts.

[3] *Rollo* (G.R. No. 195728), pp. 12-34.

[4] *Id.* at 113-126; Penned by Associate Justice Juan Q. Enriquez, Jr., and concurred in by Associate Justices Ramon M. Bato, Jr. and Florito S. Macalino.

[5] *Id.* at 128-129.

[6] *Id.* at 125.

[7] *Rollo* (G.R. No. 211329), pp. 3-24.

[8] *Id.* at 52-53; Penned by Assisting Judge Maria Amifaith S. Fider-Reyes.

[9] *Id.* at 53.

[10] *Id.* at 117; Pursuant to the Court's Resolution dated 23 April 2014.

FACTS OF THE CASE

In 2004, the PPSBI applied for and obtained insurance from Paramount,[11] which accordingly issued Group Master Policy No. G-086[12] effective 1 September 2004. Under Section 20, Article IV of the said policy, "all death benefits shall be payable to the creditor, PPSBI, as its interest may appeal."[13]

Meanwhile, Virgilio J. Castro (Virgilio) — Cherry's husband and Glenn's father — obtained a housing loan from the PPSBI in the amount of ₱1.5 million.[14] PPSBI required Virgilio to apply for a mortgage redemption insurance (MRI) from Paramount to cover the loan.[15] In his application for the said insurance policy, Virgilio named Cherry and Glenn as beneficiaries.[16] Paramount issued Certificate No. 041913 effective 12 March 2008 in his favor, subject to the terms and conditions of Group Master Policy No. G-086.[17]

On 26 February 2009, Virgilio died of septic shock.[18] Consequently, a claim was filed for death benefits under the individual insurance coverage issued under the group policy.[19] Paramount however denied the claim, on the ground of the failure of Virgilio to disclose material information, or material concealment or misrepresentation.[20] It said that when Virgilio submitted his insurance application on 12 March 2008, he made some material misrepresentations by answering "no" to questions on whether he had any adverse health history and whether he had sought medical

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[11] *Rollo* (G.R. No. 195728), p. 15.

[12] *Id.* at 45-55.

[13] *Id.* at 51.

[14] *Id.* at 62-63.

[15] *Id.* at 63.

[16] *Id.* at 56.

[17] *Id.* at 56-57.

[18] *Id.* at 58.

[19] *Id.* at 59.

[20] *Id.* at 60.

advice or consultation concerning it. Paramount learned that in 2005, Virgilio had sought consultation in a private hospital after complaining of a dull pain in his lumbosacral area.[21] Because of the alleged material concealment or misrepresentation, it declared Virgilio's individual insurance certificate (No. 041913) rescinded, null, and absolutely void from the very beginning.[22]

On 2 July 2009, Paramount filed a Complaint[23] with the RTC docketed as Civil Case No. 09-599. It prayed that Application and Insurance Certificate No. 041913 covering the individual insurance of Virgilio be declared null and void by reason of material concealment and misrepresentation. It also prayed for attorney's fees and exemplary damages.[24]

In their Answer with Counterclaim,[25] the Castros argued that Virgilio had not made any material misrepresentation. They contended that he had submitted the necessary evidence of insurability to the satisfaction of Paramount. They further argued that by approving Virgilio's application, Paramount was estopped from raising the supposed misrepresentations.[26] The Castros made a counterclaim for actual and exemplary damages, as well as attorney's fees, for the alleged breach of contract by Paramount arising from its refusal to honor its obligation as insurer of the ₱1.5 million loan.[27]

STATEMENT OF THE CASES

G.R. No. 195728

On 29 October 2009, the Castros filed a motion[28] to include the PPSBI as an indispensible party-defendant. The RTC thereafter

[21] *Id.* at 59-60.

[22] *Id.* at 60.

[23] *Id.* at 35-42.

[24] *Id.* at 41.

[25] *Id.* at 61-73.

[26] *Id.* at 65.

[27] *Id.* at 67-69.

[28] *Id.* at 77-80.

denied the motion, reasoning that Paramount's Complaint could be fully resolved without the PPSBI's participation.[29]

Consequently, the Castros filed a Motion for Leave to File a Third Party-Complaint and to Admit Attached Third-Party Complaint.[30] They argued that due to the death of Virgilio, and by virtue of Group Policy No. G-086 in relation to Certificate No. 041913, PPSBI stepped into the shoes of Cherry and Glen under the principle of "indemnity, subrogation, or any other reliefs" found in Section 22, Rule 6 of the Rules of Court.[31] This motion was likewise denied, on the ground that "what the defendants herein want is the introduction of a controversy that is entirely foreign and distinct from the main cause."[32] The Castros' Motion for Reconsideration was again denied in a Resolution[33] dated 19 April 2010.

On 13 May 2010, the Castros assailed the RTC Resolutions through a Petition for Certiorari filed with the CA.[34] They likewise subsequently filed a Motion for Leave of Court to File and to Admit Attached Supplemental Petition for Review.[35]

In its Decision[36] dated 4 October 2010, the CA partially granted the Petition by allowing a third-party complaint to be filed against the PPSBI. It ruled that the Castros were freed from the obligation to pay the bank by virtue of subrogation, as the latter would collect the loan amount pursuant to the MRI issued by Paramount in Virgilio's favor.[37] Paramount moved for reconsideration, but the

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[29] *Id.* at 85-86.

[30] *Id.* at 87-97.

[31] *Id.* at 95.

[32] *Id.* at 105.

[33] *Id.* at 111.

[34] *Id.* at 152.

[35] *Id.* at 152-172.

[36] *Id.* at 113-126.

[37] *Id.* at 125.

CA denied the motion through a Resolution[38] dated 21 February 2011.

On 11 April 2011, Paramount filed a Petition for Review under Rule 45, arguing that the case could be fully appreciated and resolved without involving the PPSBI as a third-party defendant in Civil Case No. 09-599.[39]

G.R. No. 211329

Meanwhile, on 7 January 2014, the Castros filed a Motion to Dismiss[40] the Complaint on the ground of failure to prosecute for an unreasonable length of time without justifiable cause and to present evidence *ex parte* pursuant to a court order. In a Resolution[41] dated 11 February 2014, the RTC denied the motion. Owing to its previous Order dated 26 May 2010, which declared the Castros as in default for failure to attend the pretrial, the RTC treated the Motion to Dismiss as a mere scrap of paper and expunged it from the records.

The Castros come straight to this Court via a Petition for Review[42] under Rule 45, assailing the RTC Resolution dated 11 February 2014.

THE ISSUES

1. Whether the CA erred in remanding the case to the RTC for the admission of the Third-Party Complaint against PPSBI

2. Whether the RTC erred in denying the Motion to Dismiss filed by the Castros

THE COURT'S RULING

G.R. No. 195728

The Castros sought to implead the PPSBI as a third-party defendant in the nullification case instituted by Paramount. They

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[38] *Id.* at 128-129.

[39] *Id.* at 12-29.

[40] *Rollo* (G.R. No. 211329), pp. 54-61.

[41] *Id.* at 52-53.

[42] *Id.* at 3-24.

theorized that by virtue of the death of Virgilio and the mandate of the group insurance policy in relation to his individual insurance policy, the PPSBI stepped into the shoes of Cherry and Glenn. According to the Castros, upon Virgilio's death, the obligation to pay the third-party defendant (PPSBI) passed on to Paramount by virtue of the Mortgage Redemption Insurance,[43] and not to them as Virgilio's heirs.

In *Great Pacific Life Assurance Corp. v. Court of Appeals*,[44] we defined mortgage redemption insurance as a device for the protection of both the mortgagee and the mortgagor:

> On the part of the mortgagee, it has to enter into such form of contract so that in the event of the unexpected demise of the mortgagor during the subsistence of the mortgage contract, the proceeds from such insurance will be applied to the payment of the mortgage debt, thereby relieving the heirs of the mortgagor from paying the obligation. In a similar vein, ample protection is given to the mortgagor under such a concept so that in the event of death, the mortgage obligation will be extinguished by the application of the insurance proceeds to the mortgage indebtedness.[45]

In this case, the PPSBI, as the mortgagee-bank, required Virgilio to obtain an MRI from Paramount to cover his housing loan. The issuance of the MRI, as evidenced by the Individual Insurance Certificate in Virgilio's favor, was derived from the group insurance policy issued by Paramount in favor of the PPSBI. Paramount undertook to pay the PPSBI "the benefits in accordance with the Insurance Schedule, upon receipt and approval of due proof that the member has incurred a loss for which benefits are payable."[46]

Paramount, in opposing the PPSBI's inclusion as a third-party defendant, reasons that it is only seeking the nullification of Virgilio's individual insurance certificate, and not the group insurance policy

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[43] *Id.*

[44] 375 Phil. 142 (1999).

[45] *Id.* at 148.

[46] *Rollo* (G.R. No. 195728), p. 45.

forged between it and the PPSBI. It concludes that the nullification action it filed has nothing to do with the PPSBI.

We disagree.

Should Paramount succeed in having the individual insurance certificate nullified, the PPSBI shall then proceed against the Castros. This would contradict the provisions of the group insurance policy that ensure the direct payment by the insurer to the bank:

> Notwithstanding the provision on Section 22 "No Assignment" of Article IV Benefit Provisions, and in accordance with provisions of Section 6 "Amendment of this Policy" under Article II General Provisions of the Group Policy, it is hereby agreed that **all death benefits shall be payable to the Creditor, Philippine Postal Savings Bank** as its interest may appeal.[47] (Emphasis supplied.)

In allowing the inclusion of the PPSBI as a third-party defendant, the Court recognizes the inseparable interest of the bank (as policyholder of the group policy) in the validity of the individual insurance certificates issued by Paramount. The PPSBI need not institute a separate case, considering that its cause of action is intimately related to that of Paramount as against the Castros. The soundness of admitting a third-party complaint hinges on causal connection between the claim of the plaintiff in his complaint and a claim for contribution, indemnity or other relief of the defendant against the third-party defendant.[48] In this case, the Castros stand to incur a bad debt to the PPSBI — the exact event that is insured against by Group Master Policy No. G-086 — in the event that Paramount succeeds in nullifying Virgilio's Individual Insurance Certificate.

Paramount further argues that the propriety of a third-party complaint rests on whether the possible third-party defendant (in this case PPSBI) can raise the same defenses that the third-party plaintiffs (the Castros) have against the plaintiff. However, the Rules do not limit the third-party defendant's options to such a condition. Thus:

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[47] Group Policy, Article IV, Section 20. See *id.* at 51.

[48] *Asian Construction and Development Corp. v. CA*, 498 Phil. 36 (2005).

Section 13. *Answer to third (fourth, etc.)-party complaint.* — A third (fourth, etc.)-party defendant may allege in his answer his defenses, counterclaims or cross-claims, including such defenses that the third (fourth, etc.)-party plaintiff may have against the original plaintiff's claim. In proper cases, he may also assert a counterclaim against the original plaintiff in respect of the latter's claim against the third-party plaintiff.[49]

As seen above, the same defenses the third-party plaintiff has against the original plaintiff are just some of the allegations a third-party defendant may raise in its answer. Section 13 even gives the third-party defendant the prerogative to raise a counterclaim against the original plaintiff in respect of the latter's original claim against the defendant/third-party plaintiff.

In *Firestone Tire & Rubber Co. of the Phil. v. Tempongko*,[50] We ruled that a defendant is permitted to bring in a third-party defendant to litigate a separate cause of action in respect of the plaintiff's claim against a third party in the original and principal case. The objective is to avoid circuitry of action and unnecessary proliferation of lawsuits, as well as to expeditiously dispose of the entire subject matter arising from one particular set of facts, in one litigation.

The CA correctly ruled that to admit the Castros' Third-Party Complaint, in which they can assert against the PPSBI an independent claim they would otherwise assert in another action, would prevent multiplicity of suits.[51]

Considering also that the original case from which these present Petitions arose has not yet been resolved, the Court deems it proper to have all the parties air all their possible grievances in the original case still pending with the RTC.

Finally, the Court resolves the legal issues allegedly ignored by the CA, to wit: 1) whether legal grounds exist for the inhibition of Judge Ruiz (the presiding judge); and 2) whether the defendants were properly declared as in default for failure to appear at pretrial.

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[49] Rule 6, Section 13, Revised Rules of Court.

[50] 137 Phil. 239 (1969).

[51] *Rollo* (G.R. No. 195728), p. 125.

The first issue is unmeritorious. Counsel for the Castros postulates that since six rulings of the judge are being assailed for grave abuse of discretion, the judge should inhibit himself.[52] According to counsel, no judge shall sit in any case if the latter's ruling is subject to review. The Court reminds counsel that the rule contemplates a scenario in which judges are tasked to review their own decisions on appeal, not when their decisions are being appealed to another tribunal.

With regard to the second issue, counsel apparently confuses a declaration of default under Section 3[53] of Rule 9 with the effect of failure to appear under Section 5[54] of Rule 18. Failure to file a responsive pleading within the reglementary period is the sole ground for an order of default under Rule 9.[55] On the other hand, under Rule 18, failure of the defendant to appear at the pre-trial conference results in the plaintiff being allowed to present evidence *ex parte*. The difference is that a declaration of default under Rule 9 allows the Court to proceed to render judgment granting the claimant such relief as his pleading may warrant; while the effect of default under Rule 18 allows the plaintiff to present evidence *ex parte* and for the Court to render judgment on the basis thereof. The lower court may have declared defendants therein as in default; however, it did not issue an order of default, rather, it ordered the plaintiff to present

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[52] *Id.* at 146.

[53] Section 3. *Default; declaration of.* — If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

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[54] Section 5. *Effect of failure to appear.* — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof.

[55] *Valentina Rosario v. Alonzo*, 118 Phil. 404 (1963).

evidence *ex parte* in accordance with the Rules. In any case, the Castros could have availed themselves of appropriate legal remedies when the CA failed to resolve the issue, but they did not. They cannot now resurrect the issue through a Comment before this Court.

G.R. No. 211329

As regards G.R. No. 211329, this Court finds that outright denial of the Petition is warranted, pursuant to our ruling in *Rayos v. City of Manila.*[56] In that case, We ruled that an order denying a motion to dismiss is interlocutory and, hence, not appealable.[57] That ruling was based on Section 1(b), Rule 41 of the Rules of Court, as amended, which provides:

> SECTION 1. *Subject of appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> No appeal may be taken from:
>
> x x x x x x x x x
>
> (b) An interlocutory order;
>
> x x x x x x x x x
>
> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

In the present case, the RTC's denial of the Motion to Dismiss was an interlocutory order, as it did not finally dispose of the case. On the contrary; the denial paved way for the case to proceed until final adjudication by the trial court.

Upon denial of their Motion to Dismiss, the Castros were not left without any recourse. In such a situation, the aggrieved party's remedy is to file a special civil action for certiorari under Rule 65 of the Rules of Court. However, the aggrieved parties herein resorted

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[56] G.R. No. 196063, 14 December 2011, 662 SCRA 684.

[57] *Fil-Estate Golf and Development, Inc. v. Navarro*, 553 Phil. 48 (2007), citing *Lu Ym v. Nabua*, 492 Phil. 397 (2005).

to filing a Petition for Review under Rule 45 before this Court. Even if the present Petition is treated as one for certiorari under Rule 65, it must still be dismissed for violation of the principle of hierarchy of courts. This well-settled principle dictates that petitioners should have filed the Petition for Certiorari with the CA, and not directly with this Court.

WHEREFORE, premises considered, the Petitions in G.R. Nos. 195728 and 211329 are **DENIED.**

SO ORDERED.

Leonardo-de Castro, Bersamin, Perlas-Bernabe, and *Caguioa, JJ.*, concur.

EN BANC

[G.R. No. 210273. April 19, 2016]

BIBIANO C. RIVERA and LUIS K. LOKIN, JR., *petitioners, vs.* **COMMISSION ON ELECTIONS (COMELEC), THE SECRETARY-GENERAL OF THE HOUSE OF REPRESENTATIVES, SHERWIN N. TUGNA AND CINCHONA C. CRUZ-GONZALES,** *respondents.*

[G.R. No. 213069. April 19, 2016]

CITIZENS' BATTLE AGAINST CORRUPTION (CIBAC) FOUNDATION as represented by JESUS EMMANUEL L. VARGAS, *petitioner, vs.* **CIBAC NATIONAL COUNCIL as represented by EMMANUEL JOEL VILLANUEVA, and the COMMISSION ON ELECTIONS (COMELEC),** *respondents.*

SYLLABUS

1. **POLITICAL LAW; PARTY-LIST SYSTEM ACT (R.A. 7941); VILLANUEVA'S GROUP WERE THE TRUE NOMINEES OF CIBAC PARTY-LIST.—** The Court affirmed the COMELEC's ruling that the nominees of Villanueva's group were the legitimate CIBAC nominees. The Court's decision became final and executory on October 20, 2012, thereby settling with finality the question of who are the true nominees of CIBAC Party-List. Significantly, the Court expressly ruled that the BOT of CIBAC Foundation and its acting Secretary-General Derla, were not affiliated with the CIBAC multi-sectoral party[.]

2. **ID.; CONSTITUTIONAL LAW; COMMISSION ON ELECTIONS; HAS JURISDICTION TO SETTLE THE STRUGGLE FOR LEADERSHIP WITHIN THE PARTY.—** The Court also reiterated that the COMELEC's jurisdiction to settle the struggle for leadership within the party is well established, emanating from one of its constitutional functions, under Article IX-C, Section 2, Paragraph 5, of the 1987 Constitution, which is to "register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government," and that this singular power of COMELEC to rule upon questions of party identity and leadership is an incident to its enforcement powers.

3. **ID.; ID.; HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET); THE SOLE JUDGE OF ALL CONTESTS RELATING TO ELECTION, RETURNS, AND QUALIFICATIONS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES (HRET).—** [T]he Court reminds the petitioners that under Section 17 of Article IV of the 1987 Constitution, the sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives is the House of Representatives Electoral Tribunal (HRET).

4. **ID.; ID.; ID.; ID.; ONCE A WINNING CANDIDATE HAS BEEN PROCLAIMED, TAKEN HIS OATH, AND ASSUMED OFFICE AS MEMBER OF THE HOUSE OF REPRESENTATIVES, COMELEC'S JURISDICTION OVER ELECTION CONTEST ENDS AND HRET'S**

JURISDICTION BEGINS.— Because the nominees of CIBAC National Council, Tugna and Gonzales, assumed their seats in Congress on June 26, 2013 and July 22, 2013, respectively, G.R. No. 213069 should be dismissed for lack of jurisdiction. It should be noted that since they had been already proclaimed, the jurisdiction to resolve all election contests lies with the HRET as it is the sole judge of all contests relating to the election, returns, and qualifications of its Members. In a long line of cases and more recently in *Reyes v. COMELEC, et al.*, the Court has held that once a winning candidate has been proclaimed, taken his oath, and assumed office as Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. Since the nominees of CIBAC National Council have already assumed their seats in Congress, the *quo warranto* petition should be dismissed for lack of jurisdiction.

VELASCO, JR., *J., concurring opinion*:

1. REMEDIAL LAW; JUDGMENTS; *RES JUDICATA*; TWO CONCEPTS AND ELEMENTS THEREOF.— *Res judicata* embraces two concepts: bar by prior judgment and by conclusiveness of judgment. For the legal principle to apply, the following elements must concur: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Anent the fourth element, *res judicata* in the concept of conclusiveness of judgment only requires the identity of parties and issues, not necessarily of the causes of action. The doctrine of conclusiveness of judgment prescribes that a fact or question settled by final judgment or order binds the parties to that action, persons in privity with them, and their successors-in-interest, and continues to bind them while the judgment or order remains standing and unreversed by proper authority. The conclusively settled fact or question cannot again be litigated in any future or other action between those bound by the final judgment, either for the same or for a different cause of action.

2. ID.; ID.; ID.; ALL THE ELEMENTS OF *RES JUDICATA* BY CONCLUSIVENESS OF JUDGMENT OBTAIN IN CASE AT BAR.— [T]he case at bench involves parties privy to the Court's ruling in G.R. No. 193808, albeit raising a different cause of action. Petitioner Luis K. Lokin as well as respondents Sherwin C. Tugna and Cinchona C. Cruz-Gonzales directly participated in the proceedings in G.R. No. 193808. The involvement of CIBAC National Council and CIBAC Foundation, Inc. in the case cannot also be disclaimed. Verily, all the elements for *res judicata* by conclusiveness of judgment obtain herein. The instant petition for *certiorari*, which substantially raised the same issues as those in G.R. No. 193808, should, thus, be dismissed.

3. REMEDIAL LAW; *QUO WARRANTO*; THE PRESENT *QUO WARRANTO* CASE SHOULD HAVE BEEN LODGED WITH THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET); THE CONCURRENCE OF ALL THE ELEMENTS FOR MEMBERSHIP IN CONGRESS DIVESTED THE COURT OF THE POWER TO ADJUDICATE THE CASE FOR *QUO WARRANTO*, HENCE, THE PETITION SHOULD BE DISMISSED FOR LACK OF JURISDICTION.— [T]he *quo warranto* case falls outside the jurisdictional bounds of the Court, as it should have been lodged with the House of Representatives Electoral Tribunal (HRET). x x x [T]he Court's ruling in *Tañada* disclaiming jurisdiction in favor of the HRET is premised on the concurrence of the three (3) requirements for membership in the HoR, in clear consonance with our ruling in *Reyes*. Hence, the statement in *Tañada* cited by Justice Leonen—that proclamation alone vests the HRET with jurisdiction over election, returns, and qualification of the winning congressional candidate—is mere *obiter dictum*. This lone statement in the *Tañada* Resolution pales in comparison with the academic discussion in *Reyes*, which was the product of a more extensive discussion and incisive scrutiny of the issue regarding the HRET's jurisdiction. *Tañada* is clearly not intended as a reversal of *Reyes*. It could not have overturned nor abandoned *Reyes* for they are, in fact, consistent in their holdings. Thus, the *Reyes* doctrine remains to be the litmus test in ascertaining whether or not the winning candidate can already be deemed a "*Member*" of Congress over whom the HRET can validly

exercise jurisdiction. This is even affirmed in the February 3, 2015 ruling in *Bandara v. COMELEC (Bandara)* x x x In view of the foregoing, the doctrine in *Reyes*, as affirmed in *Tañada* and *Bandara*, must now be applied herein. In so doing, it must first be noted that the petition for *quo warranto* was filed on July 11, 2014. By that date, private respondents Sherwin Tugna and Cinchona C. Cruz-Gonzales have already taken their respective oaths and assumed office as CIBAC party-list's representatives to Congress. The occurrence of these effectively divested the Court of the power to adjudicate the case for *quo warranto*. The *quo warranto* petition should then be dismissed for lack of jurisdiction.

LEONEN, *J., concurring and dissenting opinion*:

POLITICAL LAW; CONSTITUTIONAL LAW; HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET); JURISDICTION; IT IS ENOUGH THAT A CANDIDATE FOR MEMBER OF THE HOUSE OF REPRESENTATIVES SHALL HAVE BEEN PROCLAIMED A WINNER IN ORDER FOR AN ELECTION CONTEST TO BE WITHIN THE EXCLUSIVE JURISDICTION OF THE HRET.— I express my reservations on the reference to a list of three (3) events—proclamation, taking of the oath of office, and assumption of duties—that are made to appear as entirely separate and distinct and, thus, are intimated to be events that must ***all*** occur before any petition is deemed to be exclusively cognizable by the House of Representatives Electoral Tribunal. Rather than having to await the consummation of all such occurrences, it suffices that a candidate for member of the House of Representatives shall have been proclaimed a winner in order for contests relating to the election, returns, and qualifications of any such member to be within the exclusive jurisdiction of the House of Representatives Electoral Tribunal. Parenthetically, this is also true of senators in relation to the Senate Electoral Tribunal, and the President and Vice President in relation to the Presidential Electoral Tribunal. x x x A winning candidate's taking of the oath of office and assumption of duties are but natural and necessary consequences of his or her proclamation as winner. They are mere incidents, transpiring precisely and only because a candidate has been previously

> proclaimed as a winner. Thus, they should not be appreciated separately of proclamation, as though they are entirely non-aligned and self-sufficient occurrences. x x x Only a winner in an election—that is, one who has been proclaimed as such—can proceed to take the oath of office. Further, only one who has won and taken his or her oath may proceed to validly exercise the functions of an elective public office. Therefore, it remains that the definite occurrence is proclamation as winner: it defines the competencies of the erstwhile candidate (now a winner) and identifies the body with the competence to rule on contests arising from this victory. From this, it follows that it is an error to demand taking of the oath of office and assumption of duties as separate requisites before a contest is deemed to fall within the exclusive jurisdiction of the House of Representatives Electoral Tribunal.

APPEARANCES OF COUNSEL

Augustine M. Vestil, Jr. for petitioner in G.R. No. 210273.
Peter S. Saw for petitioner in G.R. No. 213069.
Michelle Ann G. Erum for respondent CIBAC National Council.
The Solicitor General for public respondents.

D E C I S I O N

REYES, *J.*:

Before the Court are two petitions assailing the legitimacy of Citizens' Battle Against Corruption (CIBAC) Party-List's representation. One is a petition for *certiorari*[1] under Rule 64 in relation to Rule 65 of the Rules of Court, docketed as G.R. No. 210273, filed by Bibiano C. Rivera (Rivera) and Luis K. Lokin, Jr. (Luis), alleged lawful nominees of the CIBAC Party-List, against the Commission on Elections (COMELEC). The second is a petition for *quo warranto*[2] under Rule 66 of the

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[1] *Rollo* (G.R. No. 210273), pp. 3-49.

[2] *Rollo* (G.R. No. 213069), pp. 3-34.

Rules of Court, docketed as G.R. No. 213069, filed by CIBAC Foundation, Inc. against the CIBAC National Council and COMELEC. Upon the recommendation of the Clerk of Court *en banc* in its Memorandum[3] dated February 15, 2016, the Court in a Resolution dated February 23, 2016 resolved to consolidate[4] the petitions.

Antecedent Facts

On February 10, 2001, CIBAC was registered as a multi-sectoral party with the COMELEC under Republic Act (R.A.) No. 7941, otherwise known as the Party-List System Act.[5]

On April 18, 2012, Emmanuel Joel J. Villanueva (Villanueva), CIBAC National Council's Chairman and President, submitted to COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections" as well as a "Certificate of Nomination" containing the following nominees to represent CIBAC in the House of Representatives:[6]

1. Sherwin N. Tugna
2. Cinchona C. Cruz-Gonzales
3. Armi Jane R. Borje

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[3] *Id.* at 449-455.

[4] Internal Rules of the Supreme Court, Rule 9, Section 5 provides:

Section 5. Consolidation of cases. — The Court may order the consolidation of cases involving common questions of law or of act. The Chief Justice shall assign the consolidated cases to the Member-in-Charge to whom the case having the lower or lowest docket number has been raffled, subject to equalization of case load by raffle. The Judicial Records Office shall see to it that (a) the *rollos* of the consolidated cases are joined together to prevent the loss, misplacement or detachment of any of them; and (b) the cover of each *rollo* indicates the G.R. or UDK number of the case with which the former is consolidated.

The Member-in-Charge who finds after study that the cases do not involve common questions of law or of fact may request the Court to have the case or cases returned to the original Member-in-Charge.

[5] *Rollo* (G.R. No. 213069), p. 49.

[6] *Rollo* (G.R. No. 210273), p. 539.

4. Virginia S. Jose, and
5. Stanley Clyde C. Flores

On May 31, 2012, CIBAC Foundation, headed by Maria Blanca Kim Bernardo-Lokin (Maria Blanca), who claimed to be CIBAC's President, also submitted a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections"[7] and a "Certificate of Nomination"[8] of the following persons as CIBAC's nominees:

1. Luis K. Lokin, Jr.
2. Bibiano C. Rivera, Jr.
3. Antonio P. Manahan, Jr.
4. Teresita F. Planas, and
5. Jesus Emmanuel L. Vargas

On September 3, 2012, the COMELEC conducted a summary hearing, pursuant to its Resolution No. 9513 dated August 2, 2012, to settle the issue of whose nominees should represent CIBAC in the 2013 elections.[9] Villanueva's group filed a Motion for Clarificatory Judgment,[10] dated April 30, 2013, claiming that Maria Blanca was neither CIBAC's President nor a member of its National Council; and that it was CIBAC National Council which, on March 28, 2012, resolved to authorize its President or Secretary-General to sign and submit all necessary documents to signify its participation in the May 2013 elections.[11]

Maria Blanca's group filed its Comment/Opposition[12] on May 29, 2013, insisting that: (1) CIBAC National Council has been superseded by the Board of Trustees (BOT) of the CIBAC Foundation, following the latter's registration with the Securities and Exchange Commission (SEC) as a non-stock foundation in

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[7] *Rollo* (G.R. No. 213069), pp. 114-115.

[8] *Id.* at 116-117.

[9] *Rollo* (G.R. No. 210273), pp. 65-66.

[10] *Id.* at 65-88.

[11] *Id.* at 75-76.

[12] *Id.* at 89-113.

2003; (2) since CIBAC National Council is now non-existent, CIBAC's true and legitimate President who has been duly authorized by its BOT to file its Certificate of Nomination for the May 2013 elections is Maria Blanca and not Villanueva; and (3) Pia B. Derla (Derla), CIBAC's Secretary-General, was duly authorized to file the Manifestation of Intent to Participate in the Party-List System of Representation in the May 2013 elections.

On June 5, 2013, CIBAC was proclaimed as one of the winning party-list groups in the May 2013 elections and was given two seats in the House of Representatives.[13] Consequently, CIBAC National Council nominees Sherwin N. Tugna[14] (Tugna) and Cinchona C. Cruz-Gonzales[15] (Gonzales) were sworn in by House Speaker Feliciano Belmonte, Jr. as party-list members of the House of Representatives representing CIBAC.

In the meantime, the COMELEC issued the National Board of Canvassers (NBOC) Resolution No. 0011-13[16] dated June 5, 2013 recognizing as CIBAC's nominees those names listed in its Certificate of Nomination dated April 18, 2012, without expressly resolving Villanueva's clarificatory motion. Thereafter, the COMELEC issued, on July 10, 2013, the second assailed NBOC Resolution No. 0013-13[17] ruling as moot the "Manifestation and Motion for Proclamation as First Nominee of CIBAC" filed by Luis.

G.R. No. 210273

On December 20, 2013, Rivera and Luis filed a petition for *certiorari*,[18] docketed as G.R. No. 210273, seeking to nullify the assailed COMELEC resolutions. They claimed that they

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[13] *Rollo* (G.R. No. 213069), pp. 299-300.

[14] *Id.* at 328.

[15] *Id.* at 329.

[16] *Rollo* (G.R. No. 210273), pp. 50-54.

[17] *Id.* at 55-60.

[18] *Id.* at 3-49.

were served a certified copy of NBOC Resolution No. 0011-13 only on November 21, 2013, after they had requested the COMELEC for a copy thereof on November 14, 2013.

Rivera and Luis argued that: (1) the registration of CIBAC with the SEC as CIBAC Foundation was precisely intended to forestall questions raised in the past as to its qualification to participate in the party-list election as a multi-sectoral party;[19] (2) CIBAC National Council has become "defunct", having been replaced by the BOT of CIBAC Foundation since its registration with the SEC in 2003;[20] (3) pursuant to Section 6(7) of R.A. No. 7941, CIBAC National Council has lost its authority to represent CIBAC in the COMELEC;[21] and (4) it was, in fact, the SEC-registered CIBAC which had been participating in the 2004 and 2007 party-list elections, and not the CIBAC National Council.[22]

To support their petition, Rivera and Luis invoke the consolidated cases of *Lokin, Jr. v. COMELEC, et al.*[23] (*consolidated Lokin case*), where the Court annulled the proclamation of Gonzales, nominated by Villanueva's group as a CIBAC party-list representative in the 15th Congress, and ordered the proclamation of Luis as its legitimate second nominee. They also cited the case of *Amores v. House of Representatives Electoral Tribunal, et al.*,[24] where the Court declared that Villanueva, CIBAC National Council's President, was ineligible to hold office as a member of the House of Representatives representing the CIBAC Party-list.

Thus, Rivera and Luis sought to nullify the following resolutions of the COMELEC *en banc* in connection with the May 2013 elections:

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[19] *Id.* at 25-32.

[20] *Id.* at 22-24.

[21] *Id.*

[22] *Id.* at 25-26.

[23] 635 Phil. 372 (2010).

[24] 636 Phil. 600 (2010).

1. NBOC Resolution No. 0011-13[25] dated June 5, 2013, ordering the issuance of a Certificate of Canvass and Proclamation to the CIBAC Party-List, and recognizing its legitimate nominees as follows:

- Sherwin N. Tugna,
- Cinchona C. Cruz-Gonzales,
- Armi Jane R. Borje,
- Virginia S. Jose, and
- Stanley Clyde C. Flores

2. NBOC Resolution No. 0013-13, [26] dated July 10, 2013, where the COMELEC considered as moot the Manifestation and Motion for Proclamation as first nominee of CIBAC filed by Luis.

G.R. No. 213069

CIBAC Foundation filed a petition for *quo warranto*,[27] posted on June 30, 2014, docketed as G.R. No. 213069, arguing in the main that the CIBAC National Council lost its legal existence following the registration of CIBAC with the SEC as CIBAC Foundation by reason of which it is now governed by a BOT. By recognizing the nominees of CIBAC National Council, CIBAC Foundation insists that the COMELEC unlawfully deprived it of its right and authority to represent CIBAC in Congress.

Thus, CIBAC Foundation raised the issue of whether they are the rightful and legitimate representatives of CIBAC Party-List in the 16th Congress.

Ruling of the Court

As a factual backdrop, Villanueva's group, representing CIBAC National Council, first sought registration in November 2000 with the COMELEC as a multi-sectoral party-list organization for the May 2001 elections. Under its Constitution and By-Laws,[28] the CIBAC National Council is the governing

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25 *Rollo* (G.R. No. 210273), pp. 50-54.

26 *Id.* at 55-60.

27 *Rollo* (G.R. No. 213069), pp. 3-30.

28 *Id.* at 301-318.

body empowered to formulate the policies, plans, and programs of CIBAC and to issue decisions and resolutions binding on party members and officers.[29]

CIBAC's registration, participation in the May 2001 elections, and eventual proclamation as a winner, was hounded by controversy after the COMELEC ruled that it did not belong to any marginalized sectoral group. In *Ang Bagong Bayani-OFW Labor Party v. COMELEC*,[30] the Court issued a Temporary Restraining Order (TRO) directing the COMELEC to refrain from proclaiming the winners in the May 2001 party-list elections, which included CIBAC. In the subsequent Decision[31] dated June 26, 2001, the Court reiterated the TRO but ordered the COMELEC to immediately conduct summary evidentiary hearings on the qualifications of the party-list participants in light of the guidelines laid down therein.[32]

In its first compliance report, the COMELEC excluded CIBAC from the qualified party-list groups. The Court, however, issued a Resolution dated January 29, 2002, qualifying CIBAC and lifted the TRO to enable the COMELEC to proclaim CIBAC, whose nominee was Villanueva, as one of the party-list winners. This was reiterated in the Court's Resolution[33] dated June 25, 2003 as follows:

> [W]e accept Comelec's submission, per the OSG, that APEC and CIBAC have sufficiently met the 8-point guidelines of this Court and have garnered sufficient votes to entitle them to seats in Congress. Since these issues are factual in character, we are inclined to adopt the Commission's findings, absent any patent arbitrariness or abuse or negligence in its action. There is no substantial proof that CIBAC

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[29] *Id.* at 310.

[30] G.R. Nos. 147589 and 147613, May 9, 2001.

[31] *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, 412 Phil. 308 (2001).

[32] *Id.* at 346-347.

[33] *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, 452 Phil. 899 (2003).

is merely an arm of JIL, or that APEC is an extension of PHILRECA. The OSG explained that these are separate entities with separate memberships. Although APEC's nominees are all professionals, its membership is composed not only of professionals but also of peasants, elderly, youth and women. Equally important, APEC addresses the issues of job creation, poverty alleviation and lack of electricity. Likewise, CIBAC is composed of the underrepresented and marginalized and is concerned with their welfare. CIBAC is particularly interested in the youth and professional sectors.[34]

The Court also subsequently lifted the TRO against the proclamation of CIBAC's additional nominee since it garnered 4.96% of the votes cast, entitling it to two seats in the House of Representatives.[35]

Interestingly, the present case is a virtual reprise of *Lokin, Jr., et al. v. COMELEC, et al.*,[36] which was invoked by the COMELEC in the assailed NBOC Resolution No. 0011-13.[37]

By way of background, the same two contending entities as above, each claiming to represent CIBAC, filed with the COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 10, 2010 Elections." The first Manifestation,[38] filed on November 20, 2009, was signed by Derla, who claimed to be CIBAC's acting Secretary-General, according to an authority granted by the BOT of CIBAC Foundation. However, at 1:30 p.m. of the same day, another Manifestation was submitted by Gonzales and Virginia Jose (Jose), CIBAC's Vice-President and Secretary-General, respectively, by authority of the CIBAC National Council.[39]

Claiming that the nomination of Luis and Teresita F. Planas was unauthorized, Villanueva's group filed with the COMELEC

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[34] *Id.* at 908-909.

[35] Resolution dated November 20, 2003.

[36] 689 Phil. 200 (2012).

[37] *Rollo* (G.R. No. 210273), p. 52.

[38] *Rollo* (G.R. No. 213069), pp. 79-80.

[39] *Lokin, Jr., et al. v. COMELEC, et al.*, *supra* note 36.

a Petition to Expunge From The Records And/Or For Disqualification, seeking to nullify the Certificate of Nomination filed by Derla. They contended that: (1) Derla misrepresented herself as "acting secretary-general" since she was not even a member of CIBAC; (2) the Certificate of Nomination and other documents she submitted were unauthorized by the party; and (3) it was Villanueva who was duly authorized to file the Certificate of Nomination on its behalf.[40]

The COMELEC First Division granted the petition, ordered the Certificate of Nomination filed by Derla expunged from the records, and declared Villanueva's group's nominees as the legitimate nominees of CIBAC.[41] On motion for reconsideration, the COMELEC *en banc* in a *per curiam* Resolution[42] dated August 31, 2010 affirmed the First Division's findings, reiterating that Derla was unable to prove her authority to file the said Certificate, whereas Villanueva presented overwhelming evidence that CIBAC Secretary General Jose was duly deputized to submit the Certificate of Nomination pursuant to CIBAC's Constitution and by-laws.[43]

On petition for *certiorari* to this Court, Maria Blanca's group insisted that it was CIBAC Foundation which participated in the party-list elections in the 2004 and 2007, not the CIBAC National Council, which had become defunct since 2003, the year when CIBAC Foundation was registered with the SEC. Villanueva's group countered that CIBAC Foundation was established solely for the purpose of acting as CIBAC's legal and financial arm, as provided in the party's Constitution and by-laws, and never to substitute for, or oust CIBAC, the party-list itself.[44]

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[40] *Id.*

[41] *Rollo* (G.R. No. 213069), pp. 273-282.

[42] *Id.* at 283-291.

[43] *Lokin, Jr., et al. v. COMELEC, et al.*, *supra* note 36.

[44] *Id.*

The Court affirmed the COMELEC's ruling that the nominees of Villanueva's group were the legitimate CIBAC nominees. The Court's decision became final and executory on October 20, 2012, thereby settling with finality the question of who are the true nominees of CIBAC Party-List. Significantly, the Court expressly ruled that the BOT of CIBAC Foundation and its acting Secretary-General Derla, were not affiliated with the CIBAC multi-sectoral party, which is registered with COMELEC, *viz.*:

> [Derla], who is not even a member of CIBAC, is thus a virtual stranger to the party-list, and clearly not qualified to attest to petitioners [Luis and Teresita F. Planas] as CIBAC nominees, or certify their nomination to the COMELEC. **Petitioners cannot use their registration with the SEC as a substitute for the evidentiary requirement to show that the nominees, including Derla, are bona fide members of the party.** Petitioners Planas and [Luis] have not even presented evidence proving the affiliation of the so-called [BOT] to the CIBAC Sectoral Party that is registered with COMELEC.
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> Petitioners cannot draw authority from the [BOT] of the SEC-registered entity, because the Constitution of CIBAC expressly mandates that **it is the National Council, as the governing body of CIBAC, that has the power to formulate the policies, plans, and programs of the Party, and to issue decisions and resolutions binding on party members and officers.** Contrary to petitioners' allegations, **the National Council of CIBAC has not become defunct, and has certainly not been replaced by the [BOT] of the SEC-registered entity.** The COMELEC carefully perused the documents of the organization and outlined the process followed by the National Council before it complied with its task of choosing the party's nominees. This was based on the "Minutes of Meeting of CIBAC Party-List National Council" held on 12 November 2009, which respondents attached to their Memorandum.[45] (Citations omitted and emphasis and underscoring ours)

The Court also reiterated that the COMELEC's jurisdiction to settle the struggle for leadership within the party is well established, emanating from one of its constitutional functions,

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[45] *Id.* at 216.

under Article IX-C, Section 2, Paragraph 5, of the 1987 Constitution, which is to "register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government," and that this singular power of COMELEC to rule upon questions of party identity and leadership is an incident to its enforcement powers.[46]

The Court reiterates, then, that: (1) the petitioners have shown no evidence of the affiliation of the BOT of CIBAC Foundation to the CIBAC sectoral party which is registered with the COMELEC; (2) it is the CIBAC National Council, the COMELEC-registered governing body of CIBAC under its Constitution, which is empowered to formulate its policies, plans, and programs, and to issue decisions and resolutions binding on party members and officers; and (3) the CIBAC National Council alone can authorize the party's participation in party-list elections and the submission of its nominees. Thus, in view of CIBAC's subsisting registration with the COMELEC as a multi-sectoral organization, CIBAC National Council has not become defunct or non-existent, nor replaced by the BOT of the SEC-registered entity, CIBAC Foundation, whose registration with the SEC will not *per se* dispense with the evidentiary requirement under R.A. No. 7941 that its nominees must be *bona fide* members and nominees of the party.

The petitioners erred in citing the *consolidated Lokin Case*.[47] In the said case, CIBAC manifested its intent to participate in the May 2007 synchronized national and local elections through Villanueva, and submitted a Certificate of Nomination containing five nominees for representatives, namely: Villanueva, Luis, Gonzales, Tugna and Emil L. Galang (Galang). However, Villanueva filed a "Certificate of Nomination, Substitution and Amendment" whereby CIBAC withdrew the nominations of Luis, Tugna and Galang and substituted Armi Jane R. Borje (Borje) as its third and last nominee. With CIBAC having won two

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[46] *Id.*

[47] *Supra* note 23.

seats, Villanueva transmitted to then COMELEC Chairman Benjamin Abalos the signed petitions of 81% of CIBAC members confirming the withdrawal of the nomination of Luis, Tugna and Galang and the substitution of Borje. The COMELEC *en banc* accepted CIBAC's amended list of nominees, and Gonzales took her oath of office as CIBAC's second party-list representative.

Thus, what was at issue in the *consolidated Lokin case* was not whether the CIBAC National Council, headed by Villanueva, could no longer represent CIBAC in the COMELEC for purposes of party-list elections, but whether the withdrawal by Villanueva, as CIBAC President, of the nomination of Luis in favor of a new list of nominees was valid. The Court ruled that: (1) Villanueva's act was contrary to Section 8[48] of R.A. No. 7941, which requires the submission, not later than 45 days before the election, of a list of not less than five (5) nominees; and (2) Section 13 of Resolution No. 7804, containing the Implementing Rules and Regulations of R.A. No. 7941 issued by the COMELEC, invalidly expanded the exceptions in Section 8 of R.A. No. 7941 for the substitution of nominees.

Lastly, the petitioners invoke *Amores*,[49] where it was declared that Villanueva was ineligible to hold office as a member of the

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[48] Section 8. *Nomination of Party-List Representatives.* — Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate of any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

[49] *Supra* note 24.

House of Representatives representing the youth sector of CIBAC. The subject of the case was NBOC Resolution No. 07-60 dated July 9, 2007, where the COMELEC partially proclaimed CIBAC as a winner in the May 2007 elections, along with other party-list organizations. The Court found that at the time of the filing of his certificates of nomination and acceptance, Villanueva was already 31 years old and beyond the age limit of 30 provided under Section 9 of R.A. No. 7941, and that his change of affiliation from CIBAC's youth sector to its overseas Filipino workers and their families sector was not effected at least six months prior to the May 2007 elections, in violation of Section 15 of R.A. No. 7941.

Nonetheless, the Court also clarified that NBOC Resolution No. 07-60 was not a proclamation of Villanueva himself, but of CIBAC as one of the party-list winners, since Section 13 of R.A. No. 7941 separately provides that, "[p]arty-list representatives shall be proclaimed by the COMELEC based on the list of names submitted by the respective parties, organizations, or coalitions to the COMELEC according to their ranking in said list."

Concerning now the *quo warranto* petition, G.R. No. 213069, of CIBAC Foundation, the Court reminds the petitioners that under Section 17 of Article VI of the 1987 Constitution, the sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives is the House of Representatives Electoral Tribunal (HRET). Section 17 reads:

> **Section 17.** The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members, x x x.

Because the nominees of CIBAC National Council, Tugna and Gonzales, assumed their seats in Congress on June 26, 2013 and July 22, 2013, respectively, G.R. No. 213069 should be dismissed for lack of jurisdiction. It should be noted that since they had been already proclaimed, the jurisdiction to resolve

all election contests lies with the HRET as it is the sole judge of all contests relating to the election, returns, and qualifications of its Members.

In a long line of cases[50] and more recently in *Reyes v. COMELEC, et al.*,[51] the Court has held that once a winning candidate has been proclaimed, taken his oath, and assumed office as Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. Since the nominees of CIBAC National Council have already assumed their seats in Congress, the *quo warranto* petition should be dismissed for lack of jurisdiction.

WHEREFORE, premises considered, the petitions are **DISMISSED.**

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Perez, Mendoza, and *Perlas-Bernabe, JJ.,* concur.

Velasco, Jr., J., see concurring opinion.

Leonen, J., see separate concurring and dissenting opinion.

Jardeleza, J., no part, prior action as Solicitor General.

Caguioa, J., no part due to relationship to a party.

CONCURRING OPINION

VELASCO, JR., *J.*:

This treats the consolidated petitions for *certiorari* and *quo warranto*, docketed as G.R. Nos. 210273 and 213069, respectively.

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[50] Please see *Lazatin v. COMELEC*, G.R. No. 80007, January 25, 1988, 157 SCRA 337; *Guerrero v. COMELEC*, 391 Phil. 344 (2000).

[51] 720 Phil. 174 (2013).

Res Judicata by conclusiveness of judgment bars the re-litigation of the central issue in G.R. No. 210273

The *certiorari* petition seeks to nullify COMELEC NBOC Resolution No. 0011-13, which recognized as nominees of Citizen's Battle Against Corruption (CIBAC) party-list those names submitted by respondent Emmanuel Joel Villanueva, CIBAC National Council's Chairman and President. It is petitioners' contention that the CIBAC National Council has become defunct, having been replaced by the Board of Trustees (BOT) of the CIBAC Foundation, Inc. registered with the SEC. They then argue that it is CIBAC Foundation's own list that ought to be considered by the COMELEC as CIBAC party-list's nominees.

I agree with the *ponencia* that the extant case is but a reprise of G.R. No. 193808, which the Court had resolved on June 26, 2012.[1] Petitioners are, therefore, estopped by *res judicata* from re-litigating in G.R. No. 210273 the settled facts and issues in G.R. No. 193808.

Res judicata embraces two concepts: bar by prior judgment[2] and by conclusiveness of judgment.[3] For the legal principle to apply, the following elements must concur: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Anent the fourth element, *res judicata* in the concept of conclusiveness of judgment only

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[1] Entitled *Luis K. Lokin, Jr. and Teresita F. Planas v. Commission on Elections, Citizen's Battle Against Corruption Party List represented by Virginia S. Jose, Sherwin C. Tugna, and Cinchona C. Cruz-Gonzales*, decided by the this Court on June 26, 2012.

[2] RULES OF COURT, Rule 39, Sec. 47(b).

[3] *Id.*, Rule 39, Sec. 47(c).

requires the identity of parties and issues, not necessarily of the causes of action.[4]

The doctrine of conclusiveness of judgment prescribes that a fact or question settled by final judgment or order binds the parties to that action, persons in privity with them, and their successors-in-interest, and continues to bind them while the judgment or order remains standing and unreversed by proper authority. The conclusively settled fact or question cannot again be litigated in any future or other action between those bound by the final judgment, either for the same or for a different cause of action. [5]

As aptly observed by the *ponencia*, the Court resolved in G.R. No. 193808 which between the CIBAC Foundation, Inc. and CIBAC National Council is authorized to field nominees in behalf of CIBAC party-list for the party-list elections. The Court held therein that it is CIBAC National Council, the COMELEC-registered governing body of the CIBAC party-list, that is empowered to formulate the policies, plans, and programs of the party, and to issue decisions and resolutions binding on party members and officers.[6] This ruling, which has long attained finality, was issued pursuant to the Court's valid exercise of its jurisdiction to review rulings of the COMELEC. It is, therefore, binding on substantially the same parties and bars them from re-litigating the same issue.

Needless to state, the case at bench involves parties privy to the Court's ruling in G.R. No. 193808, albeit raising a different cause of action.[7] Petitioner Luis K. Lokin as well as respondents

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[4] *Social Security Commission v. Rizal Livestock and Poultry Association, Inc.*, G.R. No. 167050, June 1, 2011; see also *Pryce Corporation v. China Banking Corporation*, G.R. No. 172302, February 18, 2014.

[5] *Degayo v. Magbanua-Dinglasan*, G.R. No. 173148, April 6, 2015.

[6] Page 8 of the Decision; see also *Lokin v. COMELEC*, G.R. No. 193808, June 26, 2012.

[7] The cause of action in G.R. No. 193808 pertains to the lists of party-list nominees submitted to the COMELEC in connection to the 2010 National and Local Elections, while the instant petition relates to those submitted in connection with the 2013 polls.

Sherwin C. Tugna and Cinchona C. Cruz-Gonzales directly participated in the proceedings in G.R. No. 193808. The involvement of CIBAC National Council and CIBAC Foundation, Inc. in the case cannot also be disclaimed.

Verily, all the elements for *res judicata* by conclusiveness of judgment obtain herein. The instant petition for *certiorari,* which substantially raised the same issues as those in G.R. No. 193808, should, thus, be dismissed.

The controversy in G.R. No. 213069 falls within the jurisdiction of the House of Representatives Electoral Tribunal

I likewise concur with the *ponencia* that the *quo warranto* case falls outside the jurisdictional bounds of the Court, as it should have been lodged with the House of Representatives Electoral Tribunal (HRET). Article VI, Section 17 of the Constitution pertinently reads:

> Section 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications **of their respective Members**. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (emphasis added)

Reyes v. COMELEC (*Reyes*)[8] delineated the blurred boundaries between the COMELEC and the HRET, explicitly ruling where one ends and the other begins.[9] This landmark case instructs that the HRET has jurisdiction over Members of the House of

[8] G.R. No. 207264, June 25, 2013.

[9] Concurring Opinion of Associate Justice Jose P. Perez, *Velasco v. Belmonte, Jr.*, G.R. No. 211140, January 12, 2016.

Representatives (HoR) and that to be considered a "*Member*," the following requisites must concur: (1) a valid proclamation, (2) a proper oath, and (3) assumption of office.[10]

Associate Justice Marvic M.V.F. Leonen (Justice Leonen) submits that the elements for membership are not independent events, and that mere proclamation suffices to vest the HRET of jurisdiction over the winning congressional candidate, citing the cases of *Limkaichong v. COMELEC* (*Limkaichong*) [11] and *Vinzons-Chato v. COMELEC* (*Vinzons-Chato*). [12] However, these very cases relied upon served as jurisprudential basis in the Court's ruling in *Reyes*. To demonstrate, the opening salvo of *Limkaichong* reads:

> Once a winning candidate has been **proclaimed**, **taken his oath**, and **assumed office** as a Member of the House of Representatives, the jurisdiction of the House of Representatives Electoral Tribunal begins. (emphasis added)

And as the Court held in *Vinzons-Chato*:

> x x x [I]n an electoral contest where the validity of the **proclamation of a winning candidate** who has **taken his oath** of office and **assumed his post** as Congressman is raised, that issue is best addressed to the HRET. The reason for this ruling is self-evident, for it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate. (emphasis added)

Evidently, the Court's doctrine in *Reyes* is in hew with jurisprudence. The Court merely adhered to its long-standing criteria for membership in Congress that all three indispensable requirements — a valid proclamation, a proper oath, and assumption of office — must concur.

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[10] *Reyes v. COMELEC, supra.*

[11] G.R. Nos. 178831-32 & 179120, 179132-33, 179240-41, April 1, 2009.

[12] G.R. No. 172131, April 2, 2007.

Contrary to Justice Leonen's postulation, the subsequent case of *Tañada v. COMELEC (Tañada)*[13] did not deviate from our ruling in *Reyes*. Markworthy is that before disposing the petition in *Tañada*, the Court made the following observations:

> x x x [C]onsidering that Angelina had already been **proclaimed** as Member of the House of Representatives for the 4th District of Quezon Province on May 16, 2013, as she has in fact **taken her oath** and **assumed office** past noon time of June 30, 2013, the Court is now without jurisdiction to resolve the case at bar. As they stand, the issues concerning the conduct of the canvass and the resulting proclamation of Angelina as herein discussed are matters which fall under the scope of the terms "election" and "returns" as above-stated and hence, properly fall under the HRET's sole jurisdiction. (emphasis added)

Indubitably, the Court's ruling in *Tañada* disclaiming jurisdiction in favor of the HRET is premised on the concurrence of the three (3) requirements for membership in the HoR, in clear consonance with our ruling in *Reyes*.[14] Hence, the statement[15] in *Tañada* cited by Justice Leonen — that proclamation alone vests the HRET with jurisdiction over election, returns, and qualification of the winning congressional candidate — is mere *obiter dictum*. This lone statement in the *Tañada* Resolution pales in comparison with the academic discussion in *Reyes*, which was the product of a more extensive discussion and incisive scrutiny of the issue regarding the HRET's jurisdiction.[16]

Tañada is clearly not intended as a reversal of *Reyes*. It could not have overturned nor abandoned *Reyes* for they are, in fact,

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[13] G.R. Nos. 207199-200, October 22, 2013.

[14] Concurring Opinion of Associate Justice Jose P. Perez in *Velasco v. Belmonte, Jr.*, G.R. No. 211140, January 12, 2016.

[15] *"Case law states that the proclamation of a congressional candidate following the election divests the COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed representative in favor of the HRET."*

[16] Concurring Opinion of Associate Justice Jose P. Perez in *Tañada v. HRET*, G.R. No. 217012, March 1, 2016.

consistent in their holdings. Thus, the *Reyes* doctrine remains to be the litmus test in ascertaining whether or not the winning candidate can already be deemed a "*Member*" of Congress over whom the HRET can validly exercise jurisdiction. This is even affirmed in the February 3, 2015 ruling in *Bandara v. COMELEC (Bandara)*, [17] which was decided by the Court after the October 22, 2013 *Tañada* Resolution. As held in *Bandara*:

> It is a well-settled rule that once a winning candidate has been **proclaimed**, **taken his oath**, and **assumed office** as a Member of the House of representatives, the jurisdiction of the Commission on Elections (COMELEC) over election contests relating to his/her election, returns, and qualification ends, and the HRET's own jurisdiction begins. Consequently, the instant petitions for certiorari are not the proper remedies for the petitioners in both cases to question the propriety of the National Board of Canvassers' proclamation, and the events leading thereto. (emphasis added)

In view of the foregoing, the doctrine in *Reyes*, as affirmed in *Tañada* and *Bandara*, must now be applied herein. In so doing, it must first be noted that the petition for *quo warranto* was filed on July 11, 2014.[18] By that date, private respondents Sherwin Tugna and Cinchona C. Cruz-Gonzales have already taken their respective oaths and assumed office as CIBAC party-list's representatives to Congress. The occurrence of these events effectively divested the Court of the power to adjudicate the case for *quo warranto*. The *quo warranto* petition should then be dismissed for lack of jurisdiction.

G.R. No. 213069 should be dismissed for lack of cause of action

Even assuming *arguendo* that the Court has jurisdiction over the *quo warranto* proceeding, G.R. No. 213069 should nevertheless be dismissed for lack of cause of action.[19]

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[17] G.R. Nos. 207144 and 208141, February 3, 2015.

[18] Page 5 of Decision.

[19] *"Failure to state a cause of action and lack of cause of action are distinct grounds to dismiss a particular action. The former refers to the*

A ruling in G.R. No. 210273 that is favorable to petitioners is a precondition before the petition for *quo warranto* in G.R. No. 213069 can prosper. Otherwise stated, the *certiorari* case is so closely intertwined with the *quo warranto* case that dismissal of the former necessarily results in the dismissal of the latter. Thus, as a consequence of the Court's ruling in G.R. No. 210273, as earlier discussed, so too must G.R. No. 213069 be dismissed.

To recall, the *quo warranto* case was filed on the postulation that petitioners are the rightful and legitimate representatives of CIBAC party-list in Congress.[20] Raising grounds for the allowance of the petition similar to those in the *certiorari* case, petitioners argued in the main that CIBAC National Council has already lost its legal existence, and that CIBAC Foundation, Inc.'s BOT is the governing body of CIBAC party-list. Clearly, petitioners' case for *quo warranto* presupposes that the COMELEC gravely abused its discretion in recognizing CIBAC National Council's list of nominees, thereby allegedly depriving petitioners of their right to represent CIBAC in Congress.

These presuppositions, however, are bereft of factual basis.

Guilty of reiteration, it has already been resolved that it is the CIBAC National Council, not the CIBAC Foundation, Inc.'s BOT, which can validly nominate CIBAC party-list representatives to Congress. This holding in G.R. No. 193808, as now affirmed in G.R. No. 210273, automatically renders petitioners' contentions meritless and their claimed right to field party-list nominees, illusory. The pivotal allegations in the petition are just as easily belied by settled facts. Therefore, in view of the majority vote to dismiss G.R. No. 210273, the Court is constrained to likewise dismiss G.R. No. 213069.

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insufficiency of the allegations in the pleading, while the latter to the insufficiency of the factual basis for the action. Dismissal for failure to state a cause of action may be raised at the earliest stages of the proceedings through a motion to dismiss under Rule 16 of the Rules of Court, while dismissal for lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff." Zuñiga-Santos v. Santos-Gran, G.R. No. 197380, October 8, 2014.

[20] Page 5 of Decision.

CONCURRING AND DISSENTING OPINION

LEONEN, *J.*:

I concur with the ponencia in holding that the consolidated Petitions must be dismissed. More particularly, I concur in holding that the Petition for Quo Warranto (docketed as G.R. No. 213069) directly filed before this court by petitioner Citizens' Battle Against Corruption (CIBAC) Foundation should be dismissed for lack of jurisdiction. This Petition is not within this Court's original jurisdiction. Instead, it falls under the exclusive jurisdiction of the House of Representatives Electoral Tribunal.

However, I express my reservations on the reference to a list of three (3) events — proclamation, taking of the oath of office, and assumption of duties — that are made to appear as entirely separate and distinct and, thus, are intimated to be events that must ***all*** occur before any petition is deemed to be exclusively cognizable by the House of Representatives Electoral Tribunal. Rather than having to await the consummation of all such occurrences, it suffices that a candidate for member of the House of Representatives shall have been proclaimed a winner in order for contests relating to the election, returns, and qualifications of any such member to be within the exclusive jurisdiction of the House of Representatives Electoral Tribunal. Parenthetically, this is also true of senators in relation to the Senate Electoral Tribunal, and the President and Vice President in relation to the Presidential Electoral Tribunal.

Article VI, Section 17 of the 1987 Constitution creates separate electoral tribunals for the Senate and the House of Representatives. It also provides for each tribunal's composition and jurisdiction:

> SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the *sole judge of all contests relating to the election, returns, and qualifications of their respective Members.* Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional

representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (Emphasis supplied)

The term "contest" is understood to refer to post-election disputes. In *Tecson v. Commission on Elections*,[1] this Court interpreted this term as used in the analogous provision in Article VII[2] of the 1987 Constitution, which spells out the jurisdiction of the Presidential Electoral Tribunal:

> Ordinary usage would characterize a "contest" in reference to a post-election scenario. Election contests consist of either an election protest or a quo warranto which, although two distinct remedies, would have one objective in view, i.e., to dislodge the winning candidate from office. A perusal of the phraseology in Rule 12, Rule 13, and Rule 14 of the "Rules of the Presidential Electoral Tribunal," promulgated by the Supreme Court en banc on 18 April 1992, would support this premise —
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> . . . . . .
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> The rules categorically speak of the jurisdiction of the tribunal over contests relating to the election, returns and qualifications of the "President" or "Vice-President," of the Philippines, and not of "candidates" for President or Vice-President . . . .
>
> It is fair to conclude that the jurisdiction of the Supreme Court, defined by Section 4, paragraph 7, of the 1987 Constitution, would not include cases directly brought before it questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held.[3]

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[1] 468 Phil. 421 (2004) [Per *J.* Vitug, *En Banc*].

[2] CONST., Art. VII, Sec. 4 provides:

> ARTICLE VII. Executive Department
>
> SECTION 4. . . .
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> . . . . . .
>
> The Supreme Court, sitting *en banc*, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

[3] *Tecson v. Commission on Elections*, 468 Phil. 421, 461-462 (2004) [Per *J.* Vitug, *En Banc*].

An election protest is "a contest between the *defeated* and *winning candidates* on the ground of frauds [sic] or irregularities in the casting and counting of the ballots, or in the preparation of the returns. It raises the question of who actually obtained the plurality of the legal votes and therefore is entitled to hold the office."[4] A successful election protest results in the revision or a recount of the ballots to determine the true winner of the election.[5]

Tecson explained quo warranto proceedings as follows:

> A quo warranto proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election scenario. In Rule 14, only a registered candidate who would have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post-election scenario.[6] (Citation omitted)

In the 2013 case of *Tañada, Jr. v. Commission on Elections*,[7] this Court En Banc unanimously sustained the jurisdiction of the House of Representatives Electoral Tribunal "over disputes relating to the election, returns, and qualifications of the proclaimed representative[.]" [8] We emphasized that a candidate's proclamation as winner was the definitive event that strips the Commission on Elections of jurisdiction, jurisdiction that is then vested exclusively in the House of Representatives Electoral Tribunal:

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[4] *Samad v. Commission on Elections*, G.R. No. 107854, July 16, 1993, 224 SCRA 631, 639-640 [Per *J.* Cruz, *En Banc*].

[5] *Pasandalan v. Commission on Elections*, 434 Phil. 161, 173 (2002) [Per *J.* Carpio, *En Banc*].

[6] *Tecson v. Commission on Elections*, 468 Phil. 421, 462 (2004) [Per *J.* Vitug, *En Banc*].

[7] G.R. Nos. 207199-200, October 22, 2013, 708 SCRA 188 [Per *J.* Perlas-Bernabe, *En Banc*].

[8] *Id.* at 195.

Case law states that *the proclamation of a congressional candidate following the election divests the COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed representative in favor of the HRET.* The phrase "election, returns, and qualifications" refers to all matters affecting the validity of the contestee's title. In particular, the term "election" refers to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" refers to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" refers to matters that could be raised in a *quo warranto* proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his CoC.[9] (Emphasis supplied)

This Court has even clarified that allegations of irregularity as to a candidate's proclamation as winner shall not prevent the House of Representatives Electoral Tribunal from assuming jurisdiction. In *Limkaichong v. Commission on Elections*:[10]

Petitioners (in G.R. Nos. 179120, 179132-33, and 179240-41) steadfastly maintained that Limkaichong's proclamation was tainted with irregularity, which will effectively prevent the HRET from acquiring jurisdiction.

The fact that the proclamation of the winning candidate, as in this case, was alleged to have been tainted with irregularity does not divest the HRET of its jurisdiction. The Court has shed light on this in the case of *Vinzons-Chato*, to the effect that:

> In the present case, it is not disputed that respondent Unico has already been proclaimed and taken his oath of office as a Member of the House of Representatives (Thirteenth Congress); hence, the COMELEC correctly ruled that it had already lost jurisdiction over petitioner Chato's petition. The issues raised

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[9] *Id.* at 195-196, citing *Jalosjos, Jr. v. Commission on Elections, et al.*, 689 Phil. 192, 198 (2012) [Per *J.* Abad, *En Banc*] and *Vinzons-Chato v. Commission on Elections*, 548 Phil. 712, 725 (2007) [Per *J.* Callejo, Sr., *En Banc*].

[10] 601 Phil. 751 (2009) [Per *J.* Peralta, *En Banc*].

by petitioner Chato essentially relate to the canvassing of returns and alleged invalidity of respondent Unico's proclamation. These are matters that are best addressed to the sound judgment and discretion of the HRET. Significantly, the allegation that respondent Unico's proclamation is null and void does not divest the HRET of its jurisdiction:

> x x x [I]n an electoral contest where the validity of the proclamation of a winning candidate who has taken his oath of office and assumed his post as congressman is raised, that issue is best addressed to the HRET. The reason for this ruling is self-evident, for it avoids duplicity of proceedings and a clash of jurisdiction between constitutional bodies, with due regard to the people's mandate.
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> Further, for the Court to take cognizance of petitioner Chato's election protest against respondent Unico would be to usurp the constitutionally mandated functions of the HRET.

In fine, *any allegations as to the invalidity of the proclamation will not prevent the HRET from assuming jurisdiction over all matters essential to a member's qualification to sit in the House of Representatives.*

. . . . . .

Accordingly, *after the proclamation of the winning candidate in the congressional elections, the remedy of those who may assail one's eligibility/ineligibility/qualification/disqualification is to file before the HRET a petition for an election protest, or a petition for quo warranto, within the period provided by the HRET Rules.* In *Pangilinan v. Commission on Elections,* we ruled that *where the candidate has already been proclaimed winner in the congressional elections, the remedy of petitioner is to file an electoral protest with the Electoral Tribunal of the House of Representatives.*[11] (Emphasis supplied, citation omitted)

A winning candidate's taking of the oath of office and assumption of duties are but natural and necessary consequences of his or her proclamation as winner. They are mere incidents,

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[11] *Id.* at 782-783.

transpiring precisely and only because a candidate has been previously proclaimed as a winner. Thus, they should not be appreciated separately of proclamation, as though they are entirely non-aligned and self-sufficient occurrences.

In *Codilla, Sr. v. Hon. de Venecia*,[12] this Court described as "no longer a matter of discretion"[13] the task of the Speaker of the House of Representatives to administer the oath to proclaimed winners for membership in the House of Representatives:

> The distinction between a ministerial and discretionary act is well delineated. A purely ministerial act or duty is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment[.]
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> In the case at bar, the administration of oath and the registration of the petitioner in the Roll of Members of the House of Representatives representing the 4th legislative district of Leyte is no longer a matter of discretion on the part of the public respondents. The facts are settled and beyond dispute: petitioner garnered 71,350 votes as against respondent Locsin who only got 53,447 votes in the May 14, 2001 elections. The COMELEC Second Division initially ordered the proclamation of respondent Locsin; on Motion for Reconsideration the COMELEC en banc set aside the order of its Second Division and ordered the proclamation of the petitioner. The Decision of the COMELEC en banc has not been challenged before this Court by respondent Locsin and said Decision has become final and executory.[14] (Citation omitted)

Only a winner in an election — that is, one who has been proclaimed as such — can proceed to take the oath of office.

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[12] 442 Phil. 139 (2002) [Per *J.* Puno, *En Banc*].

[13] *Id.* at 189.

[14] *Id.* at 189-190.

Further, only one who has won and taken his or her oath may proceed to validly exercise the functions of an elective public office. Therefore, it remains that the definite occurrence is proclamation as winner: it defines the competencies of the erstwhile candidate (now a winner) and identifies the body with the competence to rule on contests arising from this victory. From this, it follows that it is an error to demand taking of the oath of office and assumption of duties as separate requisites before a contest is deemed to fall within the exclusive jurisdiction of the House of Representatives Electoral Tribunal.

When the Commission on Elections proclaimed CIBAC the winner in the party-list elections and issued National Board of Canvassers Resolution No. 0011-13 on June 5, 2013, it also recognized the nominees identified by the CIBAC National Council as the legitimate nominees. At this juncture, any petition contesting the election, returns and/or qualifications of CIBAC and, by extension, of its nominees should have been filed before the House of Representatives Electoral Tribunal.

As CIBAC acquired more than four percent (4%) of the votes cast for the party-list system, taking the oath of office and assuming duties as members of the House of Representatives necessarily followed for CIBAC's first two (2) nominees, Sherwin N. Tugna and Cinchona C. Cruz-Gonzales. As soon as CIBAC was proclaimed, their taking of oaths and assumption of duties became certain. As soon as this proclamation transpired, petitioner CIBAC Foundation should have filed an election protest, quo warranto, or mandamus petition before the House of Representatives Electoral Tribunal within 10 days from May 18, 2013.[15] Instead, it erroneously filed its quo warranto petition before this Court.

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[15] 2011 HRET Rules, Rules 16 and 17 provide:

RULE 16. Election Protest. — A verified petition contesting the election or returns of any Member of the House of Representatives shall be filed by any candidate who has duly filed a certificate of candidacy and has been voted for the same office, within fifteen (15) days after the proclamation of the winner. The party filing the protest shall be designated as the protestant while the adverse party shall be known as the protestee.

ACCORDINGLY, I vote to **DISMISS** the consolidated Petitions.

No joint election protest shall be admitted, but the Tribunal, for good and sufficient reasons, may consolidate individual protests and hear and decide them jointly. Thus, where there are two or more protests involving the same protestee and common principal causes of action, the subsequent protests shall be consolidated with the earlier case to avoid unnecessary costs or delay. In case of objection to the consolidation, the Tribunal shall resolve the same. An order resolving a motion for or objection to the consolidation shall be unappealable.

The protest is verified by an affidavit that the affiant has read it and that the allegations therein are true and correct of his knowledge and belief or based on verifiable information or authentic records. A verification based on "information and belief," or upon "knowledge, information and belief," is not a sufficient verification.

An unverified election protest shall not suspend the running of the reglementary period to file the protest.

An election protest shall state:

1. The date of proclamation of the winner and the number of votes obtained by the parties per proclamation;

2. The total number of contested individual and clustered precincts per municipality or city;

3. The individual and clustered precinct numbers and location of the contested precincts; and

4. The specific acts or omissions complained of constituting the electoral frauds, anomalies or irregularities in the contested precincts.

RULE 17. *Quo Warranto*. — A verified petition for *quo warranto* contesting the election of a Member of the House of Representatives on the ground of ineligibility or of disloyalty to the Republic of the Philippines shall be filed by any registered voter of the district concerned within fifteen (15) days from the date of the proclamation of the winner. The party filing the petition shall be designated as the petitioner while the adverse party shall be known as the respondent.

The provisions of the preceding paragraph to the contrary notwithstanding, a petition for *quo warranto* may be filed by any registered voter of the district concerned against a member of the House of Representatives, on the ground of citizenship, at any time during his tenure.

The rule on verification and consolidation provided in Section 16 hereof shall apply to petitions for *quo warranto*.

FIRST DIVISION

[G.R. No. 210540. April 19, 2016]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **HOMER and MA. SUSANA DAGONDON,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; JUDGMENTS; IMMUTABILITY OF FINAL JUDGMENT; EXCEPTION THERETO, APPLIED; DEPARTURE FROM THE RULE ON IMMUTABILITY OF FINAL JUDGMENT IS WARRANTED WHEN ITS STRICT APPLICATION WOULD CIRCUMVENT AND UNDERMINE THE STABILITY OF THE TORRENS SYSTEM OF LAND REGISTRATION.— Under the doctrine of finality and immutability of judgments, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and whether it will be made by the court that rendered it or by the highest court of the land. Upon finality of the judgment, the Court loses its jurisdiction to amend, modify or alter the same. The mandatory character, however, of the rule on immutability of final judgments was not designed to be an inflexible tool to excuse and overlook prejudicial circumstances. Hence, the doctrine must yield to practicality, logic, fairness, and substantial justice. x x x [A] departure from the doctrine is warranted since its strict application would, in effect, circumvent and undermine the stability of the Torrens System of land registration adopted in this jurisdiction. Relatedly, it bears stressing that the subject matter of the instant controversy, *i.e.*, Lot 84, is a sizeable parcel of real property. More importantly, petitioner had adequately presented a strong and meritorious case. Thus, in view of the aforesaid circumstances, the Court deems it apt to exercise its prerogative to suspend procedural rules and to resolve the present controversy according to its merits.

2. CIVIL LAW; REPUBLIC ACT NO. 26: RECONSTITUTION OF TITLE; PURPOSE; REQUIREMENTS FOR AN

ORDER OF RECONSTITUTION OF TITLE TO ISSUE.— [C]ase law provides that "[t]he reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution of title is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has been when the loss or destruction occurred. **RA 26 presupposes that the property whose title is sought to be reconstituted has already been brought under the provisions of the Torrens System.**" Hence, under the aforesaid law, the following must be present for an order for reconstitution to issue: *(a)* that the certificate of title had been lost or destroyed; *(b)* that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; *(c)* that the petitioner is the registered owner of the property or had an interest therein; *(d)* that the certificate of title was in force at the time it was lost and destroyed; and *(e)* that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title. Thus, petitioner correctly pointed out that the applicability of RA 26 in this case is contingent on the existence of a previously issued OCT which has been lost or destroyed.

3. ID.; ID.; ID.; FAILURE TO PROVE THAT THE LAND SOUGHT TO BE RECONSTITUTED HAD ALREADY BEEN REGISTERED UNDER THE TORRENS SYSTEM RENDERED JUDICIAL RECONSTITUTION UNDER RA 26 IMPROPER.— In the case at bar, respondents miserably failed to adduce **clear and convincing proof that an OCT covering Lot 84 had previously been issued by virtue of Decree No. 466085.** Accordingly, there is no title pertaining to Lot 84 which could be "reconstituted," re-issued, or restored. Guided by the foregoing, judicial reconstitution of title under Section 2 of RA 26 is clearly improper in this case; and hence, the RTC erred in ordering the same.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Vito M. Carillo for respondents.

D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] is the Decision[2] dated November 29, 2013 of the Court of Appeals (CA) in CA-G.R. CV. No. 02428, which affirmed the Decision[3] dated July 23, 2010 of the Regional Trial Court of Mambajao, Camiguin, Branch 28 (RTC) in Misc. Case No. 80, on the sole ground that it had already achieved finality and, hence, immutable.

The Facts

The instant case arose from a Petition[4] filed before the RTC on March 10, 2009 by respondents Homer and Ma. Susana Dagondon (respondents), as attorneys-in-fact of Jover P. Dagondon (Jover),[5] praying for the reconstitution of the Original Certificate of Title (OCT) of a 5,185-square meter parcel of land located at Bonbon, Catarman, Camiguin, denominated as Lot No. 84 of the Catarman Cadastre (Lot 84). In the petition, respondents alleged that: (*a*) Jover is the registered owner of Lot 84, having purchased the same from a certain Lourdes Borromeo Cordero,[6] and consequently, registered it under his name for taxation purposes under Tax Declaration No. 013775;[7] (*b*) on October 23, 2008, they obtained two (2) separate certifications from the Land Registration Authority (LRA), one stating that Decree No. 466085 was issued in relation to Lot 84,[8] and the other stating that it did not have a copy of Decree

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[1] *Rollo*, pp. 10-20.

[2] *Id.* at 23-31. Penned by Associate Justice Romulo V. Borja with Associate Justices Renato C. Francisco and Oscar V. Badelles concurring.

[3] *Id.* at 43-47. Penned by Executive Judge Rustico D. Paderanga.

[4] Records, pp. 1-3.

[5] See Special Power of Attorney dated September 10, 2008; *id.* at 5.

[6] See Deed of Absolute Sale dated April 12, 2005; *id.* at 4.

[7] *Id.* at 1.

[8] See Certification dated October 23, 2008; *id.* at 7.

No. 466085 on file, and that the same was presumed lost or destroyed as a consequence of the last world war;[9] (*c*) on February 13, 2009, they secured another certification, this time from the Register of Deeds (RD) of Mambajao, Camiguin, declaring that the subject property **had no existing OCT** and that it was probably destroyed or dilapidated during the eruption of Hiboc-Hiboc Volcano[10] or World War II;[11] and (*d*) they were filing the petition for reconstitution on the basis of Decree No. 466085.[12]

In opposition,[13] petitioner Republic of the Philippines, as represented by the Office of the Solicitor General (petitioner), prayed for the dismissal of the petition for insufficiency in form and substance, considering that respondents, among others, failed to establish the existence of the very Torrens Title which they sought to reconstitute.[14]

The RTC Proceedings

After complying with the jurisdictional requirements, respondents presented Sebastiana Dagatan, Land Registration Examiner, from the Office of the Register of Deeds (RD) of Mambajao, Camiguin. After identifying the certification issued by her office, she testified that while the subject property had already been issued a decree, there is, however, no existing title in their files covering Lot 84.[15]

In a Decision[16] dated July 23, 2010 (RTC Decision), the RTC granted the petition for reconstitution and, accordingly, ordered the RD of Mambajao, Camiguin to reconstitute the OCT of Lot 84. In ruling for respondents, the RTC ratiocinated that

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[9] See Certification dated October 23, 2008; *id.* at 8.

[10] Sometimes referred to as "Hibok-Hibok Volcano" in the records.

[11] See Certification dated February 13, 2009; records, p. 9.

[12] *Id.* at 2.

[13] *Id.* at 49-53.

[14] *Id.* at 50.

[15] *Rollo*, p. 46.

[16] *Id.* at 43-47.

neither the government nor any interested party would be prejudiced if it resolved to grant the petition.[17]

Asserting that it was notified of the adverse ruling on August 6, 2010,[18] petitioner moved for reconsideration **on August 23, 2010**.[19] However, in a Resolution[20] dated January 28, 2011, the RTC denied the said motion for having been filed out of time. Contrary to petitioner's assertion, the RTC found that based on the registry return card, petitioner received the July 23, 2010 Decision on August 5, 2010; and counting fifteen (15) days therefrom, it only had until August 20, 2010 to file the same. Resultantly, the motion for reconsideration should be disregarded for being a mere scrap of paper.[21]

The foregoing dismissal on procedural grounds notwithstanding, the RTC still opted to rule on the merits of the aforesaid motion. It held that despite the non-existence of the OCT for Lot 84, it could still be validly reconstituted on the strength alone of Decree No. 466085. In this regard, the RTC opined that the decree itself was sufficient and proper basis for the reconstitution of the lost or destroyed certificate of title.[22]

Undeterred, petitioner appealed to the CA.[23]

The CA Ruling

In a Decision[24] dated November 29, 2013, the CA dismissed petitioner's appeal. It held that the RTC Decision had already attained finality due to petitioner's failure to move for its reconsideration within the fifteen (15)-day reglementary period provided by law. As such, the RTC Decision could no longer

[17] *Id.* at 47.

[18] Records, p. 120.

[19] *Id.* at 120-128.

[20] *Rollo*, pp. 48-53.

[21] *Id.* at 53.

[22] *Id.* at 52.

[23] See Notice of Appeal dated February 24, 2011; *id.* at 78-79.

[24] *Id.* at 23-31.

be assailed pursuant to the doctrine of finality and immutability of judgments. The CA further noted that petitioner failed to proffer compelling reasons to justify the belated filing of its motion, and worse, even concealed the date it received the RTC Decision which was consequently belied by the date indicated in the registry return card.[25]

Notably, the CA no longer delved into the issue of the propriety of the order of reconstitution of the OCT covering Lot 84.

Hence, the instant petition.

The Issues Before the Court

The essential issues for the Court's resolution are: (*a*) whether or not the RTC Decision could no longer be assailed pursuant to the doctrine of finality and immutability of judgments; and (*b*) whether or not the RTC correctly ordered the reconstitution of the OCT of Lot 84.

The Court's Ruling

The petition is meritorious.

I.

At the outset, it bears reiterating that the CA did not assess the substantive merits of the RTC Decision — which ordered the reconstitution of the OCT of Lot 84 — on the pretense that it had already attained finality which rendered it beyond the scope of judicial review.

Under the doctrine of finality and immutability of judgments, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and whether it will be made by the court that rendered it or by the highest court of the land. Upon finality of the judgment, the Court loses its jurisdiction to amend, modify or alter the same.[26]

The mandatory character, however, of the rule on immutability of final judgments was not designed to be an inflexible tool to

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[25] *Id.* at 28-29.

[26] See *Sumbilla v. Matrix Finance Corp.*, G.R. No. 197582, June 29, 2015.

excuse and overlook prejudicial circumstances. Hence, the doctrine must yield to practicality, logic, fairness, and substantial justice.[27] In *Sumbilla v. Matrix Finance Corporation*,[28] the Court had the occasion to name certain circumstances which necessitate a relaxation of the rule on the immutability of final judgments, to wit:

> Consequently[,] **final and executory judgments were reversed when the interest of substantial justice is at stake and where special and compelling reasons called for such actions**. In *Barnes v. Judge Padilla*, we declared as follows:
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> > x x x a final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.
> >
> > However, **this Court has relaxed this rule in order to serve substantial justice considering** (*a*) **matters of** life, liberty, honor[,] or **property,** (*b*) **the existence of special or compelling circumstances**, (*c*) **the merits of the case**, (*d*) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (*e*) a lack of any showing that the review sought is merely frivolous and dilatory, and (*f*) the other party will not be unjustly prejudiced thereby.
> >
> > Invariably, rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. **Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed**. Even the Rules of Court reflects this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself had already declared to be final.[29] (Emphases and underscoring supplied)

As will be discussed, a departure from the doctrine is warranted since its strict application would, in effect, circumvent and undermine the stability of the Torrens System of land registration

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[27] *Phil. Woman's Christian Temperance Union, Inc. v. Yangco*, G.R. No. 199595, April 2, 2014, 720 SCRA 522, 533.

[28] See *Supra* note 26.

[29] See *id.*; citations omitted.

adopted in this jurisdiction. Relatedly, it bears stressing that the subject matter of the instant controversy, *i.e.*, Lot 84, is a sizeable parcel of real property. More importantly, petitioner had adequately presented a strong and meritorious case.

Thus, in view of the aforesaid circumstances, the Court deems it apt to exercise its prerogative to suspend procedural rules and to resolve the present controversy according to its merits.

II.

Republic Act No. (RA) 26[30] governs the process by which a judicial reconstitution of Torrens Certificates of Title may be done. Specifically, Section 2 of the said law enumerates in the following order the competent and exclusive sources from which reconstitution of an OCT may be based, *viz.*:

> Section 2. **Original certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:**
>
> (a) The owner's duplicate of the certificate of title;
>
> (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
>
> (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
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> (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
>
> (e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
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> (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or

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[30] Entitled "AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED," approved on September 25, 1946.

destroyed certificate of title. (Emphasis and underscoring supplied)

Verily, case law provides that "[t]he reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution of title is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has been when the loss or destruction occurred. **RA 26 presupposes that the property whose title is sought to be reconstituted has already been brought under the provisions of the Torrens System**."[31] Hence, under the aforesaid law, the following must be present for an order for reconstitution to issue: (*a*) that the certificate of title had been lost or destroyed; (*b*) that the documents presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; (*c*) that the petitioner is the registered owner of the property or had an interest therein; (*d*) that the certificate of title was in force at the time it was lost and destroyed; and (*e*) that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.[32] Thus, petitioner correctly pointed out that the applicability of RA 26 in this case is contingent on the existence of a previously issued OCT which has been lost or destroyed.

In the case at bar, respondents miserably failed to adduce **clear and convincing proof that an OCT covering Lot 84 had previously been issued by virtue of Decree No. 466085.** Accordingly, there is no title pertaining to Lot 84 which could be "reconstituted," re-issued, or restored. Guided by the foregoing, judicial reconstitution of title under Section 2 of RA 26 is clearly improper in this case; and hence, the RTC erred in ordering the same.

For another, and even assuming that RA 26 applies, respondents could not predicate their petition for reconstitution

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[31] *Republic v. Tuastumban*, 604 Phil. 491, 504-505 (2009); citations omitted, emphasis and underscoring supplied.

[32] See *id.* at 504.

on the basis of Decree No. 466085 alone because as mentioned by petitioner, a copy of the same was not even presented as evidence before the trial court; hence, its contents remain unknown.[33] Neither could the certification[34] issued by the LRA stating that Decree No. 466085 was issued to Lot 84 be given any probative weight, considering that an ambiguous LRA certification without describing the nature of the decree and the claimant in such case, practically means nothing and could not be considered as a sufficient and proper basis for reconstituting a lost or destroyed certificate of title. The pronouncement in the case of *Republic v. Heirs of Ramos*[35] is highly instructive on the matter, *viz.*:

> Moreover, the Certification issued by the LRA stating that Decree No. 190622 was issued for Lot 54 means nothing. **The Land Registration Act expressly recognizes two classes of decrees in land registration proceedings, namely, (i) decrees dismissing the application and (ii) decrees of confirmation and registration. In the case at bench, we cannot ascertain from said Certification whether the decree alluded to by the respondents granted or denied Julio Ramos' claim. Moreover, the LRA's Certification did not state to whom Lot 54 was decreed.** Thus, assuming that Decree No. 190622 is a decree of confirmation, it would be too presumptuous to further assume that the same was issued in the name and in favor of Julio Ramos. **Furthermore, said Certification did not indicate the number of the original certificate of title and the date said title was issued.** In *Tahanan Development Corporation v. Court of Appeals* [(203 Phil. 652 [1982])], we held that the absence of any document, private or official, mentioning the number of the certificate of title and date when the certificate of title was issued, does not warrant the granting of such petition.[36] (Emphases and underscoring supplied)

In sum, the failure of respondents to satisfactorily prove that Lot 84 had been registered under the Torrens System rendered judicial reconstitution under RA 26 inapplicable.

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[33] See *rollo*, pp. 15-16.

[34] Records, p. 104.

[35] 627 Phil. 123 (2010).

[36] *Id.* at 138-139; citations omitted.

At any rate, it must be stressed that this decision does not operate to completely divest respondents of their interest, if any, in Lot 84. Rather, it simply underscored the wrong procedural remedy availed of. If they remain insistent to have the title of the subject property issued under their names, they can institute the appropriate proceedings in accordance with law and jurisprudence.[37]

WHEREFORE, the petition is **GRANTED**. The Decision dated November 29, 2013 of the Court of Appeals in CA-G.R. CV. No. 02428 is hereby **REVERSED** and **SET ASIDE.** Accordingly, the Petition for Reconstitution filed by respondents Homer and Ma. Susana Dagondon before the Regional Trial Court of Mambajao, Camiguin, Branch 28, and docketed as Misc. Case No. 80, is **DISMISSED** for lack of merit.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Caguioa, JJ.,* concur.

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[37] "If the respondents still insist on the reconstitution of OCT No. 45361, the proper procedure is to file a petition for the cancellation and re-issuance of Decree No. 418121 following the opinion of then LRA Administrator Benedicto B. Ulep. x x x

1. Under the premises, the correct proceeding is a petition for cancellation of the old decree, reissuance of decree and for issuance of OCT pursuant to that reissued decree.

x x x x x x x x x

2. [RA] 26 for reconstitution of lost OCT will not lie.

x x x x x x x x x

3. For as long as a decree has not yet been transcribed (entered in [the] registration book of the RD), the court which adjudicated and ordered for the issuance of such decree continues to be clothed with jurisdiction.

x x x x x x x x x

4. The heirs of the original adjudicate may file the petition in representation of the decedent and the reissued decree shall still be under the name of the original adjudicate.

x x x x x x x x x"

(See *Republic v. Heirs of Sanchez*, G.R. No. 212388, December 10, 2014, 744 SCRA 700, 707-711.)

FIRST DIVISION

[G.R. No. 213299. April 19, 2016]

PNCC SKYWAY CORPORATION, *petitioner, vs.* **THE SECRETARY OF LABOR AND EMPLOYMENT and PNCC SKYWAY CORPORATION EMPLOYEES UNION,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; TERMINATION OF EMPLOYMENT; CLOSURE OR CESSATION OF BUSINESS OPERATION; REQUIREMENTS TO BE A VALID GROUND FOR TERMINATION OF EMPLOYMENT.—** Closure of business is an authorized cause for termination of employment. x x x In this relation, jurisprudence provides that "[t]he determination to cease operations is a prerogative of management which the State does not usually interfere with, as no business or undertaking must be required to continue operating simply because it has to maintain its workers in employment, and such act would be tantamount to a taking of property without due process of law. As long as the company's exercise of the same is in good faith to advance its interest and not for the purpose of circumventing the rights of employees under the law or a valid agreement, such exercise will be upheld." Procedurally, Article 298 (formerly, Article 283) of the Labor Code, as amended provides for three (3) requirements to properly effectuate termination on the ground of closure or cessation of business operations. These are: *(a)* service of a written notice to the employees and to the DOLE at least one (1) month before the intended date of termination; *(b)* the cessation of business must be *bona fide* in character; and (*c*) payment to the employees of termination pay amounting to one (1) month pay or at least one-half month pay for every year of service, whichever is higher.

2. **ID.; ID.; ID.; ID.; ID.; THERE WAS COMPLIANCE WITH THE THIRTY (30)-DAY NOTICE RULE IN CASE AT BAR.—** As admitted by both parties, the PSC employees and the DOLE were notified on December 28, 2007 that PSC intended to cease

operations on January 31, 2008. The PSC employees and the DOLE were, therefore, notified **34 days ahead** of the impending closure of PSC. Clearly, the mere fact that PSC turned over the operation and management of the Skyway to SOMCO and ceased business operations on December 31, 2007, **should not be taken to mean that the PSC employees were *ipso facto* terminated on the same date.** The employees were notified that despite the cessation of its operations on December 31, 2007 – which, as a consequence thereof, would result in the needlessness of their services – **the effective date of their termination from employment would be on January 31, 2008** x x x. That the effectivity of the PSC employees' termination is on January 31, 2008, and not on December 31, 2007, is lucidly evinced by the unrefuted fact that they were still paid their salaries and benefits for the whole month of January 2008. Surely, it would go against the stream of practical business logic to retain employees on payroll a month after they had already been terminated. x x x PSC complied with the mandated thirty (30)-day notice requirement. Although PSC informed its employees that it would be turning over its operations to SOMCO not earlier than December 31, 2007, they were duly notified that the effective date of their termination was set on January 31, 2008. In light of valid business reasons, *i.e.*, the transfer of operations to SOMCO pursuant to the ASTOA, PSC asked its employees not to report for work beginning December 31, 2007 but were still retained on payroll until January 31, 2008. Evidently, their employment with PSC did not cease by the sole reason that they were told not to render any service.

3. ID.; ID.; ID.; ID.; EMPLOYER'S SEPARATION PACKAGE TO ITS EMPLOYEES WAS GENEROUS ENOUGH SINCE IT IS MORE THAN WHAT THE LAW REQUIRED.— On top of that, it deserves mentioning that PSC undisputedly paid its dismissed employees separation pay in amounts more than that required by law. As the records show, PSC's separation package to its employees was a generous one consisting of no less than 250% of the basic monthly pay per year of service, a gratuity pay of ₱40,000.00, rice subsidy, cash conversion of vacation and sick leaves and medical reimbursement. On the other hand, the legally-mandated rate for separation pay provided under Article 298 (formerly, Article 283) of the Labor Code, as amended, in cases such as the present, is equivalent to "one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever

is higher." Ultimately, it was within PSC's prerogative and discretion as employer to retain the services of its employees for one month after the turn-over date to SOMCO and to continue paying their salaries and benefits corresponding to that period even when there is no more work to be done, if only "to ensure a smooth transition and gradual phasing in of the new operator, which had yet to familiarize itself with the business."

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for petitioner.
Antonio L. Salvador for private respondent.

D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated September 30, 2013 and the Resolution[3] dated June 11, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 111201, which affirmed the Decision[4] dated August 29, 2008 and the Resolution[5] dated August 26, 2009 of the Secretary of the Department of Labor and Employment (DOLE) holding petitioner PNCC Skyway Corporation (PSC) liable for ₱30,000.00 as indemnity to each of its terminated employees, for failure to comply with the thirty (30)-day notice requirement under Article 298 (formerly, Article 283) of the Labor Code, as amended.[6]

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[1] *Rollo*, pp. 11-24.

[2] *Id.* at 32-44. Penned by Associate Justice Rosalinda Asuncion-Vicente with Associate Justices Priscilla J. Baltazar-Padilla and Ramon A. Cruz concurring.

[3] *Id.* at 46-47. Penned by Associate Justice Ramon A. Cruz with Associate Justices Magdangal M. De Leon and Priscilla J. Baltazar-Padilla concurring.

[4] Not attached to the *rollo*.

[5] Not attached to the *rollo*.

[6] As amended and renumbered by Republic Act No. 10151, entitled

The Facts

In October 1977, the Republic of the Philippines, through the Toll Regulatory Board (TRB), and the Philippine National Construction Corporation[7] (PNCC) entered into a Toll Operation Agreement (TOA)[8] for the latter's operation and maintenance of the South Metro Manila Skyway (Skyway).[9]

On November 27, 1995, a Supplemental TOA (STOA)[10] was executed by the TRB, PNCC, and Citra Metro Manila Tollways Corporation (CITRA), whereby CITRA, as an incoming investor, agreed, under a build-and-transfer scheme,[11] to finance, design, and construct the Skyway.[12] However, PNCC retained the right to operate and maintain the toll facilities,[13] and for such purpose, undertook to incorporate a subsidiary company that would assume its rights and obligations under the STOA:

> 6.16. Operator's Subsidiary Company
>
> Subject to all relevant existing laws, rules, and regulations, [PNCC] shall incorporate a subsidiary company (the "Subsidiary Company") at least 6 months prior to the Partial Operation Date. [PNCC] shall be the sole stockholder of the Subsidiary Company. The powers and functions of the Subsidiary Company shall only be to undertake and perform the obligations of [PNCC] under this Agreement, including without limitation Operation and Maintenance.[14]

"AN ACT ALLOWING THE EMPLOYMENT OF NIGHT WORKERS, THEREBY REPEALING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES," approved on June 21, 2011.

[7] Formerly "Construction and Development Corporation of the Philippines."

[8] *Rollo*, pp. 48-61.

[9] See *id.* at 33.

[10] *Id.* at 66-134.

[11] *Id.* at 33.

[12] *Id.* at 71.

[13] *Id.* at 33.

[14] *Id.* at 101.

Thus, on December 15, 1998, PSC was incorporated as a subsidiary of PNCC to operate the Skyway on PNCC's behalf. As such, it was tasked to maintain the toll facilities, ensure traffic safety, and collect toll fees at the Skyway.[15]

On July 18, 2007, the TRB, PNCC, and CITRA entered into an Amended STOA (ASTOA).[16] Under the ASTOA, the operation and management of the Skyway would be transferred from PSC to a new Replacement Operator, which turned out to be the Skyway O & M Corporation (SOMCO).[17] A transition period of 5 1/2 months was provided commencing on the date of signing of the ASTOA **until December 31, 2007, during which period, PSC continued to operate the Skyway**.[18]

In line with the above-mentioned transfer, PSC, on December 28, 2007, issued termination letters to its employees and filed a notice of closure with the DOLE-National Capital Region, advising them that it shall cease to operate and maintain the Skyway, and that **the services of the employees would be consequently terminated effective January 31, 2008**.[19] In this regard, PSC offered its employees a separation package consisting of 250% of their basic monthly salary for every year of service, gratuity pay of ₱40,000.00 each, together with all other remaining benefits such as 13th month pay, rice subsidy, cash conversion of leave credits, and medical reimbursement.[20]

On the same date, the PSC Employees Union (PSCEU) filed a Notice of Strike on the ground of unfair labor practice resulting in union busting and dismissal of workers. On December 31, 2007, the DOLE Secretary intervened and assumed jurisdiction over the labor incident.[21]

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[15] *Id.* at 33.

[16] *Id.* at 135-183.

[17] See *id.* at 33 and 180.

[18] *Id.* at 33.

[19] *Id.* at 34.

[20] *Id.*

[21] *Id.*

The DOLE Secretary's Ruling

In a Decision[22] dated August 29, 2008, the DOLE Secretary dismissed the charges of unfair labor practice and union busting, as well as the counter-charges of illegal strike, but ordered PSC to pay its terminated employees ₱30,000.00 each as indemnity after finding that the notices of their dismissal were invalid.[23]

The DOLE Secretary held that while there was a valid and sufficient legal basis for PSC's closure — as it was a mere consequence of the termination of its contract to operate and maintain the Skyway in view of the amendment of the STOA — PSC, nonetheless, failed to comply with the thirty (30)-day procedural notice requirement in terminating its employees, as provided under Article 283 (now, Article 298) of the Labor Code.[24] It was observed that while PSC stated in the notices of termination to the employees (as well as in the notice to the DOLE) that the dismissal of the employees would take effect on January 31, 2008, it admitted that it actually ceased to operate and maintain the Skyway upon its turnover to SOMCO on December 31, 2007.[25] As such, PSC fixed the termination date at January 31, 2008 only to make it appear that it was complying with the one-month notice requirement. Thus, citing the case of *Agabon v. National Labor Relations Commission* (*Agabon*),[26] the DOLE Secretary ordered PSC to pay each of its terminated employees ₱30,000.00 as indemnity.[27]

On September 12, 2008, PSC filed a Motion for Partial Reconsideration and Clarification,[28] while the PSCEU filed a Motion for Reconsideration,[29] which were both denied in a

[22] Not attached to the *rollo*. See *Id.* at 34-38.

[23] See *id.* at 38.

[24] See *id.* at 35-36.

[25] *Id.* at 36.

[26] 485 Phil. 248 (2004).

[27] *Rollo*, pp. 36-38.

[28] Not attached to the *rollo*.

[29] Not attached to the *rollo*.

Resolution[30] dated August 26, 2009.[31] Dissatisfied, PSC elevated the case to the Court of Appeals (CA) through a petition for *certiorari*.[32]

The CA Ruling

In a Decision[33] dated September 30, 2013, the CA affirmed[34] the DOLE Secretary's ruling after observing that PSC held inconsistent and conflicting positions with regard to the date of termination of its employees' services.[35]

The CA pointed out that in the Establishment Termination Report submitted to the DOLE, PSC stated that it shall close or shut down its operations effective January 31, 2008. However, in its Position Paper submitted to the DOLE, PSC stated that it "ceased to operate and maintain the [Skyway] upon its turnover to SOMCO effective December 31, 2007."[36] According to the CA, the apparent inconsistency as to the date of effectivity of the dismissal of the PSC employees must be resolved in favor of the employees who must then be deemed to have been terminated on December 31, 2007, consistent with Article 4[37] of the Labor Code which states that all doubts shall be resolved in favor of labor.[38]

The CA further held that it is of no moment that the PSC employees were paid their salaries and benefits for the whole month of January 2008 since they were already out of service

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[30] Not attached to the *rollo*.

[31] *Rollo*, p. 39.

[32] *Id.* at 250-263.

[33] *Id.* at 32-44.

[34] *Id.* at 43.

[35] See *id.* at 40-41.

[36] *Id.* at 41.

[37] ART. 4. Construction in Favor of Labor. — All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor.

[38] See *rollo*, pp. 40-41.

as of December 31, 2007, explaining too that this defeated the purpose behind the thirty (30)-day notice requirement, which is to give the employees time to prepare for the eventual loss of their employment.[39]

Anent PSC's argument that the PSCEU had been informed as early as September 2007 of the impending takeover of the operation of the Skyway by a new operator, the CA cited *Smart Communications, Inc. v. Astorga*[40] (*Smart Communications, Inc.*) and thereby, ruled that "actual knowledge of the reorganization cannot replace the formal and written notice required by law."[41]

The CA denied PSC's motion for reconsideration[42] in a Resolution[43] dated June 11, 2014; hence, the instant petition.

The Issue Before the Court

The sole issue in this case is whether or not the CA erred in affirming the DOLE Secretary's ruling that PSC failed to comply with the 30-day notice requirement under Article 298 (formerly, Article 283) of the Labor Code, as amended.

The Court's Ruling

The petition is meritorious.

Closure of business is an authorized cause for termination of employment. Article 298 (formerly, Article 283) of the Labor Code, as amended, reads:

ART. 298. Closure of Establishment and Reduction of Personnel. — **The employer may also terminate the employment of any employee due** to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or **the closing or cessation of operation of the establishment or undertaking** unless the closing

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[39] See *id.* at 41-42.

[40] 566 Phil. 422 (2008).

[41] See *rollo*, pp. 42-43.

[42] Not attached to the *rollo*.

[43] *Rollo*, pp. 46-47.

is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. x x x. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or to at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year. (Emphases supplied)

In this relation, jurisprudence provides that "[t]he determination to cease operations is a prerogative of management which the State does not usually interfere with, as no business or undertaking must be required to continue operating simply because it has to maintain its workers in employment, and such act would be tantamount to a taking of property without due process of law. As long as the company's exercise of the same is in good faith to advance its interest and not for the purpose of circumventing the rights of employees under the law or a valid agreement, such exercise will be upheld."[44]

Procedurally, Article 298 (formerly, Article 283) of the Labor Code, as amended provides for three (3) requirements to properly effectuate termination on the ground of closure or cessation of business operations. These are: (*a*) service of a written notice to the employees and to the DOLE at least one (1) month before the intended date of termination; (*b*) the cessation of business must be *bona fide* in character; and (*c*) payment to the employees of termination pay amounting to one (1) month pay or at least one-half month pay for every year of service, whichever is higher.[45]

Case law has settled that an employer who terminates an employee for a valid cause but does so through invalid procedure is liable to pay the latter nominal damages.[46] In *Agabon*, the Court pronounced that where the dismissal is for a just cause,

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[44] *Espina v. CA*, 548 Phil. 255, 274 (2007).

[45] *Industrial Timber Corporation v. Ababon*, 515 Phil. 805, 819 (2006).

[46] *Abbott Laboratories, Philippines v. Alcaraz*, 714 Phil. 510, 540 (2013).

the lack of statutory due process should not nullify the dismissal, or render it illegal, or ineffectual.[47] However, the employer should indemnify the employee for the violation of his statutory rights. Thus, in *Agabon*, the employer was ordered to pay the employee nominal damages in the amount of ₱30,000.00.[48] Proceeding from the same *ratio*, the Court modified *Agabon* in the case of *Jaka Food Processing Corporation v. Pacot*[49] (*Jaka*) where it created a distinction between procedurally defective dismissals due to a just cause, on the one hand, and those due to an authorized cause, on the other. In *Jaka*, it was explained that if the dismissal is based on a just cause under Article 282 (now, Article 297) of the Labor Code but the employer failed to comply with the notice requirement, the sanction to be imposed upon him should be tempered because the dismissal process was, in effect, initiated by an act imputable to the employee; if the dismissal is based on an authorized cause under Article 283 (now, Article 298) of the Labor Code but the employer failed to comply with the notice requirement, the sanction should be stiffer because the dismissal process was initiated by the employer's exercise of his management prerogative. Hence, in *Jaka*, where the employee was dismissed for an authorized cause of retrenchment — as contradistinguished from the employee in *Agabon* who was dismissed for a just cause of neglect of duty — the Court ordered the employer to pay the employee nominal damages at the higher amount of ₱50,000.00.[50]

The sole issue in this case is whether or not PSC properly complied with the thirty (30)-day prior notice rule, which is the first prong of the termination procedure under Article 298 (formerly Article 283) of the Labor Code, as amended. The Court rules in the affirmative; hence, there is no basis to award any indemnity in favor of PSC's terminated employees.

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[47] *Agabon v. National Labor Relations Commission*, *supra* note 26, at 287.

[48] See *id.* at 291.

[49] See 494 Phil. 114, 119-121 (2005).

[50] *Abbott Laboratories, Philippines v. Alcaraz*, *supra* note 46, at 540-541.

As admitted by both parties, the PSC employees and the DOLE were notified on December 28, 2007 that PSC intended to cease operations on January 31, 2008. The PSC employees and the DOLE were, therefore, notified **34 days ahead** of the impending closure of PSC. Clearly, the mere fact that PSC turned over the operation and management of the Skyway to SOMCO and ceased business operations on December 31, 2007, **should not be taken to mean that the PSC employees were *ipso facto* terminated on the same date**. The employees were notified that despite the cessation of its operations on December 31, 2007 — which, as a consequence thereof, would result in the needlessness of their services — **the effective date of their termination from employment would be on January 31, 2008:**

> Pursuant to the amended Supplemental Toll Operations Agreement entered into on July 18, 2007 by and among the Republic of the Philippines thru the Toll Regulatory Board, Philippine National Construction Corporation and Citra Metro Manila Tollways Corporation, a new Operation and Maintenance Company (OMCO) has been nominated to replace the PNCC Skyway Corporation (PSC). **As a consequence thereof, PSC shall then cease to operate and maintain the South Metro Manila Skyway upon its turn over to the new OMCO which may happen not earlier than December 31, 2007**. It is unfortunate therefore that all PSC employees shall be separated from service but shall be given a generous separation package more than what the law provides.
>
> In this regard please be advised that your employment with PNCC Skyway Corporation will be **terminated effective January 31, 2008**. In consideration thereof, you will accordingly receive the following separation package:
>
> x x x x x x x x x [51] (Emphases and underscoring supplied)

That the effectivity of the PSC employees' termination is on January 31, 2008, and not on December 31, 2007, is lucidly evinced by the unrefuted fact that they were still paid their salaries and benefits for the whole month of January 2008.[52] Surely, it

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[51] See letter dated December 27, 2007; *rollo*, p. 197.

[52] See *id.* at 19-20 and 41.

would go against the stream of practical business logic to retain employees on payroll a month after they had already been terminated.

On top of that, it deserves mentioning that PSC undisputedly paid its dismissed employees separation pay in amounts more than that required by law. As the records show, PSC's separation package to its employees was a generous one consisting of no less than 250% of the basic monthly pay per year of service, a gratuity pay of ₱40,000.00, rice subsidy, cash conversion of vacation and sick leaves and medical reimbursement.[53] On the other hand, the legally-mandated rate for separation pay provided under Article 298 (formerly, Article 283) of the Labor Code, as amended, in cases such as the present, is equivalent to "one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher."

Ultimately, it was within PSC's prerogative and discretion as employer to retain the services of its employees for one month after the turnover date to SOMCO and to continue paying their salaries and benefits corresponding to that period even when there is no more work to be done, if only "to ensure a smooth transition and gradual phasing in of the new operator, which had yet to familiarize itself with the business."[54]

Case law teaches that an employer may opt not to require the dismissed employees to report for work during the 30-day notice period.

In *Associated Labor Unions — VIMCONTU v. National Labor Relations Commission*,[55] the Court held that there was "more than substantial compliance" with the notice requirement where a written notice to the employees on August 5, 1983 had informed them that their services would cease at the end of that month but that they would nevertheless be paid their salaries and benefits

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[53] See *id.* at 17 and 197.

[54] *Id.* at 19.

[55] G.R. Nos. 74841 and 75667, December 20, 1991, 204 SCRA 913.

for five days, from September 1 to 5, 1983, even if they rendered no service for the period.[56]

Similarly, in *Kasapian ng Malayang Manggagawa sa Coca-Cola (KASAMMA-CCO)-CFW Local 245 v. CA*,[57] the Court dismissed the union employees' argument that there was non-compliance with the one-month notice because they were no longer allowed to report for work effective immediately upon receipt of the notice of termination, ruling therein that the payment of salaries from December 9, 1999 to February 29, 2000 although the employees did not render service for the period is, by analogy, "more than substantial compliance with the law."[58]

To clarify, the case of *Smart Communications, Inc.*, which was cited by the CA in holding that the actual knowledge by the PSCEU of the impending takeover cannot replace the formal written notice required by law, is inapplicable to this case. In *Smart Communications, Inc*., the employee received the notice of her dismissal only two (2) weeks before its effectivity date although it was issued by the employer at least thirty (30) days prior to the intended date of her dismissal. Given that the employee was evidently shortchanged of the mandated period of notice, the Court ruled that actual knowledge could not replace the formal written notice required by law.[59]

In contrast, PSC complied with the mandated thirty (30)-day notice requirement. Although PSC informed its employees that it would be turning over its operations to SOMCO not earlier than December 31, 2007, they were duly notified that the effective date of their termination was set on January 31, 2008. In light of valid business reasons, *i.e*., the transfer of operations to SOMCO pursuant to the ASTOA, PSC asked its employees not to report for work beginning December 31, 2007 but were still retained on payroll until January 31, 2008.

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[56] See *id.* at 921-922.

[57] 521 Phil. 606 (2006).

[58] See *id.* at 623-627.

[59] See *Smart Communications, Inc. v. Astorga*, *supra* note 40, at 440.

Evidently, their employment with PSC did not cease by the sole reason that they were told not to render any service.

In addition, since the employees were not reporting for work although retained on payroll, they had, in fact, more free time to look for job opportunities elsewhere after December 31, 2007 up until January 31, 2008. As aptly observed by PSC:

> Indeed, instead of reporting in their office and wasting time doing nothing in view of the cessation of PSC's business operation, the concerned employees can and actually devoted one month to look for another employment with pay.[60]

This meets the purpose of the notice requirement as enunciated in, among others, the case of *G.J.T. Rebuilders Machine Shop v. Ambos*:[61]

> Notice of the eventual closure of establishment is a "personal right of the employee to be personally informed of his [or her] proposed dismissal as well as the reasons therefor." **The reason for this requirement is to "give the employee some time to prepare for the eventual loss of his [or her] job."**[62] (Emphasis supplied)

All told, considering that PSC had complied with Article 298 (formerly, Article 283) of the Labor Code, as amended, the indemnity award in favor of the terminated employees was grossly improper and must therefore be nullified. In this respect, the DOLE Secretary gravely abused its discretion and the CA erred in ruling otherwise. When a lower court or tribunal patently violates the Constitution, the law, or existing jurisprudence, grave abuse of discretion is committed,[63] as in this case.

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[60] *Rollo*, p. 18.

[61] See G.R. No. 174184, January 28, 2015.

[62] See *id.*

[63] See *Carpio Morales v. CA*, G.R. Nos. 217126-27, November 10, 2015.

WHEREFORE, the petition is **GRANTED**. The Decision dated September 30, 2013 and the Resolution dated June 11, 2014 of the Court of Appeals in CA-G.R. SP No. 111201 are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Caguioa, JJ.,* concur.

EN BANC

[G.R. No. 216572. April 19, 2016]

FELICIANO LEGASPI, *petitioner, vs.* **COMMISSION ON ELECTIONS, ALFREDO D. GERMAR, AND ROGELIO P. SANTOS, JR.,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ELECTION LAWS; COMELEC RULES OF PROCEDURE; THE INTERPRETATION OF SEC. 6, RULE 18 OF THE COMELEC RULES OF PROCEDURE IN *MENDOZA* AND IN SEPTEMBER 1, 2015 DECISION OF THE COURT VIOLATES SECTION 7, ARTICLE IX-A OF THE CONSTITUTION; IT ALSO DIMINISHES THE ADJUDICATORY POWER OF THE COMELEC DIVISIONS UNDER SECTION 3, ARTICLE IX-C OF THE CONSTITUTION.— The *Mendoza* doctrine, as reiterated in the September 1, 2015 Decision, deviated from the 1987 Constitution. Not only does it circumvent the four-vote requirement under Sec. 7, Art. IX-A of the Constitution, it likewise diminishes the adjudicatory powers of the COMELEC Divisions under Sec. 3, Article IX-C. Under Sec. 3, Article IX-C of the 1987 Constitution, the COMELEC Divisions

are granted adjudicatory powers to decide election cases, provided that the COMELEC *en banc* shall resolve motions for reconsideration of the division rulings. Further, under Sec. 7, Article IX-A of the Constitution, four (4) votes are necessary for the COMELEC *en banc* to decide a case. Naturally, the party moving for reconsideration, as the party seeking affirmative relief, carries the burden of proving that the division committed reversible error. The movant then shoulders the obligation of convincing four (4) Commissioners to grant his or her plea. **This voting threshold, however, is easily rendered illusory by the application of the *Mendoza* ruling, which virtually allows the grant of a motion for reconsideration even though the movant fails to secure four votes in his or her favor, in blatant violation of Sec. 7, Art. IX-A of the Constitution.** In this case, in spite of securing only two (2) votes to grant their motion for reconsideration, private respondents were nevertheless declared the victors in the January 28, 2015 COMELEC *en banc* Resolution. x x x Under the prevailing interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure, a movant, in situations such as this, need not even rely on the strength of his or her arguments and evidence to win a case, and may, instead, choose to rest on inhibitions and abstentions of COMELEC members to produce the same result. To demonstrate herein, it is as though the two (2) abstention votes were counted in favor of the private respondents to reach the majority vote of four (4). This impedes and undermines the adjudicatory powers of the COMELEC divisions by allowing their rulings to be overruled by the *en banc* without the latter securing the necessary number to decide the case. From the foregoing disquisitions, it is then difficult to see how the *Mendoza* doctrine "*complements our Constitution*." Far from it, the prevailing interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure severely suffers from constitutional infirmities and calls for the nullification of the rule itself.

2. ID.; ID.; ID.; EFFECTS OF COMELEC *EN BANC'S* FAILURE TO GET THE FOUR-VOTE REQUIREMENT IN DECIDING A MOTION FOR RECONSIDERATION, EXPLAINED; THE FIRST AND SECOND EFFECTS CANNOT BE APPLIED IN CASE AT BAR.— [C]lassifying the pending case or matter before the COMELEC is a prerequisite to

identifying the applicable effect. Here, while the case originated from Legaspi's filing of a Petition for Disqualification, said petition has already been passed upon and decided by the COMELEC Special First Division on October 3, 2013. Instead, what was under consideration when Sec. 6, Rule 18 was invoked was no longer Legaspi's petition for disqualification itself but his **motion for reconsideration** before the COMELEC *en banc*. The pending issue at the time was not directly private respondents' qualification or disqualification to run for or hold office, but, more precisely, whether or not the COMELEC division committed reversible error in its October 3, 2013 ruling. **For the first effect to apply, the pending case or matter must be an original action or proceeding originally commenced before the COMELEC.** This could take either of two forms: those originally commenced with the COMELEC Division or those originally commenced with the COMELEC *en banc*. Under Article IX-C, Sec. 2(2) of the Constitution, actions originally commenced before the COMELEC Division consist of all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials. On the other hand, the cases directly filed with the COMELEC *en banc* are those specifically provided in the COMELEC Rules of Procedure[.] x x x In this case, while the motion for reconsideration was filed with the COMELEC *en banc* in the first instance, it cannot strictly be considered as an *"action or proceeding"* originally commenced with the commission as contemplated by the rules. As held in the September 1, 2015 Decision, the coverage of the phrase is limited to those itemized in Part V of the COMELEC Rules of Procedure, x x x It bears stressing that the first effect would only apply if the tie vote was in the resolution of the *"action or proceeding"* originally commenced before the COMELEC. But given that the pending matter when the vote was cast was the resolution of the motion for reconsideration, which is neither an action nor a proceeding within the ambit of Part V of the COMELEC Rules of Procedure, the first effect cannot therefore be applied in this case. **The second effect cannot likewise be applied herein for it requires that the pending case or matter be an appeal.** Worth maintaining is this doctrine in *Mendoza:* a motion for reconsideration is a constitutionally guaranteed remedial mechanism for parties aggrieved by a division decision or

resolution, but not an appeal. In the same vein, it was held in *Apo Fruits Corporation v. Court of Appeals* that "*[t]he Supreme Court sitting en banc is not an appellate court vis-a-vis its Divisions, and it exercises no appellate jurisdiction over the latter. Each division of the Court is considered not a body inferior to the Court en banc, and sits veritably as the Court en banc itself.*"

3. ID.; ID.; ID.; ID.; THE SUBJECT MOTION FOR RECONSIDERATION BEFORE THE COMELEC *EN BANC* IS AN "*INCIDENTAL MATTER*" TO WHICH THE THIRD EFFECT WILL APPLY, HENCE, THE COMELEC FIRST SPECIAL DIVISION'S RESOLUTION SUBSISTS AND IS AFFIRMED BY THE DENIAL OF THE MOTION FOR RECONSIDERATION.— The Court now determines whether the motion for reconsideration of private respondents is an "*incidental matter*" to which the third effect will apply. Without doubt, the answer is in the affirmative. In the August 24, 2010 ruling in *League of Cities vs. COMELEC*, the Court applied Sec. 7, Rule 56 of the Rules of Court, which reads: **Rule 56 Procedure in the Supreme Court** x x x **SEC. 7. *Procedure if opinion is equally divided***. — Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and **on all incidental matters, the petition or motion shall be denied.** As can be gleaned, the afore-quoted rule bears striking similarity with Sec. 6, Rule 18 of the COMELEC Rules of Procedure. In the adverted ruling, Senior Associate Justice Antonio T. Carpio (Justice Carpio) explained that **a motion for reconsideration is an incidental matter,** and that application of Sec. 7, Rule 56 thereto has been clarified in A.M. No. 99-1-09-SC wherein the Court resolved as follows: *A MOTION FOR THE CONSIDERATION OF A DECISION OR RESOLUTION OF THE COURT EN BANC OR OF A DIVISION MAY BE GRANTED UPON A VOTE OF A MAJORITY OF THE MEMBERS OF THE EN BANC OR OF A DIVISION, AS THE CASE MAY BE, WHO ACTUALLY TOOK PART IN THE DELIBERATION OF THE MOTION.* ***IF THE VOTING RESULTS IN A TIE, THE MOTION FOR RECONSIDERATION***

IS DEEMED DENIED. Free from ambiguity, the plain meaning of the clarificatory resolution is that the motion for reconsideration, being an incidental matter, is deemed denied if no majority vote is reached. Consequently, the Court's prior majority action in such cases stands affirmed. x x x There is no reason why the same procedural principle in *League of Cities*, as embodied in A.M. No. 99-1-09-SC, cannot find application in election cases. **With Sec. 6, Rule 18 of the COMELEC Rules of Procedure couched in terms that are almost identical with Sec. 7, Rule 56 of the Rules of Court, the interpretation of one ought not deviate from the other.** *Interpretare et cocordare leges legibus est optimus interpretandi modus.* The rule is that a statute must be construed not only to be consistent with itself but also to harmonize with other laws so as to form a complete, coherent and intelligible system. A.M. No. 99-1-09-SC on Sec. 7, Rule 56 of the Rules of Court should then be given suppletory application to election cases for a singular interpretation of the similarly phrased rules, more particularly to the treatment of less than majority votes on motions for reconsideration before the COMELEC *en banc*. In conclusion, Sec. 3, Article IX-C of the Constitution bestows on the COMELEC divisions the authority to decide election cases. Their decisions are capable of attaining finality, without need of any affirmative or confirmatory action on the part of the COMELEC *en banc.* And while the Constitution requires that the motions for reconsideration be resolved by the COMELEC *en banc*, it likewise requires that four votes must be reached for it to render a valid ruling and, consequently, to GRANT the motion for reconsideration of private respondents. Hence, when the private respondents failed to get the four-vote requirement on their motion for reconsideration, their motion is defeated and lost as there was NO valid ruling to sustain the plea for reconsideration. The prior valid action – the COMELEC Special First Division's October 3, 2013 Resolution in this case — therefore subsists and is affirmed by the denial of the motion for reconsideration.

PEREZ, *J., dissenting opinion*:

1. POLITICAL LAW; ELECTION LAWS; COMELEC RULES OF PROCEDURE; EFFECTS OF FAILURE OF THE

COMELEC *EN BANC* TO DECIDE A CASE BY THE NECESSARY MAJORITY VOTE, DISCUSSED.— [Section 6, Rule 18 of the COMELEC Rules of Procedure] was intended to fill the procedural void left when the COMELEC *en banc* is unable to reach the constitutionally-required majority vote in deciding or resolving any case or matter before it. It does this in two ways: *one*, by providing a mechanism by which the COMELEC *en banc* can try and achieve a majority consensus; and *two*, when such mechanism fails, by providing for the effects of the COMELEC *en banc's* failure to decide. Hence, under the subject provision, the COMELEC *en banc* is first required to rehear the case or matter that it cannot decide or resolve by the necessary majority. When a majority still cannot be had after the rehearing, however, there results a failure to decide on the part of the COMELEC *en banc*; the provision then steps in and specifies the **effects** of such failure to decide: 1. If the action or proceeding is *originally commenced* in the COMELEC, **such action or proceeding shall be dismissed;** 2**.** In *appealed* cases, **the judgment or order appealed from shall stand affirmed;** *or* 3. In *incidental matters*, **the petition or motion shall be denied.** Verily, the effects of the COMELEC *en banc's* failure to decide vary depending on the *type of case or matter* that is before the commission. Under the provision, the **first effect** (*i.e.*, the dismissal of the action or proceeding) only applies when the type of case before the COMELEC is an action or proceeding "*originally commenced in the commission*"; the **second effect** (*i.e.*, the affirmance of a judgment or order) only applies when the type of case before the COMELEC is an "*appealed case*"; and the **third effect** (*i.e.*, the denial of the petition or motion) only applies when the case or matter before the COMELEC is an "*incidental matter*."

2. ID.; ID.; ID.; ID.; THE SUBJECT MOTION FOR RECONSIDERATION CANNOT BE CONSIDERED AS *"INCIDENTAL MATTER"* TO WHICH THE THIRD EFFECT WILL APPLY; A MOTION FOR RECONSIDERATION FROM THE DECISION OF THE COMELEC DIVISION IS ONLY A *MEANS* OF ELEVATING THE CASE TO THE *EN BANC*; HENCE, WHEN A MOTION FOR RECONSIDERATION IN AN ELECTION CASE IS FILED, SUCH CASE IS ACTUALLY

BROUGHT BEFORE THE *EN BANC* WHICH CALLS FOR THE APPLICATION OF THE FIRST EFFECT UNDER SECTION 6, RULE 18 OF THE COMELEC RULES.— To bolster their position that a motion for reconsideration to the COMELEC *en banc* from a decision of the division is a mere incidental matter, the new majority cites the case of the *League of Cities v. COMELEC*. x x x In *Mendoza*, we held that the COMELEC acts on election cases under a single and integrated process, to wit: [H]owever the jurisdiction of the COMELEC is involved, x x x, the COMELEC will act on the case in **one whole and single process: to repeat, in division, and if impelled by a motion for reconsideration, *en banc.*** It is to be minded that the above pronouncement in *Mendoza* is not one that was merely grasped from thin air. The same, in fact, has firm roots in Section 3, Article IX-C of the Constitution, which provides for the interplay between COMELEC divisions and the *en banc* in deciding election cases: SECTION 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc. Drawing from the discussion in *Mendoza* and the underlying edict of the Constitution, we are then able to reach the inescapable conclusion—a basic principle—that a **motion for reconsideration from the decision of a COMELEC division in an election case is only a *means* of elevating such case to the *en banc*.** x x x Recognition of this basic principle readily discredits the incidental matter argument of the new majority. It was erroneous for the new majority to consider the motion for reconsideration from the decision of a COMELEC division as the very matter that is brought before the *en banc*. A motion for reconsideration from the decision of a COMELEC division in an election case is only a *means* of elevating such case to the *en banc*. **Thus, when a motion for reconsideration in an election case is filed, the case or matter that is actually brought before the COMELEC is the very election case that was decided initially by the division.** Hence, in such event, the failure of the COMELEC *en banc* to muster a majority consensus would

only and rightly bring to the fore the application of the first effect under Section 6, Rule 18 of the COMELEC Rules.

3. ID.; ID.; ID.; NO CONSTITUTIONAL PROVISION IS VIOLATED BY *MENDOZA* IN APPLYING THE FIRST EFFECT IN SITUATIONS WHERE THE COMELEC *EN BANC* FAILED TO REACH THE MAJORITY VOTE; THERE IS NO VALID REASON TO DEPART FROM THE LEGAL TEACHINGS OF *MENDOZA*.— The "*paradoxical*" scenario complained of by the new majority is more apparent than real. No constitutional provision is actually violated by the application of the first effect in situations where the COMELEC *en banc* fails to reach a majority vote on a motion for reconsideration: *First*. The constitutional power of the COMELEC division to decide election cases is not diminished by the mere possibility that it may be overturned as a consequence of the failure of the *en banc* to reach a majority consensus on a motion for reconsideration. Under the Constitution, in its proper understanding, the power of a COMELEC division to decide election cases is subject to the concomitant power of the *en banc* to decide the same cases *as may be elevated to it on motion for reconsideration*. The failure of the COMELEC *en banc* to reach a majority vote on a motion for reconsideration, therefore, only means that it is not able to come up with a valid decision in an election case. The only acceptable legal consequence of this is what the first effect precisely prescribes. *Second*. On the same note, the minimum voting threshold for constitutional commissions is not circumvented when the failure of the COMELEC *en banc* to reach a majority vote on a motion for reconsideration results in the dismissal of the very election case. As earlier intimated, the case or matter that is actually brought before the COMELEC on motion for reconsideration is the very election case that was decided initially by the division. x x x All told, I absolutely find no valid reason why the Court should depart from the original decision and the legal teachings of *Mendoza*.

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R E S O L U T I O N

VELASCO, JR., *J.*:

The opportunities for the Court to revisit its ruling in *Mendoza vs. COMELEC*[1] (*Mendoza*) are sparse. It is a rarity for us to be presented a case assailing the COMELEC *en banc*'s reversal of its division's ruling notwithstanding the former's failure to muster the four (4) votes required under our Constitution to do so. In fact, the September 1, 2015 Decision in the case at bench is only second to the seminal case of *Mendoza* to have resolved such an issue. The Court must, therefore, take advantage of this rare opportunity, on reconsideration, to modify the *Mendoza* doctrine before it further takes root, deeply entrenched in our jurisprudence.

The facts of this case are simple and undisputed.

To recapitulate, petitioner Feliciano Legaspi (Legaspi) and private respondent Alfredo D. Germar (Germar) both ran as mayoralty candidates in Norzagaray, Bulacan while private respondent Rogelio Santos (Santos) was a candidate for councilor in the May 13, 2013 elections.[2] On May 14, 2013 Legaspi filed a Petition for Disqualification against private respondents, docketed as SPA No. 13-323 (DC). There, petitioner averred that from May 11, 2013 until election day, private respondents engaged in massive vote-buying, using their political leaders as conduits. As per witness accounts, said political leaders, while camped inside the North Hills Village Homeowners Association Office in Brgy. Bitungol, Norzagaray, Bulacan, were distributing to voters envelopes containing Php500.00 each and a sample ballot bearing the names of private respondents. Through military efforts, the vote-buying was foiled and the office, which served as the venue for distribution, padlocked. The newly-minted Chief of Polite, P/Supt. Dale

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[1] 630 Phil. 432 (2010).

[2] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

Soliba, and his subordinates then attempted to force open the office and retrieve from inside four (4) boxes containing the remaining undistributed envelopes with an estimated aggregate amount of Php800,000.00, but a group of concerned citizens were able to thwart their plan in *flagrante delicto* and intercept the said evidence of vote-buying.[3]

In answer, private respondents denied the allegations and raised the alibi that from 3:00 o'clock to 11:00 o'clock in the evening of May 11, 2013, they attended the Liberal Party's meeting *de avance* at the San Andres Parish church grounds, and that they did not go to nor visit the office of the Homeowner's Association of North Hills Village at the time the election offenses were allegedly committed.[4]

Giving due credence and consideration to the evidence adduced by petitioner,[5] the COMELEC Special First Division, by a 2-1

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[3] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[4] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[5] Petitioner offered the following in evidence:

1) Sinumpaang Salaysay of Kagawad Helen Viola, Ma. Joanna Abesamis, Jaimenito Magat, Danny Mendoza and Teodorico Tuazon who witnessed the vote buying activities during the morning of May 11, 2013, the forced opening of the HOA office around 12:00 A.M. of May 12, 2013 by P/Supt. Soliba and subsequent interception of the latter by the affiants, who seized the plastic bag containing 4 boxes of money and sample ballots of respondents;

2) Report of the Turn-over of Confiscated/Recovered Items by P/Supt. Soliba to the Municipal Treasurer of Norzagaray, Bulacan, detailing the number of envelopes and sample ballots of Germar-Esquivel Team (FB Team) and amounts of money found inside each of the 4 boxes;

3) Pictures during the opening of the seized items before the Norzagaray Municipal Police Station and photos taken during the vote-buying incident at the HOA office where respondent Esquivel was seen going out of the premises in the morning of May 11, 2013;

4) Certified True Copies of the Police Blotter Entries regarding the vote-buying incidents which happened on May 12-13, 2013, as reported to the police by Retired Col. Bruno Paler Viola, Jr. and Alma Rulida;

vote on October 3, 2013, disqualified private respondents from the 2013 electoral race. The dispositive portion of the COMELEC resolution[6] reads:

WHEREFORE, premises considered, the Commission **RESOLVED** as it hereby RESOLVES to:

(1) **DISQUALIFY** Respondents Alfredo M. Gesmar (*sic*) and Rogelio C. Santos, Jr. for the positions of Mayor and Councilor of Norzagaray, Bulacan;

(2) **REFER** the criminal aspect of this case against Germar (*sic*), Roberto Esquivel, Rogelio Santos, Jr., Dale Soliba, Dominador Rayo, Marivic Nunez, Adelaida Auza, Amelia Cruz, and Leonardo Ignacio to the Law Department for preliminary investigation; and

(3) **ORDER** the Regional Election Director of COMELEC Region III to implement this Resolution, following the rules on succession as provided in R.A. 7160.

SO ORDERED.

Thereafter, private respondents moved for reconsideration before the COMELEC *en banc* but the latter, through its July 10, 2014 Resolution,[7] resolved to deny private respondents' motion thusly:

WHEREFORE, premises considered, the Commission **RESOLVED**, as it hereby **RESOLVES** to **DENY** this Motion for

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5) Sworn Statements of 194 voters who testified that they were offered and/or given the amount ranging from PhP250.00-PhP500.00 each in exchange of their votes for the respondents, and were thus issued yellow stubs that they received such amount;

6) Sworn Statements of several witnesses, attesting that during election day, respondents' team promised them to pay PhP500.00-PhP1,000.00 each on condition that they will not vote and their right point fingers will be marked with ink; and

7) Minutes of Voting of the Board of Election Inspectors of Cluster Precinct No. 60, allowing three voters, to cast their vote upon verifying that the ink marked on their fingers was not that of the Comelec's indelible ink and that they have not yet voted.

[6] *Rollo*, pp. 59-73.

[7] *Rollo*, pp. 84-92.

Reconsideration for LACK OF MERIT. Consequently, the October 3, 2013 Resolution of the Special First Division (1) disqualifying respondents Alfredo M. Germar and Rogelio C. Santos, Jr. for the positions of Mayor and Councilor of Norzagaray, Bulacan; (2) referring the criminal aspect of this case against Alfredo M. Germar, Roberto Esquivel, Rogelio Santos, Jr., Dale Soliba, Dominador Rayo, Marivic Nunez, Adelaida Auza, Amelia Cruz and Leonardo Ignacio to the Law Department for preliminary investigation and (3) ordering the Regional Election Director of COMELEC Region III to implement this Resolution, following the Rules on Succession as provided under R.A. 7160 is hereby **AFFIRMED**.

SO ORDERED.

The adverted Resolution had a vote of **3-2-1-1**, as follows: three (3) commissioners, namely Chairman Sixto S. Brillantes, Jr. and commissioners Lucenito N. Tagle and Elias R. Yusoph, voted for the denial of the motion, while two (2) commissioners, Christian Robert S. Lim and Luie Tito F. Guia, dissented. Commissioner Al A. Parreño took no part in the deliberations and Commissioner Maria Grace Cielo M. Padaca did not vote as her *ad interim* appointment had already expired, vacating a seat in the electoral tribunal.[8]

Since the Resolution was not concurred in by four (4) votes or a majority of all the members of the COMELEC, a re-deliberation of the administrative aspect of the case was conducted pursuant to Sec. 6, Rule 18 of the COMELEC Rules of Procedure. The re-deliberation resulted in the issuance of the assailed Order[9] dated January 28, 2015 with a **3-2-2** vote: the previously voting commissioners maintained their respective positions while then newly-appointed commissioner Arthur D. Lim took no part in the deliberations and abstained from voting.[10] Citing the same procedural rule, the COMELEC *en banc*

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[8] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[9] *Rollo*. pp. 99-103.

[10] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

dismissed the original Petition for Disqualification filed by Legaspi in the following wise:

WHEREFORE, premises considered, the Commission **RESOLVED**, as it hereby **RESOLVES** to **DISMISS** the administrative aspect of this Petition for Disqualification for **FAILURE TO OBTAIN THE NECESSARY MAJORITY VOTES AFTER RE-DELIBERATION/ REHEARING** by the members of the Commission *en banc*.

SO ORDERED.

Perplexed as to how he who prevailed before the COMELEC Special First Division can face defeat before the COMELEC *en banc* when three (3) commissioners voted to deny private respondents motion for reconsideration and only two (2) commissioners voted to reverse the judgment in his favor, Legaspi launched a Rule 64 petition assailing the January 28, 2015 COMELEC *en banc* Order before this Court. Regrettably, the Court, on September 1, 2015, voted to dismiss the petition.

From the September 1, 2015 Decision, petitioner Legaspi interposed the instant motion for reconsideration. Hence, the Court is faced once again with the issue on how to treat the rulings of the COMELEC *en banc* when less than four (4) votes were cast to either grant or deny the motion for reconsideration pending before it.

The Court's Ruling

The Court **GRANTS** petitioner's motion for reconsideration. The September 1, 2015 Decision in the case at bar is hereby **REVERSED** and **SET ASIDE**, and the instant petition is **GRANTED**.

Primarily, the Court is called to interpret Sec. 6, Rule 18 of the COMELEC Rules on Procedure. The provision reads:

Section 6. Procedure if Opinion is Equally Divided. — When the Commission *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall be reheard, and if on rehearing no decision is reached, the action or proceeding shall be dismissed if originally commenced in the Commission; in appealed cases, the judgment or order appealed from shall stand affirmed; **and all**

incidental matters, the petition or motion shall be denied." (emphasis added)

As framed in the September 1, 2015 Decision, the aforecited provision outlines the effects of the COMELEC *en banc's* failure to decide:

1. If the action or proceeding is *originally commenced* in the COMELEC, **such action or proceeding shall be dismissed;**
2. In *appealed* cases, **the judgment or order appealed from shall stand affirmed;** or
3. In *incidental matters*, **the petition or motion shall be denied.**

In dismissing Legaspi's petition on September 1, 2015, the Court first categorized SPA No. 13-323 (DC) as an action "*originally commenced with the Commission*," warranting the entire case's dismissal should the *en banc* fail to reach the required majority vote, regardless of the COMELEC division's ruling. This, according to the *ponencia*, is the first effect of Sec. 6, Rule 18 of the COMELEC Rules of Procedure, as previously applied in *Mendoza*.

To summarize *Mendoza*, therein petitioner Joselito R. Mendoza (Mendoza) was proclaimed winner of the 2007 gubernatorial election for the province of Bulacan, besting respondent Roberto M. Pagdanganan (Pagdanganan). On June 1, 2007, Pagdanganan filed an election protest that the COMELEC Second Division eventually granted, thereby annulling Mendoza's proclamation. Aggrieved, Mendoza moved for reconsideration with the *en banc*, but the COMELEC failed to reach a majority vote to either grant or deny the motion. Pursuant to its rules, the COMELEC *en banc* reheard the case but was, nevertheless, unsuccessful in obtaining the required majority vote to render a valid ruling. Thus, in a **3-1** vote, with three votes denying the motion, the COMELEC *en banc* sustained the ruling of its Second Division.[11]

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[11] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

On petition with the Court, Mendoza pointed out that because the necessary majority vote of four (4) was not obtained by the COMELEC *en banc*, Pagdanganan's election protest ought to be dismissed. Agreeing, the Court, on March 25, 2010, ruled for Mendoza and explained that as an original action before the Commission, failure to muster the required majority vote on reconsideration would lead to the election protest's dismissal, not just of the motion for reconsideration.[12]

Aside from relying on the *Mendoza* ruling, the September 1, 2015 Decision discussed that a motion for reconsideration lodged with the COMELEC *en banc* is not an "*action or proceeding*" within the contemplation of the rules; that the phrase ought to be construed as pertaining to Part V of the COMELEC Rules of Procedure, denominated as "*Particular Actions or Proceedings*" and covering Rules 20-34.[13] Thus, the Court applied the first effect and ordered that Legaspi's Petition for Disqualification, the alleged "*action or proceeding*" in this case, be dismissed in its entirety.

The interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure in Mendoza and in the September 1, 2015 Decision renders the rule unconstitutional

The *Mendoza* doctrine, as reiterated in the September 1, 2015 Decision, deviated from the 1987 Constitution. Not only does it circumvent the four-vote requirement under Sec. 7, Art. IX-A of the Constitution, it likewise diminishes the adjudicatory powers of the COMELEC Divisions under Sec. 3, Article IX-C.[14]

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[12] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[13] Rule 19 of the COMELEC Rules of Procedure governs motions for reconsideration.

[14] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

Under Sec. 3, Article IX-C of the 1987 Constitution,[15] the COMELEC Divisions are granted adjudicatory powers to decide election cases, provided that the COMELEC *en banc* shall resolve motions for reconsideration of the division rulings. Further, under Sec. 7, Article IX-A of the Constitution,[16] four (4) votes are necessary for the COMELEC *en banc* to decide a case. Naturally, the party moving for reconsideration, as the party seeking affirmative relief, carries the burden of proving that the division committed reversible error. The movant then shoulders the obligation of convincing four (4) Commissioners to grant his or her plea.[17]

This voting threshold, however, is easily rendered illusory by the application of the *Mendoza* ruling, which virtually allows the grant of a motion for reconsideration even though the movant fails to secure four votes in his or her favor, in blatant violation of Sec. 7, Art. IX-A of the Constitution. In this case, in spite of securing only two (2) votes to grant their motion for reconsideration, private respondents were nevertheless declared the victors in the January 28, 2015 COMELEC *en banc* Resolution.[18]

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[15] Section 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*. (emphasis added)

[16] Section 7. Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.

[17] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[18] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

To exacerbate the situation, the circumvention of the four-vote requirement, in turn, trivializes the proceedings before the COMELEC divisions and presents rather paradoxical scenarios, to wit:[19]

i. The failure of the COMELEC *en banc* to muster the required majority vote only means that it could not have validly decided the case. Yet curiously, it managed to reverse the ruling of a body that has properly exercised its adjudicatory powers; and

ii. A motion for reconsideration may be filed on the ground that the evidence is insufficient to justify the decision, order or ruling; or that the said decision, order or ruling is contrary to law. If the COMELEC *en banc* does not find that either ground exists, there would be no cogent reason to disturb the ruling of the COMELEC division. Otherwise stated, failure to muster four votes to sustain the motion for reconsideration should be understood as tantamount to the COMELEC *en banc* finding no reversible error attributable to its division's ruling. Said decision, therefore, ought to be affirmed, not reversed nor vacated.

These resultant paradoxes have to be avoided. Under the prevailing interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure, a movant, if situations such as this, need not even rely on the strength of his or her arguments and evidence to win a case, and may, instead, choose to rest on inhibitions and abstentions of COMELEC members to produce the same result. To demonstrate herein, it is as though the two (2) abstention votes were counted in favor of the private respondents to reach the majority vote of four (4). This impedes and undermines the adjudicatory powers of the COMELEC divisions by allowing their rulings to be overruled by the *en banc* without the latter securing the necessary number to decide the case.[20]

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[19] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[20] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

From the foregoing disquisitions, it is then difficult to see how the *Mendoza* doctrine "*complements our Constitution*."[21] Far from it, the prevailing interpretation of Sec. 6, Rule 18 of the COMELEC Rules of Procedure severely suffers from constitutional infirmities and calls for the nullification of the rule itself.

The motion for reconsideration before the COMELEC en banc is an "incidental matter"

Proceeding to the core of the controversy, we now apply Sec. 6, Rule 18 in the case at bar. As discussed in the September 1, 2015 *ponencia*:

> xxx [T]he effects of the COMELEC *en banc's* failure to decide vary **depending on the *type of case or matter* that is before the commission**. Thus, under the provision, the **first effect** (*i.e.*, the dismissal of the action or proceeding) only applies when the type of case before the COMELEC is an action or proceeding *"originally commenced in the commission"*; the **second effect** (*i.e.*, the affirmance of a judgment or order) only applies when the type of case before the COMELEC is an "appealed case"; and the **third effect (*i.e.*, the denial of the petition or motion) only applies when the case or matter before the COMELEC is an "*incidental matter*."** (emphasis added)

Verily, **classifying the pending case or matter before the COMELEC is a prerequisite to identifying the applicable effect**. Here, while the case originated from Legaspi's filing of a Petition for Disqualification, said petition has already been passed upon and decided by the COMELEC Special First Division on October 3, 2013. Instead, what was under consideration when Sec. 6, Rule 18 was invoked was no longer Legaspi's petition for disqualification itself but his **motion for reconsideration** before the COMELEC *en banc*. The pending issue at the time was not directly private respondents' qualification or disqualification to run for or hold office, but, more precisely,

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[21] *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

whether or not the COMELEC division committed reversible error in its October 3, 2013 ruling.

For the first effect to apply, the pending case or matter must be an original action or proceeding originally commenced before the COMELEC. This could take either of two forms: those originally commenced with the COMELEC Division or those originally commenced with the COMELEC *en banc*.

Under Article IX-C, Sec. 2(2) of the Constitution, actions originally commenced before the COMELEC Division consist of all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials.[22] On the other hand, the cases directly filed with the COMELEC *en banc* are those specifically provided in the COMELEC Rules of Procedure, such as petitions for postponement of elections under Sec. 1, Rule 26, petitions for failure of election under Sec. 2, Rule 26, complaints or charges for indirect contempt under Sec. 2, Rule 29, preliminary investigation of election offenses under Sec. 1, Rule 34, and all other uses where the COMELEC division is not authorized to act.[23]

In this case, while the motion for reconsideration was filed with the COMELEC *en banc* in the first instance, it cannot strictly be considered as an "*action or proceeding*" originally commenced with the commission as contemplated by the rules. As held in the September 1, 2015 Decision, the coverage of the phrase is limited to those itemized in Part V of the COMELEC Rules of Procedure, viz.:

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[22] SECTION 2. The Commission on Elections shall exercise the following powers and functions:

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(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

[23] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

COMELEC RULES OF PROCEDURE — PART V
PARTICULAR ACTIONS OR PROCEEDINGS

A. ORDINARY ACTIONS

- Rule 20 — Election Protests
- Rule 21 — Quo Warranto
- Rule 22 — Appeals from Decisions of Courts in Election Protest Cases

B. SPECIAL ACTIONS

- Rule 23 — Petition to Deny Due Course To or Cancel Certificates of Candidacy
- Rule 24 — Proceedings Against Nuisance Candidates
- Rule 25 — Disqualification of Candidates
- Rule 26 — Postponement of Suspension of Elections

C. IN SPECIAL CASES

- Rule 27 — Pre-proclamation Controversies

D. SPECIAL RELIEFS

- Rule 28 — *Certiorari*, Prohibition and Mandamus
- Rule 29 — Contempt

E. PROVISIONAL REMEDIES

- Rule 30 — Injunction

F. SPECIAL PROCEEDINGS

- Rule 31 — Annulment of Permanent List of Voters
- Rule 32 — Registration of Political Parties or Organization
- Rule 33 — Accreditation of Citizens' Arms of the Commission

G. ELECTION OFFENSES

- Rule 34 — Prosecution of Election Offenses

It bears stressing that the first effect would only apply if the tie vote was in the resolution of the "*action or proceeding*" originally commenced before the COMELEC. But given that the pending matter when the vote was cast was the resolution of the motion for reconsideration, which is neither an action nor a proceeding within the ambit of Part V of the COMELEC

Rules of Procedure, the first effect cannot therefore be applied in this case.

The second effect cannot likewise be applied herein for it requires that the pending case or matter be an appeal. Worth maintaining is this doctrine in *Mendoza*: a motion for reconsideration is a constitutionally guaranteed remedial mechanism for parties aggrieved by a division decision or resolution, but not an appeal.[24] In the same vein, it was held in *Apo Fruits Corporation v. Court of Appeals*[25] that *"[t]he Supreme Court sitting en banc is not an appellate court vis-a-vis its Divisions, and it exercises no appellate jurisdiction over the latter. Each division of the Court is considered not a body inferior to the Court en banc, and sits veritably as the Court en banc itself."*[26]

This leaves the court with the **third effect**: that **the petition or motion will be dismissed in incidental matters.**

The Court now determines whether the motion for reconsideration of private respondents is an "*incidental matter*" to which the third effect will apply. Without doubt, the answer is in the affirmative.

In the August 24, 2010 ruling in *League of Cities vs. COMELEC*,[27] the Court applied Sec. 7, Rule 56 of the Rules of Court, which reads:

Rule 56

Procedure in the Supreme Court

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[24] Dissenting Opinion of Associate Justice Presbitero J. Velasco, Jr., *Legaspi vs. COMELEC*, G.R. No. 216572, September 1, 2015.

[25] G.R. No. 164195, April 30, 2008, 553 SRA 237.

[26] *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, April 30, 2008, 553 SRA 237, citing *Firestone Ceramics, Inc. v. Court of Appeals*, 389 Phil. 810, 818 (2000). In accordance with Supreme Court Circular No. 2-89, providing *Guidelines and Rules in the Court En Banc of CasesAssigned to a Division.*

[27] G.R. Nos. 176951, 177499, and 178056.

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SEC. 7. ***Procedure if opinion is equally divided.*** — Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and **on all incidental matters, the petition or motion shall be denied.** (Emphasis supplied)

As can be gleaned, the afore-quoted rule bears striking similarity with Sec. 6, Rule 18 of the COMELEC Rules of Procedure. In the adverted ruling, Senior Associate Justice Antonio T. Carpio (Justice Carpio) explained that **a motion for reconsideration is an incidental matter**, and that application of Sec. 7, Rule 56 thereto has been clarified in A.M. No. 99-1-09-SC[28] wherein the Court resolved as follows:

A MOTION FOR THE CONSIDERATION OF A DECISION OR RESOLUTION OF THE COURT EN BANC OR OF A DIVISION MAY BE GRANTED UPON A VOTE OF A MAJORITY OF THE MEMBERS OF THE EN BANC OR OF A DIVISION, AS THE CASE MAY BE, WHO ACTUALLY TOOK PART IN THE DELIBERATION OF THE MOTION.

IF THE VOTING RESULTS IN A TIE, THE MOTION FOR RECONSIDERATION IS DEEMED DENIED. (emphasis added)

Free from ambiguity, the plain meaning of the clarificatory resolution is that the motion for reconsideration, being an incidental matter, is deemed denied if no majority vote is reached. Consequently, the Court's prior majority action in such cases stands affirmed.[29]

Defensor-Santiago vs. COMELEC[30] served as jurisprudential basis for the pronouncement in the August 24, 2010 *League of*

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[28] In the Matter of Clarifying the Rule in Resolving Motions for Reconsideration, promulgated on January 26, 1999.

[29] *Supra* note 27.

[30] 336 Phil. 848 (1997).

Cities ruling. In the cited case, eight (8) Justices of the Supreme Court, as against five (5), voted to declare Republic Act No. 6735[31] insufficient to cover the system of initiative on amendments to the Constitution, and to nullify the COMELEC rules and regulations prescribing the conduct thereof. On reconsideration, the Court was equally-divided, 6-6, yet the prior Decision was never deemed overturned. The deadlock was interpreted to mean that the opposite view failed to muster enough votes to modify or reverse the majority ruling. Therefore, the motion for reconsideration was denied and the original Decision, upheld.[32]

Noticeably, *Mendoza*, which was decided by the Court on March 25, 2010, preceded the August 24, 2010 *League of Cities* ruling. In the latter *en banc* case, the Court set the precedent that the failure to reach the majority vote on reconsideration would only result in the denial of the motion alone.[33]

There is no reason why the same procedural principle in *League of Cities*, as embodied in A.M. No. 99-1-09-SC, cannot find application in election cases. **With Sec. 6, Rule 18 of the COMELEC Rules of Procedure couched in terms that are almost identical with Sec. 7, Rule 56 of the Rules of Court, the interpretation of one ought not deviate from the other**. *Interpretare et cocordare leges legibus est optimus interpretandi modus.* The rule is that a statute must be construed not only to be consistent with itself but also to harmonize with other laws so as to form a complete, coherent and intelligible system.[34]

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[31] AN ACT PROVIDING FOR A SYSTEM OF INITIATIVE AND REFERENDUM AND APPROPRIATING FUNDS THEREFOR.

[32] Separate Opinion of former Associate Justice Angelina Sandoval-Gutierrez in *Lambino vs. COMELEC*, G.R. Nos. 174153 and 174299, October 25, 2006.

[33] Although the *League of Cities* ruling was thereafter reversed, said reversal was due to substantive arguments, not for any perceived error in the application of the procedural rule.

[34] *Dreamwork Construction, Inc. vs. Janiola*, G.R. No. 184861, June 30, 2009.

A.M. No. 99-1-09-SC on Sec. 7, Rule 56 of the Rules of Court should then be given suppletory application[35] to election cases for a singular interpretation of the similarly phrased rules, more particularly to the treatment of less than majority votes on motions for reconsideration before the COMELEC *en banc*.

In conclusion, Sec. 3, Article IX-C of the Constitution bestows on the COMELEC divisions the authority to decide election cases. Their decisions are capable of attaining finality, without need of any affirmative or confirmatory action on the part of the COMELEC *en banc*. And while the Constitution requires that the motions for reconsideration be resolved by the COMELEC *en banc*, it likewise requires that four votes must be reached for it to render a valid ruling and, consequently, to GRANT the motion for reconsideration of private respondents. Hence, when the private respondents failed to get the four-vote requirement on their motion for reconsideration, their motion is defeated and lost as there was NO valid ruling to sustain the plea for reconsideration. The prior valid action — the COMELEC Special First Division's October 3, 2013 Resolution in this case — therefore subsists and is affirmed by the denial of the motion for reconsideration.

WHEREFORE, premises considered, the motion for reconsideration is hereby **GRANTED** and the September 1, 2015 Decision of the Court is **REVERSED** and **SET ASIDE**. The instant petition is **GRANTED** and the January 28, 2015 Order of the Comelec *en banc* in SPA No. 13-323 (DC) is hereby **SET ASIDE**. The October 3, 2013 Resolution of the COMELEC Special First Division in SPA No. 13-323 (DC) is **REINSTATED** and **AFFIRMED.** THIS RESOLUSION IS IMMEDIATELY EXECUTORY.

SO ORDERED.

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[35] Rule 41 of the COMELEC Rule of Procedure:

Section 1. The Rules of Court. — In the absence of any applicable provisions in these Rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect.

Sereno, C.J., Carpio, Leonardo-de Castro, Peralta, del Castillo, Reyes, and *Caguioa, JJ.,* concur.

Brion, Bersamin, Mendoza, Perlas-Bernabe, Leonen, and *Jardeleza, JJ.,* join the dissent of *J.* Perez.

Perez, J., see dissenting opinion.

DISSENTING OPINION

PEREZ, *J.*:

The resolution penned by the learned Justice Presbitero J. Velasco, Jr. which was joined by seven (7) other colleagues, reversed the original decision[1] in this case and displaced the judicial doctrine meticolously laid out by the Court in *Mendoza v. COMELEC*.[2] I view the reversal and the displacement by the new majority as legally erronoeus. Hence, I must dissent.

I stand by the reasonings of the original decision and the *Mendoza* case. In addition to them, however, I submit this opinion to fully articulate my position against the majority resolution.

I

At the heart of this case is Section 6, Rule 18 of the COMELEC Rules.[3] The provision reads:

> Sec. 6. *Procedure if Opinion is Equally Divided*. — When the Commission *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall be reheard, and if on rehearing no decision is reached, the action or proceeding shall be dismissed if originally commenced in the Commission; in appealed cases, the judgment or order appealed from shall stand affirmed; and in all incidental matters, the petition or motion shall be denied.

The above provision was intended to fill the procedural void left when the COMELEC *en banc* is unable to reach the

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[1] G.R. No. 216572, 1 September 2015.

[2] 630 Phil. 432 (2010).

[3] *COMELEC Rules Governing Pleadings, Practice and Procedure Before It or Any of Its Offices*, dated 15 February 1993.

constitutionally-required majority vote[4] in deciding or resolving any case or matter before it. It does this in two ways: *one*, by providing a mechanism by which the COMELEC *en banc* can try and achieve a majority consensus; and *two*, when such mechanism fails, by providing for the effects of the COMELEC *en banc*'s failure to decide.

Hence, under the subject provision, the COMELEC *en banc* is first required to rehear the case or matter that it cannot decide or resolve by the necessary majority. When a majority still cannot be had after the rehearing, however, there results a failure to decide on the part of the COMELEC *en banc*; the provision then steps in and specifies the **effects** of such failure to decide:

1. If the action or proceeding is *originally commenced* in the COMELEC, **such action or proceeding shall be dismissed**;

2. In *appealed cases*, **the judgment or order appealed from shall stand affirmed**; *or*

3. In *incidental matters*, **the petition or motion shall be denied.**

Verily, the effects of the COMELEC *en banc's* failure to decide vary depending on the *type of case or matter* that is before the commission. Under the provision, the **first effect** (*i.e.*, the dismissal of the action or proceeding) only applies when the type of case before the COMELEC is an action or proceeding *"originally commenced in the commission"*; the **second effect** (*i.e.*, the affirmance of a judgment or order) only applies when the type of case before the COMELEC is an *"appealed case"*; and the **third effect** (*i.e.*, the denial of the petition or motion) only applies when the case or matter before the COMELEC is an *"incidental matter."*

Mendoza was the leading pronouncement of the Court regarding the first effect under Section 6, Rule 18 of the COMELEC Rules. It defined the bounds of the first effect *and* it gave us a clear illustration of the application of the first effect.

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[4] See Section 7, Article IX-A of the CONSTITUTION.

In *Mendoza*, we proclaimed that the first effect under Section 6, Rule 18 of the COMELEC Rules applies when the COMELEC en banc failed to reach a majority consensus on a motion for reconsideration from a decision of the division in an original election case (in *Mendoza*, the case was an electoral protest originally filed before the division). **This was so because, in such event, the case or matter before the COMELEC *en banc* is actually still the same election case that was decided by the division.** We explained that while the election case may have reached the COMELEC *en banc* through the motion for reconsideration of the decision of a division, the same did not change the *original* nature of the election case; such motion not being an appeal.[5] Thus, we held that the failure of the COMELEC *en banc* to decide the motion for reconsideration would result — not in the denial of the said motion or the affirmance of the division's decision — but in the dismissal of the election case itself, pursuant to the first effect under Section 6, Rule 18 of the COMELEC Rules.[6]

II

The present case would have served us with the perfect factual context to apply the first effect under Section 6, Rule 18 of the COMELEC Rules as interpreted by *Mendoza*. Its facts are essentially parallel with that of *Mendoza*.

Like *Mendoza*, the present case involved an election case that was originally filed in and decided by a COMELEC division (in here, the election case was a petition for disqualification). Like in *Mendoza*, the election case herein was afterwards elevated to the *en banc* on motion for reconsideration. Like in *Mendoza*, the COMELEC *en banc* in the present case likewise failed to come up with a majority vote, even after rehearing, on the motion for reconsideration. By all indications, and pursuant the principle of *stare decisis*, the present case should have been decided like *Mendoza*.

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[5] *Mendoza v. COMELEC*, *supra* note 2.

[6] *Id.*

Faulty legal reasoning, however, led the new majority astray. As I will attempt to demonstrate, the arguments relied upon by the new majority rests on less than solid foundations.

III

At this juncture, I will venture into the arguments relied upon by the new majority in support of their resolution. For purposes of this discussion, I have categorized such arguments into two:

1. The **incidental matter argument** *i.e.*, it is the third effect, not the first effect, under Section 6, Rule 18 of the COMELEC Rules that ought to apply in cases where the COMELEC *en banc* fails to reach majority consensus on a motion for reconsideration. This is because, in such event, the matter before the COMELEC *en banc* is only a motion for reconsideration which falls under the category of an "*incidental matter*" under Section 6, Rule 18 of the COMELEC Rules.

2. The **unconstitutionality arguments** *i.e.*, pursuing *Mendoza*'s interpretation of the first effect under Section 6, Rule 18 of the COMELEC Rules would diminish the constitutional power of COMELEC divisions to decide election cases as well as circumvent the minimum voting threshold for constitutional commissions.[7]

I shall address these arguments *in seriatim*.

RE: Incidental Matter Argument

The new majority advanced the argument that it is the third effect, not the first effect, under Section 6, Rule 18 of the COMELEC Rules that ought to apply in cases where the COMELEC *en banc* fails to reach majority consensus on a motion for reconsideration. They insist that, in such event, the matter before the COMELEC *en banc* is only a motion for reconsideration, which is a mere "*incidental matter*."

To bolster their position that a motion for reconsideration to the COMELEC *en banc* from a decision of the division is a

[7] Section 7, Article IX-A of the CONSTITUTION.

mere incidental matter, the new majority cites the case of the *League of Cities v. COMELEC*.[8]

Like the argument advanced by the petitioner to counter the application of first effect to this case, the incidental matter argument proceeds from the assumption that the proceedings in election cases before the COMELEC division are separate from those before the *en banc*; that there is a difference between what the COMELEC *en banc* decides on motion for reconsideration with what the division initially decides. Such assumption is admittedly appealing at first blush; but, as all should have known by now, that assumption was already rejected and proven wrong in *Mendoza*.

In *Mendoza*, we held that the COMELEC acts on election cases under a single and integrated process, to wit:

> [H]owever the jurisdiction of the COMELEC is involved, x x x, the COMELEC will act on the case in **one whole and single process: to repeat, in division, and if impelled by a motion for reconsideration, *en banc*.**[9]

It is to be minded that the above pronouncement in *Mendoza* is not one that was merely grasped from thin air. The same, in fact, has firm roots in Section 3, Article IX-C of the Constitution, which provides for the interplay between COMELEC divisions and the *en banc* in deciding election cases:

> SECTION 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

Drawing from the discussion in *Mendoza* and the underlying edict of the Constitution, we are then able to reach the inescapable

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[8] G.R. Nos. 176951, 177499 and 178056, 24 August 2010.

[9] *Mendoza v. COMELEC*, *supra* note 2, at 460. (Emphasis ours.)

conclusion — a basic principle — that a **motion for reconsideration from the decision of a COMELEC division in an election case is only a *means* of elevating such case to the *en banc*.** This the original decision stated:

> x x x when an election case originally filed with the COMELEC is first decided by a division, the subsequent filing of a motion for reconsideration from that decision before the *en banc* does not signify the initiation of a new action or case, but rather a mere continuation of an existing process. **The motion for reconsideration — not being an appeal from the decision of the division to the *en banc* — only thus serves as a means of elevating an election case to the COMELEC *en banc***. Under this view, therefore, the nature of the election case as it was before the division remains the same even after it is forwarded to the *en banc* through a motion for reconsideration. x x x[10]

Recognition of this basic principle readily discredits the incidental matter argument of the new majority. It was erroneous for the new majority to consider the motion for reconsideration from the decision of a COMELEC division as the very matter that is brought before the *en banc*. A motion for reconsideration from the decision of a COMELEC division in an election case is only a *means* of elevating such case to the *en banc*. **Thus, when a motion for reconsideration in an election case is filed, the case or matter that is actually brought before the COMELEC is the very election case that was decided initially by the division.** Hence, in such event, the failure of the COMELEC *en banc* to muster a majority consensus would only and rightly bring to the fore the application of the first effect under Section 6, Rule 18 of the COMELEC Rules.

RE: Unconstitutionality Arguments

To justify their avoidance of *Mendoza*'s interpretation of the first effect under Section 6, Rule 18 of the COMELEC Rules, the new majority played the unconstitutional card. According to the new majority, *Mendoza*'s interpretation of the first effect is unconstitutional for it diminishes the constitutional power of

[10] *Supra* note 1.

COMELEC divisions to decide election cases[11] and circumvents the minimum voting threshold for constitutional commissions.[12] This was apparently so because the interpretation would allow the "*paradoxical*" scenario wherein a valid decision of a COMELEC division in an election case can be simply overturned by the COMELEC *en banc* even though the latter is not able to reach a majority vote on the motion for reconsideration.

The "*paradoxical*" scenario complained of by the new majority is more apparent than real. No constitutional provision is actually violated by the application of the first effect in situations where the COMELEC *en banc* fails to reach a majority vote on a motion for reconsideration:

First. The constitutional power of the COMELEC division to decide election cases is not diminished by the mere possibility that it may be overturned as a consequence of the failure of the *en banc* to reach a majority consensus on a motion for reconsideration. Under the Constitution, in its proper understanding, the power of a COMELEC division to decide election cases is subject to the concomitant power of the *en banc* to decide the same cases *as may be elevated to it on motion for reconsideration.*

The failure of the COMELEC *en banc* to reach a majority vote on a motion for reconsideration, therefore, only means that it is not able to come up with a valid decision in an election case. The only acceptable legal consequence of this is what the first effect precisely prescribes.

Second. On the same note, the minimum voting threshold for constitutional commissions is not circumvented when the failure of the COMELEC *en banc* to reach a majority vote on a motion for reconsideration results in the dismissal of the very election case. As earlier intimated, the case or matter that is actually brought before the COMELEC on motion for reconsideration is the very election case that was decided initially by the division.

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[11] See Section 3, Article IX-C of the CONSTITUTION.

[12] See Section 7, Article IX-A of the CONSTITUTION.

Hence, we come back to the same conclusion: that the failure of the COMELEC *en banc* to reach a majority vote on a motion for reconsideration only means that it is not able to come up with a valid decision in an election case; and that the only acceptable legal consequence of this is what the first effect prescribes.

IV

All told, I absolutely find no valid reason why the Court should depart from the original decision and the legal teachings of *Mendoza*. I beg the indulgence of the majority if I cannot join them in their resolution.

IN VIEW WHEREOF, I vote to **DENY** the motion for reconsideration of petitioners.

EN BANC

[G.R. No. 216776. April 19, 2016]

PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO), *petitioner, vs.* **CHAIRPERSON MA. GRACIA M. PULIDO-TAN, COMMISSIONER HEIDI L. MENDOZA, COMMISSIONER ROWENA V. GUANZON, The Commissioners, COMMISSION ON AUDIT (COA),** *respondents.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; GOVERNMENT AGENCIES; PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO); THE PCSO CHARTER DOES NOT GRANT ITS BOARD OF DIRECTORS THE UNBRIDLED AUTHORITY TO SET SALARIES AND ALLOWANCES OF

OFFICIALS AND EMPLOYEES.— Sections 6 and 9 of R.A. No. 1169, as amended, cannot be relied upon by the PCSO to grant the COLA. Section 6 merely states, among others, that fifteen percent (15%) of the net receipts from the sale of sweepstakes tickets (whether for sweepstakes races, lotteries, or other similar activities) shall be set aside as contributions to the operating expenses and capital expenditures of the PCSO. Also, Section 9 loosely provides that among the powers and functions of the PCSO Board of Directors is "to fix the salaries and determine the reasonable allowances, bonuses and other incentives of its officers and employees as may be recommended by the General Manager x x x **subject to pertinent** civil service and **compensation laws.**" The PCSO charter evidently does not grant its Board the unbridled authority to set salaries and allowances of officials and employees. On the contrary, as a government owned and/or controlled corporation (GOCC), it was expressly covered by P.D. No. 985 or *"The Budgetary Reform Decree on Compensation and Position Classification of 1976,"* and its 1978 amendment, P.D. No. 1597 *(Further Rationalizing the System of Compensation and Position Classification in the National Government)*, and mandated to comply with the rules of then Office of Compensation and Position Classification (OCPC) under the DBM. Even if it is assumed that there is an explicit provision exempting the PCSO from the OCPC rules, the power of the Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the DBM review.

2. ID.; ID.; ID.; ID.; COST OF LIVING ALLOWANCE; SHOULD BE CONSIDERED AS DEEMED INTEGRATED IN THE STANDARDIZED SALARIES OF THE PCSO OFFICIALS AND EMPLOYEES UNDER THE GENERAL RULE OF INTEGRATION, NOT BEING AMONG THOSE EXPRESSLY EXCLUDED FROM INTEGRATION BY REPUBLIC ACT NO. 6758.— To determine whether the COLA is considered as an allowance that is excluded from the standardized salary rates of the PCSO officials and employees, reference must be made to the first paragraph of Section 12 of R.A. No. 6758. x x x [A]ll kinds of allowances are integrated into the prescribed standardized salary rates except: "(1) representation and transportation allowances *(RATA)*; (2) clothing and laundry allowances; (3) subsistence allowance of marine officers and crew

on board government vessels; (4) subsistence allowance of hospital personnel; (5) hazard pay; (6) allowance of foreign service personnel stationed abroad; and (7) such other additional compensation not otherwise specified in Section 12 as may be determined by the DBM." The foregoing are the only allowances which government employees can continue to receive in addition to their standardized salary rates. Since the COLA is not among those expressly excluded from integration by R.A. No. 6758, it should be considered as **deemed integrated** in the standardized salaries of the PCSO officials and employees under the general rule of integration.

3. ID.; STATUTES; REPUBLIC ACT NO. 6758 (COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989); DEPARTMENT OF BUDGET AND MANAGEMENT; DELEGATED WITH THE AUTHORITY TO IDENTIFY OTHER ADDITIONAL COMPENSATION THAT MAY BE GRANTED TO GOVERNMENT EMPLOYEES OVER AND ABOVE THE STANDARDIZED SALARY RATES BUT THE ADDITIONAL NON-INTEGRATED ALLOWANCES MUST BE GIVEN DUE TO THE UNIQUE NATURE OF THE OFFICE AND OF THE WORK PERFORMED BY THE EMPLOYEES.— R.A. No. 6758 does not require that the DBM should first define those allowances that are to be integrated with the standardized salary rates of government employees before the additional compensation could be integrated into the employees' salaries. Instead, until and unless the DBM issues rules and regulations, the enumerated exclusions in items (1) to (6) remain exclusive. While Section 12 of R.A. No. 6758 is considered as self-executing with respect to items (1) to (6), it is only upon the amplification of the DBM through the issuance and taking effect of implementing rules and regulations that item (7) could be deemed as legally completed. The DBM is delegated with the authority to identify such other additional compensation that may be granted to government employees over and above the standardized salary rates. Relative thereto, it must be shown that additional non-integrated allowances are given to government employees of certain offices due to the unique nature of the office and of the work performed by the employee, taking into consideration the peculiar characteristics of each government office where performance of the same work may entail different necessary expenses for the employee.

4. ID.; ID.; ID.; WHERE THERE IS AN EXPRESS PROVISION OF THE LAW PROHIBITING THE GRANT OF CERTAIN BENEFITS, THE LAW MUST BE ENFORCED EVEN IF IT PREJUDICES CERTAIN PARTIES ON ACCOUNT OF AN ERROR COMMITTED BY PUBLIC OFFICIALS IN GRANTING THE BENEFIT.— Section 29(1), Article VI of the 1987 Constitution provides, "[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law." x x x In this petition, We cannot rule on the validity of the alleged *post facto* approval by the Office of the President as regards the grant of COLA to the PCSO officials and employees. The PCSO failed to prove its existence since no documentary evidence, original copy or otherwise, was submitted before Us. Even so, where there is an express provision of the law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties on account of an error committed by public officials in granting the benefit. An executive act shall be valid only when it is not contrary to the laws or the Constitution.

5. ID.; ID.; ID.; PRINCIPLE OF NON-DIMINUTION OF BENEFITS; INAPPLICABLE IN CASE AT BAR.— The Court has steadily held that, in accordance with second sentence (first paragraph) of Section 12 of R.A. No. 6758, allowances, fringe benefits or any additional financial incentives, whether or not integrated into the standardized salaries prescribed by R.A. No. 6758, should continue to be enjoyed by employees who were incumbents and were actually receiving those benefits as of July 1, 1989. Here, the PCSO failed to establish that its officials and employees who were recipients of the disallowed COLA actually suffered a diminution in pay as a result of its consolidation into their standardized salary rates. It was not demonstrated that such officials and employees were incumbents and already receiving the COLA as of July 1, 1989. Therefore, the principle of non-diminution of benefits finds no application to them. Neither is there merit in the contention that the PCSO officials and employees already acquired vested rights over the COLA as it has been a part of their compensation for a considerable length of time. Such representation was not supported by any evidence showing that a substantial period of time had elapsed. Nevertheless, practice, without more — no matter how long continued — cannot give rise to any vested right if it is contrary to law. While We commiserate with the plight of most government employees who

have to make both ends meet, the letter and the spirit of the law should only be applied, not reinvented or modified.

6. ID.; ID.; ID.; DISALLOWANCE OF BENEFITS OR ALLOWANCES; LIABILITY FOR REFUND; ELUCIDATED.— With regard to the disallowance of benefits or allowances of government employees, Our recent rulings provide useful insights. Recipients or payees need not refund disallowed benefits or allowances when it was received in good faith and there is no finding of bad faith or malice. On the other hand, officers who participated in the approval of such disallowed amount are required to refund only those received if they are found to be in bad faith or grossly negligent amounting to bad faith. Public officials who are directly responsible for, or participated in making the illegal expenditures, as well as those who actually received the amounts therefrom shall be solidarity liable for their reimbursement. The receipt or non-receipt of illegally disbursed funds is immaterial to the solidary liability of government officials directly responsible. In this case, two administrative issuances are significant: DBM Corporate Compensation Circular No. 10 (DBM-CCC No. 10) and the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize. x x x In view of the above issuances, the PCSO Board of Directors who approved Resolution No. 135 are liable. Their authority under Sections 6 and 9 of R.A. No. 1169, as amended, is not absolute. They cannot deny knowledge of the DBM and PSLMC issuances that effectively prohibit the grant of the COLA as they are presumed to be acquainted with and, in fact, even duty-bound to know and understand the relevant laws/rules and regulations that they are tasked to implement. Their refusal or failure to do do not exonerate them since mere ignorance of the law is not a justifiable excuse. As it is, the presumptions of "good faith" and "regular performance of official duty" are disputable and may be contradicted and overcome by other evidence. The same thing can be said as to the five PCSO officials who were held accountable by the COA. They cannot approve the release of funds and certify that the subject disbursement is lawful without ascertaining its legal basis. If they acted on the honest belief that the COLA is allowed by law/rules, they should have assured themselves, prior to their approval and the release of funds, that the conditions imposed by the DBM and PSLMC, particularly the need for the approval of the DBM, Office of the President or legislature, are complied with. Like the members

> of the PCSO Board, the approving/certifying officers' positions dictate that they are familiar of governing laws/rules. Knowledge of basic procedure is part and parcel of their shared fiscal responsibility. They should have alerted the PCSO Board of the validity of the grant of COLA. Good faith further dictates that they should have denied the grant and refrained from receiving the questionable amount. x x x On the other hand, the other PCSO officials and employees who had no participation in the approval and release of the disallowed benefit can be treated as having accepted the same on the mistaken assumption that Resolution No. 135 was issued in the valid exercise of the power vested in the Board of Directors under the PCSO charter. They are deemed to have acted in good faith in the honest belief that they were entitled to such benefit. They can properly rely on the presumption that the Board acted regularly in the performance of its official duties in providing for the subject benefit. Their acceptance of the disallowed grant, in the absence of any competent proof of bad faith on their part, will not suffice to render them liable for a refund.

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for petitioner.
The Solicitor General for public respondents.

D E C I S I O N

PERALTA, *J.*:

This petition for *certiorari* under Rule 64, in relation to Rule 65, of the Rules of Court (*Rules*) seeks to annul and set aside the June 5, 2014 Decision[1] and December 22, 2014 Resolution[2] of the Commission on Audit (*COA*) Commission Proper, which affirmed the notice of disallowance on the cost of living allowance received by the officials and employees of the Philippine Charity Sweepstakes Office-Nueva Ecija Provincial District Office in 2010.

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[1] *Rollo*, pp. 19-24.

[2] *Id.* at 25.

Created by Republic Act (*R.A.*) No. 1169,[3] as amended by Presidential Decree (*P.D.*) No. 1157[4] and Batas Pambansa (*B.P.*) Blg. 42,[5] the Philippine Charity Sweepstakes Office (*PCSO*) is the principal government agency for raising and providing funds for health programs, medical assistance and services, and charities of national character. On March 4, 2008, the PCSO Board of Directors, through Resolution No. 135, approved the payment of monthly cost of living allowance (*COLA*) to its officials and employees for a period of three (3) years in accordance with the Collective Negotiation Agreement. Pursuant thereto, in 2010, the PCSO released the sum of ₱381,545.43 to all qualified officials and employees of its Nueva Ecija Provincial District Office. A year after, on March 19, 2011, Executive Secretary Paquito N. Ochoa, Jr. confirmed the benefits and incentives provided for in Resolution No. 135, but with a directive to the PCSO to strictly abide by Executive Order (*E.O.*) No. 7 that imposed a moratorium on any grant of new or increase in the salaries and incentives until specifically authorized by the President.[6]

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[3] Entitled *"An Act Providing for Charity Sweepstakes Horse Races and Lotteries"* (approved and took effect on June 18, 1954).

[4] Entitled *"Increasing the Rates of Tax on Winnings in Jai-Alai and Horse-Racing and the Share of the Government from the Sweepstakes Total Prize Fund"* (issued and took effect on June 3, 1977).

[5] Entitled *"An Act Amending the Charter of the Philippine Charity Sweepstakes Office"* (approved and took effect on September 24, 1979).

[6] Sec. 9 of E.O. No. 7, which is entitled *"Directing the Rationalization of the Compensation and Position Classification System in the Government-Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs), and for Other Purposes"* and issued on September 8, 2010, states:

SECTION 9. Moratorium on Increases in Salaries, Allowances, Incentives and Other Benefits. — Moratorium on increases in the rates of salaries, and the grant of new or increases in the rates of allowances, incentives and other benefits, except salary adjustments pursuant to Executive Order No. 811 dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed until specifically authorized by the President.

On post audit, the Team Leader and Supervising Auditor of the PCSO-Nueva Ecija Provincial District Office issued Notice of Disallowance (*ND*) 11-001-101-(10)[7] dated May 16, 2011 invalidating the payment of ₱381,545.43 on the grounds that it is contrary to the Department of Budget and Management (*DBM*) Circular No. 2001-03 dated November 12, 2001 and it amounts to double compensation that is prohibited under the 1987 Constitution. Those found liable for the disallowed disbursement were:

Name	Position/ Designation	Nature of Participation in the Transaction
1. Josefina A. Sarsonas	Department Manager	Approving Officer
2. Francis S. Manalad	CLOO	Recommending Approval
3. Alberto B. Pertinente	Acting Auditor	
5. Mary Ann T. Baltazar	Acting SLOO	Certifies Cash Available
6. Moriel C. Blanco	Cashier II	Issued Check[8]

The PCSO appealed, but the COA Regional Director affirmed the disallowance in a Decision[9] dated September 6, 2012. Similarly, the COA Commission Proper denied the petition for review and motion for reconsideration of PCSO. Hence, this petition contending that:

1. The PCSO Board of Directors is authorized under Sections 6 and 9 of R.A. No. 1169, as amended, to fix salaries and to determine allowances, bonuses, and other incentives of its officers and employees;
2. Executive Secretary Ochoa, Jr. approved the grant of benefits and incentives previously given to the PCSO

[7] *Rollo*, pp. 35-36.

[8] *Id.* at 36.

[9] *Id.* at 39-42.

officials and employees and such *post facto* approval/ ratification by the Office of the President is enshrined in Article VII Section 17 of the 1987 Constitution in relation to Book III Section 1 of the Administrative Code of 1987 as well as recognized by the Supreme Court in *Cruz v. Commission on Audit* [10] and *GSIS v. Commission on Audit*;[11]

3. The disallowance of COLA violates the principle of non-diminution of benefits because the PCSO officials and employees already acquired vested rights over the same for having been a part of their compensation for a considerable length of time; and

4. The recipients of the disallowed amounts need not return the COLA received since they are in good faith for lack of knowledge at the time that the same lacked legal basis.

During the pendency of the case, the COA issued an Order of Execution[12] dated July 3, 2015 directing to withhold the payment of salaries or any amount due the five above-named officials as settlement of their liabilities. Arguing that these employees were discriminated against and were denied due process, the PCSO filed a Petition for the Issuance of Temporary Restraining Order (*TRO*).[13] On August 25, 2015, the Court merely noted the prayer for TRO.

The petition is denied. No grave abuse of discretion amounting to lack or excess of jurisdiction could be attributed to the COA.

Authority of the PCSO

The PCSO stresses that it is a self-sustaining government instrumentality which generates its own fund to support its operations and does not depend on the national government for

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[10] 420 Phil. 102 (2001).

[11] 430 Phil. 717 (2002).

[12] *Rollo*, pp. 91-92.

[13] *Id.* at 79-86.

its budgetary support. Thus, it enjoys certain latitude to establish and grant allowances and incentives to its officers and employees.

We do not agree. Sections 6 and 9 of R.A. No. 1169, as amended, cannot be relied upon by the PCSO to grant the COLA. Section 6 merely states, among others, that fifteen percent (15%) of the net receipts from the sale of sweepstakes tickets (whether for sweepstakes races, lotteries, or other similar activities) shall be set aside as contributions to the operating expenses and capital expenditures of the PCSO. Also, Section 9 loosely provides that among the powers and functions of the PCSO Board of Directors is "to fix the salaries and determine the reasonable allowances, bonuses and other incentives of its officers and employees as may be recommended by the General Manager x x x **subject to pertinent** civil service and **compensation laws.**" The PCSO charter evidently does not grant its Board the unbridled authority to set salaries and allowances of officials and employees. On the contrary, as a government owned and/or controlled corporation (GOCC), it was expressly covered by P.D. No. 985 or "*The Budgetary Reform Decree on Compensation and Position Classification of 1976,* " and its 1978 amendment, P.D. No. 1597 *(Further Rationalizing the System of Compensation and Position Classification in the National Government*), and mandated to comply with the rules of then Office of Compensation and Position Classification (OCPC) under the DBM.[14]

Even if it is assumed that there is an explicit provision exempting the PCSO from the OCPC rules, the power of the Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the DBM review. In *Intia, Jr. v. COA*,[15] the Court stressed that the discretion of the Board of Philippine Postal Corporation on the matter of personnel compensation is not absolute as the same must be exercised in accordance with the standard laid down by law,

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[14] See Sections 2 and 4, in relation to Section 17 (g.), of P.D. No. 985 and Section 1, in relation to Section 5, of P.D. No. 1597.

[15] 366 Phil. 273 (1999).

i.e., its compensation system, including the allowances granted by the Board, must strictly conform with that provided for other government agencies under R.A. No. 6758[16] in relation to the General Appropriations Act. To ensure such compliance, the resolutions of the Board affecting such matters should first be reviewed and approved by the DBM pursuant to Section 6 of P.D. No. 1597. Following *Intia, Jr.*, We subsequently ruled in *Phil. Retirement Authority (PRA) v. Buñag*:[17]

> In accordance with the ruling of this Court in *Intia*, we agree with petitioner PRA that these provisions should be read together with P.D. No. 985 and P.D. No. 1597, particularly Section 6 of P.D. No. 1597. Thus, notwithstanding exemptions from the authority of the Office of Compensation and Position Classification granted to PRA under its charter, PRA is still required to 1) *observe the policies and guidelines issued by the President* with respect to position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits and 2) *report to the President, through the Budget Commission,* on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.
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> Despite the power granted to the Board of Directors of PRA to establish and fix a compensation and benefits scheme for its employees, the same is subject to the review of the Department of Budget and Management. However, in view of the express powers granted to PRA under its charter, the extent of the review authority of the Department of Budget and Management is limited. As stated in *Intia*, the task of the Department of Budget and Management is simply to review the compensation and benefits plan of the government agency or entity concerned and determine if the same complies with the prescribed policies and guidelines issued in this regard. The role of the Department of Budget and Management is supervisorial in nature, its main duty being to ascertain that the proposed compensation, benefits and other incentives to be given to PRA officials and employees adhere to the policies and guidelines issued in accordance with applicable laws.

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[16] Entitled *"Compensation and Position Classification Act of 1989"* (took effect on July 1, 1989).

[17] 444 Phil. 859 (2003).

The rationale for the review authority of the Department of Budget and Management is obvious. Even prior to R.A. No. 6758, the declared policy of the national government is to provide "equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions." To implement this policy, P.D. No. 985 provided for the standardized compensation of government employees and officials, including those in government-owned and controlled corporations. Subsequently, P.D. No. 1597 was enacted prescribing the duties to be followed by agencies and offices exempt from coverage of the rules and regulations of the Office of Compensation and Position Classification. The intention, therefore, was to provide a compensation standardization scheme such that notwithstanding any exemptions from the coverage of the Office of Compensation and Position Classification, the exempt government entity or office is still required to observe the policies and guidelines issued by the President and to submit a report to the Budget Commission on matters concerning position classification and compensation plans, policies, rates and other related details. This ought to be the interpretation if the avowed policy of compensation standardization in government is to be given full effect. The policy of "equal pay for substantially equal work" will be an empty directive if government entities exempt from the coverage of the Office of Compensation and Position Classification may freely impose any type of salary scheme, benefit or monetary incentive to its employees in any amount, without regard to the compensation plan implemented in the other government agencies or entities. Thus, even prior to the passage of R.A. No. 6758, consistent with the salary standardization laws in effect, the compensation and benefits scheme of PRA is subject to the review of the Department of Budget and Management.[18]

Upon the effectivity of R.A. No. 6758, GOCCs like the PCSO are included in the Compensation and Position Classification System because Section 16 of the law repeals all laws, decrees, executive orders, corporate charters, and other issuances or parts thereof, that exempt agencies from the coverage of the System, or that authorize and fix position classification, salaries, pay rates or allowances of specified positions, or groups of officials

[18] *Phil. Retirement Authority (PRA) v. Buñag, supra,* at 869-871. (Citations omitted).

and employees or of agencies, which are inconsistent with the System, including the *proviso* under Section 2 and Section 16 of P.D. No. 985.[19]

At present, R.A. No. 10149, or the *GOCC Governance Act of 2011*,[20] which was approved on June 6, 2011, is the latest pertinent law. It declares the policy of the State to ensure, among others, that reasonable, justifiable and appropriate remuneration schemes are adopted for the directors/trustees, officers and employees of GOCCs and their subsidiaries to prevent or deter the granting of unconscionable and excessive remuneration packages.[21] Relative to the purposes of the law, the Governance Commission for Government-Owned or -Controlled Corporations (GCG) was created to act as the central advisory, monitoring, and oversight body that is attached to the Office of the President. Among its powers and functions is to conduct compensation studies, develop and recommend to the President a competitive compensation and remuneration system which shall attract and retain talent but allow the GOCC to be financially sound and

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[19] See *Phil. Retirement Authority (PRA) v. Buñag*, *supra* note 17, at 872-873. The subject provision of Section 2 of P.D. No. 985 stated that notwithstanding a standardized salary system established for all employees, additional financial incentives may be established by government corporations and financial institutions for their employees to be supported fully from their corporate funds and for such technical positions as may be approved by the President in critical government agencies. Section 16 of the law provided for the creation of compensation committees under the leadership of the Commissioner of the Budget, the purpose of which is to recommend on compensation standards, policies, rules and regulations that shall apply to critical government agencies, including those of government-owned or controlled corporations and financial institutions.

[20] This Act shall be applicable to all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries, but excluding the Bangko Sentral ng Pilipinas, state universities and colleges, cooperatives, local water districts, economic zone authorities and research institutions: *Provided*, That in economic zone authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the GCG. (Sec. 4, R.A. No. 10149).

[21] Sec. 2 (f), R.A. No. 10149.

sustainable.[22] After the conduct of a compensation study, the GCG is tasked to develop a Compensation and Position Classification System (CPCS) applicable to all officers and employees of the GOCCs, whether under the Salary Standardization Law or exempt therefrom, subject to approval of the President.[23] R.A. No. 10149 unequivocally states that, any law to the contrary notwithstanding, no GOCC shall be exempt from the coverage of the CPCS.[24]

On March 22, 2016, President Benigno Simeon C. Aquino III issued E.O. No. 203[25] approving the CPCS and the Index of Occupational Services (IOS) Framework for the GOCC Sector that was developed by the GCG. The E.O. provides, among others, that while recognizing the constitutional right of workers to self-organization, collective bargaining and negotiations, the Governing Boards of all covered GOCCs, whether Chartered or Non-chartered, may not negotiate with their officers and employees the economic terms of their CBAs.[26] Likewise, the E.O. restates the provision of R.A. No. 10149 that the GCG may recommend for the President's approval incentives outside of the CPCS for certain position titles in consideration of the good performance of the GOCC provided that the GOCC has fully paid all taxes for which it is liable, and it has declared and paid all the dividends required to be paid under its charter or any other law.[27]

COLA as allowance

To determine whether the COLA is considered as an allowance that is excluded from the standardized salary rates of the PCSO

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[22] Sec. 5 (h), R.A. No. 10149.

[23] Sec. 8, R.A. No. 10149.

[24] Sec. 9, R.A. No. 10149.

[25] ADOPTING A COMPENSATION AND POSITION CLASSIFICATION SYSTEM (CPCS) AND A GENERAL INDEX OF OCCUPATIONAL SERVICES (IOS) FOR THE GOCC SECTOR COVERED BY REPUBLIC ACT NO. 10149 AND FOR OTHER PURPOSES.

[26] Sec. 2, E.O. No. 203.

[27] Sec. 6, E.O. No. 203.

officials and employees, reference must be made to the first paragraph of Section 12 of R.A. No. 6758. It states:

> SEC. 12. *Consolidation of Allowances and Compensation.* — All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized. x x x"

Based on the above-quoted, all kinds of allowances are integrated into the prescribed standardized salary rates except:

(1) representation and transportation allowances (*RATA*);
(2) clothing and laundry allowances;
(3) subsistence allowance of marine officers and crew on board government vessels;
(4) subsistence allowance of hospital personnel;
(5) hazard pay;
(6) allowance of foreign service personnel stationed abroad; and
(7) such other additional compensation not otherwise specified in Section 12 as may be determined by the DBM.[28]

The foregoing are the only allowances which government employees can continue to receive in addition to their standardized salary rates.[29] Since the COLA is not among those expressly

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[28] *Maritime Industry Authority v. Commission on Audit*, 745 Phil. 300 (2015); *Land Bank of the Philippines v. Naval*, G.R. No. 195687, April 14, 2014; *Gutierrez, et al. v. Dept. of Budget and Mgt., et al.*, 630 Phil. 1, 14 (2010); *Bureau of Fisheries and Aquatic Resources (BFAR) Employees Union v. Commission on Audit*, 584 Phil. 132, 139 (2008); *NAPOCOR Employees Consolidated Union (NECU) v. National Power Corporation (NPC)*, 519 Phil. 372, 384 (2006); and *National Tobacco Administration v. COA*, 370 Phil. 793, 805 (1999).

[29] *NAPOCOR Employees Consolidated Union (NECU) v. National Power Corporation (NPC), supra*.

excluded from integration by R.A. No. 6758, it should be considered as **deemed integrated** in the standardized salaries of the PCSO officials and employees under the general rule of integration.

R.A. No. 6758 does not require that the DBM should first define those allowances that are to be integrated with the standardized salary rates of government employees before the additional compensation could be integrated into the employees' salaries.[30] Instead, until and unless the DBM issues rules and regulations, the enumerated exclusions in items (1) to (6) remain exclusive.[31] While Section 12 of R.A. No. 6758 is considered as self-executing with respect to items (1) to (6), it is only upon the amplification of the DBM through the issuance and taking effect of implementing rules and regulations that item (7) could be deemed as legally completed.[32] The DBM is delegated with the authority to identify such other additional compensation that may be granted to government employees over and above the standardized salary rates.[33] Relative thereto, it must be shown that additional non-integrated allowances are given to government employees of certain offices due to the unique nature of the office and of the work performed by the employee, taking into consideration the peculiar characteristics of each government office where performance of the same work may entail different necessary expenses for the employee.[34]

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[30] See *Maritime Industry Authority v. Commission on Audit, supra* note 28, and *NAPOCOR Employees Consolidated Union (NECU) v. National Power Corporation (NPC), supra* note 20.

[31] See *Maritime Industry Authority v. Commission on Audit, supra* note 28, and *Gutierrez, et al. v. Dept. of Budget and Mgt., et al., supra* note 28, at 16.

[32] See *Maritime Industry Authority v. Commission on Audit, supra* note 28, and *Gutierrez, et al. v. Dept. of Budget and Mgt., et al., supra* note 28, at 16.

[33] See *Maritime Industry Authority v. Commission on Audit, supra* note 28.

[34] See *Maritime Industry Authority v. Commission on Audit, supra* note 28. (Citations omitted).

Moreover, in contrast with items (1) to (6), COLA belongs to a different *genus* of allowance. This Court has opined:

> Analyzing No. 7, which is the last clause of the first sentence of Section 12, in relation to the other benefits therein enumerated, it can be gleaned unerringly that it is a "*catch-all proviso*." Further reflection on the nature of subject fringe benefits indicates that all of them have one thing in common — they belong to one category of privilege called *allowances* which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. In *Philippine Ports Authority vs. Commission on Audit*, this Court rationalized that "if these allowances are consolidated with the standardized rate, then the government official or employee will be compelled to spend his personal funds in attending to his duties."[35]

Taking into account the distinction, *Gutierrez, et al. v. Dept. of Budget and Mgt., et al.*[36] already settled:

> In any event, the Court finds the inclusion of COLA in the standardized salary rates proper. In *National Tobacco Administration v. Commission on Audit*, the Court ruled that the enumerated fringe benefits in items (1) to (6) have one thing in common — they belong to one category of privilege called allowances which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. Consequently, if these allowances are consolidated with the standardized salary rates, then the government official or employee will be compelled to spend his personal funds in attending to his duties. On the other hand, item (7) is a "catch-all proviso" for benefits in the nature of allowances similar to those enumerated.
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> Clearly, COLA is not in the nature of an allowance intended to reimburse expenses incurred by officials and employees of the government in the performance of their official functions. It is not

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[35] *National Tobacco Administration v. COA*, *supra* note 28. (Citation omitted). See also *Maritime Industry Authority v. Commission on Audit*, *supra* note 28; *Bureau of Fisheries and Aquatic Resources (BFAR) Employees Union v. Commission on Audit*, *supra* note 28, at 139-140; and *Phil. International Trading Corp. v. COA*, 461 Phil. 737, 747-748 (2003).

[36] *Supra* note 28.

payment in consideration of the fulfillment of official duty. As defined, cost of living refers to "the level of prices relating to a range of everyday items" or "the cost of purchasing those goods and services which are included in an accepted standard level of consumption." Based on this premise, COLA is a benefit intended to cover increases in the cost of living. Thus, it is and should be integrated into the standardized salary rates.[37]

The ruling was subsequently reaffirmed in *Maynilad Water Supervisors Association v. Maynilad Water Services, Inc*.[38] and *Land Bank of the Philippines v. Naval*.[39] Similar to the social amelioration or educational assistance benefit in *National Tobacco Administration v. COA*,[40] the Staple Food Incentive in *Phil. International Trading Corp. v. COA*, [41] and the food basket allowance in *Bureau of Fisheries and Aquatic Resources (BFAR) Employees Union v. Commission on Audit*,[42] the COLA is a benefit which is in the nature of financial assistance or bonus, not allowance, the specific purpose of which is to alleviate the economic condition of the subject PCSO officials and employees.

Notably, on February 12, 1997, Congress enacted R.A. No. 8250 or the General Appropriations Act (*GAA*) for Fiscal Year 1997, which granted Personnel Economic Relief Allowance (*PERA*) to all government officials and employees as a replacement of the COLA.[43] Like Additional Compensation (*ADCOM*), PERA is a financial benefit given to augment the take-home pay of government employees in view of the increasing

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[37] *Gutierrez, et al. v. Dept. of Budget and Mgt., et al., supra* note 28, at 16-17 (Citations omitted).

[38] G.R. No. 198935, November 27, 2013, 711 SCRA 110.

[39] *Supra* note 28.

[40] *Supra* note 28.

[41] *Supra* note 35.

[42] *Supra* note 28.

[43] *Re: Request of CJ Narvasa (Ret.) for Re-computation of his Creditable Government Service*, 581 Phil. 272, 280 (2008), as cited in *Galang v. Land Bank of the Phils.*, 665 Phil. 37, 57 (2011).

cost of living. Both financial benefits are part of compensation embraced in the term "living" allowance provided under R.A. No. 910, as amended.[44] For GOCCs, including government financial institutions, the PERA shall be taken from their respective corporate funds, subject to the approval of their governing boards.[45]

Post Facto Approval

Section 29(1), Article VI of the 1987 Constitution provides, "[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law."

Further, before public funds may be disbursed for salaries and benefits to government officers and employees, it must be shown that these are commensurate to the services rendered and necessary or relevant to the functions of the office. "Additional allowances and benefits must be shown to be necessary or relevant to the fulfillment of the official duties and functions of the government officers and employees."

In *Yap v. Commission on Audit*, this Court laid down two general requisites before a benefit may be granted to government officials or employees. First is that the allowances and benefits were authorized by law, and second, that there was a direct and substantial relationship between the performance of public functions and the grant of the disputed allowances. Thus:

> [t]o reiterate, the public purpose requirement for the disbursement of public funds is a valid limitation on the types of allowances and, benefits that may be granted to public officers. It was incumbent upon petitioner to show that his allowances and benefits were authorized by law and that there was a direct and substantial relationship between the performance of his public functions and the grant of the disputed allowances to him.

The burden of proving the validity or legality of the grant of allowance or benefits is with the government agency or entity granting the allowance or benefit, or the employee claiming the same. x x x. [46]

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[44] *Id.*

[45] DBM Budget Circular No. 12 dated April 7, 1997.

[46] *Maritime Industry Authority v. Commission on Audit, supra* note 28. (Citations omitted).

In this petition, We cannot rule on the validity of the alleged *post facto* approval by the Office of the President as regards the grant of COLA to the PCSO officials and employees. The PCSO failed to prove its existence since no documentary evidence, original copy or otherwise, was submitted before Us. Even so, where there is an express provision of the law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties on account of an error committed by public officials in granting the benefit.[47] An executive act shall be valid only when it is not contrary to the laws or the Constitution.[48] Likewise, as it appears, *Cruz v. Commission on Audit* and *GSIS v. Commission on Audit* are not on all fours with this case since their factual antecedents and applicable rules vary.

Non-Diminution of Benefits

The Court has steadily held that, in accordance with second sentence (first paragraph) of Section 12 of R.A. No. 6758, allowances, fringe benefits or any additional financial incentives, whether or not integrated into the standardized salaries prescribed by R.A. No. 6758, should continue to be enjoyed by employees who were incumbents and were actually receiving those benefits as of July 1, 1989.[49] Here, the PCSO failed to establish that its officials and employees who were recipients of the disallowed COLA actually suffered a diminution in pay as a result of its consolidation into their standardized salary rates. It was not demonstrated that such officials and employees were incumbents and already receiving the COLA as of July 1, 1989. Therefore, the principle of non-diminution of benefits finds no application to them.

Neither is there merit in the contention that the PCSO officials and employees already acquired vested rights over the COLA

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[47] *Abellanosa, et al. v. Commission on Audit, et al.*, 691 Phil. 589, 601 (2012).

[48] See CIVIL CODE, Art. 7 Paragraph (3).

[49] See *Public Estates Authority v. Commission on Audit*, 541 Phil. 412 (2007); *Phil. National Bank v. Palma*, 503 Phil. 917 (2005); and *Ambros v. Commission on Audit,* 501 Phil. 255 (2005).

as it has been a part of their compensation for a considerable length of time. Such representation was not supported by any evidence showing that a substantial period of time had elapsed. Nevertheless, practice, without more — no matter how long continued — cannot give rise to any vested right if it is contrary to law.[50] While We commiserate with the plight of most government employees who have to make both ends meet, the letter and the spirit of the law should only be applied, not reinvented or modified.[51]

Liability and Refund

Since the illegality of the released COLA is settled, the Court shall now proceed to resolve the issue of whether the members of the PCSO Board of Directors, other responsible officers, and the recipients thereof should be held accountable and be ordered to refund the amounts received.

With regard to the disallowance of benefits or allowances of government employees, Our recent rulings[52] provide useful insights. Recipients or payees need not refund disallowed benefits or allowances when it was received in good faith and there is no finding of bad faith or malice. On the other hand, officers who participated in the approval of such disallowed amount are required to refund only those received if they are found to be in bad faith or grossly negligent amounting to bad faith. Public officials who are directly responsible for, or participated in making the illegal expenditures, as well as those who actually received the amounts therefrom shall be solidarily liable for their reimbursement. The receipt or non-receipt of illegally disbursed funds is immaterial to the solidary liability of government officials directly responsible.

In this case, two administrative issuances are significant: DBM Corporate Compensation Circular No. 10 (DBM-CCC No. 10)

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[50] *Abellanosa, et al. v. Commission on Audit, et al.*, *supra* note 47.

[51] *Phil. National Bank v. Palma*, *supra* note 49, at 936.

[52] See *Silang v. Commission on Audit*, G.R. No. 213189, September 8, 2015 and *Maritime Industry Authority v. Commission on Audit*, G.R. No. 185812, January 13, 2015.

and the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize.

Pursuant to its authority to implement R.A. No. 6758 under Section 23 thereof, the DBM issued DBM-CCC No. 10[53] on October 2, 1989. It provided that payment by government corporations of discontinued allowances (*i.e.*, allowances, fringe benefits and all other forms of compensation granted on top of basic salary, whether in cash or in kind, which were not mentioned in Sub-paragraphs 5.4 and 5.5 of DBM-CCC No. 10) effective November 1, 1989 shall be considered as illegal disbursement of public funds. Sub-paragraphs 5.4 and 5.5 do not explicitly include the COLA in the enumeration, to wit:

> 5.4 The rates of the following allowances/fringe benefits which are not integrated into the basic salary and which are allowed to be continued after June 30, 1989 shall be subject to the condition that the grant of such benefits is covered by statutory authority:
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> 5.4.1 Representation and Transportation Allowances (RATA) of incumbent of the position authorized to receive the same at the highest amount legally authorized as of June 30, 1989 for the level of his position within the particular GOCC/GFI;
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> 5.4.2 Uniform and Clothing Allowance at a rate as previously authorized;
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> 5.4.3 Hazard pay as authorized by law;
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> 5.4.4 Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;
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> 5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;
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> 5.4.6 Honoraria for lecturers and resource persons/speakers;
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> 5.4.7 Overtime pay in accordance to Memorandum Order No. 228;
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> 5.4.8 Clothing/laundry allowances and subsistence allowance of marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;

[53] Entitled "*Rules and Regulations for the Implementation of the Revised Compensation and Position Classification System Prescribed Under R.A. No. 6758 for Government-Owned and/or Controlled Corporations (GOCCS) and Financial Institutions (GFIS).*"

5.4.9 Quarters Allowance of officials and employees who are presently entitled to the same;

5.4.10 Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;

5.4.11 Night Differential of personnel on night duty;

5.4.12 Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;

5.4.13 Flying Pay of personnel undertaking aerial flights;

5.4.14 Per Diems/Allowances of Chairman and Members/Staff of collegial bodies and Committee; and,

5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

5.5 Other allowances/fringe benefits not likewise integrated into the basic salary and allowed to be continued only for incumbents as of June 30, 1989 subject to the condition that the grant of same is with appropriate authorization either from the DBM, Office of the President or legislative issuances are as follows:

5.5.1 Rice Subsidy

5.5.2 Sugar Subsidy

5.5.3 Death Benefits other than those granted by the GSIS;

5.5.4 Medical/dental/optical allowances/benefits;

5.5.5 Children's allowance;

5.5.6 Special Duty Pay/Allowance;

5.5.7 Meal Subsidy;

5.5.8 Longevity Pay; and

5.5.9 Teller's Allowance

Due, however, to its non-publication in the Official Gazette or in a newspaper of general circulation in the country, DBM-CCC No. 10 was declared ineffective on August 12, 1998 in *De Jesus v. COA*.[54] Nonetheless, on February 15, 1999, it was re-issued and appears to have been published on March 1, 1999.[55]

Also, under the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize dated September 28, 2004[56] that was issued by the Public Sector

[54] 355 Phil. 584 (1998).

[55] *National Home Mortgage Finance Corporation v. Abayari, et al.*, 617 Phil. 446, 453 (2009), citing *Magno v. Commission on Audit*, 558 Phil. 76, 87 (2007).

[56] Pursuant to Section 15 of E.O. No. 180 (entitled "*Providing Guidelines*

Labor-Management Council (*PSLMC),* the COLA, again, is not expressly included as one of those "negotiable matters" between the management and the accredited employees' organization. It was even made clear that "*[i]ncreases in salary, allowances, travel expenses, and other benefits that are specifically provided by law are not negotiable.*" Rule XII of the Amended Rules and Regulations is quoted below:

RULE XII
COLLECTIVE NEGOTIATIONS

Section 1. *Subject of negotiation.* — Terms and conditions of employment or improvements thereof, except those that are fixed by law, may be the subject of negotiation.

Section 2. *Negotiable matters.* — The following concerns may be the subject of negotiation between the management and the accredited employees' organization:

(a) schedule of vacation and other leaves;
(b) personnel growth and development;
(c) communication system — internal (lateral and vertical), external;
(d) work assignment/reassignment/detail/transfer;
(e) distribution of work load;
(f) provision for protection and safety;
(g) provision for facilities for handicapped personnel;
(h) provision for first aid medical services and supplies;
(i) physical fitness program;
(j) provision for family planning services for married women;
(k) annual medical/physical examination;
(l) recreational, social, athletic and cultural activities and facilities;
(m) CNA incentive pursuant to PSLMC Resolution No. 4, s. 2002 and Resolution No. 2, s. 2003;[57] and,
(n) such other concerns which are not prohibited by law and CSC rules and regulations.

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for the Exercise of the Right to Organize of Government Employees, Creating a Public Sector Labor-Management Council, and for Other Purposes" and dated June 1, 1987).

[57] PSLMC Resolution No. 2, s. 2003 is entitled "*Grant of Collective Negotiation Agreement (CNA) Incentive for Government Owned and*

Section 3. **Compensation matters.** — Increases in salary, allowances, travel expenses, and other benefits that are specifically provided by law are not negotiable.

Section 4. **Effectivity of CNA**. — The CNA shall take effect upon its signing by the parties and ratification by the majority of the rank-and-file employees in the negotiating unit.

Section 5. **Other matters.** — Nothing herein shall be construed to prevent any of the parties from submitting proposals regarding other matters to Congress and the proper authorities to improve the terms and conditions of their employment.

In view of the above issuances, the PCSO Board of Directors who approved Resolution No. 135 are liable. Their authority under Sections 6 and 9 of R.A. No. 1169, as amended, is not absolute. They cannot deny knowledge of the DBM and PSLMC issuances that effectively prohibit the grant of the COLA as they are presumed to be acquainted with and, in fact, even duty-bound to know and understand the relevant laws/rules and regulations that they are tasked to implement. Their refusal or failure to do do not exonerate them since mere ignorance of the law is not a justifiable excuse. As it is, the presumptions of "good faith" and "regular performance of official duty" are disputable and may be contradicted and overcome by other evidence.

The same thing can be said as to the five PCSO officials who were held accountable by the COA. They cannot approve the release of funds and certify that the subject disbursement is lawful without ascertaining its legal basis. If they acted on the honest belief that the COLA is allowed by law/rules, they should have assured themselves, prior to their approval and the release of funds, that the conditions imposed by the DBM and PSLMC, particularly the need for the approval of the DBM, Office of the President or legislature, are complied with. Like the members of the PCSO Board, the approving/certifying officers' positions

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Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs)." It was issued on May 19, 2003 and published in Manila Standard on June 4, 2003.

dictate that they are familiar of governing laws/rules. Knowledge of basic procedure is part and parcel of their shared fiscal responsibility. They should have alerted the PCSO Board of the validity of the grant of COLA. Good faith further dictates that they should have denied the grant and refrained from receiving the questionable amount.

While the cases of *Gutierrez, et al.*, *Maynilad Water Supervisors Association*, and *Land Bank of the Philippines* were not yet promulgated at the time PCSO Board Resolution No. 135 was approved on March 4, 2008, *National Tobacco Administration* was already promulgated almost a decade earlier on August 5, 1999, which made a definitive interpretation of Section 12 of R.A. No. 6758.[58] Moreover, the basis of COA in disallowing the COLA was essentially Section 12 of R.A. No. 6758 and not DBM-CCC No. 10. The nullity of DBM-CCC No. 10 will not affect the legality of R.A. No. 6758 considering that the validity of R.A. No. 6758 should not be made to depend on the validity of its implementing rules.[59]

On the other hand, the other PCSO officials and employees who had no participation in the approval and release of the disallowed benefit can be treated as having accepted the same on the mistaken assumption that Resolution No. 135 was issued in the valid exercise of the power vested in the Board of Directors under the PCSO charter. They are deemed to have acted in good faith in the honest belief that they were entitled to such benefit. They can properly rely on the presumption that the Board acted regularly in the performance of its official duties in providing for the subject benefit. Their acceptance of the disallowed grant, in the absence of any competent proof of bad faith on their part, will not suffice to render them liable for a refund.

WHEREFORE, the petition is **DENIED**. The June 5, 2014 Decision and December 22, 2014 Resolution of the COA Commission Proper, which affirmed Notice of Disallowance

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[58] *Phil. International Trading Corp. v. COA*, *supra* note 35, at 751.

[59] *Id.* at 750.

No. 11-001-101-(10) dated May 16, 2011 on the COLA received by the officials and employees of PCSO Nueva Ecija Provincial District Office in 2010, is **AFFIRMED WITH MODIFICATION**. The PCSO Board of Directors who approved Resolution No. 135, Series of 2008, and the five PCSO officials who were found liable by the COA are ordered to **REFUND** the illegally disbursed amount of ₱381,545.43 representing the COLA received by the officials and employees of PCSO — Nueva Ecija Provincial District Office in 2010.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Bersamin, del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and *Caguioa, JJ.,* concur.

THIRD DIVISION

[A.C. No. 7110. April 20, 2016]

ARTHUR S. TULIO, *complainant, vs.* **ATTY. GREGORY F. BUHANGIN,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; A LAWYER SHOULD NOT REPRESENT A CLIENT WHOSE INTEREST IS DIRECTLY ADVERSE TO ANY OF HIS PRESENT OR FORMER CLIENTS; RATIONALE.— [A] lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste. It behooves lawyers not only to keep inviolate the client's

confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice. x x x The rule prohibiting conflict of interest was fashioned to prevent situations wherein a lawyer would be representing a client whose interest is directly adverse to any of his present or former clients. In the same way, a lawyer may only be allowed to represent a client involving the same or a substantially related matter that is materially adverse to the former client only if the former client consents to it after consultation. The rule is grounded in the fiduciary obligation of loyalty. Throughout the course of a lawyer-client relationship, the lawyer learns all the facts connected with the client's case, including the weak and strong points of the case. Knowledge and information gathered in the course of the relationship must be treated as sacred and guarded with care. x x x The nature of that relationship is, therefore, one of the trust and confidence of the highest degree.

2. ID.; ID.; A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND THIS DUTY IS PERPETUAL.— Canon 17 of the Code of Professional Responsibility provides that a lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed on him. His highest and most unquestioned duty is to protect the client at all hazards and costs even to himself. The protection given to the client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client.

3. ID.; ID.; MAY BE HELD ADMINISTRATIVELY LIABLE FOR FAILURE TO COMPLY WITH THE DIRECTIVES OF THE INTEGRATED BAR OF THE PHILIPPINES; CASE AT BAR.— Atty. Buhangin's conduct in the course of the proceedings before the IBP is also a matter of concern. Despite due notices, he failed to attend all the mandatory conferences set by the IBP. He also ignored the IBP's directive to file his position paper. x x x Atty. Buhangin's failure to submit his position paper without any valid explanation is

enough reason to make him administratively liable since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a member thereof, but more so because IBP is the Court-designated investigator of this case. As an officer of the Court, respondent is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP.

D E C I S I O N

PERALTA, *J.*:

Before us is a Complaint for Disbarment filed by Arthur S. Tulio (*Tulio*) against respondent Atty. Gregory F. Buhangin (*Atty. Buhangin*), docketed as A.C. No. 7110 for Gross Dishonesty in violation of the Lawyer's Oath and the Code of Professional Responsibility.

In his Complaint dated March 8, 2006,[1] Tulio narrated that he became acquainted with Atty. Buhangin even during the time when he was a surveyor and not yet a lawyer. He alleged that as a surveyor then, Atty. Buhangin was the one who prepared survey plans for the complainant in connection with the estate left by his mother. Eventually, when he became a lawyer, Tulio sought his legal advice concerning a property owned by his mother which was then transferred in the names of third parties.

On June 29, 2000, by virtue of Tulio's agreement with his siblings, Atty. Buhangin prepared and notarized a Deed of Waiver of Rights dated June 29, 2000 which was signed by all of his siblings in his favor. Thereafter, Tulio engaged the services of Atty. Buhangin to represent him in filing a case for specific performance and damages which was docketed as Civil Case No. 4866-R entitled "*Heirs of Angeline S. Tulio, represented by Arthur S. Tulio vs. Heirs of Artemio E. Patacsil, represented by Lennie Ayuste*" before the Regional Trial Court of Baguio City, Branch 3.[2] Through his efforts, Tulio claims that he and

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[1] *Rollo*, pp. 1-2.

[2] *Id.* at 5-9.

the defendants in Civil Case No. 4866-R agreed to a settlement and that he exclusively paid the defendants.

On December 10, 2005, to Tulio's surprise, Atty. Buhangin represented his siblings and filed a complaint against him over legal matters which he had entrusted to him. The complaint was docketed as Civil Case No. 6185-R pending before the Regional Trial Court of Baguio City, Branch 7 and entitled "*Deogracias S. Tulio, et al. vs. Arthur S. Tulio*" for rescission of the deed of waiver of rights which he himself prepared and notarized. Tulio further averred that Atty. Buhangin made misrepresentations in the complaint since he knew beforehand that his siblings waived their rights in his favor over the parcel of land covered by TCT No. 67145 even before Civil Case No. 4866-R was filed.

On January 2, 2006, Tulio immediately filed a Motion to Disqualify[3] Atty. Buhangin for his unethical conduct in gross violation of his duties and responsibilities as a lawyer. Subsequently, on January 11, 2006, Atty. Buhangin filed a Motion to Withdraw[4] as counsel. It was stated in the said motion that Atty. Buhangin: "*due to conflict of interest, undersigned respectfully requests that he be allowed by this Honorable Court to withdraw his appearance in this case as counsel for the plaintiff.*"

Complainant alleged that the actions of Atty. Buhangin were deliberate and intentional in order to serve his own personal interests against his interests as his client, hence, constitutes gross dishonesty in violation of his oath and responsibility as a lawyer and notary public.

Thus, the instant complaint for disbarment against Atty. Buhangin.

On April 5, 2006, the Court resolved to require Atty. Buhangin to file his Comment relative to the complaint filed against him.[5]

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[3] *Id.* at 18-20.

[4] *Id.* at 21-22.

[5] *Id.* at 23.

In compliance, Atty. Buhangin submitted his Comment[6] on January 12, 2007, where he admitted that indeed he had been engaged as legal counsel of the Estate of Angeline Tulio, represented by the heirs of Angeline Tulio which included among others Deogracias S. Tulio, Gloria Tulio-Bucaoto, Tita Tulio-Guerrero, Anthony Tulio and complainant Tulio. He, however, asserted that his legal representation was neither personal nor directed in favor of complainant Tulio alone but instead in the latter's capacity as an heir of Angeline Tulio. Atty. Buhangin disputed Tulio's claim that the latter personally engaged his services as legal counsel for Civil Case No. 4866-R and insisted that his legal representation was made for and in behalf of the heirs of Angeline Tulio. Atty. Buhangin alleged that Tulio abused the confidence lodged upon him by his siblings by executing the deed of waiver of rights in his favor, for the purpose of depriving the other heirs of Angeline Tulio their lawful shares in the estate of their mother. He maintained that there was no conflict of interest when he filed the complaint for the declaration of nullity of the waiver of rights as he was in fact merely protecting the interests of the other heirs of Angeline Tulio.

On February 14, 2007, the Court then resolved to refer the instant case to the Integrated Bar of the Philippines for investigation, report and recommendation/decision.[7]

Mandatory conferences between the parties were set on July 24, 2007 and September 3, 2007. However, only complainant appeared without counsel, while Atty. Buhangin failed to appear in both instances despite prior notice. Thus, the IBP, in its Order dated September 3, 2007, directed Atty. Buhangin to show cause why he should not be given anymore the chance to participate in the proceedings before the Commission. Both parties were likewise directed to submit their verified Position Papers. Again, only Tulio submitted his Position Paper while Atty. Buhangin failed anew to comply with the Order of the Commission.

In his Position Paper dated October 9, 2007, Tulio refuted Atty. Buhangin's allegation that he represents the heirs of Angeline

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[6] *Id.* at 27-31.

[7] *Id.* at 33.

Tulio, and that his legal representation is not personal to him alone. Tulio pointed out that in his motion to withdraw as counsel, Atty. Buhangin had, in fact, admitted that he is withdrawing from the case due to conflict of interest. Tulio likewise denied that he meant to defraud and deprive his siblings of their shares. He asserted that it was actually Atty. Buhangin who drafted, prepared and even notarized the deed of waiver of rights, thus, if he knew the same to be fraudulent, why then would he prepare and even notarize the same.

To prove that he had, in fact, engaged the legal services of Atty. Buhangin for his own benefit and personal interest, Tulio submitted the correspondences made and prepared by Atty. Buhangin prior to the institution of Civil Case No. 4866-R addressed to Rebecca F. Patacsil which were dated August 29, 2000 and October 16, 2000, respectively. Thus, Tulio maintains that Atty. Buhangin violated his lawyer's oath and the Code of Professional Responsibility when he acted as counsel for his siblings in Civil Case No. 6185-R.

In its Report and Recommendation, the IBP-CBD found Atty. Buhangin to have violated not only his lawyer's oath but also the Code of Professional Responsibility, and recommended that he be meted the penalty of suspension for two (2) months.

The IBP-CBD found Atty. Buhangin guilty of violating the rule on conflict of interest since it believed that in Civil Case No. 4866-R, there was indeed an attorney-client relationship existing between Tulio and Atty. Buhangin, and not between the latter and the heirs of Angeline Tulio. It further held that when Atty. Buhangin filed a complaint against Tulio in representation of his other siblings over legal matters which the former entrusted to him, he clearly violated the trust and confidence reposed to him by his client.

In a Notice of Resolution No. XX-2013-599 dated May 11, 2013, the IBP-Board of Governors adopted and approved *in toto* the Report and Recommendation of the IBP-CBD.

No motion for reconsideration has been filed by either party.

RULING

We concur with the findings of the IBP-CBD except as to the imposable penalty.

Rule 15.03 of the Code reads:

> Canon 15 — A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.
>
> Rule 15.03 — A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

Under the afore-cited rule, it is explicit that a lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.[8]

In *Hornilla v. Atty. Salunat*,[9] the Court discussed the concept of conflict of interest, to wit:

> There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will

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[8] *Orola v. Atty. Ramos,* A.C. No. 9860, September 11, 2013, 705 SCRA 350, 357 (2013).

[9] 453 Phil. 108 (2003).

injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.[10]

The rule prohibiting conflict of interest was fashioned to prevent situations wherein a lawyer would be representing a client whose interest is directly adverse to any of his present or former clients. In the same way, a lawyer may only be allowed to represent a client involving the same or a substantially related matter that is materially adverse to the former client only if the former client consents to it after consultation. The rule is grounded in the fiduciary obligation of loyalty. Throughout the course of a lawyer-client relationship, the lawyer learns all the facts connected with the client's case, including the weak and strong points of the case. Knowledge and information gathered in the course of the relationship must be treated as sacred and guarded with care. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing, for only then can litigants be encouraged to entrust their secrets to their lawyers, which is paramount in the administration of justice. The nature of that relationship is, therefore, one of trust and confidence of the highest degree.

Hornilla case provides an absolute prohibition from representation with respect to opposing parties in the same case. In other words, a lawyer cannot change his representation from one party to the latter's opponent in the same case, as in this case.

Atty. Buhangin's allegation that he represents for and in behalf of the Heirs of Angeline Tulio and not personal or exclusive to complainant cannot be given any credence. *First,* Atty. Buhangin himself admitted in his *Motion to Withdraw* that he was

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[10] *Hornilla v. Atty. Salunat, supra,* at 111-112. (Citations omitted)

withdrawing his appearance in Civil Case No. 6185 against Tulio due to conflict of interest. *Secondly*, it cannot be denied that there was an exclusive attorney-client relationship between Tulio and Atty. Buhangin as evidenced by the demand letters which Atty. Buhangin prepared specifically as counsel of Tulio. *Thirdly*, as correctly observed by the IBP, other than his bare assertion that he was representing the estate and the Heirs of Angeline Tulio, Atty. Buhangin failed to satisfactorily show any circumstance that he was actually representing the Heirs of Angeline Tulio and not solely for Tulio.

Also, we take note that in both Civil Case No. 4866-R (*Heirs of Angeline S. Tulio represented by Arthur S. Tulio vs. Heirs of Artemio Patacsil)* and Civil Case No. 6185-R *(Deogracias S. Tulio, et al. vs. Arthur Tulio*), the subject property under dispute, particularly TCT No. T-67145, is one and the same. This is also the same subject property of the Deed of Waiver of Rights which the plaintiffs in Civil Case No. 6185-R have executed and signed in favor of Tulio, which Atty. Buhangin later on used against Tulio. Clearly, the series of Atty. Buhangin's actions in protecting the rights and interest of Tulio over the subject property before and after the filing of Civil Case No. 4866-R, to the preparation of the Deed of Waiver of Rights in favor of Tulio runs counter and in conflict to his subsequent filing of Civil Case No. 6185-R and his imputation of fraud against Tulio. There is no question that Atty. Buhangin took an inconsistent position when he filed Civil Case No. 6185-R against Tulio whom he has defended and protected as client in the past. Even if the inconsistency is remote or merely probable or even if he has acted in good faith and with no intention to represent conflicting interests, it is still in violation of the rule of conflict of interest.

Atty. Buhangin's subsequent withdrawal of his appearance as counsel in Civil Case No. 6185-R came too late as by the mere filing of the complaint against Tulio, it manifested his disloyalty and infidelity to Tulio as his client. That the representation of conflicting interest is in good faith and with

honest intention on the part of the lawyer does not make the prohibition inoperative.[11]

Canon 17 of the Code of Professional Responsibility provides that a lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed on him. His highest and most unquestioned duty is to protect the client at all hazards and costs even to himself. The protection given to the client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client.[12]

Likewise, Atty. Buhangin's conduct in the course of the proceedings before the IBP is also a matter of concern. Despite due notices, he failed to attend all the mandatory conferences set by the IBP. He also ignored the IBP's directive to file his position paper. Indubitably, because of Atty. Buhangin's refusal to comply with the orders and directives of the IBP, the case which was filed in 2006 dragged on for several years. Clearly, this conduct runs counter to the precepts of the Code of Professional Responsibility and violates the lawyer's oath which imposes upon every member of the Bar the duty to delay no man for money or malice.

In *Ngayan v. Atty. Tugade*,[13] we ruled that [a lawyer's] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despiciency for his oath of office in violation of Section 3, Rule 138 of the Rules of Court.

Atty. Buhangin's failure to submit his position paper without any valid explanation is enough reason to make him administratively liable since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a

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[11] *Quiambao v. Atty. Bamba*, 565 Phil. 126, 135 (2005).

[12] *Heirs of Lydio Falame v. Atty. Baguio*, 571 Phil. 428, 442 (2008).

[13] 271 Phil. 654, 659 (1991).

member thereof, but more so because IBP is the Court-designated investigator of this case.[14] As an officer of the Court, respondent is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP.[15]

We would have merely affirmed the recommended penalty by the IBP-CBD on Atty. Buhangin, *i.e.*, suspension from the practice of law for two (2) months. However, considering that aside from his violation of the rule on conflict of interest, he has also shown wanton disregard of the IBP's orders which caused undue delay in the resolution of this case and we deemed it appropriate to modify and increase the recommended penalty of suspension from the practice of law from two (2) months to six (6) months.

WHEREFORE, respondent Atty. Gregory F. Buhangin is hereby held **GUILTY** of representing conflicting interests in violation of Rule 15.03, Canon 15 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of six (6) months, with a **WARNING** that a repetition of the same or similar acts in the future will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to Atty. Buhangin's personal record. Further, let copies of this Decision be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

SO ORDERED.

Velasco, Jr. (*Chairperson*), *Perez, Reyes*, and *Jardeleza, JJ.*, concur.

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[14] *Vecino v. Atty. Ortiz, Jr.*, 579 Phil. 14, 16-17 (2008).

[15] *Gone v. Atty. Ga*, 662 Phil. 610, 617 (2011).

SECOND DIVISION

[A.C. No. 9018. April 20, 2016]

TERESITA P. FAJARDO, *complainant, vs.* **ATTY. NICANOR C. ALVAREZ,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; UNAUTHORIZED PRACTICE OF PROFESSION; VIOLATION OF THE CONDITION THAT THE PRACTICE OF PROFESSION WILL NOT BE IN CONFLICT WITH THE OFFICIAL FUNCTIONS, A CASE OF.— We find that respondent committed unauthorized practice of his profession. x x x Respondent practiced law even if he did not sign any pleading. In the context of this case, his surreptitious actuations reveal illicit intent. Not only did he do unauthorized practice, his acts also show badges of offering to peddle influence in the Office of the Ombudsman. In *Cayetano v. Monsod*, the modern concept of the term "practice of law" includes the more traditional concept of litigation or appearance before courts x x x. By preparing the pleadings of and giving legal advice to complainant, respondent practiced law. Under Section 7(b)(2) of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, and Memorandum Circular No. 17, series of 1986, government officials or employees are prohibited from engaging in private practice of their profession unless authorized by their department heads. More importantly, if authorized, the practice of profession must not conflict nor tend to conflict with the official functions of the government official or employee x x x. In this case, respondent was given written permission by the Head of the National Center for Mental Health, whose authority was designated under Department of Health Administrative Order No. 21, series of 1999. However, by assisting and representing complainant in a suit against the Ombudsman and against government in general, respondent put himself in a situation of conflict of interest. Respondent's practice of profession was expressly and impliedly conditioned on the requirement that his practice will not be "in conflict

with the interest of the Center and the Philippine government as a whole."

2. ID.; ID.; ID.; CONFLICT OF INTEREST; EXISTS WHEN AN INCUMBENT GOVERNMENT EMPLOYEE REPRESENTS ANOTHER GOVERNMENT EMPLOYEE OR PUBLIC OFFICER IN A CASE PENDING BEFORE THE OFFICE OF THE OMBDUSMAN; CASE AT BAR.— There is basic conflict of interest here. Respondent is a public officer, an employee of government. The Office of the Ombudsman is part of government. By appearing against the Office of the Ombudsman, respondent is going against the same employer he swore to serve. In addition, the government has a serious interest in the prosecution of erring employees and their corrupt acts. Under the Constitution, "[p]ublic office is a public trust." The Office of the Ombudsman, as "protectors of the [P]eople," is mandated to "investigate and prosecute . . . any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient." Thus, a conflict of interest exists when an incumbent government employee represents another government employee or public officer in a case pending before the Office of the Ombudsman. The incumbent officer ultimately goes against government's mandate under the Constitution to prosecute public officers or employees who have committed acts or omissions that appear to be illegal, unjust, improper, or inefficient. Furthermore, this is consistent with the constitutional directive that "[p]ublic officers and employees must, at all times, be accountable to the [P]eople, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."

3. ID.; ID.; SHOULD NOT BE HASTILY DISCIPLINED OR PENALIZED UNLESS IT IS SHOWN THAT THEY COMMITTED A TRANSGRESSION OF THEIR OATH OR THEIR DUTIES, WHICH REFLECTS ON THEIR FITNESS TO ENJOY CONTINUED STATUS AS A MEMBER OF THE BAR.— The objective in disciplinary cases is not to punish the erring officer or employee but to continue to uplift the People's trust in government and to ensure excellent public service x x x. In disbarment or disciplinary cases pending before this Court, the complainant must prove

his or her allegations through substantial evidence. x x x Moreover, lawyers should not be hastily disciplined or penalized unless it is shown that they committed a transgression of their oath or their duties, which reflects on their fitness to enjoy continued status as a member of the bar x x x.

4. ID.; ID.; INFLUENCE PEDDLING; CONSIDERED AS HIGHLY IMMORAL AND HAS NO PLACE IN THE LEGAL PROFESSION; CASE AT BAR.— [W]e find that respondent violated the Lawyer's Oath and the Code of Professional Responsibility when he communicated to or, at the very least, made it appear to complainant that he knew people from the Office of the Ombudsman who could help them get a favorable decision in complainant's case. Lawyers are mandated to uphold, at all times, integrity and dignity in the practice of their profession. Respondent violated the oath he took when he proposed to gain a favorable outcome for complainant's case by resorting to his influence among staff in the Office where the case was pending. Thus, respondent violated the Code of Professional Responsibility. Canon 1, Rules 1.01, and 1.02 prohibit lawyers from engaging in unlawful, dishonest, immoral, or deceitful conduct. Respondent's act of ensuring that the case will be dismissed because of his personal relationships with officers or employees in the Office of the Ombudsman in unlawful and dishonest. Canon 7 of the Code of Professional Responsibility requires lawyers to always "uphold the integrity and dignity of the legal profession." In relation, Canon 13 mandates that lawyers "shall rely upon the merits of his [or her] cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court." A lawyer that approaches a judge to try to gain influence and receive a favorable outcome for his or her client violates Canon 13 of the Code of Professional Responsibility. This act of influence peddling is highly immoral and has no place in the legal profession x x x. In cases involving influence peddling or bribery, "[t]he transaction is always done in secret and often only between the two parties concerned." Nevertheless, as found by the Investigating Commissioner and as shown by the records, we rule that there is enough proof to hold respondent guilty of influence peddling.

APPEARANCES OF COUNSEL

Tyrone P. Contado for complainant.

D E C I S I O N

LEONEN, *J.*:

This administrative case involves the determination of whether a lawyer working in the Legal Section of the National Center for Mental Health under the Department of Health is authorized to privately practice law, and consequently, whether the amount charged by respondent for attorney's fees is reasonable under the principle of *quantum meruit*.

Complainant Teresita P. Fajardo (Teresita) was the Municipal Treasurer of San Leonardo, Nueva Ecija. She hired respondent Atty. Nicanor C. Alvarez (Atty. Alvarez) to defend her in criminal and administrative cases before the Office of the Ombudsman.

The parties have differing versions of the facts as summarized by the Investigating Commissioner of the Commission on Bar Discipline of the Integrated Bar of the Philippines. Teresita's version of the facts is as follows:

Around 2009, Teresita hired Atty. Alvarez to handle several cases filed against her before the Office of the Ombudsman.[1] Atty. Alvarez was then working in the Legal Section of the National Center for Mental Health.[2] He asked for ₱1,400,000.00 as acceptance fee.[3] However, Atty. Alvarez did not enter his appearance before the Office of the Ombudsman nor sign any pleadings.[4]

Atty. Alvarez assured Teresita that he had friends connected with the Office of the Ombudsman who could help with dismissing

[1] *Rollo*, p. 1, Integrated Bar of the Philippines Commission on Bar Discipline Report and Recommendation dated November 14, 2012.

[2] *Id.*

[3] *Id.*

[4] *Id.*

her case for a certain fee.[5] Atty. Alvarez said that he needed to pay the amount of ₱500,000.00 to his friends and acquaintances working at the Office of the Ombudsman to have the cases against Teresita dismissed.[6]

However, just two (2) weeks after Teresita and Atty. Alvarez talked, the Office of the Ombudsman issued a resolution and decision recommending the filing of a criminal complaint against Teresita, and her dismissal from service, respectively.[7]

Teresita then demanded that Atty. Alvarez return at least a portion of the amount she gave.[8] Atty. Alvarez promised to return the amount to Teresita; however, he failed to fulfill this promise.[9] Teresita sent a demand letter to Atty. Alvarez, which he failed to heed.[10]

On the other hand, Atty. Alvarez claims the following:

Atty. Alvarez is Legal Officer III of the National Center for Mental Health under the Department of Health.[11] He has authority to engage in private practice of the profession.[12] He represented Teresita in several cases before the Office of the Ombudsman.[13]

Atty. Alvarez and Teresita had an arrangement that Teresita would consult Atty. Alvarez whenever a case was filed against her.[14] Atty. Alvarez would then advise Teresita to send him a copy of the complaint and its attachments through courier.[15]

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[5] *Id.* at 2.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.* at 9, Comment.

[12] *Id.*

[13] *Id.* at 10-11.

[14] *Id.* at 12.

[15] *Id.*

Afterwards, Atty. Alvarez would evaluate the case and call Teresita to discuss his fees in accepting and handling the case.[16] A 50% downpayment would be deposited to Atty. Alvarez's or his secretary's bank account.[17] The balance would then be paid in installments.[18] The success fee was voluntary on Teresita's part.[19]

On July 10, 2009, Atty. Alvarez received a call from Teresita regarding a meeting at Shangri-La Mall to discuss the decision and resolution she received from the Office of the Ombudsman dismissing her from service for dishonesty and indicting her for violation of Section 3 of Republic Act No. 3019, respectively.[20] Atty. Alvarez accepted the case and asked for ₱500,000.00 as acceptance fee.[21] According to Atty. Alvarez, he arrived at the amount after considering the difficulty of the case and the workload that would be involved, which would include appeals before the Court of Appeals and this Court.[22] However, the fee is exclusive of filing fees, appearance fees, and other miscellaneous fees such as costs for photocopying and mailing.[23]

Atty. Alvarez claimed that he prepared several pleadings in connection with Teresita's case:

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[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.* at 12-13. The Office of the Deputy Ombudsman for Luzon promulgated the Decision dated February 19, 2008 finding Teresita guilty of serious dishonesty and ordered her dismissal from service (OMB-L-A-04-0254-D[OMB-L-C-04-0376-D] For: Dishonesty). In the Resolution dated February 19, 2008, the same Office issued the Resolution recommending the indictment of Teresita for violation of Rep. Act No. 3019, Sec. 3 (e) (OMB-L-C-04-0376-D [OMB-L-A-04-0254-D] For: Violation of Section 3(e) of R.A. No. 3019).

[21] *Id.*

[22] *Id.*

[23] *Id.* at 14.

(1) motion for reconsideration filed on July 23, 2009 in connection with the administrative case;

(2) motion for reconsideration filed on July 23, 2009 in connection with the criminal case;

(3) petition for injunction filed on October 15, 2009 before the Regional Trial Court of Gapan City; and

(4) petition for preliminary injunction with prayer for a temporary restraining order filed before the Court of Appeals on November 18, 2009, and the amended petition on November 26, 2009.[24]

Atty. Alvarez also said that he prepared several letters to different government officials and agencies.[25]

Atty. Alvarez alleged that Teresita made staggered payments for the amounts they agreed on.[26] Teresita only paid the balance of the agreed acceptance fee equivalent to ₱450,000.00 on February 11, 2010.[27] While Teresita paid ₱60,000.00 for the miscellaneous expenses, she did not pay the expenses for other legal work performed and advanced by Atty. Alvarez.[28]

On the last day for filing of the petition for review of the Office of the Ombudsman's Decision, Teresita informed Atty. Alvarez that she was no longer interested in retaining Atty. Alvarez's services as she had hired Atty. Tyrone Contado from Nueva Ecija, who was Atty. Alvarez's co-counsel in the cases against Teresita.[29]

On June 1, 2011, Teresita filed before the Office of the Bar Confidant a Verified Complaint praying for the disbarment of

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[24] *Id.* at 13-14.

[25] *Id.* at 419, Report and Recommendation.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.* at 419-420.

Atty. Alvarez.[30] This Court required Atty. Alvarez to file his comment on the complaint within 10 days from notice.[31]

On December 7, 2011, the case was referred to the Integrated Bar of the Philippines for investigation, report, and recommendation.[32]

In his Report and Recommendation[33] dated November 12, 2012, Investigating Commissioner Honesto A. Villamayor found Atty. Alvarez guilty of violating the Code of Professional Responsibility and recommended Atty. Alvarez's suspension from the practice of law for one (1) year.[34] Atty. Alvarez was also ordered to return the amount of ₱700,000.00 to Teresita with legal interest from the time of demand until its full payment.[35] The dispositive portion of the Investigating Commissioner's Report and Recommendation reads:

> WHEREFORE, finding Respondent guilty of committing unlawful, immoral and deceitful acts of the Canon of Professional Responsibility, [it] is recommended that he be suspended for one (1) year in the practice of law and he be ordered to return the amount of ₱700,000.00 to the Complainant within two (2) months from receipt of this order with legal interest from the time of demand, until fully paid, with a warning that repetition of [a] similar offense in the future will be dealt with more severely.[36]

On the unauthorized practice of law, the Investigating Commissioner found that while Atty. Alvarez claimed that he was authorized by his superior to privately practice law, the pleadings he allegedly prepared and filed did not bear his name

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[30] *Id.* at 1-3.

[31] *Id.* at 8, Resolution dated July 25, 2011.

[32] *Id.* at 282.

[33] *Id.* at 416-423.

[34] *Id.* at 422.

[35] *Id.* at 423.

[36] *Id.* at 422-423.

and signature.[37] Hence, the Investigating Commissioner stated that:

> The time that Respondent spent in following up the case of Complainant in the Office of the Ombudsman is a time lost to the government which could have been used in the service of many taxpayers[.][38]

In any case, granting that Atty. Alvarez was authorized by his superior to practice his profession, the Investigating Commissioner stated that Atty. Alvarez was prohibited to handle cases involving malversation of funds by government officials such as a municipal treasurer.[39]

Moreover, the Investigating Commissioner found that the attorney's fees Atty. Alvarez asked for were unreasonable:

> From all indication, Complainant was forced to give to the Respondent the amount of ₱1,400,000.00 because of the words of Respondent that he has friends in the Office of the Ombudsman who can help with a fee. That because of that guarantee, Complainant was obligated to shell out every now and then money for the satisfaction of the allege[d] friend of the Respondent[.]
>
> Complainant is an ordinary Municipal Treasurer of a 4th or 5th class municipality and the amount of attorney's fees demanded by the Respondent is very much excessive. . . . The exorbitant amount that he demanded from complainant is too much for a lowly local government employee. What the Respondent did is not only illegal, immoral and dishonest but also taking advantage of a defenseless victim.
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> . . . . . .
>
> While a lawyer should charge only fair and reasonable fees, no hard and fast rule may be set in the determination of what a reasonable fee is, or what is not. That must be established from the facts of each case[.]

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[37] *Id.* at 420.

[38] *Id.* at 421.

[39] *Id.* at 422.

. . . . . .

The fees claimed and received by the Respondent for the alleged cases he handled despite the fact that the records and evidence does not show that he ever signed pleadings filed, the amount of ₱700,000.00 is reasonable, thus, fairness and equity dictate, he has to return the excess amount of ₱700,000.00 to the complainant[.][40]

In Notice of Resolution No. XX-2013-778[41] dated June 21, 2013, the Integrated Bar of the Philippines Board of Governors adopted the findings and recommendations of the Investigating Commissioner:

RESOLVED to ADOPT AND APPROVE, as it is hereby unanimously ADOPTED AND APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that complaint [sic] is guilty of unlawful, immoral and deceitful acts, Atty. Nicanor C. Alvarez is hereby ***SUSPENDED from the practice of law for one (1) year with [a] Warning*** *that repetition of the same acts shall be dealt with more sever[e]ly. Further, he is* ***Ordered to Return*** *the amount of ₱700,000.00 to complainant with legal interest from the time of demand.*[42] (Emphasis in the original)

Atty. Alvarez moved for reconsideration of the Resolution,[43] but the Motion was denied by the Board of Governors in Notice of Resolution No. XXI-2014-286[44] dated May 3, 2014. The Resolution reads:

RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and the resolution subject of the motion, it being a mere reiteration of the matters which had already been threshed out and taken into

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[40] *Id.* at 421-422.

[41] *Id.* at 415.

[42] *Id.*

[43] *Id.* at 424-433.

[44] *Id.* at 444.

consideration. Thus, Resolution No. XX-2013-778 dated June 21, 2013 is hereby AFFIRMED.[45] (Emphasis in the original)

We resolve the following issues:

First, whether respondent Atty. Nicanor C. Alvarez, as a lawyer working in the Legal Section of the National Center for Mental Health under the Department of Health, is authorized to engage in the private practice of law; and

Second, whether the amount charged by respondent for attorney's fees is reasonable under the principle of *quantum meruit.*

The Investigating Commissioner did not make a categorical declaration that respondent is guilty of unauthorized practice of his profession. The Investigating Commissioner merely alluded to respondent's unauthorized practice of law.

We find that respondent committed unauthorized practice of his profession.

Respondent claims that he is authorized to practice his profession[46] as shown in the letter dated August 1, 2001 of National Center for Mental Health Chief Bernardino A. Vicente.[47] The letter reads:

TO : ATTY. NICANOR C. ALVAREZ
Legal Officer III
This Center

Subject : *Authority to engage in private practice of profession*
- -

This refers to your request for permission to engage in private practice of your profession.

In accordance with Administrative Order No. 21, s. 1999 of the Department of Health, which vested in the undersigned the authority to grant permission for the exercise of profession or engage in the practice of profession, you are hereby authorized to teach or engage

[45] *Id.*

[46] *Id.* at 21.

[47] *Id.*

in the practice of your profession *provided it will not run in conflict with the interest of the Center and the Philippine government as a whole*. In the exigency of the service however, or when public interest so requires, this authority may be revoked anytime.

Please be guided accordingly.

[sgd.]
BERNARDINO A. VICENTE, MD, FFPPA, MHA, CESO IV
Medical Center Chief II[48] (Emphasis supplied)

Respondent practiced law even if he did not sign any pleading. In the context of this case, his surreptitious actuations reveal illicit intent. Not only did he do unauthorized practice, his acts also show badges of offering to peddle influence in the Office of the Ombudsman.

In *Cayetano v. Monsod*,[49] the modern concept of the term "practice of law" includes the more traditional concept of litigation or appearance before courts:

> The practice of law is not limited to the conduct of cases in court. A person is also considered to be in the practice of law when he:
>
> "x x x for valuable consideration engages in the business of advising person, firms, associations or corporations as to their rights under the law, or appears in a representative capacity as an advocate in proceedings pending or prospective, before any court, commissioner, referee, board, body, committee, or commission constituted by law or authorized to settle controversies and there, in such representative capacity performs any act or acts for the purpose of obtaining or defending the rights of their clients under the law. Otherwise stated, one who, in a representative capacity, engages in the business of advising clients as to their rights under the law, or while so engaged performs any act or acts either in court or outside of court for that purpose, is engaged in the practice of law."
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> . . . . . .

[48] *Id.*

[49] 278 Phil. 235 (1991) [Per *J.* Paras, *En Banc*].

The University of the Philippines Law Center in conducting orientation briefing for new lawyers (1974-1975) listed the dimensions of the practice of law in even broader terms as advocacy, counseling and public service.

> "One may be a practicing attorney in following any line of employment in the profession. If what he does exacts knowledge of the law and is of a kind usual for attorneys engaging in the active practice of their profession, and he follows some one or more lines of employment such as this he is a practicing attorney at law within the meaning of the statute."

Practice of law means any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience. "To engage in the practice of law is to perform those acts which are characteristics of the profession. Generally, to practice law is to give notice or render any kind of service, which device or service requires the use in any degree of legal knowledge or skill."

. . . . . .

Interpreted in the light of the various definitions of the term "practice of law," particularly the modern concept of law practice, and taking into consideration the liberal construction intended by the framers of the Constitution, Atty. Monsod's past work experiences as a lawyer-economist, a lawyer-manager, a lawyer-entrepreneur of industry, a lawyer-negotiator of contracts, and a lawyer-legislator of both the rich and the poor — verily more than satisfy the constitutional requirement — that he has been engaged in the practice of law for at least ten years.[50] (Emphasis supplied)

Cayetano was reiterated in *Lingan v. Calubaquib*:[51]

Practice of law is "an activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience." It includes "[performing] acts which are characteristics

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[50] *Id.* at 241-256, citing *Land Title Abstract and Trust Co. v. Dworken*, 129 Ohio St. 23, 193 N.E. 650; *State ex. rel. Mckittrick v. C.S. Dudley and Co.*, 102 S.W. 2d 895, 340 Mo. 852; *Barr D. Cardell*, 155 NW 312; and 111 ALR 23.

[51] A.C. No. 5377, June 30, 2014, 727 SCRA 341 [Per J. Leonen, Third Division].

of the [legal] profession" or "[rendering any kind of] service [which] requires the use in any degree of legal knowledge or skill."

Work in government that requires the use of legal knowledge is considered practice of law. In *Cayetano v. Monsod*, this court cited the deliberations of the 1986 Constitutional Commission and agreed that work rendered by lawyers in the Commission on Audit requiring "[the use of] legal knowledge or legal talent" is practice of law.[52] (Citations omitted)

By preparing the pleadings of and giving legal advice to complainant, respondent practiced law.

Under Section 7(b)(2) of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, and Memorandum Circular No. 17, series of 1986,[53] government officials or employees are prohibited from engaging in private practice of their profession unless authorized by their department heads. More importantly, if authorized, the practice of profession must not conflict nor tend to conflict with the official functions of the government official or employee:

Republic Act No. 6713:

Section 7. *Prohibited Acts and Transactions*. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

. . . . . .

(b) Outside employment and other activities related thereto. — Public officials and employees during their incumbency shall not:

. . . . . .

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions[.]

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[52] *Id.* at 355.

[53] Issued by the Office of the President, entitled Revoking Memorandum Circular No. 1025 Dated November 25, 1977.

. . . . . .

Memorandum Circular No. 17:

The authority to grant permission to any official or employee shall be granted by the head of the ministry or agency in accordance with Section 12, Rule XVIII of the Revised Civil Service Rules, which provides:

> "Sec. 12. No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of Department; *Provided*, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government: *Provided, further*, That if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the other officer or employee: *And provided, finally*, That no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors",

subject to any additional conditions which the head of the office deems necessary in each particular case in the interest of the service, as expressed in the various issuances of the Civil Service Commission.

In *Abella v. Cruzabra*,[54] the respondent was a Deputy Register of Deeds of General Santos City. While serving as an incumbent government employee, the respondent "filed a petition for commission as a notary public and was commissioned . . . without obtaining prior authority from the Secretary of the Department of Justice."[55] According to the complainant, the respondent had notarized around 3,000 documents.[56] This Court found the

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[54] 606 Phil. 200 (2009) [Per *J.* Carpio, First Division].

[55] *Id.* at 202.

[56] *Id.*

respondent guilty of engaging in notarial practice without written authority from the Secretary of Justice. Thus:

> It is clear that when respondent filed her petition for commission as a notary public, she did not obtain a written permission from the Secretary of the D[epartment] [of] J[ustice]. Respondent's superior, the Register of Deeds, cannot issue any authorization because he is not the head of the Department. And even assuming that the Register of Deeds authorized her, respondent failed to present any proof of that written permission. Respondent cannot feign ignorance or good faith because respondent filed her petition for commission as a notary public after Memorandum Circular No. 17 was issued in 1986.[57]

In this case, respondent was given written permission by the Head of the National Center for Mental Health, whose authority was designated under Department of Health Administrative Order No. 21, series of 1999.[58]

However, by assisting and representing complainant in a suit against the Ombudsman and against government in general, respondent put himself in a situation of conflict of interest.

Respondent's practice of profession was expressly and impliedly conditioned on the requirement that his practice will not be "in conflict with the interest of the Center and the Philippine government as a whole."[59]

In *Javellana v. Department of Interior and Local Government*,[60] the petitioner was an incumbent City Councilor or member of the Sangguniang Panlungsod of Bago City. He was a lawyer by profession and had continuously engaged in the practice of law without securing authority from the Regional Director of the Department of Local Government.[61] In 1989, the petitioner

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[57] *Id.* at 206-207. Respondent was reprimanded and "warned that a repetition of the same or similar act in the future shall merit a more severe sanction" (*Id.* at 208).

[58] *Rollo*, p. 21.

[59] *Id.*

[60] G.R. No. 102549, August 10, 1992, 212 SCRA 475 [Per *J.* Griño-Aquino, *En Banc*].

[61] *Id.* at 476.

acted as counsel for Antonio Javiero and Rolando Catapang and filed a case for Illegal Dismissal and Reinstatement with Damages against Engr. Ernesto C. Divinagracia, City Engineer of Bago City.[62]

Engr. Ernesto C. Divinagracia filed an administrative case before the Department of Local Government for violation of Section 7(b)(2) of Republic Act No. 6713 and relevant Department of Local Government memorandum circulars on unauthorized practice of profession, as well as for oppression, misconduct, and abuse of authority.[63] While the case was pending before Department of Local Government, the petitioner was able to secure a written authority to practice his profession from the Secretary of Interior and Local Government, "provided that such practice will not conflict or tend to conflict with his official functions."[64]

This Court in *Javellana* observed that the petitioner practiced his profession in conflict with his functions as City Councilor and against the interests of government:

> In the first place, complaints against public officers and employees relating or incidental to the performance of their duties are necessarily impressed with public interest for by express constitutional mandate, a public office is a public trust. The complaint for illegal dismissal filed by Javiero and Catapang against City Engineer Divinagracia is in effect a complaint against the City Government of Bago City, their real employer, of which petitioner Javellana is a councilman. Hence, judgment against City Engineer Divinagracia would actually be a judgment against the City Government. By serving as counsel for the complaining employees and assisting them to prosecute their claims against City Engineer Divinagracia, the petitioner violated Memorandum Circular No. 74-58 (in relation to Section 7[b-2] of R[epublic] A[ct] [No.] 6713) prohibiting a government official from engaging in the private practice of his profession, if such practice would represent interests adverse to the government.

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[62] *Id.*

[63] *Id.*

[64] *Id.*

Petitioner's contention that Section 90 of the Local Government Code of 1991 and DLG Memorandum Circular No. 90-81 violate Article VIII, Section 5 of the Constitution is completely off tangent. Neither the statute nor the circular trenches upon the Supreme Court's power and authority to prescribe rules on the practice of law. The Local Government Code and DLG Memorandum Circular No. 90-81 simply prescribe rules of conduct for public officials to avoid conflicts of interest between the discharge of their public duties and the private practice of their profession, in those instances where the law allows it.[65]

There is basic conflict of interest here. Respondent is a public officer, an employee of government. The Office of the Ombudsman is part of government. By appearing against the Office of the Ombudsman, respondent is going against the same employer he swore to serve.

In addition, the government has a serious interest in the prosecution of erring employees and their corrupt acts. Under the Constitution, "[p]ublic office is a public trust."[66] The Office of the Ombudsman, as "protectors of the [P]eople,"[67] is mandated to "investigate and prosecute . . . any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient."[68]

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[65] *Id.* at 482.

[66] CONST., Art. XI, Sec. 1.

[67] CONST., Art. XI, Sec. 12.

[68] Rep. Act No. 6770, Sec. 15 (1). See CONST., Art. XI, Secs. 12 and 13, which provide:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

Thus, a conflict of interest exists when an incumbent government employee represents another government employee or public officer in a case pending before the Office of the Ombudsman. The incumbent officer ultimately goes against government's mandate under the Constitution to prosecute public officers or employees who have committed acts or omissions that appear to be illegal, unjust, improper, or inefficient.[69] Furthermore, this is consistent with the constitutional directive that "[p]ublic officers and employees must, at all times, be accountable to the [P]eople, serve them with utmost responsibility,

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(2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.

(3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith.

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action.

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.

(6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence.

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency.

(8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

[69] This must be differentiated, however, from the rule governing former government lawyers acting as counsel for private parties after leaving the service. See *Presidential Commission on Good Government v. Sandiganbayan*, 495 Phil. 485 (2005) [Per J. Puno, *En Banc*] and Code of Professional Responsibility, Canon 6, Rule 6.03.

integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."[70]

The objective in disciplinary cases is not to punish the erring officer or employee but to continue to uplift the People's trust in government and to ensure excellent public service:

> [W]hen an officer or employee is disciplined, the object sought is not the punishment of that officer or employee, but the improvement of the public service and the preservation of the public's faith and confidence in the government. . . . These constitutionally-enshrined principles, oft-repeated in our case law, are not mere rhetorical flourishes or idealistic sentiments. They should be taken as working standards by all in the public service.[71]

Having determined that respondent illicitly practiced law, we find that there is now no need to determine whether the fees he charged were reasonable.

In disbarment or disciplinary cases pending before this Court, the complainant must prove his or her allegations through substantial evidence.[72] In *Advincula v. Macabata*,[73] this Court dismissed a complaint for disbarment due to the lack of evidence in proving the complainant's allegations:

> As a basic rule in evidence, the burden of proof lies on the party who makes the allegations — *ei incumbit probation, qui decit, non qui negat; cum per rerum naturam factum negantis probation nulla sit.* In the case at bar, complainant miserably failed to comply with the burden of proof required of her. A mere charge or allegation of wrongdoing does not suffice. Accusation is not synonymous with guilt.[74] (Emphasis in the original, citations omitted)

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[70] CONST., Art. XI, Sec. 1.

[71] *Government Service Insurance System v. Mayordomo*, 665 Phil. 131, 151-152 (2011) [Per *J.* Mendoza, *En Banc*], citing *Civil Service Commission v. Cortez,* 474 Phil. 670, 690 (2004) [*Per Curiam, En Banc*]; and *Bautista v. Negado*, 108 Phil. 283, 289 (1960) [Per *J.* Gutierrez David, *En Banc*].

[72] See *Spouses Boyboy v. Yabut, Jr.*, A.C. No. 5225, April 29, 2003, 401 SCRA 622 [Per *J.* Bellosillo, Second Division].

[73] 546 Phil. 431 (2007) [Per *J.* Chico-Nazario, Third Division].

[74] *Id.* at 446.

Moreover, lawyers should not be hastily disciplined or penalized unless it is shown that they committed a transgression of their oath or their duties, which reflects on their fitness to enjoy continued status as a member of the bar:

> The power to disbar or suspend ought always to be exercised on the preservative and not on the vindictive principle, with great caution and only for the most weighty reasons and only on clear cases of misconduct which seriously affect the standing and character of the lawyer as an officer of the court and member of the Bar. Only those acts which cause loss of moral character should merit disbarment or suspension, while those acts which neither affect nor erode the moral character of the lawyer should only justify a lesser sanction unless they are of such nature and to such extent as to clearly show the lawyer's unfitness to continue in the practice of law. The dubious character of the act charged as well as the motivation which induced the lawyer to commit it must be clearly demonstrated before suspension or disbarment is meted out. The mitigating or aggravating circumstances that attended the commission of the offense should also be considered.[75]

Likewise, we find that respondent violated the Lawyer's Oath and the Code of Professional Responsibility when he communicated to or, at the very least, made it appear to complainant that he knew people from the Office of the Ombudsman who could help them get a favorable decision in complainant's case.

Lawyers are mandated to uphold, at all times, integrity and dignity in the practice of their profession.[76] Respondent violated the oath he took when he proposed to gain a favorable outcome for complainant's case by resorting to his influence among staff in the Office where the case was pending.[77]

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[75] *Id.* at 447-448.

[76] See *Heirs of Alilano v. Examen*, A.C. No. 10132, March 24, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/march2015/10132.pdf> [Per *J.* Villarama, Jr., *En Banc*]; *Sipin-Nabor v. Baterina y Figueras*, 412 Phil. 419, 424 (2001) [Per *J.* Pardo, *En Banc*]; *Vitriolo v. Dasig*, 448 Phil. 199, 209 (2003) [*Per Curiam, En Banc*].

[77] Lawyer's Oath — I, _____, do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its

Thus, respondent violated the Code of Professional Responsibility. Canon 1, Rules 1.01, and 1.02[78] prohibit lawyers from engaging in unlawful, dishonest, immoral, or deceitful conduct.[79] Respondent's act of ensuring that the case will be dismissed because of his personal relationships with officers or employees in the Office of the Ombudsman is unlawful and dishonest. Canon 7[80] of the Code of Professional Responsibility requires lawyers to always "uphold the integrity and dignity of the legal profession."

In relation, Canon 13[81] mandates that lawyers "shall rely upon the merits of his [or her] cause and refrain from any

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Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God.

[78] Code of Professional Responsibility, Canon 1, Rules 1.01 and 1.02 provide:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

RULE 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

RULE 1.02 A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system[.]

[79] See *Phil. Association of Court Employees v. Alibutdan-Diaz*, A.C. No. 10134, November 26, 2014 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/november2014/10134.pdf> [Per *J.* Mendoza, Second Division].

[80] Code of Professional Responsibility, Canon 7 provides:

CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the integrated bar.

[81] Code of Professional Responsibility, Canon 13 provides:

CANON 13 — A lawyer shall rely upon they merits of his cause and

impropriety which tends to influence, or gives the appearance of influencing the court."

A lawyer that approaches a judge to try to gain influence and receive a favorable outcome for his or her client violates Canon 13 of the Code of Professional Responsibility.[82] This act of influence peddling is highly immoral and has no place in the legal profession:

> The highly immoral implication of a lawyer approaching a judge — or a judge evincing a willingness — to discuss, in private, a matter related to a case pending in that judge's sala cannot be over-emphasized. The fact that Atty. Singson did talk on different occasions to Judge Reyes, initially through a mutual friend, Atty. Sevilla, leads us to conclude that Atty. Singson was indeed trying to influence the judge to rule in his client's favor. This conduct is not acceptable in the legal profession.[83]

In *Jimenez v. Verano, Jr.*,[84] we disciplined the respondent for preparing a release order for his clients using the letterhead of the Department of Justice and the stationery of the Secretary:

> The way respondent conducted himself manifested a clear intent to gain special treatment and consideration from a government agency. This is precisely the type of improper behavior sought to be regulated by the codified norms for the bar. Respondent is duty-bound to actively avoid any act that tends to influence, or may be seen to influence, the outcome of an ongoing case, lest the people's faith in the judicial process is diluted.
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> The primary duty of lawyers is not to their clients but to the administration of justice. To that end, their clients' success is wholly subordinate. The conduct of a member of the bar ought to and must always be scrupulously observant of the law and ethics. Any means,

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refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

[82] *Bildner v. Ilusorio*, 606 Phil. 369 (2009) [Per J. Velasco, Jr., Second Division].

[83] *Id.* at 389.

[84] A.C. No. 8108, July 15, 2014, 730 SCRA 53 [Per *C.J.* Sereno, *En Banc*].

not honorable, fair and honest which is resorted to by the lawyer, even in the pursuit of his devotion to his client's cause, is condemnable and unethical.

. . . . . .

Zeal and persistence in advancing a client's cause must always be within the bounds of the law. A self-respecting independence in the exercise of the profession is expected if an attorney is to remain a member of the bar. In the present case, we find that respondent fell short of these exacting standards. Given the import of the case, a warning is a mere slap on the wrist that would not serve as commensurate penalty for the offense.[85]

Similar to the present case, in *Bueno v. Rañeses*,[86] we disbarred a lawyer who solicited bribe money from his client in violation of Canon 13 of the Code of Professional Responsibility:

Rather than merely suspend Atty. Rañeses as had been done in Bildner, the Court believes that Atty. Rañeses merits the ultimate administrative penalty of disbarment because of the multi-layered impact and implications of what he did; by his acts he proved himself to be what a lawyer should not be, in a lawyer's relations to the client, to the court and to the Integrated Bar.

First, he extracted money from his client for a purpose that is both false and fraudulent. It is false because no bribery apparently took place as Atty. Rañeses in fact lost the case. It is fraudulent because the professed purpose of the exaction was the crime of bribery. Beyond these, he maligned the judge and the Judiciary by giving the impression that court cases are won, not on the merits, but through deceitful means — a decidedly black mark against the Judiciary. Last but not the least, Atty. Rañeses grossly disrespected the IBP by his cavalier attitude towards its disciplinary proceedings.

From these perspectives, Atty. Rañeses wronged his client, the judge allegedly on the "take," the Judiciary as an institution, and the IBP of which he is a member. The Court cannot and should not allow offenses such as these to pass unredressed. Let this be a signal to one and all — to all lawyers, their clients and the general public — that the Court will not hesitate to act decisively and with no

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[85] *Id.* at 61-62.

[86] 700 Phil. 817 (2012) [*Per Curiam, En Banc*].

quarters given to defend the interest of the public, of our judicial system and the institutions composing it, and to ensure that these are not compromised by unscrupulous or misguided members of the Bar.[87] (Emphasis supplied)

In the interest of ridding itself of corrupt personnel who encourage influence peddling, and in the interest of maintaining the high ethical standards of employees in the judiciary, this Court did not hesitate in dismissing its own employee from government service when she peddled influence in the Court of Appeals:[88]

What brings our judicial system into disrepute are often the actuations of a few erring court personnel peddling influence to party-litigants, creating the impression that decisions can be bought and sold, ultimately resulting in the disillusionment of the public. This Court has never wavered in its vigilance in eradicating the so-called "bad eggs" in the judiciary. And whenever warranted by the gravity of the offense, the supreme penalty of dismissal in an administrative case is meted to erring personnel.[89]

The Investigating Commissioner found that complainant was "forced to give . . . Respondent the amount of ₱1,400,000.00 because of the words of Respondent that he ha[d] friends in the Office of the Ombudsman who c[ould] help with a fee."[90] It is because of respondent's assurances to complainant that she sent him money over the course of several months.[91] These assurances are seen from the text messages that respondent sent complainant:

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

---

[87] *Id.* at 827.

[88] *Nuez v. Cruz-Apao*, 495 Phil. 270 (2005) [*Per Curiam, En Banc*], citing *Mendoza v. Tiongson*, 333 Phil. 508 (1996) *[Per Curiam, En Banc*].

[89] *Id.* at 272.

[90] *Rollo*, p. 421, Integrated Bar of the Philippines Commission on Bar Discipline Report and Recommendation dated November 14, 2012.

[91] *Id.*

Cnbi ko dun sa kontak dati na magbibigay tayo na pera sa allowance lang muna later na ang bayad pag labas ng reso at kaliwaan pero sbi nya mas maganda kung isasabay na ang pera pagbgay ng letter mo sa omb.. Parang dun tayo nagkamali pero ang solusyon ay sana ibalik nila ang pera . . in d meantime hindi dapat apektado ang kaso at kailangan an Appeal sa CA at may deadline yun

DATE: 31-05-2010

TIME: 5:24 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm pnro, naLBC n b ang Reso? Kung Jan un pnrmahn . . .

DATE: 21-05-2010

TIME: 5:13 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Pnro sbi ng Dep Omb la png cnabi sa knya ng Omb. Ang CA Reso pnaiwan n Orly @ studyohn nya (txt kontal)

DATE: 15-04-2010

TIME: 6:07 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Yung blessing pala ni gutierez ang hnhntay ng overall dep omb si orly at dun din siya subok kuha letter pero nasbhan na si gutierez ng dep omb for Luzon sbi ko pwwde b nila gawin total alam na ni gutierez. . . Maya tawag ko sayo update

DATE: 15-04-2010

TIME: 12:44 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud mrng Tess hindi na svmagot kahapon tnxt ko pero minsan hndi tlga sumasagot yun nag ttxt lang pagkatapos kaya lang d mo pala naiintindihan ang txt nya bisaya "istudyahun" ibig sabihn kausapin pa so nasbi na nya sa omb yung letter at istudzahan pa

DATE: 31-03-2010

TIME: 8:25 am

TYPE: Text Message

x x x x x x x x x

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Ok panero update ko na lang client pero nag txt tlga kailangan daw nya letter habang wala pa omb reso., Txt mo lang ko panero, have a nice holidays.. (sagot ko yan tess)

DATE: 03-03-2010

TIME: 5:03 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Sa dep omb for Luzon na nya follow up ang MR at saka overall dep omb si orly dun nya kukunin letter

DATE: 30-03-2010

TIME: 5:00 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm pnro. Ang Dep. Omb. My closd dor mtng pro pnkta s knya ang note q at sabi rw bumalik aq aftr Holy wk. C Orly nman ay ngsabi n es2dyuhn p rw nya.

DATE: 30-03-2010

TIME: 4:52 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Binigay ko na pera kahapon at kinausap ko para sa letter magkikita pa kami mamaya las 2 at kukunin nya copy letter natin kay sales at CA reso

DATE: 15-04-2010

TIME: 12:32 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Tess ndpst mo na? Kakausapin ko kasi na qc na lang kami kita at malapit ako dun maya at hindi na sa crsng. Tnx

DATE: 14-04-2010

TIME: 1:29 pm

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm pnro. Ok ba ang 15k rep maya 6pm? Thnx (txt ng kontak tess kausapin ko mbuti sa letter)

DATE: 14-04-2010

TIME: 10:25 am

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Pnro ung rep alo n bngay mo 1st Mar 24 ay ok lng pra s 2 falo-ups q Mar 25 @ Mar 30. As usual, magkita tau Apr 14 @ kunin q 20th para sa falo-up Apr 15 thnx

DATE: 08-04-2010

TIME: 10:58 am

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Ok panero kailangan malinaw din ang presentation lp sa client panero at ang impression nya yun na ang hningi natin... so april 15 panero an balik mo sa MR at yung letter form omb to dof bhala ka na sa diskarte panero pag nakakuha tayo nakahanda na 150k dun

DATE: 08-04-2010

TIME: 10:56 am

TYPE: Text Message

. . . . . .

SUBJECT:

Pnero dapat maalala mo n ung purpose ng 400th hindi directly delivery ng Reso granting d MR pro ung delivery by the Dep Omb ng letr of appeal 2 d Omb at pgpaliwang nya sa Omb. Re sa hnhngi ng

rspondnt n modfcation ng Dcsion. Nung 1st mtng ntn Mar 24, ngin4m q sau n ngawa n i2 ng Dep Omb pro kausapn p ng Omb c Orly. Itong huli ang nabtn p, pro yon ay dscrtion n ng Omb@ wlng control d2 and Dep. Omb.

DATE: 08-04-2010

TIME: 10:55 am

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Tess gud mrng, wag mo kalimutan mgdpst 25k today 6pm mtng naming omb tnx.

DATE: 24-03-2010

TIME: 10:23 am

TYPE: Text Message

. . . . . .

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm uli pnro. Kung subukan q n lkrn ky Orly ung cnabi mong letr adrsd 2 DOF Sec @ synd n Orly ang letr, pktanong s rspndnt kung ok b s knya nab yarn nya aq ng Atty's fee n 75thou upfront @ another 75thou upon receipt of a DOF ordr holdng n abyans implmntation of hr dsmsal due 2 Orly's letr? thnx

DATE: 11-03-2010

TIME: 7:03 pm

TYPE: Text Message[92]

In response to his alleged text messages, respondent claims that complainant must have confused him with her other contacts.[93]

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[92] *Id.* at 339-344.

[93] *Id.* at 382, Respondent's Position Paper dated September 28, 2012, paragraph 64. Integrated Bar of the Philippines Records.

Respondent found it "mesmerizing" that complainant was able to save all those alleged text messages from two (2) years ago.[94] Moreover, assuming these messages were "true, still they [were] not legally admissible as they [were] covered by the lawyer-client privileged communication as those supposed texts '[had been] made for the purpose and in the course of employment, [were] regarded as privileged and the rule of exclusion [was] strictly enforced.'"[95]

In cases involving influence peddling or bribery, "[t]he transaction is always done in secret and often only between the two parties concerned."[96] Nevertheless, as found by the Investigating Commissioner and as shown by the records, we rule that there is enough proof to hold respondent guilty of influence peddling.

We agree with the penalty recommended by the Integrated Bar of the Philippines Board of Governors. We find respondent's acts of influence peddling, coupled with unauthorized practice of law, merit the penalty of suspension of one (1) year from the practice of law. To be so bold as to peddle influence before the very institution that is tasked to prosecute corruption speaks much about respondent's character and his attitude towards the courts and the bar.

Lawyers who offer no skill other than their acquaintances or relationships with regulators, investigators, judges, or Justices pervert the system, weaken the rule of law, and debase themselves even as they claim to be members of a noble profession. Practicing law should not degenerate to one's ability to have illicit access. Rather, it should be about making an honest appraisal of the client's situation as seen through the evidence fairly and fully gathered. It should be about making a discerning and diligent reading of the applicable law. It is foremost about attaining

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[94] *Id.*

[95] *Id.* at 382-383, citation omitted.

[96] *Bildner v. Ilusorio*, 606 Phil. 369, 390 (2009) [Per *J.* Velasco, Jr., Second Division].

justice in a fair manner. Law exists to temper, with its own power, illicit power and unfair advantage. It should not be conceded as a tool only for those who cheat by unduly influencing people or public officials.

It is time that we unequivocally underscore that to even imply to a client that a lawyer knows who will make a decision is an act worthy of the utmost condemnation. If we are to preserve the nobility of this profession, its members must live within its ethical parameters. There is never an excuse for influence peddling.

While this Court is not a collection agency for faltering debtors,[97] this Court has ordered restitution of amounts to complainants due to the erroneous actions of lawyers.[98] Respondent is, therefore, required to return to complainant the amount of ₱500,000.00 — the amount that respondent allegedly gave his friends connected with the Office of the Ombudsman.

WHEREFORE, Respondent Atty. Nicanor C. Alvarez is guilty of violating the Code of Conduct and Ethical Standards for Public Officials and Employees, the Lawyer's Oath, and the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for one (1) year with a **WARNING** that a repetition of the same or similar acts shall be dealt with more severely. Respondent is **ORDERED** to return the amount of ₱500,000.00 with legal interest to complainant Teresita P. Fajardo.

Let copies of this Decision be furnished to the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Mendoza, JJ.,* concur.

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[97] See *In re: Complaint for Failure to Pay Just Debts Against Esther T. Andres*, 493 Phil. 1 (2005) [Per *J.* Chico-Nazario, *En Banc*].

[98] See *Adrimisin v. Javier*, 532 Phil. 639 (2006) [Per *J.* Carpio, *En Banc*]; *Rollon v. Naraval*, 493 Phil. 24 (2005) [Per *J.* Panganiban, *En Banc*]; *Ramos v. Imbang*, 557 Phil. 507 (2007) [*Per Curiam, En Banc*].

THIRD DIVISION

[A.M. No. P-16-3437. April 20, 2016]
(Formerly OCA IPI No. 11-3665-P)

PROSECUTOR III LEO C. TABAO, *petitioner, vs.* **SHERIFF IV JOSE P. CABCABIN, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, TACLOBAN CITY,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; SHOULD BE WELL AWARE OF AND DULY ACT WITHIN THE SCOPE OF THEIR ASSIGNED DUTIES AND RESPONSIBILITIES.— Section 1, Canon IV of the Code of Conduct for Court Personnel states that court personnel shall at all times perform official duties properly and with diligence. Section 7 thereof also provides that court personnel shall not be required to perform any work outside the scope of their job description x x x. The foregoing rules are rooted in the constitutional principle that public office is a public trust; hence, all public officers and employees, including court personnel in the Judiciary, must serve the public with utmost responsibility and efficiency. "Exhorting court personnel to exhibit the highest sense of dedication to their assigned duty necessarily precludes requiring them to perform any work outside the scope of their assigned job description, save for duties that are identical with or are subsumed under their present functions." Diligent and proper performance of official duties thus impels that court personnel should be well aware of and duly act within the scope of their assigned duties and responsibilities.

2. ID.; ID.; ID.; ID.; SHERIFFS; A SHERIFF MAY PERFORM OTHER TASKS AND DUTIES ASSIGNED BY THE JUDGE OR CLERK OF COURT PROVIDED THEY ARE WITHIN THE SCOPE OF HIS JOB DESCRIPTION OR IDENTICAL WITH OR SUBSUMED UNDER HIS PRESENT FUNCTIONS.— Under 2.2.4 of Chapter VI, Volume I of the 2002 Revised Manual

for Clerks of Court — which defines the general functions of all court personnel in the judiciary — the Sheriff IV is tasked with serving writs and processes of the court; keeping custody of attached properties; maintaining the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and performing such other duties as may be assigned by the Executive Judge, Presiding Judge and/or Branch Clerk of Court. Under 2.1.5 of the same Chapter, the Deputy Sheriffs IV,V and VI are similarly tasked to serve writs and processes of the court; to keep custody of attached properties; to maintain the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and to do related tasks and perform other duties that may be assigned by the Executive Judge and Clerk of Court. It bears emphasis that while the sheriff may perform other tasks and duties assigned by the said Judges or Clerks of Court, the same should be "related" thereto, *i.e.*, (1) within the scope of his job description, or (2) identical with or subsumed under his present functions. As aptly noted by the Investigating Judge, Sheriff Cabcabin's act of entertaining the voluntary surrender of an accused in a criminal case for purposes of posting cash bail bond is neither expressly stated nor can be necessarily implied from the job description of a court sheriff. Such act is beyond the scope of his assigned job description, and is hardly identical with or is subsumed under his present duties and functions, as defined in the 2002 Revised Manual for Clerks of Court.

3. ID.; ID.; ID.; ID.; ID.; SIMPLE MISCONDUCT; PERFORMING AN ACT BEYOND THE CLEAR SCOPE OF DUTIES AND RESPONSIBILITIES, A CASE OF; PENALTY IN CASE AT BAR.— For performing an act beyond the clear scope of his duties and responsibilities, the Court finds that Sheriff Cabcabin violated Section 1, in relation to Section 7, of Canon IV of the Court of Conduct of Court Personnel, and holds him liable for simple misconduct, which is a transgression of some established rule of action, an unlawful behavior, or negligence committed by a public officer. Under Section 46, D(2) of the Revised Rules on Administrative Cases in the Civil Service *(RRACS)*, simple misconduct is considered a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months, for the first offense; and

dismissal from the service for the second offense. Under Section 47 of the RRACS, payment of fine in place of suspension is allowed when the respondent committed the offense without abusing the powers of his position or office. The same provision adds that payment of fine in *lieu* of suspension shall be available in less grave offenses where the penalty imposed is less than 6 months or less at the ratio of 1 day of suspension from the service to 1 day fine. In this case, the Court adopts the ₱5,000.00 fine recommended by the Investigating Judge, there being no showing that Sheriff Cabcabin abused his authority when he issued the questioned certification of voluntary surrender, and considering that he was very sorry and apologetic for not having been extra careful in the performance of his duties. However, since he has filed an application for optional retirement effective at the end of December 2015, it is no longer viable to indicate that he should be sternly warned for repetition of the same act.

D E C I S I O N

PERALTA, *J.*:

This administrative matter stems from the letter-complaint dated 11 April 2011 filed by Deputy Prosecutor Leo C. Tabao, accusing Sheriff IV Jose P. Cabcabin of the Office of the Clerk of Court of the Regional Trial Court of Tacloban City of Abuse of Authority and Gross Irregularity in the Performance of Duties relative to Criminal Case Nos. 2009-11-537 (Violation of Section 5,[1]

[1] Section 5. *Child Prostitution and Other Sexual Abuse*. — Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

(1) Acting as a procurer of a child prostitute;

(2) Inducing a person to be a client of a child prostitute by means

R.A. 7610),[2] 2009-11-538 (Violation of Sec. 6,[3] R.A. 9208)[4] and 2009-11-539 (Violation of Sec. 4 (a)[5] and (e),[6] R.A. 9208), all entitled "*People of the Philippines vs. Danilo Miralles y Aguirre, et al.*"

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of written or oral advertisements or other similar means;

(3) Taking advantage of influence or relationship to procure a child as prostitute;

(4) Threatening or using violence towards a child to engage him as a prostitute; or

(5) Giving monetary consideration goods or other pecuniary benefit to a child with intent to engage such child in prostitution.

(b) Those who commit the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victims is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; and

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

[2] "Special Protection of Children Against Abuse, Exploitation and Discrimination Act."

[3] Section 6. *Qualified Trafficking in Persons*. — The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

(b) When the adoption is effected through Republic Act No. 8043, otherwise known as the "Inter-Country Adoption Act of 1995" and said adoption is for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;

(d) When the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;

(e) When the trafficked person is recruited to engage in prostitution

The antecedent facts are as follows:

On January 8, 2010, the Office of the City Prosecution of Tacloban City filed the aforesaid three (3) criminal cases before the Regional Trial Court (*RTC*) of said city and they were raffled off to Branch 7, presided by Judge Crisologo S. Bitas.[7]

On February 2, 2011, after the prosecution had presented its witnesses, Judge Bitas issued an Order[8] finding probable cause to hold Danilo Miralles for trial for violation of Section 4 (a) and (e) of Republic Act (*RA*) No. 9208, and directing him to put up a bailbond of Forty Thousand Pesos (₱40,000.00) for each of the 3 criminal cases.

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with any member of the military or law enforcement agencies;

(f) When the offender is a member of the military or law enforcement agencies; and

(g) When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS).

[4] "Anti-Trafficking in Persons Act of 2003."

[5] Section 4. *Acts of Trafficking in Persons*. — It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer; harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

[6] (e) To maintain or hire a person to engage in prostitution or pornography;

[7] In *Jorda v. Bitas*, 718 SCRA 1 (2014), the Court found Judge Bitas guilty of gross ignorance of the law for fixing Danilo Miralles' bail and reducing the same *motu proprio*, without allowing the prosecution to present its defense, despite the fact that the accused was charged with Qualified Trafficking, ₱2,000,000.00 but not more than ₱5,000,000.00. The Court suspended Judge Bitas from the service for a period of three (3) months and one (1) day without pay, and warned that a repetition of a similar offense will warrant the imposition of a more severe penalty.

[8] *Rollo*, p. 6.

On February 4, 2011, Sheriff Cabcabin issued a Certification[9] to the effect that Miralles has voluntarily surrendered himself to the former to avail of his right to bail for his temporary liberty in connection with the said 3 cases before the RTC, Branch 7. On the same day, Judge Bitas approved the One Hundred Twenty Thousand Pesos (₱120,000.00) cash bail bond posted by Miralles before the Office of the Clerk of Court.[10]

In his complaint dated April 11, 2011, Prosecutor Tabao assailed the authority of Sheriff Cabcabin to issue the said certification, considering that no arrest warrant had yet been issued against Miralles, to wit:

> When RTC-7 issued the Order of 02 February 2011 x x x ***where it found probable cause against accused MIRALLES, the court, instead of issuing the corresponding warrant of arrest against MIRALLES as required by the Rules, granted him bail in the reduced amount of ₱40,000.00 even when said accused never filed a Motion to Fix Bail much less, a Motion to Reduce Bail.***
>
> Consequently, there being no warrant of arrest against MIRALLES we then find it very intriguing and very hard to understand what the basis was of CABCABIN in entertaining MIRALLES. What was MIRALLES surrendering for when there was no arrest warrant against him? Did he verify and ask MIRALLES to show the warrant of arrest against him so he can determine the amount of bail? Was MIRALLES escorted and under police custody when he went to CABCABIN?
>
> February 4, 2011, when MIRALLES went to surrendered (sic) to CABCABIN, is (sic) ***FRIDAY***. Judge Bitas was in his Court (as shown by the fact that he approved the cash bond also on the same day). Why did CABCABIN, who is not a person in authority, allow MIRALLES to surrender to him? He should have directed MIRALLES to surrender to Judge Bitas instead of him. Judge Bitas could then have noted and certified that MIRALLES surrendered to him and is now in custody of the law — thereby legally paving the way for him to post his cash bail bond.

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[9] *Id.* at 7.

[10] *Id.* at 9.

But then again there is the unexplained situation of how can an accused person surrender himself to a judge when there is no warrant of arrest against him.[11]

On June 21, 2011, the Office of the Court Administrator (*OCA*) directed Sheriff Cabcabin to Comment on the complaint of Prosecutor Tabao.[12]

In his comment dated July 14, 2011, Sheriff Cabcabin admitted that he issued the Certification dated February 4, 2011 to the effect that Miralles voluntarily surrendered himself to avail of his right to bail, but only after the said accused had posted cash bond in the total amount of ₱120,000.00 for the 3 criminal cases. He further explained that:

> Accused DANILO MIRALLES initially surrendered at Branch 7 of this Court [RTC] but since the Sheriff in said branch was out of the office on official business said accused was accompanied by a personnel in Branch 7 to the Office of the Clerk of Court for the purpose of posting his bond.
>
> It is not only the Presiding Judge in Branch 7 who requests Sheriffs in the Office of the Clerk of Court, in the absence of the branch Sheriff, to issue such certification all the Presiding Judges in Branches 6, 7, 8, 9 & 34 also require us Sheriffs to issue said Certificate of Voluntary Surrender before the bond approved by them.
>
> Accused DANILO A. MIRALLES, voluntarily surrendered to this Court [RTC]. I was working in the Office of the Clerk of Court when he posted his cash bond. I merely issued a Certification that he voluntarily surrendered, which he truly did. The certification was required by the Presiding Judge of Branch 7 before the bond was approved. As to why accused voluntarily surrendered when there is yet no warrant of arrest, I have no knowledge anymore of this. He entered the Office of the Clerk of Court where I was at that time and then he manifested that he was surrendering and that he was going to post bail, which he did. It is a common occurrence in this Court [RTC] that accused go to the branch to voluntarily surrender

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[11] *Id.* at 4-5. (Emphasis in the original)

[12] *Id.* at 11.

in order to post his bail and upon request of the Presiding Judge concerned, the Sheriff issues a Certificate to this effect.[13]

In his Supplemental Manifestation dated July 26, 2011, Sheriff Cabcabin submitted photocopies of Orders issued by different Branches of the RTC of Tacloban City, directing him to release accused from court custody after posting their respective cash bond in order to prove that it is a common practice in the RTC to allow accused to voluntarily surrender to court sheriffs for purposes of posting bail bond for their temporary liberty.[14] He also admitted having no idea as to the source of authority that sheriffs have to allow accused to voluntarily surrender to them, to wit:

> x x x I have just inherited this practice from my predecessors. And considering that such surrender is made upon request of the Court [RTC], I always take it as lawful and nothing unlawful at all. Because had I been advised by my superiors that such practice was irregular and therefore unlawful, I would not have definitely done it. And because of this act of mine I am really very sorry and I apologize [to] this Court [RTC] for not having been extra careful in entertaining this matter. I promise I will not repeat the same mistake.[15]

In a Report[16] dated July 22, 2014, the Court, upon recommendation of the OCA that the charge in the complaint appears to be serious but cannot be resolved on the basis of the records due to conflicting versions presented by the parties, referred the administrative complaint to the Executive Judge of the RTC of Tacloban City, for investigation, report and recommendation.

On December 2, 2014, Executive Judge Alphinor C. Serrano conducted a hearing where the parties adopted the same evidence they submitted before the OCA.[17]

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[13] *Id.* at 14.

[14] *Id.* at 15-19.

[15] *Id.* at 15.

[16] *Id.* at 22.

[17] 1. Exhibit "A" and series — Administrative Complaint of Prosecutor Tabao;

In his Investigation Report dated February 10, 2015, Judge Serrano found Sheriff Cabcabin guilty of Simple Irregularity in the Performance of Duties and recommended that he be fined the amount of Five Thousand Pesos (₱5,000.00) with stern warning that a repetition of the same act shall be dealt with more severely.

In resolving the sole issue of whether Sheriff Cabcabin has the authority to receive the voluntary surrender of Miralles as shown in his Certification dated February 4, 2011, Judge Serrano found him liable for simple irregularity in the performance of the complained act which was not within the scope of his official functions as embodied in the Revised Manual for Clerks of Court, thus:

> It is a principle in the Law of Public Officers that "an administrative officer has only such powers as are expressly granted to him and those necessarily implied in the exercise thereof. These powers should not be extended by implication beyond what may be necessary for their just and reasonable execution." (*Kilusang Bayan vs. Dominguez, 205 SCRA 92*). Thus, every public officer is guided by law in the execution of its official function.

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2. Exhibit "B" — Order dated February 2, 2011 of Judge Bitas;

3. Exhibit "C" — Certification dated February dated February 4, 2011 issued by Sheriff Cabcabin;

4. Exhibit "D" — Cash bail bond receipt dated February 4, 2011 issued by Marilyn G. Padilla, Office of the Clerk of Court;

5. Exhibit "E" — Cash bail bond dated February 4, 2011 approved by Judge Bitas;

6. Exhibit "F" — Notice dated February 4, 2011 issued by Judge Bitas, informing any officer of the law that Miralles has posted cash bond in the amount of ₱120,000.00 in connection with the 3 criminal cases;

7. Exhibit "1" — Answer of Sheriff Cabcabin;

8. Exhibit "2" — Release Order dated January 31, 2011 issued by Judge Serrano;

9. Exhibit "3" — Release Order dated July 28, 2011 issued by Judge Salvador Y. Apurillo;

10. Exhibit "4" — Release Order dated May 25, 2011 issued by Judge Apurillo; and

11. Exhibit "5" — Release Order dated June 3, 2008 issued by Judge Apurillo.

In order to resolve the foregoing issue, it is necessary to define what are the duties of respondent as Sheriff IV under existing laws and regulations.

Under the 2002 Revised Manual for Clerks of Court, (Chapter VI, D, 2.1.5), a deputy Sheriff IV, V and VI have the following duties:

2.1.5.1. serves and/or executes all writs and processes of the Courts and other agencies, both local and foreign;

2.1.5.2. keeps custody of attached properties or goods;

2.1.5.3. maintains his own record books on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes executed by him;

2.1.5.4. submits periodic reports to the Clerk of Court;

2.1.5.5. does related tasks and performs other duties that may be assigned by the Executive Judge and/or Clerk of Court;

The duty of a sheriff is to execute judgments and orders of a Court. Perusal of the above-quoted responsibilities pertaining to a Sheriff IV reveals that it is not one of the official duties of respondent to entertain the voluntary surrender of accused Miralles for the purpose of posting cash bond. While the said act of surrendering to respondent is not expressly mentioned, it cannot also be implied from the express duties of a Sheriff IV under the law.

Respondent in his answer justified his act by saying that he pursued such action because he only inherited such process from his predecessors. He justified further by saying that all presiding judges of Branch 6, 7, 8, 9 and 34 request him to entertain the voluntary surrender of accused in their respective Court who want to post bond.

However, had Judge Bitas or the Executive Judge issued a specific Order allowing accused Miralles to surrender to Respondent, that task would have fallen under: "***does related tasks and performs other duties that may be assigned by the Executive Judge and/or Clerk of Court.***" Failing this, and without the said Order, Respondent has no authority to receive the voluntary surrender of accused Miralles.

Respondent went beyond his official duties when he entertained the voluntary surrender of accused Miralles, without any order from

Judge Bitas, the Executive Judge or the Clerk of Court. He was not mindful of his duties as a Sheriff IV. Said act amounts to a misfeasance which renders any public officer liable under the law. The evidences (Court Orders) submitted/offered by Respondent in his defense had nothing to do with the case and were therefore irrelevant. Respondent cannot escape administrative sanction by interposing his justifications that it was a common practice which he just inherited from his predecessors. The same has no merit.

Respondent having been in the government service for a long period of time should have had a clear understanding of his official duties under the law. If, indeed, it became a[n] established practice, and pursued such action upon the behest of the presiding judges of RTC Tacloban, he should have clarified the same, and secured the written order from the judge concerned, or much better, refused to perform an act not sanctioned by law.[18]

The Court adopts the findings of the Investigating Judge, but modifies the recommended penalty.

Section 1, Canon IV[19] of the Code of Conduct for Court Personnel[20] states that court personnel shall at all times perform official duties properly and with diligence. Section 7 thereof also provides that court personnel shall not be required to perform any work outside the scope of their job description, *viz.*:

Sec. 7. Court personnel **shall not be required** to perform any work or duty **outside the scope of their assigned job description**. (Emphasis supplied)

The foregoing rules are rooted in the constitutional principle that public office is a public trust; hence, all public officers and employees, including court personnel in the Judiciary, must serve the public with utmost responsibility and efficiency.[21] "Exhorting court personnel to exhibit the highest sense of dedication to their assigned duty necessarily precludes requiring

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[18] *Rollo*, pp. 59-61.

[19] Performance of Duties.

[20] A.M. No. 03-06-13-SC. Effective June 1, 2004.

[21] *Executive Judge Apita v. Estanislao*, 661 Phil. 1, 9 (2011).

them to perform any work outside the scope of their assigned job description, save for duties that are identical with or are subsumed under their present functions."[22] Diligent and proper performance of official duties thus impels that court personnel should be well aware of and duly act within the scope of their assigned duties and responsibilities.

Under 2.2.4 of Chapter VI, Volume I of the 2002 Revised Manual for Clerks of Court — which defines the general functions of all court personnel in the judiciary — the Sheriff IV is tasked with serving writs and processes of the court; keeping custody of attached properties; maintaining the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and performing such other duties as may be assigned by the Executive Judge, Presiding Judge and/or Branch Clerk of Court. Under 2.1.5 of the same Chapter, the Deputy Sheriffs IV, V and VI are similarly tasked to serve writs and processes of the court; to keep custody of attached properties; to maintain the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and to do related tasks and perform other duties that may be assigned by the Executive Judge and Clerk of Court.

It bears emphasis that while the sheriff may perform other tasks and duties assigned by the said Judges or Clerks of Court, the same should be "related" thereto, *i.e.*, (1) within the scope of his job description, or (2) identical with or subsumed under his present functions.

As aptly noted by the Investigating Judge, Sheriff Cabcabin's act of entertaining the voluntary surrender of an accused in a criminal case for purposes of posting cash bail bond is neither expressly stated nor can be necessarily implied from the job description of a court sheriff. Such act is beyond the scope of his assigned job description, and is hardly identical with or is subsumed under his present duties and functions, as defined in the 2002 Revised Manual for Clerks of Court.

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[22] *Id.* at 9-10.

To justify his act of certifying the voluntary surrender of Miralles for the purpose of availing of his right to bail, Sheriff Cabcabin tries to make much of the Orders[23] of other Judges in the RTC of Tacloban City in different criminal cases.[24] However, while the said orders authorized him to release the concerned accused in the criminal cases after having posted sufficient bail bonds, nowhere can it be inferred therein that he was also authorized to accept the voluntary surrender of the accused. Contrary to his claim, there is no evidence on record to prove that Judges in other Branches of the said RTC had requested sheriffs in the Clerk of Court to issue a certificate of voluntary surrender, in the absence of their Branch Sheriffs. Neither can he invoke that it was a common practice inherited from his predecessors for a sheriff to entertain voluntary surrender of an accused without authority from the judge or clerk of court, for it is basic that ignorance of the law excuses no one from compliance therewith[25] and that laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.[26]

For performing an act beyond the clear scope of his duties and responsibilities, the Court finds that Sheriff Cabcabin violated Section 1,[27] in relation to Section 7,[28] of Canon IV of the Court of Conduct of Court Personnel, and holds him liable for simple misconduct, which is a transgression of some established rule

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[23] *Rollo*, pp. 16-19.

[24] *Id. People v. Johan Babiano*, Criminal Case No. 2011-01-65 for Estafa; *People v. Cristina D. Arreola*, Criminal Case No. 2010-05-259 for Estafa; *People v. Perlita Lacandazo*, Criminal Case No. 2011-05-313 for Estafa; and *People v. Emmanuel Balano*, Criminal Case No. 2004-09-628 for Homicide.

[25] New Civil Code, Art. 3.

[26] *Id.*, Art. 7.

[27] Sec. 1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

[28] Sec. 7. Court personnel shall not be required to perform any work or duty outside the scope of their assigned job description.

of action, an unlawful behavior, or negligence committed by a public officer.[29] Under Section 46, D(2) of the Revised Rules on Administrative Cases in the Civil Service (*RRACS*),[30] simple misconduct is considered a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months, for the first offense; and dismissal from the service for the second offense.

Under Section 47[31] of the RRACS, payment of fine in place of suspension is allowed when the respondent committed the offense without abusing the powers of his position or office. The same provision[32] adds that payment of fine in lieu of

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[29] *Campos, et al. v. Judge Campos*, 681 Phil. 247, 254 (2012), citing *China Banking Corporation v. Janolo, Jr.*, 577 Phil. 176, 181 (2008).

[30] Civil Service Commission Resolution No. 11-01502, promulgated on November 18, 2011. Same as in Sec. 52(B)(2), Rule IV, of the Revised Uniform Rules on Administrative Cases in the Civil Service, Resolution No. 99-1936 dated August 31, 1999.

[31] Section 47. *Penalty of Fine*. — The following are the guidelines for the penalty of fine:

1. Upon the request of the head of office or the concerned party and when supported by justifiable reason/s, the disciplining authority may allow the payment of fine in place of suspension if any of the following circumstances are present:

a. When the functions/nature of the office is impressed with national interest such as those involved in the maintenance of peace and order, health and safety, education; or

b. When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and

c. When the respondent committed the offense without utilizing or abusing the power of his/her position.

[32] Section 47. *Penalty of Fine*. — The following are the guidelines for the penalty of fine:

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2. The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave and Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension from the service to one (1) day fine; Provided, that in Grave Offenses where the

suspension shall be available in less grave offenses where the penalty imposed is less than 6 months or less at the ratio of 1 day of suspension from the service to 1 day fine. In this case, the Court adopts the ₱5,000.00 fine recommended by the Investigating Judge, there being no showing that Sheriff Cabcabin abused his authority when he issued the questioned certification of voluntary surrender, and considering that he was very sorry and apologetic for not having been extra careful in the performance of his duties.[33] However, since he has filed an application for optional retirement effective at the end of December 2015, it is no longer viable to indicate that he should be sternly warned for repetition of the same act.

WHEREFORE, premises considered, the Court finds respondent Sheriff IV Jose P. Cabcabin of the Office of the Clerk of Court, Regional Trial Court, Tacloban City, guilty of Simple Misconduct, and imposes a **FINE** of Five Thousand Pesos (₱5,000.00) to be deducted from his retirement benefits. Let a copy of this decision be attached to his personal records.

SO ORDERED.

Velasco, Jr. (Chairperson), Perez, Reyes, and *Jardeleza, JJ.,* concur.

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penalty imposed is six (6) months and one (1) day suspension in view of the presence of mitigating circumstance, the conversion shall only apply to the suspension of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.

[33] *Rollo,* p. 15.

THIRD DIVISION

[A.M. No. RTJ-14-2385. April 20, 2016]
(Formerly A.M. No. 14-4-115-RTC)

OFFICE OF THE COURT ADMINISTRATOR, *petitioner, vs.* **JUDGE ROMEO B. CASALAN, [FORMERLY A.M. NO. 14-4-115-RTC (REPORT ON THE FINANCIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT [RTC], BRANCHES 13 AND 65, CULASI AND BUGASONG, ANTIQUE)],** *respondent.*

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; UNDUE DELAY IN RENDERING DECISION OR ORDER; FAILURE TO DECIDE A CASE WITHIN THE REGLEMENTARY PERIOD WITHOUT SUFFICIENT JUSTIFICATION, A CASE OF.— Records disclose the undisputed delay in the disposition of numerous cases assigned to Branches 13 and 64 which was then presided by Judge Casalan, despite the OCA's directives for the immediate resolution of such cases. Despite the grant of his request for a 2-month extension to comply with the directives, he still failed to resolve the pending cases subject of the memoranda dated August 28 and 30, 2012. x x x No sufficient justification or valid reason is offered by Judge Casalan for his failure to decide the said cases within the reglementary period. Hence, he should be held administratively liable for such gross inefficiency. x x x Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of Section 16, Article III of the Constitution. Failure to render decisions and orders within the reglementary period is also a breach of Rule 3.05, Canon 3 of the Code of Judicial Conduct and Section 5, Canon 6 of the New Code of Judicial Conduct. Classified as less serious charges under Section 9, Rule 140 of the Rules of Court, undue delay in rendering decision or order, and violation of Supreme Court rules, directives and circulars, are penalized with either suspension without pay for a period of not less than One (1)

month, but not more than Three (3) months, or a fine of more than ₱10,000.00, but not more than ₱20,000.00.

2. ID.; ID.; MUST PERFORM THEIR OFFICIAL DUTIES WITH UTMOST DILIGENCE IF PUBLIC CONFIDENCE IN THE JUDICIARY IS TO BE PRESERVED.— [T]he honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved. "Thus, judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved. There is no excuse for mediocrity in the performance of judicial functions. The position of judge exacts nothing less than faithful observance of the law and the Constitution in the discharge of official duties."

3. ID.; ID.; MISCONDUCT; UNJUSTIFIED FAILURE TO COMPLY WITH THE DIRECTIVES OF THE OFFICE OF THE COURT ADMINISTRATOR CONSTITUTES MISCONDUCT.— [T]he OCA duly noted that Judge Casalan's failure to comply with the directives in its memoranda dated August 28 and 30, 2012 x x x constitutes insubordination and disrespect for the Court's lawful orders and directives. It bears emphasis that judges should treat directives from the OCA as if issued directly by the Court and comply promptly and conscientiously with them since it is through the OCA that the Court exercises its constitutionally-mandated administrative supervision over all courts and the personnel thereof. Unjustified failure to comply with such directives constitutes misconduct and exacerbates administrative liability.

D E C I S I O N

PERALTA, *J.*:

This administrative matter arose from the judicial audit and inventory of cases conducted on August 7 and 8, 2012 in the Regional Trial Court (*RTC*) of Culasi, Antique, Branch 13 and the RTC of Bugasong, Antique, Branch 65, both presided over by the Hon. Romeo B. Casalan as regular judge and acting presiding judge, respectively.

In a Memorandum[1] dated August 30, 2012, the Judicial Audit Team of the Office of the Court Administrator (*OCA*) reported that as of August 8, 2012, Branch 13, the regular court of Judge Casalan, has a caseload of Two Hundred and Twelve (212) pending cases, comprising of Eighty-nine (89) criminal cases and One Hundred and Twenty-Three (123) civil and other cases. The team made the following findings and observations:

1. Fifteen (15) criminal cases and Thirty (33) civil and other cases are submitted for decision beyond the Ninety (90)-day reglementary period to decide them;

2. Four (4) criminal cases and Twenty-five (25) civil and other cases have pending motions/incidents which are submitted for resolution beyond the mandatory period to resolve them;

3. Six (6) criminal cases and Thirteen (13) civil and other cases have no further setting or action for at least One (1) month from the date of the last court action/setting;

4. A criminal case and a civil case have not been acted upon since the time the information and the complaint were filed in court;

5. Ten (10) cases have been pending in the docket of the court for 10 years or more; Seven (7) cases for Nine (9) years and 3 cases for Eight (8) years;

6. Case records do not contain an index of case events and are not stitched;

7. Pleadings, orders, notices, minutes of court sessions, returns and other relevant papers or documents are not immediately attached to the case folders or *expediente*;

8. Some pleadings and court orders/issuances are merely inserted in the case folders;

9. Cases for Declaration of Nullity of Marriages are docketed as special civil action;

10. Leniency in granting postponements; and

11. Hearings are conducted only on the 1st 2 weeks of the month, while the 3rd and 4th weeks of the month are devoted to Branch 64,

[1] Annex "A", records.

Bugasong, Antique and inhibited cases in Branches 10, 11 and 12 are heard on Mondays of the scheduled hearings in Branch 64.

In a Memorandum[2] dated August 28, 2012, the Judicial Audit Team of the OCA also reported that as of August 7, 2012, Branch 65, where Judge Casalan was designated as acting presiding judge, has a caseload of Two Hundred and Thirty-two (232) pending cases, comprising of One Hundred and Fifty-three (153) criminal cases and Seventy-nine (79) civil and other cases. The team then made the following findings and observations:

1. A criminal case and a civil case are submitted for decision beyond the 90-day reglementary period to decide them;

2. Fourteen (14) civil and other cases have pending motions/incidents which are submitted for resolution beyond the mandatory period to resolve them;

3. Eight (8) criminal cases and 14 civil and other cases have no further settings or actions for at least 1 month from the date of the last court action/setting;

4. A criminal case and Twelve (12) civil and other cases have not been acted upon since the time of filing;

5. Pleadings, orders, notices, minutes of court sessions, returns and other relevant papers or documents are not immediately attached/stitched to the case folders or *expediente* and not in the order of the date of the receipt or issuance thereof; and

6. Each and every page of the documents attached/stitched to the case folders are not paginated.

As a result of the foregoing judicial audit and inventory of cases, the OCA, through the said memoranda dated August 28 and 30, 2012, directed Judge Casalan to comply as follows:

1. To explain why the cases submitted for decision were not decided within the reglementary period, to decide the same within 2 months from notice, and to submit copies of such decisions;

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[2] Annex "B", *id.*

2. To explain why the pending motions/incidents were not resolved within the mandatory period, to immediately resolve the same and submit copies of such resolutions;

3. To submit copies of the orders issued in cases with pending motions/incidents for resolution which were still within the mandatory period to resolve at the time of the audit;

4. To immediately act on the cases where no action has been made since the time of their filing, and submit copies of the actions thereon;

5. To direct the Officer-in-Charge to attach to the case records an index of case events, to stitch all case folders, and to docket cases for Declaration of Nullity of Marriage as an ordinary civil action;

6. To expedite the disposition of cases which have been pending in the docket of the court for eight years or more and to submit a quarterly report on the status of cases which have been pending in the court docket for 8 years or more, and to submit a quarterly report on the status of such cases; and

7. To strictly comply with Administrative Circular No. 76-2007 (*Submission of Semestral Docket Inventory Report*) and Administrative Circular No. 61-2001 (*Revised Rules, Guidelines, and Instructions on Accomplishing Monthly Report of Cases*), and to direct the Officer-in-Charge to amend the Monthly Report of Cases submitted to the Statistical Reports Division, Court Management Office.

In a letter[3] dated November 28, 2012, Judge Casalan requested an extension of two (2) months within which to comply with the memoranda, given the number of cases to be resolved in both courts.

On February 18, 2013, the OCA directed anew Judge Casalan to immediately comply with the memoranda, and reminded him that extensions will no longer be granted as the subject cases have been long overdue.

On September 30, 2013, the OCA directed Judge Casalan to explain his failure to submit copies of the decisions with regard to the audit conducted in Branch 13, RTC of Culasi, Antique,

[3] Annex "C", *id.*

with a warning that the matter will be reported to the Court for the filing of appropriate administrative charges should he still fail to abide by the directives of the OCA.

Judge Casalan failed to comply with the OCA directives until he reached the mandatory retirement age of Seventy (70) years old on March 2, 2014.

In its Memorandum dated March 6, 2014, the OCA recommended that Judge Casalan be fined in the amount equivalent to three (3) months' salary at the time of his retirement for undue delay in the disposition of cases and for insubordination, to be deducted from his retirement/gratuity benefits.

The OCA stressed that Judge Casalan's refusal to comply with the repeated directives in its memoranda is a show of disrespect not only to its authority over lower court judges and personnel, but also to the Court's lawful order and directive. It added that he has also been remiss in his duty to dispense justice without delay as required under the Constitution and Canon 6, Section 5 of the New Code of Judicial Conduct which provides that judges shall perform all judicial duties, including the delivery of reserved decisions efficiently, fairly and with reasonable promptness. In particular, the OCA found, thus:

> The judicial audit conducted in his court in Branch 13 showed that Judge Casalan had fifty-three (53) cases submitted for decision, majority of which were already beyond the mandatory period to decide. He also had forty-one (41) cases with pending motions and incidents for resolution that were not resolved and nineteen (19) dormant cases. In Branch 64 where he was the acting presiding judge, four (4) cases were not decided and twenty-one (21) cases with pending motions were not resolved.
>
> A review of the Monthly Report of Cases for the month of December 2013 of Branch 13, RTC, Culasi, Antique, showed that ten (10) out of the fifty-three (53) cases subject of the memorandum were decided. In Branch 64, RTC, Bugasong, the Monthly Report of Cases for September 2013 disclosed that Civil Case Nos. 0192 and 0182 have not yet been decided. Incidentally, Judge Antonio M. Natino of the RTC, Iloilo City, x x x. Iloilo is now the acting presiding judge of Branch 64, RTC, Bugasong, Antique.

The Court has stressed in a plethora of cases that the rules prescribing the time within which certain acts must be done or certain proceedings are mandatory for the orderly and speedy discharge of judicial business. Delay in the disposition of cases deprives the litigants of their right to speedy disposition of their cases and tarnished the image of the judiciary. Similarly, procrastination among members of the judiciary in rendering decisions and taking appropriate actions on the cases before them not only cause great injustice to the parties involved but also invite suspicion of ulterior motives on the part of the judge, in addition to the fact that it erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.

We note that Judge Casalan had, for a time, presided over two (2) courts and was also designated by the Court to hear the inhibited cases in all the RTC branches in San Jose, Antique. However, his designations in other courts will not exonerate him from any administrative liability for delay because Judge Casalan should have requested for an extension of time to decide or asked for his relief to try and decide the inhibited cases in San Jose if he thinks that he could not handle his workload.

Consequently, it is clear that Judge Casalan should be administratively held liable under Section 9(1) and Section 11 (b), Rule 140 of the Rules of Court and Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary for undue delay in rendering a decision or order and for his defiance to comply with the OCA directives. These are considered less serious charges punishable by suspension from office without salary and other benefits for not less than one (1) month, but not more than three (3) months, or a fine of more than ₱10,000.00, but not exceeding ₱20,000.00.

The fine imposed vary in each case, depending chiefly on the number of cases or matter undecided or unresolved, respectively, within the reglementary period and the presence of aggravating or mitigating circumstances. In some cases, fines more than the maximum amount were imposed when the undue delay was coupled with other offenses. x x x

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Considering the number of cases that were left undecided and motions unresolved and the fact that he defied the orders sent to him, the maximum penalty of suspension from office for three (3)

months is in order. However, in view of Judge Casalan's retirement from the service on March 2, 2014, the only penalty that the Court can impose against him is a fine, pursuant to the rule that the retirement of a judge does not release him from liability incurred while in the active service. As such, a penalty of fine equivalent to three (3) months salary at the time of Judge Casalan's retirement should be imposed.[4]

The Court sustains the findings and recommendation of the OCA.

Records disclose the undisputed delay in the disposition of numerous cases assigned to Branches 13 and 64 which was then presided by Judge Casalan, despite the OCA's directives for the immediate resolution of such cases. Despite the grant of his request for a 2-month extension to comply with the directives, he still failed to resolve the pending cases subject of the memoranda dated August 28 and 30, 2012. In fact, as of December 2013, the List of Cases pending before Branch 13 indicates that Twenty (20) civil cases, Seventeen (17) special proceedings, and 17 criminal cases are already deemed submitted for decision but have yet to be decided despite the lapse of the 90-day reglementary period. With respect to Branch 64, the monthly report of September 2013 states that 4 civil cases, 5 special proceedings, and a criminal case are already deemed submitted for decision but are still undecided despite the lapse of the reglementary period. No sufficient justification or valid reason is offered by Judge Casalan for his failure to decide the said cases within the reglementary period. Hence, he should be held administratively liable for such gross inefficiency.

In *Re: Report on the Judicial Audit Conducted in the RTC, Br. 4, Dolores, Eastern Samar*,[5] the Court ruled that:

Section 15, Article VIII of the Constitution states that judges must decide all cases *within three months* from the date of submission. In *Re: Report on the Judicial Audit Conducted at the Municipal Trial Court in Cities (Branch 1), Surigao City*, the Court held that:

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[4] Citations omitted.

[5] 562 Phil. 301 (2007).

> **A judge is mandated to render a decision not more than 90 days from the time a case is submitted for decision. Judges are to** dispose of the court's business promptly and **decide cases within the period specified in the Constitution, that is, 3 months from the filing of the last pleading, brief or memorandum. Failure to observe said rule constitutes a ground for administrative sanction** against the defaulting judge, absent sufficient justification for his noncompliance therewith.

Rule 1.02, Canon 1 of the Code of Judicial Conduct states that judges should administer justice *without delay*. Rule 3.05 of Canon 3 states that judges shall dispose of the court's business *promptly* and decide cases *within the required periods*. In *Office of the Court Administrator v. Javellana*, the Court held that:

> A judge cannot choose his deadline for deciding cases pending before him. Without an extension granted by this Court, the failure to decide even a single case within the required period constitutes gross inefficiency that merits administrative sanction.
>
> **The Code of Judicial Conduct, specifically Canon 3, Rule 3.05 mandates judges to attend promptly to the business of the court and decide cases within the periods prescribed by law and the Rules**. Under the 1987 Constitution, lower court judges are also mandated to decide cases within 90 days from submission.
>
> **Judges must closely adhere to the Code of Judicial Conduct** in order to preserve the integrity, competence and independence of the judiciary and make the administration of justice more efficient. **Time and again, we have stressed the need to strictly observe this duty so as not to negate our efforts to minimize, if not totally eradicate, the twin problems of congestion and delay that have long plagued our courts.**

In *Office of the Court Administrator v. Garcia-Blanco*, the Court held that the 90-day reglementary period is mandatory. Failure to decide cases within the reglementary period constitutes a ground for administrative liability except when there are valid reasons for the delay.[6]

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[6] *Re: Report on the Judicial Audit Conducted in the RTC, Br. 4, Dolores, Eastern Samar, supra*, at 313-314. (Emphasis in the original; citations omitted.)

Concededly, the honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved.[7] "Thus, judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved. There is no excuse for mediocrity in the performance of judicial functions. The position of judge exacts nothing less than faithful observance of the law and the Constitution in the discharge of official duties."[8]

Meanwhile, the OCA duly noted that Judge Casalan's failure to comply with the directives in its memoranda dated August 28 and 30, 2012 also constitutes insubordination and disrespect for the Court's lawful orders and directives. It bears emphasis that judges should treat directives from the OCA as if issued directly by the Court and comply promptly and conscientiously with them since it is through the OCA that the Court exercises its constitutionally-mandated administrative supervision over all courts and the personnel thereof.[9] Unjustified failure to comply with such directives constitutes misconduct and exacerbates administrative liability.[10]

Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of Section 16,[11] Article III of the Constitution. Failure to render decisions and orders within the reglementary period is also a breach of Rule 3.05,[12] Canon 3 of the Code of Judicial Conduct and Section

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[7] *Re: Report on the Judicial Audit conducted in the RTC — Branch 56, Mandaue City*, 658 Phil. 533, 540-541 (2011).

[8] *Id.*, citing *Petallar v. Pullos*, 419 SCRA 434, 438 (2004).

[9] *Office of the Court Administrator v. Judge Bagundang*, 566 Phil. 149, 158 (2008).

[10] *Id.*

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

[12] CANON 3 — A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE

x x x x x x x x x

5,[13] Canon 6 of the New Code of Judicial Conduct. Classified as less serious charges under Section 9,[14] Rule 140 of the Rules of Court,[15] undue delay in rendering decision or order, and violation of Supreme Court rules, directives and circulars, are penalized with either suspension without pay for a period of not less than One (1) month, but not more than Three (3) months, or a fine of more than ₱10,000.00, but not more than ₱20,000.00.[16]

In light of the numerous "submitted for decision" cases that Judge Casalan left undecided within the reglementary period, and the fact that he failed to comply with the directives in the OCA's memoranda without valid reason despite the grant of his request for a 2-month extension, the Court upholds the maximum penalty it recommended, *i.e.*, a fine in the amount equivalent to Three (3) months' salary at the time of his retirement, to be deducted from his retirement/gratuity benefits.

Rule 3.05 — A judge shall dispose of the court's business promptly and decide cases within the required periods.

[13] CANON 6 — COMPETENCE AND DILIGENCE

x x x x x x x x x

Section 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

[14] Section 9. *Less Serious Charges*. — Less serious charges include:

1. Undue delay in rendering decision or order, or in transmitting records of a case;

x x x x x x x x x

4. Violation of Supreme Court rules, directives, and circulars;

x x x x x x x x x

[15] As amended.

[16] Rule 140 of the Rules of Court, Section 11. *Sanctions*. —

x x x x x x x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. Suspension from office without salary and other benefits for not less than one (1) month no more than three (3) months; or

2. A fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

WHEREFORE, the Court finds Judge Romeo B. Casalan of the Regional Trial Court of Culasi, Antique, Branch 13, **GUILTY** of the less serious charges of **undue delay in rendering decision or order** and of **violation of Supreme Court rules and directives**, under Section 9, Rule 140 of the Rules of Court. Pursuant to Section 11 of the same Rule, he is **ORDERED** to pay a **FINE** in the amount equivalent to Three (3) months' salary at the time of his retirement for undue delay in the disposition of cases and for insubordination, to be deducted from his retirement/gratuity benefits.

SO ORDERED.

Velasco, Jr. (Chairperson), Perez, Reyes, and *Jardeleza, JJ.*, concur.

SECOND DIVISION

[G.R. No. 167679. April 20, 2016]

ING BANK N.V., engaged in banking operations in the Philippines as ING BANK N.V. MANILA BRANCH, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. TAXATION; REPUBLIC ACT NO. 9480 (THE TAX AMNESTY PROGRAM); PROVIDES A GENERAL GRANT OF TAX AMNESTY; EXCEPTIONS; THE LAW COVERS ALL INTERNAL REVENUE TAXES WHICH INCLUDE DOCUMENTARY STAMP TAX.— "The [documentary stamp tax] is one of the taxes covered by the Tax Amnesty Program under [Republic Act No.] 9480." The law expressly covers "*all national internal revenue taxes for the taxable year 2005 and prior years* … that have remained unpaid as of December 31, 2005[.]" The

documentary stamp tax is considered a national internal revenue tax under Section 21 of Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997. Republic Act No. 9480 provides a general grant of tax amnesty subject only to the cases *specifically* excepted by it. Thus, excluded from the tax amnesty are only those cases enumerated under Section 8 x x x. The same exceptions were reiterated in Department of Finance Order No. 29-07, otherwise known as the Rule and Regulations to Implement Republic Act No. 9480.

2. ID.; ID.; ID.; ID.; A TAXPAYER WHO IS DEEMED TO BE A WITHHOLDING OR COLLECTING AGENT OF THE TAX COLLECTED FROM ITS CUSTOMERS IS EXCLUDED FROM THE COVERAGE OF THE TAX AMNESTY, WITH RESPECT TO ITS LIABILITY AS A WITHHOLDING OR COLLECTING AGENT.— One of the exceptions provided under Section 8 of Republic Act No. 9480 is "[w]ithholding agents with respect to their withholding tax liabilities[.]" Withholding tax is merely a method of collecting income tax in advance. The perceived tax is collected at the source of income payment to ensure collection. "In the operation of the withholding tax system, the [income] payee is the taxpayer, the person on whom the tax is imposed, while the [income] payor, a separate entity, acts no more than an agent of the government for the collection of the tax in order to ensure its payment." "In other words, the withholding agent is merely a tax collector, not a taxpayer." In *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, this Court ruled that "the liability of the withholding agents is independent from that of the taxpayer." x x x To be sustainable, therefore, the added exception "taxes passed-on and collected from customers for remittance to the [Bureau of Internal Revenue]" provided in Revenue Memorandum Circular Nos. 69-2007 and 19-2008 must be essentially equivalent to the withholding tax liabilities of a withholding agent. Thus, a taxpayer who is deemed to be a "withholding or collecting agent" of "the tax collected from [its] customer" is excluded from the coverage of the tax amnesty, with respect to its liability as a withholding or collecting agent.

3. ID.; REPUBLIC ACT NO. 8424 (THE NATIONAL INTERNAL REVENUE CODE OF 1997): DOCUMENTARY STAMP TAX; DEFINED; ANY OF THE PARTIES TO A TRANSACTION SHALL BE LIABLE FOR THE FULL AMOUNT OF THE

DOCUMENTARY STAMP TAX DUE, UNLESS THEY AGREE AMONG THEMSELVES ON WHO SHALL BE LIABLE FOR THE SAME.— A documentary stamp tax is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale, or transfer of an obligation, right, or property. The tax is "levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments." The law taxes the document because of the transaction. Under Section 173 of the 1997 National Internal Revenue Code, the documentary stamp tax due is paid by the person "making, signing, issuing, accepting, or transferring" the instrument. Revenue Regulations No. 9-2000 clarifies that all parties to a transaction, and not only the person making, signing, issuing, accepting, or transferring the document, are primarily liable for the documentary stamp tax. "As a general rule, x x x any of the parties to a transaction shall be liable for the full amount of the documentary stamp tax due, unless they agree among themselves on who shall be liable for the same."

4. ID.; ID.; ID.; CERTIFICATE OF DEPOSIT, DEFINED; THE MAKER OR ISSUER OF A CERTIFICATE OF DEPOSIT IS DIRECTLY LIABLE FOR THE DOCUMENTARY STAMP TAX.— This Court has previously declared a special savings account or special savings deposit account to be a certificate of deposit drawing interest subject to the documentary stamp tax. A certificate of deposit is "a written acknowledgment by a bank of the receipt of a sum of money on deposit which the bank promises to pay to the depositor, to the order of the depositor, or to some other person or his order, whereby the relation of debtor or creditor between the bank and the depositor is created." Petitioner is directly liable for the documentary stamp tax as the maker and issuer of the instrument or any written memorandum evidencing the special savings account transaction. As a party to a taxable transaction, petitioner is responsible for the payment and remittance of the documentary stamp tax. However, if petitioner were exempt from the tax, it should be required to remit the same only as a collecting agent of respondent. In this case, there is no proof that petitioner is exempt from the documentary stamp tax on the special savings accounts. Neither is there any agreement/evidence on record showing the party liable for the documentary stamp tax due on the accounts. We cannot simply give credence to respondent's

unsubstantiated allegation that petitioner passed on and collected the documentary stamp taxes on special savings account from its clients. Bare allegations do not constitute substantial evidence and, thus, have no probative value.

APPEARANCES OF COUNSEL

Tan Acut & Lopez for petitioner.
Rowell B. Vicente for respondent.

R E S O L U T I O N

LEONEN, *J.*:

For resolution is respondent Commissioner of Internal Revenue's Motion for Partial Reconsideration[1] of our Decision[2] dated July 22, 2015, which partly granted the Rule 45 Petition of ING Bank N.V. Manila Branch.[3] We set aside the assessments for deficiency documentary stamp taxes on petitioner's special savings accounts for the taxable years 1996 and 1997 and deficiency tax on onshore interest income for taxable year 1996 "in view of [its] availment of the tax amnesty program under Republic Act No. 9480."[4] However, we affirmed the Court of Tax Appeals En Banc's April 5, 2005 Decision holding petitioner "liable for deficiency withholding tax on compensation for the taxable years 1996 and 1997 in the total amount of ₱564,542.67 inclusive of interest[.]"[5]

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[1] *Rollo*, pp. 957-964. The Motion was received by this Court on September 18, 2015.

[2] *Id.* at 918-943; *ING Bank N.V. v. Commissioner of Internal Revenue*, G.R. No. 167679, July 22, 2015 <http://sc judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/july2015/167679.pdf> [Per *J.* Leonen, Second Division].

[3] *Rollo*, p. 942, Supreme Court Decision; *ING Bank N.V. v. Commissioner of Internal Revenue*, G.R. No. 167679, July 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/july2015/167679.pdf> 25 [Per *J.* Leonen, Second Division].

[4] *Id.*

[5] *Id.*

Petitioner filed its Opposition.[6]

The sole issue raised in the Motion for Partial Reconsideration is whether documentary stamp taxes are excluded from the tax amnesty granted by Republic Act No. 9480.[7]

Earlier, respondent argued that petitioner could not avail itself of the tax amnesty under Republic Act No. 9480[8] because both the Court of Tax Appeals En Banc and Second Division ruled in respondent's favor and confirmed the liability of petitioner for deficiency documentary stamp taxes, onshore taxes, and withholding taxes.[9] Respondent contended that the Bureau of Internal Revenue's Revenue Memorandum Circular No. 19-2008[10] specifically excludes "cases which were ruled by any court (even without finality) in favor of the [Bureau of Internal Revenue] prior to amnesty availment of the taxpayer" from the coverage of the tax amnesty under Republic Act No. 9480.[11]

In our Decision dated July 22, 2015, we found respondent's argument untenable. We held that "[t]axpayers with pending tax cases may avail [themselves] . . . of the tax amnesty program[.]"[12] We also held that Revenue Memorandum Circular No. 19-2008 cannot override Republic Act No. 9480 and its Implementing Rules

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[6] *Rollo*, pp. 986-995.

[7] *Id.* at 958.

[8] An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years (2007).

[9] *Rollo*, pp. 876-879, Comment.

[10] Circularizing the Full Text of "*A Basic Guide on the Tax Amnesty Act of 2007"* for Taxpayers Who Wish to Avail of the Tax Amnesty Pursuant to Republic Act No. 9480 (2008).

[11] *Rollo*, pp. 877-878.

[12] *Id.* at 926, Supreme Court Decision; *ING Bank N.V. v. Commissioner of Internal Revenue*, G.R. No. 167679, July 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/july2015/167679.pdf> 9 [Per *J.* Leonen, Second Division].

and Regulations, which only exclude from tax amnesty "tax cases subject of final and executory judgment by the courts."[13]

In its present Motion for Partial Reconsideration, respondent argues for the first time that the documentary stamp taxes on petitioner's special savings accounts for taxable years 1996 and 1997 are not covered by Republic Act No. 9480, pursuant to Q-1 of Revenue Memorandum Circular Nos. 69-2007[14] and 19-2008.[15] This time, respondent claims that the revenue memorandum circulars exclude documentary stamp taxes for being "[t]axes passed-on and collected from customers for remittance to the [Bureau of Internal Revenue] [.]"[16]

The pertinent provisions of the revenue memorandum circulars are as follows:

REVENUE MEMORANDUM CIRCULAR NO. 69-2007

. . . . . .

Q-1 What type of taxes and what taxable period/s are covered by the Tax Amnesty Program under RA 9480 as implemented by DO 29-07?

A-1 The Tax Amnesty Program (TAP) covers all national internal revenue taxes such as income tax, estate tax, donor's tax and capital gains tax, value added tax, other percentage taxes, excise taxes and documentary stamp taxes, except withholding taxes ***and taxes passed-on and already collected from the customers for remittance to the BIR, these taxes/funds being considered as funds held in trust for the government***. Moreover, the time-honored doctrine that *"No person shall unjustly enrich himself at the expense of another"* should always be observed. (Emphasis supplied)

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[13] *Rollo*, p. 927, Supreme Court Decision; *ING Bank N.V. v. Commissioner of Internal Revenue*, G.R. No. 167679, July 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/july2015/167679.pdf> 10 [Per *J.* Leonen, Second Division].

[14] Clarification of Issues Concerning the Tax Amnesty Program Under Republic Act No. 9480 as Implemented by Department Order No. 29-07 (2007).

[15] *Rollo*, pp. 958-959, Motion for Partial Reconsideration.

[16] *Id.* at 960-961.

REVENUE MEMORANDUM CIRCULAR NO. 19-2008

. . . . . .

Who may avail of the amnesty?

The following taxpayers may avail of the Tax Amnesty Program:

- ✓ Individuals
- ✓ Estates and Trusts
- ✓ Corporations
- ✓ Cooperatives and tax-exempt entities that have become taxable as of December 31, 2005
- ✓ Other juridical entities including partnerships.
  - ➢ Fiscal year taxpayers may likewise avail of the tax amnesty using their Financial Statement ending in any month of 2005.

EXCEPT:

- ☒ Withholding agents with respect to their withholding tax liabilities
- ☒ Those with pending cases:
  - Under the jurisdiction of the PCGG
  - Involving violations of the Anti-Graft and Corrupt Practices Act
  - Involving violations of the Anti-Money Laundering Law
  - For tax evasion and other criminal offenses under the NIRC and/or the RPC
- ☒ Issues and cases which were ruled by any court (even without finality) in favor of the BIR prior to amnesty availment of the taxpayer. (e.g., Taxpayers who have failed to observe or follow BOI and/or PEZA rules on entitlement to Income Tax Holiday Incentives and other incentives)
- ☒ Cases involving issues ruled with finality by the Supreme Court prior to the effectivity of RA 9480 (e.g., DST on Special Savings Account)
- ☒ ***Taxes passed on and collected from customers for remittance to the BIR***
- ☒ Delinquent Accounts/Accounts Receivable considered as assets of the BIR/Government, including self-assessed tax. (Emphasis supplied)

Respondent contends that the ruling in *Metropolitan Bank and Trust Company v. Commissioner of Internal Revenue*,[17] to the effect that documentary stamp tax is not among the taxes excluded from the coverage of Republic Act No. 9480, must be revisited.[18]

On the other hand, petitioner avers that respondent's position on the exclusion of documentary stamp taxes from the coverage of Republic Act No. 9480 is nothing but a "disguised variant"[19] of her previous argument, which was rejected by this Court.[20] Petitioner directs respondent's attention to previous rulings of this Court holding that "administrative issuances, such [as revenue memorandum circulars], cannot amend or modify the law."[21] It argues that "[r]espondent, through mere administrative issuances, cannot impose additional requirements and conditions which would remove taxpayers who are otherwise qualified to avail themselves of the tax amnesty[.]"[22]

Finally, petitioner faults respondent for misleading this Court by falsely asserting that it collected documentary stamp taxes from its clients. Allegedly, there is nothing in the records to support such claim.[23] Petitioner argues that on the contrary, the assessment for deficiency taxes arose from respondent's failure to collect and remit the documentary stamp taxes on its special savings accounts, because at that time, there was yet no conclusive ruling on whether these accounts were subject to documentary stamp taxes under Section 180[24] of the 1977 National Internal Revenue Code.[25]

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[17] 612 Phil. 544 (2009) [Per *J.* Chico-Nazario, Third Division].

[18] *Rollo*, pp. 958-959, Motion for Partial Reconsideration.

[19] *Id.* at 990, Opposition.

[20] *Id.*

[21] *Id.* at 991.

[22] *Id.* at 993.

[23] *Id.*

[24] 1977 TAX CODE, Sec. 180, as amended by Rep. Act No. 7660 (1993), Sec. 7, provides:

SEC. 180. Stamp tax on all loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the government or any of its instrumentalities, certificates of deposit bearing interest and others not

We deny the Motion for Partial Reconsideration.

I

"The [documentary stamp tax] is one of the taxes covered by the Tax Amnesty Program under [Republic Act No.] 9480."[26] The law expressly covers "*all national internal revenue taxes for the taxable year 2005 and prior years . . .* that have remained unpaid as of December 31, 2005[.]"[27] The documentary stamp tax is considered a national internal revenue tax under Section 21[28] of Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997.

Republic Act No. 9480 provides a general grant of tax amnesty subject only to the cases *specifically* excepted by it. Thus, excluded from the tax amnesty are only those cases enumerated under Section 8:

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payable on sight or demand. — On all loan agreements signed abroad wherein the object of the contract is located or used in the Philippines; bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities or certificates of deposits drawing interest, or orders for the payment of any sum of money otherwise than at sight or on demand, or on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (₱0.30) on each two hundred pesos, or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: *Provided*, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan, whichever will yield a higher tax: *Provided, however*, That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (₱250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this section.

[25] *Rollo*, pp. 993-994, Opposition.

[26] *Philippine Banking Corporation v. Commissioner of Internal Revenue*, 597 Phil. 363, 388 (2009) [Per *J.* Carpio, First Division].

[27] Rep. Act No. 9480 (2007), Sec. 1.

[28] TAX CODE, Sec. 21 provides:

SEC. 21. Sources of Revenue. — The following taxes, fees and charges are deemed to be national internal revenue taxes:

SEC. 8. *Exceptions*. — The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

a. Withholding agents with respect to their withholding tax liabilities;

b. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;

c. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;

d. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;

e. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and

f. Tax cases subject of final and executory judgment by the courts.

The same exceptions were reiterated in Department of Finance Order No. 29-07, otherwise known as the Rules and Regulations to Implement Republic Act No. 9480.

Respondent claims that petitioner's liability for deficiency documentary stamp taxes is excluded from the tax amnesty program because documentary stamp taxes are "[t]axes passed-on and

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(a) Income tax;

(b) Estate and donor's taxes;

(c) Value-added tax;

(d) Other percentage taxes;

(e) Excise taxes;

(f) Documentary stamp taxes; and

(g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

collected from customers for remittance to the [Bureau of Internal Revenue][,]" pursuant to Revenue Memorandum Circular Nos. 69-2007 and 19-2008.[29]

This Court has previously held that administrative issuances such as revenue memorandum circulars cannot amend nor modify the law.

In *Philippine Bank of Communications v. Commissioner of Internal Revenue*,[30] this Court upheld the nullification of Revenue Memorandum Circular No. 7-85 issued by the Acting Commissioner of Internal Revenue because it was not in harmony with, or was contrary to, the express provision of Section 230 of 1977 National Internal Revenue Code. Hence, the circular cannot be given weight for to do so would, in effect, amend the statute.[31] This Court emphasized:

> It bears repeating that Revenue memorandum-circulars are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement.[32] (Citations omitted)

In *Commissioner of Internal Revenue v. Court of Appeals, et al.*,[33] another case involving tax amnesty:

> The authority of the Minister of Finance (now the Secretary of Finance), in conjunction with the Commissioner of Internal Revenue, to promulgate all needful rules and regulations for the effective

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[29] *Rollo*, pp. 960-961, Motion for Partial Reconsideration.

[30] 361 Phil. 916 (1999) [Per *J.* Quisumbing, Second Division].

[31] *Id.* at 926-928.

[32] *Id.* at 928-929.

[33] 310 Phil. 392 (1995) [Per *J.* Vitug, Third Division].

enforcement of internal revenue laws cannot be controverted. Neither can it be disputed that such rules and regulations, as well as administrative opinions and rulings, ordinarily should deserve weight and respect by the courts. *Much more fundamental than either of the above, however, is that all such issuances must not override, but must remain consistent and in harmony with, the law they seek to apply and implement. Administrative rules and regulations are intended to carry out, neither to supplant nor to modify, the law.*[34] (Emphasis supplied)

In that case, the Commissioner of Internal Revenue refused to cancel its assessment of deficiency income and business taxes against the taxpayer.[35] The Commissioner argued that "Revenue Memorandum Order No. 4-87 . . . implementing Executive Order No. 41, had construed the amnesty coverage to include only assessments issued by the Bureau of Internal Revenue after the promulgation of the executive order on 22 August 1986 and not to assessments theretofore made."[36] This Court rejected the Commissioner's claim and ruled that if "Executive Order No. 41 had not been intended to include 1981-1985 tax liabilities already assessed (administratively) prior to 22 August 1986, the law could have simply so provided in its exclusionary clauses."[37]

Similarly, in *CS Garment, Inc. v. Commissioner of Internal Revenue*,[38] this Court struck down as exception "[i]ssues and cases which were ruled by any court (even without finality) in favor of the [Bureau of Internal Revenue] prior to amnesty availment of the taxpayer" under the Bureau's Revenue Memorandum Circular No. 19-2008, for going beyond the scope of the provisions of the 2007 Tax Amnesty Law.[39]

One of the exceptions provided under Section 8 of Republic Act No. 9480 is "[w]ithholding agents with respect to their withholding tax liabilities[.]"

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[34] *Id.* at 397.

[35] *Id.* at 394.

[36] *Id.*

[37] *Id.* at 399.

[38] G.R. No. 182399, March 12, 2014, 718 SCRA 614 [Per *C.J.* Sereno, First Division].

[39] *Id.* at 633-634.

Withholding tax is merely a method of collecting income tax in advance. The perceived tax is collected at the source of income payment to ensure collection. "In the operation of the withholding tax system, the [income] payee is the taxpayer, the person on whom the tax is imposed, while the [income] payor, a separate entity, acts no more than an agent of the government for the collection of the tax in order to ensure its payment."[40] "In other words, the withholding agent is merely a tax collector, not a taxpayer."[41]

In *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*,[42] this Court ruled that "the liability of the withholding agent is independent from that of the taxpayer."[43] Further:

> The [withholding agent] cannot be made liable for the tax due because it is the [taxpayer] who earned the income subject to withholding tax. The withholding agent is liable only insofar as he failed to perform his duty to withhold the tax and remit the same to the government. The liability for the tax, however, remains with the taxpayer because the gain was realized and received by him.[44]

Parenthetically, withholding tax is different from indirect tax. In *Asia International Auctioneers, Inc. v. Commissioner of Internal Revenue*:[45]

> Indirect taxes, like VAT and excise tax, are different from withholding taxes. To distinguish, in indirect taxes, the incidence of taxation falls on one person but the burden thereof can be shifted or passed on to another person, such as when the tax is imposed upon goods before reaching the consumer who ultimately pays for it. On the other hand, in case of withholding taxes, the incidence and burden of taxation fall on

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[40] *Bank of America NT & SA v. Court of Appeals*, G.R. No. 103092, July 21, 1994, 234 SCRA 302, 310 [Per *J.* Vitug, Third Division].

[41] *Commissioner of Internal Revenue v. Court of Appeals*, 361 Phil. 103, 117 (1999) [Per *J.* Martinez, First Division].

[42] 672 Phil. 514 (2011) [Per *J.* Mendoza, Third Division].

[43] *Id.* at 529.

[44] *Id.*

[45] 695 Phil. 852 (2012) [Per *J.* Perlas-Bernabe, Second Division].

the same entity, the statutory taxpayer. The burden of taxation is not shifted to the withholding agent who merely collects, by withholding, the tax due from income payments to entities arising from certain transactions and remits the same to the government. Due to this difference, the deficiency VAT and excise tax cannot be "deemed" as withholding taxes merely because they constitute indirect taxes.[46] (Citations omitted)

To be sustainable, therefore, the added exception "taxes passed-on and collected from customers for remittance to the [Bureau of Internal Revenue]" provided in Revenue Memorandum Circular Nos. 69-2007 and 19-2008 must be essentially equivalent to the withholding tax liabilities of a withholding agent. Thus, a taxpayer who is deemed to be a "withholding or collecting agent" of "the tax collected from [its] customer" is excluded from the coverage of the tax amnesty, with respect to its liability as a withholding or collecting agent.

II

Documentary stamp taxes on special savings accounts are direct liabilities of petitioner and not simply "[t]axes passed-on and collected from customers for remittance to the [Bureau of Internal Revenue]" as argued by respondent.

A documentary stamp tax is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale, or transfer of an obligation, right, or property.[47] The tax is

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[46] *Id.* at 859-860.

[47] TAX CODE, Sec. 173 provides:

SEC. 173. Stamp Taxes Upon Documents, Loan Agreements, Instruments and Papers. — Upon documents, instruments, loan agreements and papers, and upon acceptances, assignments, sales and transfers of the obligation, right or property incident thereto, there shall be levied, collected and paid for, and in respect of the transaction so had or accomplished, the corresponding documentary stamp taxes prescribed in the following Sections of this Title, by the person making, signing, issuing, accepting, or transferring the same wherever the document is made, signed, issued, accepted or transferred when the obligation or right arises from Philippine sources or the property is situated in the Philippines, and the same time such act is done or transaction had: Provided, That whenever one party to the taxable document enjoys exemption from the

"levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments."[48] The law taxes the document because of the transaction.

Under Section 173 of the 1997 National Internal Revenue Code, the documentary stamp tax due is paid by the person "making, signing, issuing, accepting, or transferring" the instrument.

Revenue Regulations No. 9-2000[49] clarifies that all parties to a transaction, and not only the person making, signing, issuing, accepting, or transferring the document, are primarily liable for the documentary stamp tax. It provides:

SEC. 2. Nature of the Documentary Stamp Tax and Persons Liable for the Tax. —

(a) *In General* — The documentary stamp taxes under Title VII of the Code is a tax on certain transactions. It is imposed against "the person making, signing, issuing, accepting, or transferring" the document or facility evidencing the aforesaid transactions. Thus, in general, it may be imposed on the transaction itself or upon the document underlying such act. *Any of the parties thereto shall be liable for the full amount of the tax due:* Provided, however, that as between themselves, the said parties may agree on who shall be liable or how they may share on the cost of the tax.

(b) *Exception* — Whenever one of the parties to the taxable transaction is exempt from the tax imposed under Title VII of the Code, the other party thereto who is not exempt shall be the one directly liable for the tax. (Emphasis supplied)

"As a general rule, therefore, any of the parties to a transaction shall be liable for the full amount of the documentary stamp tax

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tax herein imposed, the other party who is not exempt shall be the one directly liable for the tax.

[48] *International Exchange Bank v. Commissioner of Internal Revenue*, 549 Phil. 456, 467 (2007) [Per *J.* Carpio-Morales, Second Division], citing *Philippine Home Assurance Corporation v. Court of Appeals*, 361 Phil. 368, 372-373 (1999) [Per *J.* Mendoza, Second Division].

[49] Mode of Payment and/or Remittance of the Documentary Stamp Tax (DST) Under Certain Conditions (2000).

due, unless they agree among themselves on who shall be liable for the same."[50]

Section 3 of Revenue Regulations No. 9-2000 further prescribes the mode of payment and remittance of the documentary stamp tax:

SEC. 3. **Mode of Payment and Remittance of the Tax. —**

(a) *In general* — Unless otherwise provided in these Regulations, any of the aforesaid *parties to the taxable transaction shall pay and remit* the full amount of the tax in accordance with the provisions of Section 200 of the Code.

(b) *Exceptions* —

(1) *If one of the parties to the taxable transaction is exempt* from the tax, the other party who is not exempt shall be the one directly liable for the tax, in which case, the *tax shall be paid and remitted by the said non-exempt party*, unless otherwise provided in these Regulations.

(2) *If the said tax-exempt party is one of the persons enumerated in Section 3(c)(4) hereof, he shall be constituted as agent of the Commissioner for the collection of the tax*, in which case, he shall remit the tax so collected in the same manner and in accordance with the provisions of Section 200 of the Code: Provided, however, that if he fails to collect and remit the same as herein required, he shall be treated personally liable for the tax, in addition to the penalties prescribed under Title X of the Code for failure to pay the tax on time.

(3) The said tax-exempt party, who is constituted as agent for the collection of the tax, shall issue an acknowledged receipt in respect of the documentary stamp tax so collected from the aforesaid another party and the same shall be remitted in accordance with the provisions of these Regulations.

(c) *Person liable to remit the DST* — In general, the full amount of the tax imposed under Title VII of the Code may be remitted by any of the party or parties to the taxable transaction, except in the following cases:

(1) *Stamp tax on bonds, debentures, certificates of indebtedness, deposit substitute, or other similar instruments* — The tax shall be

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[50] *Republic v. Soriano*, G.R. No. 211666, February 25, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/211666.pdf> 11 [Per *J.* Peralta, Third Division].

remitted by the person who issued the instrument (e.g., "X" CORPORATION borrowed funds from the public though the issuance and sale of its interest-bearing Bonds. In this case, the stamp tax due thereon shall be remitted by "X" CORPORATION.)

. . . . . .

(4) When one of the parties to the taxable document or transaction is included in any of the entities enumerated below, such *entity shall be responsible for the remittance of the stamp tax* prescribed under Title VII of the Code: Provided, however, that *if such entity is exempt* from the tax herein imposed, it shall *remit the tax as a collecting agent*, pursuant to the preceding paragraph 3 (b) (2) hereof, any provision of these Regulations to the contrary notwithstanding:

(a) A *bank*, a quasi-bank or non-bank financial intermediary, a finance company, or an insurance, a surety, a fidelity, or annuity company[.] (Emphases supplied)

This Court has previously declared a special savings account or special savings deposit account to be a certificate of deposit drawing interest subject to the documentary stamp tax.[51] A certificate of deposit is "a written acknowledgment by a bank of the receipt of a sum of money on deposit which the bank promises to pay to the depositor, to the order of the depositor, or to some other person or

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[51] *Philippine Banking Corporation v. Commissioner of Internal Revenue*, 597 Phil. 363, 379-382 (2009) [Per *J.* Carpio, First Division]. These products as well as the Savings Plus Deposit Account in *China Banking Corporation v. Commissioner of Internal Revenue* (617 Phil. 522, 539 (2009) [Per *J.* Peralta, Third Division]), the Savings Account-Fixed Savings Deposit in *International Exchange Bank v. Commissioner of Internal Revenue* (549 Phil. 456, 463-466 (2007) [Per *J.* Carpio-Morales, Second Division]), and Savings Account Plus in *Prudential Bank v. Commissioner of Internal Revenue* (670 Phil. 339, 347-349 (2011) [Per *J.* Del Castillo, First Division]) were all essentially the same and considered as deposit drawing interest subject to documentary stamp tax. They all possess the following features:

(1) Amount deposited is withdrawable anytime;

(2) The same is evidenced by a passbook;

(3) The rate of interest offered is the prevailing market rate, provided the depositor would maintain his minimum balance within a certain period, and should he withdraw before the period, his deposit would earn the regular savings deposit rate.

his order, whereby the relation of debtor or creditor between the bank and the depositor is created."[52]

Petitioner is directly liable for the documentary stamp tax as the maker and issuer of the instrument or any written memorandum evidencing the special savings account transaction.

As a party to a taxable transaction, petitioner is responsible for the payment and remittance of the documentary stamp tax. However, if petitioner were exempt from the tax, it should be required to remit the same only as a collecting agent of respondent.

In this case, there is no proof that petitioner is exempt from the documentary stamp tax on the special savings accounts. Neither is there any agreement/evidence on record showing the party liable for the documentary stamp tax due on the accounts. We cannot simply give credence to respondent's unsubstantiated allegation that petitioner passed on and collected the documentary stamp taxes on special savings accounts from its clients. Bare allegations do not constitute substantial evidence and, thus, have no probative value.

WHEREFORE, the Motion for Partial Reconsideration is **DENIED WITH FINALITY.**

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Mendoza, JJ.,* concur.

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[52] *Id.* at 382, citing *Far East Bank and Trust Company v. Querimit*, 424 Phil. 721, 730 (2002) [Per *J.* Mendoza, Second Division].

SPECIAL THIRD DIVISION

[G.R. No. 167838. April 20, 2016]

JOSE V. TOLEDO, GLENN PADIERNOS AND DANILO PADIERNOS, *petitioners, vs.* **COURT OF APPEALS, LOURDES RAMOS, ENRIQUE RAMOS, ANTONIO RAMOS, MILAGROS RAMOS AND ANGELITA RAMOS AS HEIRS OF SOCORRO RAMOS, GUILLERMO PABLO, PRIMITIVA CRUZ AND A.R.C. MARKETING CORPORATION, REPRESENTED BY ITS PRESIDENT, ALBERTO C. DY,** *respondents.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW UNDER RULE 45; A FACTUAL ISSUE CANNOT BE RESOLVED THEREIN; CASE AT BAR.— In addition to resolving the matter of the dismissal of Civil Case No. Q-97-30738, the Court, to prevent undue hardship on the parties and on the basis of the records before it, did decide the issue of ownership of the disputed property. On reconsideration, however, we agree that the issue of whether ARC Marketing is a buyer in good faith involves a factual issue the determination of which cannot be made by the Court in a petition for review filed under Rule 45. While the foregoing rule admits of certain exceptions, none appears to be invoked in this case.

APPEARANCES OF COUNSEL

Pacifico C. Yadao for petitioners.

Rico Bolongaita for respondent A.R.C. Marketing Corporation.

Emmanuel P. Pasal for respondent A. Ramos.

R E S O L U T I O N

JARDELEZA, *J.*:

On August 5, 2015, the Court rendered a Decision granting petitioners Jose Toledo, Glenn Padiernos and Danilo Padiernos' petition for review on certiorari. The dispositive portion of the Decision reads:

> **WHEREFORE**, we **GRANT** the petition and **SET ASIDE** the assailed *Decision* and *Resolution* of the Court of Appeals dated October 22, 2004 and April 13, 2005, respectively, in CA G.R. SP No. 73670. Judgment is hereby rendered declaring petitioners the owners of Lot 4, Block 2, Ilang-Ilang Street, Sunrise Hills Subdivision, Quezon City presently covered by Transfer Certificate of Title [TCT] No. RT-17876 (242918). The Register of Deeds of Quezon City is hereby ordered to:
>
> (a) **CANCEL** TCT No. RT-17876 (242918) in the name of ARC Marketing Corporation; and
>
> (b) **ISSUE** a Transfer Certificate of Title in the name of petitioners Jose V. Toledo, Glenn Padiernos and Danilo Padiernos.
>
> **SO ORDERED.**[1]

On October 1, 2015, a motion was filed seeking for the reconsideration of this Court's Decision.[2] Since this case involved a determination of the correctness of the trial court's Order dated June 17, 2002 granting its motion to dismiss Civil Case No. Q-97-30738,[3] respondent ARC Marketing Corporation (ARC Marketing) posits that a reversal of such grant would consequently cause only a remand of the case to the court of origin.[4]

Indeed, in addition to resolving the matter of the dismissal of Civil Case No. Q-97-30738, the Court, to prevent undue hardship on the parties and on the basis of the records before

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[1] *Rollo*, pp. 1029-1030.

[2] *Id.* at 1033-1040.

[3] *Id.* at 1016-1017.

[4] *Id.* at 1034.

it, did decide the issue of ownership of the disputed property. [5] On reconsideration, however, we agree that the issue of whether ARC Marketing is a buyer in good faith involves a factual issue the determination of which cannot be made by the Court in a petition for review filed under Rule 45.[6] While the foregoing rule admits of certain exceptions,[7] none appears to be invoked in this case. Thus, ARC Marketing's motion is **GRANTED** and the case is remanded to the court of origin for trial on the merits, where the concerned parties may present evidence to prove their respective claims and defenses. Accordingly, the dispositive portion of the Decision is **MODIFIED** as follows:

WHEREFORE, we **GRANT** the petition and **SET ASIDE** the assailed Decision and Resolution of the Court of Appeals dated October 22, 2004 and April 13, 2005, respectively, in CA G.R. SP No. 73670. Civil Case No. Q-97-30738 is **REMANDED** to the court of origin which is **DIRECTED** to resolve the case with dispatch.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Reyes, and *Perez, JJ.*, concur.

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[5] Decision, *id.* at 1024.

[6] *Rotairo v. Alcantara*, G.R. No. 173632, September 29, 2014, 736 SCRA 584, 591 citing *Peralta v. Heirs of Bernardina Abalon*, G.R. Nos. 183448 & 183464, June 30, 2014, 727 SCRA 477, 500.

[7] *Peralta v. Heirs of Bernardina Abalon*, G.R. Nos. 183448 & 183464, June 30, 2014, 727 SCRA 477, 500-501.

SECOND DIVISION

[G.R. No. 172593. April 20, 2016]

NAPOLEON S. RONQUILLO, JR., EDNA G. RAÑA, ROMEO REFRUTO, PONCIANO T. ANTEGRO, *et al.*, *petitioners, vs.* **NATIONAL ELECTRIFICATION ADMINISTRATION, EDITA S. BUENO, MARIANO T. CUENCO, and DIANA M. SAN LUIS,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES; INAPPLICABLE WHEN THE ISSUE INVOLVES A QUESTION OF LAW; QUESTION OF LAW AND QUESTION OF FACT, DISTINGUISHED.— The doctrine of exhaustion of administrative remedies does not apply when the issue deals with a question of law x x x. Issues dealing with the interpretation of law solely involve a question of law. A question of law exists when the law applicable to a particular set of facts is not settled, whereas a question of fact arises when the truth or falsehood of alleged facts is in doubt. The case involves a question of law, specifically, whether Republic Act No. 6758 and the re-issuance and publication of the Department of Budget and Management's Corporate Compensation Circular No. 10 entitle petitioners to the back pay of the COLA.

2. ID.; STATUTES; REPUBLIC ACT NO. 6758 (THE COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989); RULE ON INTEGRATION; ALL ALLOWANCES ARE GENERALLY INTEGRATED IN THE GOVERNMENT EMPLOYEE'S STANDARDIZED SALARY; EXCEPTIONS.— Section 12 of Republic Act No. 6758 states the general rule on integration. That is to say, all allowances are generally integrated into the government employee's standardized salary rates x x x. By exception, Section 12 provides for seven (7) types of allowances that do not form part of basic pay, or non-integrated allowances. All other allowances, save for these items, are deemed included in the government employee's standardized salary. These are as follows. "(1) representation and transportation allowances (RATA);

(2) clothing and laundry allowances; (3) subsistence allowance of marine officers and crew on board government vessels; (4) subsistence allowance of hospital personnel; (5) hazard pay; (6) allowances of foreign service personnel stationed abroad; and (7) such other additional compensation not otherwise specified in Section 12 as may be determined by the [Department of Budget and Management]."

3. ID.; ID.; ID.; ID.; ID.; BELONG TO THE CATEGORY OF ALLOWANCES WHICH ARE USUALLY GRANTED TO OFFICIALS OR EMPLOYEES TO DEFRAY OR REIMBURSE THE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL FUNCTIONS WHILE THE COST OF LIVING ALLOWANCE IS MEANT TO COVER FOR THE GOVERNMENT EMPLOYEES' RISING COST OF LIVING.— In *National Tobacco Administration v. Commission on Audit*, this Court has held that these enumerated exceptions "have one thing in common—they belong to one category of privilege called *allowances* which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions." The six (6) non-integrated allowances have clearly omitted the COLA. This is because the COLA is not an allowance that seeks to reimburse expenses incurred in the fulfillment of the government worker's official functions. Rather, as this Court has ruled in *Gutierrez, et al. v. Department of Budget and Management, et al*., the COLA is meant to cover for the government employee's rising cost of living x x x.

4. ID.; ID.; ID.; ID.; COST OF LIVING ALLOWANCE; FORMS PART OF THE STANDARDIZED SALARY, FOR IT IS NOT EXPRESSLY EXCLUDED FROM THE GENERAL RULE OF INTEGRATION.— In *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989 v. Commission on Audit*, this Court has held that Section 12 of Republic Act No. 6758 is self-executing for the first six (6) items, but not for the seventh item. The seventh item can only "be deemed legally completed" after the issuance and publication of the implementing rules and regulations of Republic Act No. 6758. Providing for implementing rules and regulations, the Department of Budget and Management issued Corporate Compensation Circular No. 10. This Circular establishes guidelines to determine the "other additional

compensation[,]" which are not deemed integrated into the government employee's standardized salary rates. These non-integrated allowances are found in Sections 5.4 and 5.5 of Corporate Compensation Circular No. 10. x x x In *Land Bank of the Philippines v. Naval Jr.*, we have ruled that without a doubt, the COLA has "not been expressly excluded from the general rule of integration[.]" Therefore, based on a clear reading of Section 12 of Republic Act No. 6758, vis-à-vis Sections 5.4 and 5.5 of Corporate Compensation Circular No. 10, the COLA has already formed part of petitioners' standardized salary rates on July 1, 1989, the date of effectivity of the Compensation and Position Classification Act of 1989. x x x The second sentence of Section 12 plainly provides that its application is subject to two (2) conditions: that the recipients must be incumbents when Republic Act No. 6758 took effect, and that the additional compensation must *not* have been integrated into their standardized salary rates. The second condition is not true of the COLA. The COLA falls under "all allowances" referred to in the first sentence of Section 12: "*All allowances* . . . shall be *deemed included in the standardized salary rates* herein prescribed." Nothing in the exceptions found in Section 12 mentions the COLA. This finds further support in Section 4 (Definition of Terms) of Corporate Compensation Circular No. 10. Section 4 of Corporate Compensation Circular No. 10 defines the government employee's present salary as the sum of one's actual basic salary, including the COLA benefits, among others x x x.

5. ID.; ADMINISTRATIVE LAW; GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS; NATIONAL ELECTRIFICATION ADMINISTRATION; THE COST OF LIVING ALLOWANCE GRANTED TO ITS EMPLOYEES IS INCLUDED AS PART OF THEIR BASIC SALARY.— *Land Bank of the Philippines* settles the controversy: Corporate Compensation Circular No. 10 specifically includes the COLA granted to employees of government-owned and controlled corporations as part of their basic salary beginning July 1, 1989. Under Presidential Decree No. 269, NEA is a government-owned and controlled corporation. Thus, the applicable laws and jurisprudence establish that the former NEA employees are not entitled to COLA back pays for two (2) reasons: Republic Act No. 6758 does not mention the COLA as an exception to the general rule on integration; and Corporate Compensation Circular No.

10 provides that a public corporation such as NEA has already incorporated the COLA in its employees' basic pay.

6. ID.; ID.; PUBLIC OFFICERS AND EMPLOYEES; RULE ON NON-DIMINUTION OF BENEFITS; INAPPLICABLE WHEN AN EXISTING BENEFIT IS SUBSTITUTED IN EXCHANGE FOR ONE OF EQUAL OR BETTER VALUE.— There is no diminution of pay when an existing benefit is substituted in exchange for one of equal or better value. x x x Republic Act No. 6758 has already included the COLA in the standardized salary rates of government officers and employees. The rule on non-diminution of benefits is, therefore, inapplicable.

7. ID.; ID.; ID.; DOUBLE COMPENSATION; PROVIDING FOR A SEPARATE GRANT OF ALLOWANCES ON TOP OF THE STANDARDIZED SALARY RATES IS TANTAMOUNT TO DOUBLE COMPENSATION.— Budget Circular 2001-03 dated November 12, 2001 of the Department of Budget and Management also states: "5.0 … the standardized salaries reflected in the current budgets of [Government Owned and Controlled Corporations] are already inclusive of the consolidated allowances. Thus, providing for a separate grant of said allowances on top of the standardized salary rates is *tantamount to double compensation* which is prohibited by the Constitution." The back payment of the COLA to petitioners amounts to double compensation. Unless otherwise provided by law, government employees cannot be paid an extra remuneration for the same office that already has a fixed compensation. x x x Under Article IX(B), Section 8 of the Constitution, "[n]o elective or appointive public officer or *employee shall receive additional*, double, or indirect *compensation, unless specifically authorized by law*[.]" This provision serves as a constitutional limitation on the government's spending power.

APPEARANCES OF COUNSEL

Romulo R. Maristaza for petitioners.
Edgardo O. Era for respondents.

D E C I S I O N

LEONEN, *J.*:

Under Republic Act No. 6758, the Cost of Living Allowance (COLA) has been integrated into the standardized salary rates of government workers. Its back payment to the former employees of the National Electrification Administration is, therefore, unauthorized.

This resolves the Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure.[1] The Petition is an offshoot of the Regional Trial Court's disposition of Special Civil Action No. Q-04-53967.[2]

To provide the country's total electrification on an area coverage basis, the National Electrification Administration (NEA) was established as a government agency.[3] NEA later became a public corporation under Presidential Decree No. 269.[4] Expanded by succeeding laws,[5] NEA has since sought to bring electrical power

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[1] *Rollo*, pp. 12-34.

[2] *Id.* at 16.

[3] Rep. Act No. 6038, An Act Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, Providing for the Organization of the National Electrification Administration, the Organization, Promotion and Development of Electric Cooperatives to Attain the Objective, Prescribing Terms and Conditions for their Operation, the Repeal of R.A. No. 2717, and for Other Purposes (1969). Rep. Act No. 6038 is otherwise known as the National Electrification Administration Act.

[4] Pres. Decree No. 269, Creating the "National Electrification Administration" as a Corporation, Prescribing its Powers and Activities, Appropriating the Necessary Funds Therefor and Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, the Organization, Promotion and Development of Electric Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for their Operations, the Repeal of Republic Act No. 6038, and for Other Purposes (1973).

[5] *See* Pres. Decree No. 1645, Amending Presidential Decree No. 269, Increasing the Capitalization and Broadening the Lending and Regulatory Powers of the National Electrification Administration and for Other Purposes

to rural and remote areas, as well as enhance the competence of electric distribution utilities in a deregulated electricity market.[6]

Petitioners Napoleon S. Ronquillo, Jr., Edna G. Raña, Romeo Refruto, Ponciano T. Antegro, and 151 others[7] (Ronquillo, Jr., et

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(1979); Rep. Act No. 9136, An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes (2001); and Rep. Act No. 10531, An Act Strengthening the National Electrification Administration, Further Amending for the Purpose Presidential Decree No. 269, As Amended, Otherwise Known as the "National Electrification Administration Decree" (2012).

[6] National Electrification Administration, Philosophy, Mandate <http://www.nea.gov.ph/about-us/philosophy> (visited April 1, 2016).

[7] *Rollo*, pp. 12-15. Dennis Abante, Restituto Abellera, Edna Abiog, Gavino Abundo, Edilberto M. Aguila, Blesida Aguilar, Francisco A. Aguilar, Florina Alipio, Norberto Aliwalas, Gavino Andal, Emmanuel Angeles, Felipe S. Antolin, Ramon Aquino, Celia Arugay, Norminda C. Asa, Lolita D. Ayson (*Id.* at 75), Veronica Bangha-on, Basilio L. Bartolome Jr. (*Id.* at 76), Estrella Batalla, Dominador Baterina, Rebecca Bautista, Illuminado B. Benosa Jr., Marissa Bigornia, Rene Briones, Lorna Cabalay, Corazon Cabulisan, Roselyn Cachapero, Alfredo Cacuyog, Carlos V. Castillo, Gracia Ma. J. Castillo, Maximillan G. Castillo, Ruben P. Catabas, Efren Cauteverio, Raul Cea, Diosdado M. Celzo, Benedicto Chavez, Yolanda Chenilla, Benjamin M. Clores, Manuel Cruces Jr., Anabelle P. Cruz, Jessie C. Cruz, Danilo M. Cruz, Rodolfo P. Cruz, Siony E. Cunanan, Milagros S. Dacumos, Jhonny A. Daiz (*Id.* at 76), Inocencio M. David, Marilou B. De Jesus, Gerardo dela Cruz, Maximo dela Cruz, Jaime C. del Rosario, Lolita C. delos Reyes, Sonny B. delos Santos, Rodolfo C. Dipalac (*Id.* at 78), George A. Din, Dwight L. Dolino, Alma S. Encarnacion, Jose A. Endiola, Ernesto Enriquez Jr., Fausto Estacio, Reynaldo Fabro, Numer Fulleros, Roger B. Garcia, Luzvimnida L. Gonzales, Rocky P. Gonzales, Gonzalo P. Paulo (*Id.* at 78), Alberto Guiang, Armando Hate, Corazon Hemandez, Robertino C. Herrera, Benjamin C. Ines, Cresencio Javier, Concepcion Lacson, Elena B. Laidan, Mercedes B. Laig, Raul M. Laig, Agustin Madattu, Roberto Magday, Peterson Mallari, Hendrick R. Manegdeg, Norma Manaloto, Eduardo Y. Manansala, Eduardo Mangubat, Celia Manuel, Hermenegildo C. Manzano, Fe S. Marquez, Bienvenido S. Marasigan, Rodolfo L. Martinez Jr. (*Id.* at 77), Emerita Mate, Nelson S. Milo, Melba D. Mina, Rogelio B. Mina (*Id.* at 75), Pablito A. Modesto (*Id.* at 77), Marcial L. Montemayor (*Id.* at 78), Benita Montilla, Danilo E. Morales, Ma. Lourdes Philinda Noble, Imelda Nocum, Cecilio B. Nogoy, Victor Noriega, Mila Ocaso, Andrecito Oliver, Belarmino P. Ombrog Sr. (*Id.* at 77), Aida Ong, Aristotle Osias, Larry Pallera, Teresita Pecaña, Rosario D. Palileo (*Id.* at 79), Bienvenido Pores (*Id.* at. 79), Jake M. Quintos, Sinamar I. Rana (*Id.* at 79), Nabor Rañao (*Id.* at 80), Elpidio A. Regalado, Telesfora L. Requizo, Eduardo Reyes, Ferdinand V. Reyes, Luis Reyes, Loreto

al.) are former employees of NEA. Before July 1, 1989, NEA paid its employees their COLA, which was equivalent to 40% of their basic pay,[8] in addition to their basic pay and other allowances.[9]

On July 1, 1989, Republic Act No. 6758,[10] otherwise known as the Compensation and Position Classification Act of 1989, became the new salary standardization law applicable to all government officials and employees.[11]

Section 12[12] of Republic Act No. 6758 provides that, as a general rule, all allowances are already included in the new standardized

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P. Reynoso, Marceliano B. Rivera Jr., Jose Romero, Merlin Rosales, Myrna Rosales, Justiniano Rosarito, Rodolfo Sace, Celso Salazar, Carlito Salisi (*Id.* at 78), Pacifico Salvador Jr., Honorio Samia, Melinda Salandanan, Noel Sanchez (*Id.* at 80), Vilma R. San Diego, Felimon Santos Jr., Emerlinda C. Senar (*Id.* at 75), Suzette A. Sese, Maricon M. Sison, Genoveva SB. Sondia (*Id.* at 75), Nestor Soriano, Graciano M. Sombillo, Cresencio S. Soriano, Guillermo Sotto, Victor B. Teñoso (*Id.* at 78), Jose Timola, Dante Z. Tiu, Roel Tumanon, Cesar Valdez, Rebecca S. Valeroso, Juanito Velasco, Dominador Q. Velasquez (*Id.* at 79), Roger Viola, Stephen Veleña (*Id.* at 79), and Quirino Ulit.

[8] *Id.* at 35, Regional Trial Court Decision.

[9] *Id.*

[10] Rep. Act No. 6758 is entitled An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes.

[11] Rep. Act No. 6758 (1989), Sec. 23.

[12] Rep. Act No. 6758 (1989), Sec. 12 provides:

Section 12. Consolidation of Allowances and Compensation. — All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

salary rates. Thus, NEA discontinued paying the COLA of its employees from July 1, 1989.

Pursuant to Republic Act No. 6758,[13] the Department of Budget and Management issued Corporate Compensation Circular No. 10 dated February 15, 1989, otherwise known as Rules and Regulations for the Implementation of the Revised Compensation and Position Classification Plan in Government-Owned and/or -Controlled Corporations and Government Financial Institutions (GOCCs/GFIs).[14]

Taking its cue from Section 12 of Republic Act No. 6758, which provides for the general rule of integration of allowances into the basic salary, Corporate Compensation Circular No. 10 states that allowances given on top of basic salary shall be "discontinu[ed] without qualification[.]"[15] Otherwise, payment of these allowances constitutes an "illegal disbursement of public funds."[16]

Corporate Compensation Circular No. 10, which took effect on November 1, 1989, was challenged before this Court.[17] In *De Jesus v. Commission on Audit*,[18] this Court struck down Corporate Compensation Circular No. 10 because it lacked publication and the employees were not given the opportunity to be heard.[19] The Decision was promulgated on August 12, 1998.[20]

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[13] Rep. Act No. 6758 (1989), Sec. 23 provides:

Section 23. Effectivity. — . . . The [Department of Budget and Managements] shall, within sixty (60) days after its approval, allocate all positions in their appropriate position titles and salary grades and prepare and issue the necessary guidelines needed to implement the same.

[14] *Rollo*, p. 35.

[15] *De Jesus v. Commission on Audit*, 355 Phil. 584, 587 (1998) [Per *J.* Purisima, *En Banc*].

[16] DBM Corporate Compensation Circular No. 10 (1999), Sec. 5.6.

[17] *Rollo*, p. 35.

[18] 355 Phil. 584 (1998) [Per *J.* Purisima, *En Banc*].

[19] *Id.* at 590-591.

[20] *Id.* at 584.

After Corporate Compensation Circular No. 10 was ruled as ineffective and unenforceable, several government agencies began giving back pays to their employees.[21] The back pay consisted of the allowances that had been discontinued.[22]

The Department of Budget and Management re-issued and published Corporate Compensation Circular No. 10, which became effective on March 16, 1999.[23] NEA paid the COLA of its employees for the period of July 1, 1989 until July 15, 1999.[24]

On November 12, 2001, the Department of Budget and Management issued Budget Circular 2001-03[25] stating that the COLA, among others, is already deemed integrated in the basic salary.[26] Payment of the COLA is, therefore, unauthorized.[27]

The relevant portions of Budget Circular 2001-03 read as follows:

> 2.0 The [Supreme Court] in [*De Jesus v. Commission on Audit and Jamoralin*] declared as ineffective due to non-publication, Corporate Compensation Circular (CCC) No. 10[,] which contained the rules and regulations for the implementation of RA No. 6758 insofar as Government-owned or Controlled Corporations and Government Financial Institutions are concerned.
>
> 3.0 In view of such declaration, therefore, the explicit provisions of Section 12 of RA No. 6758 shall prevail. . . .
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[21] *Id.* at 36, Regional Trial Court Decision.

[22] *Id.*

[23] *Id.* at 35.

[24] *Id.* at 36.

[25] Clarification on the Consolidation of Allowances, Including Cost of Living Allowance (COLA). Cited in DepEd Memorandum No. 166 (2005), Dissemination of Budget Circular No. 2001-03 <http://www.deped.gov.ph/sites/default/files/memo/2005/DM_s2005_l66.pdf> (visited April 1, 2016).

[26] DBM Budget Circular 2001-03 (2001), par. 7.0.

[27] DBM Budget Circular 2001-03 (2001), par. 6.0; DBM Corporate Compensation Circular No. 10 (1999), Sec. 5.6.

Consequently, *only those allowances specifically mentioned in the exceptions under Section 12 may continue to be granted; all others are deemed integrated in the standardized salary rates.*

4.0 This provision shall apply to all government employees in the employ of NGAs [national government agencies], LGUs [local government units], GOCCs [government owned and controlled corporations] and GFIs [government financial institutions].

5.0 Further, *the standardized salaries reflected in the current budgets of NGAs, LGUs, GOCCs and GFIs are already inclusive of the consolidated allowances.* Thus, providing for a separate grant of said allowances on top of the standardized salary rates is tantamount to double compensation which is prohibited by the Constitution.

6.0 In view of the foregoing, *payments of allowances and compensation, such as COLA*, amelioration allowance and inflation-connected allowances, among others, which are *already integrated in the basic salary*, are deemed unauthorized, unless otherwise provided by law.[28] (Emphasis supplied)

In 2001,[29] Congress passed Republic Act No. 9136,[30] otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), which provides for a framework to restructure the power industry.[31]

Under Section 63 of the EPIRA, national government employees who would be displaced or separated from services due to the restructuring of the power industry are entitled to separation pay. These affected employees would be considered legally terminated, pursuant to Rule 33, Section 3 (b) (ii)[32] of the EPIRA Implementing Rules and Regulations.

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[28] Cited in DepEd Memorandum No. 166, s. 2005, Dissemination of Budget Circular No. 2001-03 <http://www.deped.gov.ph/sites/default/files/memo/2005/DM_s2005_l66.pdf (visited April 1, 2016).

[29] Rep. Act No. 9136 (2001) provides:

This Act which is a consolidation of House Bill No. 8457 and Senate Bills No. 1712, 1621, 1943 and 2000 was finally passed by the House of Representatives and the Senate on May 31, 2001 and June 4, 2001, respectively.

[30] Rep. Act No. 9136 is entitled An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes.

[31] Rep. Act No. 9136 (2001), Sec. 3.

[32] Implementing Rules and Regulations of Republic Act No. 9136, Rule 33, Sec. 3(b)(ii) provides:

The reorganization of NEA affected the employment of Ronquillo, Jr., et al. On November 7, 2003, more than half of them chose early retirement, while the rest were dismissed from work on December 31, 2003.[33]

Ronquillo, Jr., et al. were given separation pay, the total amount of which excludes the balance of their COLA,[34] specifically for the period of July 16, 1999 until their separation from service on November 7 or December 31, 2003.[35] They demanded[36] that NEA, Administrator Edita S. Bueno (Administrator Bueno),[37] Deputy Administrator for Corporate Resources Mariano T. Cuenco,[38] and Human Resources Management Director Diana M. San Luis[39] (NEA, et al.) give back pay for their COLA,[40] but this was refused. [41] NEA, et al. informed them that NEA needed the funds to cover the separation pay of all the affected employees.[42]

Rule 33. Separation Benefits

. . . . . .

Section 3. Separation and Other Benefits. —

. . . . . .

(b) The following shall govern the application of Section 3(a) of this Rule:

. . . . . .

(ii) With respect to NEA officials and employees, they shall be considered legally terminated and shall be entitled to the benefits or separation pay provided in Section 3(a) herein when a restructuring of NEA is implemented pursuant to a law enacted by Congress or pursuant to Section 5(a)(5) of Presidential Decree No. 269.

33 *Rollo*, p. 94, NEA's, *et al.*'s Comment.

34 *Id.* at 36, Regional Trial Court Decision.

35 *Id.* at 20, Ronquillo, *et al.*'s Petition.

36 *Id.* at 21.

37 *Id.* at 17.

38 *Id.*

39 *Id.*

40 *Id.* at 36.

41 *Id.*

42 *Id.*

On September 8, 2004, Administrator Bueno wrote to the Commission on Audit, seeking to clarify the legality of paying the COLA as part of the back pay of former NEA employees.[43]

On October 12, 2004, Edgardo T. Guiriba, Supervising Auditor of the Commission on Audit, furnished a copy of the 1st Indorsement [44] dated September 22, 2004 to Administrator Bueno.[45] Prepared by the Commission on Audit's Director of Legal and Adjudication for the Office of Legal Affairs, the 1st Indorsement affirmed the position of the Commission on Audit's Director of Cluster III for Public Utilities that NEA employees were no longer entitled to the payment of the COLA after Corporate Compensation Circular No. 10 was finally published.[46]

Ronquillo Jr., et al. filed a Special Civil Action for Mandamus before the Regional Trial Court.[47]

In its Decision[48] dated December 9, 2005, the Regional Trial Court denied the Petition for lack of merit. The trial court held:

> As correctly raised by the respondents, in order for a petition for mandamus, the petitioner must show that he has a well defined, clear and certain right for the grant thereof. Section 3 Rule 65 of the Revised Rules of Court refers to unlawful neglect of the performance of an act enjoined by law or which unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled.

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[43] *Id.* at 113, Memorandum for the Assistant Commissioner Raquel R. Habitan, General Counsel, Legal and Adjudication Office.

[44] *Id.* at 112, Re: Request of Ms. EDITHA S. BUENO, Administrator, National Electrification Administration (NEA), for clarification on the legality of paying the Cost of Living Allowance (COLA) of the former NEA personnel covering the period August 1999 to November 7, 2003. The 1st Indorsement was signed by Salvador P. Isiderio, Director IV of Commission on Audit Office of Legal Affairs.

[45] *Id.* at 111, Memorandum for the NEA Administrator from the Commission on Audit Supervising Auditor.

[46] *Id.*

[47] *Id.* at 35.

[48] *Id.* at 35-37.

In the advent of RA 6758 and DBM CC[C] No. 10, the petition must clearly establish with certainty the relief sought. Petitioners have *failed to cite any provision of law which unequivocally provides for petitioners' continued entitlement to the COLA after the reissuance and publication of DBM CC[C] No. 10.* There was likewise no showing of a law that clearly establishes petitioners' legal right to the same which respondents may be directed to implement. Considering the reissuance and publication of DBM CC[C] No. 10, a question arises whether the payment of cost of living allowance would continue. This already creates doubt as to the legal basis of petitioner's (*sic*) claim. Clearly, petitioners must first establish a clear legal right to the act required to be done or the relief sought. A clear legal right derived from a clear provision of law or jurisprudence and not from mere conjectures or doubtful interpretation of the law.

WHEREFORE, the petition for Mandamus is DENIED for lack of merit.[49] (Emphasis supplied)

Ronquillo, Jr., et al. moved for reconsideration,[50] but the Motion was likewise denied[51] on March 28, 2006. Raising a question of law,[52] they appealed directly before this Court under Rule 45 of the 1997 Revised Rules of Court.[53]

In the Resolution dated August 30, 2006, this Court required Ronquillo, Jr., et al. to submit a sufficient verification and certification against forum shopping, as only Atty. Napoleon S. Ronquillo, Jr. affixed his signature.[54]

By way of compliance,[55] Ronquillo, Jr., et al. appointed Edna G. Raña as attorney-in-fact of other petitioners and authorized her to sign the Verification and Certification Against Forum Shopping on

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[49] *Id.* at 36-37.

[50] *Id.* at 38-46.

[51] *Id.* at 47-48. The Order was issued by Presiding Judge Samuel H. Gaerlan.

[52] *Id.* at 94.

[53] *Id.* at 17.

[54] *Id.* at 56.

[55] *Id.* at 58.

their behalf.[56] Of the 155 named petitioners, only 103 signed Edna G. Raña's Special Power of Attorney. Dennis Abante, Restituto Abellera, and other named petitioners[57] did not.[58]

In their Petition for Review on Certiorari,[59] Ronquillo, Jr., et al. claim that they "have acquired a vested right over" the payment of the COLA,[60] and that its non-payment is equivalent to diminution of pay.[61]

In the Resolution dated August 30, 2006, this Court required NEA, Edita S. Bueno, Mariano T. Cuenco, and Diana M. San Luis (NEA, et al.) to file their Comment on the Petition. NEA, et al. failed to timely submit their Comment.[62] They gave an Explanation and Apology,[63] which this Court accepted and noted.[64]

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[56] *Id.* at 57-58.

[57] Dennis Abante, Restituto Abellera, Edna Abiog, Ramon Aquino, Norminda C. Asa, Estrella Batalla, Dominador Baterina, Marissa Bigornia, Lorna Cabalay, Roselyn Cachapero, Carlos V. Castillo, Efren Cauteverio, Manuel Cruces, Anabelle P. Cruz, Jessie C. Cruz, Marilou B. De Jesus, George A. Din, Fausto Estacio, Rocky P. Gonzales, Corazon Hernandez, Benjamin C. Ines, Concepcion Lacson, Mercedes B. Laig, Raul M. Laig, Norma Manaloto, Hermenegildo C. Manzano, Emerita Mate, Nelson S. Milo, Danilo E. Morales, Imelda Nocum, Cecilio B. Nogoy, Victor Noriega, Mila Ocaso, Andrecito Oliver, Aida Ong, Aristotle Osias, Larry Pallera, Jake M. Quintos, Elpidio A. Regalado, Telesfora L. Requizo, Marceliano B. Rivera Jr., Jose Romero, Merlin Rosales, Myrna Rosales, Rodolfo Sace, Honorio Samia, Melinda Salandanan, Maricon M. Sison, Graciano M. Sombillo, Jose Timola, Roger Viola, and Quirino Ulit.

[58] *Rollo*, pp. 75-80. There were also others who signed but are not named petitioners.

[59] *Id.* at 12-34.

[60] *Id.* at 23.

[61] *Id.* at 24.

[62] *Id.* at 56.

[63] *Id.* at 88-91. In their Explanation and Apology (to Show Cause Order dated February 19, 2007), NEA, *et al.*, through their counsel, stated that the Office of Legal Services was understaffed because of the resignation of five lawyers, including the lawyer in charge of the case. Only three lawyers were attending to the cases and legal problems of NEA and 119 electric cooperatives nationwide.

[64] *Id.* at 123-124, Resolution dated July 23, 2007.

In their Comment dated April 17, 2007, NEA, et al. argued that the publication of Corporate Compensation Circular No. 10 terminated Ronquillo, Jr., et al.'s entitlement to COLA.[65] The lack of legal basis for their COLA claims means that mandamus cannot compel NEA, et al. to release payment for such claims.[66]

Ronquillo, Jr., et al. filed their Reply on April 12, 2007.[67] They argue that the second sentence of Section 12 of Republic Act No. 6758 serves as the basis for their entitlement to the COLA. The second sentence reads as follows: "Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 [and are] not integrated into the standardized salary rates[,] shall continue to be authorized."

Ronquillo, Jr., et al. argue that they are still entitled to the balance of their COLA benefits from July 16, 1999 up to November 7 or December 31, 2003, the date of their separation from service.[68] They claim that they had been receiving COLA benefits before Republic Act No. 6758 became effective, and the COLA was not integrated into their standardized salary rate.[69] According to them, the non-payment of their COLA is a diminution of compensation, over which they have a vested right.[70]

On the other hand, NEA, et al. state that the Regional Trial Court has no jurisdiction over the subject matter.[71] They allege that the pleading states no cause of action because petitioners failed to establish a clear legal right for the issuance of a writ of mandamus.[72] There is neither jurisprudence nor law to support their claim for the COLA back pay.[73]

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[65] *Id.* at 92.

[66] *Id.* at 94.

[67] *Id.* at 126.

[68] *Id.* at 24.

[69] *Id.* at 25.

[70] *Id.* at 23.

[71] *Id.* at 36.

[72] *Id.*

[73] *Id.*

Further, NEA, et al. argue that there is no diminution of benefits, and that Ronquillo, Jr., et al. failed to show that the COLA was not yet integrated into their salaries.[74] Even the Commission on Audit affirmed Ronquillo, Jr., et al.'s non-entitlement to the COLA.[75] NEA, et al. state that if they released funds for the payment of the COLA, they would be at risk of violating Technical Malversation under Article 217[76] of the Revised Penal Code.[77]

For resolution are the following:

First, whether petitioners Ronquillo, Jr., et al. can appeal the Regional Trial Court's Decision directly before this Court; and

Second, whether petitioners Ronquillo, Jr., et al. are entitled to the payment of the COLA after the effectivity of Republic Act No. 6758 and Corporate Compensation Circular No. 10.

We deny the Petition.

I

We first resolve the procedural matters.

According to respondents, the case is premature as petitioners failed to exhaust administrative remedies.[78] Respondents are

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[74] *Id.* at 97.

[75] *Id.* at 96.

[76] REV. PEN. CODE, Art. 217, as amended by Rep. Act No. 1060 (1954), Sec. 1 provides:

ART. 217. Malversation of public funds or property — Presumption of malversation. — Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property . . .

x x x x x x x x x

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal uses.

[77] *Rollo*, p. 96.

[78] *Id.* at 36.

mistaken. The doctrine of exhaustion of administrative remedies does not apply when the issue deals with a question of law:

> [The case] does not involve an examination of the probative value of the evidence presented by the parties. There is a question of law when the doubt or difference arises as to what the law is on a certain state of facts, and not as to the truth or the falsehood of alleged facts. Said question [of law] at best could be resolved only tentatively by the administrative authorities. *The final decision on the matter rests not with them but with the courts of justice*. Exhaustion of administrative remedies does not apply, because nothing of an administrative nature is to be or can be done. The issue does not require technical knowledge and experience but one that would involve the interpretation and application of law.[79] (Emphasis supplied, citations omitted)

Issues dealing with the interpretation of law solely involve a question of law. A question of law exists when the law applicable to a particular set of facts is not settled, whereas a question of fact arises when the truth or falsehood of alleged facts is in doubt.[80]

The case involves a question of law, specifically, whether Republic Act No. 6758 and the re-issuance and publication of the Department of Budget and Management's Corporate Compensation Circular No. 10 entitle petitioners to the back pay of the COLA.

II

Republic Act No. 6758 and its implementing rules, Corporate Compensation Circular No. 10, have already included the COLA in the government worker's standardized salary rates.

This Court is mindful that the case of *Tañada v. Hon. Tuvera*[81] mandates the publication of executive issuances as a requirement for its validity.[82] Nevertheless, in *Maritime Industry Authority v.*

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[79] *Republic v. Lacap*, 546 Phil. 87, 98 (2007) [Per *J*. Austria-Martinez, Third Division].

[80] *Republic v. Malabanan, et al.*, 646 Phil. 631, 637-638 (2010) [Per *J*. Villarama Jr., Third Division].

[81] 230 Phil. 528 (1986) [Per *J*. Cruz, *En Banc*].

[82] *Id.* at 535-538.

Commission on Audit,[83] we have stated that the non-publication of a Department of Budget and Management circular implementing Republic Act No. 6758 does not invalidate the non-integration of allowances in the standardized salary as provided by law.[84] In any case, the subsequent re-issuance and publication cured any alleged defect of Corporate Compensation Circular No. 10.

Petitioners argue that Corporate Compensation Circular No. 10, as the implementing measure, cannot produce an effect that is not intended by the law it seeks to implement.[85] They claim that notwithstanding the re-issuance and publication of the Corporate Compensation Circular No. 10, the second sentence of Section 12 of Republic Act No. 6758 provides that "other additional compensation" shall continue to be granted.[86]

This is erroneous.

Section 12 of Republic Act No. 6758 states the general rule on integration.[87] That is to say, all allowances are generally integrated into the government employee's standardized salary rates:

Section 12. ***Consolidation of Allowances and Compensation.*** — *All allowances*, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be *deemed included in the standardized salary rates* herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized. (Emphasis supplied)

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[83] G.R. No. 185812, January 13, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf> [Per *J.* Leonen, *En Banc*].

[84] *Id.* at 15-16.

[85] *Rollo*, p. 25.

[86] *Id.*

[87] *Land Bank of the Philippines v. Naval Jr.*, G.R. No. 195687, April 7, 2014, 720 SCRA 796, 812-813 and 820-821 [Per *J.* Velasco Jr., Third Division].

By exception, Section 12 provides for seven (7) types of allowances that do not form part of basic pay, or non-integrated allowances. All other allowances, save for these items, are deemed included in the government employee's standardized salary. These are as follows:

(1) representation and transportation allowances (RATA);

(2) clothing and laundry allowances;

(3) subsistence allowance of marine officers and crew on board government vessels;

(4) subsistence allowance of hospital personnel;

(5) hazard pay;

(6) allowances of foreign service personnel stationed abroad; and

(7) such other additional compensation not otherwise specified in Section 12 as may be determined by the [Department of Budget and Management].[88]

In *National Tobacco Administration v. Commission on Audit*,[89] this Court has held that these enumerated exceptions "have one thing in common — they belong to one category of privilege called *allowances* which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions."[90]

The six (6) non-integrated allowances have clearly omitted the COLA. This is because the COLA is not an allowance that seeks to reimburse expenses incurred in the fulfillment of the government worker's official functions.[91] Rather, as this Court has ruled in *Gutierrez, et al. v. Department of Budget and Management, et al.*,[92]

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[88] *National Tobacco Administration v. Commission on Audit*, 370 Phil. 793, 805 (1999) [Per *J.* Purisima, *En Banc*].

[89] 370 Phil. 793 (1999) [Per *J.* Purisima, *En Banc*].

[90] *Id.* at 805.

[91] *Land Bank of the Philippines v. Naval Jr.*, G.R. No. 195687, April 7, 2014, 720 SCRA 796, 813 [Per *J.* Velasco Jr., Third Division].

[92] 630 Phil. 1 (2010) [Per *J.* Abad, *En Banc*].

the COLA is meant to cover for the government employee's rising cost of living:

> As defined, cost of living refers to "the level of prices relating to a range of everyday items" or "the cost of purchasing those goods and services which are included in an accepted standard level of consumption." Based on this premise, COLA is a benefit intended to cover increases in the cost of living. Thus, it is and should be *integrated into the standardized salary rates.*[93] (Emphasis supplied, citations omitted)

We now determine whether the Department of Budget and Management likewise excludes the COLA from the exceptions to the general rule on integration, pursuant to item 7 of Section 12.

In *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989 v. Commission on Audit*,[94] this Court has held that Section 12 of Republic Act No. 6758 is self-executing for the first six (6) items, but not for the seventh item.[95] The seventh item can only "be deemed legally completed"[96] after the issuance and publication of the implementing rules and regulations of Republic Act No. 6758.[97]

Providing for implementing rules and regulations, the Department of Budget and Management issued Corporate Compensation Circular No. 10. This Circular establishes guidelines to determine the "other additional compensation[,]"[98] which are not deemed integrated into the government employee's standardized salary rates.

These non-integrated allowances are found in Sections 5.4 and 5.5 of Corporate Compensation Circular No. 10. Section 5.4 of Corporate Compensation Circular No. 10 provides:

> 5.4 The following allowances/fringe benefits which were authorized to [Government-Owned and Controlled Corporations/

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93 *Id.* at 17.

94 506 Phil. 382 (2005) [Per Acting *C.J.* Panganiban, *En Banc*].

95 *Id.* at 391.

96 *Id.*

97 *Id.*

98 Rep. Act No. 6758 (1989), Sec. 12.

Government Financial Institutions] under the standardized Position Classification and Compensation Plan . . . are not to be integrated into the basic salary and allowed to be continued after June 30, 1989 only to incumbents of positions who are authorized and actually receiving such allowances/benefits as of said date[:]

5.4.1 Representation and Transportation Allowances (RATA)[;]

5.4.2 Uniform and Clothing Allowance;

5.4.3 Hazard Pay as authorized by law;

5.4.4 Honoraria/additional compensation for employees on detail with special projects on inter-agency undertakings;

5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;

5.4.6 Honoraria for lecturers and resource persons/speakers;

5.4.7 Overtime Pay as authorized by law;

5.4.8 Laundry and subsistence allowances of marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;

5.4.9 Quarters Allowance of officials and employees who are entitled to the same;

5.4.10 Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;

5.4.11 Night Differential of personnel on night duty;

5.4.12 Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;

5.4.13 Flying Pay of personnel undertaking aerial flights;

5.4.14 Per Diems/Allowances of Chairman and Members/ Staff of collegial bodies and Committees; and

5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

Section 5.5 of Corporate Compensation Circular No. 10 likewise provides:

5.5 The following allowances/fringe benefits authorized to GOCCs/GFIs . . . are not likewise to be integrated into the basic salary and allowed to be continued only for incumbents of positions as of June 30, 1989 who are authorized and actually receiving said allowances/benefits as of said date, at the same terms and conditions prescribed in said issuances[:]

5.5.1 Rice Subsidy;

5.5.2 Sugar Subsidy;

5.5.3 Death Benefits other than those granted by the GSIS;

5.5.4 Medical/dental/optical allowances/benefits;

5.5.5 Children's Allowance;

5.5.6 Special Duty Pay/Allowance;

5.5.7 Meal Subsidy;

5.5.8 Longevity Pay; and

5.5.9 Teller's Allowance

The COLA is absent in the list of the Department of Budget and Management's determined non-integrated allowances.

In *Land Bank of the Philippines v. Naval Jr.*, [99] we have ruled that without a doubt, the COLA has "not been expressly excluded from the general rule of integration[.]"[100] Therefore, based on a clear reading of Section 12 of Republic Act No. 6758, vis-à-vis Sections 5.4 and 5.5 of Corporate Compensation Circular No. 10, the COLA has already formed part of petitioners' standardized salary

[99] G.R. No. 195687, April 7, 2014, 720 SCRA 796 [Per J. Velasco Jr., Third Division].

[100] *Id.* at 812.

rates on July 1, 1989, the date of effectivity of the Compensation and Position Classification Act of 1989.

To justify their claim for the COLA back pay, petitioners argue that the second sentence of Section 12 applies.[101] The second sentence states: "Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized."

Petitioners are mistaken.

The second sentence of Section 12 plainly provides that its application is subject to two (2) conditions: that the recipients must be incumbents when Republic Act No. 6758 took effect,[102] and that the additional compensation must *not* have been integrated into their standardized salary rates. The second condition is not true of the COLA.

The COLA falls under "all allowances" referred to in the first sentence of Section 12: "*All allowances* . . . shall be *deemed included in the standardized salary rates* herein prescribed." Nothing in the exceptions found in Section 12 mentions the COLA.

This finds further support in Section 4 (Definition of Terms) of Corporate Compensation Circular No. 10.

Section 4 of Corporate Compensation Circular No. 10 defines the government employee's present salary as the sum of one's actual basic salary, including the COLA benefits, among others:

> 4.0 DEFINITION OF TERMS
>
> 4.1 The present salary of an incumbent for purposes of this Circular shall refer to the sum total of actual basic salary including allowances enumerated hereunder, being received as of June 30, 1989 and authorized pursuant to [Presidential Decree] No. 985 and other legislative or administrative issuances:

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[101] *Rollo*, p. 25.

[102] *National Tobacco Administration v. Commission on Audit*, 370 Phil. 793, 808-809 (1999) [Per J. Purisima, *En Banc*].

> 4.1.1 *Cost-of-Living Allowance*/Bank Equity Pay (COLA/BEP) equivalent to forty percent (40%) of basic salary of ₱300.00 per month, whichever is higher;
>
> . . . . . .
>
> 4.1.3 *COLA granted to [Government-Owned and Controlled Corporations*/Government Financial Institutions] covered by the Compensation and Position Classification Plan for the regular agencies/offices of the National Government and to GOCCs/GFIs following the Compensation and Position Classification Plan under [Letter of Implementation] No. 104/CCC No. 1 and [Letter of Implementation] No. 97/CCC No. 2, in the amount of ₱550.00 per month for those whose monthly basic salary is ₱1,501 and above, granted on top of the COLA/BEP mentioned in item 4.1.1 above;
>
> . . . . . .
>
> 4.2. Allowances enumerated above are deemed integrated into the basic salary for the position effective July 1, 1989. (Emphasis supplied)

Land Bank of the Philippines settles the controversy: Corporate Compensation Circular No. 10 specifically includes the COLA granted to employees of government-owned and controlled corporations as part of their basic salary beginning July 1, 1989.[103] Under Presidential Decree No. 269,[104] NEA is a government-owned and controlled corporation.

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[103] *Land Bank of the Philippines v. Naval Jr.*, G.R. No. 195687, April 7, 2014, 720 SCRA 796, 812-813 [Per *J.* Velasco Jr., Third Division].

[104] Pres. Dec. No. 269 (1973), otherwise known as Creating the "National Electrification Administration" as a Corporation, Prescribing its Powers and Activities, Appropriating the Necessary Funds Therefor and Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, the Organization, Promotion and Development of Electric Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for their Operations, the Repeal of Republic Act No. 6038, and for Other Purposes.

Thus, the applicable laws and jurisprudence establish that the former NEA employees are not entitled to COLA back pays for two (2) reasons: Republic Act No. 6758 does not mention the COLA as an exception to the general rule on integration; and Corporate Compensation Circular No. 10 provides that a public corporation such as NEA has already incorporated the COLA in its employees' basic pay.

III

Petitioners argue that respondents' denial of their claim is violative of the rule against non-diminution of pay.[105]

There is no diminution of pay when an existing benefit is substituted in exchange for one of equal or better value. As we have extensively discussed, Republic Act No. 6758 has already included the COLA in the standardized salary rates of government officers and employees. The rule on non-diminution of benefits is, therefore, inapplicable.

In *Gutierrez, et al.*:[106]

> [The COLA] is deemed included in the standardized salary rates of government employees since it falls under the general rule of integration — "all allowances."
>
> More importantly, the integration [of the COLA into the standardized salary rates] was not by mere legal fiction since *it was factually integrated into the employees' salaries*. Records show that the government employees were informed by their respective offices of their new position titles and their corresponding salary grades when they were furnished with the Notices of Position Allocation and Salary Adjustment (NPASA). The NPASA provided the breakdown of the employee's gross monthly salary as of June 30, 1989 and the composition of his standardized pay under R.A. 6758. Notably, the COLA was considered part of the employees' monthly income.

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[105] *Rollo*, p. 24.

[106] *Gutierrez, et al. v. Department of Budget and Management, et al.*, 630 Phil. 1, 21-22 (2010) [Per *J.* Abad, *En Banc*], citing *NAPOCOR Employees Consolidation Union (NECU) v. National Power Corporation (NPC)*, 519 Phil. 372, 384-385 and 389 (2006) [Per *J.* Garcia, *En Banc*].

In truth, petitioners *never really suffered any diminution in pay as a consequence of the consolidation of COLA into their standardized salary rates.* There is thus nothing in [this case] which can be the subject of a back pay since the amount corresponding to *COLA was never withheld from petitioners in the first place.*[107] (Emphasis supplied, citations omitted)

Budget Circular 2001-03 dated November 12, 2001 of the Department of Budget and Management also states:

5.0 . . . the standardized salaries reflected in the current budgets of [Government Owned and Controlled Corporations] are already inclusive of the consolidated allowances. Thus, providing for a separate grant of said allowances on top of the standardized salary rates is *tantamount to double compensation* which is prohibited by the Constitution.

The back payment of the COLA to petitioners amounts to double compensation.[108] Unless otherwise provided by law, government employees cannot be paid an extra remuneration for the same office that already has a fixed compensation.[109]

In *Maritime Industry Authority*:[110]

Article VI, Section 29 of the 1987 Constitution provides, "[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law."

. . . [B]efore public funds may be disbursed for salaries and benefits to government officers and employees, it must be shown that these are commensurate to the services rendered and necessary or relevant to the functions of the office. "Additional allowances and benefits must be shown to be necessary or relevant to the fulfillment of the official duties and functions of the government officers and employees."[111] (Citation omitted)

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[107] *Id.*

[108] Maritime Industry Authority *v.* Commission on Audit, G.R. No. 185812, January 13, 2015 <http://sc judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf> 26-27 [Per *J.* Leonen, *En Banc*].

[109] *Id.*

[110] *Id.* at 25.

[111] *Id.*

Under Article IX (B), Section 8 of the Constitution, "[n]o elective or appointive public officer or *employee shall receive additional,* double, or indirect *compensation, unless specifically authorized by law*[.]" This provision serves as a constitutional limitation on the government's spending power. In *Peralta v. Auditor General Mathay*:[112]

> [A] public office is a public trust. It is expected of a government official or employee that he [or she] keeps uppermost in mind the demands of public welfare. [One] is there to render public service. . . . There is then to be an awareness on the part of an officer or employee of the government that he [or she] is to receive only such compensation as may be fixed by law. With such a realization, [one] is expected not to avail himself [or herself] of devious or circuitous means to increase the remuneration attached to [one's] position.[113]

Respondents assert that the Regional Trial Court did not err in denying the writ of mandamus sought by petitioners, and that there was no categorical duty on their part to pay petitioners' claims for the COLA.[114]

No law mandates respondents to give NEA's former employees their COLA back pays. Expressly forming part of a government employee's salary under Corporate Compensation Circular No. 10, and not expressly excluded by Republic Act No. 6758, the COLA is considered integrated into the standardized salary rates of petitioners effective July 1, 1989.[115] Thus, respondents have no legal authority to give the claimed balance of petitioners' COLA benefits. The payment of allowances or fringe benefits integrated in the basic salary, whether in cash or in kind, is considered an "illegal disbursement of public funds."[116]

This Court has ruled in *Gutierrez* that "until and unless the [Department of Budget and Management] issues such rules and

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[112] 148 Phil. 261 (1971) [Per *J.* Fernando, *En Banc*].

[113] *Id.* at 265-266.

[114] *Rollo,* pp. 97-98.

[115] DBM Corporate Compensation Circular No. 10 (1999), Sec. 4.1.1.

[116] DBM Corporate Compensation Circular No. 10 (1999), Sec. 5.6.

regulations [pursuant to item 7 of Section 12], the enumerated exclusions in items (1) to (6) remain exclusive. Thus so, not being an enumerated exclusion, COLA is deemed already incorporated in the standardized salary rates of government employees under the general rule of integration."[117]

WHEREFORE, the Petition is **DENIED**. The Regional Trial Court Decision dated December 9, 2005 and Order dated March 28, 2006 in Special Civil Action No. Q-04-53967, which denied back payment of the Cost of Living Allowance of petitioners are **AFFIRMED**.

SO ORDERED.

Carpio (Chairperson), *Brion*, *del Castillo*, and *Mendoza, JJ.*, concur.

SECOND DIVISION

[G.R. No. 174333. April 20, 2016]

PILIPINAS SHELL FOUNDATION, INC. and SHELL PHILIPPINES EXPLORATION B.V., *petitioners, vs.* **TOMAS M. FREDELUCES, MARCOS B. CORPUZ, JR., REYNALDO M. SAMONTE, NORMA M. SAMONTE, AMBROCIO VILLANUEVA, SALVACION A. BON, RAMIRO A. BON, LUZVIMINDA B. ANDILLO, LUDIVICO F. BON, ELMO AREGLO, ROSE A. SAN PEDRO, DANTE U. SANTOS, SR., MIGUEL SANTOS, EFREN U. SANTOS, RIC U. SANTOS, SIMON MARCE, JR., JOEL F. SALINEL,**

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[117] *Gutierrez, et al. v. Department of Budget and Management, et al.*, 630 Phil. 1, 16 (2010) [Per *J.* Abad, *En Banc*].

BEBIANA SAN PEDRO, AND MARINA SANTOS, *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; MOTION TO DISMISS; *LITIS PENDENTIA*; ELEMENTS; *LITIS PENDENTIA* EXISTS WHEN THERE IS MORE THAN ONE SUIT PENDING BETWEEN THE SAME PARTIES FOR THE SAME CAUSE OF ACTION AND A MOTION TO DISMISS MAY BE FILED FOR THIS GROUND.— Only one suit may be instituted for a single cause of action. Hence, any suit subsequently filed for the same cause of action becomes unnecessary and vexatious. When there is more than one suit pending between the same parties for the same cause of action, *litis pendentia* exists and a motion to dismiss may be filed on this ground x x x [, pursuant to] Rule 16, Section 1(e) of the Rules of Court x x x. *Litis pendentia* in Latin means "a pending suit." Occasionally referred to as *lis pendens* or *auter action pendant, litis pendentia* has the following elements: first, "[i]dentity of parties, or at least such parties as those representing the same interests in both actions;" second, "[i]dentity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts;" and third, "[i]dentity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case."

2. ID.; ID.; CAUSE OF ACTION; ELEMENTS.— "A cause of action is the act or omission by which a party violates a right of another." For a cause of action to exist, there must be "a right existing in favor of the plaintiff;" "a corresponding obligation on the part of the defendant to respect such right;" and, "an act or omission of the defendant which constitutes a violation of the plaintiff's right which defendant had the duty to respect."

3. ID.; ID.; MOTION TO DISMISS; FAILURE TO STATE A CAUSE OF ACTION; IN FILING A MOTION TO DISMISS ON THE GROUND OF FAILURE TO STATE A CAUSE OF ACTION, A DEFENDANT HYPOTHETICALLY ADMITS THE TRUTH OF THE FACTS ALLEGED IN THE COMPLAINT.— The ground of failure to state a cause of action is based on Rule 16, Section 1(g) of the Rules of Court x x x.

Failure to state a cause of action goes into the sufficiency of the allegation of the cause of action in the complaint. "When the facts alleged in the complaint show that the defendant has committed acts constituting a delict or wrong by which he violates the rights of the plaintiff, causing [the plaintiff] loss or injury, there is sufficient allegation of a cause of action. Otherwise, there is none." In this respect, a pleading sufficiently states a cause of action if it "contain[s] in a methodical and logical form, a plain, concise[,] and direct statement of the ultimate facts on which the party pleading relies for his [or her] claim[.]" Ultimate facts are the "important and substantial facts which either directly form the basis of the primary right and duty, or which directly make up the wrongful acts or omissions of the defendant." Allegations of evidentiary facts and conclusions of law in a pleading are omitted for they are unnecessary in determining whether the court has jurisdiction to take cognizance of the action. In filing a motion to dismiss on the ground of failure to state a cause of action, a defendant "hypothetically admits the truth of the facts alleged in the complaint." Since allegations of evidentiary facts and conclusion of law are omitted in pleadings, "[t]he hypothetical admission is … limited to the relevant and material facts well pleaded in the complaint and inferences fairly deducible therefrom." However, it is mandatory that courts "consider other facts within the range of judicial notice, as well as relevant laws and jurisprudence" in resolving motions to dismiss.

4. ID.; ID.; ID.; ID.; ID.; EXCEPTIONS.— There are exceptions to the rule on hypothetical admission. In *Dabuco v. Court of Appeals*: "There is no hypothetical admission of the veracity of allegations if their falsity is subject to judicial notice, or if such allegations are legally impossible, or if these refer to facts which are inadmissible in evidence, or if by the record or document included in the pleading these allegations appear unfounded. Also, inquiry is not confined to the complaint if there is evidence which has been presented to the court by stipulation of the parties, or in the course of hearings related to the case."

APPEARANCES OF COUNSEL

Angara Abello Concepcion Regala & Cruz for petitioners.
Estanislao Cesa, Jr., and *Marc Raymund S. Cesa* for respondents.
Maria Rosario S. Cesa co-counsel for respondents.

D E C I S I O N

LEONEN, *J.*:

When a motion to dismiss is filed, only allegations of ultimate facts are hypothetically admitted. Allegations of evidentiary facts and conclusions of law, as well as allegations whose falsity is subject to judicial notice, those which are legally impossible, inadmissible in evidence, or unfounded, are disregarded.

This resolves a Petition for Review on Certiorari[1] assailing the Court of Appeals Decision[2] and Resolution[3] in CA-G.R. CV No. 74791. Except for respondent Tomas M. Fredeluces, the Court of Appeals reinstated the Complaint[4] for damages filed by respondents Marcos B. Corpuz, Jr., Reynaldo M. Samonte, Norma M. Samonte, Ambrocio Villanueva, Salvacion A. Bon, Ramiro A. Bon, Luzviminda B. Andillo, Ludivico F. Bon, Elmo Areglo, Rose A. San Pedro, Dante U. Santos, Sr., Miguel Santos, Efren U. Santos, Ric U. Santos, Simon Marce, Jr., Joel F. Salinel, Bebiana San Pedro, and Marina Santos against petitioners Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V.[5] The Court of Appeals remanded the case to Branch 72 of the Regional Trial Court of Olongapo City, which had earlier dismissed the Complaint for damages on the grounds of *litis pendentia*, failure to state a cause of action, and lack of cause of action.[6]

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[1] *Rollo*, pp. 14-75.

[2] *Id.* at 85-98. The Decision was penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Presiding Justice Ruben T. Reyes (subsequently appointed as Associate Justice of this Court) and Associate Justice Aurora Santiago-Lagman of the First Division.

[3] *Id.* at 100-101. The Resolution was penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Presiding Justice Ruben T. Reyes (subsequently appointed as Associate Justice of this Court) and Associate Justice Aurora Santiago-Lagman of the Former First Division.

[4] *Id.* at 202-209. The Complaint was entitled Action for Damages with Motion to Litigate as Paupers.

[5] *Id.* at 97, Court of Appeals Decision.

[6] *Id.* at 85-86 and 97.

With respect to Tomas M. Fredeluces, the Court of Appeals affirmed the dismissal of the Complaint on the ground of lack of cause of action.[7]

Pursuant to Presidential Decree No. 87, otherwise known as the Oil Exploration and Development Act of 1972, the Republic of the Philippines entered into Service Contract No. 38 and engaged the services of Shell Philippines Exploration B.V. "for the exploration, development[,] and production of petroleum resources in an . . . area offshore northwest of . . . Palawan[.]"[8] The service contractors eventually discovered in offshore Malampaya-Camago at least 2.5 trillion cubic feet of natural gas deposits.[9]

Exploration and development of the Malampaya-Camago natural gas reservoir required the construction and operation of a shallow water platform off the coast of Palawan. The water platform further required a concrete gravity structure that would sit on the seabed, and a topside or the platform's deck which would sit on top of the concrete gravity structure.[10]

The topside was constructed in Singapore. As for the concrete gravity structure, Shell Philippines Exploration B.V. searched for possible construction sites here in the Philippines. Subsequently identified as a possible construction site was Subic, Zambales, and Shell Philippines Exploration B.V. met with representatives of the Subic Bay Metropolitan Authority.[11]

The Subic Bay Metropolitan Authority proposed a 40-hectare site in Sitio Agusuhin as a possible construction site for the concrete gravity structure.[12] The site formed part of the military reservation of the former naval base of the United States in Subic, which, under

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[7] *Id.* at 94-95.

[8] Exec. Order No. 473 (2005), whereas clause.

[9] Exec. Order No. 254 (1995), whereas clause.

[10] *Rollo*, p. 86.

[11] *Id.*

[12] *Id.*

Republic Act No. 7227,[13] became part of the Subic Special Economic Zone.[14]

Results of a socio-economic survey commissioned by Shell Philippines Exploration B.V. showed that there were about 200 households living at or near the proposed construction site. Together with the Subic Bay Metropolitan Authority and Pilipinas Shell Foundation, Inc., Shell Philippines Exploration B.V. established contact with the occupants of Sitio Agusuhin. It was ultimately determined that 80 households would have to be relocated to nearby areas within the Subic Seaport Economic Free Zone to carry out the project.[15]

In May 1998, the Subic Bay Metropolitan Authority and Shell Philippines Exploration B.V. entered into a Lease and Development Agreement for the construction of the concrete gravity structure in Sitio Agusuhin. The Subic Bay Metropolitan Authority undertook to relocate the affected households, while Shell Philippines Exploration B.V. undertook to give financial assistance to them.[16]

The undertakings of Shell Philippines Exploration B.V. were implemented through Pilipinas Shell Foundation, Inc. By the end of May 1998, Pilipinas Shell Foundation, Inc. concluded agreements with some of the affected households. In exchange for financial assistance, some of the claimants voluntarily dismantled their houses and relocated to nearby areas within the Subic Seaport Economic Free Zone. Other claims, however, were denied by Shell Philippines

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[13] Bases Conversion and Development Act of 1992.

[14] Rep. Act No. 7227, Sec. 12 provides:

Sec. 12. *Subic Special Economic Zone*. — Subject to the concurrence by resolution of the *Sangguniang Panlungsod* of the City of Olongapo and the *Sangguniang Bayan* of the Municipalities of Subic, Morong and Hermosa, there is hereby created a Special Economic and Free-port Zone consisting of. . . the lands occupied by the Subic Naval Base and its contiguous extensions as embraced, covered, and define[d] by the 1947 Military Bases Agreement between the Philippines and United States of America as amended[.]

[15] *Rollo*, pp. 86-87.

[16] *Id.* at 87.

Exploration B.V. for the claimant's failure to show that he or she resided in Sitio Agusuhin prior to the construction project.[17]

With the assistance of the Subic Sangguniang Bayan, a Compensation Community Relations Study Group was organized to re-evaluate the claims that had been previously denied by Shell Philippines Exploration B.V.[18] In the meantime, the construction of the concrete gravity structure was completed, and the shallow water platform was successfully installed in Palawan on June 2, 2000.[19] Shell Philippines Exploration B.V. turned over Sitio Agusuhin to the Subic Bay Metropolitan Authority, cleared, leveled, and elevated, together with improvements "consisting of a finger pier, a fence and gate, a drainage system[,] and a berthing facility for ferry sea crafts or similar vessels along the southern bank of the basin."[20]

On December 1, 2000, a Complaint for damages was filed against Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. before the Regional Trial Court of Olongapo City.[21] Tomas M. Fredeluces, Marcos B. Corpuz, Jr., Reynaldo M. Samonte, Norma M. Samonte, Ambrocio Villanueva, Salvacion A. Bon, Ramiro A. Bon, Luzviminda B. Andillo, Ludivico F. Bon, Elmo Areglo, Rose A. San Pedro, Dante U. Santos, Sr., Miguel Santos, Efren U. Santos, Ric U. Santos, Simon Marce, Jr., Joel F. Salinel, Bebiana San Pedro, and Marina Santos (Fredeluces, et al.) alleged that having resided in the area even prior to 1998, they were lawful residents of Sitio Agusuhin.[22] They allegedly constructed their houses and introduced improvements in Sitio Agusuhin, such as fruit trees and other seasonal plants.[23]

However, "[f]or the direct benefit of the defendants [Shell Philippines Exploration B.V. and Pilipinas Shell Foundation,

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17 *Id.*

18 *Id.* at 88.

19 *Id.*

20 *Id.*

21 *Id.* at 202, Complaint for damages.

22 *Id.* at 204.

23 *Id.* at 205.

Inc.]," [24] Fredeluces, et al. were "effectively evicted"[25] from their homes in "total disregard"[26] of their rights. Admitting that some of the claimants were given financial assistance, Fredeluces, et al. alleged that the amounts given were "insufficient to compensate the damages they sustained[.]"[27] Worse, they were allegedly "pressured, coerced or . . . 'sweet talked'"[28] into signing quitclaims and waivers.

"In arbitrarily and unlawfully evicting [Fredeluces, et al.] from their place of abode and livelihood,"[29] Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. allegedly failed to act with justice, "did not give . . . [Fredeluces, et al.] their due[,] and acted in bad faith."[30] The actions of Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. were allegedly contrary to law, for which they should pay Fredeluces, et al. the following amounts representing actual damages:

1. Tomas Fredeluces	₱27,000,000.00
2. Marcos Corpuz, Jr.	905,000.00
3. Reynaldo Samonte	2,000,000.00
4. Norma Samonte	2,000,000.00
5. Ambrocio Villanueva	1,700,000.00
6. Salvacion Bon	750,000.00
7. Ramiro Bon	1,000,000.00
8. Luzviminda Andillo	500,000.00
9. Ludivico Bon	500,000.00

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.* at 205-206.

[29] *Id.* at 206.

[30] *Id.*

10.	Elmo Areglo	1,000,000.00
11.	Rose San Pedro	500,000.00
12.	Dante Santos, Sr.	12,000,000.00
13.	Miguel Santos	4,000,000.00
14.	Efren Santos	5,000,000.00
15.	Ric Santos	1,000,000.00
16.	Simon Marce, Jr.	4,000,000.00
17.	Joel Salinel	(no amount)
18.	Bebiana San Pedro	1,500,000.00
19.	Marina Santos	3,000,000.00
TOTAL		₱68,255,000.00[31]

In addition to their allegations, Fredeluces, et al. moved that they be allowed to litigate as paupers considering that "[t]he gross income of each of [them] and the members of their [families] do not exceed ₱3,000.00[,]"[32] and that none of them allegedly owned real property.[33]

Instead of answering the Complaint, Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. moved to dismiss[34] the complaint based on the grounds of *litis pendenti*a, failure to state a cause of action, and lack of cause of action.[35]

Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. alleged that five (5) of the plaintiffs — namely, Dante U. Santos, Sr., Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro — earlier filed against them a Complaint[36] for sum of

[31] *Id.*

[32] *Id.* at 207.

[33] *Id.*

[34] *Id.* at 103-135.

[35] *Id.* at 103-104.

[36] *Id.* at 198-201.

money.[37] This Complaint, filed on October 9, 2000 also before the Regional Trial Court of Olongapo City, allegedly prayed for payment of disturbance compensation for their eviction from Sitio Agusuhin for the construction of the concrete gravity structure.[38] Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. argued that the Complaint for sum of money and the Complaint for damages had substantially similar causes of action and relief sought, rendering the subsequently filed Complaint for damages dismissible on the ground of *litis pendentia*.[39]

According to Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc., Fredeluces, et al. were praying for payment of damages corresponding to the value of the land they previously occupied, a right that did not belong to them because they never owned the land in Sitio Agusuhin.[40] Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. emphasized that Sitio Agusuhin belonged to the Subic Bay Metropolitan Authority pursuant to Republic Act No. 7227; hence, lands in Sitio Agusuhin are government property not subject to private ownership.[41] In addition, Fredeluces, et al.'s claims for the value of the improvements they introduced in Sitio Agusuhin were allegedly paid as evidenced by the quitclaims they had signed.[42] Consequently, the Complaint for damages failed to state a cause of action.[43]

With respect to Tomas M. Fredeluces and Ludivico F. Bon, Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. alleged that these plaintiffs never resided in Sitio Agusuhin.[44] Tomas M. Fredeluces and Ludivico F. Bon were not entitled to any

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[37] *Id.* at 112-113, Motion to Dismiss.

[38] *Id.* at 199-201, Complaint for sum of money.

[39] *Id.* at 112-116, Motion to Dismiss.

[40] *Id.* at 124-125.

[41] *Id.* at 118-119.

[42] *Id.* at 125-132.

[43] *Id.*

[44] *Id.* at 132-133.

compensation and, therefore, lacked a cause of action against Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc.[45]

Fredeluces, et al. opposed the Motion to Dismiss and prayed for its denial.[46] In their Opposition,[47] Fredeluces, et al. argued that Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc., in filing their Motion to Dismiss, hypothetically admitted the factual allegations in their Complaint. Corollarily, the trial court may not inquire into the truth of the allegations and may only resolve the Motion to Dismiss based on the facts as alleged in the Complaint.[48]

Countering the first ground of the Motion to Dismiss, Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro claimed that they were not aware of their inclusion as plaintiffs in the earlier filed Complaint for sum of money. In any case, they had allegedly revoked the Special Power of Attorney that they executed in favor of Atty. Renato H. Collado before the lawyer filed the Complaint for sum of money on their behalf. It follows that the Complaint for sum of money was filed without their authority and should be deemed not to have been filed. *Litis pendentia*, therefore, should not apply.[49]

Fredeluces, et al. expressly admitted that they never owned Sitio Agusuhin.[50] Nevertheless, they contended that they "were peacefully settled in the area and [had] introduced improvements"[51] when Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. "summarily evicted"[52] them. It is for their "unlawful eviction"[53] from,

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[45] *Id.* at 132-134.

[46] *Id.* at 224, Opposition.

[47] *Id.* at 224-237. The Opposition was entitled Opposition to: Motion to Dismiss.

[48] *Id.* at 224-225.

[49] *Id.* at 225-228.

[50] *Id.* at 234.

[51] *Id.*

[52] *Id.*

[53] *Id.*

not ownership of, Sitio Agusuhin for which Fredeluces, et al. demand payment of damages.[54]

Although admitting that they executed quitclaims in favor of Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc., Fredeluces, et al. specifically alleged that they were pressured, coerced, or "sweet-talked" into signing them.[55] In effect, Fredeluces, et al. assailed the validity of these quitclaims for lack of consent, an issue requiring the presentation of evidence during trial.[56] Fredeluces, et al. similarly argued that the issue of residence of Tomas M. Fredeluces and Ludivico F. Bon required the presentation of evidence during trial.[57]

On April 20, 2001, the Motion to Dismiss was heard.[58] Subsequently, in the Order[59] dated June 7, 2001, Branch 72 of the Regional Trial Court of Olongapo City granted the Motion to Dismiss and ruled in favor of Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc.[60]

Between the Complaint for sum of money and the Complaint for damages, the trial court found identity of parties, causes of action, and reliefs sought.[61] The trial court said that Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro "cannot feign ignorance that they were not aware that they were included as party plaintiffs in the [Complaint for sum of money]"[62] because "they actively secured copies of . . . Certificates of

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[54] *Id.*

[55] *Id.* at 234-235.

[56] *Id.* at 235-236.

[57] *Id.* at 236-237.

[58] *Id.* at 254, Regional Trial Court Order dated June 7, 2001.

[59] *Id.* at 249-254. The Order was issued by Presiding Judge Eliodoro G. Ubiadas.

[60] *Id.* at 254.

[61] *Id.* at 249-250.

[62] *Id.* at 250.

Occupancy"[63] in Sitio Agusuhin, which were annexed to the earlier filed Complaint.

The trial court likewise held that the Complaint for damages failed to state a cause of action. According to the trial court, Fredeluces, et al. based the amount of actual damages they sought on the fair market values of the parcels of land they occupied and of the improvements introduced on the property. Fredeluces, et al. effectively prayed for payment of just compensation, a relief they cannot avail themselves of because they do not own the land in Sitio Agusuhin.[64]

As for the quitclaims, the trial court held that they were valid since Fredeluces, et al. voluntarily executed them. Fredeluces, et al. even voluntarily vacated Sitio Agusuhin after they received financial assistance from Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc.[65]

In resolving the issue of whether Tomas M. Fredeluces and Ludivico F. Bon were former residents of Sitio Agusuhin, the trial court relied on the Affidavit[66] of a certain Robert Hadji (Hadji), a former resident of Sitio Agusuhin and Pilipinas Shell Foundation, Inc.'s Community Coordinator in the site. Hadji stated in his Affidavit that Tomas M. Fredeluces and Ludivico F. Bon never resided in Sitio Agusuhin.[67] While the resolution of the issue would generally require presentation of evidence during trial, the trial court said that Fredeluces, et al. did not even bother to attend the hearing of the Motion to Dismiss on April 20, 2001 to present evidence contrary to the allegations of Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc.[68] Failing to present such contrary evidence, Tomas M. Fredeluces and Ludivico F. Bon should

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[63] *Id.*

[64] *Id.* at 251.

[65] *Id.*

[66] *Id.* at 183-190.

[67] *Id.* at 187-188.

[68] *Id.* at 254, Regional Trial Court Order dated June 7, 2001.

be deemed non-residents of Sitio Agusuhin and, therefore, were not entitled to any compensation.[69]

The dispositive portion of the Order dated June 7, 2001 reads:

> WHEREFORE, in view of the foregoing, the Motion to Dismiss filed by the defendants dated April 5, 2001 is hereby granted. The case is ordered DISMISSED.
>
> SO ORDERED.[70]

Fredeluces, et al. filed a Notice of Appeal before the Court of Appeals on June 28, 2001.[71] The parties subsequently filed their respective appeal briefs,[72] both reiterating the arguments they had made before the trial court.

In contrast with the trial court, the Court of Appeals appreciated in evidence a Revocation of Special Power of Attorney allegedly executed by Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro.[73] The Complaint for sum of money was, thus, filed without their authority, and there was no *litis pendentia* so as to bar the filing of the Complaint for damages on December 1, 2000.

Despite Fredeluces, et al.'s admission that they did not own the parcels of land they occupied in Sitio Agusuhin, the Court of Appeals nonetheless held that Fredeluces, et al. may file a complaint for damages for having been "adversely affected by [Shell Philippines Exploration B.V.'s] construction works."[74] Fredeluces, et al. may likewise repudiate the quitclaims they executed.[75]

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69 *Id.*

70 *Id.*

71 *Id.* at 261, Fredeluces, *et al.*'s Appellants' Brief.

72 *Id.* at 255-278, Fredeluces, *et al.*'s Appellants' Brief, and 287-358, Pilipinas Shell Foundation, Inc., *et al.*'s Appellees' Brief.

73 *Id.* at 93-94, Court of Appeals Decision.

74 *Id.* at 96.

75 *Id.*

As to the issue of residence, the Court of Appeals found that Ludivico F. Bon formerly resided in Sitio Agusuhin. The Court of Appeals relied on the Report submitted by the Compensation Community Relations Study Group where Ludivico F. Bon was listed as one of the beneficiaries.[76] As for Tomas M. Fredeluces, he was not listed on the Report; thus, he was not entitled to any financial assistance.[77]

Thus, the Court of Appeals partially granted the appeal in the Decision dated January 25, 2006, the dispositive portion of which reads:

> **WHEREFORE**, except with respect to appellant Tomas Fredeluces, appellants' complaint is ordered **REINSTATED** and the case is, accordingly, **REMANDED** to the trial court for further proceedings.
>
> **SO. . . .**
>
> **. . . . ORDERED**.[78] (Emphasis in the original)

Shell Philippines Exploration B.V. and Pilipinas Shell Foundation, Inc. filed a Motion for Partial Reconsideration and/or Clarification, [79] which the Court of Appeals denied in the Resolution dated August 16, 2006.[80]

Assailing the Court of Appeals' January 25, 2006 Decision and August 16, 2006 Resolution, petitioners Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. filed a Petition for Review on Certiorari before this Court.[81] Respondents Tomas M. Fredeluces, Marcos B. Corpuz, Jr., Reynaldo M. Samonte, Norma M. Samonte, Ambrocio Villanueva, Salvacion A. Bon, Ramiro A. Bon, Luzviminda B. Andillo, Ludivico F. Bon, Elmo Areglo, Rose A. San Pedro, Dante U. Santos, Sr., Miguel Santos, Efren U. Santos,

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[76] *Id.* at 95.

[77] *Id.* at 94-95.

[78] *Id.* at 97-98.

[79] *Id.* at 31, Petition for Review on *Certiorari*.

[80] *Id.* at 101, Court of Appeals Resolution.

[81] *Id.* at 14, Petition for Review on *Certiorari.*

Ric U. Santos, Simon Marce, Jr., Joel F. Salinel, Bebiana San Pedro, and Marina Santos filed their Comment,[82] to which petitioners replied.[83]

Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. maintain that *litis pendentia* barred the filing of the Complaint for damages. *Litis pendentia* eventually ripened into *res judicata* when the Decision on the Complaint for sum of money became final and executory.[84]

Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. allege that the earlier filed Complaint for sum of money, where Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro were likewise plaintiffs, was dismissed by the trial court[85] on the ground of failure to state a cause of action.[86] This ruling was affirmed by the Court of Appeals in the Decision[87] dated February 27, 2004, and an Entry of Judgment[88] was issued on April 1, 2004.

Considering that the Complaint for sum of money and the Complaint for damages share substantially identical parties, causes of action, and reliefs sought,[89] Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. argue that the February 27, 2004 Court of Appeals Decision became *res judicata* so as to bar the proceedings before this Court.[90]

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[82] *Id.* at 430-434.

[83] *Id.* at 445-456, Reply.

[84] *Id.* at 43-47.

[85] *Id.* at 366-371, Regional Trial Court Order dated October 3, 2001.

[86] *Id.* at 48-49, Petition for Review on *Certiorari*.

[87] *Id.* at 373-388. The Decision, dated February 27, 2004 and docketed as CA-G.R. CV No. 74724, was penned by Associate Justice Portia Aliño-Hormachuelos (Chair) and was concurred in by Associate Justices Perlita J. Tria Tirona and Rosalinda Asuncion Vicente of the Tenth Division.

[88] *Id.* at 389.

[89] *Id.* at 34-39, Petition for Review on *Certiorari*.

[90] *Id.* at 43-47.

Even assuming that Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro signed the Revocation and Cancellation of Special Power of Attorney, Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. argue that the five (5) respondents should be deemed not to have revoked the authority to file the Complaint for sum of money.[91] Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro never informed the trial court that they were included as plaintiffs in the Complaint for sum of money.[92] Further, Bebiana San Pedro did not sign the Revocation and Cancellation of Special Power of Attorney.[93] Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro remain guilty of forum shopping.[94]

Apart from the existence of *litis pendentia*, Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. insist that the Complaint for damages failed to state a cause of action.[95] According to Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V., Fredeluces, et al. failed to allege specific acts from which it may be inferred that Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. violated the law or acted in bad faith.[96] Instead of alleging ultimate facts, Fredeluces, et al. repeatedly made conclusions of law in their Complaint for damages, such as that they were "lawful residents"[97] of Sitio Agusuhin, or that Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. "arbitrarily and unlawfully evict[ed] [Fredeluces, et al.] from their place of abode and livelihood[.]"[98] Fredeluces, et al. failed to specifically allege the acts from which they inferred

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91 *Id.* at 41-43.

92 *Id.*

93 *Id.* at 41-42.

94 *Id.* at 42-43 and 68.

95 *Id.* at 47.

96 *Id.* at 47-51.

97 *Id.* at 50.

98 *Id.*

that they were lawful residents of Sitio Agusuhin or that they were unlawfully evicted.[99] Their Complaint for damages was, therefore, correctly dismissed.[100]

Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. argue that the Court of Appeals erred in limiting itself with the allegations of the Complaint for damages when it ruled that Fredeluces, et al. had the right to demand for compensation from Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. The rule that the allegations of the complaint are hypothetically admitted when a motion to dismiss is filed is subject to exceptions. Annexes to the complaint as well as matters of judicial notice may be considered in dismissing a complaint on the ground of failure to state a cause of action.[101]

One matter of judicial notice is that the Subic Bay Metropolitan Authority, not Fredeluces, et al., own Sitio Agusuhin,[102] pursuant to Republic Act No. 7227. Not being owners, Fredeluces, et al. may not demand compensation based on the value of the properties they formerly occupied.[103] They were possessors in bad faith who, under Article 449[104] of the Civil Code, are not entitled to any indemnity with respect to improvements they have introduced in Sitio Agusuhin.[105] Assuming that Fredeluces, et al. are entitled to compensation for the improvements they introduced in Sitio Agusuhin, their claims have been paid as evidenced by the quitclaims they executed.[106]

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[99] *Id.*

[100] *Id.* at 51.

[101] *Id.* at 51-53.

[102] *Id.* at 53-55.

[103] *Id.* at 55.

[104] CIVIL CODE, Art. 449 provides:

Article 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.

[105] *Rollo*, pp. 56-57.

[106] *Id.* at 57-63.

With respect to Tomas M. Fredeluces and Ludivico F. Bon, Pilipinas Shell Foundation, Inc. and Shell Philippines Exploration B.V. maintain that they are non-residents of Sitio Agusuhin and, therefore, are not entitled to any financial assistance.[107]

Lastly, the Complaint for damages should be deemed not to have been filed because Fredeluces, et al. failed to pay the required filing fees.[108]

In their five-page Comment, with the last page being the signature page, Fredeluces, et al. quoted heavily from the Court of Appeals Decision to argue that *litis pendentia* does not exist in this case; that their Complaint for damages sufficiently stated a cause of action; and that they have sufficiently proven that they are pauper litigants.[109]

On the issue of *litis pendentia*, Dante U. Santos, Efren U. Santos, Miguel Santos, Ric U. Santos, and Bebiana San Pedro maintain that the Complaint for sum of money was filed without their authority considering that they executed the Revocation and Cancellation of Special Power of Attorney before the Complaint for sum of money was filed.[110]

On the issue of failure to state a cause of action, Fredeluces, et al. insist on the application of the general rule that only matters alleged in the Complaint may be considered in resolving motions to dismiss.[111] They fail to explain why the exceptions to the rule do not apply in this case.

On the issue of failure to pay filing fees, Fredeluces, et al. claim that they are pauper litigants as evidenced by Certifications from the Municipal Assessor of Subic.[112]

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[107] *Id.* at 63-66.

[108] *Id.* at 69-71.

[109] *Id.* at 431-433, Fredeluces, *et al.*'s Compliance and Comment.

[110] *Id.* at 431-432.

[111] *Id.* at 432-433.

[112] *Id.* at 433.

The issues for this Court's resolution are:

First, whether respondents Fredeluces, et al.'s Complaint for damages should be dismissed on the ground of *litis pendentia*; and,

Second, whether the Complaint for damages should be dismissed on the ground of failure to state a cause of action.

We *grant* the Petition. The Complaint for damages should have been dismissed as to respondent Bebiana San Pedro on the ground of *litis pendentia.* As for the rest of respondents, their Complaint failed to state a cause of action.

I

Only one suit may be instituted for a single cause of action.[113] Hence, any suit subsequently filed for the same cause of action becomes unnecessary and vexatious.[114] When there is more than one suit pending between the same parties for the same cause of action, *litis pendentia* exists and a motion to dismiss may be filed on this ground. Rule 16, Section 1 (e) of the Rules of Court provides:

> SECTION 1. *Grounds*. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:
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> . . . . . .
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> (e) That there is another action pending between the same parties for the same cause[.]

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[113] RULES OF COURT, Rule 2, Sec. 3 provides:

> RULE 2. Cause of Action
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> . . . . . .
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> SEC. 3. One suit for a single cause of action. — A party may not institute more than one suit for a single cause of action.

[114] *Victronics Computers, Inc. v. Regional Trial Court, Branch 63, Makati*, G.R. No. 104019, January 25, 1993, 217 SCRA 517, 531 [Per *J.* Davide, Jr., Third Division]; *Arceo v. Oliveros, et al.*, 219 Phil. 279, 287 (1985) [Per *J.* Cuevas, Second Division].

Litis pendentia in Latin means "a pending suit."[115] Occasionally referred to as *lis pendens*[116] or *auter action pendant*,[117] *litis pendentia* has the following elements: first, "[i]dentity of parties, or at least such parties as those representing the same interests in both actions;"[118] second, "[i]dentity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts;"[119] and third, "[i]dentity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case."[120]

The first element of *litis pendentia* — identity of parties — is absent with respect to respondents Dante U. Santos, Efren U. Santos, Miguel Santos, and Ric U. Santos. They executed on September 4, 2000[121] the Revocation and Cancellation of Special Power of Attorney and withdrew the authority they had earlier granted Atty. Renato M. Collado to file a case in their behalf. Moreover, the Court of Appeals found that their signatures do not appear on the Verification and Certification against Forum Shopping appended to the Complaint for sum of money filed on October 9, 2000.

With the Complaint for sum of money having been filed without the authority of respondents Dante U. Santos, Efren U. Santos, Miguel Santos, and Ric U. Santos, they should be deemed non-plaintiffs in the Complaint for sum of money. Consequently, the pendency of the Complaint for sum of money did not bar them from filing the Complaint for damages on December 1, 2000.

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[115] *Feliciano v. Court of Appeals*, 350 Phil. 499, 505 (1998) [Per *J.* Bellosillo, First Division].

[116] *Buan v. Lopez, Jr.*, 229 Phil. 65, 68 (1986) [Per *J.* Narvasa, First Division].

[117] *Id.*

[118] *Dasmariñas Village Association, Inc. v. Court of Appeals*, 359 Phil. 944, 951 (1998) [Per *J.* Romero, Third Division].

[119] *Id.* at 952.

[120] *Id.*

[121] *Rollo*, p. 238.

The same cannot be said for respondent Bebiana San Pedro. Respondent Bebiana San Pedro was guilty of forum shopping, repetitively filing complaints asserting "the same essential facts and circumstances, and all raising substantially the same issues"[122] against the same defendants.

Respondent Bebiana San Pedro was a party plaintiff both in the Complaint for sum of money and in the Complaint for damages. Unlike respondents Dante U. Santos, Efren U. Santos, Miguel Santos, and Ric U. Santos, respondent Bebiana San Pedro did not sign any document similar to the Revocation and Cancellation of Special Power of Attorney. Thus, she did not revoke the authority of Atty. Renato H. Collado to file the Complaint for sum of money on her behalf. The Complaint for sum of money was filed with her authority and was pending when the Complaint for damages was subsequently filed before the same trial court.

The second element of *litis pendentia* likewise exists with respect to respondent Bebiana San Pedro. There is substantial identity of rights asserted and reliefs sought between the Complaint for sum of money and the Complaint for damages.

"A cause of action is the act or omission by which a party violates a right of another."[123] For a cause of action to exist, there must be "a right existing in favor of the plaintiff;"[124] "a corresponding obligation on the part of the defendant to respect such right;"[125] and, "an act or omission of the defendant which constitutes a violation of the plaintiff's right which defendant had the duty to respect."[126]

The following allegations show that the Complaint for sum of money and the Complaint for damages similarly assert the supposed

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[122] *Gatmaytan v. Court of Appeals*, 335 Phil. 155, 167 (1997) [Per *C.J.* Narvasa, Third Division].

[123] RULES OF COURT, Rule 2, Sec. 2.

[124] *The City of Bacolod v. San Miguel Brewery, Inc.*, 140 Phil. 363, 371 (1969) [Per *J.* Barredo, *En Banc*].

[125] *Id.*

[126] *Id.*

right of respondents as possessors of parcels of land they previously occupied in Sitio Agusuhin:

Complaint for sum of money filed on October 9, 2000	**Complaint for damages filed on December 1, 2000**
2. That plaintiffs are the possessor and long-time occupants under claim of ownership of certain parcels of land situated in Sitio Agusuhin, Cawag, Subic Zambales; . . . . 4. That plaintiffs are in possession of the following areas which were expropriated by the defendants, and their corresponding values[:] [Name: Bibiana [sic] San Pedro Area occupied: 20,000 sq.m. Amount: 1,500,000.00 Disturbance compensation: 80,000.00].[127]	3. The plaintiffs are lawful residents at Sitio Agusuhin, Bgy. Cawag, Subic, Zambales. They have settled in this place long prior to 1998. They have put up their residence in this area and constructed their residential structures of various kind. They have put in various improvements, like fruit trees and devoted the area to seasonal plants. The place was a community by itself. [128]

The Complaints similarly allege that petitioners had an obligation to respect the supposed right of respondents when petitioners commenced the construction of the concrete gravity structure:

Complaint for sum of money filed on October 9, 2000	**Complaint for damages filed on December 1, 2000**
3. That sometime in 1998, the defendant Pilipinas Shell Foundation, Inc. thru its	4. About 1998, the defendants, upon agreement drawn up with the Subic Bay

[127] *Rollo*, pp. 198-199, Complaint for sum of money.

[128] *Id.* at 204-205, Complaint for damages.

exploration and development arm Shell Philippines Exploration, expropriated some 325,000 square meters of land belonging to the plaintiffs for the construction of the Malampaya Concrete Gravity Structure under the helm of Shell Philippines Exploration's Malampaya deepwater gas power project, the value of the expropriated parcels of land belonging to plaintiffs amounted to TWENTY-FIVE MILLION FOUR HUNDRED NINETY-FIVE THOUSAND PESOS (₱25,495,000.00) computed at SEVENTY FIVE PESOS (₱75.00) per square meter plus a disturbance fee of EIGHTY THOUSAND PESOS (₱80,000) per occupant. This is the amount paid by the defendant Corporation to the other lucky occupants similarly situated as the plaintiffs[.][129]	Metropolitan Authority, used this area as a launching site of its exploration project for Shell CGS Project (Malampaya project). The project site required the use of 400,000 square meters of land. 5. The area in the actual occupation and use by the plaintiffs were inside the 400,000 square meter site used by the plaintiffs.[130]

The Complaints allege a similar violative act: petitioners allegedly failed to sufficiently compensate respondents for their eviction from Sitio Agusuhin:

Complaint for sum of money filed on October 9, 2000	**Complaint for damages filed on December 1, 2000**
5. That the defendant Corporation thru Mr[.] David Greer, after occupying and	6. For the direct benefit of the defendants, the plaintiffs were effectively evicted starting

[129] *Id.* at 199, Complaint for sum of money.

[130] *Id.* at 205, Complaint for damages.

actually completing the construction works on the aforesaid parcels of land, reneged on its verbal promise to compensate the plaintiffs for the value of their lands which were expropriated by the former, for which reason the latter requested the assistance of counsel who sent a letter to the defendant dated March 15, 2000; . . . . 9. That despite several and repeated demands from the plaintiff, and defendants['] repeated assurances of payment thru defendant Mr. Greer, several meetings and submissions of numerous requirements as requested by the latter, the defendants failed and refused, and continuously fail and refuse to settle the abovementioned valid and legal claims of the plaintiffs, which constrained plaintiffs['] counsel to send another letter dated April 15, 2000; . . . 10. That after the plaintiffs['] counsel received defendants['] reply letter dated May 30, 2000, nothing was heard of from the defendants again[.] [131]	in May 1998. There was a total disregard of the rights of the plaintiffs; although, the defendants tried to work out an acceptable compensation package for the plaintiffs, which, however, failed. 7. Some of the plaintiffs were paid some amount, others were not. For those who accepted some amounts, the payment were insufficient to compensate the damages they sustained, but they have to accept said amount for them to somehow start their life. . . . . 9. In arbitrarily and unlawfully evicting the plaintiffs from their place of abode and livelihood, the defendants did not [sic] with justice, they did not give to the plaintiffs their due and acted in bad faith. The said action taken on the plaintiffs was contrary to law, in the process, they willfully and negligently caused damage to the plaintiff[s] . . . . 10. The damages suffered by the plaintiffs by their eviction from the area are in the following amounts — [Name of Plaintiffs: San Pedro, B Actual Damages: ₱1,500,000.00]. [132]

[131] *Id.* at 199-200, Complaint for sum of money.

[132] *Id.* at 205-206, Complaint for damages.

As for the reliefs sought, respondents Dante Santos, Efren Santos, Miguel Santos, Ric Santos, and Bebiana San Pedro, in the Complaint for sum of money, prayed for amounts equivalent to the "value of their lands[,]"[133] while respondents, in their Complaint for damages, prayed for actual damages suffered by them.[134] ***In both Complaints, respondent Bebiana San Pedro prayed that she be paid ₱1,500,000.00*** in addition to the prayer for payment of moral damages, exemplary damages, and attorney's fees.[135] Respondent Bebiana San Pedro sought substantially identical reliefs in the Complaint for sum of money and the Complaint for damages.

Because of the substantial identity of parties, causes of action, and reliefs sought in the Complaint for sum of money and Complaint for damages, all the elements of *litis pendentia* are present with respect to respondent Bebiana San Pedro. Judgment in any of the Complaints would be *res judicata* in the other, i.e., a final and executory judgment in any of the Complaints would be "conclusive of the rights of the parties or their privies . . . on the points and matters in issue in the first suit."[136]

A final and executory judgment has been rendered on the Complaint for sum of money. In the Order[137] dated October 3, 2001, Branch 72 of the Regional Trial Court,[138] Olongapo City dismissed the Complaint for sum of money on the ground of failure to state a cause of action.[139] The trial court, the same branch that decided the Complaint for damages, held that respondents had no right to demand compensation equivalent to the value of the parcels of land they

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[133] *Id.* at 199, Complaint for sum of money.

[134] *Id.* at 206, Complaint for damages.

[135] *Id.* at 199, Complaint for sum of money, and 206, Complaint for damages.

[136] *Philippine National Bank v. Barreto*, 52 Phil. 818, 824 (1929) [Per *J.* Villamor, *En Banc*].

[137] *Rollo*, pp. 366-371. The Order was penned by Presiding Judge Eliodoro G. Ubiadas.

[138] *Id.* at 373, Court of Appeals Decision in CA-G.R. CV No. 74724.

[139] *Id.* at 370-371, Regional Trial Court Order in Civil Case No. 399-0-2000.

previously occupied because they never possessed the properties in the concept of an owner.[140] Moreover, despite being possessors in bad faith, respondents received compensation from petitioners.[141] Specifically, respondent Bebiana San Pedro received ₱100,000.00 as evidenced by the quitclaim she had signed.[142] She may not ask for compensation anew.

The trial court Order dated October 3, 2001 was upheld on appeal in the Decision dated February 27, 2004.[143] The Court of Appeals subsequently issued the Entry of Judgment declaring the Decision dated February 27, 2004 final and executory as of April 1, 2004.[144]

Since the Complaint for sum of money and the Complaint for damages assert substantially identical causes of action and seek similar reliefs, the Decision dated February 27, 2004 binds respondent Bebiana San Pedro. The Decision dated February 27, 2004 is *res judicata* with respect to the right of respondent Bebiana San Pedro to recover compensation for vacating Sitio Agusuhin.[145] That respondent Bebiana San Pedro received ₱100,000.00 from petitioners as disturbance compensation,[146] and that she voluntarily signed a quitclaim to waive any claims she might have over the parcel of land she occupied in Sitio Agusuhin, are conclusive upon this Court.[147]

In sum, respondents Dante U. Santos, Efren U. Santos, Miguel Santos, and Ric U. Santos revoked the authority to file the Complaint for sum of money on their behalf. As for the four (4) respondents, there was no pending Complaint for sum of money when the

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[140] *Id.* at 366-367.

[141] *Id.* at 368-369.

[142] *Id.* at 368.

[143] *Id.* at 388, Court of Appeals Decision in CA-G.R. CV No. 74724.

[144] *Id.* at 389, Entry of Judgment.

[145] See *Luzon Development Bank v. Conquilla*, 507 Phil. 509 (2005) [Per *J.* Panganiban, Third Division].

[146] *Rollo*, p. 361, Regional Trial Court Order dated October 3, 2001.

[147] *Id.* at 387, Court of Appeals Decision in CA-G.R. CV No. 74724.

Complaint for damages was subsequently filed. The trial court, therefore, erred in dismissing their Complaint for damages on the ground of *litis pendentia*.

As for respondent Bebiana San Pedro, the Complaint for sum of money was filed with her authority. The Complaint for sum of money was pending when the Complaint for damages was filed. With both Complaints having substantially identical parties, causes of action, and reliefs sought, *litis pendentia* was present. As a ground for filing a motion to dismiss, *litis pendentia* ripened to *res judicata* when the Court of Appeals Decision on the Complaint for sum of money became final and executory. The trial court did not err in dismissing the Complaint for damages as to respondent Bebiana San Pedro on the ground of *litis pendentia*.

II

The trial court and the Court of Appeals differed as to whether the Complaint for damages should be dismissed. The Complaint for damages was initially dismissed on the ground of failure to state a cause of action, but the Court of Appeals reversed and remanded the Complaint to the trial court for further proceedings.

The ground of failure to state a cause of action is based on Rule 16, Section 1 (g) of the Rules of Court:

> SECTION 1. *Grounds*. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:
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> . . . . . .
>
> (g) That the pleading asserting the claim states no cause of action[.]

Failure to state a cause of action goes into the sufficiency of the allegation of the cause of action in the complaint. "When the facts alleged in the complaint show that the defendant has committed acts constituting a delict or wrong by which he violates the rights of the plaintiff, causing [the plaintiff] loss or injury, there is sufficient allegation of a cause of action. Otherwise, there is none."[148]

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[148] *U. Bañez Electric Light Company (UBELCO) v. Abra Electric Cooperative, Inc. (ABRECO), et al.*, 204 Phil. 440, 445 (1982) [Per *J.* Plana, First Division].

In this respect, a pleading sufficiently states a cause of action if it "contain[s] in a methodical and logical form, a plain, concise[,] and direct statement of the ultimate facts on which the party pleading relies for his [or her] claim[.]" [149] Ultimate facts are the "important and substantial facts which either directly form the basis of the primary right and duty, or which directly make up the wrongful acts or omissions of the defendant."[150] Allegations of evidentiary facts[151] and conclusions of law[152] in a pleading are omitted for they are unnecessary in determining whether the court has jurisdiction to take cognizance of the action.

In filing a motion to dismiss on the ground of failure to state a cause of action, a defendant "hypothetically admits the truth of the facts alleged in the complaint."[153] Since allegations of evidentiary facts and conclusions of law are omitted in pleadings, "[t]he hypothetical admission is . . . limited to the relevant and material facts well pleaded in the complaint and inferences fairly deducible therefrom."[154] However, it is mandatory[155] that courts "consider other

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[149] RULES OF COURT, Rule 8, Sec. 1.

[150] *Remitere, et al. v. Yulo, et al.*, 123 Phil. 57, 62 (1966) [Per *J.* Zaldivar, *En Banc*].

[151] RULES OF COURT, Rule 8, Sec. 1.

[152] *Viola v. The Court of First Instance of Camarines Sur,* 47 Phil. 849, 853 (1925) [Per *J.* Villa-Real, *En Banc*].

[153] *U. Bañez Electric Light Company (UBELCO) v. Abra Electric Cooperative, Inc. (ABRECO), et al.*, 204 Phil. 440, 445 (1982) [Per *J.* Plana, First Division].

[154] *Id.*

[155] RULES OF COURT, Rule 129, Sec. 1 provides:

SECTION 1. *Judicial notice, when mandatory*. — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

facts within the range of judicial notice, as well as relevant laws and jurisprudence"[156] in resolving motions to dismiss.

There are exceptions to the rule on hypothetical admission. In *Dabuco v. Court of Appeals*:[157]

> There is no hypothetical admission of the veracity of allegations if their falsity is subject to judicial notice, or if such allegations are legally impossible, or if these refer to facts which are inadmissible in evidence, or if by the record or document included in the pleading these allegations appear unfounded. Also, inquiry is not confined to the complaint if there is evidence which has been presented to the court by stipulation of the parties, or in the course of hearings related to the case.[158] (Citations omitted)

Even assuming the truth of the *ultimate* facts alleged in the Complaint for damages, the Complaint states no cause of action. Respondents may have resided in Sitio Agusuhin, constructed their houses, and planted fruit trees in the area. However, they failed to allege any circumstance showing that they had occupied Sitio Agusuhin under claim of ownership for the required number of years. In their Opposition to the Motion to Dismiss, respondents admitted that they do not own Sitio Agusuhin.[159] The property belongs to the Subic Bay Metropolitan Authority, pursuant to Republic Act No. 7227; hence, it is a government property the possession of which, however long, "never confers title [to] the possessor[.]"[160]

It follows that respondents may not ask compensation equivalent to the value of the parcels of land they previously occupied in Sitio

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[156] *U. Bañez Electric Light Company (UBELCO) v. Abra Electric Cooperative, Inc. (ABRECO), et al.*, 204 Phil. 440, 445 (1982) [Per *J.* Plana, First Division].

[157] 379 Phil. 939 (2000) [Per *J.* Kapunan, First Division].

[158] *Id.* at 950-951.

[159] *Rollo*, p. 234, Tomas M. Fredeluces, *et al.*'s Opposition to: Motion to Dismiss.

[160] *Director of Lands v. Judge Reyes*, 160-A Phil. 832, 851 (1975) [Per *J.* Antonio, *En Banc*].

Agusuhin. The right to demand compensation for deprivation of property belongs to the owner.[161]

Moreover, respondents may not claim damages equivalent to the value of the structures they built and the improvements they introduced in Sitio Agusuhin. Having admitted that they do not own Sitio Agusuhin, they were possessors in bad faith[162] who lose whatever they built, planted, or sown on the land of another without right to indemnity.[163]

Specifically with respect to respondents Tomas M. Fredeluces and Ludivico F. Bon, the allegation that they resided in Sitio Agusuhin prior to the construction of the concrete gravity structure may not be hypothetically admitted. Based on the evidence available during the hearing of the Motion to Dismiss on April 20, 2001, respondents Tomas M. Fredeluces and Ludivico F. Bon were indeed non-residents of Sitio Agusuhin prior to the construction of the concrete gravity structure.

Respondents' own evidence — the Report of the Compensation Community Relations Study Group attached to the Opposition to the Motion to Dismiss — declared respondent Tomas M. Fredeluces a non-resident of Sitio Agusuhin.[164] Moreover, as certified by the Punong Barangay of Barangay Cawag, none of the other residents

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[161] CIVIL CODE, Art. 435 provides:

Article 435. No person shall be deprived of his property except by competent authority and for public use and always upon payment of just compensation.

Should this requirement be not first complied with, the courts shall protect and, in a proper case, restore the owner in his possession.

[162] CIVIL CODE, Art. 526 provides:

Article 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing.

Mistake upon a doubtful or difficult question of law may be the basis of good faith.

[163] CIVIL CODE, Art. 449.

[164] *Rollo*, p. 253, Regional Trial Court Order dated June 7, 2001.

of Sitio Agusuhin recognized respondent Tomas M. Fredeluces as a fellow resident.[165]

As for respondent Ludivico F. Bon, the Office of the Punong Barangay of Barangay Matain, Subic, Zambales certified that he was a resident of Barangay Matain, not of Sitio Agusuhin.[166] This was corroborated by Hadji, Pilipinas Shell Foundation, Inc.'s Community Coordinator, in his Affidavit.[167]

These pieces of evidence were never controverted by respondents Tomas M. Fredeluces and Ludivico F. Bon in their Opposition to or during the hearing of the Motion to Dismiss. Therefore, respondents Tomas M. Fredeluces and Ludivico F. Bon should be deemed to have admitted that they never resided in Sitio Agusuhin prior to the construction of the concrete gravity structure.

Respondents nevertheless argue that they are entitled to damages because of their unlawful and summary eviction from Sitio Agusuhin. Their own allegations, however, belie their claim that they were unlawfully and summarily evicted. As alleged in their Complaint, petitioners "tried to work out an acceptable compensation package for the [respondents.]"[168] Also alleged in the Complaint[169] and as evidenced by quitclaims and the Final Report on the Compensation Claims, some of the respondents received the following amounts as compensation from petitioners:

Luzviminda B. Andillo	₱17,000.00[170]
Salvacion A. Bon	150,000.00[171]

[165] *Id.* at 196, Certification.

[166] *Id.* at 195.

[167] *Id.* at 183-190.

[168] *Id.* at 205, Complaint for damages.

[169] *Id.*

[170] *Id.* at 154, Luzviminda B. Andillo's Agreement (with Release, Waiver and Quitclaim).

[171] *Id.* at 150, Salvacion A. Bon's Agreement (with Release, Waiver and Quitclaim).

Ramiro A. Bon	100,000.00[172]
Elmo Areglo	270,000.00[173]
Rose A. San Pedro	103,500.00[174]
Dante U. Santos, Sr.	200,000.00[175]
Efren U. Santos	270,000.00[176]
Miguel Santos	150,000.00[177]
Ric U. Santos	35,000.00[178]
Simon Marce, Jr.	100,000.00[179]
Joel F. Salinel	125,000.00[180]
Bebiana San Pedro	140,000.00[181]
Marcos B. Corpuz, Jr.	200,000.00[182]

[172] *Id.* at 152, Ramiro A. Bon's Agreement (with Release, Waiver and Quitclaim).

[173] *Id.* at 156, Elmo Areglo's Agreement (with Release, Waiver and Quitclaim).

[174] *Id.* at 158, Rose A. San Pedro's Agreement (with Release, Waiver and Quitclaim).

[175] *Id.* at 160, Dante U. Santos, Sr.'s Agreement (with Release, Waiver and Quitclaim).

[176] *Id.* at 164, Efren U. Santos' Agreement (with Release, Waiver and Quitclaim).

[177] *Id.* at 162, Miguel Santos' Agreement (with Release, Waiver and Quitclaim).

[178] *Id.* at 166, Ric U. Santos' Agreement (with Release, Waiver and Quitclaim).

[179] *Id.* at 168, Simon Marce, Jr.'s Agreement (with Release, Waiver and Quitclaim).

[180] *Id.* at 170, Joel F. Salinel's Agreement (with Release, Waiver and Quitclaim).

[181] *Id.* at 172, Bebiana San Pedro's Agreement (with Release, Waiver and Quitclaim).

[182] *Id.* at 146, Marcos B. Corpuz, Jr.'s Agreement (with Release, Waiver and Quitclaim).

Reynaldo M. Samonte	100,000.00[183]
Ambrocio Villanueva	150,000.00[184]

In receiving the previously enumerated amounts, respondents declared in their respective quitclaims that they waived, released, and abandoned any claims that they might have had over the parcels of land they occupied in Sitio Agusuhin as well as the improvements they introduced in the property.

Quitclaims are contracts in the nature of a compromise where parties make concessions, a lawful device to avoid litigation.[185] That respondents perceived the amounts they received as "insufficient"[186] does not make the quitclaims invalid.

As for the allegation that respondents were "pressured, coerced[,] or. . . 'sweet-talked'"[187] into receiving compensation, this is a conclusion of law that may not be hypothetically admitted. The circumstances of fraud and mistake must be stated with particularity.[188] Nothing in the Complaint for damages show how respondents were particularly "pressured, coerced[,] or. . . 'sweet-

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[183] *Id.* at 147, Reynaldo M. Samonte's Agreement (with Release, Waiver and Quitclaim).

[184] *Id*. at 145, Pilipinas Shell Foundation, Inc.'s Final Report on Compensation Claims.

[185] CIVIL CODE, Art. 2028 provides:

Article 2028. A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.

[186] *Rollo*, p. 205, Complaint for damages.

[187] *Id.* at 205-206.

[188] RULES OF COURT, Rule 8, Sec. 5 provides:

Rule 8. Manner of Making Allegations in Pleadings

x x x x x x x x x

SEC 5. Fraud, mistake, condition of the mind. — In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge or other condition of the mind of a person may be averred generally.

talked'" by petitioners into receiving compensation. As found by the trial court, respondents voluntarily vacated Sitio Agusuhin.[189]

All told, the Motion to Dismiss was correctly granted on the ground of failure to state a cause of action.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED.** The Decision dated January 25, 2006 and the Resolution dated August 16, 2006 of the Court of Appeals in CA-G.R. CV No. 74791 are **REVERSED** and **SET ASIDE.** The Complaint filed before Branch 72 of the Regional Trial Court, Olongapo City, docketed as Civil Case No. 04-0-2001, is hereby ordered **DISMISSED.**

SO ORDERED.

Carpio (Chairperson), *Brion, del Castillo,* and *Mendoza, JJ.,* concur.

SECOND DIVISION

[G.R. No. 186107. April 20, 2016]

NARCISA M. NICOLAS, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES and SPOUSES RALPH ADORABLE and ROWENA ADORABLE,** *respondents.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW UNDER RULE 45 OF THE REVISED RULES OF COURT; A QUESTION OF FACT IS NOT REVIEWABLE THEREIN; CASE AT BAR.— [T]he resolution of the issues raised is factual in nature and calls

[189] *Rollo*, p. 251, Regional Trial Court Order dated June 7, 2001.

for a review of the evidence already considered in the proceedings below. x x x Whether petitioner falsified the signatures of Ralph and his wife in the Deed of Absolute Sale dated October 8, 1998 and the Real Estate Mortgage dated October 20, 1997 is a question of fact. x x x [I]t is not reviewable in this Rule 45 petition.

APPEARANCES OF COUNSEL

Sacramento Law Office for petitioner.

R E S O L U T I O N

DEL CASTILLO, *J.*:

Assailed in this Petition for Review on *Certiorari* is the November 17, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 31177 affirming with modification the August 27, 2007 Judgment[2] of the Regional Trial Court (RTC), Branch 274, Parañaque City finding Narcisa M. Nicolas (petitioner) guilty beyond reasonable doubt of the crime of Estafa through Falsification of Public Document.

Based on Ralph T. Adorable's (Ralph) Complaint-Affidavit[3] dated September 12, 2000, petitioner, along with Catalina M. Cacho (Cacho), Primo G. Espiritu (Espiritu) and Raquel Dagsil Cagadas (Cagadas), was charged, in an Information dated March 29, 2001 and filed before the RTC of Parañaque City, with the crime of Estafa through Falsification of Public Documents. The accusatory portion of the Information reads:

That sometime in December 1996 or prior thereto, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then private persons,

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[1] CA *rollo*, pp. 127-166; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Mario L. Guariña III and Apolinario D. Bruselas, Jr.

[2] Records, pp. 805-820; penned by Judge Fortunito L. Madrona.

[3] *Id.* at 4-6.

conspiring and confederating together and all of them mutually helping and aiding one another, by means of deceit, false pretenses and fraudulent acts, did then and there willfully unlawfully and feloniously defraud complainants Spouses Ralph Adorable and Rowena Sta. Ana Adorable in the following manner, to wit: the complainants purchased 293 square meter lot from the accused worth ₱644,600.00 and after having paid the same, the accused mortgaged the said property to another person by signing the names of the complainants on the Deed of Real Estate Mortgage and Deed of Absolute Sale making it appear that they signed the same when in fact did not so participate as they were in Belgium, and once in possession of the amount, accused appropriated, applied and converted the same to their own personal use, to the damage and prejudice of complainants Spouses Ralph Adorable and Rowena Sta. Ana Adorable, in the aforementioned amount of ₱644,600.00.

CONTRARY TO LAW.[4]

On her arraignment on August 6, 2001, petitioner pleaded not guilty. Thereafter, a pre-trial conference was conducted and terminated on October 8, 2002.

During the trial, the prosecution presented as witnesses Ralph and his brother Abel Adorable (Abel) whose testimonies, woven together, established the following:

While in Belgium as an overseas worker, Ralph conveyed to Abel his interest in acquiring a residential land in the Philippines. When Ralph came home in the first week of December 1996, he met petitioner at her residence at Matatdo, San Isidro, Sucat, Parañaque City. Abel introduced petitioner to Ralph as a real estate agent and a friend of his mother-in-law. Petitioner showed a 293-square meter lot located at Matatdo with a selling price of ₱2,500.00 per square meter. Petitioner claimed to be the owner of the property though the title was not yet registered in her name. She told Ralph that the registered owners, Conrado and Virginia Montero, will transfer the title directly to him to avoid paying higher taxes. Ralph agreed and gave a partial payment of ₱350,000.00[5] and the remaining balance to be paid

[4] *Id.* at 2.

[5] *Id.* at 291.

in installment. Soon after, a Deed of Absolute Sale[6] covering the property was executed on December 4, 1996. Meanwhile, on December 15, 1996, Ralph went back to Belgium. In January 1997, Abel informed him that the property is now registered in his (Ralph) name under Transfer Certificate of Title (TCT) No. 119421.[7] In December 1997, however, petitioner asked from Abel the owner's duplicate copy of the title, claiming that there is a mistake in the area which must be corrected.

When Ralph returned to the Philippines, he visited the property. To his surprise, there was a notice posted on said property which reads, "lot for sale." Upon inquiry at the Registry of Deeds of Parañaque City, Ralph discovered that his title over the property has already been transferred by virtue of a Deed of Absolute Sale[8] purporting to have been executed by him in favor of Cagadas, Cacho and Espiritu. Ralph's TCT No. 119421 was already cancelled and in lieu thereof TCT No. 138613[9] was issued in the name of Cagadas, while TCT No. 138614[10] was issued in the names of Cacho and Espiritu. Ralph denied his signature and that of his wife Rowena in the Deed of Absolute Sale. He maintained that they were in Belgium when the said deed was notarized on October 8, 1998. Ralph also discovered that his property was previously mortgaged to the spouses Emilio and Magdalena Marquez. He likewise denied his and his wife's signature on the Real Estate Mortgage[11] for the same reason that they were out of the country when the mortgage was allegedly executed on October 20, 1997. When confronted by Ralph upon his return, petitioner asked for forgiveness because she sold the property. She offered to swap a 300-square meter lot located in Greenheights Subdivision for the sold lot. The proposed

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[6] *Id.* at 292-293.

[7] *Id.* at 294.

[8] *Id.* at 303-304.

[9] *Id.* at 308-309.

[10] *Id.* at 310.

[11] *Id.* at 311-312.

swapping did not, however, materialize since petitioner was found to own only about 50 square meters of the Greenheights property. Repeated request for petitioner to return the title was made by Abel and Ralph, but to no avail. Consequently, petitioner was charged with the crime of estafa through falsification of public document.

Petitioner denied forging the signature of Ralph and his wife in the Real Estate Mortgage and in the Deed of Absolute Sale. She claimed that it was Abel who mortgaged the subject property to the spouses Marquez and later sold the same to Cacho, Espiritu and Cagadas.

Ruling of the Regional Trial Court

The RTC found prosecution witnesses Ralph and Abel and their testimonies credible while it did not give weight and credence to petitioner's defense labeling it as an afterthought, contrived and incredible. In its Judgment dated August 27, 2007, the trial court found petitioner guilty as charged while Cacho, Espiritu and Cagadas were acquitted, thus:

> WHEREFORE, after duly considering the foregoing, the Court finds the accused Narcisa Mendoza Nicolas GUILTY beyond reasonable doubt of the crime of Estafa Through Falsification of Public Document as charged in the Information, and accordingly therefore hereby penalizes the said accused to suffer the indeterminate sentence of six (6) months and one (1) day of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, to pay the offended party the sum of Php344,000.00 as indemnity, and costs, with accessory penalty of civil interdiction during the period of the sentence and perpetual absolute disqualification for the exercise of the right of suffrage.
>
> As to accused Raquel Dagsil Cagadas, Catalina Cacho and Primo Espiritu, the Court finds them not GUILTY as charged in the Information and accordingly therefore hereby acquits the said accused therefrom.
>
> SO ORDERED.[12]

[12] *Id.* at 796.

Ruling of the Court of Appeals

Petitioner appealed to the CA. In its assailed Decision dated November 17, 2008, the CA affirmed the RTC's Judgment, but modified the amount of actual damages awarded. The CA ruled —

> It was established in evidence that the owner's duplicate copy of TCT No. 119421 covering the Matatdo property was in the possession of the appellant as she deceitfully took the same from Abel under the false pretense that the same was needed for correction of the measurement of the area of the Matatdo property as stated in the said TCT, when, in truth and in fact, what appellant did was to mortgage and later on sell the Matatdo property, by making it appear that the owners Sps. Ralph and Rowena participated therein when they did not in fact so participate. It was admitted by appellant in the above quoted Agreement that she was the one who sold the Matatdo property to third persons. Clearly, appellant, as the material author, made it appear that Sps. Ralph and Rowena, who were then in Belgium as they returned to the Philippines only in 2000, participated in the execution of the Real Estate Mortgage dated 20 October 1997 (Exhibit "I") over the Matatdo property in favor of Sps. Emilio and Magdalena Marquez, as well as in the Deed of Absolute Sale dated 08 October 1998 (Exhibit "E") selling the Matatdo property to appellant's co-accused Cacho, Epiritu and Cagadas, when said Sps. Ralph and Rowena, as owners thereof, did not in fact do so, to their damage and prejudice. Evidently, appellant is guilty of the complex crime of estafa through falsification of public document. x x x.
>
> x x x x x x x x x
>
> As previously discussed, the prosecution was only able to establish that appellant received the total amount of Php572,000.00 as payment for the Matatdo property. Since the amount of Php300,000.00 was already returned by the appellant to Ralph, as admitted by the latter, only the remaining defrauded amount of Php272,000.00 must be paid by appellant to Sps. Ralph and Rowena.[13]

Hence, the present Petition.

Petitioner raises the following issues:

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[13] CA *rollo*, pp. 157 & 162.

I

WHETHER x x x THE EVIDENCE PRESENTED BY THE PROSECUTION, THAT THE HONORABLE FOURTEENTH DIVISION OF THE COURT OF APPEALS ADOPTED AS BASIS FOR ITS DECISION, WAS SUFFICIENT TO APPROXIMATE THE DEGREE REQUIRED BY LAW TO PROVE THE GUILT OF ACCUSED NARCISA M. NICOLAS BEYOND REASONABLE DOUBT.

II

WHETHER x x x THE HONORABLE FOURTEENTH DIVISION OF THE COURT OF APPEALS UNDERTOOK A REVIEW OF THE EVIDENCE BEYOND THE FINDINGS OF THE TRIAL COURT.[14]

We deny the Petition.

Verily, the resolution of the issues raised is factual in nature and calls for a review of the evidence already considered in the proceedings below.

"Basic is the rule in this jurisdiction that only questions of law may be raised in a petition for review under Rule 45 of the Revised Rules of Court. The jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing errors of law, the findings of fact of the appellate court being conclusive. We have emphatically declared that it is not the function of this Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that may have been committed by the lower court. x x x

x x x Where the factual findings of both the trial court and the Court of Appeals coincide, [as in this case,] the same are binding on this Court. We stress that, subject to some exceptional instances, [none of which is present in this case,] only questions of law — not questions of fact — may be raised before this Court in a petition for review under Rule 45 of the Revised Rules of Court."[15]

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[14] *Rollo*, p. 15.

[15] *Soriamont Steamship Agencies, Inc. v. Sprint Transport Services, Inc.*, 610 Phil. 291, 300 (2009).

Whether petitioner falsified the signatures of Ralph and his wife in the Deed of Absolute Sale dated October 8, 1998 and the Real Estate Mortgage dated October 20, 1997 is a question of fact. Following the foregoing tenet, therefore, it is not reviewable in this Rule 45 petition.

Moreover, this observation notwithstanding, we are convinced that the challenged Decision upholding the existence of the element of the complex crime charged in the Information appears to be justified on the basis of the findings of fact and reasons relied upon by the CA. To us the conclusion drawn from such findings is not based on mere speculation, surmises or conjecture as petitioner represents.

WHEREFORE, the instant petition is **DENIED** for lack of merit. Accordingly, the assailed Court of Appeals Decision dated November 17, 2008 in CA-G.R. CR No. 31177 is hereby **AFFIRMED**.

SO ORDERED.

Carpio (Chairperson), *Brion, Mendoza,* and *Leonen, JJ.,* concur.

THIRD DIVISION

[G.R. No. 189577. April 20, 2016]

PHILIPPINE NATIONAL BANK, *petitioner, vs.* **SPS. VICTORIANO & JOVITA FARICIA RIVERA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; CAUSE OF ACTION; ELEMENTS.— Section 2, Rule 2 of the Revised Rules of

Civil Procedure defines a cause of action as the act or omission by which a party violates a right of another. Its elements are as follows: "1) A right in favor of the plaintiff by whatever means and under whatever law it arises or is created; 2) An obligation on the part of the named defendant to respect or not to violate such right; and 3) Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief."

2. ID.; ID.; DEMURRER TO EVIDENCE; DISMISSAL DUE TO LACK OF CAUSE OF ACTION MAY BE RAISED ANY TIME AFTER THE QUESTIONS OF FACT HAVE BEEN RESOLVED ON THE BASIS OF STIPULATIONS, ADMISSIONS OR EVIDENCE PRESENTED BY THE PLAINTIFF.— Lack of cause of action refers to the insufficiency of the factual basis for the action. Dismissal due to lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff. It is a proper ground for a demurrer to evidence under Rule 33 of the Revised Rules of Civil Procedure x x x. In this case, the RTC could not have dismissed the Complaint due to lack of cause of action for x x x such ground may only be raised after the plaintiff has completed the presentation of his evidence.

3. ID.; ID.; MOTION TO DISMISS; FAILURE TO STATE A CAUSE OF ACTION; WHEN A MOTION TO DISMISS IS GROUNDED ON THE FAILURE TO STATE A CAUSE OF ACTION, A RULING THEREON SHOULD BE BASED ONLY ON THE FACTS ALLEGED IN THE COMPLAINT.— If the allegations of the complaint do not state the concurrence of the x x x elements [of a cause of action], the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action which is the proper remedy under Section 1 (g) of Rule 16 of the Revised Rules of Civil Procedure x x x. By filing a Motion to Dismiss, a defendant hypothetically admits the truth of the material allegations of the ultimate facts contained in the plaintiff's complaint. When a motion to dismiss is grounded on the failure to state a cause of action, a ruling thereon should, as a rule, be based only on the facts alleged in the complaint.

4. ID.; ID.; CAUSE OF ACTION; SUFFICIENTLY ALLEGED IN THE COMPLAINT IN CASE AT BAR.— In an action for annulment of sheriff's sale on the ground that payment of the mortgage loan had already been made, an allegation to that effect would be sufficient to state a cause of action. For if payment were already made, then there would have been no basis for the auction sale because the obligation had already been satisfied. Hypothetically admitting such fact, PNB's foreclosure of the mortgage and sale of the subject property constituted an act in violation of the respondent's rights over their property for which they may maintain an action for recovery of damages or other appropriate relief.

5. MERCANTILE LAW; ACT NO. 3135 (REAL ESTATE MORTGAGE LAW); EXTRAJUDICIAL FORECLOSURE; PERSONAL NOTICE TO THE MORTGAGOR IS NOT NECESSARY BUT THE PARTIES MAY STIPULATE OTHERWISE.— PNB alleges that personal notice is not required in extrajudicial foreclosures. The general rule is that personal notice to the mortgagor in extrajudicial foreclosure proceedings is not necessary. Section 3 of Act No. 3135 only requires the posting of the notice of sale in three public places and the publication of that notice in a newspaper of general circulation. However, in several instances, we recognized that the parties may stipulate otherwise x x x.

APPEARANCES OF COUNSEL

Ronald Franco S. Cosico for petitioner Philipine National Bank.

Carmelo and Palapayon Law Office for respondents.

D E C I S I O N

JARDELEZA, *J.*:

Before us is a Petition for Review on *Certiorari* assailing the Decision dated June 19, 2009[1] and the Resolution dated

[1] Penned by CA Associate Justice Fernanda Lampas-Peralta, with Associate Justices Andres B. Reyes, and Apolinario D. Bruselas, Jr. concurring.

September 11, 2009[2] of the Court of Appeals (CA). The assailed decision and resolution set aside the Orders dated October 25, 2006[3] and January 9, 2007[4] of the Regional Trial Court, Branch 272, Marikina City (RTC) which dismissed the Complaint for Annulment of Sheriff's Sale with Damages[5] filed by the respondents.

The Facts

On September 18, 1995, the Spouses Victoriano and Jovita Faricia Rivera (Spouses Rivera) executed a real estate mortgage[6] in favor of the Philippine National Bank (PNB) over a parcel of land (land) covered by Transfer Certificate of Title (TCT) No. 288169[7] of the Register of Deeds of Marikina City.

The mortgage was executed to secure the payment of the housing loans[8] and revolving credit line[9] obtained by the Spouses Rivera from PNB. The mortgage was eventually foreclosed and the land was sold at public auction.[10]

On December 28, 2005, the Spouses Rivera filed a Complaint for Annulment of Sheriff's Sale with Damages (Complaint) against PNB and Julia Coching Sosito (Sosito), alleging that: 1) the Spouses Rivera mortgaged the land in favor of PNB; 2) the land was sold through public auction on September 9, 2004 by Sosito, sheriff of Branch 272, RTC Marikina City; 3) the Spouses Rivera did not receive the notice of the auction sale as it was sent to the wrong address at 26 Verdi Street, Ideal Subdivision, Fairview, Quezon City when in fact, PNB knew

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[2] *Id.* at 48.

[3] *Id.* at 157-159.

[4] *Id.* at 160.

[5] *Id.* at 119-122.

[6] *Id.* at 66-72.

[7] *Id.* at 73-74.

[8] *Id.* at 75-91.

[9] *Id.* at 92-97.

[10] *Id.* at 118.

the Spouses' correct address; and 4) had the Spouses been informed of the auction sale, they would have informed Sosito that they had already paid their obligation to PNB.[11] The Spouses Rivera prayed that they be awarded moral and exemplary damages, plus attorney's fees.[12]

Sosito did not file any answer or responsive pleading. On the other hand, PNB filed a Motion to Dismiss[13] arguing that the Spouses Rivera had no cause of action against it because they were duly notified of the auction sale, to wit:

> In the case at bar, plaintiffs miserably failed to establish a cause of action in their case against defendant as **all transactions made between them and the Bank were all in accordance with long standing and accepted banking practices, regarding the granting of loans and the availments of the credit facilities extended to plaintiffs. The loan and mortgage contracts between the Bank and plaintiffs were properly and officially documented. By affixing their signatures on the said contracts, they were deemed charged with knowledge of all the stipulated charges imposed by the Bank and cannot, by any stretch of the imagination, feign ignorance at this late stage. Moreover, and more importantly, the Bank observed and complied with all the stringent requirements under Act No. 3135, as amended, regarding the extra-judicial foreclosure sale of plaintiff's mortgaged property.**[14] (Emphasis in the original.)

PNB also alleged that Act No. 3135[15] does not require personal notice to the mortgagor in case of auction sale and the Spouses Rivera failed to attach the official receipts to show their substantial payments of the amortizations.[16] PNB prayed that the Complaint be dismissed with prejudice for lack of cause of action.[17]

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[11] *Id.* at 39.

[12] *Id.* at 121.

[13] *Id.* at 123-153.

[14] *Id.* at 128.

[15] An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages (1924).

[16] *Rollo*, p. 143.

[17] *Id.* at 151.

The Spouses Rivera filed their Opposition[18] to the Motion to Dismiss, stressing that there was no proper notice and the obligation to PNB had been fully paid.

In an Order dated October 25, 2006, the RTC dismissed the Complaint for lack of cause of action, to wit:

> After a careful perusal of the allegations in plaintiffs' complaint for Annulment of Sheriff's Sale with damages against defendants PNB and Julia Coching Sosito, it is very patent that the same failed to state a cause of action. There being a proper notice to plaintiffs of the auction sale of their mortgaged property, defendants had not violated any rights of plaintiffs from which a cause of action had arisen. As appearing on the face of plaintiffs' Complaint and their annexes, there is no showing that there is flaw or defect in the conduct of the sheriff's sale of their mortgaged property that would warrant its annulment and to hold defendants liable for damages.[19]

The dispositive portion of the Order reads as follows:

> WHEREFORE, in view of the foregoing, defendant PNB's Motion to dismiss is hereby GRANTED and the plaintiff's Complaint filed against both defendants is ordered DISMISSED for lack of cause of action.
>
> SO ORDERED.[20]

The Spouses Rivera filed a Motion for Reconsideration but the same was denied in an Order dated January 9, 2007. The Spouses Rivera then filed an appeal to the CA.

In a Decision dated June 19, 2009, the CA set aside the assailed Orders and remanded the case to the trial court for further proceedings.

The CA held that the allegations in the Complaint sufficiently made out a cause of action against PNB. It ruled that the trial court erred in considering extraneous matters, such as PNB's

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[18] *Id.* at 154-156.

[19] *Id.* at 159.

[20] *Id.*

assertion that the spouses were notified of the auction sale and that personal notice is not required by law when it ordered the dismissal of the complaint.[21] The dispositive portion of the Decision reads as follows:

> **WHEREFORE**, the appealed Orders dated October 25, 2006 and January 9, 2007 of the trial court are set aside and the case is remanded to the trial court for further proceedings.
>
> **SO ORDERED.**[22]

PNB filed a Motion for Reconsideration which was denied by the CA in a Resolution dated September 11, 2009. Hence, this appeal.

In its Petition for Review on *Certiorari*,[23] PNB asserts that the CA seriously erred when it set aside and reversed the order of the trial court dismissing the case. The respondent spouses failed to meet the essential elements for a valid cause of action to exist, *i.e.*, they failed to show that they have a legal right and that PNB had a correlative duty to respect or not to violate such right. More importantly, no such act or omission was committed by PNB which may be considered a violation of the respondents' rights. PNB also maintains that the respondents' allegation of payment should not constitute a sufficiently stated cause of action. Lastly, it maintains that the findings of the CA run counter to the time-honored principle that no notice of auction sale is required to be sent to the mortgagors in case of extrajudicial foreclosure sales.

The Issue

The sole issue for our consideration is whether the CA erred in setting aside the Orders of the RTC and remanding the case to the trial court for further proceedings.

Our Ruling

We deny the petition.

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[21] *Rollo*, pp. 43-46.

[22] *Id.* at 46.

[23] *Id.* at 13-37.

The CA correctly set aside the RTC Orders and remanded the case to the trial court for further proceedings. Like the CA, we find that there is an apparent confusion over the ground relied upon for the dismissal of the case, as shown by the parties' pleadings, as well as the challenged Order of the RTC.

For the guidance of the bar and the bench, we explain.

Failure to state a cause of action and lack of cause of action distinguished

We have consistently held that there is a difference between failure to state a cause of action, and lack of cause of action. These legal concepts are distinct and separate from each other.

Section 2, Rule 2 of the Revised Rules of Civil Procedure defines a cause of action as the act or omission by which a party violates a right of another. Its elements are as follows:

1) A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;

2) An obligation on the part of the named defendant to respect or not to violate such right; and

3) Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.[24]

Lack of cause of action refers to the insufficiency of the factual basis for the action.[25] Dismissal due to lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff.[26] It is a proper ground for a demurrer

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[24] *Agoy v. Court of Appeals,* G.R. No. 162927, March 6, 2007, 517 SCRA 535, 541.

[25] *Zuniga-Santos v. Santos-Gran*, G.R. No. 197380, October 8, 2014, 738 SCRA 33, 39.

[26] *Macaslang v. Zamora*, G.R. No. 156375, May 30, 2011, 649 SCRA 92, 106-107.

to evidence under Rule 33 of the Revised Rules of Civil Procedure, which provides:

> Section 1. *Demurrer to evidence*. — After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.

In this case, the RTC could not have dismissed the Complaint due to lack of cause of action for as stated above, such ground may only be raised after the plaintiff has completed the presentation of his evidence.

If the allegations of the complaint do not state the concurrence of the above elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action which is the proper remedy under Section 1 (g) of Rule 16 of the Revised Rules of Civil Procedure, which provides:

> Section 1. *Grounds*. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:
>
> x x x x x x x x x
>
> (g) That the pleading asserting the claim states no cause of action; x x x

The case of *Hongkong and Shanghai Banking Corporation Limited v. Catalan*[27] laid down the test to determine the sufficiency of the facts alleged in the complaint, to wit:

> The elementary test for failure to state a cause of action is whether the complaint alleges facts which if true would justify the relief demanded. Stated otherwise, may the court render a valid judgment upon the facts alleged therein? The inquiry is into the sufficiency, not the veracity of the material allegations. If the allegations in the complaint furnish sufficient basis on which it can be maintained,

[27] G.R. Nos. 159590-91, October 18, 2004, 440 SCRA 498.

it should not be dismissed regardless of the defense that may be presented by the defendants.[28]

By filing a Motion to Dismiss, a defendant hypothetically admits the truth of the material allegations of the ultimate facts contained in the plaintiff's complaint.[29] When a motion to dismiss is grounded on the failure to state a cause of action, a ruling thereon should, as a rule, be based only on the facts alleged in the complaint.[30]

Applying the foregoing principles to this case, the CA correctly found that the Complaint filed by the Spouses Rivera sufficiently stated a cause of action for annulment of sheriff's sale. We quote with favor the relevant portion of the Decision:

> Thus, by filing a motion to dismiss on the ground that the complaint does not state a cause of action, defendant-appellee PNB hypothetically admits the material allegations in the complaint. These material allegations read:
>
> 3. That plaintiff is the owner of a parcel of residential lot with improvements located at blk 17 lot 2 La Colina Subdivision, Parang, Marikina City which it mortgaged to defendant PNB x x x;
>
> 4. That plaintiff came to know that said property had been sold at public auction on September 9, 2004 by co-defendant sheriff, x x x and that the highest bidder was defendant PNB x x x;
>
> 5. That there was no notice received by the plaintiff regarding this auction sale as a careful verification would show that the notice was sent to the wrong address at 26 Verdi Street, Ideal Subdivision, Fairview, Quezon City when defendant PNB knows fully well my correct address;
>
> 6. That had plaintiff been formally informed of the auction sale he could have made known to co-defendant sheriff that

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[28] *Id.* at 510-511.

[29] *Vitangcol v. New Vista Properties, Inc.,* G.R. No. 176014, September 17, 2009, 600 SCRA 82, 93.

[30] *Id.*

> he has already paid his obligation of defendant corporation considering that plaintiff had made a total payment to defendant PNB in the amount of ₱2,292,159.62 which is even more than the amount of ₱2,250,000.00 being claimed by defendant PNB.
>
> The foregoing allegations of non-receipt by plaintiffs-appellants of any notice of the auction sale and their full payment of their obligation to defendant-appellee PNB are hypothetically admitted by the latter and sufficiently make out a cause of action against defendants-appellees. Whether said allegations are true or not are inconsequential to a determination of the sufficiency of the allegations in the complaint.[31]

Allegation of payment of the mortgage loan

Like the CA, we also observe that the RTC did not address the respondents' allegation that they had fully paid the mortgage loan. As correctly stated by the CA, "[o]n this basis alone, the trial court should have denied the motion to dismiss because the complaint sufficiently alleged a cause of action."[32]

In an action for annulment of sheriff's sale on the ground that payment of the mortgage loan had already been made, an allegation to that effect would be sufficient to state a cause of action. For if payment were already made, then there would have been no basis for the auction sale because the obligation had already been satisfied.

Hypothetically admitting such fact, PNB's foreclosure of the mortgage and sale of the subject property constituted an act in violation of the respondents' rights over their property for which they may maintain an action for recovery of damages or other appropriate relief.

Personal notice in extrajudicial foreclosure of mortgage

PNB alleges that personal notice is not required in extrajudicial foreclosures. The general rule is that personal notice to the

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[31] *Rollo*, pp. 42-43.

[32] *Id.* at 44.

mortgagor in extrajudicial foreclosure proceedings is not necessary. Section 3[33] of Act No. 3135 only requires the posting of the notice of sale in three public places and the publication of that notice in a newspaper of general circulation.[34] However, in several instances, we recognized that the parties may stipulate otherwise, thus in *Metropolitan Bank and Trust Company v. Wong*,[35] we explained:

> . . . a contract is the law between the parties and, that absent any showing that its provisions are wholly or in part contrary to law, morals, good customs, public order, or public policy, it shall be enforced to the letter by the courts. Section 3, Act No. 3135 reads:
>
> "Sec. 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality and city."
>
> The Act only requires (1) the posting of notices of sale in three public places, and (2) the publication of the same in a newspaper of general circulation. Personal notice to the mortgagor is not necessary. *Nevertheless*, the parties to the mortgage contract are not precluded from exacting additional requirements. In this case, petitioner and respondent in entering into a contract of real estate mortgage, agreed *inter alia*:
>
> "all correspondence relative to this mortgage, including demand letters, summonses, subpoenas, or notifications of any judicial or extra-judicial action shall be sent to the MORTGAGOR at

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[33] Section 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city.

[34] *Ramirez v. Manila Banking Corporation*, G.R. No. 198800, December 11, 2013, 712 SCRA 610.

[35] G.R. No. 120859, June 26, 2001, 359 SCRA 608.

40-42 Aldeguer St., Iloilo City, or at the address that may hereafter be given in writing by the MORTGAGOR to the MORTGAGEE."

Precisely, the purpose of the foregoing stipulation is to apprise respondent of any action which petitioner might take on the subject property, thus according him the opportunity to safeguard his rights. When petitioner failed to send the notice of foreclosure sale to respondent, he committed a contractual breach sufficient to render the foreclosure sale on November 23, 1981 null and void.[36] (Citations omitted.)

The determination of the veracity of the allegations on payment as well as PNB's compliance with the notice requirement under the law are better ventilated in actual trial where evidence may be presented, refuted, and ultimately decided upon. Thus, remand to the trial court is necessary.

WHEREFORE, premises considered, the Petition for Review on *Certiorari* is hereby **DENIED** for lack of merit. The Decision dated June 19, 2009 and the Resolution dated September 11, 2009 of the Court of Appeals are **AFFIRMED**. The case is hereby **REMANDED** to the trial court for further proceedings.

SO ORDERED.

Velasco, Jr. (Chairperson), *Brion,*[*] *Perez,* and *Reyes, JJ.,* concur.

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[36] *Id.* at 614-615.

[*] Designated as additional Member per Raffle dated December 2, 2009.

THIRD DIVISION

[G.R. No. 192428. April 20, 2016]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ELPEDIO CASTAÑAS *Y* ESPINOSA,** *accused-appellant.*

SYLLABUS

1. **CRIMINAL LAW; REVISED PENAL CODE; STATUTORY RAPE, DEFINED; TO CONVICT AN ACCUSED OF THE CRIME OF STATUTORY RAPE, THE PROSECUTION CARRIES THE BURDEN OF PROVING THE AGE OF THE COMPLAINANT, THE IDENTITY OF THE ACCUSED, AND THE SEXUAL INTERCOURSE BETWEEN THE ACCUSED AND THE COMPLAINANT.—** Statutory rape is committed by sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or the lack of it to the sexual act. Proof of force, intimidation, or consent is unnecessary. These are not elements of statutory rape as the absence of free consent is conclusively presumed when the victim is below the age of twelve. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving; (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant.

2. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; IN RAPE CASES, THE TESTIMONIES OF CHILD VICTIMS ARE GIVEN FULL WEIGHT AND CREDIT, FOR YOUTH AND IMMATURITY ARE GENERALLY BADGES OF TRUTH AND SINCERITY.—** In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things. Testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped,

she says in effect all that is necessary to show that rape was indeed committed. Youth and maturity are generally badges of truth and sincerity.

3. CRIMINAL LAW; REVISED PENAL CODE; RAPE; THE TOUCHING OF THE *LABIA MAJORA* OR THE *LABIA MINORA* OF THE PUDENDUM BY THE PENIS CONSTITUTES CONSUMMATED RAPE.— [T]he Court disbelieves that appellant could only have had a spontaneous ejaculation without having done other acts to bring about the same. The medical findings of AAA's hyperemia at both her labial folds, the tenderness at her hymenal area and the presence of spermatozoa evidence that sexual contact did occur. Mere spanking of AAA's female anatomy could not have caused these conditions. The Court also has said often enough that in concluding that carnal knowledge took place, full penetration of the vaginal orifice is not an essential ingredient, nor is the rupture of the hymen necessary; the mere touching of the external genitalia by the penis capable of consummating the sexual act is sufficient to constitute carnal knowledge. To be precise, the touching of the *labia majora* or the *labia minora* of the pudendum by the penis constitutes consummated rape.

4. REMEDIAL LAW; CRIMINAL PROCEDURE; PROSECUTION OF OFFENSES; INFORMATION; THE RIGHT TO ASSAIL THE SUFFICIENCY OF THE INFORMATION OR THE ADMISSION OF THE EVIDENCE MAY BE WAIVED BY THE ACCUSED.— While generally, an accused cannot be convicted of an offense that is not clearly charged in the information, this rule is not without exception. The right to assail the sufficiency of the information or the admission of the evidence may be waived by the accused. x x x Herein, if there was any missing allegation of carnal knowledge, the Court believes the appellant had been adequately informed of the nature and the cause of the accusation against him by the initial complaint filed against him together with the supporting affidavits of the witnesses and the medical examination of AAA. x x x Notably, appellant has belatedly first raised this issue on appeal. He failed to raise this before the trial court. Relevantly, appellant neither interposed objection to the prosecution's presentation of evidence of carnal knowledge.

In fact, he actively participated during trial and was able to present his defense evidence.

5. CRIMINAL LAW; REVISED PENAL CODE; STATUTORY RAPE; PENALTY.— Statutory rape, penalized under Article 266 A (1), paragraph (d) of the Revised Penal Code, as amended by Republic Act No. 8353 or the Anti-Rape Law of 1997, carries the penalty of *reclusion perpetua* unless attended by qualifying circumstances defined under Article 266-B. In the instant case, as the victim, AAA, is below seven (7) years old, or four (4) years old at the time of the crime, the imposable penalty is death. The passage of Republic Act No. 9346 debars the imposition of the death penalty without declassifying the crime of qualified rape as heinous. Thus, the appellate court correctly reduced the penalty from death penalty to *reclusion perpetua.*

APPEARANCES OF COUNSEL

Office of the Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

PEREZ, *J.*:

Before us for review is the Decision[1] of the Court of Appeals, Nineteenth Division in CA-G.R. CR-HC No. 00014 dated 31 March 2009, which dismissed the appeal of appellant Elpedio Castañas y Espinosa and affirmed with modification the Judgment[2] of the Regional Trial Court (RTC) of Naval, Biliran, Branch 16, in Criminal Case No. N-2295, finding appellant guilty beyond reasonable doubt of the crime of Statutory Rape.

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[1] *Rollo*, pp. 2-15; Penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Franchito N. Diamante and Edgardo L. Delos Santos concurring.

[2] Records, pp. 43-54; Presided by Presiding Judge Enrique C. Asis.

In line with the ruling of this Court in *People v. Cabalquinto*,[3] the real name and identity of the rape victim, as well as the members of her immediate family, are not disclosed. The rape victim shall herein be referred to as AAA, and her mother as BBB.

Appellant was charged with the crime of rape in an Information, the accusatory portion of which reads as follows:

> That on or about the 12th day of JANUARY, 2004, at about 10:30 o'clock in the morning, more or less, at Brgy. Banlas, Municipality of Maripipi, Biliran Province, Philippoines (sic), and within the jurisdiction of this Honorable Court, said accused, actuated by lust and taking advantage of the innocence of [AAA], a 4-year old minor Day Care Pupil, did then and there brought the latter to the house of a certain Esok, and thereafter accused wilfully, unlawfully and feloniously laid her down and he, in turn took off his pants and underwear, laid on top of said minor [AAA] against her, to her damage and prejudice.
>
> CONTRARY TO LAW with the aggravating circumstances of abuse of superior strength and that victim is a minor child 4 years of age.[4]

Appellant pleaded not guilty to the crime charged. Trial on the merits ensued.

AAA, who was only four (4) years old at the time of the commission of the crime, and five (5) years old when she took the witness stand, stated that she knows the appellant as "*tatay Pedio*." She testified that she had been sexually abused by the latter two (2) times. The first time was in the house of a certain *Uncle Haludo*. The second time was on 12 January 2004 when appellant brought her to the house of a certain Uncle Isok. With no one else in the house, appellant removed AAA's panty, touched and kissed her vagina, sexually abused and had sexual intercourse with her.[5]

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[3] 533 Phil. 703 (2006).

[4] Records, p. 21.

[5] TSN, 6 October 2004, pp. 2-6.

BBB, AAA's mother, confirmed that AAA was four (4) years old at the time of the commission of the crime and this was supported by AAA's birth certificate presented in court. BBB narrated that in the morning of said date, she had asked AAA to bathe. Appellant, who was a neighbor and who was within the area, then interrupted to say in the vernacular, "*karigo Eday para makuha an hiras*" which means "take a bath, Eday, to take away the itchiness." After the bath, when AAA was without underwear, BBB noticed AAA's female anatomy to be reddish. BBB asked AAA the reason for the redness and AAA replied that appellant had kissed it. BBB then brought AAA to her mother's house, and there AAA revealed that appellant sexually molested her or "*hupit*." Thus, BBB took AAA to the hospital for medical examination.[6]

AAA was physically examined by Dr. Noel Albeda on 12 January 2004. Per his Medical Certificate dated 12 January 2004:

> Awake, concious (sic), coherent, ambulatory and not in CP distress.
> Pelvic Exam: (+) hypermia (sic) at both labial, minor folds.
> (+) tenderness at hymenal area with slight application of cotton buds
> POSITIVE for Spermatozoal Examination.[7]

During direct examination, Dr. Albeda explained that AAA's vaginal opening was reddish due to friction or hematoma from an object which could include a sexual organ. There was tenderness at the hymenal area as an examination of which caused AAA to complain; which examination yielded positive results for presence of spermatozoa. Dr. Albeda opines that someone forced himself into AAA's female anatomy but could not penetrate due to its smallness in size and thus the discharge outside it. There was trauma on the labia minora and spermatozoal specimen was found in the hymenal area, by the mouth of the vagina, on the face of the labia minora.[8]

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[6] TSN, 13 October 2004, pp. 11-18.

[7] Records, p. 4.

[8] TSN, 13 October 2004, pp. 2-11.

Appellant, for his part, denied the charges. He testified that he knows AAA because they are neighbors. He claimed that on 12 January 2004, at 9 o'clock in the morning, AAA approached him and went to his house as she often did. There was no one else around at that time. Appellant claimed that AAA placed herself on his lap while he was merely wearing underwear. Appellant confessed that when he reached orgasm, he slapped AAA on her vagina. Appellant admitted to being inebriated that time.[9]

On 30 November 2004, appellant was found guilty beyond reasonable doubt of statutory rape. The dispositive portion of the RTC Decision reads:

> WHEREFORE, premises considered, this [c]ourt finds the accused Elpedio Castañas Y Espinosa **GUILTY** in Criminal Case No. N-2295; hereby imposing upon him the penalty of **DEATH** by lethal injection.
>
> The accused shall pay [AAA] the amount of ₱75,000.00 as moral damages and to further pay ₱50,000.00 in civil indemnity for the rape committed.[10]

On intermediate review, the Court of Appeals rendered the assailed decision affirming with modification the trial court's judgment, to wit:

> **WHEREFORE**, in view of all the foregoing, the assailed Decision of the Regional Trial Court dated November 30, 2004 finding accused-appellant Elpedio Castañas y Espinosa guilty beyond reasonable doubt of Rape is hereby **AFFIRMED with MODIFICATION**. Accordingly, accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* and is ordered to indemnify AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱25,000.00 as exemplary damages.[11]

Appellant filed the instant appeal. In a Resolution[12] dated 04 August 2010, appellant and the Office of the Solicitor General

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[9] TSN, 27 October 2004, pp. 2-7.

[10] Records, p. 54.

[11] *Rollo*, p. 14.

[12] *Id.* at 20-21.

(OSG) were asked to file their respective supplemental briefs if they so desired. OSG manifested that it was adopting its brief filed before the appellate court[13] while appellant filed his Supplemental Brief[14] in which he insists that if he indeed raped AAA, such a violent act would have left a physical sign or mark.

We affirm the appellant's conviction.

Rape is committed as follows:

Article 266-A. *Rape; When and How committed.* — Rape is committed —

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a. Through force, threat or intimidation;

b. When the offended party is deprived of reason or otherwise unconscious;

c. By means of fraudulent machination or grave abuse of authority; and

d. When the woman is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x x x x x x

Article 266-B. *Penalties.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x x x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

x x x x x x x x x

5) When the victim is a child below seven (7) years old;

x x x x x x x x x

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[13] *Id.* at 31-33.

[14] *Id.* at 37-40.

Statutory rape is committed by sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or the lack of it to the sexual act. Proof of force, intimidation, or consent is unnecessary. These are not elements of statutory rape as the absence of free consent is conclusively presumed when the victim is below the age of twelve. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving; (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant.[15]

In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things.[16] Testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and maturity are generally badges of truth and sincerity.[17]

The prosecution presented proof of the required elements of statutory rape. AAA's age, only four (4) years old at the time of the crime, was shown by her Birth Certificate; she was born on 6 February 1999 while the alleged rape was committed on 12 January 2004.[18] AAA also positively identified in court appellant as the perpetrator of the crime.[19] AAA, in the painstaking and degrading public trial, in all of her five (5) years, also related the painful ordeal of her sexual abuse by appellant. AAA's testimony was found by the trial court, which had the better

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[15] *People v. Mingming*, 594 Phil. 170, 186 (2008).

[16] *People v. Pascua*, 462 Phil. 245, 252 (2003).

[17] *People v. Aguilar*, 628 SCRA 437, 447 citing *People v. Corpuz*, 517 Phil. 622, 636-637 (2006).

[18] TSN, 13 October 2004, p. 12 and Records, p. 32.

[19] TSN, 6 October 2004, p. 2.

position to evaluate and appreciate testimonial evidence, to be more credible than that of the defense.[20] Following are pertinent portions:

Q [AAA], do you know a certain "Pedio'?

A Yes, Sir.

Q Please point him out if he is inside this office[.]

A That man. (Witness pointing to a man who when asked of his name answered Elpedio Castañas)

Q Personally, how do you call him?

A Tatay Pedio.

Q What did your Tay Pedio do to you?

A "Guinhupit ako." (Meaning: "He sexually abused me.")

Q Who sexually abused you?

A Tay Pedio.

x x x x x x x x x

Q On January 12, 2004, do you remember what your Tay Pedio do to you?

A Yes, Sir.

Q What did your Tay Pedio do to you?

A I was undressed by him.

Q In whose house?

A In the house of Uncle Isok.

Q After your Tay Pedio undressed you, what did he do to you?

A I was sexually abused.[21]

Even during cross-examination, AAA clearly testified, to wit:

Q [AAA], when you said you were sexually abused by Pedio, you mean to tell this [c]ourt that he touched your vagina?

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[20] Records, p. 51.

[21] TSN, 6 October 2004, pp. 2-4.

A Yes, Sir.

Q And that time when your Tay Pedio touched your vagina, your panty was in its place?

A No more.

Q Who removed your panty?

A Tay Pedio?

Q And in your affidavit [AAA], you also mentioned that your Tay Pedio kissed your vagina?

A Yes, Sir.

Q And that time when your Tay Pedio kissed your vagina, your panty was still in its place?

A No more.

x x x x x x x x x

Q And your Tay Pedio did no other act except touching and kissing your vagina?

A He sexually abused me, he succeeded in having sexual intercourse with me.

Q That was after he touched your vagina?

A Yes, Sir.

Q [AAA], was there anybod[y] who told you what to say to this [c]ourt?

A None Sir.[22]

The medical report and the testimony of the examining physician, Dr. Albeda, confirm the truthfulness of the charge. Appellant, however, only confesses to having had an ejaculation near AAA's female anatomy but denies having sexual contact or intercourse with AAA. He asserts that the absence of hymenal lacerations supports his statements.

The Court rebuffs this defense of denial. Aside from being weak, it is self-serving evidence which pales in comparison to

[22] TSN, 6 October 2004, pp. 4-6.

AAA's and BBB's clear narration of facts and positive identification of appellant. Moreover, the Court disbelieves that appellant could only have had a spontaneous ejaculation without having done other acts to bring about the same. The medical findings of AAA's hyperemia at both her labial folds, the tenderness at her hymenal area and the presence of spermatozoa evidence that sexual contact did occur. Mere spanking of AAA's female anatomy could not have caused these conditions. The Court also has said often enough that in concluding that carnal knowledge took place, full penetration of the vaginal orifice is not an essential ingredient, nor is the rupture of the hymen necessary; the mere touching of the external genitalia by the penis capable of consummating the sexual act is sufficient to constitute carnal knowledge. To be precise, the touching of the *labia majora* or the *labia minora* of the pudendum by the penis constitutes consummated rape.[23]

Appellant's contention that the Information filed against him did not clearly state the elements of the crime as it did not state the gravamen of the crime of rape, that is, sexual intercourse or sexual assault through insertion of any instrument or object[24] also deserves scant consideration.

While generally, an accused cannot be convicted of an offense that is not clearly charged in the information, this rule is not without exception. The right to assail the sufficiency of the information or the admission of the evidence may be waived by the accused.[25] As held in *People v. Torillos*:[26]

> Appellant contends that the information failed to specify the acts which constituted the crime. It is too late in the day for him to assail the insufficiency of the allegations in the information. *He should have raised this issue prior to his arraignment by filing a motion to quash. Failing to do so, he is deemed to have waived any*

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[23] See *People v. Campuhan*, 385 Phil. 912, 921 (2000).

[24] CA *rollo*, p. 45.

[25] *People v. Navarro*, 460 Phil. 565, 575 (2003).

[26] 443 Phil. 287 (2003).

objection on this ground pursuant to Rule 117, Section 9 (formerly Section 8) of the Revised Rules of Criminal Procedure x x x

x x x x x x x x x

In *People v. Palarca*, the accusatory portion of the information failed to specifically allege that the rape was committed through force or intimidation, although the prosecution was able to establish by evidence that the appellant was guilty of rape as defined under Article 266-A, paragraph (I) (a) of the Revised Penal Code. Similarly, the appellant failed to object to the sufficiency of the information or to the admission of evidence. *In affirming his conviction, it was held that an information which lacks certain essential allegations may still sustain a conviction when the accused fails to object to its sufficiency during the trial, and the deficiency was cured by competent evidence presented therein.*[27] (Emphasis supplied and citations omitted)

Herein, if there was any missing allegation of carnal knowledge, the Court believes the appellant had been adequately informed of the nature and the cause of the accusation against him by the initial complaint filed against him together with the supporting affidavits of the witnesses and the medical examination of AAA. Thus:

That on or about 10:30 o'clock in the morning of January 12, 2004, at Barangay Banlas, Maripipi, Biliran, Philippines and within the preliminary jurisdiction of this Honorable Court, the above-named accused with deliberate intent, with lewd designs approached AAA, 4 years old, Day Care Pupil, and bring it to the house of one Esok did then and there willfully, unlawfully and feloniously had sexual intercourse with the victim which was against her will.[28]

Notably, appellant has belatedly first raised this issue on appeal. He failed to raise this before the trial court. Relevantly, appellant neither interposed objection to the prosecution's presentation of evidence of carnal knowledge. In fact, he actively participated during trial and was able to present his defense evidence.

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[27] *Id.* at 298.

[28] Records, p. 1.

In sum, appellant's guilt of the crime charged was established beyond reasonable doubt.

Statutory rape, penalized under Article 266 A (1), paragraph (d) of the Revised Penal Code, as amended by Republic Act No. 8353 or the Anti-Rape Law of 1997, carries the penalty of *reclusion perpetua* unless attended by qualifying circumstances defined under Article 266-B. In the instant case, as the victim, AAA, is below seven (7) years old, or four (4) years old at the time of the crime, the imposable penalty is death. The passage of Republic Act No. 9346 debars the imposition of the death penalty without declassifying the crime of qualified rape as heinous. Thus, the appellate court correctly reduced the penalty from death penalty to *reclusion perpetua.*

We, however, modify the appellate court's award of damages and increase it as follows: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages pursuant to prevailing jurisprudence,[29] the most recent of which is *People v. Jugueta*.[30] Further, the amount of damages awarded should earn interest at the rate of six percent (6%) *per annum* from the finality of this judgment until said amounts are fully paid.[31]

WHEREFORE, premises considered, the Decision dated 31 March 2009 of the Court of Appeals of Cebu City, Nineteenth Division, in CA-G.R. CR-H.C. No. 00014, finding appellant Elpedio Castañas y Espinosa guilty beyond reasonable doubt of the crime of statutory rape in Criminal Case No. N-2295, is hereby **AFFIRMED WITH MODIFICATION**. Appellant Elpedio Castañas y Espinosa is ordered to pay the private offended party as follows: ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, ₱100,000.00 as exemplary damages. He is **FURTHER** ordered to pay interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment.

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[29] *People v. Gambao*, G.R. No. 172707, 1 October 2013, 706 SCRA 508.

[30] G.R. No. 202124, 5 April 2016.

[31] *People v. Vitero*, G.R. No. 175327, 3 April 2013, 695 SCRA 54, 69.

No pronouncement as to costs.

SO ORDERED.

Velasco, Jr. (Chairperson), *Peralta, Reyes,* and *Jardeleza, JJ.,* concur.

SECOND DIVISION

[G.R. No. 196470. April 20, 2016]

ROSARIO VICTORIA and ELMA PIDLAOAN, *petitioners, vs.* **NORMITA JACOB PIDLAOAN, HERMINIGILDA PIDLAOAN and EUFEMIA PIDLAOAN,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI* UNDER RULE 45 OF THE RULES OF COURT; ONLY QUESTIONS OF LAW MAY BE RAISED THEREIN, FOR THE FACTUAL FINDINGS OF THE COURT OF APPEALS ARE NOT REVIEWABLE BY THE SUPREME COURT; EXCEPTION; QUESTION OF LAW AND QUESTION OF FACT, DISTINGUISHED.— [W]e note that the issues raised by the petitioners in the present case require a review of the factual circumstances. As a rule, only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. The Court distinguished between a question of law and a question of fact in a number of cases. A question of law arises when there is doubt on what the law is on a certain set of fact, while a question of fact exists when there is doubt as to the truth or falsity of the alleged facts. For a question to be one of law, it must not involve an

examination of the probative value of the evidence presented by the litigants. If the issue invites a review of the evidence on record, the question posed is one of fact. The factual findings of the CA are conclusive and binding and are not reviewable by the Court, unless the case falls under any of the recognized exceptions. One of these exceptions is when the findings of the RTC and the CA are contradictory, as in the present case.

2. CIVIL LAW; LAND REGISTRATION; TORRENS SYSTEM; A BUYER OF PROPERTY REGISTERED UNDER THE TORRENS SYSTEM IS CHARGED WITH NOTICE ONLY OF THE CLAIMS ANNOTATED ON THE TITLE.— One who deals with property registered under the Torrens system has a right to rely on what appears on the face of the certificate of title and need not inquire further as to the property's ownership. A buyer is charged with notice only of the claims annotated on the title. The Torrens system was adopted to best guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized. In the present case, the records of the case show that Elma *alone* purchased the lot in 1984 from its previous owners. Accordingly, TCT No. T-50282 was issued *solely* in her name. Thus, Normita bought the lot relying on the face of the TCT that Elma and *no other person* owned it.

3. ID.; ID.; ID.; A CERTIFICATE OF TITLE MERELY SERVES AS AN EVIDENCE OF OWNERSHIP IN THE PROPERTY.— We acknowledge that registration under the Torrens system does not create or vest title. A certificate of title merely serves as an evidence of ownership in the property. Therefore, the issuance of a certificate of title does not preclude the possibility that persons not named in the certificate may be co-owners of the real property, or that the registered owner is only holding the property in trust for another person. In the present case, however, the petitioners failed to present proof of Rosario's contributions in purchasing the lot from its previous owners. The execution of the transfer documents solely in Elma's name alone militate against their claim of co-ownership. Thus, we find no merit in the petitioners' claim of co-ownership over the lot.

4. ID.; CIVIL CODE; PROPERTY, OWNERSHIP, AND ITS MODIFICATIONS; CO-OWNERSHIP; NOT CREATED BY THE MERE CONSTRUCTION OF A HOUSE ON

ANOTHER'S LAND; REMEDIES OF A BUILDER IN GOOD FAITH.— We hold that mere construction of a house on another's land does not create a co-ownership. Article 484 of the Civil Code provides that co-ownership exists when the ownership of an undivided thing or right belongs to different persons. Verily, a house and a lot are separately identifiable properties and can pertain to different owners, as in this case: the house belongs to Rosario and the lot to Elma. Article 448 of the Civil Code provides that if a person builds on another's land in good faith, the land owner may either: (a) appropriate the works as his own after paying indemnity; or (b) oblige the builder to pay the price of the land. The law does not force the parties into a co-ownership. A builder is in good faith if he builds on a land believing himself to be its owner and is unaware of the defect in his title or mode of acquisition. As applied in the present case, Rosario's construction of a house on the lot did not create a co-ownership, regardless of the value of the house. Rosario, however, is not without recourse in retrieving the house or its value. The remedies available to her are set forth in Article 448 of the Civil Code.

5. ID.; ID.; OBLIGATIONS AND CONTRACTS; SIMULATION OF CONTRACTS; TYPES; WHEN A DOCUMENT IS RELATIVELY SIMULATED, THE PARTIES ARE BOUND TO THEIR REAL AGREEMENT.— There are two types of simulated documents – absolute and relative. A document is absolutely simulated when the parties have no intent to bind themselves at all, while it is relatively simulated when the parties concealed their true agreement. The true nature of a contract is determined by the parties' intention, which can be ascertained from their contemporaneous and subsequent acts. In the present case, Elma and Normita's contemporaneous and subsequent acts show that they were about to have the contract of sale notarized but the notary public ill-advised them to execute a deed of donation instead. Following this advice, they returned the next day to have a deed of donation notarized. Clearly, Elma and Normita intended to enter into a sale that would transfer the ownership of the subject matter of their contract but disguised it as a donation. Thus, the deed of donation subsequently executed by them was only relatively simulated. x x x Considering that the deed of donation was relatively simulated, the parties are bound to their real agreement.The records show that the parties intended to transfer the ownership

of the property to Normita by absolute sale. This intention is reflected in the unnotarized document entitled *"Pananantо ng Pagkatanggap ng Kahustuhang Bayad."*

6. REMEDIAL LAW; EVIDENCE; JUDICIAL ADMISSIONS; CONSIDERED CONCLUSIVE AND DO NOT REQUIRE PROOF WHEN MADE BY A PARTY IN THE COURSE OF THE PROCEEDINGS.— The CA upheld the deed of donation's validity based on the principle that a notarized document enjoys the presumption of regularity. This presumption, however, is overthrown in this case by the respondents' own admission in their answer that the deed of donation was simulated. Judicial admissions made by a party in the course of the proceedings are conclusive and do not require proof. Notably, the respondents explicitly recognized in their answer that the deed of donation was simulated upon the notary public's advice and that both parties intended a sale. x x x Having admitted the simulation, the respondents can no longer deny it at this stage. The CA erred in disregarding this admission and upholding the validity of the deed of donation.

7. CIVIL LAW; CIVIL CODE; OBLIGATIONS AND CONTRACTS; SALES; EQUITABLE MORTGAGE; A CONTRACT SHALL BE PRESUMED AS EQUITABLE MORTGAGE WHEN THE PARTIES ENTERED INTO A CONTRACT DENOMINATED AS A CONTRACT OF SALE AND THEIR INTENTION WAS TO SECURE AN EXISTING DEBT BY WAY OF MORTGAGE.— An equitable mortgage is one which, although lacking in some formality or other requisites demanded by statute, nevertheless reveals the intention of the parties to charge real property as security for a debt, and contains nothing impossible or contrary to law. Articles 1602 and 1604 of the Civil Code provide that a contract of absolute sale shall be presumed an equitable mortgage if any of the circumstances listed in Article 1602 is attendant. Two requisites must concur for Articles 1602 and 1604 of the Civil Code to apply: *one*, the parties entered into a contract denominated as a contract of sale; and *two*, their intention was to secure an existing debt by way of mortgage. In the present case, the unnotarized contract of sale between Elma and Normita is denominated as *"Pananantо ng Pagkatanggap ng Kahustuhang Bayad."* Its contents show an

unconditional sale of property between Elma and Normita. The document shows no intention to secure a debt or to grant a right to repurchase. Thus, there is no evidence that the parties agreed to mortgage the property as contemplated in Article 1602 of the Civil Code. Clearly, the contract is not one of equitable mortgage.

APPEARANCES OF COUNSEL

Forbes & Sampayo Law Office for petitioners.
Jorge B. Vargas for respondents.

D E C I S I O N

BRION, *J.*:

We resolve the petition for review on *certiorari* filed by petitioners to challenge the **March 26, 2010** decision[1] and **March 15, 2011** resolution of the Court of Appeals (*CA*) in CA-G.R. CV No. 89235. The Regional Trial Court's (*RTC*) ruled that Elma Pidlaoan (*Elma*) donated only half of the property to Normita Jacob Pidlaoan (*Normita*). The CA reversed the RTC's decision and ruled that Elma donated her entire property to Normita. The Court is called upon to ascertain the true nature of the agreement between Elma and Normita.

THE ANTECEDENTS

The petitioners Rosario Victoria (*Rosario*) and Elma lived together since 1978 until Rosario left for Saudi Arabia.

In 1984, Elma bought a parcel of land with an area of 201 square meters in Lucena City and was issued Transfer Certificate of Title (*TCT*) No. T-50282.[2] When Rosario came home, she caused the construction of a house on the lot but she left again after the house was built.[3]

[1] *Rollo*, p. 36; penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Mario V. Lopez and Franchito N. Diamante.

[2] *Id.* at 37.

[3] *Id.* at 38.

Elma allegedly mortgaged the house and lot to a certain Thi Hong Villanueva in 1989.[4] When the properties were about to be foreclosed, Elma allegedly asked for help from her sister-in-law, Eufemia Pidlaoan (*Eufemia*), to redeem the property.[5] On her part, Eufemia called her daughter abroad, Normita, to lend money to Elma. Normita agreed to provide the funds.[6]

Elma allegedly sought to sell the land.[7] When she failed to find a buyer, she offered to sell it to Eufemia or her daughter.[8]

On March 21, 1993, Elma executed a **deed of sale** entitled "*Pananantо ng Pagkatanggap ng Kahustuhang Bayad*" transferring the ownership of the lot to Normita.[9] The last provision in the deed of sale provides that Elma shall eject the person who erected the house and deliver the lot to Normita.[10] The document was signed by Elma, Normita, and two witnesses but it was not notarized.

When Elma and Normita were about to have the document notarized, the notary public advised them to donate the lot instead to avoid capital gains tax.[11] On the next day, Elma executed a **deed of donation** in Normita's favor and had it notarized. TCT No. T-50282 was cancelled and TCT No. T-70990 was issued in Normita's name.[12] Since then, Normita had been paying the real property taxes over the lot but Elma continued to occupy the house.

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[4] RTC *rollo*, p. 246.

[5] *Rollo*, p. 40.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] RTC *rollo*, p. 59: "Na, ako ang siyang magpapa-alis sa tumirik ng bahay sa naulit na lote upang ito'y *(sic)* maging malinis ang pagsasauli o pagsasalin ko kay Normita Jacob Pidlaoan."

[11] *Rollo*, p. 40.

[12] *Id.* at 41.

Rosario found out about the donation when she returned to the country a year or two after the transaction.[13]

In 1997, the petitioners filed a **complaint** for reformation of contract, cancellation of TCT No. T-70990, and damages with prayer for preliminary injunction against Eufemia, Normita, and Herminigilda Pidlaoan (*respondents*).

The petitioners argued that: *first*, they co-owned the lot because both of them contributed the money used to purchase it; *second*, Elma and Normita entered into an equitable mortgage because they intended to constitute a mortgage over the lot to secure Elma's loan but they executed a deed of sale instead; and *third*, the deed of donation was simulated because Elma executed it upon the notary public's advice to avoid capital gains tax.[14]

In their answer, the respondents admitted that the deed of donation was simulated and that the original transaction was a sale.[15] They argued, however, that there was no agreement to constitute a real estate mortgage on the lot.[16]

The RTC ruled that Rosario and Elma co-owned the lot and the house.[17] Thus, Elma could only donate her one-half share in the lot.[18]

Hence, the respondents appealed to the CA.

THE CA RULING

The CA **reversed** the RTC's decision and dismissed the petitioners' complaint.

The CA held that Elma and Normita initially entered into two agreements: a loan and a sale. They entered into a loan

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[13] *Id.* at 38.

[14] RTC *rollo*, pp. 1-5.

[15] *Id.* at 16-21.

[16] *Id.*

[17] CA *rollo*, pp. 19-24.

[18] *Id.*

agreement when Elma had to pay Thi Hong Villanueva to redeem the property. Thereafter, Elma sold the property to Normita. They subsequently superseded the contract of sale with the assailed deed of donation.

The CA also held that the deed of donation was not simulated. It was voluntarily executed by Elma out of gratitude to Normita who rescued her by preventing the foreclosure of the lot. Moreover, the deed of donation, being a public document, enjoys the presumption of regularity. Considering that no conclusive proof was presented to rebut this presumption, the deed of donation is presumed valid.

The CA denied the petitioners' motion for reconsideration; hence, this petition.

THE PETITIONERS' ARGUMENTS

In their petition, the petitioners argue that: (1) Rosario is a co-owner because she caused the construction of the house, which has a higher market value than the lot; (2) the deed of donation is simulated; (3) the transaction was a mere equitable mortgage; and (4) the CA unduly disturbed the RTC's factual findings. The petitioners emphasize that the respondents have consistently admitted in their answer that the deed of donation was simulated; therefore, the CA should not have reversed the RTC's decision on that point.

In their three-page comment, the respondents insist that the CA correctly dismissed the complaint. They stressed that the petitioners were the ones who argued that the deed of donation was simulated but the CA ruled otherwise. Furthermore, the petition involves questions of facts and law outside the province of the Supreme Court. Hence, the petition must be dismissed.

THE COURT'S RULING

We **PARTIALLY GRANT** the petition.

The issues before the Court are: (1) whether Rosario is a co-owner; (2) whether the deed of donation was simulated; and (3) whether the transaction between Elma and Normita was a sale,

a donation, or an equitable mortgage. Considering that these issues are inter-related, we shall jointly discuss and resolve them.

At the outset, we note that the issues raised by the petitioners in the present case require a review of the factual circumstances. As a rule, only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court.

The Court distinguished between a question of law and a question of fact in a number of cases. A question of law arises when there is doubt on what the law is on a certain set of fact, while a question of fact exists when there is doubt as to the truth or falsity of the alleged facts.[19] For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by the litigants.[20] If the issue invites a review of the evidence on record, the question posed is one of fact.[21]

The factual findings of the CA are conclusive and binding and are not reviewable by the Court, unless the case falls under any of the recognized exceptions.[22] One of these exceptions is

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[19] *Lorzano v. Tabayag, Jr.*, G.R. No. 189647, February 6, 2012; *Republic v. Vega*, G.R. No. 177790, January 17, 2011, citing *New Rural Bank of Guimba (N.E.), Inc. v. Abad*, G.R. No. 161818, August 20, 2008.

[20] *Id.*

[21] *Id.*

[22] *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.,* G.R. No. 190515, June 6, 2011. The exceptions are: (a) when the conclusion is a finding grounded entirely on speculation, surmises, and conjectures; (b) when the inference made is manifestly mistaken, absurd or impossible; (c) when there is grave abuse of discretion; (d) when the judgment is based on a misapprehension of facts; (e) when the findings of fact are conflicting; (f) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (g) when the findings are contrary to those of the trial court; (h) when the findings of fact are conclusions without citation of specific evidence on which they are based; (i) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (j) when the findings of facts of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record.

when the findings of the RTC and the CA are contradictory, as in the present case.

By granting the appeal and dismissing the petitioners' complaint, the CA effectively ruled that the transfer of ownership involved the entire lot rather than only half of it as the RTC held. The lower courts' differing findings provide us sufficient reason to proceed with the review of the evidence on record.[23]

***First*, we rule that Elma transferred ownership of the entire lot to Normita.**

One who deals with property registered under the Torrens system has a right to rely on what appears on the face of the certificate of title and need not inquire further as to the property's ownership.[24] A buyer is charged with notice only of the claims annotated on the title.[25] The Torrens system was adopted to best guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.[26]

In the present case, the records of the case show that Elma *alone* purchased the lot in 1984 from its previous owners.[27] Accordingly, TCT No. T-50282 was issued *solely* in her name. Thus, Normita bought the lot relying on the face of the TCT that Elma and *no other person* owned it.

We acknowledge that registration under the Torrens system does not create or vest title. A certificate of title merely serves as an evidence of ownership in the property. Therefore, the issuance of a certificate of title does not preclude the possibility that persons not named in the certificate may be co-owners of

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[23] *Ramos v. Heirs of Ramos*, G.R. No. 140848, April 25, 2002.

[24] *Cagatao v. Almonte*, G.R. No. 174004, October 9, 2003.

[25] *Casimiro Development Corporation v. Mateo*, G.R. No. 175485, July 27, 2011.

[26] *Id.*

[27] RTC *rollo*, p. 135.

the real property, or that the registered owner is only holding the property in trust for another person.[28]

In the present case, however, the petitioners failed to present proof of Rosario's contributions in purchasing the lot from its previous owners. The execution of the transfer documents solely in Elma's name alone militate against their claim of co-ownership. Thus, we find no merit in the petitioners' claim of co-ownership over the lot.

At this point, we address the petitioners' claim that Rosario co-owned the lot with Elma because the value of the house constructed by Rosario on it is higher than the lot's value. We find this argument to be erroneous.

We hold that mere construction of a house on another's land does not create a co-ownership. Article 484 of the Civil Code provides that co-ownership exists when the ownership of an undivided thing or right belongs to different persons. Verily, a house and a lot are separately identifiable properties and can pertain to different owners, as in this case: the house belongs to Rosario and the lot to Elma.

Article 448 of the Civil Code provides that if a person builds on another's land in good faith, the land owner may either: (a) appropriate the works as his own after paying indemnity; or (b) oblige the builder to pay the price of the land. The law does not force the parties into a co-ownership.[29] A builder is in good faith if he builds on a land believing himself to be its owner and is unaware of the defect in his title or mode of acquisition.[30]

As applied in the present case, Rosario's construction of a house on the lot did not create a co-ownership, regardless of the value of the house. Rosario, however, is not without recourse in retrieving the house or its value. The remedies available to her are set forth in Article 448 of the Civil Code.

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[28] *Id.*

[29] Arturo M. Tolentino, *Civil Code of the Philippines* II 2004, p. 110, citing 3 Manresa 213, *et al.*

[30] *Spouses Aquino v. Spouses Aguilar*, G.R. No. 182754, June 29, 2015.

Second, on the nature of the transaction between Elma and Normita, we find that the deed of donation was simulated and the parties' real intent was to enter into a sale.

The petitioners argue that the deed of donation was simulated and that the parties entered into an equitable mortgage.[31] On the other hand, the respondents deny the claim of equitable mortgage[32] and argue that they validly acquired the property *via* sale.[33] The RTC ruled that there was donation but only as to half of the property. The CA agreed with the respondents that the deed of donation was not simulated, relying on the presumption of regularity of public documents.

We first dwell on the genuineness of the deed of donation. There are two types of simulated documents — absolute and relative. A document is absolutely simulated when the parties have no intent to bind themselves at all, while it is relatively simulated when the parties concealed their true agreement.[34] The true nature of a contract is determined by the parties' intention, which can be ascertained from their contemporaneous and subsequent acts.[35]

In the present case, Elma and Normita's contemporaneous and subsequent acts show that they were about to have the contract of sale notarized but the notary public ill-advised them to execute a deed of donation instead. Following this advice, they returned the next day to have a deed of donation notarized. Clearly, Elma and Normita intended to enter into a sale that would transfer the ownership of the subject matter of their contract but disguised it as a donation. Thus, the deed of donation subsequently executed by them was only relatively simulated.

The CA upheld the deed of donation's validity based on the principle that a notarized document enjoys the presumption of

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[31] *Rollo*, pp. 25-29.

[32] RTC *rollo*, p. 17, pars. 4-6.

[33] *Id.*

[34] CIVIL CODE OF THE PHILIPPINES, Art. 1345.

[35] *Velario v. Refresco*, G.R. No. 163687, March 28, 2006.

regularity. This presumption, however, is overthrown in this case by the respondents' own admission in their answer that the deed of donation was simulated.

Judicial admissions made by a party in the course of the proceedings are conclusive and do not require proof.[36] Notably, the respondents explicitly recognized in their answer that the deed of donation was simulated upon the notary public's advice and that both parties intended a sale.[37]

In paragraphs 5 and 6 of the answer,[38] the respondents stated thus:

> 5. That defendants admit the allegations in paragraph 9 which readily acknowledges that there was indeed an agreement to sell the property of plaintiff, Elma Pidlaoan to defendant, Normita Pidlaoan (Normita, for brevity) for which a Deed of Absolute Sale was drafted and executed;
>
> 6. That defendants **admit the simulation of the Deed of Donation** in paragraph 10 of the Complaint, but deny the remainder, the truth being that Elma Pidlaoan herself offered her property for sale in payment of her loans from Normita. (Emphasis supplied)

Having admitted the simulation, the respondents can no longer deny it at this stage. The CA erred in disregarding this admission and upholding the validity of the deed of donation.

Considering that the deed of donation was relatively simulated, the parties are bound to their real agreement.[39] The records show that the parties intended to transfer the ownership of the property to Normita by absolute sale. This intention is reflected in the unnotarized document entitled "*Pananantо ng Pagkatanggap ng Kahustuhang Bayad*."[40]

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[36] RULES OF COURT, Rule 129, Section 4; Civil Code of the Philippines, Art. 1431; *Josefa v. Manila Electric Company*, G.R. No. 182705, July 18, 2014.

[37] *Rollo*, p. 17.

[38] *Id.*

[39] CIVIL CODE OF THE PHILIPPINES, Art. 1346.

[40] CA *rollo*, p. 247.

We have discussed that the transaction was definitely not one of donation. Next, we determine whether the parties' real transaction was a sale or an equitable mortgage.

The petitioners insist that the deed of sale is an equitable mortgage because: (i) the consideration for the sale was grossly inadequate; (ii) they remained in possession of the property; (iii) they continuously paid the water and electric bills; (iv) the respondents allowed Victoria to repay the "loan" within three months;[41] (v) the respondents admitted that the deed of donation was simulated; and (vi) the petitioners paid the taxes even after the sale.

Notably, neither the CA nor the RTC found merit in the petitioners' claim of equitable mortgage. We find no reason to disagree with these conclusions.

An equitable mortgage is one which, although lacking in some formality or other requisites demanded by statute, nevertheless reveals the intention of the parties to charge real property as security for a debt, and contains nothing impossible or contrary to law.[42] Articles 1602 and 1604 of the Civil Code provide that a contract of absolute sale shall be presumed an equitable mortgage if any of the circumstances listed in Article 1602 is attendant.

Two requisites must concur for Articles 1602 and 1604 of the Civil Code to apply: *one*, the parties entered into a contract

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[41] RTC *rollo*, p. 19. Answer, pars. 16-17:

16. That it was agreed upon that Elma Pidlaoan will remunerate Normita within three months after the lot's redemption but when Elma failed to do so even on the sixth month, Elma instead voluntarily offered to sell her property to Normita in payment of her loans sometime in early 1992, which offer the latter accepted and Normita thereafter remitted Elma's loans totalling ₱35,000.00;

17. That likewise in 1992, upon learning of the lot's sale to Normita, Rosario undertook the repayment of Elma's loans with Normita within three months after the said sale, but she failed and also failed to remove the house on her own as she had promised.

[42] 42 Corpus Juris 303.

denominated as a contract of sale; and *two*, their intention was to secure an existing debt by way of mortgage.[43]

In the present case, the unnotarized contract of sale between Elma and Normita is denominated as "*Pananannto ng Pagkatanggap ng Kahustuhang Bayad*."[44] Its contents show an unconditional sale of property between Elma and Normita. The document shows no intention to secure a debt or to grant a right to repurchase. Thus, there is no evidence that the parties agreed to mortgage the property as contemplated in Article 1602 of the Civil Code. Clearly, the contract is not one of equitable mortgage.

Even assuming that Article 1602 of the Civil Code applies in this case, none of the circumstances are present to give rise to the presumption of equitable mortgage. *One*, the petitioners failed to substantiate their claim that the sale price was unusually inadequate.[45] In fact, the sale price of ₱30,000.00 is not unusually inadequate compared with the lot's market value of ₱32,160 as stated in the 1994 tax declaration. *Two*, the petitioners continued occupation on the property was coupled with the respondents' continuous demand for them to vacate it. *Third*, no other document was executed for the petitioners to repurchase the lot after the sale contract was executed. *Finally*, the respondents paid the real property taxes on the lot.[46] These circumstances contradict the petitioners' claim of equitable mortgage.

A review of the sale contract or the "*Pananannto ng Pagkatanggap ng Kahustuhang Bayad*" shows that the parties intended no equitable mortgage. The contract even contains Elma's undertaking to remove Rosario's house on the property.[47] This

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[43] *Heirs of Spouses Balite v. Lim*, G.R. No. 152168, December 10, 2004; *San Pedro v. Lee*, G.R. No. 156522, May 28, 2004.

[44] RTC *rollo*, p. 247.

[45] The petitioners alleged that the market value of the house and lot per tax declaration is ₱182,7000.00, but the lot was sold only for ₱30,000.00. However, they failed to attach the alleged tax declaration.

[46] RTC *rollo*, pp. 250-251.

[47] *Id.* at 247.

undertaking supports the conclusion that the parties executed the contract with the end view of transferring full ownership over the lot to Normita.

In sum, we rule that based on the records of the case, Elma and Normita entered in a sale contract, not a donation. Elma sold the entire property to Normita. Accordingly, TCT No. T-70990 was validly issued in Normita's name.

WHEREFORE, we hereby **PARTIALLY GRANT** the petition. The March 26, 2010 decision and March 15, 2011 resolution of the Court of Appeals in CA-G.R. CV No. 89235 are hereby **AFFIRMED** with the **MODIFICATION** that the parties entered into a contract of sale, not a donation, and that petitioner Elma Pidlaoan sold the whole disputed property to respondent Normita Jacob Pidlaoan. Costs against the petitioners.

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 199628. April 20, 2016]

HEIRS OF EXEQUIEL HAGORILES, NAMELY, PACITA P. HAGORILES, CONSEJO H. SABIDONG, CESAR HAGORILES, REYNALDO HAGORILES, ANITA H. GERONGANI, LOURDES H. CAPISTRANO, ANA LINA H. BOLUSO, and SUZETTE H. PEÑAFLORIDA, all represented by ANA LINA H. BOLUSO, *petitioners, vs.* **ROMEO HERNAEZ, MILAGROS VILLANUEVA, CRISANTO CANJA, NENA BAYOG, VENANCIO SEMILON, GAUDENCIO VILLANUEVA, VIRGINIA DAGOHOY, VIRGILIO**

CANJA, FELIX CASTILLO and TEOFILO HERNAEZ, GAUDENCIO ARNAEZ, BENJAMIN COSTOY, ERMIN VILLANUEVA, MARCELINO AMAR, and COURT OF APPEALS, *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; REPUBLIC ACT NO. 1199 (THE AGRICULTURAL TENANCY ACT OF THE PHILIPPINES); OBLIGATIONS OF THE LANDHOLDER; THE LANDHOLDER HAS THE OBLIGATION TO PROVIDE HOME LOTS TO AGRICULTURAL LESSEES OR TENANTS WHICH SHALL BE LOCATED AT A CONVENIENT AND SUITABLE PLACE WITHIN THE LAND OF THE LANDHOLDER.— The obligation to provide home lots to agricultural lessees or tenants rests upon the landholder x x x [, pursuant to] Section 26(a) of R.A. No. 1199 or the "Agricultural Tenancy Act of the Philippines," as amended by R.A. No. 2263 x x x. Under Section 22(3) of RA No. 1199, as amended, a tenant is entitled to a home lot suitable for dwelling with an area of not more than three percent (3%) of the area of his landholding, provided that it does not exceed one thousand square meters (1,000 sq.m.). It shall be located at a convenient and suitable place **within the land of the landholder** to be designated by the latter where the tenant shall construct his dwelling and may raise vegetables, poultry, pigs and other animals and engage in minor industries, the products of which shall accrue to the tenant exclusively. The agricultural lessee shall have the right to continue in the exclusive possession and enjoyment of any home lot he may have occupied, upon the effectivity of R.A. No. 3844, which shall be considered as included in the leasehold. x x x **Since Timoteo Sr. merely owns a portion of Lot No. 2047, it was error for the CA to subject the whole of Lot No. 2047 for the use of the respondents' home lots.** Only Timoteo Sr., being the named landowner of most of the respondents' landholdings, has the obligation to provide home lots to his tenants. There is no obligation from the other co-owners of Lot No. 2047, including the petitioners who were transferees of Amparo's share of the lot, to provide home lots to the respondents. x x x **Only those respondents who are Timoteo's tenants** (namely: Milagros Villanueva, Teofilo Hernaez, Crisanto Canja, Nena Bayog,

Virginia Dagohoy, Venancio Semilon, Gaudencio Villanueva, and Marcelino Amar) **and whose home lots are located within Timoteo's portion of Lot No. 2047 can be guaranteed to the peaceful possession of their home lots.**

2. CIVIL LAW; REPUBLIC ACT NO. 386; PROPERTY RELATIONS BETWEEN HUSBAND AND WIFE; CONJUGAL PARTNERSHIP OF GAINS; THE WIFE RETAINS OWNERSHIP OF PARAPHERNAL PROPERTY; CASE AT BAR.— The property relations of spouses Timoteo and Engracia Ramos were governed by the old Civil Code that prescribed the system of relative community or conjugal partnership of gains. By means of the conjugal partnership of gains the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage. Under Article 148 of the old Civil Code, the spouses retain exclusive ownership of property they brought to the marriage as his or her own; they acquired, during the marriage, by lucrative title; they acquired by right of redemption or by exchange with other property belonging to only one of the spouses; and property they purchased with the exclusive money of the wife or the husband. Considering that Lot No. 2047 was originally registered under Engracia's name, it is presumed that said lot is paraphernal, not conjugal, property. Paraphernal property is property brought by the wife to the marriage, as well as all property she acquires during the marriage in accordance with Article 148 (old Civil Code). The wife retains ownership of paraphernal property.

3. LABOR AND SOCIAL LEGISLATION; AGRARIAN LAWS; LABOR DISPUTE, DEFINED; THE ISSUE ON THE ENTITLEMENT TO A HOME LOT IS AN AGRARIAN DISPUTE WHICH IS WITHIN THE JURISDICTION OF THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD.— [T]he issue on the respondents' entitlement to their home lots should be referred to the DARAB for proper determination. The CA was correct in holding that jurisdiction over this matter is with the DARAB, not with the Office of the DAR Secretary, because it involves an agrarian dispute. Jurisdiction over agrarian disputes lies with the

DARAB. An agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship, or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements. Undeniably, the present case involves a controversy regarding tenurial arrangements. The right to a home lot is a matter arising from a landlord-tenant relationship.

4. CIVIL LAW; OBLIGATIONS AND CONTRACTS; COMPROMISES AND ARBITRATIONS; JUDICIAL COMPROMISE; NO EXECUTION OF THE COMPROMISE AGREEMENT MAY BE ISSUED UNLESS THE AGREEMENT RECEIVES APPROVAL OF THE COURT WHERE THE LITIGATION IS PENDING AND COMPLIANCE WITH THE TERMS OF THE AGREEMENT IS DECREED.— With respect to the parties' alleged Compromise Agreement, we rule that this "agreement" has no effect to the resolution of the present case. Parties to a suit may enter into a compromise agreement to avoid litigation or put an end to one already commenced. A compromise agreement intended to resolve a matter already under litigation is a judicial compromise, which has the force and effect of a judgment of the court. **However, no execution of the compromise agreement may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed**. In this case, the petitioners admitted that their compromise agreement was not submitted for court approval for failure of the respondents' counsel to sign the agreement. The parties, however, are not prevented from pursuing their compromise agreement or entering into another agreement regarding the subject matter of this case provided that their stipulations are not contrary to law, morals, good custom, public order, or public policy.

APPEARANCES OF COUNSEL

R.A.V. Saguisag for petitioners.
Leandro P. Castro for respondents.

D E C I S I O N

BRION, *J.*:

Before us is a petition for review on *certiorari*[1] assailing the July 30, 2010 decision[2] and the November 25, 2011 resolution[3] of the Court of Appeals (*CA*), Cebu City in CA-G.R. SP No. 85600. The CA affirmed with modification the decision of the Department of Agrarian Reform Adjudication Board (*DARAB*) in DARAB Case No. 6561, and declared the respondents, who were found bona fide tenants of their respective landholdings, to be entitled to the continuous peaceful possession of their home lots.

Facts of the Case

The present petition stemmed from a Complaint[4] to Maintain Status Quo (which was later amended) filed by respondents Romeo Hernaez, Felix Castillo, Gaudencio Arnaez, Teofilo Hernaez, Benjamin Costoy, Virgilio Canja, Nena Bayog, Venancio Semilon, Gaudencio Villanueva, Ermin Villanueva, Marcelino Amar, Milagros Villanueva, Virginia Dagohoy and Crisanto Canja, with the Provincial Agrarian Reform Adjudicator (*PARAD*), Negros Occidental, on March 8, 1996.

The complainants (the present respondents) claimed that, as far back as 1967, they have been tenant-tillers and actual occupants of parcels of land located at Binalbagan and Himamaylan, Negros Occidental. The lands, which were administered by Milagros Ramos, belonged to different owners. Most of the lands were owned by Timoteo Ramos. Among the respondents, Timoteo's tenants are Milagros Villanueva, Teofilo Hernaez, Crisanto Canja, Nena Bayog, Virginia Dagohoy, Venancio Semilon, Gaudencio Villanueva, and Marcelino Amar.

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[1] Filed under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Ramon A. Cruz and Myra V. Garcia-Fernandez, concurring; *rollo*, pp. 20-34.

[3] *Id.* at 36-37.

[4] Docketed as DARAB Case No. R-0605-0038-96.

Apart from their respective areas of tillage,[5] the respondents claimed to be in possession of individual home lots [6] situated on separate parcels of land in Brgy. Libacao, Binalbagan, Negros

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[5] *Id.* at 82-83. Quoted from the DARAB decision, "[t]he respective areas of tillage with the corresponding rental payments are as follows:

Name	Area Location	Year Tenure was Established	Landowner	Lease Rentals
1.Milagros Villanueva	60 ares Brgy. Payao, Binalbagan, Neg. Occidental	1967	Timoteo Ramos	8 cavans/ cropping
2. Romeo Hernaez	1.30 has., Brgy. Payao, Binalbagan, Neg. Occidental	1966	Rafael Ramos	70 cavans/ cropping
3. Gaudencio Arnaez	2.50 has. Sitio Suwangan, Brgy. Libacao, Himamaylan, Neg. Occidental	1976	Vicente Ferrero	10% of the produce
4. Teofilo Hernaez	2.50 has. Sitio Suwangan Brgy. Libacao, Himamaylan, Neg. Occidental	1972	Timoteo Ramos	10% of the produce
5. Crisanto Canja	88 ares Brgy. Payao, Binalbagan, Neg. Occidental	1956	Timoteo Ramos	14 cavans/ cropping
6. Benjamin Costoy	1.40 has. Sitio Suwangan, Brgy. Libacao, Himamaylan, Neg. Occidental	1986	Marietta Anteror Cruz	15% of the produce
7. Virgilio Canja	1.25 has. Brgy. Payao, Binalbagan, Neg. Occidental	1981	Luciano Tupaz	10% of the produce
8. Nena Bayog	1.0 ha. Sitio Suwangan, Brgy. Libacao, Himamaylan, Neg. Occidental	1966	Timoteo Ramos	15 cavans/ cropping
9. Virginia Dagohoy	1.0 ha Brgy. Payao, Binalbagan, Neg. Occidental	1976	Timoteo Ramos	15 cavans/ cropping
10. Venancio Semilon	40 ares. Brgy. Payao, Binalbagan, Neg. Occidental	1976	Timoteo Ramos	7 cavans/ cropping
11. Estelita Bayog	1.0 ha. Sitio Suwangan, Brgy. Libacao, Himamaylan, Neg. Occidental	1981	Timoteo Ramos	10% of the produce
12. Gaudencio Villanueva	1.0 ha. Sitio Suwangan, Brgy. Libacao, Himamaylan, Neg. Occidental	1984	Timoteo Ramos	15 cavans/ cropping
13. Marcelino Amar	1.30 has (1.0 has. in CA decision; *rollo*, p. 22)	1972	Timoteo Ramos	15 cavans/ cropping

[6] *Id.* at 22-23. Quoted from the CA decision, "[t]he names of the occupants in the subject landholding are as follows:

Occidental, designated as Lot No. 2047. Title to Lot No. 2047 was originally registered under the name of Engracia Ramos, the spouse of landholder Timoteo Ramos.

In 1990, the late Exequiel Hagoriles bought a portion of Lot No. 2047 from Amparo Ramos-Taleon, daughter of Timoteo Ramos.

In 1993, Exequiel successfully caused the ejectment of respondent Marcelino Amar from his home lot. This prompted the other respondents to file with the PARAD a complaint against Exequiel and Amparo to refrain from disturbing them in their peaceful possession of their home lots.

In their answers to the complaint, Exequiel and Amparo denied the existence of tenancy relations between themselves and the respondents. Thus, they contended that since the respondents are not tenants, they were not entitled to home lots.

In a decision[7] dated May 19, 1997, the PARAD partly dismissed the respondents' complaint for lack of evidence to support the existence of tenancy — specifically on the element of sharing of harvests. *However*, the PARAD did not dismiss

	Name	Area of Home Lots
1.	Milagros Villanueva	270 sq.m.
2.	Romeo Hernaez	270 sq.m.
3.	Felix Castillo	342 sq.m.
4.	Gaudencio Arnaez	196 sq.m.
5.	Teofilo Hernaez	84 sq.m.
6.	Crisanto Canja	190 sq.m.
7.	Benjamin Costoy	110 sq.m.
8.	Virgilio Canja	110 sq.m.
9.	Nena Bayog	170 sq.m.
10.	Virginia Hagonoy	94 sq.m.
11.	Venancio Semilon	110 sq.m.
12.	Estelita Bayog	137.75 sq.m.
13.	Gaudencio Villanueva	88 sq.m.
14.	Ermin Villanueva	10 sq.m.
15.	Marcelino Amar	500 sq.m.

[7] *Rollo*, pp. 75-78.

the complaint with respect to respondents Milagros Villanueva (who pursued the case in behalf of her husband Ernesto Villanueva), Virginia Dagohoy and Crisanto Canja who were found to be lawful tenants of their respective landholdings based on the emancipation patents (EPs) already issued to Ernesto Villanueva and Virginia Dagohoy and receipts issued by Milagros Ramos for payments of lease rentals made by Crisanto Canja. The PARAD held that, as bona fide tenants of their landholdings, respondents Villanueva, Dagohoy and Canja were entitled to the continuous peaceful possession of their home lots.

Exequiel filed a partial appeal of the PARAD's decision ordering him not to disturb the possession of respondents Villanueva, Dagohoy and Canja of their home lots. The aggrieved respondents, likewise, appealed the case to the DARAB.

In its decision[8] dated November 7, 2003, the DARAB affirmed the PARAD's ruling with respect to respondents Villanueva, Dagohoy and Canja, but reversed the PARAD's ruling as to respondents Romeo Hernaez, Felix Castillo, Gaudencio Arnaez, Teofilo Arnaez, Benjamin Costoy, Virgilio Canja, Nena Bayog, Venancio Semilon, Gaudencio Villanueva, Erwin Villanueva, and Marcelino Amar.

Significantly, **the DARAB declared all the respondents to be bona fide tenants of their respective landholdings.** It discovered that EPs were soon to be issued to the rest of the respondents, which meant that these respondents had already been properly identified as tenant-beneficiaries under the Comprehensive Agrarian Reform Program (*CARP*). Also, it found that said respondents had not been remiss in their obligations to deliver lease rentals, which fact was evidenced by receipts from the respondents' landowners. The DARAB, however, refused to rule on whether the respondents were entitled to the possession of their home lots. It considered the issue as a proper subject of an agrarian law implementation case over which the DARAB has no jurisdiction.

Exequiel and Amparo moved for the reconsideration of the DARAB ruling but the latter denied their motion in a resolution

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[8] *Id.* at 81-89.

dated July 27, 2004.[9] Exequiel, now substituted by his heirs (the present *petitioners*), appealed to the CA.

The petitioners insisted before the CA that respondents were not agricultural lessees or tenants. And even if the respondents were tenants, the petitioners claimed not to be bound by any tenancy agreement because Exequiel, their predecessor-in-interest, was an innocent purchaser in good faith. The petitioners further claimed that, at the time Exequiel bought a portion of Lot No. 2047 from Amparo, it was annotated on the lot's title that the land was not tenanted.

In its assailed decision,[10] the CA did not accord merit to the petitioners' arguments. It held that the petitioners, as transferees of Lot No. 2047, were bound by the tenancy relations between the respondents and the lot's previous owners (referring to the spouses Engracia and Timoteo Ramos), thus, they should maintain the respondents' peaceful possession of their home lots.

The CA agreed with the DARAB in finding the respondents to be bona fide tenants of their respective landholdings, but disagreed with the DARAB's "restrictive interpretation" of the latter's jurisdiction to decide on the issue of whether the respondents were entitled to remain in their home lots. The CA ruled that since a home lot is incidental to a tenant's rights, the determination of the respondents' rights to their respective home lots is a proper agrarian dispute over which the DARAB has jurisdiction. Thus, the CA affirmed the DARAB's decision in favor of the respondents, with modification that the same respondents were, likewise, entitled to the continuous, peaceful possession of their respective home lots.

Upon the denial of their motion for reconsideration before the CA, the petitioners filed the present petition for review on *certiorari* with this Court.

The Petition

The petitioners argue that the CA erred in awarding home lots to the respondents and in ordering them to maintain the

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[9] *Id.* at 27.

[10] *Supra* note 2.

respondents' peaceful possession of these home lots; that the CA was in no position to determine whether the respondents were entitled to their home lots as this determination requires processes that the Department of Agrarian Reform (*DAR*) must first undertake as the agency with the technical expertise to perform. For this reason, they contend that the DARAB instead of ruling on the issue, advised the parties to submit the matter to the DAR Secretary for proper resolution.

The petitioners maintain that the respondents are not their tenants, thus, they are not obligated to provide the latter with home lots. They posit that the respondents' houses should be transferred to the farmlands they are actually cultivating or to other lands owned by their respective landlords. And should the respondents opt to retain their houses on petitioners' land, then they must pay the petitioners reasonable rent.

Notably, the petitioners point out that in 2004, the parties entered into a Compromise Agreement that could have put an end to the present case if not for the failure of the respondents' counsel to affix her signature to the document. Under the Compromise Agreement, the petitioners offered to sell and the respondents agreed to buy in instalments, portions of Lot No. 2047 that corresponded to the respondents' respective home lots. This agreement, however, was not submitted for the court's approval due to the absence of respondents' counsel's signature.

The petitioners state that they attached a copy of the Compromise Agreement in their motion for reconsideration before the CA, but the latter did not consider their submission in resolving their motion.

Our Ruling

We find MERIT in the present petition.

The obligation to provide home lots to agricultural lessees or tenants rests upon the landholder. Section 26 (a) of R.A. No. 1199 or the "Agricultural Tenancy Act of the Philippines," as amended by R.A. No. 2263,[11] provides:

[11] Entitled AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC

Sec. 26. Obligations of the Landholder:

(a) The landholder shall furnish the tenant with a home lot as provided in section 22 (3): *Provided*, That should the landholder designate another site for such home lot than that already occupied by the tenant, the former shall bear the expenses of transferring the existing house and improvements from the home lot already occupied by the tenant to the site newly designated by the former: *Provided, further,* That if the tenant disagrees to the transfer of the home lot, the matter shall be submitted to the court for determination."

Under Section 22 (3) of RA No. 1199, as amended, a tenant is entitled to a home lot suitable for dwelling with an area of not more than three percent (3%) of the area of his landholding, provided that it does not exceed one thousand square meters (1,000 sq.m.). It shall be located at a convenient and suitable place **within the land of the landholder** to be designated by the latter where the tenant shall construct his dwelling and may raise vegetables, poultry, pigs and other animals and engage in minor industries, the products of which shall accrue to the tenant exclusively.[12] The agricultural lessee shall have the right to continue in the exclusive possession and enjoyment of any home lot he may have occupied, upon the effectivity of R.A. No. 3844,[13] which shall be considered as included in the leasehold.[14]

In this case, the subject home lots were designated on a parcel of land separate from the farmlands cultivated by the respondents.

ACT NUMBERED ONE THOUSAND ONE HUNDRED NINETY-NINE, OTHERWISE KNOWN AS THE AGRICULTURAL TENANCY ACT OF THE PHILIPPINES, effective June 19, 1959.

[12] Section 22 (3) of Republic Act No. 1199, as amended by Republic Act No. 2263.

[13] Entitled AN ACT TO ORDAIN THE AGRICULTURAL LAND REFORM CODE AND TO INSTITUTE LAND REFORMS IN THE PHILIPPINES, INCLUDING THE ABOLITION OF TENANCY AND THE CHANNELING OF CAPITAL INTO INDUSTRY, PROVIDE FOR THE NECESSARY IMPLEMENTING AGENCIES, APPROPRIATE FUNDS THEREFOR AND FOR OTHER PURPOSES, effective August 8, 1963.

[14] *Id.*, Section 24.

Title to such parcel of land, *i.e.*, Lot No. 2047, was originally registered under the name of Engracia Ramos, the wife of Timoteo.[15] Lot No. 2047 was not Timoteo's property.

The property relations of spouses Timoteo and Engracia Ramos were governed by the old Civil Code[16] that prescribed the system of relative community or conjugal partnership of gains. By means of the conjugal partnership of gains the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage.[17] Under Article 148 of the old Civil Code, the spouses retain exclusive ownership of property they brought to the marriage as his or her own; they acquired, during the marriage, by lucrative title; they acquired by right of redemption or by exchange with other property belonging to only one of the spouses; and property they purchased with the exclusive money of the wife or the husband.[18]

Considering that Lot No. 2047 was originally registered under Engracia's name, it is presumed that said lot is paraphernal, not conjugal, property. Paraphernal property is property brought by the wife to the marriage, as well as all property she acquires during the marriage in accordance with Article 148 (old Civil Code).[19] The wife retains ownership of paraphernal property.[20]

Significantly, in 1976, Lot No. 2047 became subject of estate settlement proceedings and was partitioned and distributed to Engracia's heirs, namely: Timoteo Sr., Timoteo Jr., Milagros,

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[15] *Rollo*, p. 28.

[16] Republic Act No. 386, entitled AN ACT TO ORDAIN AND INSTITUTE THE CIVIL CODE OF THE PHILIPPINES, approved June 18, 1949.

[17] *Id.*, Article 142.

[18] *Id.*, Article 148.

[19] *Id.*, Article 135.

[20] *Id.*, Article 136.

Ubaldo, Andrea and Amparo, all surnamed Ramos.[21] Entries of the approved project of partition and declaration of heirship were annotated at the back of the lot's title.[22] Timoteo (Sr.)'s exact share of the lot, however, was not identified in the records.

In 1993, Amparo Ramos-Taleon, Timoteo's daughter, sold a portion of Lot No. 2047 (her share of the lot) to Ezequiel Hagoriles.

Since Timoteo Sr. merely owns a portion of Lot No. 2047, it was error for the CA to subject the whole of Lot No. 2047 for the use of the respondents' home lots. Only Timoteo Sr., being the named landowner of most of the respondents' landholdings, has the obligation to provide home lots to his tenants. There is no obligation from the other co-owners of Lot No. 2047, including the petitioners who were transferees of Amparo's share of the lot, to provide home lots to the respondents.

Given the limited information in the records, we cannot definitely rule on the rights of all the respondents to their home lots. There is need to delineate the portion of Lot No. 2047 belonging to Timoteo Sr., if there is still any, and determine whether the respondents' home lots fall within Timoteo's share of the lot. **Only those respondents who are Timoteo's tenants** (namely: Milagros Villanueva, Teofilo Hernaez, Crisanto Canja, Nena Bayog, Virginia Dagohoy, Venancio Semilon, Gaudencio Villanueva, and Marcelino Amar[23]) **and whose home lots are located within Timoteo's portion of Lot No. 2047 can be guaranteed to the peaceful possession of their home lots.**

For the other respondents who are not tenants of Timoteo, and those who are Timoteo's tenants but whose home lots do not fall within Timoteo's share of Lot No. 2047, their continuous possession of their home lots cannot be guaranteed. We reiterate that it is the landholder who, among the co-owners of Lot No. 2047 is Timoteo, Sr., is obligated by law to provide his tenants

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[21] *Rollo*, p. 28.

[22] *Id.*

[23] *Supra* note 5.

home lots within his land. **The petitioners are not transferees of Timoteo, Sr. but are transferees of Amparo who is not a landholder of the respondents; thus, the petitioners may not be compelled to maintain the home lots located within their acquired portion of Lot No. 2047.**

At best, the issue on the respondents' entitlement to their home lots should be referred to the DARAB for proper determination. The CA was correct in holding that jurisdiction over this matter is with the DARAB, not with the Office of the DAR Secretary, because it involves an agrarian dispute. Jurisdiction over agrarian disputes lies with the DARAB.

An agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship, or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements. [24] Undeniably, the present case involves a controversy regarding tenurial arrangements. The right to a home lot is a matter arising from a landlord-tenant relationship.

In the event that the respondents are found not to be entitled to possess their present home lots, they can demand from their landholders to designate another location as their home lot. The landholder's obligation to provide home lots to his tenants continues for so long as the tenancy relations exist and has not yet been severed.

With respect to the parties' alleged Compromise Agreement, we rule that this "agreement" has no effect to the resolution of the present case.

Parties to a suit may enter into a compromise agreement to avoid litigation or put an end to one already commenced.[25] A compromise agreement intended to resolve a matter already under

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[24] Section 3(d) of Republic Act No. 6657 otherwise known as the COMPREHENSIVE AGRARIAN REFORM LAW OF 1988.

[25] Article 2028, CIVIL CODE OF THE PHILIPPINES, as amended.

litigation is a judicial compromise, which has the force and effect of a judgment of the court. **However, no execution of the compromise agreement may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed.**[26]

In this case, the petitioners admitted that their compromise agreement was not submitted for court approval for failure of the respondents' counsel to sign the agreement. The parties, however, are not prevented from pursuing their compromise agreement or entering into another agreement regarding the subject matter of this case provided that their stipulations are not contrary to law, morals, good custom, public order, or public policy.[27]

We conclude that the CA erred in ordering the petitioners to maintain the peaceful possession of all of the respondents to their home lots. The petitioners' predecessor-in-interest in (a portion of) Lot No. 2047 was not a landholder of the respondents, thus, they cannot be compelled to maintain the home lots located within their portion of Lot No. 2047. The obligation to provide home lots to the respondents rests upon their respective landholders, not with the petitioners.

WHEREFORE, we hereby **GRANT** the present petition for review on *certiorari* and **REVERSE** and **SET ASIDE** the decision dated July 30, 2010 and resolution dated November 25, 2011 of the Court of Appeals, Cebu City in CA-G.R. SP No. 85600.

Accordingly, we refer the case to the Department of Agrarian Reform Adjudication Board to resolve with dispatch the respondents' rights, if any, to their respective home lots.

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

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[26] *Viesca v. Gilinsky*, G.R. No. 171698, July 4, 2007, 526 SCRA 533.

[27] Article 1306, CIVIL CODE OF THE PHILIPPINES, as amended.

SECOND DIVISION

[G.R. No. 200274. April 20, 2016]

MELECIO DOMINGO, *petitioner, vs.* **SPOUSES GENARO MOLINA and ELENA B. MOLINA, substituted by ESTER MOLINA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; WHEN THE TRIAL COURT'S FACTUAL FINDINGS HAVE BEEN AFFIRMED BY THE COURT OF APPEALS, THE FINDINGS ARE GENERALLY CONCLUSIVE AND BINDING UPON THE SUPREME COURT AND MAY NO LONGER BE REVIEWED ON RULE 45 PETITIONS.— It is well settled that when the trial court's factual findings have been affirmed by the CA, the findings are generally conclusive and binding upon the Court and may no longer be reviewed on Rule 45 petitions. While there are exceptions to this rule, the Court finds no applicable exception with respect to the lower courts' finding that the subject property was Anastacio and Flora's conjugal property. Records before the Court show that the parties did not dispute the conjugal nature of the property.

2. CIVIL LAW; FAMILY CODE; PROPERTY RELATIONS BETWEEN HUSBAND AND WIFE; CONJUGAL PARTNERSHIP OF GAINS; THE CONJUGAL PARTNERSHIP IS DISSOLVED UPON DEATH OF A SPOUSE AND CONJUGAL PARTNERSHIP LIQUIDATION IS REQUIRED.— There is no dispute that Anastacio and Flora Domingo married before the **Family Code's effectivity on August 3, 1988** and their property relation is a conjugal partnership. Conjugal partnership of gains established before and after the effectivity of the Family Code are governed by the rules found in Chapter 4 (*Conjugal Partnership of Gains*) of Title IV (*Property Relations Between Husband and Wife*) of the Family Code. This is clear from Article 105 of the Family Code x x x. **The conjugal partnership of Anastacio and Flora was dissolved when Flora died in 1968**, pursuant to

Article 175 (1) of the Civil Code (now Article 126 (1) of the Family Code). Article 130 of the Family Code requires the liquidation of the conjugal partnership upon death of a spouse and prohibits any disposition or encumbrance of the conjugal property prior to the conjugal partnership liquidation x x x. While Article 130 of the Family Code provides that any disposition involving the conjugal property without prior liquidation of the partnership shall be void, this rule does not apply since the provisions of the Family Code shall be "without prejudice to vested rights already acquired in accordance with the Civil Code or other laws."

3. ID.; ID.; ID.; ID.; ID.; THE SURVIVING SPOUSE AND THE HEIRS OF THE DECEASED SPOUSE BECOME CO-OWNERS OF THE PROPERTIES OF THE DISSOLVED CONJUGAL PARTNERSHIP UNTIL FINAL LIQUIDATION AND PARTITION, AND EACH CO-OWNER HAS THE RIGHT TO FREELY SELL AND DISPOSE OF HIS UNDIVIDED INTEREST IN THE PROPERTIES; CASE AT BAR.— In the case of *Taningco v. Register of Deeds of Laguna*, we held that the properties of a dissolved conjugal partnership fall under the regime of co-ownership among the surviving spouse and the heirs of the deceased spouse until final liquidation and partition. The surviving spouse, however, has an actual and vested one-half undivided share of the properties, which does not consist of determinate and segregated properties until liquidation and partition of the conjugal partnership. An implied ordinary co-ownership ensued among Flora's surviving heirs, including Anastacio, with respect to Flora's share of the conjugal partnership until final liquidation and partition; Anastacio, on the other hand, owns one-half of the original conjugal partnership properties as his share, but this is an undivided interest. x x x Thus, Anastacio, as co-owner, cannot claim title to any specific portion of the conjugal properties without an actual partition being first done either by agreement or by judicial decree. Nonetheless, Anastacio had the right to freely sell and dispose of his undivided interest in the subject property. x x x Consequently, Anastacio's sale to the spouses Molina without the consent of the other co-owners was not totally void, for Anastacio's rights or a portion thereof were thereby effectively transferred, making the spouses Molina a co-owner

of the subject property to the extent of Anastacio's interest. This result conforms with the well-established principle that the binding force of a contract must be recognized as far as it is legally possible to do so (*quando res non valet ut ago, valeat quantum valere potest*). The spouses Molina would be a trustee for the benefit of the co-heirs of Anastacio in respect of any portion that might belong to the co-heirs after liquidation and partition.

4. REMEDIAL LAW; CIVIL PROCEDURE; SPECIAL CIVIL ACTIONS; PARTITION; THE APPROPRIATE RECOURSE OF A CO-OWNER IN CASES WHERE HIS CONSENT WAS NOT SECURED IN A SALE OF THE ENTIRE PROPERTY AS WELL AS IN A SALE MERELY OF THE UNDIVIDED SHARES OF SOME OF THE CO-OWNERS.— Melecio's recourse as a co-owner of the conjugal properties, including the subject property, is an action for partition under Rule 69 of the Revised Rules of Court. As held in the case of *Heirs of Protacio Go, Sr.,* "it is now settled that the appropriate recourse of co-owners in cases where their consent were not secured in a sale of the entire property as well as in a sale merely of the undivided shares of some of the co-owners is an action for PARTITION under Rule 69 of the Revised Rules of Court."

5. ID.; ID.; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; FACTUAL ISSUES CANNOT BE ENTERTAINED IN A RULE 45 PETITION, UNLESS IT FALLS UNDER ANY OF THE RECOGNIZED EXCEPTIONS.— The issue of fraud would require the Court to inquire into the weight of evidentiary matters to determine the merits of the petition and is essentially factual in nature. It is basic that factual questions cannot be entertained in a Rule 45 petition, unless it falls under any of the recognized exceptions found in jurisprudence. The present petition does not show that it falls under any of the exceptions allowing factual review. The CA and RTC conclusion that there is no fraud in the sale is supported by the evidence on record.

APPEARANCES OF COUNSEL

David P. Briones for petitioner.
Adolfo Robinos for respondents.

D E C I S I O N

BRION, *J.*:

We resolve the petition for review on *certiorari*[1] filed by the petitioner Melecio Domingo (*Melecio*) assailing the August 9, 2011 decision[2] and January 10, 2012 resolution[3] of the Court of Appeals (*CA*) in CA-G.R. CV No. 94160.

THE FACTS

In June 15, 1951, the spouses Anastacio and Flora Domingo bought a property in Camiling, Tarlac, consisting of a one-half undivided portion over an 18,164 square meter parcel of land. The sale was annotated on the Original Certificate of Title (*OCT*) No. 16354 covering the subject property.

During his lifetime, Anastacio borrowed money from the respondent spouses Genaro and Elena Molina (*spouses Molina*). On September 10, 1978 or 10 years after Flora's death,[4] Anastacio sold his interest over the land to the spouses Molina to answer for his debts. The sale to the spouses Molina was annotated at the OCT of the subject property.[5] In 1986, Anastacio died.[6]

In May 19, 1995, the sale of Anastacio's interest was registered under Transfer Certificate of Title (*TCT*) No. 272967[7] and transferred the entire one-half undivided portion of the land to the spouses Molina.

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[1] *Rollo*, pp. 9-20.

[2] Penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Hakim S. Abdulwahid and Rodil V. Zalameda; *id.* at 71-85.

[3] *Id.* at 93.

[4] Flora died in 1968 or 10 years before the sale of the subject property to the respondents; *id.* at 73.

[5] *Id.* at 72.

[6] *Id.* at 73.

[7] *Id.* at 29.

Melecio, one of the children of Anastacio and Flora, learned of the transfer and filed a *Complaint for Annulment of Title and Recovery of Ownership* (*Complaint*) against the spouses Molina on May 17, 1999.[8]

Melecio claims that Anastacio gave the subject property to the spouses Molina to serve as collateral for the money that Anastacio borrowed. Anastacio could not have validly sold the interest over the subject property without Flora's consent, as Flora was already dead at the time of the sale.

Melecio also claims that Genaro Molina must have falsified the document transferring Anastacio and Flora's one-half undivided interest over the land. Finally, Melecio asserts that he occupied the subject property from the time of Anastacio's death up to the time he filed the *Complaint*.[9]

Melecio presented the testimonies of the Records Officer of the Register of Deeds of Tarlac, and of Melecio's nephew, George Domingo (*George*).[10]

The Records Officer testified that he could not locate the instrument that documents the transfer of the subject property ownership from Anastacio to the spouses Molina. The Records Officer also testified that the alleged sale was annotated at the time when Genaro Molina's brother was the Register of Deeds for Camiling, Tarlac.[11]

George, on the other hand, testified that he has been living on the subject property owned by Anastacio since 1986. George testified, however, that aside from himself, there were also four other occupants on the subject property, namely Jaime Garlitos, Linda Sicangco, Serafio Sicangco and Manuel Ramos.[12]

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[8] *Supra* note 7.

[9] *Rollo*, pp. 73-74.

[10] *Id.* at 75.

[11] *Id.*

[12] *Id.* at 37.

The spouses Molina asserted that Anastacio surrendered the title to the subject property to answer for his debts and told the spouses Molina that they already own half of the land. The spouses Molina have been in possession of the subject property before the title was registered under their names and have religiously paid the property's real estate taxes.

The spouses Molina also asserted that Melecio knew of the disputed sale since he accompanied Anastacio several times to borrow money. The last loan was even used to pay for Melecio's wedding. Finally, the spouses Molina asserted that Melecio built his nipa hut on the subject property only in 1999, without their knowledge and consent.[13]

The spouses Molina presented Jaime Garlitos (*Jaime*) as their sole witness and who is one of the occupants of the subject lot.

Jaime testified that Elena Molina permitted him to build a house on the subject property in 1993. Jaime, together with the other tenants, planted fruit bearing trees on the subject property and gave portions of their harvest to Elena Molina without any complaint from Melecio. Jaime further testified that Melecio never lived on the subject property and that only George Domingo, as the caretaker of the spouses Molina, has a hut on the property.

Meanwhile, the spouses Molina died during the pendency of the case and were substituted by their adopted son, Cornelio Molina.[14]

THE RTC RULING

The Regional Trial Court (*RTC*) dismissed[15] the case because Melecio failed to establish his claim that Anastacio did not sell the property to the spouses Molina.

The RTC also held that Anastacio could dispose of conjugal property without Flora's consent since the sale was necessary to answer for conjugal liabilities.

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[13] *Id.* at 74.

[14] Records, pp. 145 and 180.

[15] RTC Decision dated August 10, 2009. *Rollo*, pp. 36-39.

The RTC denied Melecio's motion for reconsideration of the RTC ruling. From this ruling, Melecio proceeded with his appeal to the CA.

THE CA RULING

In a decision dated August 9, 2011, the CA affirmed the RTC ruling *in toto.*

The CA held that Melecio failed to prove by preponderant evidence that there was fraud in the conveyance of the property to the spouses Molina. The CA gave credence to the OCT annotation of the disputed property sale.

The CA also held that Flora's death is immaterial because Anastacio only sold his rights, excluding Flora's interest, over the lot to the spouses Molina. The CA explained that "[t]here is no prohibition against the sale by the widower of real property formerly belonging to the conjugal partnership of gains".[16]

Finally, the CA held that Melecio's action has prescribed. According to the CA, Melecio failed to file the action within one year after entry of the decree of registration.

Melecio filed a motion for reconsideration of the CA Decision. The CA denied Melecio's motion for reconsideration for lack of merit.[17]

THE PETITION

Melecio filed the present petition for review on *certiorari* to challenge the CA ruling.

Melecio principally argues that the sale of land belonging to the conjugal partnership without the wife's consent is invalid.

Melecio also claims that fraud attended the conveyance of the subject property and the absence of any document evidencing the alleged sale made the transfer null and void. Finally, Melecio claims that the action has not yet prescribed.

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[16] *Rollo*, p. 79.

[17] *Id.* at 93.

The respondents, on the other hand, submitted and adopted their arguments in their Appeal Brief.[18]

First, Melecio's counsel admitted that Anastacio had given the lot title in payment of the debt amounting to Php30,000.00. The delivery of the title is constructive delivery of the lot itself based on Article 1498, paragraph 2 of the Civil Code.

Second, the constructive delivery of the title coupled with the spouses Molina's exercise of attributes of ownership over the subject property, perfected the sale and completed the transfer of ownership.

THE ISSUES

The core issues of the petition are as follows: (1) whether the sale of a conjugal property to the spouses Molina without Flora's consent is valid and legal; and (2) whether fraud attended the transfer of the subject property to the spouses Molina.

OUR RULING

We ***deny*** the petition.

It is well settled that when the trial court's factual findings have been affirmed by the CA, the findings are generally conclusive and binding upon the Court and may no longer be reviewed on Rule 45 petitions.[19] While there are exceptions[20] to this rule, the Court finds no applicable exception with respect

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[18] *Id.* at 105-110.

[19] *Tan v. Andrade*, *et al.*, G.R. No. 171904, August 7, 2013, 703 SCRA 198, 204-205.

[20] *Fuentes v. Court of Appeals*, G.R. No. 109849, February 26, 1997, 268 SCRA 703, 708-709, stating:

The findings of fact of the Court of Appeals, which are as a general rule deemed conclusive, may admit of review by this Court:

(1) when the factual findings of the Court of Appeals and the trial court are contradictory;

(2) when the findings are grounded entirely on speculation, surmises, or conjectures;

to the lower courts' finding that the subject property was Anastacio and Flora's conjugal property. Records before the Court show that the parties did not dispute the conjugal nature of the property.

Melecio argues that the sale of the disputed property to the spouses Molina is void without Flora's consent.

We do not find Melecio's argument meritorious.

Anastacio and Flora's conjugal partnership was dissolved upon Flora's death.

There is no dispute that Anastacio and Flora Domingo married before the **Family Code's effectivity on August 3, 1988** and their property relation is a conjugal partnership.[21]

Conjugal partnership of gains established before and after the effectivity of the Family Code are governed by the rules found in Chapter 4 (*Conjugal Partnership of Gains*) of Title

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(3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible;

(4) when there is grave abuse of discretion in the appreciation of facts;

(5) when the appellate court, in making its findings, goes beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;

(6) when the judgment of the Court of Appeals is premised on a misapprehension of facts;

(7) when the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion;

(8) when the findings of fact are themselves conflicting;

(9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and

(10) when the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.

[21] Anastacio and Flora were already married at the time they bought the subject property on June 15, 1951, as shown by the annotation on OCT covering the subject property, *rollo*, p. 72.

IV (*Property Relations Between Husband and Wife*) of the Family Code. This is clear from Article 105 of the Family Code which states:

x x x The provisions of this Chapter shall also apply to conjugal partnerships of gains already established between spouses before the effectivity of this Code, *without prejudice to vested rights already acquired in accordance with the Civil Code or other laws,* as provided in Article 256.

The conjugal partnership of Anastacio and Flora was dissolved when Flora died in 1968, pursuant to Article 175 (1) of the Civil Code[22] (now Article 126 (1) of the Family Code).

Article 130 of the Family Code requires the liquidation of the conjugal partnership upon death of a spouse and prohibits any disposition or encumbrance of the conjugal property prior to the conjugal partnership liquidation, to quote:

Article 130. Upon the termination of the marriage by death, **the conjugal partnership property shall be liquidated in the same proceeding for the settlement of the estate of the deceased.**

If no judicial settlement proceeding is instituted, the surviving spouse shall liquidate the conjugal partnership property either judicially or extra-judicially within one year from the death of the deceased spouse. **If upon the lapse of the six month period no liquidation is made, any disposition or encumbrance involving the conjugal partnership property of the terminated marriage shall be void.** x x x (emphases supplied)

While Article 130 of the Family Code provides that any disposition involving the conjugal property without prior liquidation of the partnership shall be void, this rule does not apply since the provisions of the Family Code shall be "without prejudice to vested rights already acquired in accordance with the Civil Code or other laws."[23]

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[22] CIVIL CODE, ART. 175. The conjugal partnership of gains terminates:

(1) Upon the death of either spouse; x x x

[23] Article 105 of Family Code.

An implied co-ownership among Flora's heirs governed the conjugal properties pending liquidation and partition.

In the case of *Taningco v. Register of Deeds of Laguna*,[24] we held that the properties of a dissolved conjugal partnership fall under the regime of co-ownership among the surviving spouse and the heirs of the deceased spouse until final liquidation and partition. The surviving spouse, however, has an actual and vested one-half undivided share of the properties, which does not consist of determinate and segregated properties until liquidation and partition of the conjugal partnership.

An implied ordinary co-ownership ensued among Flora's surviving heirs, including Anastacio, with respect to Flora's share of the conjugal partnership until final liquidation and partition; Anastacio, on the other hand, owns one-half of the original conjugal partnership properties as his share, but this is an undivided interest.

Article 493 of the Civil Code on co-ownership provides:

> Article 493. **Each co-owner** shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he **may** therefore **alienate**, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the **effect of the alienation** or the mortgage, **with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.** (399) (emphases supplied)

Thus, Anastacio, as co-owner, cannot claim title to any specific portion of the conjugal properties without an actual partition being first done either by agreement or by judicial decree. Nonetheless, Anastacio had the right to freely sell and dispose of his undivided interest in the subject property.

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[24] G.R. No. L-15242, June 29, 1962, 5 SCRA 381, 382.

The spouses Molina became co-owners of the subject property to the extent of Anastacio's interest.

The OCT annotation of the sale to the spouses Molina reads that **"[o]nly the rights, interests and participation of Anastacio Domingo**, married to Flora Dela Cruz, is hereby sold, transferred, and conveyed unto the said vendees for the sum of ONE THOUSAND PESOS (₱1,000.00) which **pertains to an undivided one-half (1/2) portion** and subject to all other conditions specified in the document x x x"[25] (emphases supplied). At the time of the sale, Anastacio's undivided interest in the conjugal properties consisted of: (1) one-half of the entire conjugal properties; and (2) his share as Flora's heir on the conjugal properties.

Anastacio, as a co-owner, had the right to freely sell and dispose of his undivided interest, but not the interest of his co-owners. Consequently, Anastacio's sale to the spouses Molina without the consent of the other co-owners was not totally void, for Anastacio's rights or a portion thereof were thereby effectively transferred, making the spouses Molina a co-owner of the subject property to the extent of Anastacio's interest. This result conforms with the well-established principle that the binding force of a contract must be recognized as far as it is legally possible to do so (*quando res non valet ut ago, valeat quantum valere potest*).[26]

The spouses Molina would be a trustee for the benefit of the co-heirs of Anastacio in respect of any portion that might belong to the co-heirs after liquidation and partition. The observations of Justice Paras cited in the case of *Heirs of Protacio Go, Sr. v. Servacio*[27] are instructive:

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[25] *Rollo*, p. 79.

[26] *Heirs of Protacio Go, Sr. v. Servacio*, G.R. No. 157537, September 7, 2011, 657 SCRA 10, 16-17.

[27] *Id.* at 18-19 (citations omitted).

x x x [I]f it turns out that the property alienated or mortgaged really would pertain to the share of the surviving spouse, then said transaction is valid. If it turns out that there really would be, after liquidation, no more conjugal assets then the whole transaction is null and void. But if it turns out that half of the property thus alienated or mortgaged belongs to the husband as his share in the conjugal partnership, and half should go to the estate of the wife, then that corresponding to the husband is valid, and that corresponding to the other is not. Since all these can be determined only at the time the liquidation is over, it follows logically that a disposal made by the surviving spouse is not void ab initio. Thus, it has been held that the sale of conjugal properties cannot be made by the surviving spouse without the legal requirements. The sale is void as to the share of the deceased spouse (except of course as to that portion of the husband's share inherited by her as the surviving spouse). The buyers of the property that could not be validly sold become trustees of said portion for the benefit of the husband's other heirs, the cestui que trust ent. Said heirs shall not be barred by prescription or by laches.

Melecio's recourse as a co-owner of the conjugal properties, including the subject property, is an action for partition under Rule 69 of the Revised Rules of Court. As held in the case of *Heirs of Protacio Go, Sr.*, "it is now settled that the appropriate recourse of co-owners in cases where their consent were not secured in a sale of the entire property as well as in a sale merely of the undivided shares of some of the co-owners is an action for PARTITION under Rule 69 of the Revised Rules of Court."[28]

The sale of the subject property to the spouses Molina was not attended with fraud.

On the issue of fraud, the lower courts found that there was no fraud in the sale of the disputed property to the spouses Molina.

The issue of fraud would require the Court to inquire into the weight of evidentiary matters to determine the merits of the

[28] *Id.*

petition and is essentially factual in nature. It is basic that factual questions cannot be entertained in a Rule 45 petition, unless it falls under any of the recognized exceptions[29] found in jurisprudence. The present petition does not show that it falls under any of the exceptions allowing factual review.

The CA and RTC conclusion that there is no fraud in the sale is supported by the evidence on record.

Melecio's argument that no document was executed for the sale is negated by the CA finding that there was a notarized deed of conveyance executed between Anastacio and the spouses Molina, as annotated on the OCT of the disputed property.

Furthermore, Melecio's belief that Anastacio could not have sold the property without his knowledge cannot be considered as proof of fraud to invalidate the spouses Molina's registered title over the subject property.[30]

Prevailing jurisprudence uniformly holds that findings of facts of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court.[31]

Considering these findings, we find no need to discuss the other issues raised by Melecio.

WHEREFORE, we hereby **DENY** the petition for review on c*ertiorari*. The decision dated August 9, 2011 of the Court of Appeals in CA-G.R. CV No. 94160 is **AFFIRMED.**

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

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[29] *Supra* note 20.

[30] *Rollo*, pp. 80-81.

[31] *Supra* note 19.

SECOND DIVISION

[G.R. No. 200302. April 20, 2016]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **GERRY LIPATA y ORTIZA,** *appellant.*

SYLLABUS

1. CRIMINAL LAW; REVISED PENAL CODE; EXTINCTION OF CRIMINAL LIABILITY; THE DEATH OF THE ACCUSED PENDING APPEAL OF HIS CONVICTION EXTINGUISHES HIS CRIMINAL LIABILITY; EFFECT OF DEATH ON CIVIL LIABILITY.— At the outset, we declare that because of appellant's death prior to the promulgation of the CA's decision, there is no further need to determine appellant's criminal liability. Appellant's death has the effect of extinguishing his criminal liability. x x x In 1994, this Court, in *People v. Bayotas*, reconciled the differing doctrines on the issue of whether the death of the accused pending appeal of his conviction extinguishes his civil liability. x x x We summarized our ruling in *Bayotas* as follows: "1. **Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon.** As opined by Justice Regalado, in this regard, "the death of the accused prior to final judgment terminates his criminal liability and *only* the civil liability *directly* arising from and based solely on the offense committed, i.e., civil liability *ex delicto* in *senso strictiore*." 2. Corollarily, **the claim for civil liability survives notwithstanding the death of accused, if the same may also be predicated on a source of obligation other than delict.** Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission: a) Law b) Contracts c) Quasi-contracts d) x x x e) Quasi-delicts 3. **Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule 111 of the 1985 Rules on Criminal Procedure as amended.** This separate civil action may be enforced either against the executor/administrator or

the estate of the accused, depending on the source of obligation upon which the same is based as explained above. 4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible deprivation of right by prescription." The promulgation of the Revised Rules on Criminal Procedure in 2000 provided for the effect of the death of the accused after arraignment and during the pendency of the criminal action to reflect our ruling in *Bayotas* x x x.

2. REMEDIAL LAW; CRIMINAL PROCEDURE; PROSECUTION OF CIVIL ACTION; EFFECT OF DEATH ON CIVIL ACTIONS; DESPITE THE RECOGNITION OF THE SURVIVAL OF THE CIVIL LIABILITY FOR CLAIMS ARISING FROM INDEPENDENT CIVIL ACTIONS AND FROM SOURCES OF OBLIGATION OTHER THAN DELICT, THE PRIVATE OFFENDED PARTIES OR THEIR HEIRS ARE REQUIRED TO INSTITUTE A SEPARATE CIVIL ACTION TO PURSUE THEIR CLAIMS AGAINST THE ESTATE OF THE DECEASED APPELLANT.— Cueno died because of appellant's fault. Appellant caused damage to Cueno through deliberate acts. Appellant's civil liability *ex quasi delicto* may now be pursued because appellant's death on 13 February 2011, before the promulgation of final judgment, extinguished both his criminal liability and civil liability *ex delicto*. Despite the recognition of the survival of the civil liability for claims under Articles 32, 33, 34 and 2176 of the Civil Code, as well as from sources of obligation other than delict in both jurisprudence and the Rules, and our subsequent designation of the PAO as the "legal representative of the estate of the deceased [appellant] for purposes of representing the estate in the civil aspect of this case," the current Rules, pursuant to our pronouncement in *Bayotas*, require the private offended party, or his heirs, in this case, to institute a separate civil action to pursue their claims against the estate of the deceased appellant. The

independent civil actions in Articles 32, 33, 34 and 2176, as well as claims from sources of obligation other than delict, are not deemed instituted with the criminal action but may be filed separately by the offended party even without reservation. The separate civil action proceeds independently of the criminal proceedings and requires only a preponderance of evidence. The civil action which may thereafter be instituted against the estate or legal representatives of the decedent is taken from the new provisions of Section 16 of Rule 3 in relation to the rules for prosecuting claims against his estate in Rules 86 and 87. Upon examination of the submitted pleadings, we found that there was no separate civil case instituted prior to the criminal case. Neither was there any reservation for filing a separate civil case for the cause of action arising from quasi-delict. Under the present Rules, the heirs of Cueno should file a separate civil case in order to obtain financial retribution for their loss. The lack of a separate civil case for the cause of action arising from quasi-delict leads us to the conclusion that, a decade after Cueno's death, his heirs cannot recover even a centavo from the amounts awarded by the CA.

APPEARANCES OF COUNSEL

Office of the Solicitor General for appellee.
Public Attorney's Office for appellant.

D E C I S I O N

CARPIO, *J.*:

The Case

G.R. No. 200302 is an appeal[1] assailing the Decision[2] promulgated on 31 May 2011 by the Court of Appeals (CA) in

[1] Under Rule 45 of the 1997 Rules of Civil Procedure and Rule 122 of the Revised Rules of Criminal Procedure.

[2] *Rollo*, pp. 2-19. Penned by Associate Justice Romeo F. Barza, with Associate Justices Rosalinda Asuncion-Vicente and Edwin D. Sorongon concurring.

CA-G.R. CR-H.C. No. 04461. The CA affirmed the Decision[3] dated 23 March 2010 of Branch 85 of the Regional Trial Court of Quezon City (RTC) in Criminal Case No. Q-05-136584. The RTC found appellant Gerry Lipata y Ortiza (appellant) guilty beyond reasonable doubt of the crime of Murder and sentenced him to suffer the penalty of *reclusion perpetua*. The RTC also ordered appellant to pay damages to the heirs of Rolando Cueno (Cueno).[4]

The Facts

Appellant was charged with the crime of Murder in an Information which reads as follows:

> That on or about the 1st day of September, 2005, in Quezon City, Philippines, the said accused, conspiring, confederating with two (2) other persons whose true names, identities and definite whereabouts have not as yet been ascertained and mutually helping one another, with intent to kill and with evident premeditation and treachery, and taking advantage of superior strength, did, then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one RONALDO CUENO Y BONIFACIO, by then and there stabbing him repeatedly with bladed weapons, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal stab wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of Ronaldo Cueno y Bonifacio.
>
> CONTRARY TO LAW.[5]

Appellant was arraigned on 11 October 2005, and entered a plea of not guilty to the charge. Pre-trial conference was terminated on 26 October 2005, and trial on the merits ensued.

The CA summarized the parties' evidence as follows:

The Prosecution[']s] Evidence

Mercelinda Valzado, sister-in-law of the victim Rolando Cueno, testified that on September 1, 2005 at around 6:00 p.m., she was in

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[3] CA *rollo*, pp. 44-55. Penned by Pairing Judge Luisito G. Cortez.

[4] Also referred to in the Records as Ronaldo Cueno.

[5] CA *rollo*, p. 9.

her house located in [sic] Lot 34, Block 4, Sipna Compound, Bagong Silangan, Quezon City. She was about to leave the house to go to the market when she saw appellant, his brother Larry Lipata and a certain [Rudy] attacking the victim by repeatedly stabbing him. She was at a distance of more or less ten (10) meters from the incident. Shocked at what she had just witnessed, she shouted for help and pleaded the assailants to stop, but they did not stop stabbing the victim. In her account, she recalled that the assailants, including appellant, used a tres cantos, an ice pick and a broken piece of glass of Red Horse [bottle]. At one point, the victim managed to take the knife away from appellant and brandished the same at his attackers. Thereafter, the victim fell on the ground. Upon seeing the victim fall, appellant and the other assailants left the scene. Through the help of some neighbors, Mercelinda rushed the victim to a hospital but he was pronounced dead on arrival.

Criz Reymiluz Cueno, daughter of the victim, testified that she saw appellant together with Larry Lipata and Rudy Lipata [stab] her father to death in front of their house. She recounted that upon arriving at home from work on September 1, 2005 at around 6:00 p.m., her father immediately went to the house of her aunt Mercelinda Valzado, which was located only a block away from their house, to ask for malunggay leaves. Upon coming home from her aunt's house, the victim was attacked by the Lipatas which prompted the victim to run away. Thinking that his assailants were no longer around, the victim proceeded to their [sic] house but then the Lipatas stabbed him to death. She was at a distance of six (6) to eight (8) meters away from the scene. She further testified that she had no knowledge of any reason why the Lipatas would kill her father, but her father's death brought her pain and sadness and anger against the perpetrators of her father's killing.

The Defense[']s] Evidence

The defense presented a sole witness in the person of appellant himself. According to appellant, he was resting in his house in Sipna Compound, Brgy. Bagong Silangan, Quezon City on September 1, 2005 at around 6:00 p.m. when two children, namely John Paul Isip and a certain Rommel, called him and told him to help his brother, Larry Lipata. He immediately rushed to his brother and upon arrival he saw Larry being stabbed by the victim. He instantaneously assisted his brother but the victim continued stabbing Larry, causing Larry to fall to the ground. Thereafter, appellant

managed to grab the knife from the victim and stab the victim. Then he fled from the scene [of the crime] because he was wounded. Appellant's sister-in-law, a certain Lenlen, brought him to the Amang Medical Center for treatment of his stab wound where he was apprehended by police officers.[6]

The RTC's Ruling

The RTC noted that since appellant raised the justifying circumstance of defense of a relative, he hypothetically admitted the commission of the crime. Hence, the burden of proving his innocence shifted to appellant. The RTC found that the defense failed to adequately establish the element of unlawful aggression on the part of Cueno. There was no actual or imminent danger to the life of appellant or of his brother Larry. On the contrary, the three Lipata brothers (appellant, Larry, and Rudy)[7] employed treachery and took advantage of their superior strength when they attacked Cueno after Cueno left the house of his sister-in-law. Cueno suffered 17 stab wounds on his trunk from the Lipata brothers. The existence of multiple stab wounds on the trunk of the unarmed Cueno is inconsistent with appellant's theory of defense of a relative. The RTC, however, ruled that the prosecution failed to show conclusive proof of evident premeditation.

The dispositive portion of the RTC's decision reads:

WHEREFORE, in the light of the foregoing considerations, the Court here[b]y renders judgment finding the accused GERRY LIPATA Y ORTIZA guilty beyond reasonable doubt of the crime of Murder and he is hereby sentenced to suffer the penalty of imprisonment of *reclusion perpetua* from twenty (20) years and one (1) day to forty (40) years.

The accused is hereby adjudged to pay the heirs of Rolando Cueno the following amounts:

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[6] *Rollo*, pp. 3-6.

[7] The RTC also stated that: "From the time Larry and Rudy Lipata fled from the scene of the crime on 1 September 2005, they have been at large and went into hiding in order to escape criminal liability." CA *rollo*, p. 16.

(a) Php 50,000.00 representing civil indemnity *ex delicto* of the accused;

(b) Php 120,550.00 representing the actual damages incurred by the heirs of Rolando Cueno, incident to his death plus 12% interest per annum computed from 6 September 2005 until fully paid;

(c) Php 50,000.00 as moral damages for the mental and emotional anguish suffered by the heirs arising from the death of Rolando Cueno; and

(d) Php 25,000[.00] as exemplary damages.

The accused shall be credited with the full period of his preventive imprisonment, subject to the conditions imposed under Article 29 of the Revised Penal Code, as amended.

SO ORDERED.[8]

Appellant, through the Public Attorney's Office (PAO), filed a notice of appeal[9] on 6 April 2010. The RTC granted appellant's notice in an Order[10] dated 19 April 2010.

The CA's Ruling

The CA dismissed appellant's appeal and affirmed the decision of the RTC. The CA agreed with the RTC's ruling that appellant's claim of defense of a relative must fail. There was no actual or imminent threat on the life of appellant or of his brother Larry. There was also no reason for appellant to stab Cueno. Cueno was outnumbered by the Lipata brothers, three to one. The requirement of lack of provocation on the part of appellant is negated by the multiple stab wounds that Cueno sustained.

The CA disagreed with appellant's contention that the prosecution failed to establish treachery. The CA pointed out that Cueno was not forewarned of any impending threat to his life. Cueno was unarmed, and went to his sister-in-law's house

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[8] *Id.* at 20.

[9] *Id.* at 21.

[10] *Id.* at 22.

to gather *malunggay* leaves. The Lipata brothers, on the other hand, were readily armed with *tres cantos*, an icepick, and a broken piece of glass from a Red Horse bottle. The execution of the Lipata brothers' attack made it impossible for Cueno to retaliate.

The CA also disagreed with appellant's contention that there was no abuse of superior strength. The three Lipata brothers were all armed with bladed weapons when they attacked the unarmed Cueno. The Lipata brothers refused to stop stabbing Cueno until they saw him unconscious.

The dispositive portion of the CA's decision reads:

> WHEREFORE, finding the appeal to be bereft of merit, the same is hereby DISMISSED. The appealed decision of the trial court convicting appellant of the crime of murder is hereby AFFIRMED.
>
> SO ORDERED.[11]

The PAO filed a notice of appeal[12] on behalf of appellant on 10 June 2011. The CA ordered the immediate elevation of the records to this Court in its 30 June 2011 Resolution.[13]

Appellant's Death Prior to Final Judgment

This Court, in a Resolution dated 13 June 2012,[14] noted the records forwarded by the CA and required the Bureau of Corrections (BuCor) to confirm the confinement of appellant. The BuCor, in a letter dated 26 July 2012, informed this Court that there is no record of confinement of appellant as of date. In a Resolution dated 10 September 2012,[15] this Court required the Quezon City Jail Warden to transfer appellant to the New Bilibid Prison and to report compliance within ten days from

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[11] *Rollo*, p. 18.

[12] *Id.* at 20.

[13] *Id.* at 23.

[14] *Id.* at 25.

[15] *Id.* at 29.

notice. The Quezon City Jail Warden, in a letter dated 22 October 2012,[16] informed this Court that appellant passed away on 13 February 2011. The former Quezon City Jail Warden wrote to the RTC about appellant's demise in a letter dated 23 February 2011. Attached to the 22 October 2012 letter were photocopies of appellant's death certificate and medical certificate, as well as the former Quezon City Jail Warden's letter.[17] In a Resolution dated 7 January 2013,[18] this Court noted the 22 October 2012 letter from the Quezon City Jail Warden, and required the parties to submit their supplemental briefs on the civil aspect of the case if they so desire.

The Office of the Solicitor General filed a Manifestation dated 18 March 2013,[19] which stated that it had already exhaustively argued the relevant issues in its appellee's brief. The PAO, on the other hand, filed a supplemental brief on 26 March 2013.[20]

In view of appellant's death prior to the promulgation of the CA's decision, this Court issued a Resolution dated 25 September 2013 which ordered the PAO "(1) to SUBSTITUTE the legal representatives of the estate of the deceased appellant as party; and (2) to COMMENT on the civil liability of appellant within ten (10) days from receipt of this Resolution."[21]

The PAO filed its Manifestation with Comment on the Civil Liability of the Deceased Appellant on 29 November 2013.[22] According to the Public Attorney's Office-Special and Appealed

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[16] *Id.* at 30.

[17] *Id.* at 31-34. Based on the medical certificate issued by the East Avenue Medical Center, appellant was admitted on 13 February 2011, and was pronounced dead at 8:27 in the evening of the same day. The immediate cause of death as stated in the death certificate was "Hypoxic Ischemic Encelopathy secondary to Cardiopulmonary Arrest."

[18] *Id.* at 37.

[19] *Id.* at 39-40.

[20] *Id.* at 42-47.

[21] *Id.* at 51.

[22] *Id.* at 61-66.

Cases Service, the relatives of the deceased appellant have not communicated with it since the case was assigned to its office on 29 September 2010. The PAO sent a letter on 4 November 2013 to Lilia Lipata, who was appellant's next of kin per official records. Despite receipt of the letter, the relatives of appellant still failed to communicate with the PAO.

In its Manifestation, the PAO stated that:

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9. Considering that the civil liability in the instant case arose from and is based solely on the act complained of, i.e., murder, the same does not survive the death of the deceased appellant. Thus, in line with the abovecited ruling [*People v. Jamie Ayochok*, G.R. No. 175784, 25 August 2010, 629 SCRA 324, citing *People v. Rogelio Bayotas*, G.R. No. 102007, 2 September 1994, 236 SCRA 239], the death of the latter pending appeal of his conviction extinguished his criminal liability as well as the civil liability based solely thereon.

10. This being so, it is respectfully submitted that the necessity to substitute the legal representatives of the estate of the deceased as party does not arise.[23]

On 9 July 2014, this Court issued a Resolution which declared that "the [PAO] shall continue as the legal representative of the estate of the deceased [appellant] for purposes of representing the estate in the civil aspect of this case."[24]

The Court's Ruling

At the outset, we declare that because of appellant's death prior to the promulgation of the CA's decision, there is no further need to determine appellant's criminal liability. Appellant's death has the effect of extinguishing his criminal liability. Article 89 (1) of the Revised Penal Code provides:

Article 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:

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[23] *Id.* at 64-65.

[24] *Id.* at 77.

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;

x x x x x x x x x

What this Court will discuss further is the effect of appellant's death with regard to his civil liability. In 1994, this Court, in *People v. Bayotas*,[25] reconciled the differing doctrines on the issue of whether the death of the accused pending appeal of his conviction extinguishes his civil liability. We concluded that "[u]pon death of the accused pending appeal of his conviction, the criminal action is extinguished inasmuch as there is no longer a defendant to stand as the accused; the civil action instituted therein for recovery of civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal."[26]

We also ruled that "if the private offended party, upon extinction of the civil liability *ex delicto* desires to recover damages from the *same act or omission complained of*, he must subject to Section 1, Rule 111 ([of the then applicable] 1985 Rules on Criminal Procedure as amended) file a separate civil action, this time predicated not on the felony previously charged but on other sources of obligation. The source of obligation upon which the separate civil action is premised determines against whom the same shall be enforced."[27]

We proceeded to distinguish the defendants among the different causes of action. If the act or omission complained of arises from quasi-delict or, by provision of law, results in an injury to person or real or personal property, the separate civil action must be filed against the executor or administrator of the estate pursuant to Section 1, Rule 87 of the Rules of Court.[28] On the

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[25] G.R. No. 102007, 2 September 1994, 236 SCRA 239.

[26] *Id.* at 251.

[27] *Id.* at 253-254.

[28] *Actions which may and which may not be brought against executor or administrator.* — No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but actions to recover real or personal property, or an interest

other hand, if the act or omission complained of arises from contract, the separate civil action must be filed against the estate of the accused pursuant to Section 5, Rule 86 of the Rules of Court.[29]

We summarized our ruling in *Bayotas* as follows:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. As opined by Justice Regalado, in this regard, "the death of the accused prior to final judgment terminates his criminal liability and *only* the civil liability *directly* arising from and based solely on the offense committed, i.e., civil liability *ex delicto* in *senso strictiore*."

2. Corollarily, **the claim for civil liability survives notwithstanding the death of accused, if the same may also be predicated on a source of obligation other than delict.** Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission:

a) Law
b) Contracts

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therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against him.

[29] *Claims which must be filed under the notice. If not filed, barred; exceptions.* — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expense for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. Where an executor or administrator commences an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court as herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent, may be approved at their present value.

c) Quasi-contracts
d) x x x
e) Quasi-delicts

3. **Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule 111 of the 1985 Rules on Criminal Procedure as amended.** This separate civil action may be enforced either against the executor/ administrator or the estate of the accused, depending on the source of obligation upon which the same is based as explained above.

4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible deprivation of right by prescription.[30] (Emphases supplied)

The promulgation of the Revised Rules on Criminal Procedure in 2000 provided for the effect of the death of the accused after arraignment and during the pendency of the criminal action to reflect our ruling in *Bayotas*:

Sec. 4. *Effect of death on civil actions.* — The death of the accused after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict. However, the independent civil action instituted under Section 3 of this Rule or which thereafter is instituted to enforce liability arising from other sources of obligation may be continued against the estate or legal representative of the accused after proper substitution or against said estate, as the case may be. The heirs of the accused may be substituted for the deceased without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

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[30] G.R. No. 102007, 2 September 1994, 236 SCRA 239, 255-256.

A final judgment entered in favor of the offended party shall be enforced in the manner especially provided in these rules for prosecuting claims against the estate of the deceased.

If the accused dies before arraignment, the case shall be dismissed without prejudice to any civil action the offended party may file against the estate of the deceased.

Contrary to the PAO's Manifestation with Comment on the Civil Liability of the Deceased Appellant,[31] Cueno died because of appellant's fault. Appellant caused damage to Cueno through deliberate acts.[32] Appellant's civil liability *ex quasi delicto* may now be pursued because appellant's death on 13 February 2011, before the promulgation of final judgment, extinguished both his criminal liability and civil liability *ex delicto*.

Despite the recognition of the survival of the civil liability for claims under Articles 32, 33, 34 and 2176 of the Civil Code, as well as from sources of obligation other than delict in both jurisprudence and the Rules, and our subsequent designation of the PAO as the "legal representative of the estate of the deceased [appellant] for purposes of representing the estate in the civil aspect of this case,"[33] the current Rules, pursuant to our pronouncement in *Bayotas*,[34] require the private offended party, or his heirs, in this case, to institute a separate civil action to pursue their claims against the estate of the deceased appellant. The independent civil actions in Articles 32, 33, 34 and 2176, as well as claims from sources of obligation other than delict, are not deemed instituted with the criminal action but may be filed separately by the offended party even without reservation.[35]

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[31] *Rollo*, pp. 61-66.

[32] Article 20 of the Civil Code of the Philippines provides: "Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same." See also Articles 30, 1157 and 2195 of the Civil Code.

[33] *Rollo*, p. 77.

[34] *Supra* note 25.

[35] *Casupanan v. Laroya*, 436 Phil. 582, 593 (2002).

The separate civil action proceeds independently of the criminal proceedings and requires only a preponderance of evidence.[36] The civil action which may thereafter be instituted against the estate or legal representatives of the decedent is taken from the new provisions of Section 16 of Rule 3[37] in relation to the rules for prosecuting claims against his estate in Rules 86 and 87.[38]

Upon examination of the submitted pleadings, we found that there was no separate civil case instituted prior to the criminal case. Neither was there any reservation for filing a separate civil case for the cause of action arising from quasi-delict. Under the present Rules, the heirs of Cueno should file a separate civil case in order to obtain financial retribution for their loss. The lack of a separate civil case for the cause of action arising from quasi-delict leads us to the conclusion that, a decade after Cueno's death, his heirs cannot recover even a centavo from the amounts awarded by the CA.

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[36] Section 3, Rule 111 of the Revised Rules of Criminal Procedure.

[37] *Death of party; duty of counsel.* — Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with his duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

[38] FLORENZ D. REGALADO, 2 *REMEDIAL LAW COMPENDIUM* 352 (2004). Rule 86 refers to Claims Against Estate, while Rule 87 refers to Actions By and Against Executors and Administrators.

However, for similar cases **in the future**, we refer to the Committee on the Revision of the Rules of Court for study and recommendation to the Court *En Banc* appropriate amendments to the Rules for a speedy and inexpensive resolution of such similar cases with the objective of indemnifying the private offended party or his heirs in cases where an accused dies after conviction by the trial court but pending appeal.

In *Lumantas v. Calapiz*,[39] this Court declared that our law recognizes that an acquittal based on reasonable doubt of the guilt of the accused does not exempt the accused from civil liability *ex delicto* which may be proved by preponderance of evidence. This Court's pronouncement in *Lumantas* is based on Article 29 of the Civil Code:

> Art. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.
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> If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

We also turn to the Code Commission's justification of its recognition of the possibility of miscarriage of justice in these cases:

> The old rule that the acquittal of the accused in a criminal case also releases him from civil liability is one of the most serious flaws in the Philippine legal system. It has given rise to numberless instances of miscarriage of justice, where the acquittal was due to a reasonable doubt in the mind of the court as to the guilt of the accused. The reasoning followed is that inasmuch as the civil responsibility is

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[39] G.R. No. 163753, 15 January 2014, 713 SCRA 337, citing *Manantan v. Court of Appeals*, 403 Phil. 298 (2001).

derived from the criminal offense, when the latter is not proved, civil liability cannot be demanded.

This is one of those cases where confused thinking leads to unfortunate and deplorable consequences. Such reasoning fails to draw a clear line of demarcation between criminal liability and civil responsibility, and to determine the logical result of the distinction. The two liabilities are separate and distinct from each other. One affects the social order and the other, private rights. One is for the punishment or correction of the offender while the other is for reparation of damages suffered by the aggrieved party. The two responsibilities are so different from each other that article 1813 of the present (Spanish) Civil Code reads thus: "There may be a compromise upon the civil action arising from a crime; but the public action for the imposition of the legal penalty shall not thereby be extinguished." It is just and proper that, for the purpose of the imprisonment of or fine upon the accused, the offense should be proved beyond reasonable doubt. But for the purpose of indemnifying the complaining party, why should the offense also be proved beyond reasonable doubt? Is not the invasion or violation of every private right to be proved only by a preponderance of evidence? Is the right of the aggrieved person any less private because the wrongful act is also punishable by the criminal law?

For these reasons, the Commission recommends the adoption of the reform under discussion. It will correct a serious defect in our law. It will close up an inexhaustible source of injustice — a cause for disillusionment on the part of innumerable persons injured or wronged.[40]

In similar manner, the reform in procedure in these cases to be recommended by the Committee on the Revision of the Rules of Court shall aim to provide the aggrieved parties relief, as well as recognition of their right to indemnity. This reform is of course subject to the policy against double recovery.

WHEREFORE, we **SET ASIDE** the Decision promulgated on 31 May 2011 by the Court of Appeals in CA-G.R. CR-H.C. No. 04461. The criminal and civil liabilities *ex delicto* of appellant

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[40] Commission, pp. 45-46, quoted in ARTURO M. TOLENTINO, 1 *COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES* 121-122 (1990).

Gerry Lipata y Ortiza are declared **EXTINGUISHED** by his death prior to final judgment.

Let a copy of this Decision be forwarded to the Committee on the Revision of the Rules of Court.

SO ORDERED.

Brion, del Castillo, Mendoza, and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 205002. April 20, 2016]

COMMISSIONER OF CUSTOMS, COLLECTOR OF CUSTOMS OF THE PORT OF BATANGAS, and THE BUREAU OF CUSTOMS, *petitioners, vs.* **PILIPINAS SHELL PETROLEUM CORPORATION (PSPC), WILLIE J. SARMIENTO, PSPC Vice-President for Finance and Treasurer and ATTY. CIPRIANO U. ASILO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; FORUM SHOPPING; HOW COMMITTED.— Under prevailing jurisprudence, forum shopping can be committed in three ways, to wit: "(1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet *(litis pendentia)*; (2) filing multiple cases based on the same cause of action and [with] the same prayer, the previous case having been finally resolved *(res judicata)*; or (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*)."

2. ID.; ID.; ID.; EXISTS WHEN A PARTY REPEATEDLY AVAILS HIMSELF OF SEVERAL JUDICIAL REMEDIES IN DIFFERENT COURTS, EITHER SIMULTANEOUSLY OR SUCCESSIVELY, ALL OF WHICH ARE SUBSTANTIALLY FOUNDED ON THE SAME TRANSACTIONS AND THE SAME ESSENTIAL FACTS AND CIRCUMSTANCES, AND ALL RAISING SUBSTANTIALLY THE SAME ISSUES EITHER PENDING IN OR ALREADY RESOLVED ADVERSELY BY SOME OTHER COURT.— [T]here is forum shopping when a party seeks a favorable opinion in another forum, other than by an appeal or by *certiorari,* as a result of an adverse opinion in one forum, or when he institutes two or more actions or proceedings grounded on the same cause, hoping that one or the other court would make a favorable disposition on his case. In other words, "[f]orum shopping exists when a party repeatedly avails himself of several judicial remedies in different courts, [either] simultaneously or successively, all [of which are] substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court."

3. ID.; ID.; ID.; ELEMENTS.— [T]o constitute forum shopping the following elements must be present: "(1) identity of the parties or, at least, of the parties who represent the same interest in both actions; (2) identity of the rights asserted and relief prayed for, as the latter is founded on the same set of facts; and (3) identity of the two preceding particulars, such that any judgment rendered in the other action will amount to *res judicata* in the action under consideration or will constitute *litis pendentia.*"

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioners.

Cruz Marcelo and Tenefrancia for respondents PSPC and W. Sarmiento.

Joseph C. Aquino for respondent Cipriano U. Asilo.

D E C I S I O N

DEL CASTILLO, *J.*:

"Forum shopping exists if the [suits] raise identical causes of action, subject matter, and issues[; thus, t]he mere filing of several cases based on the same incident does not necessarily constitute forum shopping."[1]

This Petition for Review on *Certiorari*[2] assails the June 11, 2012 Decision[3] and the August 28, 2012 Resolution[4] of the Court of Tax Appeals (CTA) in C.T.A. EB Case No. 744.

Factual Antecedents

Respondent Pilipinas Shell Petroleum Corporation (PSPC) is a domestic corporation engaged in the business of manufacturing and selling petroleum products for distribution in the Philippines.[5]

On January 30, 2009, petitioner District Collector Juan N. Tan, the Collector of Customs of the Port of Batangas, issued a demand letter[6] asking respondent PSPC to pay the excise tax and value-added tax (VAT), plus penalty on its importation of catalytic cracked gasoline (CCG) and light catalytic cracked gasoline (LCCG) for the years 2006 to 2008 in the total amount of ₱21,419,603,310.00.

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[1] *Paz v. Atty. Sanchez*, 533 Phil. 503, 510 (2006).

[2] *Rollo*, Volume I, pp. 404-450.

[3] *Id.* at 452-461; penned by Associate Justice Caesar A. Casanova and concurred in by Presiding Justice Ernesto D. Acosta, Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas.

[4] *Id.* at 463-unpaged.

[5] *Id.* at 485.

[6] *Id.* at unpaged-465.

Respondent PSPC, however, refused to heed the demand and, instead, issued a letter dated February 13, 2009 questioning the factual or legal basis of the demand.[7]

On February 18, 2009, petitioner District Collector issued another letter[8] reiterating the demand for the payment of the said unpaid taxes.

On March 5, 2009, respondent PSPC appealed the matter to petitioner Commissioner of Customs (COC) Napoleon Morales.[9] Pending the resolution of the said appeal, petitioner COC ordered petitioner District Collector to observe status quo.[10]

On November 11, 2009, petitioner COC denied the appeal and ordered respondent PSPC to pay the unpaid taxes to avoid the application of Section 1508[11] of the Tariff and Customs Code of the Philippines (TCCP).[12]

Unfazed, respondent PSPC moved for reconsideration[13] but petitioner COC denied the same in his letter[14] dated November 26, 2009.

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[7] *Id.* at 409.

[8] *Id.* at 466-470.

[9] *Id.* at 471.

[10] *Id.* at 473.

[11] SEC. 1508. *Authority of the Collector of Customs to Hold the Delivery or Release of Imported Articles.* — Whenever any importer, except the government, has an outstanding and demandable account with the Bureau of Customs, the Collector shall hold the delivery of any article imported or consigned to such importer unless subsequently authorized by the Commissioner of Customs, and upon notice as in seizure cases, he may sell such importation or any portion thereof to cover the outstanding account of such importer; Provided, however, That at any time prior to the sale, the delinquent importer may settle his obligations with the Bureau of Customs, in which case the aforesaid articles may be delivered upon payment of the corresponding duties and taxes and compliance with all other legal requirements.

[12] *Rollo*, Volume I, p. 474.

[13] *Id.* at 410.

[14] *Id.* at 475-476.

On December 3, 2009, respondent PSPC filed with the CTA a Petition for Review[15] docketed as CTA Case No. 8004 assailing the Letter-Decisions dated November 11 and 26, 2009 of petitioner COC. Respondent PSPC likewise filed a Verified Motion for the issuance of a Suspension Order against the collection of taxes with a prayer for immediate issuance of a Temporary Restraining Order (TRO).[16]

On December 9, 2009, the CTA First Division issued a Resolution granting respondent PSPC's application for a TRO for a period of 60 days or until February 7, 2010.[17]

On February 9, 2010, after due hearing on the Verified Motion, the CTA First Division issued a Resolution[18] denying respondent PSPC's request for a suspension order.

In light of the denial of the Verified Motion, petitioner District Collector issued a Memorandum dated February 9, 2010 ordering the personnel of petitioner Bureau of Customs (BOC) in the Port of Batangas to hold the delivery of all import shipments of respondent PSPC to satisfy its excise tax liabilities.[19]

On February 10, 2010, respondent PSPC filed with the Regional Trial Court (RTC), Fourth Judicial Region, Batangas City, Branch 3, a Complaint for Injunction with prayer for the ex-parte issuance of a 72-hour TRO,[20] docketed as Civil Case No. 8780, to enjoin the implementation of the Memorandum dated February 9, 2010. In the Verification and Certification[21] attached to the Complaint for Injunction, respondent Vice President for Finance and Treasurer Willie J. Sarmiento (Sarmiento) declared that there is a pending case before the CTA, however, it involves different issues and/or reliefs.

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[15] *Id.* at 477-543.

[16] *Id.* at 544-572.

[17] *Id.* at 413.

[18] *Id.* at 573-576.

[19] *Id.* at 577.

[20] *Id.* at 578-601.

[21] *Id.* at 599.

On the same day, the RTC issued a 72-hour TRO, which it later extended to 17 more days.[22]

On March 19, 2010, petitioners filed with the CTA a Motion to Cite respondents PSPC, Sarmiento, and Atty. Cipriano U. Asilo for Direct Contempt of Court.[23] As per the Resolution dated July 7, 2010, the said Motion, docketed as CTA Case No. 8121, was consolidated with the main case, CTA Case No. 8004.[24]

Meanwhile, petitioner District Collector filed a Complaint-Affidavit[25] for Perjury under Article 183 of the Revised Penal Code (RPC) against respondent Sarmiento in relation to the Verification and Certification he filed before the RTC of Batangas City, where he declared that the Petition for Review PSPC filed with the CTA does not involve the same issues and/or reliefs.

On April 8, 2010, an Information[26] for Perjury against respondent Sarmiento, docketed as Criminal Case No. 52763, was filed before Branch 1 of the Municipal Trial Court in Cities (MTCC), Batangas City.

On August 9, 2010, the MTCC rendered a Resolution[27] dismissing the case for Perjury for lack of probable cause, which later became final and executory.[28]

Ruling of the Court of Tax Appeals Division

On October 18, 2010, the CTA Third Division rendered a Resolution[29] denying the Motion to Cite respondents in Direct

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[22] *Id.* at 454.

[23] *Id.* at 623-643.

[24] *Id.* at 455.

[25] *Rollo*, Vol. III, pp. 2879-2893.

[26] *Id.* at 2836-2838.

[27] *Id.* at 1958-1962; penned by Acting Presiding Judge Eleuterio L. Bathan.

[28] *Id.* at 2071.

[29] *Rollo*, Vol. I, pp. 649-656; penned by Associate Justices Lovell R. Bautista, Olga Palanca-Enriquez and Amelia R. Cotangco-Manalastas.

Contempt of Court. Although the parties in the CTA case and the Batangas injunction case are the same, the CTA found that the rights asserted and the reliefs prayed for are different.[30] It pointed out that the CTA case assails the Letter-Decisions dated November 11 and 26, 2009, while the Batangas injunction case opposes the Memorandum dated February 9, 2010.[31] The CTA also opined that a decision in one case would not result in *res judicata* in the other case.[32] Thus, it ruled that the filing of the Batangas injunction case does not constitute forum shopping.[33] And since no forum shopping exists, the CTA found no reason to cite respondents in direct contempt of court.

Feeling aggrieved, petitioners moved for reconsideration[34] but the CTA Third Division denied the same in its Resolution[35] dated March 9, 2011.

Ruling of the Court of Tax Appeals En Banc

Unfazed, petitioners elevated the matter to the CTA *En Banc via* a Petition for Review.[36]

On June 11, 2012, the CTA *En Banc* rendered a Decision affirming the Resolutions dated October 18, 2010 and March 9, 2011 of the CTA Third Division.

Petitioners sought reconsideration of the Decision.

On August 28, 2012, the CTA *En Banc* rendered a Resolution denying petitioners' motion for reconsideration.

Issue

Hence, petitioners filed the instant Petition for Review on *Certiorari* raising the sole issue of whether the CTA committed

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[30] *Id.* at 654.

[31] *Id.*

[32] *Id.* at 655.

[33] *Id.*

[34] *Id.* at 657-675.

[35] *Id.* at 676-682.

[36] *Id.* at 683-718.

a reversible error when it ruled that respondents did not commit willful and deliberate forum shopping.[37]

Petitioners' Arguments

Petitioners contend that the CTA seriously erred in finding respondents not guilty of willful and deliberate forum shopping considering that the Verified Motion filed before the CTA and the Complaint for Injunction filed before the RTC of Batangas involve exactly the same parties, the same rights, and the same reliefs.[38] Petitioners claim that the material allegations in both pleadings are based on the same set of facts;[39] that both cases substantially raise the same issues;[40] and that both seek to enjoin the enforcement of Section 1508 of the TCCP.[41] Petitioners further claim that the phrase "to refrain or stop from exercising any action described in, under or pursuant to, Section 1508 of the TCCP" in the prayer of the Verified Motion is all-encompassing as it includes whatever relief respondent PSPC sought in the Complaint for Injunction filed before the RTC.[42] Moreover, petitioners allege that the filing of the Complaint for Injunction was done in utter disrespect of the CTA exclusive jurisdiction;[43] that it was a calculated maneuver of respondents to undermine the CTA's denial of their prayer for the issuance of a suspension order;[44] and that it should not be allowed, as it constitutes forum shopping.[45] Finally, petitioners assert that the dismissal of the perjury case against respondent Sarmiento does not estop them from claiming that respondents are guilty of forum shopping,

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[37] *Id.* at 421.

[38] *Rollo*, Volume III, pp. 3031-3043.

[39] *Id.* at 3037.

[40] *Id.* at 3039.

[41] *Id.* at 3040.

[42] *Id.* at 3038.

[43] *Id.* at 3031.

[44] *Id.* at 3041.

[45] *Id.* at 3042-3043.

as the elements of perjury are not the same as that of contempt *via* willful forum shopping.[46]

Respondents' Arguments

Respondents, on the other hand, argue that the issue of forum shopping may no longer be re-opened or re-litigated, as this has long been resolved with finality in the criminal case for perjury filed against respondent Sarmiento. They insist that the dismissal of the criminal complaint for perjury against respondent Sarmiento on the ground that there is no forum shopping for which reason the third element of perjury is wanting, is binding on the CTA.[47] Thus, petitioners are barred by prior judgment[48] and by the principle of conclusiveness of judgment.[49] In addition, respondents maintain that the Batangas injunction case is different from the case pending before the CTA as the former pertains to importations already released and transferred to the possession of respondent PSPC while the latter pertains to "future importations" of respondent PSPC.[50]

Our Ruling

The Petition must fail.

In a nutshell, petitioners contend that respondents should be cited for direct contempt of court pursuant to Section 5,[51] Rule 7

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[46] *Id.* at 3044.

[47] *Id.* at 1848-1849.

[48] *Id.* at 1850-1851.

[49] *Id.* at 1851-1852.

[50] *Id.* at 1898.

[51] Sec. 5. *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or

of the 1997 Rules of Civil Procedure, as amended, which states that the submission of a false certification on non-forum shopping constitutes indirect or direct contempt of court, and that the willful and deliberate commission of forum shopping constitutes direct contempt of court.

We do not agree.

Under prevailing jurisprudence, forum shopping can be committed in three ways, to wit:

(1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (*litis pendentia*);

(2) filing multiple cases based on the same cause of action and [with] the same prayer, the previous case having been finally resolved (*res judicata*); or

(3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).[52]

Corollarily, there is forum shopping when a party seeks a favorable opinion in another forum, other than by an appeal or by *certiorari*, as a result of an adverse opinion in one forum,

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claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

[52] *Heirs of Marcelo Sotto v. Palicte*, G.R. No. 159691, February 17, 2014, 716 SCRA 175, 188.

or when he institutes two or more actions or proceedings grounded on the same cause, hoping that one or the other court would make a favorable disposition on his case.[53] In other words, "[f]orum shopping exists when a party repeatedly avails himself of several judicial remedies in different courts, [either] simultaneously or successively, all [of which are] substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court."[54]

Hence, to constitute forum shopping the following elements must be present:

(1) identity of the parties or, at least, of the parties who represent the same interest in both actions;

(2) identity of the rights asserted and relief prayed for, as the latter is founded on the same set of facts; and

(3) identity of the two preceding particulars, such that any judgment rendered in the other action will amount to *res judicata* in the action under consideration or will constitute *litis pendentia.*[55]

In this case, a careful reading of the Verified Motion in the CTA case vis-à-vis the Complaint for Injunction filed with the RTC of Batangas reveals that although both cases have the same parties, originated from the same factual antecedents, and involve Section 1508 of the TCCP, the subject matter, the cause of action, the issues involved, and the reliefs prayed for are not the same.

The subject matter and the causes of action are not the same.

The subject matter in the CTA case is the alleged unpaid taxes of respondent PSPC on its importation of CCG and LCCG

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[53] *Municipality of Taguig v. Court of Appeals*, 506 Phil. 567, 575 (2005).

[54] *Chua v. Metropolitan Bank & Trust Company*, 613 Phil. 143, 153 (2009).

[55] *Adao v. Attys. Docena and Acol, Jr.*, 564 Phil. 448, 452 (2007).

for the years 2006 to 2008 in the total amount of ₱21,419,603,310.00, which is sought to be collected by petitioners. On the other hand, the subject matter of the Batangas injunction case is the 13 importations/shipments of respondent PSPC for the period January to February 2010, which respondent PSPC claims are threatened to be seized by petitioners pursuant to the Memorandum dated February 9, 2010 issued by petitioner District Collector.

Also, the cause of action in the CTA case is based on the Letter-Decisions of petitioner COC, finding respondent PSPC liable for excise taxes and VAT; while the cause of action in the Batangas injunction case is the Memorandum dated February 9, 2010, ordering the personnel of petitioner BOC in the Port of Batangas to hold the delivery of all import shipments of respondent PSPC.

The issues raised are not the same.

Furthermore, the issues raised are not the same. Respondent PSPC filed the CTA case to assail the Letter-Decisions of petitioner COC, finding it liable to pay excise taxes and VAT on its importation of CCG and LCCG. Thus, in the Petition for Review, the main issue involved is the validity of the Letter-Decisions; while in the Verified Motion, the issue raised is respondent PSPC's entitlement to a suspension order pending the resolution of the validity of the Letter-Decisions.

On the other hand, respondent PSPC filed the Batangas injunction case to question the validity of the Memorandum dated February 9, 2010 and to oppose the seizure of the 13 importations/shipments on the ground that petitioners no longer have jurisdiction over the subject importations/shipments as these have been discharged and placed in its Batangas refinery since 90% of the import duties due on the said shipments have been paid. To support its case, respondent PSPC interposed that Section 1508 of the TCCP is available only if petitioner BOC has actual physical custody of the goods sought to be held, a situation not present in the case of the said importations/shipments; that petitioners have no reason to seize the 13 importations/shipments,

as only two were CCG and only one was LCCG; and that the Memorandum dated February 9, 2010 deprives respondent PSPC of its property without due process of law. From the arguments interposed by respondent PSPC in the Batangas injunction case, it is clear that the issue to be resolved by the RTC is limited to the validity of the Memorandum dated February 9, 2010.

The reliefs prayed for are not the same.

Likewise, a comparison of prayers in the CTA case and Batangas injunction case shows that the reliefs prayed for are not the same.

PETITION FOR REVIEW (CTA)	VERIFIED MOTION (CTA)	COMPLAINT FOR INJUNCTION RTC)
WHEREFORE, it is respectfully prayed that the Honorable Court: a. Give due course to the instant Petition for Review; and b. Upon due consideration, reverse and **nullify the Letter-Decision dated 11 November 2009 and Letter-Decision dated 26 November 2009** issued by [petitioner] COC and render a Decision finding [respondent] PSPC not liable for any of the excise taxes and the VAT thereon demanded by [petitioner] COC, and **permanently enjoining [petitioners], their officers, subordinates, personnel and agents, or any other person acting on their behalf or authority, from**	WHEREFORE, it is respectfully prayed that the Honorable Court: a. Immediately upon the filing of the instant Petition and Verified Motion, ISSUE, a [TRO] effective for such number of days as sufficient for the Honorable Court to hear, consider and issue a Suspension Order, ordering, commanding and directing [petitioners], their officers, subordinates, personnel and agents, and/or any other person acting on their behalf or authority, to refrain or stop from exercising any action described in, under, or pursuant to, Section 1508 of the TCCP, including holding delivery or release of imported articles, and/or from performing any act of collecting the disputed amounts by	WHEREFORE, it is respectfully prayed of the Honorable Court that: **1)** Upon filing of the instant complaint, a 72-hour [TRO] be issued ex parte **RESTRAINING [petitioners], their assigns, agents, employees, representatives or any person under their direction and/or control from entering the Refinery or property of [respondent] PSPC and/or seize, confiscate, or forcibly take possession of the imported shipments of [respondent] PSPC that are already in the**

demanding and/or collecting by any manner from [respondent] PSPC any and all duties and excise taxes, including any VAT thereon, on the subject CCG and LCCG importations, as well as from collecting excise taxes and VAT on future importations of CCGs/LCCGs by [respondent] PSPC.[56]	distraint, levy, seizure, impounding, or sale of the importations of [respondent] PSPC, and/or from collecting excise taxes and VAT on future importations of CCGs and LCCGs by [respondent] PSPC, and b. Thereafter, after due proceedings, **ISSUE a SUSPENSION ORDER ordering, commanding, and directing [petitioners], their officers, subordinates, personnel and agents, and/or any other person acting on their behalf or authority, to refrain or stop from exercising any action described in, under, or pursuant to, Section 1508 of the TCCP, including holding delivery or release of imported articles, and/or from performing any act of collecting the disputed amounts by distraint, levy, seizure, impounding, or sale of importations of respondent] PSPC, and/or from collecting excise taxes and VAT on future importations of CCGs and LCCGs by respondent] PSPC, during the pendency of the instant case.**[57]	**latter's physical custody and/or possession;** **2)** After due notice and hearing, that a [TRO] and/or writ of preliminary injunction be ISSUED on such bond as the Honorable Court may require; and **3)** After hearing on the merits, render judgment making the writ of injunction PERMANENT.[58]

[56] *Rollo*, Volume I, p. 180.

[57] *Id.* at 208.

[58] *Id.* at 237-238.

In the CTA case, respondent PSPC seeks the reversal of the Letter-Decisions of petitioner COC in order to prevent petitioners from imposing payment of excise tax and VAT for importations of CCG and LCCG for the years 2004 to 2009. Pending the resolution of the said case, respondent PSPC filed a Verified Motion praying for the issuance of a suspension order to prevent petitioners from exercising any action pursuant to Section 1508 of the TCCP based on the Letter-Decisions of petitioner COC. While in the Batangas injunction case, respondent PSPC seeks to prevent petitioners from entering its refinery and from seizing its importations pursuant to Section 1508 of the TCCP by virtue of the Memorandum dated February 9, 2010.

Since the subject matter, the cause of action, the issues raised, and the reliefs prayed for are not the same, respondents are not guilty of forum shopping. Accordingly, the CTA did not err in denying the Motion to Cite respondents in Direct Contempt of Court.

WHEREFORE, the Petition is hereby **DENIED**. The assailed Decision dated June 11, 2012 and the Resolution dated August 28, 2012 of the Court of Tax Appeals in C.T.A. EB Case No. 744 are hereby **AFFIRMED**.

SO ORDERED.

Brion (Acting Chairperson), Mendoza, Reyes,[*] and *Leonen, JJ.,* concur.

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[*] Per raffle dated November 10, 2014.

SECOND DIVISION

[G.R. No. 206779. April 20, 2016]

LEVI STRAUSS & CO., *petitioner, vs.* **ATTY. RICARDO R. BLANCAFLOR, in his official capacity as the DIRECTOR GENERAL of the INTELLECTUAL PROPERTY OFFICE,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; APPEALS FROM QUASI-JUDICIAL AGENCIES TO THE COURT OF APPEALS UNDER RULE 43 OF THE RULES OF COURT; PERIOD OF APPEAL; A SECOND MOTION FOR EXTENSION TO FILE AN APPEAL IS NOT GRANTED, EXCEPT WHEN THE COURT OF APPEALS FINDS A COMPELLING REASON TO GRANT THE EXTENSION.— Rule 43 of the Rules of Court governs the appeals from quasi-judicial agencies, such as the IPO, to the CA. x x x Section 4, Rule 43 of the Rules of Court provides for the period to appeal to the CA from the judgments or orders of quasi-judicial agencies x x x. The rule is clear that an appeal to the CA must be filed within a period of fifteen (15) days. While an extension of fifteen (15) days and a further extension of another fifteen (15) days may be requested, the second extension may be granted at the CA's discretion and only for the most compelling reason. Motions for extensions are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extensions or postponement will be granted or that they will be granted the length of time they pray for. Further, the general rule is that a second motion for extension is not granted, except when the CA finds a compelling reason to grant the extension.

2. ID.; ID.; ID.; THE PERFECTION OF AN APPEAL IN THE MANNER AND WITHIN THE PERIOD PERMITTED BY LAW IS NOT ONLY MANDATORY, BUT JURISDICTIONAL, AND THE FAILURE TO PERFECT THAT APPEAL RENDERS THE JUDGMENT OF THE COURT FINAL AND EXECUTORY.— [T]he right to appeal is a statutory

right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered. The perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but jurisdictional, and the failure to perfect that appeal renders the judgment of the court final and executory. It is true that in a number of instances, the Court has relaxed the governing periods of appeal in order to serve substantial justice. The instant case, however, does not present itself to be an exceptional case to warrant the relaxation of the Rules on procedure.

APPEARANCES OF COUNSEL

Poblador Bautista & Reyes for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

BRION, *J.*:

We resolve the petition for review on *certiorari*[1] filed by the petitioner Levi Strauss & Co. (*Levi's*) assailing the August 13, 2012[2] and April 17, 2013[3] resolutions of the Court of Appeals (*CA*) in CA-G.R. SP No. 123957.

THE FACTS

Levi's is a corporation registered under the laws of the State of Delaware, United States of America.[4]

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[1] *Rollo*, pp. 9-59.

[2] *Id.* at 67-70. Penned by Associate Justice Angelita A. Gacutan and concurred in by Associate Justices Fernanda Lampas Peralta and Manuel M. Barrios.

[3] *Id.* at 72-74. Penned by Associate Justice Angelita A. Gacutan and concurred in by Associate Justices Fernanda Lampas Peralta and Manuel M. Barrios.

[4] *Id.* at 12.

On October 11, 1999, Levi's filed an application[5] before the Intellectual Property Office (*IPO*) to register the mark TAB DEVICE covering various goods.[6]

The TAB DEVICE trademark is described as a small marker or tab of textile material, appearing on and affixed permanently to the garment's exterior and is visible while the garment is worn.[7]

On February 17, 2006, the trademark examiner rejected[8] Levi's trademark application because there is nothing in the subject mark that serves to distinguish Levi's goods; hence, the tab itself does not function as a trademark.[9] The trademark examiner also stated that Levi's cannot exclusively appropriate the tab's use because a tab of textile is customarily used on the products covered by the trademark application.[10]

On July 5, 2006, Levi's appealed the examiner's rejection of the trademark application to the IPO Director of Trademarks (*Director*).[11] The Director issued a *decision*[12] that affirmed the trademark examiner's findings. On August 22, 2007, Levi's

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[5] Application No. 4-1999-007715. *Id.* at 129-130.

[6] *Id.* at 249.

The various goods covered are pants, bib overalls, coveralls, jackets, shirts, shorts, skirts, vests, blouses, denim, diaper covers, dresses, caps, shoes, hats, socks, belts, culottes, t-shirts, suspenders, gloves and scarves, attaché cases, brief cases, wallets, and eyeglass cases.

[7] *Id.* at 20. The TAB DEVICE is applied to goods by stitching an end of the tab into one of the regular structural seams located on the garment's exterior, with a portion of the tab visibly extending from the edge of the seam.

[8] *Id.* at 136.

[9] *Id.*

[10] *Id.*

[11] *Id.* at 172.

[12] IPO Director of Trademarks Decision. *Id.* at 170-176.

filed a motion for reconsideration[13] of the Director's decision, which the Director denied[14] for "lack of merit."

On March 24, 2011, Levi's filed its Appeal Memorandum[15] with the respondent IPO Director-General, Atty. Ricardo R. Blancaflor (*Director-General*), and provided a list of certificates of registration[16] in other countries covering "nearly identical TAB DEVICE trademark registrations."

THE IPO DIRECTOR-GENERAL RULING

On March 12, 2012, the Director-General issued a decision[17] rejecting the TAB DEVICE trademark application and dismissing Levi's appeal.[18]

The Director-General held that the TAB DEVICE mark is not distinctive because there is nothing in the mark that enables a person to distinguish it from other similar "tabs of textile."[19] The subject mark consists solely of a rectangular tab of textile that does not point out the origin or source of the goods or services to distinguish it from another.[20]

The Director-General adopted the Director's observations that there is the garment industry practice of sewing small tabs of textile in the seams of clothing, which Levi's cannot appropriate to its exclusive use by the registration of the TAB DEVICE mark.[21]

The Director-General did not accord evidentiary weight to the certificates of registrations of Levi's in other countries and

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[13] *Id.* at 177-187.

[14] Order dated March 7, 2011. *Id.* at 138-139.

[15] *Id.* at 190-239.

[16] *Id.* at 198-210.

[17] *Id.* at 249-253.

[18] *Id.* at 253.

[19] *Id.* at 251.

[20] *Id.* at 252.

[21] *Id.* at 251.

held that the rights to a mark are not acquired through registration in other countries.[22] The Director-General explained that under the Intellectual Property Code, the mark's capability to distinguish one's goods or services from another is the very essence of a mark registration.[23] The registered marks are different from the subject TAB DEVICE mark.[24] The certificates of registration also do not show that they cover similar goods covered by the subject trademark application.[25]

Levi's only recourse was to file a *Petition for Review* with the CA within 15 days from receipt of the IPO Director-General ruling, or until March 29, 2012, under Rule 43 of the Rules of Court to assail the IPO Director-General's ruling.[26]

On March 28, 2012, Levi's filed a *Motion for Extension of Time* (first motion for extension) to file a verified petition for review with the CA; it sought an additional 15 days, or until April 13, 2012, to file the petition for review.[27] Levi's counsel averred that it needed the extension because of pressure from other equally important professional work and it needed to gather further evidence.[28]

On April 13, 2012, Levi's filed a *Second Motion for Extension of Time*;[29] it asked this time for an additional 15 days, or until April 28, 2012, to file the petition for review.

Levi's claimed that while the draft of the petition was almost complete, there was yet again pressure from other equally urgent professional work; and the consularized special power of attorney (*SPA*) needed for the filing of the petition and its verification

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[22] *Id.* at 252.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.* at 24.

[27] *Id.* at 68.

[28] *Id.*

[29] *Id.* at 75-77.

were still *en route* from the United States.[30] Levi's claimed that the delay in the SPA consularization was due to the closed Philippine Consulate Office in San Francisco, USA, from April 5, 2012 to April 9, 2012, in observance of the Holy Week and the *Araw ng Kagitingan* holiday.[31]

THE CA RULING

On April 27, 2012, Levi's filed its petition for review (*CA petition for review*).[32]

On June 1, 2012, the CA granted the first motion for extension.[33]

On August 13, 2012, the CA issued a Resolution[34] dismissing Levi's petition outright. The CA held that Levi's failed to present a compelling reason for the CA to grant the second motion for extension.[35] According to the CA, Levi's should have secured the necessary SPA earlier and anticipated the closure of the Philippine Consulate Office due to the Philippine holidays.[36] Further, pressure from other equally urgent professional work is not a compelling reason for an extension.[37]

On September 6, 2012, Levi's filed a motion for reconsideration of the CA dismissal of the petition.[38] Levi's counsel explained that Levi's only decided to proceed with the filing of the CA petition for review on April 3, 2012 and it was only on that date that the SPA was executed and notarized.[39]

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[30] *Id.* at 75-76.

[31] *Id.* at 76.

[32] *Id.* at 80-122.

[33] *Id.* at 24.

[34] *Id.* at 67-70.

[35] *Id.* at 69.

[36] *Id.* at 70.

[37] *Id.* at 69.

[38] *Id.* at 25.

[39] *Id.* at 73.

In a CA Resolution dated April 17, 2013,[40] the CA denied Levi's motion for reconsideration. The CA held that Levi's should have been diligent enough to decide before the end of the first fifteen days or until March 29, 2012 whether it would proceed with the filing of the petition for review.[41] The first extension was not granted to give Levi's time to decide on whether to file its petition, but to give Levi's more time to gather further evidence and to finalize the petition.[42]

THE PETITION

Levi's filed the present petition for review on *certiorari* [43] to challenge the CA resolutions which dismissed Levi's CA petition for review.

Levi's principally argues that there are compelling reasons to grant the second motion for extension.[44]

Levi's avers that its SPA had already been executed and notarized as early as April 3, 2012.[45] In order to comply with Section 24,[46] Rule 132 of the Revised Rules on Evidence, Levi's sought the Philippine consulate's authentication of the notarized

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[40] *Id.* at 72-74.

[41] *Id.* at 73.

[42] *Id.* at 73-74.

[43] *Id.* at 9-51.

[44] *Id.* at 27-31.

[45] *Id.* at 30.

[46] **Section 24**. *Proof of official record.* — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office. (25a) (underscoring supplied).

SPA.[47] Levi's, however, did not anticipate that the Philippine Consulate Office would be closed during the Holy Week and the *Araw ng Kagitingan* holiday since these were regular working days in the United States.[48]

Levi's also avers that there was no point for the CA to deny the second motion for extension since the CA did not promptly act on Levi's first motion for extension and no prejudice would accrue to the respondent by granting the second motion for extension.[49] Levi's pointed out that the Court belatedly granted the first motion for extension only on June 1, 2012, or only *after* three and a half months since Levi's filing of the CA petition for review on April 27, 2012.[50]

THE ISSUE

The core issue of the petition is whether or not the CA gravely erred in dismissing Levi's CA petition for review on the ground that Levi's filed the CA petition beyond the extended reglementary period.

OUR RULING

We ***deny*** the petition for lack of merit.

Rule 43 of the Rules of Court governs the appeals from quasi-judicial agencies, such as the IPO, to the CA. Section 1 of Rule 43 provides:

Section 1. *Scope.* — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized **by any quasi-judicial agency in the exercise of its quasi-judicial functions.** Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, **Bureau of Patents,**

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[47] *Supra* note 1, at 29-30.

[48] *Id.* at 30.

[49] *Id.* at 31.

[50] *Id.*

Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Invention Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law. (emphases supplied)

Section 4, Rule 43 of the Rules of Court provides for the period to appeal to the CA from the judgments or orders of quasi-judicial agencies:

Section 4. *Period of appeal.* — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, **the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.** (emphasis and underscoring supplied)

The rule is clear that an appeal to the CA must be filed within a period of fifteen (15) days. While an extension of fifteen (15) days and a further extension of another fifteen (15) days may be requested, the second extension may be granted at the CA's discretion and only for the most compelling reason.

Motions for extensions are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extensions or postponement will be granted or that they will be granted the length of time they pray for.[51] Further, the general rule is that a second motion

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[51] *Cosmo Entertainment Management, Inc. v. La Ville Commercial Corporation*, G.R. No. 152801, August 20, 2004, 437 SCRA 145, 150.

for extension is not granted, except when the CA finds a compelling reason to grant the extension.[52]

The CA correctly held that Levi's failed to present a compelling reason to grant the second motion for extension.[53]

Levi's, by its own admission, only decided to proceed with the filing of the CA petition for review after the lapse of the first fifteen-day period for filing.[54] Levi's late decision necessarily delayed the execution and notarization of the SPA and, consequently, the Philippine Consulate Offices' authentication of the SPA. Levi's cannot excuse its delay by citing its failure to anticipate the Philippine Consulate Office's closure due to the observance of the Philippine holidays. Certainly, Levi's own delay is not a compelling reason for the grant of a second extension to file a CA petition for review.

Levi's cannot also assume that its second motion for extension would be granted since the CA did not immediately act on the first and second motions for extension.

In *Go v. BPI Finance Corporation*,[55] we held that a party cannot use the CA's delayed action on a motion for extension as an excuse to delay the filing of the pleading as a party cannot make any assumption on how his motion would be resolved. "In fact, faced with the failure to act, the conclusion is that no favorable action had taken place and the motion had been denied."[56]

While the CA's late action on Levi's motions for extension is a response that this Court does not approve of, Levi's cannot use the CA's delay as an excuse to assume that the CA granted its second motion for extension and delay the filing of the CA petition for review.

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[52] *Id.* at 150.

[53] *Supra* note 1, at 69.

[54] *Id.* at 73.

[55] G.R. No. 199354, June 26, 2013, 700 SCRA 125, 131.

[56] *Id.* at 131.

To stress, the right to appeal is a statutory right, not a natural nor a constitutional right.[57] The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[58] The perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but jurisdictional, and the failure to perfect that appeal renders the judgment of the court final and executory.[59]

It is true that in a number of instances, the Court has relaxed the governing periods of appeal in order to serve substantial justice.[60] The instant case, however, does not present itself to be an exceptional case to warrant the relaxation of the Rules on procedure. The following pronouncement is applicable to the present case:

> While petitioner pleads that a liberal, not literal, interpretation of the rules should be our policy guidance, nevertheless procedural rules are not to be disdained as mere technicalities. They may not be ignored to suit the convenience of a party. Adjective law ensures the effective enforcement of substantive rights through the orderly and speedy administration of justice. Rules are not intended to hamper litigants or complicate litigation. But they help provide for a vital system of justice where suitors may be heard in the correct form and manner, at the prescribed time in a peaceful though adversarial confrontation before a judge whose authority litigants acknowledge. Public order and our system of justice are well served by a conscientious observance of the rules of procedure x x x.[61]

Levi's request for the Court to review its case on the merits should be denied as well. The ruling of the IPO became final and executory after the period to appeal expired without the

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[57] *Id.* at 132.

[58] *Id.*

[59] *Id.*

[60] *Boardwalk Business Ventures, Inc. v. Villareal*, G.R. No. 181182, April 10, 2013, 695 SCRA 468, 481.

[61] *Cosmo Entertainment Management, Inc., supra* note 51, at 151, citing *Commissioner of Internal Revenue v. Court of Appeals*, 351 SCRA 436.

perfection of Levi's' appeal. The Court, therefore, may no longer review it.

WHEREFORE, we hereby **DENY** the petition for review on *certiorari.* The resolutions dated August 13, 2012 and April 17, 2013, of the Court of Appeals in CA-G.R. SP No. 123957 are **AFFIRMED**. Costs against the petitioner.

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 207659. April 20, 2016]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FUNDADOR CAMPOSANO *y* TIOLANTO, @ "Punday/Masta" and HERMAN DE LOS REYES @ "Yob",** *accused-appellants.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; NOT AFFECTED BY INCONSISTENCIES IN THE TESTIMONIES OF WITNESSES REFERRING TO MINOR AND INCONSEQUENTIAL DETAILS.— It is settled that the assessment of the witnesses' credibility is best left to the trial court because of its unique opportunity to scrutinize the witnesses first hand and observe their demeanor, conduct, and attitude under grilling examination. Here, the alleged inconsistencies in the witnesses' testimonies, if they be such at all, referred merely to minor and inconsequential details, which did not at all affect the substance of their testimonies, much less impair their credibility. In the ultimate analysis, what really matters

in this case is that the prosecution witnesses did in fact see that it was the appellants who assaulted and killed Ilao that tragic morning of January 11, 2001. Whether the lethal weapon used to dispatch the victim was a *balisong* knife or an ice pick, (plus a "2x2" piece of lumber as prosecution witness Kempis mentioned in reference to what the appellant De los Reyes used in hitting the late Ilao's head) is nowhere nearly so important or essential as the incontrovertible fact that the prosecution witnesses did in fact see that it was the two appellants who actually assaulted and actually killed Ilao. x x x Hence, even assuming for argument's sake that there were inconsistencies in the testimonies of the prosecution witnesses, particularly in regard to the weapon-of-death used, whether it was a *balisong* knife or an ice pick, these inconsistencies are minor and inconsequential which even tend to bolster, rather than weaken, the credibility of the witnesses, for they show that such testimonies were not contrived or rehearsed. What is more, appellants failed to impute any ill motive against the prosecution witnesses. Hence, the presumption is that the prosecution witnesses were not impelled by ill will when they testified against the appellants; thus, their testimonies are entitled to full faith and credence.

2. ID.; ID.; IN TERMS OF EVIDENTIARY WEIGHT, AFFIRMATIVE TESTIMONY IS DECIDEDLY SUPERIOR TO NEGATIVE TESTIMONY.— [T]his Court sees no irreconcilable inconsistencies in the x x x testimonies of the prosecution witnesses. In fact, the four prosecution witnesses positively identified Camposano and De los Reyes as the persons who authored and caused the violent death of Ilao as they were all eyewitnesses to the bloody incident. The prosecution witnesses' accounts differed only with regard to the weapon/s used. What remained constant was their straightforward and categorical testimonies that they personally know the appellants and that they were physically present when these appellants assaulted and killed Ilao. Moreover, it is equally settled that in terms of evidentiary weight, affirmative testimony is decidedly superior to negative testimony. And x x x the prosecution witnesses delivered affirmative testimonies in contradistinction to the defense witnesses who took shelter under prosaic denials and alibis.

3. ID.; ID.; ALIBI; TO PROSPER AS A DEFENSE, IT MUST BE PROVED THAT IT WAS PHYSICALLY IMPOSSIBLE FOR THE ACCUSED TO BE PRESENT AT THE SCENE OF THE CRIME AT THE TIME OF ITS COMMISSION.— It is settled that for the defense of alibi to prosper, it must be proved that it was physically impossible for the accused to be present at the scene of the crime at the time of its commission. Here, appellants utterly failed to prove that it was physically impossible for both of them to be at the crime scene at the time the crime was committed. Their claims on this score must fall flat on their faces if only because both appellants are also residents of Las Piñas where the violent slaying of Ilao happened.

4. CRIMINAL LAW; REVISED PENAL CODE; AGGRAVATING CIRCUMSTANCES; TREACHERY; THE ESSENCE OF TREACHERY IS THAT THE ATTACK COMES WITHOUT A WARNING AND IN A SWIFT, DELIBERATE, AND UNEXPECTED MANNER, AFFORDING THE HAPLESS, UNARMED, AND UNSUSPECTING VICTIM NO CHANCE TO RESIST OR ESCAPE.— "There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." "The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape." This is the very scenario brought to light by the prosecution's evidence in this case. For here, the evidence on record conclusively showed that the appellants assaulted and killed Ilao while he was face down on the ground. The appellants took advantage of their victim's defenseless and helpless position to inflict the fatal stab wounds, giving their victim no chance at all to retaliate or defend himself.

APPEARANCES OF COUNSEL

Office of the Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellants.

D E C I S I O N

DEL CASTILLO, *J.*:

This is an appeal from the October 17, 2012 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04854 which affirmed with modification the March 15, 2010 Decision[2] of Branch 199, Regional Trial Court (RTC) of Las Piñas City, in Criminal Case No. 01-0048, finding appellants Fundador Camposano *y* Tiolanto alias "Punday/Masta" (Camposano) and Herman de los Reyes alias "Yob" (De los Reyes) (appellants, collectively) guilty beyond reasonable doubt of the crime of murder and sentencing each of them to suffer the penalty of *reclusion perpetua*.

Factual Antecedents

Appellants were indicted for murder for stabbing the 16-year old minor Esmeraldo Ilao (Ilao) to death on January 11, 2001. The indictment against the two stemmed from the following Amended Information:

> That on or about the 11th day of January, 2001, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding each other, without justifiable motive with intent to kill and by means of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, attack, assault and stab with a deadly weapon (fan knife) one Esmeraldo Ilao y Guillemer, a sixteen (16) year old minor, which directly caused his death.
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> CONTRARY TO LAW.[3]

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[1] CA *rollo*, pp. 160-178; penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Amelita G. Tolentino and Ramon R. Garcia.

[2] Records, pp. 445-463, penned by Presiding Judge Joselito DJ. Vibandor.

[3] Records, p. 36.

Appellants pleaded not guilty to the foregoing Amended Information during their separate arraignment dates. After a pre-trial conference, trial on the merits followed.

Version of the Prosecution

The prosecution presented the following witnesses: Fidel Barreno Flores (Flores), Randy Gabion (Gabion), Alfred Kempis (Kempis), Joey Crudo (Crudo), Myrna Ilao-San Pedro (San Pedro), and Nicasio Saoi (Saoi). Their collective testimonies are summarized as follows:

The first prosecution witness, Security Guard Flores, testified that at around 12:45 in the early morning of January 11, 2001, he was at the Al-ber Billiard Hall in Zapote Plaza, Las Piñas City playing billiards when he saw two persons chasing another person down the road. From a distance of about two meters, Flores saw the person being pursued fall face down on the ground. The two pursuers then stabbed the person they were chasing with what looked to him (Flores) as ice picks. The victim attempted to stand up but his two assailants continued to stab him, causing him to fall down anew on the pavement. At that point, the people within the immediate vicinity started to shout forcing the two assailants to flee from the crime scene. But as the two assailants passed by the door of the billiard hall, Flores saw their faces. Flores identified these assailants as Camposano, who was clad in an orange shirt, and De los Reyes who was wearing a black shirt.

Flores approached the fallen victim after the two assailants had fled the crime scene. Flores identified the victim as Ilao whom he (Flores) well knew because he (Flores) used to rent a room in Ilao's house. He then brought Ilao to the Las Piñas District Hospital. But Ilao was already dead by the time they reached the hospital.

Gabion, the second prosecution witness, testified that on the early morning of January 11, 2001, he was at the Al-ber Billiard Hall in Zapote Plaza where he witnessed Camposano and De los Reyes take turns in stabbing Ilao. Gabion claimed that he saw Ilao face down on the ground when Camposano went on

top of him, held him by the neck, and stabbed him in the chest and both sides of his abdomen. Gabion claimed that he also saw De los Reyes, who was then in front of Ilao, stab the latter's lower back.

Gabion then screamed at the assailants, and Camposano and De los Reyes took to their heels in different directions. After this, Gabion went after Camposano but retreated when the latter pointed an ice pick at him. He later went back to the crime scene, only to find that Ilao had already been taken to a hospital.

The third prosecution witness, Kempis, testified that he was with Ilao when the latter was stabbed to death. According to Kempis, he and Ilao were then attending a birthday party at the Basa Compound in Zapote, Las Piñas City when a certain Ricky, a member of the *Tropang Fugazi/Pugasi*, told them that the herein appellants whom this eyewitness had known "for a long time" were challenging Ilao to a fight, a challenge which came as a surprise to the now deceased Ilao. After he and Ilao had eaten *goto* at the Zapote Plaza they sensed that the assailants noticed their presence so they scampered away. However, he (Kempis) was able to see when De los Reyes hit Ilao's head with a "2 x 2" lumber, as he (Kempis) was only six meters away from these two. He also saw the other appellant Camposano stab Ilao on the chest with a *tres cantos* ice pick. Kempis fled to look for help but when he returned with some friends, Ilao had already been brought to a hospital.

The fourth prosecution witness, Crudo, testified that just prior to the stabbing incident, he and Ilao and two other friends, Ampy and Lloyd, decided to eat porridge at the Zapote Plaza, Las Piñas City at about 1:20 o'clock that early morning of January 11, 2001. While there, he saw the appellants and five of their companions. Sensing trouble, he (Crudo) and his companions quickly scampered away in different directions, with the now deceased Ilao being joined by Ampy. Unfortunately, Ilao fell down on the ground and in that situation De los Reyes stabbed Ilao on the chest with a *tres cantos* ice pick. He (Crudo) then called for their friends and went after the two appellants, but did not catch up with them.

The fifth prosecution witness, San Pedro, is the aunt of the late Ilao and his nearest relative. She was presented to testify on the expenses incurred by them for the hospitalization, burial, and other expenses of Ilao. This witness claimed that they spent the sum of ₱35,000.00 for Ilao's hospitalization, burial and other expenses.

The sixth prosecution witness, Saoi, is the records custodian of the Medico Legal Division of the National Bureau of Investigation. This witness identified Autopsy Report No. N-01-36 which was prepared by Dr. Ronaldo Mendez who autopsied Ilao's cadaver. Autopsy Report No. N-01-36 showed that the cause of Ilao's death was stab wounds.

Version of the Defense

Both appellants denied the charges against them.

Camposano testified that at around 1:30 o'clock in the morning of January 11, 2001, he and his six companions, all members of the Fugazi/Pugasi Gang, were on their way to a friend's house. As they were crossing Zapote bridge, someone threw a pillbox at them, causing them to run away to avoid the explosion. They encountered the Sad Army gang and a brawl ensued. As a result, he was stabbed in the chest. Because of his wound, he was confined for a week at the Parañaque Community Hospital. He claimed that he was arrested at the said hospital.

To corroborate Camposano's testimony, the defense presented the following witnesses: Dr. Renato Borja (Dr. Borja), SJO4 Ernie Servando (SJO4 Servando), Rizalina Suarez (Suarez), and Dr. Cornelio Carandang (Dr. Carandang). Their collective testimonies are summarized as follows.

The first witness for the defense, Dr. Borja, a medical doctor, claimed that on January 11, 2001, past 12:00 o'clock in the early morning, Camposano came to the emergency room of the Parañaque Community Hospital "stooped and clutching his chest;" and that Camposano told him that there was a rumble during which he was stabbed in the nipple area. Dr. Borja said that he treated Camposano for a wound on his chest.

The second witness for the defense, SJO4 Servando, the Chief of the Records Section of the Bureau of Jail Management and Penology of Las Piñas City, testified that according to the records of their office, Camposano had an injury at the time he was committed to their office on January 17, 2001.

The third witness for the defense, Suarez, is a civilian nurse at the Las Piñas City Jail. This witness testified that she personally attended to Camposano's stab wound after he was committed to the Las Piñas City Jail on January 17, 2001. She claimed that she dressed and sutured the wound and monitored Camposano's vital signs and medications.

The fourth witness for the defense, Dr. Carandang, a medical consultant at the City Health Office of Las Piñas City, testified that he examined Camposano on January 17, 2001 at around 10:35 o'clock in the morning; that Camposano had a stab wound on the right chest; that Camposano had earlier been treated by another physician who found Camposano to have sustained a stab wound of undetermined depth on the right side of his chest.

Appellant De los Reyes interposed alibi, and denied any participation in the killing of Ilao. He asserted that on the early evening of January 10, 2001, he was at the house of a friend with whom he had a drinking spree that lasted until about 11:00 o'clock that same evening; that after this drinking session he invited his friends to his house where they had supper and watched DVD movies. De los Reyes averred that he and his aunt also watched DVD movies at home until 12:30 o'clock in the early morning of January 11, 2001.

To support his alibi and denial, De los Reyes presented his friend Marco Polo Lyon (Lyon) and his aunt Leticia Buencamino (Buencamino).

Lyon testified that he and De los Reyes were at his (Lyon's) house during their drinking spree, which began at around 10:30 o'clock in the evening of January 10, 2001; that after this, they went to De los Reyes's house at Daniel Fajardo Street in Las Piñas City, where they took supper and watched DVD movies;

and that at about 2:00 o'clock in the morning of the following day, they went home.

Buencamino, aunt of the appellant De los Reyes and a resident of 163 Daniel Fajardo Street at Las Piñas City, testified that at around 12:00 midnight that same day, January 11, 2001, her nephew De los Reyes, and his friend went to their house to watch DVD.

Ruling of the Regional Trial Court

On March 15, 2010 the RTC of Las Piñas City, Branch 199, rendered its Decision finding appellants guilty beyond reasonable doubt of the crime of murder and sentenced each of these two to suffer the penalty of *reclusion perpetua*. The RTC appreciated the qualifying aggravating circumstance of treachery, having found that both appellants employed means which directly and specially insured that their slaying of Ilao was without risk to themselves on account of any retaliatory acts that their victim might make or take. The RTC held that the assault that these two mounted against their victim which resulted in the latter's violent death, was sudden and unexpected, affording the latter no chance at all to defend himself.

The dispositive part of the RTC's Decision reads:

> WHEREFORE, the court finds both accused FUNDADOR CAMPOSANO y TIOLANTO @ Punday/Masta and HERMAN DE LOS REYES @ Yob, GUILTY beyond reasonable doubt of the crime of MURDER and is hereby sentenced to suffer a penalty of RECLUSION PERPETUA with the accessory penalty of the law. Further, both accused are hereby ORDERED to pay jointly and severally the heirs of the victim the amounts of ₱50,000.00 as civil indemnity and ₱35,000.00 as actual damages. Moreover, inasmuch as moral damages are mandatory in cases of murder (without need to allege and prove such damages), both accused is likewise ordered to indemnify the heirs of the victim ₱50,000.00.
>
> Lastly, since the killing of the minor victim was attended by treachery, his heirs are entitled to exemplary damages in the amount of ₱25,000.00.

Let a copy of this Decision be furnished the Prosecution, the accused as well as their counsels.

SO ORDERED.[4]

From this judgment, appellants interposed an appeal to the CA.

Ruling of the Court of Appeals

In its Decision of October 17, 2012, the CA upheld the RTC and ruled that appellants killed Ilao with treachery. The CA agreed with the RTC that the prosecution witnesses had positively identified the appellants as the perpetrators of the crime.

The CA gave short shrift to the appellants' bare denial and alibi. The CA held that the appellants did not at all prove that it was indeed physically impossible for them to be at the crime scene during or at the time the crime was committed. In its overall assessment, the CA considered the positive testimonies of the prosecution witnesses far superior to the appellants' self-serving denial and alibi.

The CA thus disposed as follows:

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the trial court dated March 15, 2010 is AFFIRMED with MODIFICATION. Appellants FUNDADOR CAMPOSANO y TIOLANT[O] and HERMAN DE LOS REYES are found GUILTY beyond reasonable doubt of MURDER and are hereby sentenced to suffer the penalty of reclusion perpetua. Appellants FUNDADOR CAMPOSANO y TIOLANT[O] and HERMAN DE LOS REYES are also ordered to pay jointly and severally the heirs of Esmeraldo Ilao the amounts of ₱50,000.00 as civil indemnity, ₱35,000.00 as actual damages, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages.

SO ORDERED.[5]

Hence, the present recourse before this Court.

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[4] *Id.* at 463.

[5] CA *rollo*, p. 177.

Assignment of Errors

In their Appellant's Brief,[6] appellants argue that the courts below erred in finding that their guilt had been proved beyond reasonable doubt; that the testimonies of the witnesses for the prosecution did not dovetail in all particulars: (1) with regard to the weapon used in killing the victim, (2) with regard to the relative position of the appellants when they inflicted the mortal stab wound/s on their victim; (3) with regard to who between the two appellants was the first to inflict the stab wound on the victim. Appellants also bewail that the witnesses for the prosecution could not be capable of giving credible testimonies because they were members of a rival fraternity. Appellants moreover insist that, in any event the CA, as did the RTC, erred in appreciating against them the qualifying circumstance of treachery.

Our Ruling

After a careful review of the records of the case, this Court takes the view that both the RTC and the CA correctly found that both appellants in fact committed the crime of murder, qualified by treachery.

Clearly devoid of merit is the claim of appellants that the RTC gravely erred in giving credence to the allegedly inconsistent and incredible accounts of the prosecution witnesses, and in not sustaining the version of the defense, which allegedly tended to establish their innocence.

It is settled that the assessment of the witnesses' credibility is best left to the trial court because of its unique opportunity to scrutinize the witnesses first hand and observe their demeanor, conduct, and attitude under grilling examination.[7] Here, the alleged inconsistencies in the witnesses' testimonies, if they be such at all, referred merely to minor and inconsequential details, which did not at all affect the substance of their testimonies, much

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[6] *Id.* at 68-92.

[7] *People v. Bantiling*, 420 Phil. 849, 863 (2001) citing *People v. Ombrog*, 335 Phil. 556, 564 (1997).

less impair their credibility. In the ultimate analysis, what really matters in this case is that the prosecution witnesses did in fact see that it was the appellants who assaulted and killed Ilao that tragic morning of January 11, 2001. Whether the lethal weapon used to dispatch the victim was a *balisong* knife or an ice pick, (plus a "2x2" piece of lumber as prosecution witness Kempis mentioned in reference to what the appellant De los Reyes used in hitting the late Ilao's head) is nowhere nearly so important or essential as the incontrovertible fact that the prosecution witnesses did in fact see that it was the two appellants who actually assaulted and actually killed Ilao. On this note, the CA pertinently ruled:

> x x x Whether appellants Camposano and De los Reyes used icepicks or knives is immaterial. Due to the occurrence of the startling event, it is highly possible the witnesses paid more attention to the stabbing incident than to the instrument being used by the assailants. What cannot be discounted is the fact that the witnesses saw the actual stabbing of the victim and the perpetrators of the crime. It is also immaterial who between the two (2) assailants inflicted the first stab wound. Fidel Barreno Flores, Alfred Kempis, Randy Gabion, and Joey Crudo were all present when the stabbing incident happened and positively identified the perpetrators as appellants Camposano and De los Reyes. x x x[8]

Hence, even assuming for argument's sake that there were inconsistencies in the testimonies of the prosecution witnesses, particularly in regard to the weapon-of-death used, whether it was a *balisong* knife or an ice pick, these inconsistencies are minor and inconsequential which even tend to bolster, rather than weaken, the credibility of the witnesses, for they show that such testimonies were not contrived or rehearsed.[9]

What is more, appellants failed to impute any ill motive against the prosecution witnesses. Hence, the presumption is that the prosecution witnesses were not impelled by ill will when they

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[8] CA *rollo*, p. 168.

[9] *People v. Bautista*, 636 Phil. 535, 552 (2010).

testified against the appellants; thus, their testimonies are entitled to full faith and credence.[10]

Indeed, a critical examination of the witnesses' testimonies revealed that their statements are consistent on all material points. The prosecution witnesses were in fact able to identify the actual perpetrators and how these perpetrators carried out, accomplished, or executed their criminal acts. Thus the first prosecution witness Flores testified as follows:

Pros. Luang:

Q: Now, you stated that on January 11, 2001, at around quarter to one, you were at Al-Ber Billiard Hall in Las Piñas, am I correct?
A: Yes, ma'am.

Q: What were you doing there?
A: I was playing.

Q: And do you remember any unusual incident at that date and time Mr. Witness?
A: Yes, ma'am.

Q: What was that Mr. Witness?
A: While I was playing there was chasing (*Habulan*).

Q: Did you see these people who were involved at that "*Habulan*?"
A: I saw, Ma'am.

Q: Who was being chased?
A: The victim, Ma'am.

Q: Who's the victim that you were referring to?
A: Esmer, Ma'am.

Q: This Esmer, is he the same Esmeraldo Ilao y Guillemer?
A: Yes, Ma'am.

Q: And who was chasing him, Mr. Witness?
A: Masta and another one (1) wearing a black [t]-shirt who I do not know the name.

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[10] *People v. Quilang*, 371 Phil. 243, 255 (1999).

Q: This Masta that you are talking about[,] who is he?
A: That one, Ma'am.

INTERPRETER: Witness is pointing to the accused.

x x x x x x x x x

Q: Now, Mr. Witness, what happened next when you saw the accused and another companion chasing Esmer?
A: Esmer was stabbed.

Q: Who stabbed Esmer?
A: Masta, Ma'am.

Q: Could you please describe to us how Masta stabbed Esmer?

x x x x x x x x x

A: While Esmer was running, he fell down and Masta was able to overtake him and when his companion arrived, that one also helped him.

x x x x x x x x x

Q: And what was the position of Esmer when Masta stabbed him?
A: He tried to stand up and when he was stabbed at the right side of his body, he turned with his back facing on his back.

x x x x x x x x x

Q: So when Masta stabbed him, he was still on the ground, x x x facing the ground?
A: Yes, Ma'am.

Q: Now, you said that after Masta stabbed him at the right side of his body he turned his back x x x back?
A: Yes, Ma'am.

Q: When Esmer turned facing Masta now what happened next?
A: They again stabbed him.

Q: Did you see what Masta used in stabbing Esmer?
x x x x x x x x x

A: Ice [p]ick Ma'am.

Q: You stated that they stabbed him, did you mean the companion of Masta Mr. Witness?

A: Together with the companion of Masta.

Q: Was the companion of Masta also armed with [a] weapon?
A: Yes, Ma'am.

Q: What was he armed with?
A: Ice pick also Ma'am.

Q: So both of them stabbed Esmer?
A: Yes, Ma'am.[11]

The second prosecution witness, Gabion gave this narrative about what transpired on January 11, 2001 at the Al-ber Billiard Hall in Zapote Plaza, Las Piñas City, thus —

Q: Why do you know that he died on January 11, 2001?
A: Because he was repeatedly stabbed, Ma'am.

Q: By whom?
A: By Masta and Yob, Ma'am.

Q: Why are you so definite by saying that he was repeatedly stabbed by Masta and Yob?
A: I saw it, Ma'am.

x x x x x x x x x

Q: Where was Esmeraldo Ilao being stabbed by Yob and Masta, the accused in this case?
A: Near the Billiard Hall, Ma'am.

Q: Where is this Billiard Hall located?
A: Zapote Plaza, Ma'am.

x x x x x x x x x

PROS. LUANG:

Q: When you saw the accused stabbing Esmeraldo Ilao, x x x what was the position of Esmeraldo Ilao in relation [to] the accused?
A: Esmer was lying down on the ground with his face downward and at that point Masta went on top of the back of Esmer and held his neck with his left arm and began stabbing him.

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[11] TSN, 28 June 2001, pp. 10-18.

x x x x x x x x x

Q: How about Herman delos Reyes, where was he when Masta went on top of the back of Esmer?
A: He was in front.

Q: Of whom?
A: In front of Esmer, Ma'am.

Q: And what was he doing?
A: He stabbed him on this portion (Witness is pointing at the lower portion of his back.)"[12]

The third prosecution witness, Kempis, testified in this wise —

Pros. Luang:

Q: Now Mr. Witness you mentioned a certain Yob and Masta who challenged Esmer for a fight, during that party on January 10 at 11:00 in the evening, if you see that Yob and Masta again, would you be able to identify them?

A: Yes, Ma'am.

x x x x x x x x x

Q: Could you please point to them?

A: That one.

INTERPRETER: Witness is pointing to a person, who answered by the name, Herman de los Reyes.

PROS. LUANG: How about Masta?

A: That one.

INTERPRETER: Witness is pointing to another person, who answered by the name, Fundador Camposano alias Masta.

x x x x x x x x x

Q: What happen[ed] to Esmer?
A: I saw that he was hit by Yob with a piece of wood (2x2)

Q: How far away were you from Esmer when you saw Yob hit him with a 2x2 piece of wood?

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[12] TSN, May 23, 2002, pp. 7-17.

A: From here up to the door of this courtroom.

PROS. LUANG: About six (6) meters Your Honor.

Q: What did you do when you saw Yob hit Esmer with a piece of wood?
A: I was shocked Ma'am.

Q: What happen[ed] after that?
A: I saw M[a]sta stab Esmer.

Q: And did you see what Masta used in stabbing Esmer?
A: Yes, Ma'am.

Q: What did he use?
A: Tres cantos ice pick.

Q: And at what part of the body did he stab Esmer?
A: On the chest.

Q: And what was Yob doing while Masta was stabbing Esmer?
A: He was hitting him on the head.

Q: And what did you do while seeing this thing happened [sic] to your friend Esmer?
A: I ran and asked for help."[13]

And the fourth prosecution witness, Crudo, provided this eyewitness account of the tragedy that befell the late teenager Ilao —

Pros. Montesa:

Q: Where was this place where you were eating porridge?
A: At the plaza, Sir.

Q: Can you tell us the exact address of the plaza?
A: Zapote Plaza, Las Piñas, Sir.

Q: When you said we, who were your companions, Mr. Witness?
A: Esmer, Ampy, Lloyd and the other one whose name I do not know, Sir.

Q: This Esmer you just mentioned, you are referring to the victim in this case, Esmeraldo Ilao?
A: Yes, Sir.

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[13] TSN, January 27, 2004, 16-26.

Q: While you were eating porridge with these companions of yours, what happened next?
A: We saw them, Sir.

Q: You are referring to whom?
A: They, Yob, Sir.

Q: Who else?
A: Masta, Sir.

Q: Aside from Yob and Masta, who else?
A: I do not know the others, Sir.

Q: In your estimate, how many were they?
A: About seven, Sir.

Q: While you were eating porridge and you saw the group of Masta and Yob, what happened?
A: We moved a distance because I suspected that there would be x x x trouble, Sir.

Q: What happened thereafter — after moving a distance from the group of Yob and Masta?
A: We ran away and separated from each other, Sir.

Q: What happened next?
A: Ampy and Esmer separated from us.

Q: After Ampy and Esmer separated themselves, what else happened?
A: I saw Esmer fall down, then he stood up and ran again but Yob was able to overtake him, Sir.

Q: After seeing Esmer fall down and being overtaken by Yob, what happened next?
A: He stabbed him, Sir.

Q: Where?
A: There, at Zapote Plaza, Sir.

Q: I mean, where in his body did Yob stab Masta?
A: Here, Sir (Witness pointing to the left portion of his chest.)

Q: How far were you when Yob stabbed Esmer?
A: More than 100 meters, Sir.

Q: How many times did he stab him?
A: Once, Sir.

Q: What did the other companions of Yob do?
A: I do not know, Sir.

Q: What happened after Yob stabbed Esmer?
A: Their other companions ray away, Sir.

Q: What did you do?
A: I called my other friends, Sir.

Q: After calling your friends, what else happened?
A: We chased them, Sir.

Q: What happened after that?
A: We were not able to overtake them, Sir.

Q: What did you do with Esmer?
A: I heard that he was already in the hospital, Sir.

Q: Have you known this Yob and Masta even before the incident?
A: Yes, Sir.

Q: Why do you know them?
A: They used to be my friends, Sir.

Q: Can you still remember the faces of these Yob and Masta if they are present here?
A: Yes, Sir.

Q: Can you point to Yob?
A: That's him, Sir. (Witness pointing to a man wearing yellow t-shirt who when asked answered by the name of Herman Delos Reyes.)

Q: How about Masta?
A: That one, Sir. (Witness pointing to a person who answered by the name Fundador Camposano.)

Q: After learning that Esmer was already in the hospital, what did you do?
A: We went to him, Sir.

Q: Where?
A: There, at the center near the Bamboo Organ, Sir.

Q: What did you do at the center?
A: We visited Esmer, sir.

Q: After visiting him, what did you do?
A: No more, Sir.[14]

To reiterate, this Court sees no irreconciliable inconsistencies in the foregoing testimonies of the prosecution witnesses. In fact, the four prosecution witnesses positively identified Camposano and De los Reyes as the persons who authored and caused the violent death of Ilao as they were all eyewitnesses to the bloody incident. The prosecution witnesses' accounts differed only with regard to the weapon/s used. What remained constant was their straightforward and categorical testimonies that they personally know the appellants and that they were physically present when these appellants assaulted and killed Ilao. Moreover, it is equally settled that in terms of evidentiary weight, affirmative testimony is decidedly superior to negative testimony. And, as above noted, the prosecution witnesses delivered affirmative testimonies in contradistinction to the defense witnesses who took shelter under prosaic denials and alibis.

Appellant Camposano claimed that he was at the Parañaque Community Hospital at around 1:30 o'clock in the morning of January 11, 2001, during the alleged time of the commission of the crime; that he likewise suffered a stab wound as a result of a rumble between his gang, *Tropang Pugasi/Fugazi,* and the rival gang Sad Army to which the deceased Ilao supposedly belonged; and that this stab wound required immediate medical treatment and a one-week confinement at the aforementioned hospital.

On the other hand, appellant De los Reyes claimed that on the evening of January 10, 2001, and early morning of January 11, 2001, he was at home watching DVD after a night of drinking alcohol with a few friends.

Both claims are gratuitous and self-serving.

It is settled that for the defense of alibi to prosper, it must be proved that it was physically impossible for the accused to be present at the scene of the crime at the time of its commission.

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[14] TSN, October 26, 2006, pp. 6-13.

Here, appellants utterly failed to prove that it was physically impossible for both of them to be at the crime scene at the time the crime was committed. Their claims on this score must fall flat on their faces if only because both appellants are also residents of Las Piñas where the violent slaying of Ilao happened.

This Court is likewise convinced that treachery attended the killing. "There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make."[15] "The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape."[16] This is the very scenario brought to light by the prosecution's evidence in this case.

For here, the evidence on record conclusively showed that the appellants assaulted and killed Ilao while he was face down on the ground. The appellants took advantage of their victim's defenseless and helpless position to inflict the fatal stab wounds, giving their victim no chance at all to retaliate or defend himself. In fact, as shown in the records, Camposano went on top of Ilao and held him by the neck and stabbed him on the chest. Appellant De los Reyes, on the other hand, stabbed the victim in his lower back. Given these actual, incontrovertible facts, the conclusion is inevitable that treachery attended the commission of the crime.

Nevertheless, the civil damages awarded by the CA can stand some modification. Based on prevailing jurisprudence, both awards of civil indemnity and moral damages in favor of Ilao's heirs should be increased from ₱50,000.00 to ₱75,000.00.[17] The award of exemplary damages should likewise be increased from ₱25,000.00 to ₱75,000.00.

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[15] REVISED PENAL CODE, Art. 14 (16).

[16] *People v. Dela Cruz*, 626 Phil. 631, 640 (2010).

[17] *People v. Roxas*, G.R. No. 218396, February 10, 2016.

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated October 17, 2012 in CA-G.R. CR-H.C. No. 04854, is **AFFIRMED**, **subject to the MODIFICATION** that Fundador Camposano *y* Tiolanto @ "Punday/Masta" and Herman de los Reyes @ "Yob" are ordered to solidarily pay the heirs of Esmeraldo Ilao the increased amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and another ₱75,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of 6% *per annum* from finality of this Decision until fully paid.

SO ORDERED.

Carpio (Chairperson), *Brion, Mendoza,* and *Leonen, JJ.,* concur.

THIRD DIVISION

[G.R. No. 209011. April 20, 2016]

MALAYAN INSURANCE COMPANY, INC., *petitioner, vs.* **DIANA P. ALIBUDBUD,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW UNDER RULE 45 OF THE RULES OF COURT; THE JURISDICTION OF THE SUPREME COURT IN CASES BROUGHT TO IT FROM THE COURT OF APPEALS IS LIMITED TO REVIEWING ERRORS OF LAW; EXCEPTION, PRESENT IN CASE AT BAR.— It is well-settled that "(t)he jurisdiction of the Supreme Court in cases brought to it from the CA is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive. In several decisions, however,

the Court enumerated the exceptional circumstances when the Supreme Court may review the findings of fact of the CA," such as in the instant case.

2. ID.; ID.; ACTIONS; REPLEVIN; DESIGNED TO PERMIT ONE HAVING RIGHT TO POSSESSION TO RECOVER PROPERTY IN SPECIE FROM ONE WHO HAS WRONGFULLY TAKEN OR DETAINED THE PROPERTY.— *"Replevin* is an action whereby the owner or person entitled to repossession of goods or chattels may recover those goods or chattels from one who has wrongfully distrained or taken, or who wrongfully detains such goods or chattels. It is designed to permit one having right to possession to recover property in specie from one who has wrongfully taken or detained the property. The term may refer either to the action itself, for the recovery of personalty, or to the provisional remedy traditionally associated with it, by which possession of the property may be obtained by the plaintiff and retained during the pendency of the action."

3. ID.; ID.; ID.; AN ACTION WHICH INVOLVES THE PARTIES' RELATIONSHIP AS DEBTOR AND CREDITOR, AND NOT THEIR EMPLOYER-EMPLOYEE RELATIONSHIP, IS CIVIL IN NATURE; CASE AT BAR.— It should be noted x x x that the present action involves the parties' relationship as debtor and creditor, not their "employer-employee" relationship. Malayan's demand for Alibudbud to pay the 50% company equity over the car or, to surrender its possession, is civil in nature. The trial court's ruling also aptly noted the Promissory Note and Deed of Chattel Mortgage voluntarily signed by Alibudbud to secure her financial obligation to avail of the car being offered under Malayan's Car Financing Plan. Clearly, the issue in the replevin action is separate and distinct from the illegal dismissal case. The Court further considers it justified for Malayan to refuse to accept her offer to settle her car obligation for not being in accordance with the Promissory Note and Deed of Chattel Mortgage she executed. Even the illegal dismissal case she heavily relied upon in moving for the suspension of the replevin action was settled in favor of Malayan which was merely found to have validly exercised its management prerogative in order to improve its company sales.

4. LABOR AND SOCIAL LEGISLATION; LABOR CODE; TERMINATION OF EMPLOYMENT; AUTHORIZED CAUSES; REDUNDANCY; THE CHARACTERIZATION OF AN EMPLOYEE'S SERVICES AS SUPERFLUOUS OR NO LONGER NECESSARY IS AN EXERCISE OF BUSINESS JUDGMENT ON THE PART OF THE EMPLOYER.— "[T]he characterization of an employee's services as superfluous or no longer necessary and, therefore, properly terminable, is an exercise of business judgment on the part of the employer. The wisdom and soundness of such characterization or decision is not subject to discretionary review provided, of course, that a violation of law or arbitrary or malicious action is not shown."

APPEARANCES OF COUNSEL

Narvaez & Beltran LawOffices for petitioner.
Daniel F. Furaque for respondent.

D E C I S I O N

REYES, *J.*:

Before this Court is a Petition for Review[1] under Rule 45 of the 1997 Rules of Court filed by Malayan Insurance Company, Inc. (Malayan) seeking to reverse and set aside the Decision[2] dated May 15, 2013 and Resolution[3] dated September 6, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 92940, which dismissed their complaint for replevin against Diana P. Alibudbud (Alibudbud) for lack of jurisdiction.

Factual Background

Alibudbud was employed by Malayan on July 5, 2004 as Senior Vice President (SVP) for its Sales Department. As SVP, she was issued a 2004 Honda Civic sedan bearing plate no.

[1] *Rollo*, pp. 3-28.

[2] Penned by Associate Justice Danton Q. Bueser, with Associate Justices Amelita G. Tolentino and Ramon R. Garcia concurring; *id.* at 29-44.

[3] *Id.* at 46-47.

XPR 822 under Malayan's Car Financing Plan[4] conditioned on the following stipulations: (1) she must continuously stay and serve Malayan for at least three full years from the date of the availment of the Car Financing Plan; and (2) that in case of resignation, retirement or termination before the three-year period, she shall pay in full 100% share of Malayan and the outstanding balance of his/her share of the cost of the motor vehicle.[5]

Relatively, Alibudbud also executed a Promissory Note[6] and a Deed of Chattel Mortgage[7] in favor of Malayan wherein it was expressly stated that: (1) the loan of ₱360,000.00 shall be payable in 60 equal monthly installments at the rate of ₱7,299.50 each, commencing on August 15, 2004 and every succeeding month thereafter until fully paid; (2) Alibudbud shall refund Malayan an amount equivalent to its 50% equity share in the motor vehicle, or ₱360,000.00 if she leaves Malayan within three years from the availment of the subject vehicle; (3) should Alibudbud resign, retire or otherwise be terminated or separated from Malayan's employ, any remaining unpaid balance on the principal obligation shall immediately fall due and demandable upon her who shall remit the same to Malayan within five days from effectivity of such separation/termination; (4) Malayan is authorized to apply to the payment of outstanding obligation of Alibudbud any such amounts of money that may be due her from the company; (5) interests on all amounts outstanding as of the date when all Alibudbud's obligations are treated immediately due and payable, shall be compounded every 30 days until said obligations are fully paid; (6) Alibudbud shall pay a penalty at the rate of 16% *per annum* on all amounts due and unpaid; (7) in case Alibudbud fails to pay any installment, or any interest, or the whole amount remaining unpaid which has immediately become due and payable upon her separation from the Malayan, the mortgage on the property may be foreclosed

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[4] *Id.* at 104-106.

[5] *Id.* at 30.

[6] *Id.* at 109-111.

[7] *Id.* at 112-117.

by Malayan, or it may take other legal action to enforce collection of the obligation; (8) upon default, Alibudbud shall deliver the possession of the subject vehicle to Malayan at its principal place of business; and (9) should Alibudbud fail or refuse to deliver the possession of the mortgaged property to Malayan, thereby compelling it to institute an action for delivery, Alibudbud shall pay Malayan attorney's fees of 25% of the principal due and unpaid, and all expenses and cost incurred in relation therewith including the premium of the bond obtained for the writ of possession.[8]

On July 18, 2005, Alibudbud was dismissed from Malayan due to redundancy. In view thereof, Malayan demanded that she surrender the possession of the car to the company. Alibudbud sternly refused to do so.

On September 21, 2005, Malayan instituted a Complaint[9] for replevin and/or sum of money before the Regional Trial Court (RTC) of Manila and prayed for the seizure of the car from Alibudbud, or that she be ordered to pay ₱552,599.93 representing the principal obligation plus late payment charges and ₱138,149.98 as attorney's fees, should said car be no longer in running and presentable condition when its return be rendered impossible.

On October 12, 2005, Alibudbud, in turn, filed a complaint[10] for illegal dismissal against Malayan before the Labor Arbiter (LA) wherein she prayed for her reinstatement.

In her Answer with Compulsory Counterclaim,[11] Alibudbud asseverated that a reasonable depreciation of 20% should be deducted from the subject vehicle's book value of ₱720,000.00, or ₱576,000.00, which makes her liable to pay only ₱288,000.00 for the car's value.[12] She asserted a counterclaim of ₱17,809.00[13] as

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[8] *Id.* at 30-32.

[9] *Id.* at 93-103.

[10] *Id.* at 179-180.

[11] *Id.* at 127-130.

[12] *Id.* at 128.

[13] *Id.*

compensatory damages and ₱40,000.00 as attorney's fees.[14] She prayed for the suspension of the proceedings in view of the pendency of the labor dispute she filed. This was, however, questioned by Malayan in its reply[15] as there was no prejudicial question[16] raised in the labor dispute.

On January 30, 2006, Alibudbud filed a Motion to Suspend Proceedings[17] to reiterate her prayer to defer the proceedings, asseverating that the labor case she filed presents a prejudicial question to the instant case. She explained that the resolution of the labor case will determine her rights and obligations, as well as that of Malayan.

In an Order[18] dated February 17, 2006, the RTC of Manila, Branch 27, denied Alibudbud's motion. It was opined that: (1) reference shall be made only on the Promissory Note which Alibudbud executed in favor of Malayan in determining the rights and obligations of the parties; (2) the cause of action in the replevin case is rooted from the Promissory Note; and (3) the issue in the labor dispute is in no way connected with the rights and obligations of the parties arising out of the Promissory Note.

Trial on the merits ensued.

On July 13, 2006, Alibudbud moved for the dismissal[19] of the action grounded on the impropriety of the bond put up by Malayan. This was, however, denied by the RTC in its Order[20] dated October 5, 2006 with the pronouncement that Malayan "can[,] by itself[,] file a surety bond in order to guaranty the return of the subject property to the adverse party if such return be finally adjudged x x x."[21]

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[14] *Id.* at 129.

[15] *Id.* at 132-139.

[16] *Id.* at 134.

[17] *Id.* at 201-202.

[18] *Id.* at 213-214.

[19] *Id.* at 264-272.

[20] *Id.* at 284-288.

[21] *Id.* at 288.

Alibudbud sought for reconsideration,[22] but it was denied in the RTC's Order[23] dated December 19, 2006.

Alibudbud then successively filed motions to suspend the proceedings in the civil case anchored on the same averment that suspension is necessary since she is seeking reinstatement in the labor case which, if granted, would result to irreconcilable conflict not contemplated by law, much less conducive to the orderly administration of justice.[24] However, both motions were denied in an Order[25] dated June 6, 2007. The RTC pointed out that the issue raised in the civil action is completely separable with the issue raised in the labor case.[26]

Malayan applied for an *ex-parte* issuance of a writ of preliminary attachment,[27] which the RTC granted in its Order dated June 8, 2007.[28] The Honda Civic sedan was, accordingly, attached.

Meanwhile, the complaint for illegal dismissal filed by Alibudbud was dismissed. The LA's Decision[29] dated February 19, 2008 held that the redundancy she suffered resulted from a valid re-organization program undertaken by Malayan in view of the downturn in the latter's sales.[30] It further ruled that Alibudbud failed to establish any violation or arbitrary action exerted upon her by Malayan, which merely exercised its management prerogative when it terminated her services.[31]

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[22] *Id.* at 292-299.

[23] *Id.* at 304.

[24] *Id.* at 35.

[25] *Id.* at 317.

[26] *Id.*

[27] *Id.* at 318-325.

[28] *Id.* at 330-332.

[29] *Id.* at 336-348.

[30] *Id.* at 342.

[31] *Id.* at 344.

On November 28, 2008, the RTC rendered a Decision[32] which granted the complaint for replevin. The RTC mentioned the following observations and conclusions, to wit: (1) Alibudbud is under obligation to pay in full the acquisition cost of the car issued to her by Malayan; (2) the LA's Decision dated February 19, 2008 which dismissed the illegal dismissal complaint settled the issue being banked upon by Alibudbud when she moved for the suspension of the proceedings in the civil action; (3) Alibudbud's ownership over the car is not yet absolute for it bears the notation "encumbered", thereby signifying her obligation to pay its value within the period set forth in the Promissory Note and Deed of Chattel Mortgage; and (4) the replevin action was converted into a money claim in view of Alibudbud's vehement refusal to surrender the possession of the car.

Ruling of the CA

On appeal, the CA ruled, in its Decision[33] dated May 15, 2013, to set aside the decision of the trial court. The CA explained that the RTC has no jurisdiction to take cognizance over the replevin action because of the "employer-employee" relations between the parties which Malayan never denied. Certainly, Alibudbud could not have availed of the benefits of the Car Financing Plan if she was not employed by Malayan. Citing Section 1,[34] Rule 9 of the 1997 Rules of Court, the CA upheld to dismiss the replevin action considering that the ground of lack of jurisdiction may be raised at any stage of the proceedings since jurisdiction is conferred by law.[35]

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[32] Rendered by Judge Teresa P. Soriaso; *id.* at 49-59.

[33] *Id.* at 29-44.

[34] **Section 1**. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

[35] *Rollo*, p. 43.

Malayan's motion for reconsideration[36] was denied.[37] Hence, this petition.

Ruling of the Court

The petition is impressed with merit.

It is well-settled that "(t)he jurisdiction of the Supreme Court in cases brought to it from the CA is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive. In several decisions, however, the Court enumerated the exceptional circumstances when the Supreme Court may review the findings of fact of the CA,"[38] such as in the instant case.

A careful study of the case would reveal that the RTC correctly took cognizance of the action for replevin contrary to the pronouncement of the CA.

"*Replevin* is an action whereby the owner or person entitled to repossession of goods or chattels may recover those goods or chattels from one who has wrongfully distrained or taken, or who wrongfully detains such goods or chattels. It is designed to permit one having right to possession to recover property in specie from one who has wrongfully taken or detained the property. The term may refer either to the action itself, for the recovery of personalty, or to the provisional remedy traditionally associated with it, by which possession of the property may be obtained by the plaintiff and retained during the pendency of the action."[39]

In reversing the trial court's ruling, the CA declared that "[Alibudbud] could not have availed of the Car Financing Plan if she was not an employee of [Malayan]. The status of being an employee and officer of [Alibudbud] in [Malayan] was,

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[36] *Id.* at 376-380.

[37] *Id.* at 46-47.

[38] *Republic v. Bellate*, G.R. No. 175685, August 7, 2013, 703 SCRA 210, 218, citing *Remalante v. Tibe*, 241 Phil. 930, 935-936 (1988).

[39] *Smart Communications, Inc. v. Astorga*, 566 Phil. 422, 435 (2008).

therefore, one of the pre-condition before she could avail of the benefits of the Car Financing Plan. Such being the case, there is no doubt that [Alibudbud's] availing of the Car Financing Plan being offered by [Malayan] was necessarily and intimately connected with or related to her employment in the aforesaid Company."[40]

It should be noted, however, that the present action involves the parties' relationship as debtor and creditor, not their "employer-employee" relationship. Malayan's demand for Alibudbud to pay the 50% company equity over the car or, to surrender its possession, is civil in nature. The trial court's ruling also aptly noted the Promissory Note and Deed of Chattel Mortgage voluntarily signed by Alibudbud to secure her financial obligation to avail of the car being offered under Malayan's Car Financing Plan.[41] Clearly, the issue in the replevin action is separate and distinct from the illegal dismissal case. The Court further considers it justified for Malayan to refuse to accept her offer to settle her car obligation for not being in accordance with the Promissory Note and Deed of Chattel Mortgage she executed.[42] Even the illegal dismissal case she heavily relied upon in moving for the suspension of the replevin action was settled in favor of Malayan which was merely found to have validly exercised its management prerogative in order to improve its company sales.

As consistently held, "[t]he characterization of an employee's services as superfluous or no longer necessary and, therefore, properly terminable, is an exercise of business judgment on the part of the employer. The wisdom and soundness of such characterization or decision is not subject to discretionary review provided, of course, that a violation of law or arbitrary or malicious action is not shown."[43]

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[40] *Rollo*, p. 39.

[41] *Id.* at 57.

[42] *Id.* at 58.

[43] *Smart Communications, Inc. v. Astorga*, *supra* note 39, at 437.

WHEREFORE, in view of the foregoing, the Decision dated May 15, 2013 and Resolution dated September 6, 2013 of the Court of Appeals in CA-G.R. CV No. 92940 are **REVERSED** and **SET ASIDE**. The Decision dated November 28, 2008 of the Regional Trial Court of Manila, Branch 27, in Civil Case No. 05-113528 is, accordingly, **REINSTATED**.

SO ORDERED.

Velasco, Jr. (Chairperson), *Peralta, Perez,* and *Jardeleza, JJ.,* concur.

THIRD DIVISION

[G.R. No. 211098. April 20, 2016]

THE WELLEX GROUP, INC., *petitioner, vs.* **SHERIFF EDGARDO A. URIETA OF THE SANDIGANBAYAN SECURITY AND SHERIFF SERVICES, THE SANDIGANBAYAN SECURITY AND SHERIFF SERVICES, AND BDO UNIBANK, INC. (FORMERLY EQUITABLE PCI BANK, INC.),** *respondents.*

SYLLABUS

1. CIVIL LAW; CIVIL CODE; OBLIGATIONS AND CONTRACTS; SUBROGATION; CONTEMPLATES FULL SUBSTITUTION SUCH THAT IT PLACES THE PARTY SUBROGATED IN THE SHOES OF THE CREDITOR, AND HE MAY USE ALL MEANS THAT THE CREDITOR SHOULD EMPLOY TO ENFORCE PAYMENT; CASE AT BAR.— [T]he WPI shares assume the character of a security for a valid and existing loan obligation, which is included in the IMA Account. Stated in simpler terms, one (1) of the assets in the IMA Account is a receivable secured by a chattel

mortgage, more particularly the valid and existing loan obligation between BDO and petitioner, secured by the WPI shares. Consequently, considering that the loan obligation of petitioner is valid and existing, it necessarily follows that BDO, the creditor, or its successor-in-interest, cannot be allowed to unilaterally sell the chattel securing the loan and apply the proceeds thereof as payment, full or partial, to the said loan. This would constitute a clear case of *pactum commissorium,* which is expressly prohibited by Article 2088 of the Civil Code. In line with our holding in *The Wellex Group, Inc. v. Sandiganbayan,* that "the forfeiture had the effect x x x as creditor," the state has stepped into the shoes of the BDO. As this Court has consistently ruled, "[s]ubrogation is the substitution of one person by another with reference to a lawful claim or right, so that he who is substituted succeeds to the rights of the other in relation to a debt or claim, including its remedies or securities. x x x It contemplates full substitution such that it places the party subrogated in the shoes of the creditor, and he may use all means that the creditor could employ to enforce payment." Given that the subrogee merely steps into the shoes of the creditor, he acquires no right greater than those of the latter. Considering that the WPI shares serves as security to an acknowledged valid and existing loan obligation, the subrogee, in this case the State, is obliged to avail of the very same remedies available to the original creditor to collect the loan obligation, which is to first demand from the original debtor to pay the same, and if not paid despite demand, institute either foreclosure proceedings, or the appropriate action for collection before the proper forum. In either case, the debtor will be afforded the opportunity to pay the obligation, or to assert any claim or defense, which the debtor may have against the original creditor. This is the essence of constitutional right to due process. In this case, the action of public respondent in offering for sale, at public auction, the WPI shares would unavoidably trample upon a constitutionally enshrined right.

2. REMEDIAL LAW; ACTIONS; ONLY THOSE WHO HAD THEIR DAY IN COURT ARE CONSIDERED THE REAL PARTIES IN INTEREST IN AN ACTION, AND IT IS THEY WHO ARE BOUND BY THE JUDGMENT THEREIN, AND BY WRITS OF EXECUTION ISSUED PURSUANT

THERETO.— This Court is well aware that the Sandiganbayan had earlier asserted in Criminal Case No. 26558 that as regards the BDO loan, Wellex is considered a delinquent debtor. However, the pronouncement cannot be an excuse to omit the steps needed to be taken regarding the mortgaged WPI shares. It is a fact that Wellex was not impleaded as a party to the said case, ergo, the effect of the pronouncement cannot be extended to it. It is axiomatic that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by any judgment rendered by the court. Thus, only those who have had their day in court are considered the real parties in interest in an action, and it is they who are bound by the judgment therein and by writs of execution issued pursuant thereto.

3. ID.; COURTS; REGIONAL TRIAL COURTS; HAVE EXCLUSIVE JURISDICTION OVER ORDINARY CIVIL CASES ENTAILING THE PROPRIETY OF THE ACTIONS OF A CREDITOR IN A PROCEEDING AGAINST THE SECURITY FOR ITS LOAN, WHICH NECESSITATES THE APPLICATION OF THE PROVISIONS OF THE CIVIL CODE; CASE AT BAR.— [T]he subject matter of controversy brought forth by Wellex is purely civil in nature. This involves the third (3rd) party claim of Wellex against the WPI shares *vis-a-vis* the loan obligation *per se,* which should be properly lodged before and heard by the regular trial courts. To the mind of this Court, it is clear that the same does not pertain to the jurisdiction of the Sandiganbayan. Jurisdiction, which is the authority to hear and the right to act in a case, is conferred by the Constitution and by law. Although the Sandiganbayan, a constitutionally-mandated court, is a regular court, it has, nevertheless, only a special or limited jurisdiction. While this Court has time and again affirmed that the Sandiganbayan has jurisdiction over the civil aspect of criminal cases, as conferred to it by law, the case before the trial court does not involve the civil aspect of Criminal Case No. 26558. The same has nothing to do with the ownership of the IMA Account and/or any of its financial assets, which x x x has been adjudged forfeited in favor of the State. In contrast, the said case is an ordinary civil case entailing the propriety of the actions of a creditor in proceeding against the security for its loan, which necessitates the application of the provisions

of the Civil Code, therefore falling under the exclusive jurisdiction of the Regional Trial Courts.

LEONEN, *J.*, *dissenting opinion*:

1. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENTS; THIRD-PARTY CLAIM; MUST BE FILED BEFORE THE COURT ISSUING THE WRIT OF EXECUTION.— Third-party claims are inevitable in proceedings involving forfeiture. To conceal the true nature of a property as unlawfully acquired, a public officer may have transferred to third persons the title to the property. The transferees—whether they are dummies, nominees, agents, subordinates, business associates, or innocent purchasers for value—may challenge the inclusion of their properties under their title and argue that the properties legitimately belong to them. Petitioner argues that its Complaint for recovery of possession of the Waterfront shares is in the nature of a third-party claim. Also known as *terceria,* a third-party claim is the remedy available to persons other than the judgment obligor who claim title to or the right to possess the property levied. Under Rule 39, Section 16 of the Rules of Court, a third-party claim must be filed ***before the court issuing the writ of execution.*** The reason is that a court, once it acquires jurisdiction, retains this jurisdiction until it enforces and executes its decision x x x, [c]onsistent with the doctrine of adherence of jurisdiction x x x.

2. ID.; ID.; ID.; ID.; THOSE WHO CLAIM OWNERSHIP OR POSSESSION OF PROPERTIES FORFEITED BY VIRTUE OF A PLUNDER DECISION MUST INTERVENE IN THE PROCEEDINGS BEFORE THE SANDIGANBAYAN.— [A]ny third-party claim involving property forfeited ***pursuant to a plunder decision*** must be filed before the Sandiganbayan, this despite the fact that third-party claim involves issues of ownership or possession—matters that are considered civil in nature. Aware that third-party claims involving forfeited properties may involve questions of ownership or possession, the legislature nevertheless vested in the Sandiganbayan jurisdiction over prosecutions for plunder, the penalty for which includes the forfeiture of all the assets of the accused which are found to be ill-gotten. "This is in line with the purpose

behind the creation of the Sandiganbayan as an anti-graft court—to address the urgent problem of dishonesty in public service." This is precisely why the Sandiganbayan is a court of special jurisdiction: it is primarily a criminal court, but with jurisdiction over certain civil proceedings. Hence, the argument that a third-party claim is civil in nature and may not be taken cognizance of by the Sandiganbayan is incorrect. Those who claim ownership or possession of properties forfeited by virtue of a plunder decision must intervene in the proceedings before the Sandiganbayan. Not only is this consistent with the doctrine of adherence of jurisdiction; it also prevents splitting of jurisdiction and multiplicity of suits.

3. ID.; COURTS; CO-EQUAL COURTS ARE PROHIBITED FROM INTERFERING WITH EACH OTHER'S ORDERS OR JUDGMENTS, AND INFERIOR COURTS CANNOT INTERFERE WITH THE ORDERS AND JUDGMENTS OF SUPERIOR COURTS.— The trial court has no jurisdiction to issue a temporary restraining order or a writ of preliminary injunction against an order of the Sandiganbayan. Corollary to the doctrine of non-interference, which prohibits co-equal courts from interfering with each other's orders or judgments, inferior courts cannot interfere with the orders and judgments of superior courts. The Regional Trial Court is a lower court as opposed to the Sandiganbayan. Under Section 4 of Republic Act No. 7975, the Sandiganbayan exercises "exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts[.]" Section 7 of Presidential Decree No. 1606 provides that the "[d]ecisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court[.]" Since the Sandiganbayan is a superior court, the Regional Trial Court has no jurisdiction to issue a temporary restraining order or a writ of injunction against the Sandiganbayan's orders and decisions. Applied to this case, the Regional Trial Court of Makati City had no jurisdiction to issue a temporary restraining order or a writ of preliminary injunction to prevent the sale of properties forfeited by virtue of Former President Estrada's conviction for plunder.

4. ID.; CIVIL PROCEDURE; FORUM SHOPPING; PRESENT WHEN A PARTY REPETITIVELY AVAILED ITSELF OF SEVERAL JUDICIAL REMEDIES IN DIFFERENT COURTS, SIMULTANEOUSLY OR SUCCESSIVELY,

ALL SUBSTANTIALLY FOUNDED ON THE SAME TRANSACTIONS AND THE SAME ESSENTIAL FACTS AND CIRCUMSTANCES, AND ALL RAISING SUBSTANTIALLY THE SAME ISSUES EITHER PENDING IN OR ALREADY RESOLVED ADVERSELY BY SOME OTHER COURT.— [P]etitioner raised before the Regional Trial Court of Makati City and the Sandiganbayan the same issue of whether the Waterfront shares formed part of the IMA account forfeited in favor of the state. This is clearly forum shopping. Petitioner "repetitively avail[ed] [itself] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court." Moreover, petitioner committed ***willful and deliberate*** forum shopping. Petitioner falsely declared in the Certification against Forum Shopping attached to its Complaint for recovery of possession that "[it] has not ... commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency." It did not state in the Certification against Forum Shopping that it had earlier filed a claim before the Sandiganbayan involving the same issue of ownership of the Waterfront shares. Under Rule 7, Section 5 of the Rules of Court, forum shopping is a ground for dismissal of a complaint. The trial court correctly dismissed petitioner's Complaint for recovery of possession.

5. CIVIL LAW; CIVIL CODE; OBLIGATIONS AND CONTRACTS; MORTGAGE; *PACTUM COMMISSORIUM*; A STIPULATION IN A DEED OF MORTGAGE, ALLOWING THE CREDITOR TO AUTOMATICALLY APPROPRIATE OR DISPOSE OF THE PROPERTY MORTGAGED IN CASE THE DEBTOR FAILS TO COMPLY WITH HIS OBLIGATION UNDER THE PRINCIPAL CONTRACT.— [S]elling the Waterfront shares at public auction would not amount to a circumvention of the prohibition on *pactum commissorium.* A *pactum commissorium* is a stipulation in a deed of mortgage, allowing the creditor to *automatically* appropriate or dispose of the property mortgaged in case the debtor fails to comply with his or her obligation under the principal contract. It is prohibited under Article 2088 of the Civil Code and is null and void.

Here, there was no automatic appropriation of the property mortgaged. When the IMA account and all of its assets were declared forfeited, this Court in *The Wellex Group, Inc. v. Sandiganbayan* recognized the validity of the loan agreement between petitioner and Banco de Oro, in effect recognizing petitioner's title to the Waterfront shares it mortgaged to Banco de Oro. However, petitioner's ₱500,000,000.00 loan remained unpaid. Even before the forfeiture of the assets of the IMA account, petitioner had defaulted in its loan obligation to Banco de Oro. Banco de Oro served several demand letters on petitioner, regardless of the stipulation in the Promissory Note and Chattel Mortgage that the amount payable shall "become immediately due and payable without demand or notice" in case petitioner fails to pay the loaned amount. Petitioner ignored all these demand letters.

6. ID.; ID.; ID.; EXTINGUISHMENT OF OBLIGATIONS; PAYMENT; MUST BE MADE TO THE PERSON IN WHOSE FAVOR THE OBLIGATION HAS BEEN CONSTITUTED, OR HIS SUCCESSOR IN INTEREST, OR ANY PERSON AUTHORIZED TO RECEIVE PAYMENT.— That petitioner already paid the loan to Jaime Dichaves, the alleged principal of the IMA account, is not supported by the record. It is also immaterial. In order to extinguish an obligation, "[p]ayment [must] be made to the person in whose favor the obligation has been constituted, or his successor in interest, or any person authorized to receive [payment]." Jaime Dichaves is none of these, for as this Court ruled in *The Wellex Group, Inc. v. Sandiganbayan,* Former President Estrada is the principal of the Velarde IMA account. Even if payment may be made to a third person, the payment must redound to the benefit of the creditor in order to extinguish the obligation. It has not been shown that Banco de Oro was benefited in any way when petitioner allegedly paid the loan to Jaime Dichaves.

APPEARANCES OF COUNSEL

Corporate Counsels Philippine Law Office for petitioner.
Villaraza & Angangco for BDO Unibank Inc.
Legal Service Group, BDO, collaborating counsel for respondent BDO Unibank Inc.

D E C I S I O N

PEREZ, *J.*:

Before this Court is a Petition,[1] on pure questions of law, assailing the Order dated 9 January 2012 of the Regional Trial Court of Makati City, Branch 132 (trial court) in Civil Case No. 09-399,[2] with a prayer for the issuance of a temporary restraining order and preliminary injunction against respondents, enjoining them and persons acting under their authority from selling 450,000,000 shares of Waterfront Philippines, Inc. (WPI shares) that are owned and registered in the name of petitioner The Wellex Group, Inc. (Wellex).[3]

In resolving the prayer of Wellex for the issuance of injunctive relief, this Court is constrained to examine the merits of the Petition and at once notes that this case is essentially intertwined with G.R. 187951,[4] a landmark case, wherein this Court declared, among others, that the WPI shares are included among those assets of Investment Management Agreement with Account No. 101-78056-1, under the name of *Jose Velarde*, (IMA Account) formerly managed by respondent BDO Unibank, Inc., previously Equitable PCI Bank, Inc. (BDO). The said account was duly forfeited in favor of the State by virtue of the Resolution dated 24 September 2008 of the Sandiganbayan in Criminal Case No. 26558, the case for plunder against former President Joseph Ejercito Estrada.

The material facts of this case, as culled from the records,[5] are as follows:

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[1] *Rollo*, pp. 42-75.

[2] *Id.* at 82-91; An action for the Recovery of the Possession and Delivery of the Stock Certificates and Injunction.

[3] These shares are covered by Stock Certificate Nos. 0000026465, 0000026466, 0000026467, 0000026468, 0000026469, 0000026470, 0000026471, 0000026472, and 0000026473 as evidenced by the Promissory Note and the Chattel Mortgage.

[4] 689 Phil. 44 (2012).

[5] *Id.*

On 4 February 2000, Wellex obtained a loan in the principal amount of ₱500,000,000.00 from the IMA Account with BDO. As security for the loan, Wellex mortgaged the WPI shares.

By the time the loan obligation matured on 29 January 2001, Wellex was not able to settle the same; however, BDO, as investment manager of the IMA Account did not institute any foreclosure proceeding against the WPI shares.

Thereafter, BDO, through a Letter dated 14 March 2001, informed Wellex that it shall cease to manage the IMA Account effective 2 May 2001. In the same letter, BDO informed Wellex that on 29 January 2000, the Bureau of Internal Revenue (BIR) issued a Notice of Constructive Distraint against the IMA Account, which effectively froze all goods, chattels or personal property owned by Jose Velarde, including the WPI shares, which BDO could consequently neither remove nor dispose of without the express authority of the BIR.

Subsequently, Wellex alleged that considering that BDO had relinquished its authority to act as the investment manager of the IMA Account, and that Wellex had supposedly settled its loan obligation in full *directly* with Jose Velarde, BDO, as the principal of the IMA Account, should return the WPI shares to Wellex. BDO, however, did not.

In the meantime, on 12 September 2007, the Sandiganbayan in Criminal Case No. 26558 found former President Estrada guilty of the crime of plunder. The conviction ultimately carried with it the penalty of forfeiture,[6] wherein all ill-gotten wealth amassed by former President Estrada, including the IMA Account and the assets therein, were forfeited in favor of the State.

Former President Estrada was, thereafter, pardoned by former President Gloria Macapagal-Arroyo on 25 October 2007; nonetheless, the said forfeiture remained in force.

Consequently, the Sandiganbayan, in the same case, issued a Resolution dated 24 September 2008 directing the Sheriff of

[6] Resolution dated 24 September 2008 of the Sandiganbayan in Criminal Case No. 26558.

the Sandiganbayan to cause the forfeiture of, among others, the IMA Account, including the WPI shares in favor of the State.

Wellex sought to intervene in Criminal Case No. 26558 and moved for the reconsideration of the above-mentioned Resolution dated 24 September 2008. Wellex argued that the WPI shares should be excluded from the forfeiture order. However, the Sandiganbayan, in a Resolution dated 02 April 2009, denied the said reconsideration sought by Wellex.

By virtue of the foregoing resolutions, respondent Sheriff Edgardo A. Urieta (Urieta) of the Sandiganbayan issued to BDO a Notice to Deliver dated 20 April 2009. BDO delivered to Urieta, among others, the WPI shares, which shares Urieta subsequently scheduled[7] for sale at a public auction on 15 May 2009.

As mentioned above, Wellex filed G.R. No. 187951 to question the inclusion of the WPI shares among the forfeited assets; however, this Court affirmed the inclusion of the WPI shares as part of the assets covered by the forfeiture order.

Subsequently, Wellex filed Civil Case No. 09-399 with the trial court for the recovery of the possession of the WPI shares. In essence, Wellex claims that it is the owner of the WPI Shares, that it fully paid its loan obligation and that it is entitled to the return thereof. Wellex prayed that the trial court issue a temporary restraining order and a writ of preliminary injunction against the Sandiganbayan to enjoin them from selling the WPI shares at a public auction. Wellex alleged that it instituted the case as a third (3rd) party claimant because the Sandiganbayan failed to observe the requirements under Section 16, Rule 39 of the Rules of Court,[8] and that Wellex was left with no recourse but

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[7] Notice of Sale on Execution of Personal Property dated 5 May 2009.

[8] **Sec. 16.** *Proceedings where property claimed by third person.* — If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof

to file an action with a competent court to recover ownership of the WPI shares by virtue of the extinguishment of the obligation through payment.

With the filing of the foregoing case, Urieta and the Sandiganbayan Security and Sheriff Services agreed to maintain *status quo* and to defer the public auction of the WPI shares until the resolution of the case.

Thereafter, Urieta and the Sandiganbayan Security and Sheriff Services, as well as BDO, filed their respective motions to dismiss in Civil Case No. 09-399, which motions were granted by the trial court in its Order dated 9 January 2012. The aforestated order of the trial court directed the dismissal of Civil Case No. 09-399 on the grounds of lack of jurisdiction based on the principle of hierarchy of courts, and failure to state a cause of action.

Wellex moved for the reconsideration of the above-mentioned order dated 9 January 2012, which was, however, denied by the trial court in its Resolution dated 15 January 2014.

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upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose.

Hence, Wellex comes to this Court *via* the instant Petition, on pure questions of law.

Wellex contends that the trial court erred in its ruling dismissing Civil Case No. 09-399 because it can take cognizance of the same by determining the existence of legal and formal requirements for executing on a security, particularly on the WPI shares. Thus, Wellex seeks that this Court set aside the dismissal order and direct the resumption of proceedings.

We clarify.

Before delving into the merits of the Petition, this Court recognizes the crucial need to emphasize that as per the Decision in G.R. 187951, this Court had already declared with absolute finality that the WPI shares were and should rightfully be included among the forfeited assets in favor of the State. Therefore, this matter is beyond cavil. This Court aptly and succinctly ruled "[i]t is beyond doubt that IMA Trust Account No. 101-78056-1 and its assets were traceable to the account adjudged as ill-gotten. As such, the trust account and its assets were indeed within the scope of the forfeiture Order issued by the Sandiganbayan in the plunder case"[9] against former President Estrada.

However, this Court is cognizant of the fact that the issues in this case are, while novel, unambiguous: whether the Sandiganbayan may proceed to sell outright, at public auction, the forfeited WPI shares; and whether the trial court may take cognizance of Civil Case No. 09-399.

To resolve these issues, there is a need to first establish the nature of the WPI shares.

In its final and executory Decision in G.R. No. 187951, this Court had already ruled that:

> There is no dispute that the subject shares of stock were mortgaged by petitioner Wellex as security for its loan. These shares being the subject of a contract that was accessory to the Wellex loan and being

[9] *The Wellex Group, Inc. v. Sandiganbayan*, *supra* note 4 at 65.

an asset of the forfeited IMA Trust Account, the said shares necessarily follow the fate of the trust account and are forfeited as well. However, the forfeiture of the said trust account, together with all its assets and receivables, does not affect the validity of the loan transaction between BDO the creditor and Wellex the debtor. The loan continues to be valid despite the forfeiture by the government of the IMA Trust Account and is considered as an asset.

Consequently, the forfeiture had the effect of subrogating the state to the rights of the trust account as creditor.[10] (Underscoring supplied)

Thus, this Court reiterates that the WPI shares assume the character of a security for a valid and existing loan obligation, which is included in the IMA Account. Stated in simpler terms, one (1) of the assets in the IMA Account is a receivable secured by a chattel mortgage, more particularly the valid and existing loan obligation between BDO and petitioner, secured by the WPI shares.

Consequently, considering that the loan obligation of petitioner is valid and existing, it necessarily follows that BDO, the creditor, or its successor-in-interest, cannot be allowed to unilaterally sell the chattel securing the loan and apply the proceeds thereof as payment, full or partial, to the said loan. This would constitute a clear case of *pactum commissorium*, which is expressly prohibited by Article 2088[11] of the Civil Code.[12]

In line with our holding in *The Wellex Group, Inc. v. Sandiganbayan*,[13] that "the forfeiture had the effect x x x as creditor," the state has stepped into the shoes of the BDO. As this Court has consistently ruled, "[s]ubrogation is the substitution of one person by another with reference to a lawful claim or

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[10] *Id.* at 61.

[11] Article 2088. The creditor cannot appropriate the things given by way of pledge or mortgage or dispose of them. Any stipulation to the contrary is null and void.

[12] *Nakpil v. Intermediate Appellate Court*, G.R. No. 74449, 20 August 1993, 225 SCRA 456, 467.

[13] *Supra* note 4 at 61.

right, so that he who is substituted succeeds to the rights of the other in relation to a debt or claim, including its remedies or securities. x x x It contemplates full substitution such that it places the party subrogated in the shoes of the creditor, and he may use all means that the creditor could employ to enforce payment."[14] Given that the subrogee merely steps into the shoes of the creditor, he acquires no right greater than those of the latter.

Considering that the WPI shares serves as security to an acknowledged valid and existing loan obligation, the subrogee, in this case the State, is obliged to avail of the very same remedies available to the original creditor to collect the loan obligation, which is to first demand from the original debtor to pay the same, and if not paid despite demand, institute either foreclosure proceedings, or the appropriate action for collection before the proper forum. In either case, the debtor will be afforded the opportunity to pay the obligation, or to assert any claim or defense, which the debtor may have against the original creditor. This is the essence of constitutional right to due process. In this case, the action of public respondent in offering for sale, at public auction, the WPI shares would unavoidably trample upon a constitutionally enshrined right.

This Court is well aware that the Sandiganbayan had earlier asserted in Criminal Case No. 26558 that as regards the BDO loan, Wellex is considered a delinquent debtor. However, the pronouncement cannot be an excuse to omit the steps needed to be taken regarding the mortgaged WPI shares. It is a fact that Wellex was not impleaded as a party to the said case, ergo, the effect of the pronouncement cannot be extended to it. It is axiomatic that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by any judgment rendered by the court.[15] Thus, only those who

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[14] *Malayan Insurance Co., Inc. v. Alberto, et al.*, 680 Phil. 813, 829 (2012) citing *Keppel Cebu Shipyard, Inc. v. Pioneer Insurance and Surety Corporation*, 616 Phil. 873, 911 (2009).

[15] *Green Acres Holdings, Inc. v. Cabral*, G.R. No. 175542, 5 June 2013, 697 SCRA 266, 283.

have had their day in court are considered the real parties in interest in an action, and it is they who are bound by the judgment therein and by writs of execution issued pursuant thereto.[16]

Even more important, this Court notes that the subject matter of controversy brought forth by Wellex is purely civil in nature. This involves the third (3rd) party claim of Wellex against the WPI shares *vis-a-vis* the loan obligation *per se*, which should be properly lodged before and heard by the regular trial courts. To the mind of this Court, it is clear that the same does not pertain to the jurisdiction of the Sandiganbayan. Jurisdiction, which is the authority to hear and the right to act in a case, is conferred by the Constitution and by law. Although the Sandiganbayan, a constitutionally-mandated court, is a regular court, it has, nevertheless, only a special or limited jurisdiction.[17]

While this Court has time and again affirmed[18] that the Sandiganbayan has jurisdiction over the civil aspect of criminal cases, as conferred to it by law, the case before the trial court does not involve the civil aspect of Criminal Case No. 26558. The same has nothing to do with the ownership of the IMA Account and/or any of its financial assets, which, as stated above, has been adjudged forfeited in favor of the State. In contrast, the said case is an ordinary civil case entailing the propriety of the actions of a creditor in proceeding against the security for its loan, which necessitates the application of the provisions of the Civil Code, therefore falling under the exclusive jurisdiction of the Regional Trial Courts.[19]

Given that the cause of action of Wellex in Civil Case No. 09-399 partakes of a valid third (3rd) party claim sanctioned by the Rules of Court, affording Wellex the opportunity to assert its claim or defense against its creditor, presently the State, the

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[16] *Id.*

[17] *Garcia, Jr. v. Sandiganbayan*, G.R. No. 114135, 7 October 1994, 237 SCRA 552, 564.

[18] *Proton Pilipinas Corp. v. Republic of the Phils.,* 545 Phil. 521 (2006).

[19] Section 19, Batas Pambansa Blg. 129, as amended.

latter should likewise avail of this avenue to affirm its own claims, as creditor, against the loan and/or mortgage securing the said loan, paving the way to the realization of any of the fruits of plunder. Thus, this Court deems it proper to remand this case to the trial court for further proceedings, where all the civil issues may properly be ventilated.

At this point, this Court commends the trial court for acting cautiously and exercising prudence in applying the principle of hierarchy of courts when it issued its Order dated 9 January 2012 and Resolution dated 15 January 2014. As a consequence of the rulings rendered in this case, that is, that the State, acting through the Sandiganbayan, may not sell the WPI shares outright without first complying with the requirements set by law, the prayer of petitioner for injunctive relief against the Sandiganbayan is now rendered moot and academic. And as previously stated, given the fact that the State has validly substituted BDO as the creditor of Wellex, the cause of action of Wellex against BDO is, likewise, rendered moot and academic.

WHEREFORE, premises considered, **JUDGMENT** is hereby rendered **GRANTING** the instant Petition and **SETTING ASIDE** the Order dated 9 January 2012 and Resolution dated 15 January 2014 of the Regional Trial Court of Makati City, Branch 132 in Civil Case No. 09-399. This case is hereby remanded to the trial court for further proceedings.

SO ORDERED.

Velasco, Jr. (Chairperson), *Reyes,* and *Jardeleza, JJ.,* concur.

Leonen,[*] *J.,* see dissenting opinion.

DISSENTING OPINION

LEONEN, *J.*:

I dissent. Third-party claims involving properties forfeited consequent to a conviction for plunder must be filed before the Sandiganbayan, regardless of the civil nature of such claims.

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[*] Additional Member per Raffle dated 15 February 2016.

Before this court is a Petition for Review on Certiorari[1] assailing the Order[2] dated January 9, 2012 of Branch 139 and the Resolution[3] dated January 15, 2014 of Branch 132, both of the Regional Trial Court of Makati City. On the ground of lack of cause of action, the trial court dismissed petitioner the Wellex Group, Inc.'s Complaint for recovery of possession of 450,000,000 shares of stock in Waterfront Philippines, Inc. (Waterfront shares).[4] The shares of stock were forfeited in favor of the state as a consequence of Former President Joseph Estrada's (Former President Estrada) conviction for plunder.[5]

Equitable-PCI Bank and a certain Jose Velarde (Velarde) entered into an Investment Management Agreement.[6] The bank agreed to manage Velarde's assets, investing them and taking possession of the profits and losses on Velarde's behalf.[7] The agreement likewise allowed the bank to grant loans using the funds under investment management, subject to applicable regulations.[8]

On February 4, 2000, Investment Management Agreement (IMA) Account No. 101-78056-1 was opened under Velarde's name.[9] Apart from the IMA account, Velarde maintained a savings account in Equitable-PCI Bank with account number 0160-62501-5.[10]

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[1] *Rollo*, pp. 42-70.

[2] *Id.* at 82-91. The Order was issued by Presiding Judge Benjamin T. Pozon.

[3] *Id.* at 76-81. The Resolution was penned by Judge Rommel O. Baybay.

[4] *Id.* at 91, Regional Trial Court Order dated January 9, 2012.

[5] *The Wellex Group, Inc. v. Sandiganbayan*, 689 Phil. 44, 60-61 (2012) [Per *J.* Sereno (now *C.J.*), Second Division].

[6] *Rollo*, pp. 779-784.

[7] *Id.* at 779.

[8] *Id.*

[9] *Id.*

[10] *The Wellex Group, Inc. v. Sandiganbayan*, 689 Phil. 44, 58 (2012) [Per *J.* Sereno (now *C.J.*), Second Division], citing the Sandiganbayan

On the same day that Velarde opened his IMA account, the Wellex Group, Inc. loaned ₱500,000,000.00 from Equitable-PCI Bank, payable in six (6) months.[11] As security for the loan, the Wellex Group, Inc. mortgaged 450,000,000 of its Waterfront shares.[12]

On August 2, 2000, a loan extension was granted to the Wellex Group, Inc. and its President, William Gatchalian, mortgaged 300,000,000 of his own Waterfront shares as additional security for the loan.[13]

In the meantime, on April 4, 2001, Former President Estrada was charged with plunder before the Sandiganbayan.[14] The Information was amended on April 18, 2001[15] to add, among others, "Jose Velarde" as one of Former President Estrada's alleged aliases.[16] According to the Amended Information, Former President Estrada allegedly compelled the Government Service Insurance System and the Social Security System to purchase shares of stock from Belle Corporation, resulting in his earning a total of ₱189,700,000.00 in commissions.[17] This amount was allegedly deposited in his "Jose Velarde" accounts in Equitable PCI-Bank.[18]

The accusatory portion of the Amended Information reads:

AMENDED INFORMATION

The undersigned Ombudsman Prosecutor and OIC-Director, EPIB Office of the Ombudsman, hereby accuses former PRESIDENT OF

Decision dated September 12, 2007 in *People v. Estrada*, Criminal Case No. 26558 (*Id.* at 48).

[11] *Rollo*, p. 158, Promissory Note and Chattel Mortgage.

[12] *Id.* at 166, List/Description of Mortgaged Properties.

[13] *Id.* at 786-790.

[14] *Estrada v. Sandiganbayan*, 427 Phil. 820, 839 (2002) [Per *J.* Puno, *En Banc*].

[15] *Id.*

[16] *Id.* at 842.

[17] *Id.* at 844.

[18] *Id.*

THE PHILIPPINES, Joseph Ejercito Estrada a.k.a. 'ASIONG SALONGA' AND ***a.k.a. 'JOSE VELARDE'***, together with Jose 'Jinggoy' Estrada, Charlie 'Atong' Ang, Edward Serapio, Yolanda T. Ricaforte, Alma Alfaro, JOHN DOE a.k.a. Eleuterio Tan OR Eleuterio Ramos Tan or Mr. Uy, Jane Doe a.k.a Delia Rajas, and John DOES & Jane Does, of the crime of Plunder, defined and penalized under R.A. No. 7080, as amended by Sec. 12 of R.A. No. 7659, committed as follows:

> That during the period from June, 1998 to January, 2001, in the Philippines, and within the jurisdiction of this Honorable Court, accused Joseph Ejercito Estrada, THEN A PUBLIC OFFICER, BEING THEN THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, by himself AND/OR in CONNIVANCE/ CONSPIRACY with his co-accused, WHO ARE MEMBERS OF HIS FAMILY, RELATIVES BY AFFINITY OR CONSANGUINITY, BUSINESS ASSOCIATES, SUBORDINATES AND/OR OTHER PERSONS, BY TAKING UNDUE ADVANTAGE OF HIS OFFICIAL POSITION, AUTHORITY, RELATIONSHIP, CONNECTION, OR INFLUENCE, did then and there wilfully, unlawfully and criminally amass, accumulate and acquire BY HIMSELF, DIRECTLY OR INDIRECTLY, ill-gotten wealth in the aggregate amount OR TOTAL VALUE of FOUR BILLION NINETY SEVEN MILLION EIGHT HUNDRED FOUR THOUSAND ONE HUNDRED SEVENTY THREE PESOS AND SEVENTEEN CENTAVOS [₱4,097,804,173.17], more or less, THEREBY UNJUSTLY ENRICHING HIMSELF OR THEMSELVES AT THE EXPENSE AND TO THE DAMAGE OF THE FILIPINO PEOPLE AND THE REPUBLIC OF THE PHILIPPINES, through ANY OR A combination OR A series of overt OR criminal acts, OR SIMILAR SCHEMES OR MEANS, described as follows:
>
> . . . .
>
> (c)by directing, ordering and compelling, FOR HIS PERSONAL GAIN AND BENEFIT, the Government Service Insurance System (GSIS) TO PURCHASE 351,878,000 SHARES OF STOCK, MORE OR LESS, and the Social Security System (SSS), 329,855,000 SHARES OF STOCK MOPE OR LESS, OF THE BELLE CORPORATION . . .; AND BY COLLECTING OR RECEIVING, DIRECTLY OR INDIRECTLY, BY HIMSELF AND/OR IN CONNIVANCE WITH JOHN DOES AND JANE DOES, COMMISSIONS OR PERCENTAGES BY REASON OF SAID PURCHASES OF SHARES OF STOCK IN THE AMOUNT OF ONE HUNDRED EIGHTY NINE MILLION

SEVEN HUNDRED THOUSAND PESOS (₱189,700,000.00) MORE OR LESS, FROM THE BELLE CORPORATION WHICH BECAME PART OF THE DEPOSIT IN THE EQUITABLE-PCI BANK UNDER THE ACCOUNT NAME "JOSE VELARDE";

. . . . . .

CONTRARY TO LAW. [19] (Underscoring in the original, emphasis supplied)

During trial, the prosecution proved Former President Estrada's ownership of the Velarde accounts in Equitable-PCI Bank.[20] As for Former President Estrada, he admitted to signing bank documents as Jose Velarde to fund the Wellex Group, Inc.'s ₱500,000,000.00 loan.[21] Specifically, he admitted to signing as Jose Velarde copies of the Investment Management Agreement as well as a debit-credit instruction to allow the transfer of ₱500,000,000.00 from the savings account to the IMA account.[22]

While the plunder case was still pending resolution, Equitable-PCI Bank merged with Banco de Oro in 2007, with the surviving bank being Banco de Oro.[23]

Through the Decision dated September 12, 2007, the Sandiganbayan convicted Former President Estrada of plunder.[24] The Sandiganbayan ordered the ₱189,000,000.00 deposited in the Velarde accounts, inclusive of interests and income earned, forfeited in favor of government.[25] The dispositive portion of the September 12, 2007 Decision partly provides:

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[19] *Id.* at 842-845.

[20] *The Wellex Group, Inc. v. Sandiganbayan*, 689 Phil. 44, 58 (2012) [Per *J.* Sereno (now *C.J.*), Second Division].

[21] *Id.* at 58-59.

[22] *Id.*

[23] GMA News Online, *SEC approves Banco de Oro, Equitable merger* <http://www.gmanetwork.com/news/story/44145/money/companies/sec-approves-banco-de-oro-equitable-merger> (visited March 21, 2016).

[24] *The Wellex Group, Inc. v. Sandiganbayan*, 689 Phil. 44, 48 (2012) [Per *J.* Sereno (now *C.J.*), Second Division].

[25] *Id.* at 48-49.

Moreover, in accordance with Section 2 of Republic Act No. 7080, as amended by Republic Act No. 7659, the Court hereby declares the forfeiture in favor of the Government of the following:

. . . . . .

(2) The amount of One Hundred Eighty Nine Million Pesos (₱189,000,000.00), inclusive of interests and income earned, deposited in the Jose Velarde account. [26] (Citation omitted)

However, Former President Estrada was pardoned by Former President Gloria Macapagal Arroyo on October 25, 2007.[27] The pardon expressly stipulated that:

The forfeitures imposed by the Sandiganbayan remain in force and in full, including all writs and processes issued by the Sandiganbayan in pursuance hereof, except for the bank account(s) he owned before his tenure as President.[28] (Citation omitted)

Former President Estrada accepted the pardon on October 26, 2007.[29]

With this development, the Sandiganbayan ordered the issuance of a writ of execution to implement parts of the September 12, 2007 Decision not covered by the pardon. The Writ of Execution was issued against Former President Estrada on November 5, 2007.[30]

Former President Estrada moved to quash the Writ of Execution, arguing that the Writ expanded the scope of the properties ordered forfeited.[31] The Office of the Special Prosecutor opposed the Motion to Quash and asserted that the Writ of

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[26] *Id.*

[27] *Id.* at 49.

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *Id.* at 50.

Execution did not vary the terms of the September 12, 2007 Decision.[32]

In the Resolution dated January 28, 2008, the Sandiganbayan partially granted the Motion to Quash. It qualified the scope of the Writ of Execution to include only those that form part of Former President Estrada's ill-gotten wealth.[33] Thus, the Sandiganbayan issued an Amended Writ of Execution[34] on February 19, 2008, particularly alluding to the Waterfront shares as properties forfeited in favor of government.[35] The Amended Writ of Execution partly provides:

> NOW THEREFORE, you are hereby commanded to cause the forfeiture in favor of the government of the abovementioned amounts and property listed in the said dispositive portion of the decision, including payment in full of your lawful fees for the service of the writ.
>
> In the event that the amounts or property listed for forfeiture in the dispositive portion be insufficient or could no longer be found, you are authorized to issue notices of levy and/or garnishment to any person who is in possession of any and all form of assets that is traceable or form part of the amounts or property which have been ordered forfeited by this Court, including but not limited to the accounts receivables and assets found at Banco de Oro (the successor in interest of Equitable PCI Bank) in the personal IMA Trust Account No. 101-7806-1 in the name of Jose Velarde (which has been adjudged by the Court to be owned by former President Joseph Ejercito Estrada and the depositary of the ill-gotten wealth) consisting of Promissory Notes evidencing the loan of ₱500,000,000.00 with due date as of August 2, 2000 and the chattel mortgage securing the loan; *Waterfront shares aggregating 750,000,000 shares (estimated to be worth ₱652,500,000.00 at the closing price of ₱0.87*

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[32] *Id.*

[33] *Id.* at 51.

[34] *Rollo*, pp. 759-761.

[35] *Id.* at 760.

per share as of January 21, 2008[.][36] (Underscoring in the original, emphasis supplied)

Sheriff Edgardo A. Urieta (Sheriff Urieta) of the Sandiganbayan was commanded to implement the Writ of Execution. In his Sheriff's Progress Report submitted on February 22, 2008, Sheriff Urieta stated that Velarde's IMA account was under the Bureau of Internal Revenue's constructive distraint. Therefore, the bank could not deliver to the Sandiganbayan the assets under the IMA account.[37]

Banco De Oro confirmed Sheriff Urieta's Report.[38] In the Manifestation[39] dated April 18, 2008, Banco de Oro stated that the assets under the IMA account remained intact but were under constructive distraint.[40]

Banco de Oro likewise informed the Sandiganbayan that the Wellex Group, Inc. had earlier requested the retrieval of its Waterfront shares.[41] In its Letter[42] dated January 21, 2008, the Wellex Group, Inc. said that it directly paid the owner of the IMA account, thus extinguishing its loan obligation to the bank.[43] The Letter dated January 21, 2008 partly states:

It appears that interest payments on the loan were made for a certain period but these payments stopped at some point in time. Inquiries resulted in our view that coincident to the stoppage of interest payments, principal payment of the obligation was made by or on behalf of the borrower, not to your bank as investment manager, but instead directly to the owner of the account. THE

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[36] *Id.*

[37] The *Wellex Group, Inc. v. Sandiganbayan*, 689 Phil. 44, 52 (2012) [Per *J.* Sereno (now *C.J.*), Second Division].

[38] *Rollo*, pp. 697-698, Banco de Oro Unibank, Inc.'s Manifestation.

[39] *Id.* at 697-700.

[40] *Id.* at 698.

[41] *Id.* at 699.

[42] *Id.* at 707-708.

[43] *Id.* at 708.

WELLEX GROUP, INC. is presently interested in retrieving the shares given as security for the loan obligation which apparently has been extinguished.[44]

To settle the conflicting claims to the Waterfront shares, the Sandiganbayan scheduled a hearing on May 16, 2008.[45] The Bureau of Internal Revenue, Banco de Oro, and the Wellex Group, Inc. were heard on their respective positions and were thereafter ordered to file their respective memoranda.[46] The Bureau of Internal Revenue filed a Memorandum and Banco de Oro a Submission. However, the Wellex Group, Inc. filed none.[47]

The Sandiganbayan emphasized the Wellex Group, Inc.'s failure to file a memorandum on its claim to the Waterfront shares.[48] The court likewise cited Banco de Oro's Certification that the bank had not yet received any payment from the Wellex Group, Inc. for its ₱500,000,000.00 loan.[49]

With respect to the Bureau of Internal Revenue, the Sandiganbayan acknowledged the validity of the Bureau's claim over the assets under the IMA account.[50] However, it noted

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[44] *Id.*

[45] *Id.* at 495, Sandiganbayan Resolution dated April 25, 2008 in *People v. Estrada*, docketed as Criminal Case No. 26558. The Resolution was signed by Presiding Justice and Chair Diosdado M. Peralta (now Associate Justice of this Court) and Associate Justices Francisco H. Villacruz, Jr. and Rodolfo A. Ponferrada of the Special Division.

[46] *Id.* at 498, Sandiganbayan Order dated May 16, 2008 in *People v. Estrada*, docketed as Criminal Case No. 26588. The Order was issued by Presiding Justice and Chair Diosdado M. Peralta (now Associate Justice of this Court) and Associate Justices Francisco H. Villacruz, Jr. and Rodolfo A. Ponferrada of the Special Division.

[47] *Id.* at 712, Sandiganbayan Resolution dated September 24, 2008 in *People v. Estrada*, docketed as Criminal Case No. 26588.

[48] *Id.*

[49] *Id.*

[50] *Id.* at 713.

that the Bureau had not yet issued a formal assessment to Former President Estrada; hence, the Bureau's claim was not yet final.[51]

The September 12, 2007 Decision, the Sandiganbayan continued, was already final and executory. Thus, the Sandiganbayan ruled that the assets under the IMA account were ripe for forfeitures.[52]

In the Resolution[53] dated September 24, 2008, the Sandiganbayan directed Sheriff Urieta to issue another Notice to Deliver to Banco de Oro for the bank to remit to the court the assets under the IMA account.[54] The Resolution dated September 24, 2008 states, in part:

> As regards the claim of the Wellex Group, Inc., considering the Certification issued by the BDO's Trust and Investment Group managing the subject IMA Account that "they have not received any principal payment on the loan/investment amounting to ₱500,000,000.00 granted/made by said account to the Wellex Group, Inc.," which Certification was not rebutted by Wellex, its alleged claim to the subject IMA Account has no legal basis. Besides, the claim of the government always enjoys the highest priority over the claim of private individuals or entities as regards assets/amounts which have been ordered forfeited in favor of the government and/or distrained for tax liability. This circumstance is apparently realized by Wellex Group, which did not submit a memorandum to support its stand even when it was given by the Court the opportunity to do so.
>
> WHEREFORE, in light of the foregoing, Mr. Edgardo Urieta, SB Chief Judicial Officer, Security and Sheriff Services, this Court, is hereby directed to issue another NOTICE TO DELIVER to Banco de Oro Unibank, Inc. (formerly BDO[-]EPCIB, Inc.) for the latter to deliver/remit to this Court the amount of ONE HUNDRED EIGHTY

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[51] *Id.* at 713-714.

[52] *Id.*

[53] *Id.* at 710-715. The Resolution was signed by Presiding Justice and Chair Diosdado M. Peralta (now Associate Justice of this Court) and Associate Justices Francisco H. Villacruz, Jr. and Rodolfo A. Ponferrada of the Special Division.

[54] *Id.* at 714-715.

NINE MILLION SEVEN HUNDRED THOUSAND (₱189,700,000.00) PESOS, inclusive of interest and income earned, covered by IMA Trust Account No. 101-78056-1 in the name of Jose Velarde, within fifteen (15) days from receipt thereof.

SO ORDERED.[55]

The Wellex Group, Inc. filed a Petition/Motion for Reconsideration[56] praying that the Waterfront shares be excluded from the forfeiture order.[57] The Motion was denied in the Resolution[58] dated April 2, 2009.

On April 20, 2009, Sheriff Urieta issued the Notice to Deliver,[59] with which Banco de Oro complied. Banco de Oro delivered to Sheriff Urieta the assets under the IMA account, including the Waterfront shares.[60]

The Wellex Group, Inc. filed an Urgent *Ex-Parte* Motion for Clarification of the Resolution dated 02 April 2009[61] arguing that the Waterfront shares do not form part of the forfeited IMA account.[62] In the Resolution[63] dated April 23, 2009, the Sandiganbayan merely noted the Urgent *Ex-Parte* Motion without action.

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[55] *Id.*

[56] *Id.* at 717-757.

[57] *Id.* at 755.

[58] *Id.* at 671-680. The Resolution was signed by Associate Justice Francisco H. Villacruz, Jr. (Chair) and Associate Justices Rodolfo A. Ponferrada and Ma. Cristina G. Cortez-Estrada of the Special Division.

[59] *Id.* at 763-764.

[60] *Id.* at 415-416, Banco de Oro Unibank, Inc.'s Comment with Opposition.

[61] *Id.* at 682-688.

[62] *Id.* at 684-686.

[63] *Id.* at 692. The Resolution was signed by Associate Justice Francisco H. Villacruz, Jr. (Chair) and Associate Justices Rodolfo A. Ponferrada and Ma. Cristina G. Cortez-Estrada of the Special Division.

Alleging grave abuse of discretion on the part of Sandiganbayan,[64] the Wellex Group, Inc. filed before this Court a Petition for Certiorari on June 22, 2009.[65] The Wellex Group, Inc. maintained that the Sandiganbayan expanded the scope of its September 12, 2007 Decision when it included the Waterfront shares in the forfeiture order.[66]

The Petition, docketed as G.R. No. 187951, was dismissed by this Court in the Decision dated June 25, 2012.[67] On the premises that (a) the beneficial owner of the forfeited Velarde accounts was Former President Estrada;[68] (b) that the ₱500,000,000.00 loaned to the Wellex Group, Inc. came from the Velarde IMA account;[69] and that (c) the Wellex Group, Inc. mortgaged 450,000,000.00 of its Waterfront shares as security for the loan,[70] this Court held in *The Wellex Group, Inc. v. Sandiganbayan*[71] that the Waterfront shares were among Former President Estrada's assets, which were forfeited in favor of government.[72]

Since the loan was sourced from Former President Estrada's IMA account, this Court held that the ₱500,000,000.00 receivable from the Wellex Group, Inc. as well as the 450,000,000 Waterfront shares became assets of the IMA account.[73] Considering that the IMA account was forfeited in favor of

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[64] *Id.* at 190-191, Petition for *Certiorari* in G.R. No. 187951.

[65] *Id.* at 173.

[66] The *Wellex Group, Inc. v. Sandiganbayan*, 689 Phil. 44, 48 (2012) [Per *J.* Sereno, Second Division].

[67] *Id.*

[68] *Id.* at 57 and 64.

[69] *Id.* at 58.

[70] *Id.* at 60.

[71] 689 Phil. 44 (2012) [Per *J.* Sereno (now *C.J.*, Second Division].

[72] *Id.* at 60-65.

[73] *Id.* at 60.

government, the assets of the IMA account "follow the fate of the trust account and are forfeited as well."[74]

However, this Court stated that the loan contract remained valid, thus subrogating the government to the rights of the IMA account over its assets, including the Waterfront shares.[75] This Court further noted that the Wellex Group, Inc. waived its right to assail this finding of fact before the Sandiganbayan when it failed to file a memorandum as required during the May 16, 2008 hearing.[76]

According to this Court, the Wellex Group, Inc. failed to prove its claim that it had directly paid its loan.[77] This Court likewise observed that the Wellex Group, Inc. never revealed the identity of its alleged principal or creditor to whom it paid the ₱500,000,000.00.[78] Thus, its claim of payment remained "highly doubtful."[79]

The Decision in *The Wellex Group, Inc. v. Sandiganbayan* became final and executory.

Meanwhile, on May 6, 2009 — one month before the Wellex Group, Inc. filed its Petition for Certiorari before this Court on June 22, 2009 — the Wellex Group, Inc. filed before the Regional Trial Court of Makati a Complaint [80] for Recovery of Possession, Delivery of Stock Certificates, and Injunction with Application for Temporary Restraining Order and or Writ of Preliminary Injunction. Hence, the Wellex Group, Inc. filed before this Court a separate civil action *in addition* to the Complaint filed before the Regional Trial Court of Makati.

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[74] *Id.* at 61.

[75] *Id.*

[76] *Id.* at 62.

[77] *Id.* at 61-62.

[78] *Id.* at 61.

[79] *Id.*

[80] *Rollo*, pp. 247-263.

Impleaded as defendants in the Complaint for recovery of possession were Sheriff Urieta, the Sandiganbayan Security and Sheriff Services, and Banco de Oro.[81] The Wellex Group, Inc. made the following allegations in its Complaint:

> 12. [The Wellex Group, Inc.] learned that the principal of the IMA Account is Mr. Jaime Dichaves. To avoid being defaulted in its loan obligations, [The Wellex Group, Inc.] dealt directly with the principal and eventually settled its loan obligations.
>
> 13. Having settled its loan obligations, [The Wellex Group, Inc.] made demands upon defendant [Banco de Oro] to return the subject stock certificates, but the latter unjustifiably failed to comply with plaintiff's just and valid demands. The last of such demands was evidenced by the demand letter made by [The Wellex Group, Inc.'s] counsel to [Banco de Oro] dated 05 November 2008. . . .
>
> 14. Instead, on 22 April 2009, without the authority and consent of [The Wellex Group, Inc.], defendant [Banco de Oro] delivered to and defendant Sheriff Urieta took possession and control of the subject stock certificates and shares of stocks. Worse, likewise without the authority and consent of [The Wellex Group, Inc.], defendant Sheriff Urieta is now poised to sell the subject shares of stocks at public auction on 15 May 2009 at 10 o'clock in the morning. . . .
>
> 15. On the face of the Sheriff's Report and the Notice of Sale, the seizure and intended sale of the subject shares of stocks are anchored on the Amended Writ of Execution dated 19 February 2008 (hereinafter the "Amended Writ") and the Resolution dated 02 April 2009 (hereinafter the "subject Resolution") issued in Criminal Case No. 26558. But the same is misleading.
>
> 15.1 The Amended Writ merely gave authority to defendant Sheriff Urieta to issue a notice of levy on the subject shares of stocks, not to take possession and control much less to sell the same at public auction. . . .
>
> 15.2 Assuming *ex gratia argumenti* that the Amended Writ authorized defendant Sheriff Urieta to take possession and control of the subject stock certificates and shares of stock, the same is patently null and void and, hence, of no effect because:

[81] *Id.* at 247.

15.2.1 The Sandiganbayan Decision dated 12 September 2007, which the Amended Writ was supposed to implement, never authorized anyone to take possession and control of the subject shares of stock much less to sell the same. Hence, the Amended Writ varied the terms of the 12 September 2007 Sandiganbayan Decision. . . .

15.2.2 Notably, it was issued in Criminal Case No. 26558 **despite the absence of plaintiff who is an indispensable party with respect to the subject shares of stocks.** Hence, it was issued in violation of plaintiff's right to due process.

15.3 The subject Resolution merely authorized the issuance of another Notice to Deliver to defendant BDO for the delivery to the Sandiganbayan of the amount of PhP189,700,000.00, inclusive of interest and income earned, covered by the IMA Account. **It did not authorize Sheriff Urieta to take control and possession of the subject shares of stocks, much less to sell the same at public auction**. . . .

15.4 The subject shares of stocks have never been foreclosed and, as such, the ownership thereof still pertains to plaintiff. In other words, the subject shares of stocks do not form part of the IMA Account and may not be validly levied upon.

15.5 In fact, the Chattel Mortgage on the subject shares of stocks has already been nullified as a result of the settlement of [The Wellex Group, Inc.'s] loan obligations. Hence, there is absolutely no basis to claim that the subject shares of stocks are part of the IMA Account that may properly be subject of execution.

16. Moreover, defendant Sheriff Urieta has also failed to comply with the legal requirements for the sale of the subject shares of stocks at public auction. As such, any sale of the same is a nullity.

17. Defendant [Banco de Oro] acted in bad faith and in breach of its obligations in delivering the subject stock certificates to defendant Sheriff Urieta, since the subject shares of stocks are registered in the name of [The Wellex Group, Inc.], coupled with the fact that [The Wellex Group, Inc.] was never declared in default and the subject stock certificates have never been foreclosed. In the event that the subject shares of stock may no longer be recovered by [The Wellex Group, Inc.], defendant [Banco de Oro] should be held liable

to [The Wellex Group, Inc.] for the value of the subject shares of stocks.[82] (Emphasis in the original)

The application for temporary restraining order was heard on May 12, 2009.[83] During the hearing, Sheriff Urieta agreed to postpone the public sale scheduled on May 15, 2009 until the trial court resolved whether or not to grant the provisional remedies prayed for by the Wellex Group, Inc.[84]

On May 18, 2009, Banco de Oro filed a Motion to Dismiss/ Opposition to the Application for a Writ of Preliminary Injunction[85] based on four (4) grounds. First, the principle of hierarchy of courts allegedly barred the Regional Trial Court of Makati City from restraining the Sandiganbayan, a superior court, from implementing its September 12, 2007 Plunder Decision.[86] Second, the Wellex Group, Inc. allegedly committed forum shopping by filing a case that raised the issue of ownership of the Waterfront shares, an issue that had been earlier raised before the Sandiganbayan.[87] Third, *litis pendentia* barred the Complaint for recovery of possession because the Sandiganbayan still had to implement the Writ of Execution in the plunder case.[88] Lastly, the Complaint allegedly failed to state a cause of action against Banco de Oro because the bank had already delivered to the Sandiganbayan the possession of the Waterfront shares.[89]

For their part, Sheriff Urieta and the Sandiganbayan Security and Sheriff Services filed their Motion to Dismiss[90] on June

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[82] *Id.* at 250-254.

[83] *Id.* at 328-330, Regional Trial Court Order dated May 12, 2009. The Order was issued by Judge Marisa Macaraig-Guillen of Branch 60 of the Regional Trial Court of Makati City.

[84] *Id.* at 328.

[85] *Id.* at 264-304.

[86] *Id.* at 266-277.

[87] *Id.* at 277-286.

[88] *Id.* at 286-289.

[89] *Id.* at 289-301.

[90] *Id.* at 305-325.

15, 2009, arguing lack of jurisdiction on the part of the trial court.

In opposition[91] to the Motions to Dismiss, the Wellex Group, Inc. argued that the Complaint filed was for injunction and recovery of possession, actions that are well within the Regional Trial Court's jurisdiction.[92] It added that the Sandiganbayan could not have passed upon with finality the issue of who retains title to the Waterfront shares because the Sandiganbayan is a court of limited jurisdiction, and the Wellex Group, Inc. was not a party to Former President Estrada's plunder case.[93]

Resolving the Motion to Dismiss, the trial court agreed with Banco de Oro and Sheriff Urieta that it had no jurisdiction over the subject matter of the Wellex Group, Inc.'s Complaint.[94] It yielded to the authority of the Sandiganbayan, stating that the anti-graft court had already passed upon the subject matter of the Wellex Group, Inc.'s Complaint as well as the ultimate relief sought.[95] The trial court refused to enjoin the public sale of the Waterfront shares for it would "result in the review of the findings of the Sandiganbayan in the [plunder] case,"[96] "amount[ing] to an indirect circumvention of the prohibition against interference by a non-superior court."[97]

The trial court likewise ruled that the Wellex Group, Inc. had no cause of action against Banco de Oro.[98] It held that Banco de Oro correctly delivered the Waterfront shares to the Sandiganbayan under "the lawful order and process of the Sandiganbayan in the [plunder] case."[99]

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[91] *Id.* at 585-599.

[92] *Id.* at 587-590.

[93] *Id.* at 590-594.

[94] *Id.* at 90, Regional Trial Court Order dated January 9, 2012.

[95] *Id.*

[96] *Id.*

[97] *Id.*

[98] *Id.* at 91.

[99] *Id.*

Declaring the application for issuance of temporary restraining order and writ of preliminary injunction moot and academic, Branch 139 of the Regional Trial Court, Makati City dismissed the Complaint in the Order dated January 9, 2012.[100] The dispositive portion of the January 9, 2012 Order reads:

> **WHEREFORE**, premises considered, the separate ***Motions to Dismiss*** filed by defendant [Banco de Oro] and by the public defendants are hereby **GRANTED** for being meritorious. The plaintiff's complaint is hereby **DISMISSED** for lack of cause of action.
>
> Consequently, the plaintiff's ***Application for Issuance of TRO and/or Writ of Preliminary Injunction*** is hereby **DENIED** for lack of jurisdiction and for being **MOOT** and **ACADEMIC**.
>
> SO ORDERED.[101] (Emphasis in the original)

On February 10, 2012, the Wellex Group, Inc. moved for reconsideration.[102] It emphasized that it was not a party to the plunder case; thus, the Sandiganbayan could not have validly adjudicated with finality the issue of ownership of the Waterfront shares.[103] As a third-party claimant, the Wellex Group, Inc. argued that it had a cause of action for recovery of possession[104] — an action under the Regional Trial Court's jurisdiction.[105]

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[100] *Id.*

[101] *Id.*

[102] *Id.* at 92-114.

[103] *Id.* at 95-103.

[104] *Id.* at 104-111.

[105] Batas Blg. 129 (1981), Sec. 19 (2), as amended by Rep. Act No. 7691 (1994), Sec. 1, provides:

> SEC. 19. *Jurisdiction in civil cases*. — Regional Trial Courts shall exercise exclusive original jurisdiction:
>
> . . . .
>
> 2. In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (₱20,000.00) or for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (₱50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts[.]

On April 5, 2013, the Wellex Group, Inc. moved for the voluntary inhibition of Presiding Judge Benjamin T. Pozon (Judge Pozon).[106] According to the Wellex Group, Inc., it lost confidence in Judge Pozon's ability to impartially decide the case considering the long period that the Motion for Reconsideration remained unresolved.[107] Banco de Oro opposed the Motion for Voluntary Inhibition.[108]

Nevertheless, in the Order[109] dated June 5, 2013, Judge Pozon granted the Motion and inhibited from hearing the case "to maintain the public confidence in the Courts and in [o]rder to preserve its integrity."[110]

From Branch 139 of the Regional Trial Court of Makati City, the case was re-raffled to Branch 132 presided by Judge Rommel O. Baybay.[111] In the Order[112] dated August 16, 2013, the trial court deemed the Motion for Reconsideration submitted for resolution.

Still, the trial court refused to proceed with the Complaint for recovery of possession in deference to the authority of the Sandiganbayan.[113] The trial court denied the Motion for Reconsideration in the Resolution[114] dated January 15, 2014.

On February 20, 2014, the Wellex Group, Inc. directly filed before this Court a Motion for Extension of Time[115] to File

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[106] *Rollo*, pp. 917-925, Motion for Voluntary Inhibition.

[107] *Id.* at 918.

[108] *Id.* at 927-935, Opposition [Re: Motion for Voluntary Inhibition dated 05 April 2013].

[109] *Id.* at 938-939.

[110] *Id.* at 939.

[111] *Id.* at 941, Regional Trial Court Order dated August 16, 2013.

[112] *Id.*

[113] *Id.* at 14, Regional Trial Court Resolution dated January 15, 2014.

[114] *Id.* at 9-15.

[115] *Id.* at 3-6.

Petition for Review on Certiorari, impleading Sheriff Urieta, the Sandiganbayan Security and Sheriff Services, and Banco de Oro as respondents.[116] With leave of court,[117] Banco de Oro filed a Motion to Dismiss and Opposition *Ad Cautelam*[118] arguing that this Court may not take cognizance of the Petition because it necessarily raises questions of fact.[119]

This Court granted the Motion for Extension of Time to File Petition for Review on Certiorari[120] and noted the Motion to Dismiss and Opposition *Ad Cautelam*.[121] The Wellex Group, Inc. eventually filed its Petition for Review on Certiorari, on which Banco de Oro commented.[122] Sheriff Urieta and the Sandiganbayan Security and Sheriff Services, through the Office of the Solicitor General, subsequently manifested to this Court that they were adopting Banco de Oro's Comment as their Comment.[123]

In its Petition for Review on Certiorari, the Wellex Group, Inc. maintains that the Regional Trial Court of Makati City had jurisdiction over its Complaint for recovery of possession.[124] Considering that it is not a party to the plunder case, the Wellex Group, Inc. insists that it is a third-party claimant whose title to the Waterfront shares could not have been adjudicated with finality by the Sandiganbayan.[125] It further argues that it properly

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[116] *Id.* at 3.

[117] *Id.* at 28-31, Motion for Leave to File and Admit Motion to Dismiss and Opposition *Ad Cautelam*.

[118] *Id.* at 32-37.

[119] *Id.* at 33-35.

[120] *Id.* at 26, Supreme Court Resolution dated March 12, 2014.

[121] *Id.* at 39, Supreme Court Resolution dated June 2, 2014.

[122] *Id.* at 401-491, Banco de Oro Unibank, Inc.'s Comment with Opposition.

[123] Sheriff Edgardo A. Urieta, *et al.*'s Manifestation and Motion dated November 17, 2014, p. 1.

[124] *Rollo*, pp. 55-58, Petition for Review on *Certiorari.*

[125] *Id.* at 58-65.

availed itself of a reivindicatory action before the regular courts to recover the possession of the Waterfront shares.[126]

In its Comment,[127] Banco de Oro prays for the summary dismissal of the Petition for Review on Certiorari.[128] According to Banco de Oro, the Petition for Review on Certiorari requires re-litigating the issue of whether the Wellex Group, Inc. had already paid its loan obligation, a matter already resolved in the negative by the Sandiganbayan in its September 12, 2007 Decision. This issue, Banco de Oro argues, is a factual issue that this Court cannot pass upon when resolving a petition for review on certiorari.[129]

On the issue of jurisdiction, Banco de Oro contends that the trial court correctly dismissed the Complaint for recovery of possession in deference to the authority of the Sandiganbayan. Banco de Oro maintains that resolving the Complaint for recovery of possession would require a review of the findings of the Sandiganbayan in its September 12, 2007 Decision, specifically, that Former President Estrada owned the forfeited IMA account, and that the Waterfront shares were among the IMA account's assets. Banco de Oro argues that had the trial court taken cognizance of the Complaint, it would have interfered with the execution of the Sandiganbayan's Decision in the plunder case.[130]

Banco de Oro adds that the Wellex Group, Inc. committed forum shopping by filing its Complaint for recovery of possession before the Regional Trial Court of Makati City. It argues that Wellex Group, Inc. earlier filed a third-party claim before the Sandiganbayan when it filed the Petition/Motion for Reconsideration praying for the exclusion of the Waterfront shares from the forfeiture order. This third-party claim

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[126] *Id.*

[127] *Id.* at 401-491.

[128] *Id.* at 488.

[129] *Id.* at 438-449.

[130] *Id.* at 451-463.

incorporated in the Petition/Motion for Reconsideration was denied by the Sandiganbayan in the Resolution dated April 2, 2009. The Wellex Group, Inc. cannot be allowed to re-file a third-party claim, this time before the regular courts.[131]

The issue for this court's resolution is whether the Regional Trial Court of Makati City had jurisdiction to hear, try, and decide petitioner Wellex Group, Inc.'s Complaint for recovery of possession and injunction.

I

According to the ponencia, it is "beyond cavil"[132] that the 450,000,000 Waterfront shares belonged to the IMA account and, therefore, were among the assets forfeited in favor of government pursuant to this Court's Decision in *The Wellex Group, Inc. v. Sandiganbayan.*[133] In addition, the ponencia reiterated that the IMA account acquired the Waterfront shares as security for petitioner's ₱500,000,000.00 loan — a loan that, as this Court likewise found in *The Wellex Group, Inc. v. Sandiganbayan*, was funded by money sourced from the IMA account.[134]

Based on these premises, the ponencia stated that government through the Sandiganbayan cannot "unilaterally"[135] sell the Waterfront shares at public auction without first demanding from petitioner payment for its ₱500,000,000.00 loan.[136] The ponencia said that only upon petitioner's failure to pay despite demand could government either foreclose the chattel mortgage over the Waterfront shares or institute "the appropriate action for collection"[137] against petitioner; otherwise, the government

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[131] *Id.* at 464-483.

[132] *Ponencia*, p. 5.

[133] *Id.*

[134] *Id.* at 6.

[135] *Id.*

[136] *Id.* at 6-7.

[137] *Id.* at 7.

would violate Article 2088[138] of the Civil Code, which prohibits *pactum commissorium*.[139]

On the merits, the ponencia held that the Regional Trial Court of Makati had jurisdiction over petitioner's Complaint because it was "purely civil in nature."[140] The Sandiganbayan, the ponencia said, may not take cognizance of petitioner's third-party claim since the anti-graft court "only [has] a special or limited jurisdiction."[141] As further explained by the ponencia:

> While this Court has time and again affirmed that the Sandiganbayan has jurisdiction over the civil aspect of criminal cases, as conferred to it by law, the case before the trial court does not involve the civil aspect of [the plunder case]. The same has nothing to do with the ownership of the IMA Account and/or any of its financial assets, which, as stated above, has been adjudged forfeited in favor of the State. In contrast, the said case is an ordinary civil case entailing the propriety of the actions of a creditor in proceeding against the security for its loan, which necessitates the application of the provisions of the Civil Code, therefore falling under the exclusive jurisdiction of the Regional Trial Courts.[142] (Citations omitted)

After "commend[ing] the trial court for acting cautiously and exercising prudence in applying the principle of hierarchy of courts[,]"[143] the ponencia nevertheless granted the Petition and remanded the case to the trial court for further proceedings.[144] The dispositive portion of the ponencia reads:

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[138] CIVIL CODE, Art. 2088 provides:

> Article 2088. The creditor cannot appropriate the things given by way of pledge or mortgage, or dispose of them. Any stipulation to the contrary is null and void.

[139] *Ponencia*, pp. 6-7.

[140] *Id.* at 7.

[141] *Id.* at 8.

[142] *Id.*

[143] *Id.*

[144] *Id.* at 8-9.

WHEREFORE, premises considered, **JUDGMENT** is hereby rendered **GRANTING** the instant Petition and **SETTING ASIDE** the Order dated 9 January 2012 and Resolution dated 15 January 2014 of the Regional Trial Court of Makati City, Branch 132 in Civil Case No. 09-399. This case is hereby remanded to the trial court for further proceedings.

SO ORDERED.[145] (Emphasis in the original)

II

I do not agree with the ponencia. The trial court correctly dismissed petitioner's Complaint for recovery of possession. The trial court had no jurisdiction to take cognizance of the Complaint.

Third-party claims are inevitable in proceedings involving forfeiture. To conceal the true nature of a property as unlawfully acquired, a public officer may have transferred to third persons the title to the property. The transferees — whether they are dummies, nominees, agents, subordinates, business associates, or innocent purchasers for value — may challenge the inclusion of their properties under their title and argue that the properties legitimately belong to them.[146]

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[145] *Id.*

[146] *See* Rep. Act No. 7080 (1991), Sec. 1 (d), which provides:

Section 1. Definition of terms. — As used in this Act, the term —

. . . . . .

d) "Ill-gotten wealth" means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;

2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies

Petitioner argues that its Complaint for recovery of possession of the Waterfront shares is in the nature of a third-party claim.[147] Also known as *terceria*, a third-party claim is the remedy available to persons other than the judgment obligor who claim title to or the right to possess the property levied.

Under Rule 39, Section 16 of the Rules of Court, a third-party claim must be filed ***before the court issuing the writ of execution***. The reason is that a court, once it acquires jurisdiction, retains this jurisdiction until it enforces and executes its decision. Consistent with the doctrine of adherence of jurisdiction, Rule 39, Section 16 provides:

SEC. 16. *Proceedings where property claimed by third person.* — If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined ***by the court issuing the writ of execution.*** No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

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or instrumentalities or government-owned or -controlled corporations and their subsidiaries;

4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or

6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

[147] *Rollo*, pp. 58-65, Petition for Review on *Certiorari*.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose. (Emphasis supplied)

Proceeding from these premises, any third-party claim involving property forfeited ***pursuant to a plunder decision*** must be filed before the Sandiganbayan, this despite the fact that third-party claim involves issues of ownership or possession — matters that are considered civil in nature.

Aware that third-party claims involving forfeited properties may involve questions of ownership or possession, the legislature nevertheless vested in the Sandiganbayan jurisdiction over prosecutions for plunder,[148] the penalty for which includes the forfeiture of all the assets of the accused which are found to be ill-gotten.[149] "This is in line with the purpose behind the creation

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[148] Rep. Act No. 7080 (1991), Sec. 3 provides:

Section 3. *Competent Court*. — Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

[149] Rep. Act No. 7080 (1991), Sec. 2, as amended by Rep. Act No. 7659 (1993), Sec. 12, provides:

Sec. 2. *Definition of the Crime of Plunder; Penalties*. — Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt criminal acts as described in Section 1 (d)

of the Sandiganbayan as an anti-graft court — to address the urgent problem of dishonesty in public service."[150] This is precisely why the Sandiganbayan is a court of special jurisdiction: it is primarily a criminal court, but with jurisdiction over certain civil proceedings.

Hence, the argument that a third-party claim is civil in nature and may not be taken cognizance of by the Sandiganbayan is incorrect.[151] Those who claim ownership or possession of properties forfeited by virtue of a plunder decision must intervene in the proceedings before the Sandiganbayan. Not only is this consistent with the doctrine of adherence of jurisdiction; it also prevents splitting of jurisdiction and multiplicity of suits.[152]

It has been settled in *The Wellex Group, Inc. v. Sandiganbayan* that the Waterfront shares form part of the assets forfeited in favor of the state as a consequence of Former President Estrada's conviction for plunder. In the Amended Writ of Execution dated February 19, 2008, the Sandiganbayan in the plunder case categorically ordered the implementing sheriff to:

> issue notices of levy and/or garnishment to any person who is in possession of any and all form of assets that is traceable or form part of the amounts or property which have been ordered forfeited

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hereof in the aggregate amount or total value of at least Fifty million pesos (₱50,000,000.00) shall be guilty of the crime of plunder and shall be punished by *reclusion perpetua* to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

[150] *Maj. Gen. Garcia v. Sandiganbayan*, 499 Phil. 589, 614 (2005) [Per *J.* Tinga, *En Banc*].

[151] See *Maj. Gen. Garcia v. Sandiganbayan*, 499 Phil. 589, 614 (2005) [Per *J.* Tinga, *En Banc*].

[152] See *Presidential Commission on Good Government v. Judge Peña*, 243 Phil. 93, 109 (1988) [Per *C.J.* Teehankee, *En Banc*].

by this court, including but not limited to the accounts receivables and assets found at Banco de Oro . . . consisting of . . . Waterfront shares aggregating ₱750,000,000 shares[.][153]

The court that issued the assailed Writ of Execution was the Sandiganbayan. The Sandiganbayan, not the Regional Trial Court, is the court with jurisdiction to take cognizance of petitioner's third party claim.

Consequently, the Regional Trial Court has no jurisdiction over petitioner's Complaint for recovery of possession of the Waterfront shares.

III

The trial court has no jurisdiction to issue a temporary restraining order or a writ of preliminary injunction against an order of the Sandiganbayan. Corollary to the doctrine of non-interference, which prohibits co-equal courts from interfering with each other's orders or judgments,[154] inferior courts cannot interfere with the orders and judgments of superior courts.

The Regional Trial Court is a lower court as opposed to the Sandiganbayan. Under Section 4[155] of Republic Act No. 7975, the Sandiganbayan exercises "exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts[.]" Section 7[156] of Presidential Decree No. 1606 provides

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[153] *Rollo*, p. 760, Amended Writ of Execution.

[154] See *Foster-Gallego v. Spouses Galang*, 479 Phil. 148, 165-166 (2004) [Per *J.* Carpio, First Division].

[155] Rep. Act No. 7975 (1995), Sec. 4, as amended by Rep. Act No. 8249 (1997), Sec. 4. provides:

SEC. 4. Jurisdiction. . . .

. . . . . .

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

[156] Pres. Decree No. 1606 (1978), Sec. 7, as amended by Rep. Act No. 7975 (1995), Sec. 3, and Rep. Act No. 8249 (1997), Sec. 5, provides:

that the "[d]ecisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court[.]"

Since the Sandiganbayan is a superior court, the Regional Trial Court has no jurisdiction to issue a temporary restraining order or a writ of injunction against the Sandiganbayan's orders and decisions. Applied to this case, the Regional Trial Court of Makati City had no jurisdiction to issue a temporary restraining order or a writ of preliminary injunction to prevent the sale of properties forfeited by virtue of Former President Estrada's conviction for plunder.

IV

Apart from lack of jurisdiction, the trial court correctly dismissed petitioner's Complaint on the ground of forum shopping.

As pointed out by Banco de Oro, petitioner had earlier intervened in the proceedings before the Sandiganbayan.[157] Petitioner first assailed the inclusion of the Waterfront shares in the forfeiture order in the Petition/Motion for Reconsideration dated October 11, 2008,[158] which the Sandiganbayan denied in the Resolution dated April 2, 2009.

The second time petitioner intervened was when it filed before the Sandiganbayan the Urgent *Ex-Parte* Motion for Clarification of the Resolution dated 02 April 2009. Petitioner maintained that the Waterfront shares were not assets of the Velarde IMA account, thus:

SEC. 7. *Form, Finality and Enforcement of Decisions*. . . .

. . . . . .

Decisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court by petition for review on *certiorari* raising pure questions of law in accordance with Rule 45 of the Rules of Court. Whenever, in any case decided by the Sandiganbayan, the penalty of *reclusion perpetua*, life imprisonment or death is imposed, the decision shall be appealable to the Supreme Court in the manner prescribed in the Rules of Court.

[157] *Rollo*, pp. 464-467, Banco de Oro Unibank, Inc.'s Comment with Opposition.

[158] *Id.* at 756, Petition/Motion for Reconsideration.

4. [The Wellex Group, Inc.] would like to seek clarification on the following points:

. . . . . .

c. Furthermore, it is significant to note that the 450 Million Waterfront Philippines (WPI) Shares of Stock (Initial Collateral) and the 300 Million Wellex (WIN) Shares of Stocks (Additional Collateral) are **NOT assets** of the IMA Trust Account since such shares merely served as **collateral/ accessory** to the Promissory Note & Chattel Mortgage for Php500 Million. In computing the Investment portfolio of the IMA Account, the value of the collaterals SHOULD NOT have been included as they are mere securities to the loan obligation. To compute the value of the PhP500 Million PN together with the value of the collaterals would be tantamount to doubling the amount of the loan obligation. That being the case, how should the WPI and WIN shares be treated?

d. Assuming without conceding that the aforesaid shares are subject of forfeiture pursuant to the 02 April 2009 Resolution, just the same the State may not directly go against the things mortgaged such as in the present case. It is well settled that if the debtor fails to comply with an obligation, the creditor is merely entitled to move for the sale of the thing mortgaged with the formalities required by law in order to collect the amount of his claim from the proceeds and the prohibition against *pactum commissorium* forbids creditors to automatically appropriate the pledged or mortgaged properties. In which case, how would the State proceed with the shares of WPI and WIN?[159] (Emphasis in the original)

Petitioner made the same contention in its Complaint for recovery of possession before the Regional Trial Court of Makati:

15.4. The [Waterfront shares of stock] have never been foreclosed and, as such, the ownership thereof still pertains to plaintiff. In other words, ***the subject shares do not form part of the IMA Account and may not be validly levied upon.***[160] (Emphasis supplied)

[159] *Id.* at 684-686, Urgent *Ex-Parte* Motion for Clarification of the Resolution dated 02 April 2009.

[160] *Id.* at 253, Complaint.

From the foregoing, petitioner raised before the Regional Trial Court of Makati City and the Sandiganbayan the same issue of whether the Waterfront shares formed part of the IMA account forfeited in favor of the state.

This is clearly forum shopping. Petitioner "repetitively avail[ed] [itself] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court."[161]

Moreover, petitioner committed *willful and deliberate* forum shopping. Petitioner falsely declared in the Certification against Forum Shopping attached to its Complaint for recovery of possession that "[it] has not . . . commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency."[162] It did not state in the Certification against Forum Shopping that it had earlier filed a claim before the Sandiganbayan involving the same issue of ownership of the Waterfront shares.

Under Rule 7, Section 5 of the Rules of Court, forum shopping is a ground for dismissal of a complaint.[163] The trial court correctly dismissed petitioner's Complaint for recovery of possession.

V

Lastly, selling the Waterfront shares at public auction would not amount to a circumvention of the prohibition on *pactum commissorium.*

A *pactum commissorium* is a stipulation in a deed of mortgage, allowing the creditor to *automatically* appropriate or dispose of the property mortgaged in case the debtor fails to comply

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[161] *Asia United Bank, et al. v. Goodland Company, Inc.*, 660 Phil. 504, 514 (2011) [Per *J.* Del Castillo, First Division].

[162] *Rollo*, p. 261, Complaint.

[163] See *Maj. Gen. Garcia v. Sandiganbayan*, 499 Phil. 589, 621-622 (2005) [Per *J.* Tinga, *En Banc*].

with his or her obligation under the principal contract. It is prohibited under Article 2088[164] of the Civil Code and is null and void.

Here, there was no automatic appropriation of the property mortgaged. When the IMA account and all of its assets were declared forfeited, this Court in *The Wellex Group, Inc. v. Sandiganbayan* recognized the validity of the loan agreement between petitioner and Banco de Oro, in effect recognizing petitioner's title to the Waterfront shares it mortgaged to Banco de Oro.

However, petitioner's ₱500,000,000.00 loan remained unpaid. Even before the forfeiture of the assets of the IMA account, petitioner had defaulted in its loan obligation to Banco de Oro. Banco de Oro served several demand letters[165] on petitioner, regardless of the stipulation in the Promissory Note and Chattel Mortgage that the amount payable shall "become immediately due and payable without demand or notice"[166] in case petitioner fails to pay the loaned amount. Petitioner ignored all these demand letters.

That petitioner already paid the loan to Jaime Dichaves, the alleged principal of the IMA account, is not supported by the record. It is also immaterial. In order to extinguish an obligation, "[p]ayment [must] be made to the person in whose favor the obligation has been constituted, or his successor in interest, or any person authorized to receive [payment]."[167] Jaime Dichaves is none of these, for as this Court ruled in *The Wellex Group, Inc. v. Sandiganbayan*, Former President Estrada is the principal of the Velarde IMA account.

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[164] CIVIL CODE, Art. 2088 provides:

Article 2088. The creditor cannot appropriate the things given by way of pledge or mortgage, or dispose of them. Any stipulation to the contrary is null and void.

[165] *Rollo*, pp. 767-768, 770-771, and 773-774.

[166] *Id.* at 159, Promissory Note and Chattel Mortgage.

[167] CIVIL CODE, Art. 1240.

Even if payment may be made to a third person, the payment must redound to the benefit of the creditor in order to extinguish the obligation.[168] It has not been shown that Banco de Oro was benefited in any way when petitioner allegedly paid the loan to Jaime Dichaves.

Having subrogated Banco de Oro in its rights as petitioner's creditor, the state acquired the right to foreclose the property and sell the Waterfront shares at public auction. The state did not acquire the title to the Waterfront shares and is only selling the Waterfront shares at public auction as a necessary consequence of the forfeiture of the IMA account and its assets.

The proper remedy of petitioner is to pay its loan to the state. Only then would it be entitled to the possession of the Waterfront shares.

ACCORDINGLY, the Petition for Review on Certiorari must be **DENIED.**

THIRD DIVISION

[G.R. No. 214349. April 20, 2016]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LEO MENDOZA,** *accused-appellant.*

SYLLABUS

1. CRIMINAL LAW; REVISED PENAL CODE; QUALIFIED RAPE; ELEMENTS.— Under Article 266-A paragraph 1 of the Revised Penal Code, rape is committed by a man who shall have carnal knowledge of a woman under any of the following

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[168] CIVIL CODE, Art. 1241.

circumstances: "a) Through force, threat, or intimidation; b) When the offended party is deprived of reason or otherwise unconscious; c) By means of fraudulent machination or grave abuse of authority; and d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present." If committed by a grandfather against his granddaughter under eighteen (18) years of age, the rape is qualified pursuant to Article 266-B of the same Code x x x. "[T]he elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) [done] by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; and (5) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim."

2. ID.; ID.; RAPE; CARNAL KNOWLEDGE; PROVEN BY PROOF OF THE ENTRY OR INTRODUCTION OF THE MALE ORGAN INTO THE FEMALE ORGAN.— Carnal knowledge is proven by proof of the entry or introduction of the male organ into the female organ; the touching or entry of the penis into the labia majora or the labia minora of the pudendum of the victim's genitalia constitutes consummated rape. The alleged act of forced coitus is actually a factual matter wherein the determination of guilt or innocence of the accused largely depends on the victim's testimony considering the intrinsic nature of the crime in which only two persons are normally involved. In this case, the presence of the aforesaid element was proven by the prosecution particularly when AAA gave a vivid account of her ordeal during her direct examination x x x.

3. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; THE COURT ACCORDS FULL WEIGHT AND CREDIT TO THE TESTIMONY OF A RAPE VICTIM, MORE SO, IF SHE IS A CHILD-VICTIM FOR YOUTH AND IMMATURITY ARE BADGES OF TRUTH AND SINCERITY.— It can be gleaned from the x x x excerpts the credibility and believability of AAA's claim of sexual assault. She rendered a clear, coherent and convincing narration of the rape incident and positively identified the appellant as the perpetrator of the crime. As a rule, the Court accords full

weight and credit to the testimony of a rape victim, more so, if she were a child-victim for youth and immaturity are badges of truth and sincerity. AAA, a girl of tender years, would not accuse her own grandfather of a crime so serious as rape nor would she allow herself and her family to endure the social scourge and the psychological stigma of rape if her accusation is false or fabricated. Human reason dictates that a rape victim will not come out in the open unless her motive is to obtain justice and to have the felon apprehended and punished.

4. **ID.; ID.; ID.; THE JUDGMENT THEREON BY THE TRIAL COURT IS NOT GENERALLY DISTURBED ON APPEAL, FOR IT IS IN A BETTER POSITION TO DETERMINE THE CREDIBILITY OF WITNESSES HAVING HEARD AND OBSERVED FIRSTHAND THEIR BEHAVIOR AND MANNER OF TESTIFYING DURING TRIAL.—** Basic is the rule that the Court will not interfere with the judgment of the trial court in passing upon the credibility of the witnesses or the veracity of their respective testimonies unless a material fact or circumstance has been overlooked which, if properly considered, would affect the outcome of the case. The trial court is in a better position to determine the credibility of witnesses having heard and observed firsthand their behavior and manner of testifying during trial. The application of the aforesaid rule becomes more stringent in cases where findings of the trial court are sustained by the CA. In the instant case, the Court finds no compelling reason to contradict the factual findings of the lower courts as they do not appear to be unfounded or arbitrary.

5. **CRIMINAL LAW; REVISED PENAL CODE; RAPE; CARNAL KNOWLEDGE; WHEN THE TESTIMONY OF A RAPE VICTIM IS CONSISTENT WITH THE MEDICAL FINDINGS, THERE IS SUFFICIENT BASIS TO CONCLUDE THAT THERE HAS BEEN CARNAL KNOWLEDGE.—** Quite possibly, appellant's genitalia grazed the side or outer lip of AAA's vagina but it did not automatically discount the fact that forced coitus did happen. Significantly, AAA's claim that she was raped was corroborated by the medico-legal finding of Dr. Ogatis who concluded that partially healed laceration on the private part of AAA was brought about by a penetration. When the testimony of a rape victim is consistent

with the medical findings, there is sufficient basis to conclude that there has been carnal knowledge.

6. ID.; ID.; ID.; CAN BE COMMITTED EVEN IN PLACES WHERE PEOPLE CONGREGATE AND EVEN IN THE SAME ROOM WHERE OTHER MEMBERS OF THE FAMILY ARE ALSO SLEEPING.— Time and again, the Court ruled that lust is no respecter of time and place, thus, rape can be committed even in places where people congregate, in parks, along the roadside, within the school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. For this very reason, the Court rejects appellant's claim that the presence of his two (2) sons at the crime scene was a deterrent and indicate the impossibility of his commission of the crime of rape.

7. REMEDIAL LAW; EVIDENCE; DENIAL; MUST BE PROVED WITH STRONG AND CONVINCING EVIDENCE IN ORDER TO PROSPER AS A DEFENSE.— [W]eighed against the positive testimonies of the prosecution witnesses supported by physical evidence consistent with the prosecution's attestation that AAA was raped, the appellant's defense of denial must fail. The defense of denial has been invariably viewed by the Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for rape. In order to prosper, the defense of denial must be proved with strong and convincing evidence and the appellant miserably failed in this regard.

8. CRIMINAL LAW; REVISED PENAL CODE; QUALIFIED RAPE; PENALTY.— [T]he imposable penalty for qualified rape is death. However, in view of the enactment of Republic Act (R.A.) No. 9346, the imposition of the penalty of death is prohibited. In lieu thereof, the penalty of *reclusion perpetua* without eligibility for parole is to be meted on appellant pursuant to Sections 2 and 3 of the same Act. Considering that the lower courts failed to qualify that the penalty of *reclusion perpetua* is without eligibility for parole, this omission should be rectified.

APPEARANCES OF COUNSEL

Office of the Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

PEREZ, *J.*:

On appeal is the June 27, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01048-MIN which affirmed with modification the April 16, 2012 Judgment[2] of the Regional Trial Court (RTC) of Davao City, Branch 12, finding appellant Leo Mendoza guilty beyond reasonable doubt of the crime of rape defined and penalized under Articles 266-A and 266-B of the Revised Penal Code.[3]

The Antecedents

The appellant was charged in an Information[4] dated May 31, 2005, whose accusatory portion reads as follows:

"That on or about December 3, 2004, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, accused LEO MENDOZA, who is the grandfather of complainant-victim [AAA],[5] a nine (9) year old minor, by means of force and

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[1] CA *rollo*, pp. 84-95; penned by CA Associate Justice Pablito A. Perez and concurred in by Associate Justices Romulo V. Borja and Henri Jean Paul B. Inting.

[2] Records pp. 196-220; penned by Judge Pelagio S. Paguican.

[3] With the enactment of Republic Act (R.A.) No. 8353 (The Anti-Rape Law of 1997), Article 335 of Republic Act (R.A.) No. 3815 (The Revised Penal Code) was amended reclassifying in the process the crime of rape as a crime against persons. The Anti-Rape Law of 1997 expanded the definition of rape and incorporated as Articles 266-A, 266-B, 266-C and 266-D in Title Eight under Chapter Three of the Revised Penal Code.

[4] Records, p. 1.

[5] Pursuant to the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, the real name of the rape victim will not be disclosed. Similarly, the personal circumstances of the

intimidation and taking advantage of his moral ascendancy over the herein victim, [AAA], did then and there wilfully, unlawfully and feloniously have carnal knowledge of her, against her will.

CONTRARY TO LAW."

On arraignment, the appellant pleaded not guilty. During the pre-trial conference, the prosecution and the defense stipulated, among others, that: (1) AAA was the granddaughter of the appellant; (2) AAA was nine (9) years old at the time of the alleged incident of rape; (3) AAA was at appellant's house on the day of the incident; and (4) AAA's step-grandmother, YYY, confronted the appellant on December 7, 2004 about the vaginal pain of AAA.

Thereafter, trial on the merits ensued with the prosecution presenting the following witnesses: the victim herself, AAA; her mother, XXX; her step-grandmother, YYY; and the examining physician, Dr. Vita P. Ogatis (Dr. Ogatis).

AAA testified that she was nine years old and that the incident happened at around 1:00 p.m. of December 3, 2004 at the appellant's house. During that time, YYY was at the public market[6] and only AAA and the appellant were left at the house.[7] AAA recounted that while inside the bedroom, the appellant quickly undressed her and mounted her. Using his hand to open AAA's vagina, the appellant inserted his penis into her private part. The forced sexual intercourse caused AAA to cry out in pain but was ordered by the appellant to keep her mouth shut.[8] AAA was also warned by the appellant not to tell anyone about

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victim or any other information tending to establish or compromise the victim's identity, as well as those of her immediate family or household members will be withheld. In this connection, fictitious initials are used to represent them. Here, the rape victim is referred to as AAA; her mother, XXX; and her step-grandmother, YYY.

[6] TSN, January 20, 2006, testimony of AAA, pp. 5-6.

[7] *Id.* at 5; TSN, February 15, 2006, testimony of AAA, p. 5; TSN, February 20, 2006, testimony of YYY, p. 15.

[8] TSN, February 15, 2006, *id.* at 4.

the incident.[9] In spite of the warning, AAA related her misfortune to YYY after the latter noticed that she was sick.[10] When YYY confronted the appellant, he denied having done anything to AAA and even mauled her for lying.[11] On cross-examination, AAA stated that when she was made to hold the appellant's penis, it was soft[12] and that it touched the side of her vagina.[13]

YYY began her testimony by stating, in open court, that she was the live-in partner of the appellant and that XXX, who was residing someplace else, is the daughter of the appellant from his first wife. XXX has a daughter, AAA, who was then living with YYY and the appellant in the latter's house. AAA is, therefore, the granddaughter of the appellant.

YYY narrated that in the morning of December 6, 2004, she saw AAA going back and forth to the comfort room. This prompted her to ask AAA what had happened to her and if she was suffering from stomach ache. AAA disclosed that her vagina was painful and that the appellant had sexual intercourse with her.[14] In the evening of that same day, AAA developed a fever. As AAA still had fever on the following day, December 7, 2004, YYY had her panty removed. Upon closer inspection, YYY observed that AAA's vagina was swollen. YYY confirmed that when she confronted the appellant about AAA's claim of molestation, he got angry, accused AAA of lying and physically hurt the child-victim. Due to her own poor state of health and kidney trouble, it was only in February 2005 that YYY reported the rape incident to the police and had AAA medically examined.[15]

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[9] TSN, February 20, 2006, *id.* at 4.

[10] *Id.* at 5.

[11] *Id.* at 9.

[12] TSN, February 15, 2006, *supra* note 7.

[13] *Id.* at 5-6.

[14] TSN, February 20, 2006, p. 10 of testimony of YYY.

[15] *Id.* at 11-14.

Dr. Ogatis, who was then a resident physician of the Department of Obstetrics and Gynecology at the Davao Medical Center, conducted an anogenital examination on AAA on February 16, 2005. She issued the corresponding medical certificate[16] bearing the following conclusions:

Anogenital Exam

Genitalia	Crescentic hymen. (+) Partial healed laceration at 7 o'clock position of the hymen. Erythematous vulva. Erythematous perihymenal area. (+) Foul smelling, greenish vaginal discharge.
Anus	Good sphincteric tone

Impression

1. Disclosure of Sexual Abuse.
2. Medical Evaluation Revealed: Genital Findings Definitive for Penetrating Injury.

NOTE: Pending laboratory Result.

When called to testify in court for the prosecution, Dr. Ogatis thoroughly explained the contents of the above-stated medical report. According to her, the examination done on AAA was extensive and accurate as she can already see the whole hymenal area and the external genitalia. Dr. Ogatis noted that AAA's entire vulva as well as her perihymenal area, the outer portion of the hymen, were both reddish. She mentioned that the redness of a person's genitalia may be due to a number of factors including trauma. Dr. Ogatis further testified that the presence of partially healed laceration at 7 o'clock position of AAA's hymen was caused by a penetrating injury or penetration. Dr. Ogatis opined that the injury sustained by AAA was consistent with her disclosure of sexual abuse by the appellant. However, she conceded that the foul smelling, greenish vaginal discharge could be attributable to the presence of infection or poor perineal hygiene on the part of the patient.

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[16] Records, p. 7.

During her testimony, XXX confirmed that she is the mother of AAA. According to her, AAA's date of birth is May 12, 1996[17] as shown by the Certificate of Live Birth[18] marked during pre-trial and referred to during trial.

When his turn at the trial came, the appellant testified in his own defense.

Although the appellant acknowledged that AAA was his granddaughter being the child of his daughter, XXX,[19] he denied the accusation against him. The appellant testified that at the time of the alleged rape on December 3, 2004, he and his two sons were playing the guitar at the balcony of his house while AAA was in the living room. He claimed that the rape charge was a mere fabrication and coincided with the fact that his live-in partner, YYY, wanted to separate from him. The appellant insisted that he could have not raped his granddaughter because he loves her. He also argued that his erectile dysfunction raised doubts as to his culpability.

On the basis of the appellant's claim that he was suffering from an erectile dysfunction, the trial court ordered that he be subjected to a medical examination that could have assessed the state of his virility.

Dr. Herbert Calubay (Dr. Calubay), a urologist at Davao Medical Center, conducted a fertility examination on the appellant. His examination revealed that the probability of the appellant having erectile dysfunction was low[20] and that in fact, the appellant had no potency problems and was still capable of erection.[21]

The RTC's Ruling

After trial, the RTC convicted the appellant. The dispositive portion of its judgment states:

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[17] TSN, February 20, 2006, p. 30 of testimony of XXX.

[18] Records, p. 8.

[19] TSN, June 22, 2006, testimony of Leo Mendoza, p. 4.

[20] TSN, March 6, 2007, testimony of Dr. Calubay, p. 11.

[21] *Id.* at 5.

WHEREFORE, Premises Considered, ***JUDGMENT*** is hereby rendered finding Accused guilty beyond reasonable doubt of the crime of rape in Criminal Case No. 57,297-05 as defined and penalized in Article 266-A and 266-B of the Revised Penal Code and the said Accused is hereby sentenced to suffer the penalty of ***Reclusion Perpetua*** and to pay [AAA] the sum of Seventy Five Thousand (₱75,000.00) Pesos in the above-mentioned criminal case as civil indemnity and Fifty Thousand (₱50,000.00) Pesos for the above-mentioned case as moral damage.

Under Article 29 of the Revised Penal Code, the Accused who is detained is hereby entitled to the full credit of his preventive imprisonment, if agreed voluntarily in writing to abide by the rules and regulations imposed upon convicted prisoners.

If he did not agree, he shall be entitled to 4/5 of his preventive imprisonment.

SO ORDERED.[22]

The RTC gave full credence to the testimony of AAA who narrated her painful experience in a clear, convincing and unwavering manner. The trial court reasoned out that AAA would not allow herself to be subjected to a medical examination of her private parts or exposed herself to the humiliation of a rape trial wherein she was accusing her own grandfather of sexual abuse unless she was telling the truth. On the other hand, the RTC rejected appellant's defense of denial. The trial court reiterated the well-settled rule that denial is an inherently weak defense that cannot prevail over the positive testimony of the prosecution witness that the appellant committed the crime. Moreover, the trial court held that the appellant failed to substantiate his claim that he was incapable of erection and that the same was belied by his own testimony that he had sexual contact with YYY at certain intervals.

The CA's Ruling

On appeal, the appellant raised as issue the lack of the element of carnal knowledge to constitute the crime of rape since his alleged "soft or limp penis touched only the *outer* side of the

[22] Records, pp. 219-220.

outer lip of the female organ,"[23] as stated by AAA during her cross-examination. He argued that absent any showing of the slightest penetration of the female organ, there can be no consummated rape.

Finding that the element of carnal knowledge was duly established by the prosecution, the CA affirmed with modification the RTC's judgment of conviction in a Decision[24] the dispositive portion of which reads:

WHEREFORE, the appeal is **DENIED**. The 16 April 2012 Decision of the Regional Trial Court, Branch 12, Davao City, in Criminal Case No. 57,297-05, is **AFFIRMED** with **MODIFICATION** that accused-appellant Leo Mendoza is ordered to pay *AAA* the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱30,000.00 as exemplary damages.

The Issue

In the resolution of November 17, 2014, the Court required the parties to submit their respective supplemental briefs within thirty (30) days from notice. However, both parties manifested that they will no longer file the required briefs as they had already exhaustively and extensively discussed all the matters and issues of this case in the briefs earlier submitted with the CA. Hence, in this appeal, the Court will rule on the lone assignment of error made by the appellant in his brief before the CA, to wit:

THE COURT *A QUO* ERRED WHEN IT CONVICTED APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE CARNAL KNOWLEDGE BEYOND REASONABLE DOUBT.[25]

The Court's Ruling

The appeal is without merit.

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[23] CA *rollo*, p. 27; Appellant's Brief dated October 3, 2012.

[24] *Supra* note 1 at 94.

[25] *Id.* at 87.

Under Article 266-A paragraph 1 of the Revised Penal Code, rape is committed by a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

If committed by a grandfather against his granddaughter under eighteen (18) years of age, the rape is qualified pursuant to Article 266-B of the same Code, to wit:

x x x x x x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x x x x x x x

Based on the foregoing provisions, the elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) [done] by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; and (5) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.[26]

The presence of the qualifying circumstances of minority and the relationship of AAA to appellant, which were both alleged

[26] G.R. No. 208173, *People v. Buclao*, June 11, 2014, 726 SCRA 365, 377.

in the information, were indisputable. The records reveal that from the very beginning, the appellant recognized that AAA is his grandchild and was still a minor at the time the alleged rape transpired. In the course of trial, the prosecution and defense witnesses were in agreement with respect to AAA's minority and that blood relationship exists particularly the ascendancy of appellant over AAA. AAA's minority was further established by the presentation of her Certificate of Live Birth showing that she was just eight-and-a-half [8½] years old when the rape was committed.

Essentially, the only matter left for the Court to determine is whether carnal knowledge took place. Carnal knowledge is proven by proof of the entry or introduction of the male organ into the female organ; the touching or entry of the penis into the labia majora or the labia minora of the pudendum of the victim's genitalia constitutes consummated rape.[27]

The alleged act of forced coitus is actually a factual matter wherein the determination of guilt or innocence of the accused largely depends on the victim's testimony considering the intrinsic nature of the crime in which only two persons are normally involved.[28] In this case, the presence of the aforesaid element was proven by the prosecution particularly when AAA gave a vivid account of her ordeal during her direct examination, viz.:

Q: AAA, you said you are 9 years old. Do you know when were you born?
A: No, sir.

Q: Are you still studying?
A: No, sir.

Q: Have you studied before?
A: Yes, sir.

Q: How far have you gone to school?
A: Grade I.

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[27] G.R. No. 212929, *People v. Galvez*, July 29, 2015.

[28] *People v. Bejic*, 552 Phil. 555, 567 (2007).

Q: Do you know Lolo Leo?
A: Yes, sir.

Q: AAA, do you know this man wearing an orange T-shirt?
A: Yes, sir.

Q: How do you call him?
A: Masoy.

Q: Why do you call him Masoy?
A: He is my mother's father.

Q: Who is this woman beside you?
A: She is my mother.

Q: Where does Masoy live now, still in Malabog?
A: No more.

Q: Where does he sleep now?
A: In jail.

Q: Why is he in jail?
A: Because he touched me.

Q: When was this?
A: December 3, 2004.

Q: What did he do to you?
A: He mounted on me.

Q: When you said "gisakyan", what do you mean by that?
A: "Jer-jer".

Q: What is "jer-jer"?
A: Sexual intercourse (gi-iyot).

Q: Where did this happen?
A: In the house.

x x x x x x x x x

Q: During that time, December 3, 2004, what time, more or less, did this happen?
A: One o'clock.

Q: In the morning, or in the afternoon?
A: Noontime.

Q: Where was your mother at that time?
A: She was at the public market.

Q: What about the other occupants, if there are any, where are they?
A: Some of them were in the barrio.

Q: How did Masoy had sex with you on December 3, 2004?
A: He inserted his penis inside my vagina.

Q: How did you feel when he inserted his penis?
A: I cried.

Q: You allowed Masoy to let his penis enter your vagina?
A: No, sir.

Q: Did you have clothes at that time?
A: Yes, sir.

Q: How did he enter his penis when you had clothes?
A: He undressed me.

Q: What was undressed?
A: Everything.

Q: Were you wearing blouse, t-shirt, pants or skirt?
A: I was wearing t-shirt and short pants.

Q: Where did this happen, inside the house or outside the house?
A: Inside the house.

Q: When you say inside the house, was this inside the bedroom, in the kitchen, or in the living room?
A: Inside the bedroom.

Q: Whose room is that?
A: Masoy and his wife.

Q: Where was the wife of Masoy at that time?
A: She was also in the market.

Q: Why was the wife of Masoy in the market?
A: She bought viand.

COURT:

Q: The wife of Masoy is the mother of your mother?
A: Yes, Your Honor.

x x x x x x x x x

COURT:

Q: Your Lolo Masoy is an old man already?
A: Yes, Your Honor.

Q: Now, when his penis entered your vagina, was it limp or standing?
A: It was limp.

PROS. GARCIA, JR.:

Q: It entered your vagina even his penis was limp?
A: Yes, sir.

Q: Was it easily placed inside, or was it difficult for him to have it entered?
A: It easily entered inside.

COURT:

Q: Why, did he open your vagina?
A: Yes, Your Honor.

Q: What did [he] use?
A: Hand, Your Honor.

x x x x x x x x x

Q: Did you tell this to your Lola or to your Mama?
A: Yes, sir.

Q: Who was the first one to know, your Lola, or your Mama?
A: Lola.

x x x x x x x x x

Q: What did you tell your Lola?
A: I told her: "He touched me, La".

x x x x x x x x x

Q: What did your Lola take that after hearing what you said?
A: She got mad.

Q: Mad at whom, to you, or Masoy?
A: She got mad at Masoy.

Q: What did Lola do to Masoy?
A: She had Masoy incarcerated.

x x x x x x x x x

Q: After your reported to your Lola, what did Masoy do or what was the reaction of Masoy?
A: He mauled me.

Q: Who mauled you?
A: Lolo Masoy.

Q: Why did he do this?
A: Because he is saying that I am telling a lie.

x x x x x x x x x[29]

It can be gleaned from the foregoing excerpts the credibility and believability of AAA's claim of sexual assault. She rendered a clear, coherent and convincing narration of the rape incident and positively identified the appellant as the perpetrator of the crime. As a rule, the Court accords full weight and credit to the testimony of a rape victim,[30] more so, if she were a child-victim for youth and immaturity are badges of truth and sincerity.[31] AAA, a girl of tender years, would not accuse her own grandfather of a crime so serious as rape[32] nor would she allow herself and her family to endure the social scourge and the psychological stigma of rape if her accusation is false or fabricated.[33] Human reason dictates that a rape victim will not come out in the open unless her motive is to obtain justice and to have the felon apprehended and punished.[34]

It bears stressing that the RTC had similar appreciation of AAA's testimony. Basic is the rule that the Court will not interfere with the judgment of the trial court in passing upon the credibility of the witnesses or the veracity of their respective testimonies unless a material fact or circumstance has been overlooked which,

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[29] TSN, January 20, 2006, *supra* note 6 at 3-9.

[30] *People v. Llanas, Jr.,* 636 Phil. 611, 622 (2010).

[31] *People v. Rubio*, 683 Phil. 714, 723 (2012).

[32] *Supra* note 28 at 572.

[33] *People v. Baroy*, 431 Phil. 638, 653 (2002).

[34] *People v. Talavera*, 461 Phil. 883, 891 (2003).

if properly considered, would affect the outcome of the case.[35] The trial court is in a better position to determine the credibility of witnesses having heard and observed firsthand their behavior and manner of testifying during trial.[36] The application of the aforesaid rule becomes more stringent in cases where findings of the trial court are sustained by the CA.[37] In the instant case, the Court finds no compelling reason to contradict the factual findings of the lower courts as they do not appear to be unfounded or arbitrary.

In his futile attempt to exonerate himself from culpability, the appellant mainly interposed the defense of denial and relied on the following testimony of AAA in having this Court believe that there was no penetration:

x x x x x x x x x

Q: Your Lolo is already old?
A: Yes.

Q: Was his penis still erect when he was on top of you?
A: Yes.

Q: And you testified that you were also made to touch the penis of your Lolo?
A: Yes.

Q: But the penis was soft when you touch?
A: Yes.

COURT:

Q: It was not erect?
A: Yes.

Q: If its not erect it did not enter your vagina?
A: Yes.

Q: Up to where?
A: On the side.

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[35] *Supra* note 33.

[36] *People v. Requiz*, 376 Phil. 750, 755 (1999).

[37] *People v. Condes*, 659 Phil. 375, 386 (2011).

Q: On the side of where?
A: On the side of my vagina.

Court: Can you demonstrate. You go inside together with the interpreter and the stenographer you point where exactly the penis of you lolo touch your vagina.

(STENOGRAPHER, INTERPRETER AND THE WITNESS WENT INSIDE THE BATHROOM AND IT WAS POINTED OUT BY THE WITNESS THAT THE PENIS OF HER LOLO WAS JUST OUTSIDE OR THE OUTER LIP OF HER VAGINA. IT DID NOT ENTER HER VAGINA.)[38]

At first glance, it might appear that the statements made by AAA during her cross-examination were conflicting. However, a careful review of the aforequoted testimony discloses that AAA was merely being responsive to questions propounded to her in such fashion which were not necessarily reflective of the sequence of events that led to the rape incident. The description made by AAA that appellant's penis was soft would not suffice to discredit her testimony that she cried out in pain when the penis was forcibly inserted into her vagina. As ruled by this Court in *People v. Ablog*,[39] softness is relative and that softness may not be to such a degree that penetration is impossible. In the same case, the Court declared that it may even be the touching by the victim of the sexual organ of the accused-appellant which transformed its initially soft condition to hardness.

Actually, Dr. Calubay negated the appellant's claim that he was suffering from erectile dysfunction. Dr. Calubay even testified to the contrary concluding that there was no evidence of impotency on the part of the appellant and therefore, he is capable of consummating a sexual act.

Quite possibly, appellant's genitalia grazed the side or outer lip of AAA's vagina but it did not automatically discount the fact that forced coitus did happen. Significantly, AAA's claim that she was raped was corroborated by the medico-legal finding of Dr. Ogatis who concluded that partially healed laceration

[38] TSN, February 15, 2006, *supra* note 7 at 5-6.

[39] *People v. Ablog*, 368 Phil. 526, 534 (1999).

on the private part of AAA was brought about by a penetration. When the testimony of a rape victim is consistent with the medical findings, there is sufficient basis to conclude that there has been carnal knowledge.[40]

Even if the Court concede to the alleged inconsistencies in the testimony of AAA, such discrepancies will not detract from the fact that she categorically identified the appellant as the culprit and recounted in detail the crime of rape committed against her.[41] Considering AAA's background, who at a very young age was no longer going to school, she cannot be expected to answer each and every question thrown at her with precision. The Court ratiocinated in *People v. Manayan* that, "*An error-free testimony cannot be expected from children of tender years, most especially when they are recounting details of harrowing experiences, those that even adults would rather bury in oblivion. To be sure, the testimony of a young rape victim may not be described as flawless; but its substance, veracity and weight are hardly affected by the triviality of her alleged inconsistencies. On the contrary, they may even reinforce her credibility, as they have probably arisen from the naivete of a child, confused and traumatized by the bestial acts done to her person*."[42]

In further support of his defense of denial, the appellant hinted that it was impossible for him to rape AAA because his two (2) sons were also in the house at the time the rape allegedly transpired. Time and again, the Court ruled that lust is no respecter of time and place, thus, rape can be committed even in places where people congregate, in parks, along the roadside, within the school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping.[43] For this very reason, the Court rejects appellant's claim that the presence of his two (2) sons

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[40] *People v. Arpon*, 678 Phil. 752, 776 (2011).

[41] *People v. Manayan*, 420 Phil. 357, 375-376 (2001).

[42] *Id.* at 360. (Italics ours.)

[43] G.R. No. 199096, *People v. Traigo*, June 2, 2014, 724 SCRA 389, 394.

at the crime scene was a deterrent and indicate the impossibility of his commission of the crime of rape. Moreover, the appellant subtly insinuates that the accusation for rape was instigated by his wife who wanted to leave him. On this score, the appellant has shown no solid grounds to prove his insinuation and consequently, it deserves scant consideration.

Therefore, weighed against the positive testimonies of the prosecution witnesses supported by physical evidence consistent with the prosecution's attestation that AAA was raped, the appellant's defense of denial must fail. The defense of denial has been invariably viewed by the Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for rape.[44] In order to prosper, the defense of denial must be proved with strong and convincing evidence[45] and the appellant miserably failed in this regard.

All told, the Court is convinced that the appellant is guilty beyond reasonable doubt of qualified rape.

As previously mentioned, the imposable penalty for qualified rape is death. However, in view of the enactment of Republic Act (R.A.) No. 9346, the imposition of the penalty of death is prohibited. In lieu thereof, the penalty of *reclusion perpetua* without eligibility for parole is to be meted on appellant pursuant to Sections 2 and 3 of the same Act. Considering that the lower courts failed to qualify that the penalty of *reclusion perpetua* is without eligibility for parole, this omission should be rectified.[46]

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[44] G.R. No. 196228, *People v. Besmonte*, June 4, 2014, 725 SCRA 37, 56.

[45] *Id.*

[46] *People v. Subesa*, 676 Phil. 403, 416-417 (2011).

The Court issued a Resolution dated August 4, 2015 in A.M. No. 15-08-02-SC (Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties) wherein Title II of which reads:

II

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

Coming now to appellant's pecuniary liabilities, the Court finds it necessary to modify the amounts of civil indemnity, moral damages and exemplary damages. Prevailing jurisprudence,[47] most notably *People v. Jugueta*,[48] pegs all these at ₱100,000.00 each. As such, the CA's awards of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages are all increased to ₱100,000.00. In addition, all damages awarded shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this judgment until fully paid.[49]

WHEREFORE, the Court **AFFIRMS** the June 27, 2014 Court of Appeals Decision in CA-G.R. CR-HC No. 01048-MIN with **MODIFICATIONS**. Appellant Leo Mendoza is found **GUILTY** beyond reasonable doubt of the crime of Qualified Rape, and sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is ordered to pay the victim AAA the following: (a) ₱100,000.00 as civil indemnity; (b) ₱100,000.00 as moral damages; (c) ₱100,000.00 as exemplary damages; and (d) interest of six percent (6%) *per annum* on all damages awarded from the date of finality of this judgment until fully paid.

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(1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*, it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. [No.] 9346, the qualification of "*without eligibility for parole*" *shall be used* to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

[47] G.R. No. 190348, *People v. Colentava*, February 9, 2015; G.R. No. 208716, *People v. Lumaho*, September 24, 2014, 736 SCRA 542, 555-556.

[48] G.R. No. 202124, 5 April 2016.

[49] G.R. No. 201105, *People v. Hilarion*, November 25, 2013, 710 SCRA 562, 570.

SO ORDERED.

Velasco, Jr. (Chairperson), *Leonardo-de Castro,*[*] *Peralta,* and *Reyes, JJ.,* concur.

THIRD DIVISION

[G.R. No. 216010. April 20, 2016]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JIMMY ULANDAY @ "SAROY",** *accused-appellant.*

SYLLABUS

1. CRIMINAL LAW; REVISED PENAL CODE; RAPE; ELEMENTS.— To be convicted of rape under Article 266-A paragraph 1 of the Revised Penal Code, the requisite elements are: (1) that the offender had carnal knowledge of a woman; and (2) that he accomplished this act through force, threat, or intimidation; when she was deprived of reason or otherwise unconscious; by means of fraudulent machination or grave abuse of authority; or when she was under twelve (12) years of age or was demented.

2. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; A RAPE VICTIM WOULD NOT CHARGE HER ATTACKER AT ALL AND THEREAFTER EXPOSE HERSELF TO THE INEVITABLE STIGMA AND INDIGNITIES HER ACCUSATION WILL ENTAIL UNLESS WHAT SHE ASSERTS IS THE TRUTH FOR IT IS HER NATURAL INSTINCT TO PROTECT HER HONOR.— Both the trial and appellate courts upheld the credibility of XYZ and accorded credence to her testimony.

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[*] Additional Member per Raffle dated March 21, 2016.

As recognized in a long line of cases, a rape victim would not charge her attacker at all and thereafter expose herself to the inevitable stigma and indignities her accusation will entail unless what she asserts is the truth for it is her natural instinct to protect her honor. There is no showing that XYZ was impelled by improper motives to impute to the appellant such a grave and scandalous offense.

3. **ID.; CIVIL PROCEDURE; APPEALS; FACTUAL FINDINGS OF THE TRIAL COURTS ARE GENERALLY GIVEN FULL WEIGHT AND CREDIT ON APPEAL.—** [W]ell-settled is the rule that factual findings of the trial courts are generally given full weight, credit and utmost respect on appeal especially when such findings are supported by substantial evidence on record. Here, XYZ's claim of sexual abuse was corroborated by the medical finding of healed hymenal lacerations. Considering that the trial court did not overlook any material or relevant matter that could have altered the outcome of the case, the Court sees no compelling reason to deviate from the factual findings and conclusions drawn by the courts below.

4. **ID.; EVIDENCE; CREDIBILITY OF WITNESSES; MINOR LAPSES OR INCONSISTENCIES IN THE RAPE VICTIM'S TESTIMONY CANNOT BE A GROUND TO DESTROY HER CREDIBILITY.—** [T]he defense raised XYZ's confusion as to the location of the door through which the appellant dragged her out of the house. Her difficulty in giving the precise location of said door, whether it is located in the living room or kitchen, is a trivial matter and not enough to negate the fact that forced coitus did happen. Victim of rape is not expected to have an accurate or errorless recollection of the traumatic experience that was so humiliating and painful, that she might, in fact, be trying to obliterate it from her memory. For that reason, minor lapses or inconsistencies in the rape victim's testimony cannot be a ground to destroy her credibility or more so, serve as basis for appellant's acquittal.

5. **ID.; ID.; ID.; THERE IS NO TYPICAL REACTION OR NORM OF BEHAVIOR AMONG RAPE VICTIMS; CASE AT BAR.—** [T]he defense x x x questioned XYZ's conduct after the alleged rape incident. In particular, the defense highlighted that XYZ merely went home, slept and failed to immediately report her ordeal to family and the authorities,

and contended that such behavior seemed very unnatural for someone who just went through a harrowing experience. Victims respond differently to trauma and there is no standard form of behavioral response when persons suffer from one. The Court in *People of the Philippines v. Saludo* made this ratiocination, viz: "[n]ot every victim of rape can be expected to act with reason or in conformity with the usual expectations of everyone. The workings of a human mind placed under emotional stress are unpredictable; people react differently. Some may shout, some may faint, while others may be shocked into insensibility. And although the conduct of the victim immediately following the alleged sexual assault is of utmost importance as it tends to establish the truth or falsity of the charge of rape, it is not accurate to say that there is a typical reaction or norm of behavior among rape victims, as not every victim can be expected to act conformably with the usual expectation of mankind and there is no standard behavioral response when one is confronted with a strange or startling experience, each situation being different and dependent on the various circumstances prevailing in each case." It also bears stressing that XYZ received a death threat from the appellant which instilled fear in her mind and logically explained why she did not immediately disclose her misfortune to her family and the authorities.

6. ID.; ID.; ID.; IN RAPE CASES, THE ACCUSED MAY BE CONVICTED ON THE BASIS OF THE SOLE UNCORROBORATED TESTIMONY OF THE VICTIM AS LONG AS SAID TESTIMONY IS CLEAR, POSITIVE AND CONVINCING, AND THE EXPERT TESTIMONY OF THE EXAMINING PHYSICIAN IS MERE CORROBORATIVE IN CHARACTER AND NOT ESSENTIAL TO CONVICTION.— [T]he defense insisted that Dr. Luna's findings that the lacerations in XYZ's hymen were just five (5) days old belied the charge of rape which allegedly happened two (2) months before her examination. x x x The defense focused on Dr. Luna's estimate of five days old laceration completely disregarding the latter portion of her answer wherein she added "**or more",** in reply to the question propounded to her. The OSG was quick to point out in its brief that Dr. Luna's testimony simply means that the old lacerations were committed five (5) days or more prior to

XYZ's examination. As such, the examining physician's declaration was actually consistent and supported XYZ's testimony that she was sexually assaulted on March 11, 2011. In any case, expert testimony like an examining physician is merely corroborative in character and not essential to conviction. In rape cases, the accused may be convicted on the basis of the sole uncorroborated testimony of the victim as long as said testimony is clear, positive and convincing. Here, XYZ's testimony passed the test of credibility and by itself, was sufficient to sustain the appellant's conviction.

7. ID.; ID.; DENIAL; TREATED AS A SELF-SERVING NEGATIVE EVIDENCE WHICH CANNOT BE ACCORDED GREATER EVIDENTIARY WEIGHT THAN THE DECLARATION OF CREDIBLE WITNESSES WHO TESTIFY ON AFFIRMATIVE MATTERS.— [M]ere denial cannot prevail over the positive testimony of a witness. The defense of denial is treated as a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. For it to prosper, denial must be supported by strong and convincing evidence and this, the appellant failed to do in the instant case.

8. CRIMINAL LAW; REVISED PENAL CODE; RAPE WITH THE USE OF A DEADLY WEAPON; PENALTY.— Whenever the crime of rape is committed with the use of a deadly weapon, the penalty shall be *reclusion perpetua* to death as provided under Article 266-B of the Revised Penal Code. The prosecution. was able to sufficiently allege in the information and establish during trial that a knife was used in the commission of rape. Considering that no aggravating or mitigating circumstance attended the commission of the crime, the lesser penalty of *reclusion perpetua* was correctly imposed by the lower courts on the appellant. However, the CA, in its decision, added the qualification that the appellant shall be ineligible for parole pursuant to Section 3 of Republic Act No. 9346. In light of the attendant circumstances in the case at bar, there is no more need to append the phrase "without eligibility for parole" to appellant's prison term in line with the instructions given by the Court in A.M. No. 15-08-02-SC. Therefore, the

dispositive portion of this decision should simply state that appellant is sentenced to suffer the penalty of *reclusion perpetua* without any qualification.

APPEARANCES OF COUNSEL

Office of the Solicitor General for plaintiff appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

PEREZ, *J.*:

For review is the May 23, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05692 which affirmed with modifications the June 28, 2012 Judgment[2] of the Regional Trial Court (RTC), Branch 69, in Lingayen, Pangasinan, finding appellant Jimmy Ulanday guilty beyond reasonable doubt of the crime of rape.

The Antecedents

The appellant was charged in an Information[3] dated June 13, 2011, whose accusatory portion reads as follows:

"That sometime in the evening of March 11, 2011 in Brgy. Tampac, Aguilar, Pangasinan[,] and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, armed with a knife, with force and intimidation, did, then and there willfully, unlawfully and feloniously drag [XYZ][4] to a dark portion at the back portion of their house and thereafter removed her short pants and panty and have sexual intercourse with her, against her will and consent, to her damage and prejudice.

[1] CA *rollo*, pp. 77-90; penned by CA Associate Justice Rebecca De Guia-Salvador and concurred in by Associate Justices Ramon R. Garcia and Edwin D. Sorongon.

[2] Records pp. 81-95; penned by Judge Caridad V. Galvez.

[3] *Id.* at 1.

[4] Pursuant to the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, the real name of the rape

Contrary to Article 266-A, par. [1] (a) of the Revised Penal Code."

A warrant was issued by the Executive Judge and the appellant was arrested on August 17, 2011.[5] When arraigned, the appellant pleaded not guilty to the crime charged. During the pre-trial conference, the prosecution and the defense stipulated on the identity of the parties; the existence of the medico-legal certificate of XYZ dated May 16, 2011 issued by Dr. Maria Gwendolyn Luna (Dr. Luna); and the existence of the certification of the entry in the police blotter of Philippine National Police (PNP), Aguilar Police Station, Pangasinan regarding the rape incident.[6]

Thereafter, trial ensued with the prosecution presenting the following witnesses: XYZ, the victim herself; BBB, half-sister of XYZ; and Dr. Luna, the attending physician at Region I Medical Center, Dagupan City who examined XYZ. On the other hand, only the appellant testified for the defense.

The facts of the case, as summarized by the Office of the Solicitor General (OSG) and adopted by the appellate court, are as follows:

"On the night of 11 March 2011, [XYZ], twenty-four (24) years old, sat beside the living room window near the main door of her family's house. She looked out the window and watched the dance party which was going on outside their house.

Out of nowhere, [appellant], armed with a knife, entered [XYZ's] house, pulled her out and dragged her towards the house of [her] neighbor, [AAA].

Although she does not know [appellant], [XYZ] was able to identify him because she has seen him before playing *tong-its* in the gambling area near [her] house.

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[5] Records, p. 29.

[6] *Id.* at 47.

victim will not be disclosed. Similarly, the personal circumstances of the victim or any other information tending to establish or compromise the victim's identity, as well as those of her immediate family or household members will be withheld. In this connection, fictitious initials are used to represent them. Here, the rape victim is referred to as XYZ; her half-sister, BBB; her neighbour, AAA; and her uncles, CCC and DDD.

[Appellant] brought [XYZ] at the back of [AAA's] house. No one was inside [AAA's] house and it was dark.

Once inside [AAA's] house, [appellant] immediately overpowered [XYZ]. He leaned [XYZ] against the wall and removed her pants and underwear. Thereafter, [appellant] pulled down his zipper. [Appellant] then covered [XYZ's] mouth using his left hand and pointed a knife against her face using his right hand. After, despite their standing position, [appellant] spread [XYZ's] legs, inserted his penis into her vagina and proceeded to rape [her]. During the entire assault, [appellant] poked his knife against [XYZ's] face.

After committing his dastardly act, [appellant] returned [XYZ's] pants and underwear. [XYZ] then went back home and slept.

A few months later, in May, [XYZ] got the courage to tell her mother what happened. After, [XYZ], accompanied by her mother, reported the crime committed against her to the police."[7]

BBB testified that on May 10, 2011, she and XYZ were summoned by CCC, their uncle, to his house. There, and in the presence of several persons namely: XYZ, BBB, CCC and appellant's nephew, Marvin Ulanday (Marvin), the appellant openly admitted that he had sexual intercourse with XYZ.[8] After his confession, the appellant was mauled by the males then present.[9] Thereafter, the appellant went into hiding.[10]

According to BBB, XYZ did not disclose the rape incident to anyone because of fear, having been threatened by the appellant that he will kill her if she did. During BBB's direct examination, the parties agreed to stipulate that XYZ was suffering from a physical disability particularly a limp due to polio.

When called to the witness stand, Dr. Luna attested that she conducted an anogenital examination of XYZ on May 16, 2011. She found XYZ to have had old, healed, deep lacerations in her

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[7] CA *rollo*, pp. 60-61.

[8] TSN, December 6, 2011, testimony of BBB, pp. 4-6.

[9] *Id.* at 8.

[10] *Id.*

hymen at 4, 6 and 7 o' clock positions.[11] Dr. Luna explained that the lacerations could have been caused by the insertion of an object into the vagina, possibly a finger or an erect penis. [12] Dr. Luna then reiterated the impression stated in her medico-legal report that her findings cannot totally rule out the possibility of sexual abuse.[13]

The defense offered a different version of the incident, as summarized by the Public Attorney's Office (PAO) in its Brief, to wit:

> On March 11, 2011, [appellant] was in Brgy. Kuako, Pangasinan, watching a wedding dance party when he first met [XYZ] who was [then] seated inside their house also watching the dance party through their window. [XYZ] then called [appellant's] attention and when he approached her, they had a conversation over the window. During their conversation, [appellant] noticed that [XYZ] was not alone in the house as there are about five (5) other persons living with her. Their conversation lasted for about an hour until he was called by his cousin Eddie Ulanday to go home. He immediately slept upon arriving thereat.
>
> A week after the dance party, Jimmy was accosted by [CCC] and [DDD], uncle[s] of [XYZ], while he was on his way to Poblacion riding his motorcycle. He was being accused by them of raping [XYZ], and when he denied having done the same, they mauled him.
>
> Appellant vehemently denie[d] having made an admission of raping [XYZ] in the house of the latter's uncle, [CCC].[14]

After trial, the RTC convicted the appellant of rape in its judgment of June 28, 2012. The dispositive portion of its judgment reads:

> WHEREFORE, in view of the foregoing, the Court finds the accused **Jimmy Ulanday GUILTY** beyond reasonable doubt of the crime of **Rape** and is hereby sentenced to suffer the

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[11] Records p. 19; May 16, 2011 Medico-Legal Report issued by Dr. Luna.

[12] TSN, October 25, 2011, testimony of Dr. Luna, p. 5.

[13] *Id.* at 6.

[14] CA *rollo*, pp. 24-25: Appellant's Brief dated April 16, 2013.

penalty of ***reclusion perpetua*** and to pay [XYZ] the amount of ₱50,000.00 as civil indemnity and another ₱50,000.00 as moral damages.

SO ORDERED.[15]

The appellant appealed to the CA on a sole assigned error that the trial court erred in finding that his guilt for the crime charged has been proven beyond reasonable doubt.

The CA affirmed the judgment of the RTC with the following modifications: (a) declared the appellant ineligible for parole; (b) ordered the appellant to pay XYZ exemplary damages in the amount of ₱30,000.00; and (c) imposed six percent (6%) interest *per annum* on all awarded damages reckoned from the date of finality of this decision until fully paid.[16]

Undeterred, the appellant filed a Notice of Appeal[17] and the records of the case were elevated to the Court. In the resolution of February 23, 2015, the Court required the parties to submit their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties opted not to file one as they had already exhaustively and extensively discussed all the matters and issues of this case in the briefs earlier submitted with the CA. Hence, in this appeal, the Court will rule on the lone assignment of error made by the appellant in his brief before the CA, to wit:

THE COURT *A QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.[18]

The Court's Ruling

After a circumspect review of the records, the Court affirms the conviction of the appellant.

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[15] Records, p. 95.

[16] CA *rollo*, p. 89.

[17] *Id.* at 91.

[18] CA *rollo*, pp. 22 & 25.

To be convicted of rape under Article 266-A paragraph 1 of the Revised Penal Code, the requisite elements are: (1) that the offender had carnal knowledge of a woman; and (2) that he accomplished this act through force, threat, or intimidation; when she was deprived of reason or otherwise unconscious; by means of fraudulent machination or grave abuse of authority; or when she was under twelve (12) years of age or was demented.

The Court finds that the prosecution sufficiently established the presence of these elements in the instant case.

With certainty, XYZ positively identified the appellant as the person who forced himself on her in the evening of March 11, 2011. She never wavered in her identification and was straightforward in recounting of how the appellant used force, threat and intimidation to satisfy his lust. This much can be gathered from her testimony in court, to wit:

x x x x x x x x x

Q: When [appellant] entered the house, was that your first time to see him?
A: No, your Honor.

Q: So where have you met him before?
A: In the gambling, your Honor.

Q: So you mean, in your place near your house there's a gambling then?
A: Yes, your Honor.

Q: And it is usually at night time?
A: Yes, your Honor.

Q: What kind of game?
A: Tong-its, your Honor.

Q: You said you saw the [appellant] before, was he one of the participants in that tong-its game?
A: Yes, your Honor.

Q: How many times have you seen him before the date of the incident, many times or whatever, many times?
A: Yes, your Honor.

x x x x x x x x x

Q: What made you say that it was the accused who enter[ed] your house and eventually rape[d] you?
A: It was really he, your Honor.

Q: What made you say that [it] was him when it was dark at that time?
A: Because he first entered our house, your Honor.

Q: When he entered your house, was there a light in your house?
A: Yes, your Honor.

Q: Did you see his face?
A: Yes, your Honor.

x x x x x x x x x

PROS. CATUNGAL:

Your Honor, I just like to manifest that during the course of trial every time that the name of the accused is being mentioned the witness points to a person seated at the accused bench.

COURT:

And when asked his name.

INTERPRETER:

And when asked his name he responded Jimmy Ulanday.

COURT:

Alright.

x x x x x x x x x

Q: What did [appellant do] when he entered your house on March 11, [2011] in the evening while you were watching this dance party?
A: [Appellant] entered [our house] armed with a knife and pulled me, sir.

Q: [Where] did [appellant] pull you?
A: In [an unlighted area at the back of][19] the house of our neighbor, sir.

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[19] TSN, November 3, 2011, testimony of XYZ, pp. 15 & 19.

x x x x x x x x x

Q: What did [appellant] do when he was able to pull you out?
A: [Appellant] removed my pants, he removed my panty and then he covered my mouth and he poked a knife, sir.

Q: When [appellant] was pulling and removing your panty and your pants, did you not shout for help?
A: No, because he covered my mouth and I can hardly breath, sir.

Q: By the way Madam witness, you said [appellant] was holding a knife, what did he do with the knife?
A: [Appellant] poked [the knife] towards my face, sir.

x x x x x x x x x

Q: Were he able to remove your panty and your pants?
A: Yes, sir.

Q: Did you not make any struggle against his act?
A: I tried, sir.

Q: But he was able to over power you?
A: Yes, sir.

x x x x x x x x x

Q: And after [removing] your panty and your pants, what did he do?

x x x x x x x x x

A: [Appellant] inserted his penis, sir.

Q: How did [appellant] insert[ed] his penis Madam witness?
A: By spreading my legs part ways, sir.

Q: Then? What was your position at [the] time the [appellant] inserted his penis in your vagina?
A: Still on [the] standing position leaning on something, your Honor.

Q: How about the [appellant] what was his position?
A: [Appellant] was in front of me, your Honor.

Q: And what did he do with his clothing?
A: [Appellant] was wearing short pants, your Honor.

Q: How did he insert then his penis when he was wearing a short pant?
A: With a zipper, your Honor, he pulled down the zipper, your Honor.

x x x x x x x x x

Q: So you mean he just opened the zipper and put out the penis?
A: Yes, your Honor.

Q: Were you able to see the penis?
A: No, your Honor[,] because it was very dark then.

Q: Did you feel it?
A: Yes, your Honor.

Q: How did you feel when the penis was inserted to your vagina?
A: Painful, I felt pain, sir.

Q: Was that the first time that a penis was inserted into your vagina?
A: Yes, your Honor.

Q: How long was the penis inserted to your vagina?
A: Just a few minutes, your Honor.

x x x x x x x x x

Q: Did you not tell any of your relative of what happened to you?
A: No, because of fear, I'm afraid of [appellant], sir.

Q: Why are you afraid of him Madam witness?
A: [Appellant] was armed with a knife, sir.

Q: Did he utter any statement to you?
A: Yes, your Honor.

Q: What did he say?
A: That he is going to kill me, your Honor.

Q: How many times did [appellant] say that?
A: Once only, your Honor.

Q: Was that after [appellant] raped you or before raping you?
A: After he rape[d] me, your Honor.

x x x x x x x x x[20]

[20] *Id.* at 5-6, 29-30, 27, 7, 9-12, 18-19.

Both the trial and appellate courts upheld the credibility of XYZ and accorded credence to her testimony. As recognized in a long line of cases, a rape victim would not charge her attacker at all and thereafter expose herself to the inevitable stigma and indignities her accusation will entail unless what she asserts is the truth for it is her natural instinct to protect her honor.[21] There is no showing that XYZ was impelled by improper motives to impute to the appellant such a grave and scandalous offense.

Further, well-settled is the rule that factual findings of the trial courts are generally given full weight, credit and utmost respect on appeal especially when such findings are supported by substantial evidence on record.[22] Here, XYZ's claim of sexual abuse was corroborated by the medical finding of healed hymenal lacerations. Considering that the trial court did not overlook any material or relevant matter that could have altered the outcome of the case, the Court sees no compelling reason to deviate from the factual findings and conclusions drawn by the courts below.

In a final attempt to exonerate himself, the appellant tried to discredit the testimonies of prosecution witnesses by pointing out certain alleged inconsistencies and loopholes in their statements.

First, the defense raised XYZ's confusion as to the location of the door through which the appellant dragged her out of the house. Her difficulty in giving the precise location of said door, whether it is located in the living room or kitchen, is a trivial matter and not enough to negate the fact that forced coitus did happen. Victim of rape is not expected to have an accurate or errorless recollection of the traumatic experience that was so humiliating and painful, that she might, in fact, be trying to obliterate it from her memory.[23] For that reason, minor lapses or inconsistencies in the rape victim's testimony cannot be a

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[21] *People v. Cabel,* 347 Phil. 82, 92 (1997).

[22] G.R. No. 200920, *People v. Esteban*, June 9, 2014, 725 SCRA 517, 524.

[23] *People v. Masapol*, 463 Phil. 25, 33 (2003).

ground to destroy her credibility or more so, serve as basis for appellant's acquittal.[24]

Second, the defense argued that XYZ's claim that she was threatened with a knife was doubtful because of the latter's admission that during the rape, she did not actually see the knife nor did she sustain any injury therefrom. A review of XYZ's testimony shows that she clearly saw the appellant with the knife when he stormed into her well-lighted house. At knife point, the appellant dragged XYZ out of her house and brought to her neighbor's. XYZ categorically stated that she felt the very same knife, which was then positioned near her face, the entire time the appellant was having sexual intercourse with her.

With respect to the argument that XYZ did not suffer any injury resulting from the use of a deadly weapon, the Court in *People of the Philippines v. Esperas*[25] had this to say: "the presence of injuries is not vital to establishing the guilt of the appellant. The alleged absence of external injuries on the victim does not detract from the fact that rape was committed. Even, assuming *arguendo* that there were no signs of other bodily injuries, the occurrence of rape is still not negated, since their absence is not an essential element of the crime."

Third, the defense also questioned XYZ's conduct after the alleged rape incident. In particular, the defense highlighted that XYZ merely went home, slept and failed to immediately report her ordeal to family and the authorities, and contended that such behavior seemed very unnatural for someone who just went through a harrowing experience. Victims respond differently to trauma and there is no standard form of behavioral response when persons suffer from one.[26] The Court in *People of the Philippines v. Saludo*[27] made this ratiocination, viz.: "[n]ot every

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[24] *People v. Perez*, 673 Phil. 373, 382 (2011).

[25] *People v. Esperas*, 461 Phil. 700, 712 (2003).

[26] *People v. Buates*, 455 Phil. 688, 698 (2003).

[27] *People v. Saludo*, 662 Phil. 738, 758-759 (2011).

victim of rape can be expected to act with reason or in conformity with the usual expectations of everyone. The workings of a human mind placed under emotional stress are unpredictable; people react differently. Some may shout, some may faint, while others may be shocked into insensibility. And although the conduct of the victim immediately following the alleged sexual assault is of utmost importance as it tends to establish the truth or falsity of the charge of rape, it is not accurate to say that there is a typical reaction or norm of behavior among rape victims, as not every victim can be expected to act conformably with the usual expectation of mankind and there is no standard behavioral response when one is confronted with a strange or startling experience, each situation being different and dependent on the various circumstances prevailing in each case." It also bears stressing that XYZ received a death threat from the appellant which instilled fear in her mind and logically explained why she did not immediately disclose her misfortune to her family and the authorities.

Fourth, the defense insisted that Dr. Luna's findings that the lacerations in XYZ's hymen were just five (5) days old belied the charge of rape which allegedly happened two (2) months before her examination. It reasoned that at most, the only thing Dr. Luna's testimony has proven was that XYZ had sexual intercourse and that it was not necessarily with the appellant.

In this regard, the Court quotes the relevant portion of Dr. Luna's testimony, which states:

x x x x x x x x x

Q: Doctor you examined the victim when?
A: May 16, 2011, your Honor.

Q: When was she allegedly abused?
A: March 11, 2011[,] your Honor.

Q: So after more or less how many days?
A: Two (2) months, your Honor. [28]

x x x x x x x x x

[28] TSN, October 25, 2011, testimony of Dr. Luna, pp. 7-8.

Q: x x x [W]hat were your findings over the person of the said [XYZ]?
A: My findings w[ere] centered on the an[o]genital examination and x x x on the genital area[,] they were old, healed, deep hym[e]nal laceration[s] at 4, 6 and 7 o'clock [positions], sir.

Q: Relative to that word you said healed, was it freshly healed or old healed?
A: It was an old laceration, sir.

Q: And it ha[s] been how many months or days?
A: Five (5) days or more, sir. [29]

x x x x x x x x x

Q: What does it signif[y] having an old healed lacerations?
A: That the lacerations [could] have occurred about five (5) days or more before the examination, sir.

Q: You mentioned that you were able to examine the victim after two (2) months?
A: Yes, your Honor.

Q: Could it be possible that she had contact before your examination?
A: It is still possible, your Honor.

Q: And it could still result to healed lacerations?
A: Yes, your Honor.[30]

It would appear from the foregoing that the reasoning advanced by the defense was misplaced. The defense focused on Dr. Luna's estimate of five days old laceration completely disregarding the latter portion of her answer wherein she added **"or more"**, in reply to the question propounded to her. The OSG was quick to point out in its brief that Dr. Luna's testimony simply means that the old lacerations were committed five (5) days or more prior to XYZ's examination. [31] As such, the examining physician's

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[29] *Id.* at 4-5.

[30] *Supra* note 27 at 8.

[31] CA *rollo*, p. 73; Appellee's Brief filed by the OSG dated August 22, 2013.

declaration was actually consistent and supported XYZ's testimony that she was sexually assaulted on March 11, 2011.[32]

In any case, expert testimony like an examining physician is merely corroborative in character and not essential to conviction.[33] In rape cases, the accused may be convicted on the basis of the sole uncorroborated testimony of the victim as long as said testimony is clear, positive and convincing.[34] Here, XYZ's testimony passed the test of credibility and by itself, was sufficient to sustain the appellant's conviction.

The Court has ruled, time and again, that mere denial cannot prevail over the positive testimony of a witness.[35] The defense of denial is treated as a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[36] For it to prosper, denial must be supported by strong and convincing evidence[37] and this, the appellant failed to do in the instant case.

Whenever the crime of rape is committed with the use of a deadly weapon, the penalty shall be *reclusion perpetua* to death as provided under Article 266-B of the Revised Penal Code. The prosecution was able to sufficiently allege in the information and establish during trial that a knife was used in the commission of rape. Considering that no aggravating or mitigating circumstance attended the commission of the crime, the lesser penalty of *reclusion perpetua* was correctly imposed by the lower courts on the appellant. However, the CA, in its decision, added the qualification that the appellant shall be ineligible for

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[32] *Id.*

[33] *People v. Balonzo*, 560 Phil. 244, 259-260 (2007).

[34] *Id.* at 260.

[35] *People v. Hashim and Pansacala*, 687 Phil. 516, 526 (2012).

[36] *People v. Villacorta*, 672 Phil. 712, 721 (2011).

[37] G.R. No. 196228, *People v. Besmonte*, June 4, 2014, 725 SCRA 37, 56.

parole pursuant to Section 3 of Republic Act No. 9346.[38] In light of the attendant circumstances in the case at bar, there is no more need to append the phrase "without eligibility for parole" to appellant's prison term in line with the instructions given by the Court in A.M. No. 15-08-02-SC.[39] Therefore, the dispositive portion of this decision should simply state that appellant is sentenced to suffer the penalty of *reclusion perpetua* without any qualification.

Coming now to the pecuniary liabilities, an award of civil indemnity is mandatory upon a finding that rape took place,[40] while moral damages are awarded to rape victims under the assumption that they suffered moral injuries from the ordeal

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[38] Section 3 of Republic Act No. 9346 states that "[p]erson[s] convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended."

[39] Section 11 of A.M. No. 15-08-02-SC (Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties) states:

x x x x x x x x x

II.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

(1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "*without eligibility for parole*" shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

[40] G.R. No. 203068, *People v. Frias*, September 18, 2013, 706 SCRA 156, 168.

they experienced in the hands of their assailants.[41] The award of exemplary damages is justified under Article 2229 of the Civil Code to set a public example or correction for the public good.[42] The recent case of *People v. Jugueta*[43] increased the amounts of civil indemnity, moral damages and exemplary damages to ₱75,000.00, ₱75,000.00 and ₱75,000.00, respectively. As such, the Court modifies the award of civil indemnity, moral damages and exemplary damages in the aforesaid amounts.

Lastly, the Court upholds the specification that all monetary awards shall bear an interest of six percent (6%) per annum from the date of finality of decision until full payment thereof. Courts are given discretionary authority to levy interest as part of the damages for it is considered to be a natural and probable consequence of the acts of the accused complained of.[44]

WHEREFORE, the Court **AFFIRMS** with **MODIFICATION** the May 23, 2014 Court of Appeals Decision in CA-G.R. CR-HC No. 05692. Appellant JIMMY ULANDAY @ "SAROY" is found **GUILTY** beyond reasonable doubt of the crime of Rape, and sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay the victim XYZ the following: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; (c) ₱75,000.00 as exemplary damages; and (d) interest of six percent (6%) *per annum* on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.

Velasco, Jr. (Chairperson), *Brion,*[*] *Peralta,* and *Reyes, JJ.,* concur.

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[41] *People v. Lascano and Delabajan*, 685 Phil. 236, 245 (2012).

[42] *Supra* note 40.

[43] G.R. No. 202124, 5 April 2016.

[44] *People v. Taguibuya*, 674 Phil. 476, 483 (2011).

[*] Additional Member per Raffled dated March 21, 2016.

SPECIAL EN BANC

[G.R. No. 222236. May 3, 2016]

HARLIN C. ABAYON, *petitioner, vs.* **HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET) AND RAUL A. DAZA,** *respondents.*

[G.R. No. 223032. May 3, 2016]

HARLIN C. ABAYON, *petitioner, vs.* **HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET) AND RAUL A. DAZA,** *respondents.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET); JURISDICTION THEREOF; THE HRET HAS EXCLUSIVE JURISDICTION TO DECIDE ALL ELECTION CONTESTS INVOLVING THE MEMBERS OF THE HOUSE OF REPRESENTATIVES, WHICH NECESSARILY INCLUDES THOSE WHICH RAISE THE ISSUE OF FRAUD, TERRORISM OR OTHER IRREGULARITIES COMMITTED BEFORE, DURING OR AFTER THE ELECTIONS.— An Election Protest proposes to oust the winning candidate from office. It is strictly a contest between the defeated and the winning candidates, based on the grounds of electoral frauds or irregularities. It aims to determine who between them has actually obtained the majority of the legal votes cast and, therefore, entitled to hold the office. The Court agrees that the power of the HRET to annul elections differ from the power granted to the COMELEC to declare failure of elections. The Constitution no less, grants the HRET with exclusive jurisdiction to decide all election contests involving the members of the House of Representatives, which necessarily includes those which raise the issue of fraud, terrorism or other irregularities committed before, during or after the elections. To deprive the HRET the prerogative to annul elections would undermine its constitutional fiat to decide election contests.

The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. Consequently, the annulment of election results is but a power concomitant to the HRET's constitutional mandate to determine the validity of the contestee's title.

2. **ID.; ID.; ID.; ID.; ID.; THE HRET, AS THE SOLE JUDGE OF ALL CONTESTS RELATING TO THE ELECTION, RETURNS AND QUALIFICATIONS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES, MAY ANNUL ELECTION RESULTS IF IN ITS DETERMINATION, FRAUD, TERRORISM OR OTHER ELECTORAL IRREGULARITIES EXISTED TO WARRANT THE ANNULMENT.—** The power granted to the HRET by the Constitution is intended to be as complete and unimpaired as if it had remained originally in the legislature. Thus, the HRETS, as the sole judge of all contests relating to the election, returns and qualifications of members of the House of Representatives, may annul election results if in its determination, fraud, terrorism or other electoral irregularities existed to warrant the annulment. Because in doing so, it is merely exercising its constitutional duty to ascertain who among the candidates received the majority of the valid votes cast. To the Court's mind, the HRET had jurisdiction to determine whether there was terrorism in the contested precincts. In the event that the HRET would conclude that terrorism indeed existed in the said precincts, then it could annul the election results in the said precincts to the extent of deducting the votes received by Daza and Abayon in order to remain faithful to its constitutional mandate to determine who among the candidates received the majority of the valid votes cast.

3. **ID.; ELECTIONS; COMELEC; QUASI-JUDICIAL, QUASI-LEGISLATIVE AND ADMINISTRATIVE FUNCTIONS OF THE COMELEC, DISTINGUISHED; THE COMELEC EXERCISES ITS QUASI-JUDICIAL FUNCTION WHEN IT DECIDES ELECTION CONTESTS NOT OTHERWISE RESERVED TO OTHER ELECTORAL TRIBUNALS BY THE CONSTITUTION, WHEREAS IT PERFORMS ITS ADMINISTRATIVE FUNCTION WHEN IT DECLARES A FAILURE OF ELECTIONS PURSUANT TO R.A. NO. 7166 OTHERWISE KNOWN AS SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL**

REFORMS.— [T]he passage of R.A. No. 7166 cannot deprive the HRET of its incidental power to annul elections in the exercise of its sole and exclusive authority conferred by no less than the Constitution. It must be remembered that the COMELEC exercises quasi-judicial, quasi-legislative and administrative functions. In *Bedol v. COMELEC*, the Court expounded, to wit: The powers functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial. **The quasi-judicial power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications.** Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. **Its administrative function refers to the enforcement and administration of election laws.** In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52[c]) authorize the COMELEC to issue rules and regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code. x x x Thus, the COMELEC exercises its quasi-judicial function when it decides election contests not otherwise reserved to other electoral tribunals by the Constitution. The COMELEC, however, does not exercise its quasi-judicial functions when it declares a failure of elections pursuant to R.A. No. 7166. Rather, the COMELEC performs its administrative function when it exercises such power.

4. **ID.; ID.; ID.; COMELEC'S POWER TO DECLARE FAILURE OF ELECTIONS, NATURE THEREOF.—** R.A. No. 7166 was enacted to empower the COMELEC to be most effective in the performance of its sacred duty of ensuring the conduct of honest and free elections. Further, a closer perusal of Section 6 of the Omnibus Election Code readily reveals that it is more in line with the COMELEC's administrative function of ensuring that elections are free, orderly, honest, peaceful, and credible, and not its quasi-judicial function to adjudicate election contests. x x x. In *Sambarani v. COMELEC*, the Court clarified the nature of the COMELEC's power to declare failure of elections,

to wit: Section 2(1) of Article IX (C) of the Constitution gives COMELEC the broad power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall." Indisputably, the text and intent of this constitutional provision is to give COMELEC all the necessary and incidental powers for it to achieve its primordial objective of holding free, orderly, honest, peaceful and credible elections. The functions of the COMELEC under the Constitution are essentially executive and administrative in nature. It is elementary in administrative law that "courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies." **The authority given to COMELEC to declare a failure of elections and to call for special elections falls under its administrative function.**

5. ID.; ID.; ID.; ANNULMENT OF ELECTIONS BY ELECTORAL TRIBUNAL AND THE DECLARATION OF FAILURE OF ELECTIONS BY THE COMELEC, DISTINGUISHED.— [T]he difference between the annulment of elections by electoral tribunals and the declaration of failure of elections by the COMELEC cannot be gainsaid. *First*, the former is an incident of the judicial function of electoral tribunals while the latter is in the exercise of the COMELEC's administrative function. *Second,* electoral tribunals only annul the election results connected with the election contest before it whereas the declaration of failure of elections by the COMELEC relates to the entire election in the concerned precinct or political unit. As such, in annulling elections, the HRET does so only to determine who among the candidates garnered a majority of the legal votes cast. The COMELEC, on the other hand, declares a failure of elections with the objective of holding or continuing the elections, which were not held or were suspended, or if there was one, resulted in a failure to elect. When COMELEC declares a failure of elections, special elections will have to be conducted. Hence, there is no overlap of jurisdiction because when the COMELEC declares a failure of elections on the ground of violence, intimidation, terrorism or other irregularities, it does so in its administrative capacity. In contrast, when electoral tribunals annul elections under the same grounds, they do so in the performance of their quasi-judicial functions.

6. ID.; ID.; ID.; THE POWER TO DECLARE A FAILURE OF ELECTIONS SHOULD BE EXERCISED WITH UTMOST CARE AND ONLY UNDER CIRCUMSTANCES WHICH DEMONSTRATE BEYOND DOUBT THAT THE DISREGARD OF THE LAW HAD BEEN SO FUNDAMENTAL OR SO PERSISTENT AND CONTINUOUS THAT IT IS IMPOSSIBLE TO DISTINGUISH WHAT VOTES ARE LAWFUL AND WHAT ARE UNLAWFUL, OR TO ARRIVE AT ANY CERTAIN RESULT WHATSOEVER, OR THAT THE GREAT BODY OF THE VOTERS HAVE BEEN PREVENTED BY VIOLENCE, INTIMIDATION AND THREATS FROM EXERCISING THEIR FRANCHISE.— It must be remembered that "[t]he power to declare a failure of elections should be exercised with utmost care and only under circumstances which demonstrate beyond doubt that the disregard of the law had been so fundamental or so persistent and continuous that it is impossible to distinguish what votes are lawful and what are unlawful, or to arrive at any certain result whatsoever, or that the great body of the voters have been prevented by violence, intimidation and threats from exercising their franchise." Consequently, a protestant alleging terrorism in an election protest must establish by clear and convincing evidence that the will of the majority has been muted by violence, intimidation or threats. The Court agrees x x x that the circumstances in the case at bench did not warrant the nullification of the election in the concerned clustered precincts.

7. ID.; ID.; ID.; THE TESTIMONIES OF A MINUTE PORTION OF THE REGISTERED VOTERS IN THE PRECINCTS SHOULD NOT BE USED AS A TOOL TO SILENCE THE VOICE OF THE MAJORITY EXPRESSED THROUGH THEIR VOTES DURING ELECTIONS, FOR TO DO SO WOULD DISENFRANCHISE THE WILL OF THE MAJORITY AND REWARD A CANDIDATE NOT CHOSEN BY THE PEOPLE TO BE THEIR REPRESENTATIVE.— Daza presented three (3) voters as witnesses to establish that they were coerced by NDF-EV armed partisan to vote for Abayon during the 2013 Elections. Their collective testimonies, however, fail to impress. xxx. The testimonies of three (3) voters can hardly represent the majority that indeed their right to vote was stifled by violence. With the allegation of widespread

terrorism, it would have been more prudent for Daza to present more voters who were coerced to vote for ABAYON as a result of the NDF-EV's purported violence and intimidation. xxx. In *Tan v. COMELEC*, the Court found wanting the testimony of a sole witness to substantiate the claim of terrorism which disenfranchised a majority of voters and gave more credence to official statements of government agencies. x x x. The testimonies of a minute portion of the registered voters in the said precincts should not be used as a tool to silence the voice of the majority expressed through their votes during elections. To do so would disenfranchise the will of the majority and reward a candidate not chosen by the people to be their representative. With such dire consequences, it is but expected that annulment of elections be judiciously exercised with utmost caution and resorted only in exceptional circumstances.

8. ID.; CONSTITUTIONAL LAW; HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET); ALTHOUGH THE POWER GRANTED TO THE HRET IS FULL, CLEAR AND COMPLETE, WHICH EXCLUDES THE EXERCISE OF ANY AUTHORITY BY THE COURT THAT MAY RESTRICT OR CURTAIL, OR AFFECT THE SAME, THE HRET'S INDEPENDENCE IS NOT WITHOUT LIMITS AS THE COURT RETAINS *CERTIORARI* JURISDICTION OVER IT TO CHECK WHETHER IT HAD GRAVELY ABUSED ITS DISCRETION.— It is true that in *Vilando v. HRET,* the Court recognized that the power granted to the HRET by the Constitution is full, clear and complete, which excludes the exercise of any authority by the Court that may restrict or curtail, or affect the same. The Court, nevertheless, clarified in *Tagolino v. HRET* that the HRET's independence is not without limits as the Court retains *certiorari* jurisdiction over it if only to check whether it had gravely abused its discretion. As such, the Court will not hesitate to set aside the HRET's decision favoring Daza if it was tainted with grave abuse of discretion on its part. x x x. [T]he decision of the HRET was clearly unsupported by clear and convincing evidence. Thus, the HRET committed grave abuse of discretion in annulling the elections in the contested precincts and disregarding the respective number of votes received by Abayon and Daza from the precincts, which led to its conclusion that Daza was the one elected by the majority of voters in the First

Legislative District of Northern Samar to be their Representative in Congress. Hence, Abayon should be reinstated as the duly elected Representative of the said legislative district.

9. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; ISSUES; MOOT AND ACADEMIC; A MOOT AND ACADEMIC CASE IS ONE THAT CEASES TO PRESENT A JUSTICIABLE CONTROVERSY BY VIRTUE OF SUPERVENING EVENTS, SO THAT A DECLARATION THEREON WOULD BE OF NO PRACTICAL USE OR VALUE; ISSUE ON WHO BETWEEN THE PETITIONER AND THE RESPONDENT WAS THE DULY-ELECTED REPRESENTATIVE OF THE LEGISLATIVE DISTRICT NOT MOOTED BY THE RESPONDENT'S ASSUMPTION TO OFFICE.— [D]aza cannot claim that the issue had been mooted by his assumption to office because the same is premised on the fact that the HRET had correctly ruled Daza to be the duly elected representative. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. In the present case, there is still a justiciable controversy—who between Daza and Abayon was truly chosen by the majority of voters of the First Legislative District of Northern Samar to be their representative.

10. ID.; ID.; ID.; ID.; ID.; THE COURT'S RULING UPHOLDING THE PETITIONER'S ELECTION AS THE DULY ELECTED REPRESENTATIVE OF HIS CONSTITUENTS RENDERED MOOT AND ACADEMIC THE ISSUE ON THE PROPRIETY OF THE DISMISSAL OF HIS COUNTER-PROTEST.— With the Court's ruling that Abayon is the duly elected Representative of the First Legislative District of Northern Samar, the issue of dismissal of his counter-protest in G.R. No. 222236 is now moot and academic. A declaration on the propriety of the dismissal of Abayon's counter-protest has no practical value because to continue with his counter-protest would be a redundancy considering that the Court has upheld his election as the duly elected Representative of his constituents.

APPEARANCES OF COUNSEL

G.E. Garcia Law Office for petitioner.
The Solicitor General for public respondent.
Napoleon Uy Galit and Associates Law Offices for private respondent.

D E C I S I O N

MENDOZA, *J.*:

These consolidated petitions for *certiorari* filed under Rule 65 of the Rules of Court seek to reverse and set aside the December 14, 2015[1] and January 21, 2016[2] Resolutions of the House of Representatives Electoral Tribunal (*HRET*) in HRET Case No. 13-023, dismissing the counter-protest of petitioner Harlin C. Abayon (*Abayon*); and the February 3, 2016 Decision[3] and the March 7, 2016 Resolution[4] of the HRET in the same case, which found private respondent Raul A. Daza (*Daza*) as the duly elected Representative of the First Legislative District of Northern Samar in the May 13, 2013 Elections.

The Antecedents

Abayon and Daza were contenders for the position of Representative in the First Legislative District of Northern Samar during the May 13, 2013 Elections. Out of the votes cast in the 332 clustered precincts in the First District of Northern Samar, Abayon emerged as the winner after obtaining the majority vote of 72,857. Daza placed second with a total of 72,805 votes.

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[1] *Rollo* (G.R. No. 222236), pp. 33-35.

[2] *Id.* at 36-38.

[3] Signed by Supreme Court Associate Justices Presbitero J. Velasco, Jr. (no part), Diosdado M. Peralta (dissented) and Lucas P. Bersamin (no part), Representatives Franklin P. Bautista, Joselito Andrew R. Mendoza, Ma. Theresa B. Bonoan, Wilfrido Mark M. Enverga, Jerry P. Treñas and Emerenciana A. de Jesus (dissented); *rollo* (G.R. No. 223032), pp. 61-79.

[4] *Id.* at 101-107.

The difference was 52 votes. On May 17, 2013, the Provincial Board of Canvassers of Northern Samar proclaimed Abayon as the duly elected member of the House of Representatives for the said legislative district.[5]

On May 31, 2013, Daza filed his Election Protest[6] challenging the elections results in 25 clustered precincts in the Municipalities of Biri, Capul, Catarman, Lavezares, San Isidro, and Victoria. In his protest, he bewailed that there was massive fraud, vote-buying, intimidation, employment of illegal and fraudulent devices and schemes before, during and after the elections benefitting Abayon and that terrorism was committed by the latter and his unidentified cohorts, agents and supporters.[7]

On August 1, 2013, Abayon filed his Verified Answer raising special and affirmative defenses as well as his Counter-Protest.[8] He challenged the results in all 332 precincts alleging that the 72,805 votes obtained by Daza were questionable in view of the frauds and anomalies committed by the latter and his supporters during the elections.[9]

In its Resolution No. 14-055,[10] dated February 27, 2014, the HRET found both Daza's protest and Abayon's counter-protest to be sufficient in form and substance. From October 14, 2014, until October 15, 2014, revision proceedings were conducted on the 25 clustered precincts protested by Daza.[11] After the revision of ballots in the said precincts, the votes for Abayon increased by 28 and the votes for Daza increased by 14.[12]

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[5] *Id.* at 16.

[6] *Id.* at 149-164.

[7] *Id.* at 16-17.

[8] *Id.* at 260-311.

[9] *Id.* at 261.

[10] *Id.* at 354-367.

[11] *Id.* at 19.

[12] *Id.* at 69.

In his Urgent Manifestation and Omnibus Motion,[13] dated September 3, 2015, Daza moved for the withdrawal of his cause of action for the recount, revision and re-appreciation of the ballots in the clustered precincts in the municipalities of Biri, Capul and San Isidro. He likewise prayed that the validity and legitimacy of his separate and distinct cause of action for the annulment of election results in certain identified precincts on the ground of terrorism be upheld.[14] In its Resolution No. 15-052, dated September 24, 2015, the HRET granted Daza's motion and directed the Hearing Commissioner to continue with the reception of Abayon's defense on the issue of terrorism and to hold in abeyance the proceedings relative to his counter-protest.[15]

G.R. No. 222236

Thereafter, Daza filed an Urgent Manifestation and Motion,[16] dated November 4, 2015, praying that Abayon's counter-protest be dismissed as a consequence of the withdrawal of his (Daza's) cause of action for the recount, revision and re-appreciation in the concerned clustered precincts.

In its Resolution No. 15-058, dated December 14, 2015, the HRET granted Daza's motion and dismissed Abayon's counter-protest. Abayon moved for reconsideration but his motion was denied by the HRET in its January 21, 2016 Resolution. Aggrieved, Abayon filed a Petition for *Certiorari*[17] with prayer for the urgent issuance of a temporary restraining order (*TRO*) and/or a status *quo ante* order and/or Preliminary injunction before the Court, which was docketed as G.R. No. 222236.

Meanwhile, the HRET proceeded with the reception of evidence with regard to the issue of terrorism on the remaining clustered precincts in the municipalities of Lavezares and Victoria. After

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[13] *Id.* at 574-587.

[14] *Id.* at 22-23.

[15] *Rollo* (G.R. No. 222236), p. 14.

[16] *Id.* at 287-290.

[17] *Id.* at 7-28.

the parties had submitted their memoranda, the HRET decided the election protest in Daza's favor and declared him as the winning candidate.

G.R. No. 223032

In its February 3, 2016 Decision, the HRET annulled the election results in five (5) clustered precincts in the municipalities of Lavezares and Victoria because of the commission of massive terrorism. As a result of nullifying the election results in the said clustered precincts, the HRET deducted the votes received by the parties in the concerned clustered precincts and concluded that Daza obtained 72,436 votes and Abayon had 72,002 votes.

The HRET highlighted that Daza presented testimonial and documentary evidence showing that: (1) prior to the May 13, 2013 elections, the National Democratic Front-Eastern Visayas (*NDF-EV*) had already shown its animosity and hostility towards him and his then incumbent governor son through the posting on the NDF-EV website and in conspicuous places statements declaring them as enemies of the people of Northern Samar; (2) comic magazines vilifying them were distributed; (3) "pulong-pulongs" were held in the concerned barangays where the NDF-EV exhorted the resident-attendees to vote against him and in favor of Abayon, threatening to comeback if the result were otherwise; (4) his supporters and/or fellow Liberal Party candidates were prohibited from campaigning for him, and also from mounting tarpaulins/posters and distributing sample ballots; (5) Abayon had meetings with NDF-EV officials, during which times, he gave them money and guns; and (6) NDF-EV armed partisans were deployed around the school premises in the concerned precincts on election day.

The HRET found that Daza had adduced convincing evidence to establish that fear was instilled in the minds of hundreds of resident-voters in the protested clustered precincts from the time they had attended the "pulong-pulongs" up until the election day itself when armed partisans were deployed to the schools to ensure that the voters would not vote for him but for Abayon.

The HRET disregarded the certifications issued by the Provincial Election Supervisor Atty. Antonio G. Gulay, Jr. that there was no failure of election in Northern Samar and by P/SSupt. Mario Abraham Gonzalez Lenaming, Officer-in-Charge of the Northern Samar Police Provincial Office, that the conduct of the elections was generally peaceful despite the occurrence of two election-related incidents in the First District of Northern Samar. The HRET noted that the said government officials were not presented to testify and, even if the said certifications were admissible, it had no probative value in disputing the terroristic acts committed upon the voters in the assailed precincts.

The HRET ratiocinated that there was clear and convincing evidence to warrant the annulment of the elections in the concerned precincts because the terrorism affected more than 50% of the votes cast in the said precincts and it was impossible to distinguish the good votes from the bad.

Abayon moved for reconsideration, but his motion was denied by the HRET in its March 7, 2016 Resolution.

On March 9, 2016, Abayon filed before the Court this petition for *certiorari*[18] and prohibition with prayer for the urgent issuance of TRO and/or a status *quo ante* order and/or preliminary injunction before the Court, which was docketed as G.R. No. 223032.

These present consolidated petitions raise the following:

ISSUES

1] Whether the HRET had jurisdiction to annul the elections in the contested precincts in the municipalities of Lavezares and Victoria;

2] Whether the HRET committed grave abuse of discretion in annulling the elections on the ground of terrorism; and

3] Whether the HRET committed grave abuse of discretion in dismissing the counter-protest filed by Abayon.

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[18] *Rollo* (G.R. No. 223032), pp. 9-55.

G.R. No. 222236

Petitioner Abayon insists that the HRET erred when it dismissed his counter-protest as it was in violation of his right to due process. He states that the resolutions issued by the HRET dismissing his counter-protest did not state clearly and distinctly the facts and legal bases thereof. Abayon even asserts that the HRET admitted in its resolution that it merely adopted the facts and the law invoked by Daza in his urgent manifestation and motion.

He argues that the counter-protest could not be simply dismissed on the basis of Daza's withdrawal of his cause of action for the recount, revision and re-appreciation of the ballots in the clustered precincts in Biri, Capul and San Isidro; that a counter-protest is an independent, distinct, separate and alternative legal remedy which is exclusively available to a protestee in an election protest case; and that his counter-protest may be summarily dismissed only if the grounds under Rule 21[19] of the 2011 HRET Rules of Procedure are present.

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[19] RULE 21. *Summary Dismissal of Election Contest*. — An election protest or petition for *quo warranto* may be summarily dismissed by the Tribunal without the necessity of requiring the protestee or respondent to answer if, inter alia:

(1) The petition is insufficient in form and substance;

(2) The petition is filed beyond the periods provided in Rules 16 and 17 of these Rules;

(3) The filing fee is not paid within the periods provided for filing the protest or petition for *quo warranto*;

(4) In case of a protest where a cash deposit is required, the cash deposit, or the first ₱150,000.00 thereof, is not paid within ten (10) days after the filing of the protest; and

(5) The petition or copies thereof and the annexes thereto filed with the Tribunal are not clearly legible.

For this purpose, the Secretary of the Tribunal shall, upon receipt of the petition, prepare a report and calendar the same for appropriate action by the Tribunal or the Executive Committee.

This rule shall, pro tanto, apply to counter-protests.

G.R. No. 223032

Abayon asserts that the nullification of the election results in the concerned clustered precincts was not within the jurisdiction of the HRET. He explains that the annulment of election results on the ground of terrorism is akin to a declaration of failure of elections, which is under the exclusive jurisdiction of the Commission on Elections (*COMELEC*) *En Banc* pursuant to Section 4 of Republic Act (R.A.) No. 7166.[20]

Further, Abayon argues that even if the HRET had jurisdiction to annul election results, it still committed grave abuse of discretion in this particular case for lack of legal and factual bases. He avers that there was no clear and convincing evidence to establish that terrorism affected more than 50% of the votes cast and that it was impossible to distinguish the good votes from the bad. Abayon heavily relies on the respective certifications issued by the COMELEC and the Philippine National Police (*PNP*) that the elections in Northern Samar were orderly and peaceful.

Also, Abayon laments that his right to due process was violated because the HRET did not exhibit the cold neutrality of an impartial judge in handling the present election protest. He points out that the HRET granted Daza's motion to present additional witnesses without him being granted the opportunity to be heard. Abayon also reiterates that his counter-protest was unceremoniously dismissed.

Position of Respondent Daza

In his Consolidated Comment,[21] dated March 28, 2016, Daza countered that the petition (G.R. No. 222236) should be dismissed

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[20] *Section 4. Postponement, Failure of Election and Special Elections.* — The postponement, declaration of failure of election and the calling of special elections as provided in Sections 5, 6 and 7 of the Omnibus Election Code shall be decided by the Commission sitting *en banc* by a majority vote of its members. The causes for the declaration of a failure of election may occur before or after the casting of votes or on the day of the election.

x x x x x x x x x

[21] *Rollo* (G.R. No. 223032), pp. 848-886.

because it contained fatal violations of the Rules of Court. He cited the following infractions: (1) forum shopping; (2) the resolution dismissing Abayon's protest had become final and executory for his failure to file a motion for reconsideration thereof; and (3) the petition did not indicate in its caption the original case number before the HRET. Moreover, Daza contended that the petition was without merit because the HRET could continue or discontinue the revision proceedings *motu propio*. In addition, he stated that the case had been mooted by the promulgation of the HRET decision declaring him as the winner in the last electoral process.

Further, Daza posited that the HRET had jurisdiction to annul the election results on the ground of terrorism. He questioned the present petition (G.R. No. 223032) as it raised factual issues, which was outside the province of a Rule 65 petition. He stressed that the Court could only exercise its *certiorari* jurisdiction in cases of grave abuse of discretion on the part of the HRET. Daza further stated that even if the Court were to review the factual findings of the HRET, it would still find clear and convincing evidence to justify the annulment of election results in the contested precincts. He asserted that the testimonies of the voters and residents of the concerned precincts were corroborated by P/SSupt. Isaias B. Tonog (*P/SSupt. Tonog*), then Provincial Director of Northern Samar; and Col. Roberto S. Capulong (*Col. Capulong*), Operations Officer of the 8th Division, Philippine Army in Catbalogan, Samar. Daza explained that the totality of his evidence clearly and convincingly showed that the NDF-EV, through violence, intimidation and threats conducted before and during elections, harassed voters in the contested precincts to vote for Abayon and threatened them should they not do so.

In its Consolidated Comment,[22] dated March 28, 2016, the HRET, through the Office of the Solicitor General, averred that it had jurisdiction to annul election results. It highlighted Rule 16 of the 2011 HRET Rules stating that the election or returns of a proclaimed House Representative may be assailed in an election

[22] *Id.* at 889-909.

protest if the election or returns were attended by specific acts or omission constituting electoral frauds, anomalies or irregularities, which necessarily included acts of terrorism to dissuade voters from casting their vote or to alter the results of the election.

The HRET faulted Abayon in claiming that the case was similar to a declaration of failure of elections which was under the jurisdiction of the COMELEC *En Banc*, pursuant to R.A. No. 7166. It reasoned that mere allegation of terrorism would not immediately convert the case to a nullification case because terrorism was an act resulting in either failure of elections or electoral fraud, anomaly, or irregularity, which can only be protested through an election protest. Moreover, the HRET claimed that it did not commit grave abuse of discretion as its decision in favor of Daza was supported by clear and convincing evidence. As such, it concluded that its decision should be sustained.

The HRET further stated that it did not commit grave abuse of discretion in dismissing Abayon's counter-protest because it had the prerogative to discontinue the revision proceedings. It likewise elucidated that Abayon was not deprived of due process when his counter-protest was dismissed because he was given his day in court.

The HRET underscored that Abayon did not move for reconsideration when his counter-protest was denied, hence, the resolution became final and executory.

Finally, the HRET posited that it did not violate Article VIII, Section 14 of the Constitution[23] because the assailed resolutions were merely interlocutory orders and, even if they were considered decisions or final orders, they sufficiently stated the facts and law upon which they were based as there was no proscription against the court's adoption of the narration of facts made in the briefs or memoranda of the parties.

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[23] *Section 14*. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. x x x

The Court's Ruling

The petitions are impressed with merit.

The HRET Jurisdiction

Article VI, Section 17 of the Constitution clearly spells out HRET's jurisdiction, to wit:

> The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the **sole judge of all contests relating to the election, returns, and qualifications of their respective Members.** Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.
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> [Emphasis Supplied]

Abayon argues that the annulment of the election results in the contested precincts was beyond the jurisdiction of the HRET as the sole judge of all contests relating to the election, returns and qualifications of members of the House of Representatives. He claims that under Section 4 of R.A. No. 7166,[24] only the COMELEC *En Banc* has jurisdiction to annul elections or declare

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[24] Sec. 4. Postponement, Failure of Election and Special Elections. — The postponement, declaration of failure of election and the calling of special elections as provided in Sections 5, 6, and 7 of the Omnibus Election Code shall be decided by the Commission sitting *en banc* by a majority vote of its members. The causes for the declaration of a failure of election may occur before or after the casting of votes or on the day of the election.

In case a permanent vacancy shall occur in the Senate or House of Representatives at least one (1) year before the expiration of the term, the Commission shall call and hold a special election to fill the vacancy not earlier than sixty (60) days nor longer than ninety (90) days after the occurrence of the vacancy. However, in case of such vacancy in the Senate, the special election shall be held simultaneously with the succeeding regular election.

a failure of elections. Daza, on the other hand, counters that the power of the HRET to annul election results, where terrorism, fraud or other irregularities are existent, differs from the power of the COMELEC to declare failure of elections or annul elections pursuant to the provisions of R.A. No. 7166.

Both Abayon and Daza do not contest the exclusive jurisdiction of the HRET to decide election protests filed against members of the House of Representatives. They, however, diverge as to the extent of its jurisdiction.

An Election Protest proposes to oust the winning candidate from office. It is strictly a contest between the defeated and the winning candidates, based on the grounds of electoral frauds or irregularities.[25] It aims to determine who between them has actually obtained the majority of the legal votes cast and, therefore, entitled to hold the office.[26]

The Court agrees that the power of the HRET to annul elections differ from the power granted to the COMELEC to declare failure of elections. The Constitution no less, grants the HRET with exclusive jurisdiction to decide all election contests involving the members of the House of Representatives, which necessarily includes those which raise the issue of fraud, terrorism or other irregularities committed before, during or after the elections. To deprive the HRET the prerogative to annul elections would undermine its constitutional fiat to decide election contests. The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title.[27] Consequently, the annulment of election results is but a power concomitant to the HRET's constitutional mandate to determine the validity of the contestee's title.

The power granted to the HRET by the Constitution is intended to be as complete and unimpaired as if it had remained originally in the legislature.[28] Thus, the HRET, as the sole judge of all

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[25] *Torres-Gomez v. Codilla*, 684 Phil. 632, 646 (2012).

[26] *Id.*

[27] *Tagolino v. HRET*, 706 Phil. 534, 560 (2013).

[28] *Vilando v. HRET*, 671 Phil. 524, 534 (2011).

contests relating to the election, returns and qualifications of members of the House of Representatives, may annul election results if in its determination, fraud, terrorism or other electoral irregularities existed to warrant the annulment. Because in doing so, it is merely exercising its constitutional duty to ascertain who among the candidates received the majority of the valid votes cast.

To the Court's mind, the HRET had jurisdiction to determine whether there was terrorism in the contested precincts. In the event that the HRET would conclude that terrorism indeed existed in the said precincts, then it could annul the election results in the said precincts to the extent of deducting the votes received by Daza and Abayon in order to remain faithful to its constitutional mandate to determine who among the candidates received the majority of the valid votes cast.

Moreover, the passage of R.A. No. 7166 cannot deprive the HRET of its incidental power to annul elections in the exercise of its sole and exclusive authority conferred by no less than the Constitution. It must be remembered that the COMELEC exercises quasi-judicial, quasi-legislative and administrative functions. In *Bedol v. COMELEC*, [29] the Court expounded, to wit:

> The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial. **The quasi-judicial power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications.** Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. **Its administrative function refers to the enforcement and administration of election laws.** In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52 [c]) authorize the COMELEC to issue rules and

[29] 621 Phil. 498 (2009).

regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code.

The quasi-judicial or administrative adjudicatory power is the power to hear and determine questions of fact to which the legislative policy is to apply, and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law.[30]

[Emphases Supplied]

Thus, the COMELEC exercises its quasi-judicial function when it decides election contests not otherwise reserved to other electoral tribunals by the Constitution. The COMELEC, however, does not exercise its quasi-judicial functions when it declares a failure of elections pursuant to R.A. No. 7166. Rather, the COMELEC performs its administrative function when it exercises such power.

R.A. No. 7166 was enacted to empower the COMELEC to be most effective in the performance of its sacred duty of ensuring the conduct of honest and free elections.[31] Further, a closer perusal of Section 6 of the Omnibus Election Code readily reveals that it is more in line with the COMELEC's administrative function of ensuring that elections are free, orderly, honest, peaceful, and credible, and not its quasi-judicial function to adjudicate election contests. The said provision reads:

Sec. 6. Failure of elections. — If, on account of force majeure, violence, terrorism, fraud or other analogous causes the election in any polling place has not been held on the date fixed, or had been suspended before the hour fixed by law for the closing of the voting, or after the voting and during the preparation and the transmission of the election returns or in the custody or canvass thereof, such election results in a failure to elect, and in any of such cases the failure or suspension of election would affect the result of the election, **the Commission shall, on the basis of a verified petition by any interested party and after due notice and hearing, call for the holding or continuation of the election not held, suspended or**

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[30] *Id.* at 510.

[31] *Loong v. COMELEC*, 326 Phil. 790, 806 (1996).

which resulted in a failure to elect on a date reasonably close to the date of the election not held, suspended or which resulted in a failure to elect but not later than thirty days after the cessation of the cause of such postponement or suspension of the election or failure to elect.

[Emphasis Supplied]

In *Sambarani v. COMELEC*, [32] the Court clarified the nature of the COMELEC's power to declare failure of elections, to wit:

Section 2(1) of Article IX(C) of the Constitution gives the COMELEC the broad power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall." Indisputably, the text and intent of this constitutional provision is to give COMELEC all the necessary and incidental powers for it to achieve its primordial objective of holding free, orderly, honest, peaceful and credible elections.

The functions of the COMELEC under the Constitution are essentially executive and administrative in nature. It is elementary in administrative law that "courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies." **The authority given to COMELEC to declare a failure of elections and to call for special elections falls under its administrative function.**[33]

[Emphasis Supplied]

Consequently, the difference between the annulment of elections by electoral tribunals and the declaration of failure of elections by the COMELEC cannot be gainsaid. *First*, the former is an incident of the judicial function of electoral tribunals while the latter is in the exercise of the COMELEC's administrative function. *Second*, electoral tribunals only annul the election results connected with the election contest before it whereas the declaration of failure of elections by the COMELEC relates to

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[32] 481 Phil. 661 (2004).

[33] *Id.* at 669.

the entire election in the concerned precinct or political unit. As such, in annulling elections, the HRET does so only to determine who among the candidates garnered a majority of the legal votes cast. The COMELEC, on the other hand, declares a failure of elections with the objective of holding or continuing the elections, which were not held or were suspended, or if there was one, resulted in a failure to elect. When COMELEC declares a failure of elections, special elections will have to be conducted.[34]

Hence, there is no overlap of jurisdiction because when the COMELEC declares a failure of elections on the ground of violence, intimidation, terrorism or other irregularities, it does so in its administrative capacity. In contrast, when electoral tribunals annul elections under the same grounds, they do so in the performance of their quasi-judicial functions.

Annulment of elections only warranted in exceptional circumstances

Abayon asserts that even if the HRET had jurisdiction to annul the elections in the concerned precincts, the latter nonetheless acted with grave abuse of discretion because the circumstances did not warrant the nullification of the results in the contested precincts. He explains that Daza failed to sufficiently establish that terrorism was so prevalent in the said clustered precincts that it had adversely affected the right of the majority of residents to vote and that made it impossible to differentiate the valid votes from the invalid ones.

It must be remembered that "[t]he power to declare a failure of elections should be exercised with utmost care and only under circumstances which demonstrate beyond doubt that the disregard of the law had been so fundamental or so persistent and continuous that it is impossible to distinguish what votes are lawful and what are unlawful, or to arrive at any certain result whatsoever, or that the great body of the voters have been prevented by violence, intimidation and threats from exercising their franchise."[35]

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[34] *Alauya, Jr. v. COMELEC*, 443 Phil. 893, 902-905 (2003).

[35] *Batabor v. COMELEC*, 478 Phil. 795, 797 (2004).

Consequently, a protestant alleging terrorism in an election protest must establish by clear and convincing evidence that the will of the majority has been muted by violence, intimidation or threats.

The Court agrees with the observation of HRET Member and esteemed colleague, Associate Justice Diosdado M. Peralta (*Justice Peralta*), that the circumstances in the case at bench did not warrant the nullification of the election in the concerned clustered precincts. The Court quotes the pertinent portions of his dissent in the HRET decision, to wit:

> Protestant's evidence is utterly weak, unclear and unconvincing. The Tribunal, in *Balindong v. Macarambon, Jr.*, declared that "[t]here should be clear and convincing evidence to nullify an election. It is the duty of the courts to sustain an election authorized by law if it has so conducted as to give substantially a free and fair expression of the popular will, and actual result thereof is clearly ascertained. When a person elected obtained a considerable plurality of votes over his adversary, and the evidence offered to rebut such a result is neither solid nor decisive, it would be imprudent to quash the election, as that would be to oppose without reason the popular will solemnly expressed in suffrage." x x x
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> There are two (2) indispensable requisites that must concur in order to justify the drastic action of nullifying the election:
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> (1) The illegality of the ballots must affect more than fifty percent (50%) of the votes cast on the specific precinct or precincts sought to be annulled, or in case of the entire municipality, more than fifty percent (50%) of its total precincts and the votes cast therein; and
>
> (2) It is impossible to distinguish with reasonable certainty between the lawful and unlawful ballots. x x x
>
> While protestant's witnesses, Messrs. Crisanto G. Camposano, Alex B. Rimbao and Melquiades T. Bornillo, contended that they are residents and voters of Barangay Salvacion, Barangay Toog and Barangay Datag, respectively, and merely voted for protestee out of fear of the said armed partisans, not a single ballot or vote cast by said witnesses and/or other voters allegedly subjected to terroristic acts had been identified and the effect thereof, proven extensive or

massive. Failing in this regard, the Tribunal cannot order the annulment of votes for protestee, as prayed for by protestant. The validity of the results of the elections in the protested clustered precincts must be upheld.

It is worthy to note that no evidence was presented which will directly point to protestee as the one responsible for the incidents which allegedly happened before and during the elections. Absent anything that would concretely and directly establish protestee as the one who had induced or actually perpetrated the commission of terroristic acts and demonstrate that those incidents were part of a scheme to frustrate the free expression of the will of the electorate, the alluded handing of material considerations, including guns, to the NDF-EV officials, and the garnering of votes higher than those of the protestant in the protested clustered precincts, do not *per se* make him responsible for the charges of terrorism.

Moreover, at the time of the alleged submission to the offices of the Provincial and Regional Directors, Philippine National Police (PNP), of intelligence reports regarding the commission of massive terroristic acts, Comelec Resolution No. 9583 x x x was already effective. Upon validation of intelligence reports, the logical step that should have been undertaken by the PNP, which is in accord with human experience, was to report also such terroristic acts to the Comelec in order to place under its immediate and direct control and supervision the political divisions, subdivision, unit or area affected by "serious armed threats" to ensure the holding of free, peaceful, honest, orderly and credible elections. However, **no evidence on reporting to the Comelec for said purpose was made to concretize protestant's postulation of massive terrorism. The protestant himself did not even bother to report to the COMELEC the alleged terroristic acts** in order to control or prevent such serious armed threats and to ensure the holding of free, peaceful, honest, orderly and credible elections. **Protestant also did not report the matter to the police** so that the alleged persons committing such terroristic acts would be arrested and the proper cases filed against them in court. It is thus highly doubtful that such terroristic acts, as protestant claimed, existed. Such actuation by protestant is simply not in accord with human experience.

Since public officers like those in the PNP are presumed to have regularly performed their official duties, given the foregoing intelligence reports, and the effectivity as well during the election

period x x x of Comelec Resolution No. 9561-A x x x it is expected that they would have assigned their forces therein to protect not only the life and limb of the voters, but also their right to vote. In fact, in his post-election memorandum addressed to the Regional Director dated May 27, 2013, P/SSupt. Tonog, then Provincial Director, mentioned about the strict implementation of "PRO8 LOI 20/2012 "SAFE 2013 WARAY" through the Provincial Special Operations Task Group, Secure and Fair Elections 2013 (PSOTG-SAFE 2013)." Hence, it is incredible that there were as many as five (5) NPA armed partisan at the school premises for the purpose of over-seeing that the voters in involved barangays would not be supporting protestant on the day of the elections. Such circumstance was not even reflected in the memorandum of P/SSupt. Tonog.[36]

[Emphases Supplied]

It is on record that Daza presented several residents of the concerned precincts to illustrate how NDF-EV members terrorized the residents of the said precincts before and during the elections to ensure Daza's defeat to Abayon. The Court, nevertheless, observes that only three (3) witnesses testified that they voted for Abayon out of fear from the NDF-EV. The other witnesses merely described the alleged violence committed by the NFD-EV but did not expound whether the same had ultimately made other voters vote for Abayon.

Neither did the testimonies of P/SSupt. Tonog and Col. Capulong corroborate the fact that the alleged terrorism by the NDF-EV caused voters to vote for Abayon. These testimonies do not prove that voters in the concerned precincts indeed voted for Abayon out of fear of the NDF-EV. For one, Col. Capulong simply stated that the NDF-EV would want to see that politicians and candidates whom they call "enemies of the people" be defeated in the elections. Further, as noted by Justice Peralta, P/SSupt. Tonog's Post-Election Memorandum did not state that NDF-EV armed partisans were present in the course of the elections.

Daza presented three (3) voters as witnesses to establish that they were coerced by NDF-EV armed partisan to vote for Abayon

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[36] *Rollo* (G.R. No. 223032), pp. 95-98.

during the 2013 Elections. Their collective testimonies, however, fail to impress. *First*, their testimonies made no reference to Abayon's alleged participation in the purported terroristic acts committed by the NDF-EV. *Second*, Daza's witnesses alone are insufficient to prove that indeed terrorism occurred in the contested precincts and the same affected at least 50% of the votes cast therein. The testimonies of three (3) voters can hardly represent the majority that indeed their right to vote was stifled by violence. With the allegation of widespread terrorism, it would have been more prudent for Daza to present more voters who were coerced to vote for Abayon as a result of the NDF-EV's purported violence and intimidation.

Indubitably, the numbers mattered considering that both the **COMELEC** and the **PNP** *issued certifications stating that no failure of elections occurred in Northern Samar and that the elections was generally peaceful and orderly.* The unsubstantiated testimonies of Daza's witnesses falter when faced with official pronouncements of government agencies, which are presumed to be issued in the regular performance of their duties.

In *Tan v. COMELEC*, [37] the Court found wanting the testimony of a sole witness to substantiate the claim of terrorism which disenfranchised a majority of voters and gave more credence to official statements of government agencies, to wit:

> We agree with the finding of the COMELEC *en banc* that the evidence relied upon by petitioners to support their charges of fraud and irregularities in the conduct of elections in the questioned municipalities consisted of affidavits prepared and executed by their own representatives; and that the other pieces of evidence submitted by petitioners were not credible and inadequate to substantiate petitioners' charges of fraud and irregularities in the conduct of elections. Mere affidavits are insufficient, more so, when they were executed by petitioners' poll watchers. The conclusion of respondent COMELEC is correct that although petitioners specifically alleged violence, terrorism, fraud, and other irregularities in the conduct of elections, they failed to substantiate or prove said allegations.

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[37] 537 Phil. 510 (2006).

Had there been massive disenfranchisement, petitioners should have presented the affidavits of these disenfranchised voters, instead of only a single affidavit of one allegedly disenfranchised voter.

We go along with the COMELEC *en banc* in giving more weight to the affidavits and certifications executed by the members of the Board of Election Inspectors and the PNP and military authorities that the elections held were peaceful and orderly, under the presumption that their official duties had been regularly performed.[38]

[Emphasis Supplied]

The testimonies of a minute portion of the registered voters in the said precincts should not be used as a tool to silence the voice of the majority expressed through their votes during elections. To do so would disenfranchise the will of the majority and reward a candidate not chosen by the people to be their representative. With such dire consequences, it is but expected that annulment of elections be judiciously exercised with utmost caution and resorted only in exceptional circumstances.

It is true that in *Vilando v. HRET*,[39] the Court recognized that the power granted to the HRET by the Constitution is full, clear and complete, which excludes the exercise of any authority by the Court that may restrict or curtail, or affect the same.[40] The Court, nevertheless, clarified in *Tagolino v. HRET*[41] that the HRET's independence is not without limits as the Court retains *certiorari* jurisdiction over it if only to check whether it had gravely abused its discretion.[42] As such, the Court will not hesitate to set aside the HRET's decision favoring Daza if it was tainted with grave abuse of discretion on its part.

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[38] *Id.* at 539-540.

[39] 671 Phil. 524 (2011).

[40] *Id.* at 534.

[41] 706 Phil. 534 (2013).

[42] *Id.* at 561.

In *Leus v. St. Scholastica's College Westgrove*,[43] the Court has ruled that a decision unsupported by sufficient evidence amount to grave abuse of discretion, to wit:

> Nevertheless, while a certiorari proceeding does not strictly include an inquiry as to the correctness of the evaluation of evidence (that was the basis of the labor tribunals in determining their conclusion), the incorrectness of its evidentiary evaluation should not result in negating the requirement of substantial evidence. Indeed, when there is a showing that the findings or conclusions, drawn from the same pieces of evidence, were arrived at arbitrarily or in disregard of the evidence on record, they may be reviewed by the courts. In particular, the CA can grant the petition for certiorari if it finds that the NLRC, in its assailed decision or resolution, made a factual finding not supported by substantial evidence. **A decision that is not supported by substantial evidence is definitely a decision tainted with grave abuse of discretion.**
>
> [Emphasis Supplied]

As discussed above, the decision of the HRET was clearly unsupported by clear and convincing evidence. Thus, the HRET committed grave abuse of discretion in annulling the elections in the contested precincts and disregarding the respective number of votes received by Abayon and Daza from the precincts, which led to its conclusion that Daza was the one elected by the majority of voters in the First Legislative District of Northern Samar to be their Representative in Congress. Hence, Abayon should be reinstated as the duly elected Representative of the said legislative district.

Moreover, Daza cannot claim that the issue had been mooted by his assumption to office because the same is premised on the fact that the HRET had correctly ruled Daza to be the duly elected representative. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value.[44] In the present case, there is still a justiciable

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[43] G.R. No. 187226, January 28, 2015, 748 SCRA 378.

[44] *Deutsche Bank AG v. CA*, 683 Phil. 80, 88 (2012).

controversy — who between Daza and Abayon was truly chosen by the majority of voters of the First Legislative District of Northern Samar to be their representative.

Propriety of the dismissal of Abayon's counter-protest is now moot

With the Court's ruling that Abayon is the duly elected Representative of the First Legislative District of Northern Samar, the issue of dismissal of his counter-protest in G.R. No. 222236 is now moot and academic. A declaration on the propriety of the dismissal of Abayon's counter-protest has no practical value because to continue with his counter-protest would be a redundancy considering that the Court has upheld his election as the duly elected Representative of his constituents.

WHEREFORE, the February 3, 2016 Decision and the March 7, 2016 Resolution of the House of Representatives Electoral Tribunal are **REVERSED** and **SET ASIDE**. Petitioner Harlin C. Abayon is **DECLARED** to be the lawfully elected Representative of the First Legislative District of Northern Samar in the May 13, 2013 Elections.

This decision is **IMMEDIATELY EXECUTORY.**

SO ORDERED.

Sereno, C.J., Leonardo-de Castro, Brion, del Castillo, Perez, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and *Caguioa, JJ.,* concur.

Carpio, Velasco, Jr., Peralta, and *Bersamin, JJ.,* no part.

THIRD DIVISION

[G.R. No. 180110. May 30, 2016]

CAPITOL WIRELESS, INC., *petitioner, vs.* **THE PROVINCIAL TREASURER OF BATANGAS, THE PROVINCIAL ASSESSOR OF BATANGAS, THE MUNICIPAL TREASURER AND ASSESSOR OF NASUGBU, BATANGAS,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXATION; THE GENERAL RULE OF A PREREQUISITE RECOURSE TO ADMINISTRATIVE REMEDIES APPLIES WHEN QUESTIONS OF FACT ARE RAISED, BUT THE EXCEPTION OF DIRECT COURT ACTION IS ALLOWED WHEN PURELY QUESTIONS OF LAW ARE INVOLVED.— In disputes involving real property taxation, the general rule is to require the taxpayer to first avail of administrative remedies and pay the tax under protest before allowing any resort to a judicial action, except when the assessment itself is alleged to be illegal or is made without legal authority. For example, prior resort to administrative action is required when among the issues raised is an allegedly erroneous assessment, like when the reasonableness of the amount is challenged, while direct court action is permitted when only the legality, power, validity or authority of the assessment itself is in question. Stated differently, the general rule of a prerequisite recourse to administrative remedies applies when questions of fact are raised, but the exception of direct court action is allowed when purely questions of law are involved.

2. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; QUESTIONS OF LAW DISTINGUISHED FROM QUESTIONS OF FACT.— This Court has previously and rather succinctly discussed the difference between a question of fact and a question of law. xxx. In *Ramos v. Pepsi-Cola Bottling Co. of the P.I.,* the Court ruled: There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to

the truth or the falsehood of alleged facts. We shall label this the doubt dichotomy. In *Republic v. Sandiganbayan,* the Court ruled: x x x A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. In contrast, a question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation. For the sake of brevity, We shall label this the law application and calibration dichotomy.

3. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXATION; FACTUAL ISSUES ARE COGNIZABLE BY THE LOCAL ADMINISTRATIVE BODIES.— [T]he Court sustains the CA's finding that petitioner's case is one replete with questions of fact instead of pure questions of law, which renders its filing in a judicial forum improper because it is instead cognizable by local administrative bodies like the Board of Assessment Appeals, which are the proper venues for trying these factual issues. Verily, what is alleged by Capwire in its petition as "the crux of the controversy," that is, "whether or not an indefeasible right over a submarine cable system that lies in international waters can be subject to real property tax in the Philippines," is not the genuine issue that the case presents – as it is already obvious and fundamental that real property that lies outside of Philippine territorial jurisdiction cannot be subjected to its domestic and sovereign power of real property taxation – but, rather, such factual issues as the extent and status of Capwire's ownership of the system, the actual length of the cable/s that lie in Philippine territory, and the corresponding assessment and taxes due on the same, because the public respondents imposed and collected the assailed real property tax on the finding that at least a portion or some portions of the submarine cable system that Capwire owns or co-owns lies inside Philippine territory. Capwire's disagreement with such findings of the administrative bodies presents little to no legal question that only the courts may directly resolve.

4. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; ISSUES; A BARE CHARACTERIZATION IN A PETITION OF UNLAWFULNESS, IS MERELY A LEGAL CONCLUSION AND A WISH OF THE PLEADER, AND SUCH A LEGAL CONCLUSION UNSUBSTANTIATED BY FACTS WHICH COULD GIVE IT LIFE, HAS NO STANDING IN ANY COURT WHERE ISSUES MUST BE PRESENTED AND DETERMINED BY FACTS IN ORDINARY AND CONCISE LANGUAGE.— Capwire argues and makes claims on mere assumptions of certain facts as if they have been already admitted or established, when they have not, since no evidence of such have yet been presented in the proper agencies and even in the current petition. As such, it remains unsettled whether Capwire is a mere co-owner, not full owner, of the subject submarine cable and, if the former, as to what extent; whether all or certain portions of the cable are indeed submerged in water; and whether the waters wherein the cable/s is/are laid are entirely outside Philippine territorial or inland waters, *i.e.*, in international waters. More simply, Capwire argues based on mere legal conclusions, culminating on its claim of illegality of respondents' acts, but the conclusions are yet unsupported by facts that should have been threshed out quasi-judicially before the administrative agencies. It has been held that "a bare characterization in a petition of unlawfulness, is merely a legal conclusion and a wish of the pleader, and such a legal conclusion unsubstantiated by facts which could give it life, has no standing in any court where issues must be presented and determined by facts in ordinary and concise language." Therefore, Capwire's resort to judicial action, premised on its legal conclusion that its cables (the equipment being taxed) lie entirely on international waters, without first administratively substantiating such a factual premise, is improper and was rightly denied.

5. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; REAL PROPERTY TAXATION; SUBMARINE OR UNDERSEA COMMUNICATIONS CABLES ARE CLASSIFIED UNDER THE TERM "MACHINERY" SUBJECT TO REAL PROPERTY TAX.— Submarine or undersea communications cables are akin to electric transmission lines which this Court has recently declared in *Manila Electric Company v. City Assessor and City Treasurer of Lucena City,* as "no longer exempted from real property tax" and may

qualify as "machinery" subject to real property tax under the Local Government Code. To the extent that the equipment's location is determinable to be within the taxing authority's jurisdiction, the Court sees no reason to distinguish between submarine cables used for communications and aerial or underground wires or lines used for electric transmission, so that both pieces of property do not merit a different treatment in the aspect of real property taxation. Both electric lines and communications cables, in the strictest sense, are not directly adhered to the soil but pass through posts, relays or landing stations, but both may be classified under the term "machinery" as real property under Article 415(5) of the Civil Code for the simple reason that such pieces of equipment serve the owner's business or tend to meet the needs of his industry or works that are on real estate. Even objects in or on a body of water may be classified as such, as "waters" is classified as an immovable under Article 415(8) of the Code.

6. ID.; ID.; ID.; ID.; ID.; A PORTION OF PETITIONER'S SUBMARINE CABLE SYSTEM LIES WITHIN THE PHILIPPINE INTERNAL WATERS OVER WHICH THE PHILIPPINES EXERCISES SOVEREIGNITY, AND THUS FALLS WITHIN THE JURISDICTION OF THE LOCAL TAXING AUTHORITIES.— [I]t is not in dispute that the submarine cable system's Landing Station in Nasugbu, Batangas is owned by PLDT and not by Capwire. Obviously, Capwire is not liable for the real property tax on this Landing Station. Nonetheless, Capwire admits that it co-owns the submarine cable system that is subject of the tax assessed and being collected by public respondents. As the Court takes judicial notice that Nasugbu is a coastal town and the surrounding sea falls within what the United Nations Convention on the Law of the Sea (*UNCLOS*) would define as the country's territorial sea (to the extent of 12 nautical miles outward from the nearest baseline, under Part II, Sections 1 and 2) over which the country has sovereignty, including the seabed and subsoil, it follows that indeed a portion of the submarine cable system lies within Philippine territory and thus falls within the jurisdiction of the said local taxing authorities. It easily belies Capwire's contention that the cable system is entirely in international waters. And even if such portion does not lie in the 12-nautical-mile vicinity of the territorial sea but further inward, in *Prof. Magallona v. Hon. Ermita, et al.* the Court held that "whether referred to as Philippine 'internal waters' under

Article I of the Constitution or as 'archipelagic waters' under UNCLOS Part III, Article 49(1, 2, 4), the Philippines exercises sovereignty over the body of water lying landward of (its) baselines, including the air space over it and the submarine areas underneath." Further, under Part VI, Article 79 of the UNCLOS, the Philippines clearly has jurisdiction with respect to cables laid in its territory that are utilized in support of other installations and structures and its jurisdiction.

7. ID.; ID.; ID.; ID.; THE JURISDICTION OR AUTHORITY OVER THE PART OF THE SUBMARINE CABLE SYSTEM LYING WITHIN PHILIPPINE JURISDICTION INCLUDES THE AUTHORITY TO TAX THE SAME.— And as far as local government units are concerned, the areas described x x x are to be considered subsumed under the term "municipal waters" which, under the Local Government Code, includes "not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it." Although the term "municipal waters" appears in the Code in the context of the grant of quarrying and fisheries privileges for a fee by local governments, its inclusion in the Code's Book II which covers local taxation means that it may also apply as guide in determining the territorial extent of the local authorities' power to levy real property taxation. Thus, the jurisdiction or authority over such part of the subject submarine cable system lying within Philippine jurisdiction includes the authority to tax the same, for taxation is one of the three basic and necessary attributes of sovereignty, and such authority has been delegated by the national legislature to the local governments with respect to real property taxation.

8. ID.; ID.; ID.; ID.; REAL PROPERTY TAX EXEMPTION PRIVILEGES ARE EXPRESSLY WITHDRAWN UPON THE EFFECTIVITY OF THE LOCAL GOVERNMENT CODE; ABSENT ANY DOMESTIC ENACTMENT, CONTRACT, OR AN INTERNATIONAL AGREEMENT OR TREATY GRANTING EXEMPTION FROM REAL PROPERTY

TAXATION AFTER THE ENACTMENT OF THE LOCAL GOVERNMENT CODE, THE PRESUMPTION STAYS THAT THE TAXPAYER ENJOYS NO SUCH PRIVILEGE OR EXEMPTION.— [A] way for Capwire to claim that its cable system is not covered by such authority is by showing a domestic enactment or even contract, or an international agreement or treaty exempting the same from real property taxation. It failed to do so, however, despite the fact that the burden of proving exemption from local taxation is upon whom the subject real property is declared. xxx. [E]ven under Capwire's legislative franchise, RA 4387, which amended RA 2037, where it may be derived that there was a grant of real property tax exemption for properties that are part of its franchise, or directly meet the needs of its business, such had been expressly withdrawn by the Local Government Code, which took effect on January 1, 1992, xxx. Section 234. *Exemptions from Real Property Tax.* x x x. **Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.** Such express withdrawal had been previously held effective upon exemptions bestowed by legislative franchises granted prior to the effectivity of the Local Government Code. Capwire fails to allege or provide any other privilege or exemption that were granted to it by the legislature after the enactment of the Local Government Code. Therefore, the presumption stays that it enjoys no such privilege or exemption. Tax exemptions are strictly construed against the taxpayer because taxes are considered the lifeblood of the nation.

APPEARANCES OF COUNSEL

De la Cuesta De las Alas & Tantuico for petitioner.
Dennis C. Macatangay for respondents.

D E C I S I O N

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the

Court of Appeals' Decision[1] dated May 30, 2007 and Resolution[2] dated October 8, 2007 in CA-G.R. SP No. 82264, which both denied the appeal of petitioner against the decision of the Regional Trial Court.

Below are the facts of the case.

Petitioner Capitol Wireless, Inc. (*Capwire*) is a Philippine corporation in the business of providing international telecommunications services.[3] As such provider, Capwire has signed agreements with other local and foreign telecommunications companies covering an international network of submarine cable systems such as the Asia Pacific Cable Network System (*APCN*) (which connects Australia, Thailand, Malaysia, Singapore, Hong Kong, Taiwan, Korea, Japan, Indonesia and the Philippines); the Brunei-Malaysia-Philippines Cable Network System (*BMP-CNS*), the Philippines-Italy (SEA-ME-WE-3 CNS), and the Guam Philippines (*GP-CNS*) systems.[4] The agreements provide for co-ownership and other rights among the parties over the network.[5]

Petitioner Capwire claims that it is co-owner only of the so-called "Wet Segment" of the APCN, while the landing stations or terminals and Segment E of APCN located in Nasugbu, Batangas are allegedly owned by the Philippine Long Distance Telephone Corporation (*PLDT*).[6] Moreover, it alleges that the Wet Segment is laid in international, and not Philippine, waters.[7]

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[1] Penned by Associate Justice Aurora Santiago-Lagman, with Associate Justices Bienvenido L. Reyes (now a member of this Court) and Apolinario D. Bruselas, Jr., concurring; *rollo*, pp. 9-16.

Despite being impleaded in the petition, the Court of Appeals is now being excluded as respondent by this Court per Section 4 (a), Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Santiago-Lagman, with Associate Justices Bienvenido L. Reyes and Apolinario D. Bruselas, Jr., concurring; *id.* at 18-19.

[3] *Id.* at 27.

[4] *Id.* at 27-30.

[5] *Id.*

[6] *Id.* at 30.

[7] *Id.*

Capwire claims that as co-owner, it does not own any particular physical part of the cable system but, consistent with its financial contributions, it owns the right to use a certain capacity of the said system.[8] This property right is allegedly reported in its financial books as "Indefeasible Rights in Cable Systems."[9]

However, for loan restructuring purposes, Capwire claims that "it was required to register the value of its right," hence, it engaged an appraiser to "assess the market value of the international submarine cable system and the cost to Capwire."[10] On May 15, 2000, Capwire submitted a Sworn Statement of True Value of Real Properties at the Provincial Treasurer's Office, Batangas City, Batangas Province, for the Wet Segment of the system, stating:

System	Sound Value
APCN	₱203,300,000.00
BMP-CNS	₱ 65,662,000.00
SEA-ME-WE-3 CNSP	₱ 7,540,000.00
GP-CNS	₱ 1,789,000.00

Capwire claims that it also reported that the system "interconnects at the PLDT Landing Station in Nasugbu, Batangas," which is covered by a transfer certificate of title and tax declarations in the name of PLDT.[11]

As a result, the respondent Provincial Assessor of Batangas (*Provincial Assessor*) issued the following Assessments of Real Property (*ARP*) against Capwire:

ARP	Cable System	Assessed Value
019-00967	BMP-CNS	₱ 52,529,600.00
019-00968	APCN	₱162,640,000.00
019-00969	SEA-ME-WE3-CNS	₱ 6,032,000.00
019-00970	GP-CNS	₱ 1,431,200.00

In essence, the Provincial Assessor had determined that the submarine cable systems described in Capwire's Sworn Statement

[8] *Id.*

[9] *Id.* at 30-31.

[10] *Id.* at 31.

[11] *Id.* at 31-32.

of True Value of Real Properties are taxable real property, a determination that was contested by Capwire in an exchange of letters between the company and the public respondent.[12] The reason cited by Capwire is that the cable system lies outside of Philippine territory, *i.e.*, on international waters.[13]

On February 7, 2003 and March 4, 2003, Capwire received a Warrant of Levy and a Notice of Auction Sale, respectively, from the respondent Provincial Treasurer of Batangas (*Provincial Treasurer*).[14]

On March 10, 2003, Capwire filed a Petition for Prohibition and Declaration of Nullity of Warrant of Levy, Notice of Auction Sale and/or Auction Sale with the Regional Trial Court (*RTC*) of Batangas City.[15]

After the filing of the public respondents' Comment,[16] on May 5, 2003, the RTC issued an Order dismissing the petition for failure of the petitioner Capwire to follow the requisite of payment under protest as well as failure to appeal to the Local Board of Assessment Appeals (*LBAA*), as provided for in Sections 206 and 226 of Republic Act (*R.A.*) No. 7160, or the Local Government Code.[17]

Capwire filed a Motion for Reconsideration,[18] but the same was likewise dismissed by the RTC in an Order[19] dated August 26, 2003. It then filed an appeal to the Court of Appeals.[20]

On May 30, 2007, the Court of Appeals promulgated its Decision dismissing the appeal filed by Capwire and affirming the order of the trial court. The dispositive portion of the CA's decision states:

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[12] *Id.* at 32, 181-192.

[13] *Id.* at 32, 182.

[14] *Id.* at 32, 78-81.

[15] *Id.* at 32, 64-77.

[16] *Id.* at 33, 193-199.

[17] *Id.* at 33, 200-203.

[18] *Id.* at 204-212.

[19] *Id.* at 223-228.

[20] *Id.* at 229-255.

WHEREFORE, premises considered, the assailed Orders dated May 5, 2003 and August 26, 2003 of the Regional Trial Court, Branch II of Batangas City, are AFFIRMED.

SO ORDERED.[21]

The appellate court held that the trial court correctly dismissed Capwire's petition because of the latter's failure to comply with the requirements set in Sections 226 and 229 of the Local Government Code, that is, by not availing of remedies before administrative bodies like the LBAA and the Central Board of Assessment Appeals (*CBAA*).[22] Although Capwire claims that it saw no need to undergo administrative proceedings because its petition raises purely legal questions, the appellate court did not share this view and noted that the case raises questions of fact, such as the extent to which parts of the submarine cable system lie within the territorial jurisdiction of the taxing authorities, the public respondents.[23] Further, the CA noted that Capwire failed to pay the tax assessed against it under protest, another strict requirement under Section 252 of the Local Government Code.[24]

Hence, the instant petition for review of Capwire.

Petitioner Capwire asserts that recourse to the Local Board of Assessment Appeals, or payment of the tax under protest, is inapplicable to the case at bar since there is no question of fact involved, or that the question involved is not the reasonableness of the amount assessed but, rather, the authority and power of the assessor to impose the tax and of the treasurer to collect it.[25] It contends that there is only a pure question of law since the issue is whether its submarine cable system, which it claims lies in

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[21] *Id.* at 34.

[22] *Id.* at 13-14.

[23] *Id.* at 14.

[24] *Id.* at 15.

[25] *Id.* at 35-36.

international waters, is taxable.[26] Capwire holds the position that the cable system is not subject to tax.[27]

Respondents assessors and treasurers of the Province of Batangas and Municipality of Nasugbu, Batangas disagree with Capwire and insist that the case presents questions of fact such as the extent and portion of the submarine cable system that lies within the jurisdiction of the said local governments, as well as the nature of the so-called indefeasible rights as property of Capwire.[28] Such questions are allegedly resolvable only before administrative agencies like the Local Board of Assessment Appeals.[29]

The Court confronts the following issues: Is the case cognizable by the administrative agencies and covered by the requirements in Sections 226 and 229 of the Local Government Code which makes the dismissal of Capwire's petition by the RTC proper? May submarine communications cables be classified as taxable real property by the local governments?

The petition is denied. No error attended the ruling of the appellate court that the case involves factual questions that should have been resolved before the appropriate administrative bodies.

In disputes involving real property taxation, the general rule is to require the taxpayer to first avail of administrative remedies and pay the tax under protest before allowing any resort to a judicial action, except when the assessment itself is alleged to be illegal or is made without legal authority.[30] For example, prior resort to administrative action is required when among the issues raised is an allegedly erroneous assessment, like when the reasonableness of the amount is challenged, while direct court action is permitted when

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[26] *Id.* at 37-38.

[27] *Id.*

[28] *Id.* at 277-278.

[29] *Id.* at 278.

[30] *City of Lapu-lapu v. Philippine Economic Zone Authority*, G.R. No. 184203, November 26, 2014; *Camp John Hay Development Corporation v. Central Board of Assessment Appeals*, G.R. No. 169234, October 2, 2013; *National Power Corporation v. Province of Quezon*, 624 Phil. 738 (2010).

only the legality, power, validity or authority of the assessment itself is in question.[31] Stated differently, the general rule of a prerequisite recourse to administrative remedies applies when questions of fact are raised, but the exception of direct court action is allowed when purely questions of law are involved.[32]

This Court has previously and rather succinctly discussed the difference between a question of fact and a question of law. In *Cosmos Bottling Corporation v. Nagrama, Jr.*,[33] it held:

> The Court has made numerous dichotomies between questions of law and fact. A reading of these dichotomies shows that labels attached to law and fact are descriptive rather than definitive. We are not alone in Our difficult task of clearly distinguishing questions of fact from questions of law. The United States Supreme Court has ruled that: "we [do not] yet know of any other rule or principle that will unerringly distinguish a factual finding from a legal conclusion."
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> In *Ramos v. Pepsi-Cola Bottling Co. of the P.I.*, the Court ruled:
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> > There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts.
> >
> > We shall label this the doubt dichotomy.
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> In *Republic v. Sandiganbayan*, the Court ruled:
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> > x x x A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. In contrast, a question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence

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[31] *Id.*

[32] *National Power Corporation v. Municipal Government of Navotas*, G.R. No. 192300, November 24, 2014, quoting *Ty v. Hon. Trampe*, 321 Phil. 81, 88 (1995).

[33] 571 Phil. 281 (2008).

> and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.
>
> For the sake of brevity, We shall label this the law application and calibration dichotomy.
>
> In contrast, the dynamic legal scholarship in the United States has birthed many commentaries on the question of law and question of fact dichotomy. As early as 1944, the law was described as growing downward toward "roots of fact" which grew upward to meet it. In 1950, the late Professor Louis Jaffe saw fact and law as a spectrum, with one shade blending imperceptibly into the other. Others have defined questions of law as those that deal with the general body of legal principles; questions of fact deal with "all other phenomena x x x." Kenneth Culp Davis also weighed in and noted that the difference between fact and law has been characterized as that between "ought" questions and "is" questions.[34]

Guided by the quoted pronouncement, the Court sustains the CA's finding that petitioner's case is one replete with questions of fact instead of pure questions of law, which renders its filing in a judicial forum improper because it is instead cognizable by local administrative bodies like the Board of Assessment Appeals, which are the proper venues for trying these factual issues. Verily, what is alleged by Capwire in its petition as "the crux of the controversy," that is, "whether or not an indefeasible right over a submarine cable system that lies in international waters can be subject to real property tax in the Philippines,"[35] is not the genuine issue that the case presents — as it is already obvious and fundamental that real property that lies outside of Philippine territorial jurisdiction cannot be subjected to its domestic and sovereign power of real property taxation — but, rather, such factual issues as the extent and status of Capwire's ownership of the system, the actual length of the cable/s that lie in Philippine territory, and the corresponding assessment and taxes due on the same, because the public respondents imposed and collected the assailed real property tax on the finding that at least a portion or some portions of the submarine cable system that Capwire

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[34] *Cosmos Bottling Corp. v. Nagrama, Jr.*, *supra*, at 295-297. (Citations omitted)

[35] *Rollo*, p. 37.

owns or co-owns lies inside Philippine territory. Capwire's disagreement with such findings of the administrative bodies presents little to no legal question that only the courts may directly resolve.

Instead, Capwire argues and makes claims on mere assumptions of certain facts as if they have been already admitted or established, when they have not, since no evidence of such have yet been presented in the proper agencies and even in the current petition. As such, it remains unsettled whether Capwire is a mere co-owner, not full owner, of the subject submarine cable and, if the former, as to what extent; whether all or certain portions of the cable are indeed submerged in water; and whether the waters wherein the cable/s is/are laid are entirely outside of Philippine territorial or inland waters, *i.e.*, in international waters. More simply, Capwire argues based on mere legal conclusions, culminating on its claim of illegality of respondents' acts, but the conclusions are yet unsupported by facts that should have been threshed out quasi-judicially before the administrative agencies. It has been held that "a bare characterization in a petition of unlawfulness, is merely a legal conclusion and a wish of the pleader, and such a legal conclusion unsubstantiated by facts which could give it life, has no standing in any court where issues must be presented and determined by facts in ordinary and concise language."[36] Therefore, Capwire's resort to judicial action, premised on its legal conclusion that its cables (the equipment being taxed) lie entirely on international waters, without first administratively substantiating such a factual premise, is improper and was rightly denied. Its proposition that the cables lie entirely beyond Philippine territory, and therefore, outside of Philippine sovereignty, is a fact that is not subject to judicial notice since, on the contrary, and as will be explained later, it is in fact certain that portions of the cable would definitely lie within Philippine waters. Jurisprudence on the Local Government Code is clear that facts such as these must be threshed out administratively, as the courts in these types of cases step in at the first instance only when pure questions of law are involved.

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[36] *Petty v. Dayton Musicians' Association*, 153 NE2d 218, affirmed 153 NE2d 223, quoted in *Vergel de Dios v. Bristol Laboratories Phils., Inc.*, 154 Phil. 311, 317-322 (1974).

Nonetheless, We proceed to decide on whether submarine wires or cables used for communications may be taxed like other real estate.

We hold in the affirmative.

Submarine or undersea communications cables are akin to electric transmission lines which this Court has recently declared in *Manila Electric Company v. City Assessor and City Treasurer of Lucena City,*[37] as "no longer exempted from real property tax" and may qualify as "machinery" subject to real property tax under the Local Government Code. To the extent that the equipment's location is determinable to be within the taxing authority's jurisdiction, the Court sees no reason to distinguish between submarine cables used for communications and aerial or underground wires or lines used for electric transmission, so that both pieces of property do not merit a different treatment in the aspect of real property taxation. Both electric lines and communications cables, in the strictest sense, are not directly adhered to the soil but pass through posts, relays or landing stations, but both may be classified under the term "machinery" as real property under Article 415 (5)[38] of the Civil Code for the simple reason that such pieces of equipment serve the owner's business or tend to meet the needs of his industry or works that are on real estate. Even objects in or on a body of water may be classified as such, as "waters" is classified as an immovable under

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[37] G.R. No. 166102, August 5, 2015.

[38] CIVIL CODE, Art. 415. The following are immovable property:

x x x x x x x x x

(5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried on in a building or on a piece of land, and which tend directly to meet the needs of the said industry or works;

According to *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37, the requirements for the machinery to 1) be placed in the tenement by the owner of the tenement; and 2) that they be destined for use in the industry or work of the tenement are not required by the Local Government Code for the machinery to be classified as real property for purposes of taxation as such real property. All that is needed is for the machinery to tend to directly meet the needs of the owner's industry or works.

Article 415 (8)[39] of the Code. A classic example is a boathouse which, by its nature, is a vessel and, therefore, a personal property but, if it is tied to the shore and used as a residence, and since it floats on waters which is immovable, is considered real property.[40] Besides, the Court has already held that "it is a familiar phenomenon to see things classed as real property for purposes of taxation which on general principle might be considered personal property."[41]

Thus, absent any showing from Capwire of any express grant of an exemption for its lines and cables from real property taxation, then this interpretation applies and Capwire's submarine cable may be held subject to real property tax.

Having determined that Capwire is liable, and public respondents have the right to impose a real property tax on its submarine cable, the issue that is unresolved is how much of such cable is taxable based on the extent of Capwire's ownership or co-ownership of it and the length that is laid within respondents' taxing jurisdiction. The matter, however, requires a factual determination that is best performed by the Local and Central Boards of Assessment Appeals, a remedy which the petitioner did not avail of.

At any rate, given the importance of the issue, it is proper to lay down the other legal bases for the local taxing authorities' power to tax portions of the submarine cables of petitioner. It is not in dispute that the submarine cable system's Landing Station in Nasugbu, Batangas is owned by PLDT and not by Capwire. Obviously, Capwire is not liable for the real property tax on this Landing Station.

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[39] CIVIL CODE, Art. 415. The following are immovable property:

x x x x x x x x x

(8) Mines, quarries, and slag dumps, while the matter thereof forms part of the bed, and waters either running or stagnant;

[40] Paras, Edgardo L., *Civil Code of the Philippines Annotated* (16th ed. 2008), Vol. II, pp. 28-29.

[41] *Standard Oil Co. of New York v. Jaramillo*, 44 Phil. 630, 633 (1923), cited in *Caltex (Phil.), Inc. v. Central Board of Assessment Appeals, et al.*, 199 Phil. 487, 492 (1982) and *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37.

Nonetheless, Capwire admits that it co-owns the submarine cable system that is subject of the tax assessed and being collected by public respondents. As the Court takes judicial notice that Nasugbu is a coastal town and the surrounding sea falls within what the United Nations Convention on the Law of the Sea (*UNCLOS*) would define as the country's territorial sea (to the extent of 12 nautical miles outward from the nearest baseline, under Part II, Sections 1 and 2) over which the country has sovereignty, including the seabed and subsoil, it follows that indeed a portion of the submarine cable system lies within Philippine territory and thus falls within the jurisdiction of the said local taxing authorities.[42] It easily belies Capwire's contention that the cable system is entirely in international waters. And even if such portion does not lie in the 12-nautical-mile vicinity of the territorial sea but further inward, in *Prof. Magallona v. Hon. Ermita, et al.*[43] this Court held that "whether referred to as Philippine 'internal waters' under Article I of the Constitution[44] or as 'archipelagic waters' under UNCLOS Part III,

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[42] UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS), PART II. Territorial Sea and Contiguous Zone,

Section 1. General Provisions.

Article 2. Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil:

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

Section 2. Limits of the Territorial Sea.

Article 3. Breadth of the territorial sea.

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

[43] 671 Phil. 244, 266-267 (2011).

[44] CONSTITUTION, Art. I. *National Territory*. The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or

Article 49 (1, 2, 4),[45] the Philippines exercises sovereignty over the body of water lying landward of (its) baselines, including the air space over it and the submarine areas underneath." Further, under Part VI, Article 79[46] of the UNCLOS, the Philippines clearly has jurisdiction with respect to cables laid in its territory that are utilized in support of other installations and structures under its jurisdiction.

And as far as local government units are concerned, the areas described above are to be considered subsumed under the term "municipal waters" which, under the Local Government Code, includes "not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not

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jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

[45] Article 49. *Legal status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil. —*

1. The sovereignty of an archipelagic State extends to the waters enclosed by the archipelagic baselines drawn in accordance with article 47, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

x x x x x x x x x

4. The regime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

[46] Article 79. *Submarine cables and pipelines on the continental shelf. —*

x x x x x x x x x

4. Nothing in this Part (*i.e.*, Part VI, Continental Shelf) affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it."[47] Although the term "municipal waters" appears in the Code in the context of the grant of quarrying and fisheries privileges for a fee by local governments,[48] its inclusion in the Code's Book II which covers local taxation means that it may also apply as guide in determining the territorial extent of the local authorities' power to levy real property taxation.

Thus, the jurisdiction or authority over such part of the subject submarine cable system lying within Philippine jurisdiction includes the authority to tax the same, for taxation is one of the three basic

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[47] LOCAL GOVERNMENT CODE, Book II, Chapter 1, Sec. 131 (r) "Municipal Waters" includes not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are so situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of their respective municipalities;

[48] *Id.*, at Sec. 138. *Tax on Sand, Gravel and Other Quarry Resources.* — The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the Sangguniang Panlalawigan.

x x x x x x x x x

Sec. 149. *Fishery Rentals, Fees and Charges.* — (a) Municipalities shall have the exclusive authority to grant fishery privileges in the municipal waters and impose rentals, fees or charges therefor in accordance with the provisions of this Section. x x x

and necessary attributes of sovereignty,[49] and such authority has been delegated by the national legislature to the local governments with respect to real property taxation.[50]

As earlier stated, a way for Capwire to claim that its cable system is not covered by such authority is by showing a domestic enactment or even contract, or an international agreement or treaty exempting the same from real property taxation. It failed to do so, however, despite the fact that the burden of proving exemption from local taxation is upon whom the subject real property is declared.[51] Under the Local Government Code, every person by or for whom real property is declared, who shall claim tax exemption for such property from real property taxation "shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim."[52] Capwire omitted to do so. And even under Capwire's legislative franchise, RA 4387, which amended RA 2037, where it may be derived that there was a grant of real property tax exemption for properties that are part of its franchise, or directly meet the needs of its business,[53] such had been expressly withdrawn

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[49] *Compagnie Financiere Sucres Et Denrees v. Commissioner of Internal Revenue,* 531 Phil. 264, 267 (2006); *Commissioner of Internal Revenue v. Solidbank Corp*., 462 Phil. 96, 127 (2003).

[50] LOCAL GOVERNMENT CODE, Title II; *The City Government of Quezon City v. Bayan Telecommunications, Inc.*, 519 Phil. 159, 174 (2006).

[51] *Camp John Hay Development Corporation v. Central Board of Assessment Appeals*, G.R. No. 169234, October 2, 2013, citing the LOCAL GOVERNMENT CODE, Section 206.

[52] LOCAL GOVERNMENT CODE, Sec. 206. *Proof of Exemption of Real Property from Taxation.* — Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, by-laws, contracts, affidavits, certifications and mortgage deeds, and similar documents.

[53] Sec. 5. The same Act is further amended by adding between Sections thirteen and fourteen thereof a new section which shall read as follows:

Sec. 13-A. (a) The grantee shall be liable to pay the same taxes on its real

by the Local Government Code, which took effect on January 1, 1992, Sections 193 and 234 of which provide:[54]

Section 193. *Withdrawal of Tax Exemption Privileges.* — Unless otherwise provided in this Code, **tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and nonprofit hospitals and educational institutions, are hereby withdrawn** upon the effectivity of this Code.

x x x x x x x x x

Section 234. *Exemptions from Real Property Tax.* — The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration of otherwise, to a taxable person;

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;

(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and

(e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all

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estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereinafter may be required by law to pay.

[54] See *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37.

persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.[55]

Such express withdrawal had been previously held effective upon exemptions bestowed by legislative franchises granted prior to the effectivity of the Local Government Code.[56] Capwire fails to allege or provide any other privilege or exemption that were granted to it by the legislature after the enactment of the Local Government Code. Therefore, the presumption stays that it enjoys no such privilege or exemption. Tax exemptions are strictly construed against the taxpayer because taxes are considered the lifeblood of the nation.[57]

WHEREFORE, the petition is **DENIED.** The Court of Appeals' Decision dated May 30, 2007 and Resolution dated October 8, 2007 are **AFFIRMED.**

SO ORDERED.

Velasco, Jr. (Chairperson), *Perez,* and *Mendoza,*[*] *JJ.,* concur.

Jardeleza, J., on leave.

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[55] Emphasis supplied.

[56] *Manila Electric Company v. City Assessor and City Treasurer of Lucena City, supra* note 37.

[57] *City of Manila v. Colet*, G.R. No. 120051, December 10, 2014.

[*] Designated Additional Member in lieu of Associate Justice Bienvenido L. Reyes, per Raffle dated May 23, 2016.

THIRD DIVISION

[G.R. No. 183129. May 30, 2016]

COCOPLANS, INC. and CAESAR T. MICHELENA, *petitioners, vs.* **MA. SOCORRO R. VILLAPANDO,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; THE ISSUES INVOLVED IS LIMITED TO QUESTIONS OF LAW; EXCEPTIONS; PRESENT IN CASE AT BAR.— At the outset, the Court notes that as a rule, the findings of fact of the CA are final and conclusive, and this Court will not review them on appeal. This is because under the Rules of Court and settled jurisprudence, a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to questions of law. When, however, the following instances occur, these factual issues may be resolved by the Court: x x x (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) **the findings of fact are conflicting**; (6) the CA goes beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellee; (7) **the findings of fact of the CA are contrary to those of the trial court**; (8) said findings of facts are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) the findings of fact of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record. In light of the fact that the findings of the CA and the Labor Arbiter are contrary to those of the NLRC, the Court deems it necessary to make its own evaluation of the findings of fact of the instant case.

2. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; TERMINATION OF EMPLOYMENT;

VALID DISMISSAL FROM EMPLOYMENT; REQUISITES.— Settled is the rule that to constitute a valid dismissal from employment, two (2) requisites must concur, *viz.:* (a) the employee must be afforded due process, *i.e.,* he must be given an opportunity to be heard and defend himself; and (b) the dismissal must be for a valid cause, as provided in Article 282 of the Labor Code, or for any of the authorized causes under Articles 283 and 284 of the same Code.

3. ID.; ID.; ID.; LOSS OF TRUST AND CONFIDENCE, AS VALID GROUND; TO BE A VALID GROUND FOR DISMISSAL, LOSS OF TRUST AND CONFIDENCE MUST BE BASED ON A WILLFUL BREACH OF TRUST AND FOUNDED ON CLEARLY ESTABLISHED FACTS; ELUCIDATED.— Article 282(c) of the Labor Code provides that an employer may terminate an employment for fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative. As firmly entrenched in our jurisprudence, loss of trust and confidence, as a just cause for termination of employment, is premised on the fact that an employee concerned holds a position where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected. The betrayal of this trust is the essence of the offense for which an emp1oyee is penalized. To be a valid ground for dismissal, loss of trust and confidence must be based on a willful breach of trust and founded on clearly established facts. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not also be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and show that the employee concerned is unfit to continue working for the employer. x x x Indeed, while an employer may terminate managerial employees for just cause to protect its own interest, such prerogative must be exercised with compassion and understanding bearing in mind that, in the execution of said

prerogative, what is at stake is not only the employee's position, but his very livelihood, his very breadbasket. As such, when there is doubt between the evidence submitted by the employer and that submitted by the employee, the scales of justice must be tilted in favor of the employee. This is consistent with the rule that an employer's cause could only succeed on the strength of its own evidence and not on the weakness of the employee's. Thus, when the breach of trust or loss of confidence alleged is not borne by clearly established facts, an employee's dismissal on said ground cannot be sustained.

4. ID.; ID.; ID.; ID.; THE BURDEN OF PROVING JUST AND VALID CAUSE FOR DISMISSING AN EMPLOYEE FROM HIS EMPLOYMENT RESTS UPON THE EMPLOYER; FAILURE TO DISCHARGE THIS BURDEN SHALL RESULT IN THE FINDING THAT THE DISMISSAL IS UNJUSTIFIED; APPLICATION IN CASE AT BAR.— It must also be noted that in termination cases, the burden of proving just and valid cause for dismissing an employee from his employment rests upon the employer. Failure by the employer to discharge this burden shall result in the finding that the dismissal is unjustified. In fact, a dismissed employee is not even required to prove his innocence of the charges levelled against him by his employer. This is because the determination of the existence of a just cause must be exercised with fairness and in good faith and after observing due process for loss of trust and confidence, as a ground of dismissal, has never been intended to afford an occasion for abuse due to its subjective nature. It should not be used as a subterfuge for causes which are illegal, improper, and unjustified. It must be genuine and not a mere afterthought intended to justify an earlier action taken in bad faith. Let it not be forgotten that what is at stake is the means of livelihood, the name, and the reputation of the employee. To countenance an arbitrary exercise of that prerogative is to negate the employee's constitutional right to security of tenure. In the instant case, the Court does not find the evidence presented by petitioners to be substantial enough to discharge the burden of proving that Villapando was, indeed, dismissed for just cause. x x x To repeat, in justifying dismissals due to loss of trust and confidence,

there must be an actual breach of duty committed by the employee, established by substantial evidence. The Court is of the view, however, that a single Joint Affidavit of doubtful probative value can hardly be considered as substantial. Had petitioners provided the Court with other convincing proof, apart from said Joint Affidavit, that Villapando had, indeed, wilfully influenced her subordinates to transfer to a competing company, their claims of loss of confidence could have been sustained. As the Court now sees it, petitioners terminated the services of Villapando on the mere basis of the Joint Affidavit executed by Ms. Perez and Mr. Sandoval, which, as previously discussed, is put in doubt by conflicting evidence. Hence, in the absence of sufficient proof, the Court finds that petitioners failed to discharge the onus of proving the validity of Villapando's dismissal.

APPEARANCES OF COUNSEL

Delos Reyes Martinez Irog Braga for petitioners.
De Jesus Linatoc Mendoza & Associates for respondent.

D E C I S I O N

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[1] dated February 4, 2008 and Resolution[2] dated May 27, 2008 of the Court of Appeals (*CA*) in CA-G.R. SP No. 88759, which reversed the Decision[3] dated July 30, 2004 of the National Labor Relations Commission (*NLRC*) in NLRC

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[1] Penned by Associate Justice Romeo F. Barza, with Associate Justices Mariano C. Del Castillo (now Associate Justice of the Supreme Court) and Arcangelita M. Romilla-Lontok, concurring; *rollo*, pp. 31-56.

[2] *Id.* at 66.

[3] Penned by Commissioner Romeo L. Go, with Commissioners Roy V. Señeres and Ernesto S. Dinopol, concurring; *id.* at 150-162.

Case CA No. 039310-04 and NLRC Case No. SRAB-IV-11-7279-02-B, which, in turn, reversed the Decision[4] dated January 30, 2004 of the Labor Arbiter NLRC Case No. SRAB-IV-11-7279-02-B.

The factual antecedents are as follows.

Respondent Ma. Socorro R. Villapando, began working as a Financial Advisor for petitioner Cocoplans, Inc., (*Cocoplans*) in 1995. On October 11, 2000, she was eventually promoted to Division Head/Senior Sales Manager. On November 4, 2002, however, her employment was terminated by Cocoplans, through its President, Caesar T. Michelena, on the alleged ground that she was deliberately influencing people to transfer to another company thereby breaching the trust and losing the confidence given to her by Cocoplans.[5] Consequently, Villapando filed an action for illegal dismissal alleging that she was dismissed without the just cause mandated by law. In her Position Paper,[6] Villapando alleged the following pertinent facts:

> 2. On September 25, 2002, respondent Michelena talked to complainant and accused the latter of ordering her subordinates to "stop selling" and of influencing them to "leave the company" by way of sympathy to Dario B. Martinez who was compelled to resign from the company due to a personal quarrel with respondent Michelena. In the said conversation, respondent Michelena told complainant that "we cannot work together" and "I want your resignation tomorrow."
>
> 3. In a written statement signed by a number of officers of COCOPLANS, a copy of which is hereto attached as Annex "B," it was attested that complainant did not order a "stop selling" and that complainant did not influence her subordinates to leave the company.
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> 4. On September 26, 2002, and September 27, 2002, Jaclyn Yang, the Secretary of respondent Michelena persistently followed up from complainant the resignation letter being required by respondent Michelena.

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[4] Penned by Labor Arbiter Numeriano D. Villena, *id.* at 120-132.

[5] *Rollo*, p. 32.

[6] *Id.* at 89-99.

5. Harassed and pressured, complainant wrote a letter dated October 3, 2002 to Atty. Alfredo Tumacder, Jr., the Managing Director of COCOPLANS, INC., a copy of which is hereto attached as Annex "C." In said letter, complainant categorically denied that she ordered "stop selling." She also denied that she influenced her subordinates to leave the company. She also expressed that she is resigning as required by respondent Michelena.

6. On October 4, 2002, respondent Michelena sent a letter to complainant, a copy of which is hereto attached as Annex "D," changing his original position. Surprisingly, respondent Michelena did not accept the resignation that he originally asked for and instead convened a Committee on Employee Discipline. Complainant was also placed under preventive suspension in said letter. Obviously, respondents realized that they erred in not investigating the issues first before asking complainant to resign.

7. In a letter dated October 9, 2002, a copy of which is hereto attached as Annex "E," complainant stated —

> "x x x I also do not understand why you want an investigation while you have effectively convicted me and terminated me during the said meeting on September 25, 2002. As far as I know, I have already been terminated.
>
> In any event, may I know what are the accusations against me and who are accusing me. May I also know your reason and basis for the preventive suspension."

8. COCOPLANS sent a letter to complainant on October 22, 2002, a copy of which is hereto attached as Annex "F," asking complainant to submit a written explanation and extending the preventive suspension. She was then furnished with a Sworn Statement of Mila Perez and David Sandoval, a copy of which is hereto attached as Annex "G." There was no explanation given as to the imposition of preventive suspension, much less for the extension thereof.

9. In response, complainant submitted an explanation letter dated October 25, 2002, a copy of which is hereto attached as Annex "H." She denied the accusations that she ordered to stop selling and that she was influencing her subordinates to leave COCOPLANS and transfer to Pioneer Allianz.

10. Thereafter, complainant was furnished with a letter dated October 28, 2002, a copy of which is hereto attached as Annex "I"

and an Affidavit of respondent Michelena, a copy of which is hereto attached as Annex "J." Respondent Michelena alleged that complainant was the one who wanted to resign although he admitted that he asked his secretary to follow up the resignation letter from complainant.

11. In response, complainant sent a letter dated October 29, 2002, copy hereto attached as Annex "K," denying the allegations of respondent Michelena and reiterating her previous statement that she was being forced to resign.

12. In a letter dated November 4, 2002 signed by respondent Michelena, a copy of which is hereto attached as Annex "L", complainant was formally terminated.[7]

Thus, Villapando maintained that she was illegally dismissed for her employment was terminated on baseless and untruthful grounds. According to her, Michelena simply wanted to oust her from the company because he felt that she was sympathizing with the Vice-President for Marketing, Dario B. Martinez, an officer with whom Michelena had a personal quarrel.[8] That she was influencing the company's employees to transfer to another company, particularly, Pioneer Allianz, was improbable and preposterous for she never invited nor encouraged anyone to leave the company. In fact, up until the present time, not a single subordinate nor Villapando, herself, has transferred to said other company.

In support of her stance, Villapando submitted a written statement[9] signed by Ms. Milagros Perez, Senior Area Manager, together with six (6) other officers of the company, wherein they attested that Villapando never influenced them to resign or join another company. With respect to a contradictory Joint Affidavit[10] likewise executed by the same Ms. Perez, together with Senior Area Manager David M. Sandoval, wherein they stated that Villapando, indeed, motivated them to transfer to

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[7] *Id.* at 90-92.

[8] *Id.* at 92.

[9] *Id.* at 106-107.

[10] *Id.* at 133.

another company, Villapando alleged that the written statement earlier signed by Ms. Perez belies the Joint Affidavit she subsequently executed.[11] Thus, the contents of the written statement should be controlling. In view of the baseless allegations the company dismissed her on, Villapando prayed that her termination from employment be declared illegal and that she be awarded full backwages, separation pay, and moral damages.

In their opposing Position Paper,[12] however, petitioners Cocoplans and Michelena attested to a different set of factual antecedents, to wit:

> It has been discovered by herein respondents that the Complainant has instigated the Sales Force of COCOPLANS in her area of responsibility, to either slow down sales production or completely stop selling, then join a mass resignation and transfer to a competitor company which was allegedly much better than COCOPLANS.
>
> This sinister plot started sometime in the middle of February 2002, when a meeting was presided by the then First Vice-President for Marketing of COCOPLANS, who instead of discussing new trends in marketing strategies and how to improve sales production, concentrated more on his sentiments and personal problems with the company. One month thereafter, the Complainant called a Managers' meeting and informed them that the said First Vice-President for Marketing and his group, will transfer to another company. As a member of that group, the Complainant was motivating the Sales Managers to join the said transfer as the other company was purportedly better than COCOPLANS. The Complainant was also convincing the Sales Managers to join the mass resignations nationwide thereby paralyzing sales production for COCOPLANS. Attached hereto as Annex "A" and made integral part of this position paper is the joint affidavit of two (2) sales managers who attended that crucial meeting and attested to the truth of what transpired thereat.
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> Again, in March 2002, the Complainant officiated a division meeting in Lipa City, together with the said First Vice-President for Marketing, attended by sales associates from Lipa, Lucena,

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[11] *Id.* at 93.

[12] *Id.* at 67-71.

Mindoro and San Pablo branches of COCOPLANS, as well as by the Branch Cashier, Ms. Sharon Gurango. In that meeting, the cashier, Ms. Gurango was told that 70-80% of the Sales Force will move out of COCOPLANS and the Complainant asked her if [she] was willing to join the group, and her answer was yes. Thereafter, Ms. Gurango was kept constantly updated on the developments on the said plan by the Complainant and that the group might leave COCOPLANS either June or July 2002. Attached also hereto as Annex "B" and made integral part hereof is the sworn report of the said Branch Cashier, Ms. Sharon Gurango, dated September 19, 2002.

Because of the persistent flow of information that the Sales Force will proceed with their planned mass resignations as agitated by the Complainant, the President of COCOPLANS confronted her on September 20, 2002 and when asked —

"Did you at any time during this year tell your people of leaving COCOPLANS for another company?"

The Complainant replied "Yes Sir!" thereby directly admitting the truth of the information received by the President himself. Attached as Annex "C" and made integral part hereof is the affidavit of the President of COCOPLANS. Having been embarrassed, the Complainant later on filed a resignation letter, which was not accepted, as the Committee on Employee Discipline was already convened to conduct a hearing on the alleged acts committed by the complainant, and to receive any further explanation on the matter.

Attached hereto and marked as Annex "D" and likewise made integral part of this position paper, is the notice to the Complainant dated October 4, 2002 regarding the meeting scheduled by the Committee on Employee Discipline setting the date, October 10, 2002 for Complainant to give her explanation, and putting her on preventive suspension for three (3) weeks. Notwithstanding receipt of said notice, the Complainant, for reasons known only to her, did not attend said meeting. However, the witnesses who submitted their sworn statements attended the meeting, as shown in the minutes of the meeting, hereto attached marked as Annex "E" and made integral part hereof. Still, the complainant was given another opportunity to explain why no disciplinary action should be taken against her for her deliberate attempt to encourage sales staff to move to another company. Attached hereto and marked as Annex "F" is another notice to the Complainant giving her until October 25, 2002 to explain her position.

While the Complainant did file a written explanation, the Committee on Employee Discipline decided to schedule another meeting for further clarification, and notice about this meeting was duly received by the Complainant. Attached hereto as Annex "G" and made integral part hereof is said notice of hearing. However, on said date of hearing, Complainant again failed to appear. Consequently, on November 4, 2002 the Committee on Employee Discipline rendered a final recommendation, a copy of which is also hereto attached marked as Annex "H," and thereupon the President of COCOPLANS advised the Complainant of her termination for cause. x x x.[13]

Based on the aforequoted set of facts, together with the supporting evidence submitted, petitioners insist that Villapando's suspension and eventual termination was for just cause due to the fact that she wilfully breached petitioners' trust in her when she deliberately encouraged her very own sales staff to move to another company.[14]

On January 30, 2004, the Labor Arbiter ruled in favor of Villapando finding that she was illegally terminated from her employment. According to the Labor Arbiter, evidence clearly shows that the initial investigation conducted by the Committee on Employee Discipline was merely to determine the truth about the allegations of Villapando in her resignation letter that she was being forced to resign. But in Michelena's desire to terminate Villapando's employment, he instructed the committee to expand the scope of investigation to her alleged acts of motivating her subordinates to transfer to another company. He fished for evidence resulting in conflicting testimonies made by the same witnesses. But as between the written statement and the joint affidavit, the Labor Arbiter found that the written statement earlier signed by Ms. Perez was more credible.[15] Hence, he granted Villapando's prayer for full backwages and separation pay and further ordered the payment of attorney's fees in the dispositive portion of his Decision which provides:

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[13] *Id.* at 68-69.

[14] *Id.* at 70.

[15] *Id.* at 129.

WHEREFORE, judgment is hereby rendered ordering the respondent to pay complainant her full backwages to until the finality of this decision which partially computed as of this date in the amount of ₱678,291.92 and to pay her separation pay equivalent to one month salary per year of service in the amount of ₱336,000.00.

Respondent is likewise ordered to pay 10% of the total monetary award as attorney's fees in the amount of ₱101,429.19.

All other claims are hereby dismissed.

SO ORDERED.[16]

On July 30, 2004, however, the NLRC disagreed with the Labor Arbiter in its Decision holding that the matter of resignation is a non-issue as the termination of Villapando's employment was affected for reasons other than her resignation.[17] According to the NLRC, the two essential elements of a lawful termination of employment, namely: (1) that the employee be afforded due process, *i.e.*, he must be given an opportunity to be heard and to defend himself; and (2) that the dismissal must be for valid cause, are present in this case.

With regard to the first requisite, the NLRC held that while initially, Villapando was being investigated on her allegation that she was being forced to resign, the records clearly reveal that she was nonetheless duly informed of the accusations against her as well as the requisite opportunity to be heard and to defend herself. This was shown by a series of letters Villapando received informing her of her alleged acts of betrayal and consequently inviting her to appear before the Committee on Employee Discipline to give her explanations thereon.

As for the second requisite, the NLRC found sufficient basis positively establishing its existence. According to the Commission, the Labor Arbiter failed to mention that there were two other competent witnesses, namely, Mr. David Sandoval and Ms. Sharon Gurango, who not only executed their affidavits, but

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[16] *Id.* at 132.

[17] *Id.* at 154.

who likewise presented themselves before the investigating panel and attested as to the veracity of their sworn statements.[18] Thus, as between the written statement of Villapando's witnesses and the sworn statements of Cocoplans, the NLRC opined that the latter ought be given greater credence and probative value in view of the jurisprudential teaching that affidavits are generally considered inferior to the testimony given in open court.[19] Considering, therefore, that Villapando was sufficiently proven to have surreptitiously engaged in activity gravely adverse to and patently inimical to the legitimate business interests of herein company, said company's right to dismiss a managerial employee for breach of trust and loss of confidence is upheld.

Yet, in its February 4, 2008 Decision, the CA disagreed with the NLRC and reinstated the Labor Arbiter's Decision, finding that while Villapando was duly afforded the required due process mandated by law, the evidence adduced by herein petitioners was not substantial enough to support their allegation that Villapando deliberately influenced people to transfer to another company.[20] First of all, the appellate court held that the Joint Affidavit executed by Mr. Sandoval and Ms. Perez was put in doubt and cannot be relied on in view of the fact that Ms. Perez is also a signatory to an earlier letter which directly contradicts her sworn statements in said affidavit.[21] Secondly, the CA noted that as regards the Affidavit of the company's branch cashier, Ms. Sharon Gurango, the same cannot also be considered for it was never presented during the time the Committee on Employee Discipline was still investigating the charges against Villapando as it only surfaced during the proceedings before the Labor Arbiter. Thus, Villapando never had the opportunity to answer the charges therein. Finally, the CA found no probative value in the Affidavit of petitioner Michelena for the same merely contained hearsay information. Considering, therefore, that the

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[18] *Id.* at 157.

[19] *Id.* at 159.

[20] *Id.* at 49.

[21] *Id.* at 50.

evidence against Villapando was not substantial enough to prove the alleged disloyal acts, the appellate court held that petitioners failed to discharge the burden of proving its just and valid cause for dismissing Villapando. Thus, her dismissal was unjustified.[22]

In its Resolution dated May 27, 2008, the CA further denied petitioners' Motion for Reconsideration finding no cogent reason to revise or reverse its Decision. Hence, this petition invoking the following grounds:

I.

THE HONORABLE SUPREME COURT MAY PASS UPON THE QUESTION OF FACT OF THE CASE CONSIDERING THE CONFLICTING DECISIONS OF THE COURT OF APPEALS AND THE NLRC.

II.

PRIVATE RESPONDENT WAS TERMINATED FOR JUST CAUSE.

Petitioners ask the Court to give due course to its petition and review the factual scenario of the instant case considering the disparity in the findings of the tribunals below. They essentially argue that contrary to the ruling of the CA, the pieces of evidence they presented sufficiently prove that Villapando is guilty of instigating its employees to engage in a mass resignation and to transfer to a competitor company. First, they claim that the Joint Affidavit of Mr. Sandoval and Ms. Perez cannot be said to be doubtful by the mere fact that Ms. Perez is a signatory to an earlier letter which contradicts her sworn statement. This is because, on the one hand, said earlier written statement was not notarized nor affirmed by Ms. Perez during the administrative investigation.[23] On the other hand, the Joint Affidavit was notarized and affirmed by its affiants before the investigating panel. Thus, as between the two pieces of evidence, the Joint Affidavit should be given probative weight and credence. Petitioners add that even assuming that the contradiction of statements put in doubt the Joint Affidavit, this should not be

[22] *Id.* at 52.

[23] *Id.* at 16.

the case as to Mr. Sandoval who did not make any prior inconsistent statement. Hence, as to him, at least, his statements therein should be given credence.

Second, petitioners assert that the non-presentation of Ms. Gurango's Affidavit to the investigation panel is immaterial for it still serves as substantial evidence for petitioners to believe that Villapando was indeed guilty of breaching their trust.[24] Third, petitioners reiterate the probative value of the petitioner Michelena's Affidavit wherein he alleged that when he asked Villapando if she told her people to leave Cocoplans for another company, she answered in the affirmative.[25] In view of the foregoing, petitioners insist that Villapando's dismissal was valid and just.

The Court, however, is not convinced.

At the outset, the Court notes that as a rule, the findings of fact of the CA are final and conclusive, and this Court will not review them on appeal. This is because under the Rules of Court and settled jurisprudence, a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to questions of law.[26] When, however, the following instances occur, these factual issues may be resolved by the Court:

> x x x (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) *the findings of fact are conflicting*; (6) the CA goes beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellee; (7) *the findings of fact of the CA are contrary to those of the trial court*; (8) said findings of facts are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main

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[24] *Id.* at 19.

[25] *Id.* at 15.

[26] *Manarpiis v. Texan Philippines, Inc., et al.*, G.R. No. 197011, January 28, 2015.

and reply briefs are not disputed by the respondent; and (10) the findings of fact of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record.[27]

In light of the fact that the findings of the CA and the Labor Arbiter are contrary to those of the NLRC, the Court deems it necessary to make its own evaluation of the findings of fact of the instant case.

Settled is the rule that to constitute a valid dismissal from employment, two (2) requisites must concur, *viz.*: (a) the employee must be afforded due process, *i.e.*, he must be given an opportunity to be heard and defend himself; and (b) the dismissal must be for a valid cause, as provided in Article 282 of the Labor Code, or for any of the authorized causes under Articles 283 and 284 of the same Code.[28] In the case before the Court, it is already undisputed that petitioners duly afforded Villapando the opportunity to be heard and defend herself, thereby complying with the first requisite. The issue that remains, therefore, is whether Villapando was dismissed for valid and just cause.

Article 282 (c) of the Labor Code provides that an employer may terminate an employment for fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative. As firmly entrenched in our jurisprudence, loss of trust and confidence, as a just cause for termination of employment, is premised on the fact that an employee concerned holds a position where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected. The betrayal of this trust is the essence of the offense for which an employee is penalized.[29]

To be a valid ground for dismissal, loss of trust and confidence must be based on a willful breach of trust and founded on clearly established facts. A breach is willful if it is done intentionally,

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[27] *Id.*

[28] *Lima Land, Inc., et al. v. Cuevas*, 635 Phil. 36, 44-45 (2010).

[29] *Wesleyan University-Philippines v. Reyes*, G.R. No. 208321, July 30, 2014, 731 SCRA 516, 533.

knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not also be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and show that the employee concerned is unfit to continue working for the employer.[30]

It must also be noted that in termination cases, the burden of proving just and valid cause for dismissing an employee from his employment rests upon the employer. Failure by the employer to discharge this burden shall result in the finding that the dismissal is unjustified.[31] In fact, a dismissed employee is not even required to prove his innocence of the charges levelled against him by his employer. This is because the determination of the existence of a just cause must be exercised with fairness and in good faith and after observing due process for loss of trust and confidence, as a ground of dismissal, has never been intended to afford an occasion for abuse due to its subjective nature. It should not be used as a subterfuge for causes which are illegal, improper, and unjustified. It must be genuine and not a mere afterthought intended to justify an earlier action taken in bad faith. Let it not be forgotten that what is at stake is the means of livelihood, the name, and the reputation of the employee. To countenance an arbitrary exercise of that prerogative is to negate the employee's constitutional right to security of tenure.[32]

In the instant case, the Court does not find the evidence presented by petitioners to be substantial enough to discharge

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[30] *e Pacific Global Contact Center, Inc. v. Cabansay*, 563 Phil. 804, 821 (2007).

[31] *Loon, et al. v. Power Master, Inc., and/or Sison*, G.R. No. 189404, December 11, 2013, 712 SCRA 440, 442.

[32] *Lima Land, Inc., et al. v. Cuevas, supra* note 28, at 49.

the burden of proving that Villapando was, indeed, dismissed for just cause. As borne by the records, petitioners submitted the following pieces of evidence in support of their claims: (1) Affidavit of Ms. Gurango dated September 19, 2002; (2) Affidavit of petitioner Michelena dated October 21, 2002; and (3) Joint Affidavit of Mr. Sandoval and Ms. Perez dated October 9, 2002. Yet, as clearly discussed by the CA, the documents fail to convince.

First of all, there exist certain discrepancies surrounding the presentation of Ms. Gurango's affidavit that warrant the Court's attention. In the words of the appellate court:

> Regarding the Affidavit of Sharon H. Gurango, dated September 19, 2002, the Court notes that **this affidavit was never presented during the time that the Committee on Employee Discipline was still investigating the charges against the petitioner as the said affidavit surfaced only during the proceedings before the labor arbiter.** The Court further notes that the **said affidavit's date (September 9, 2002) is even way before the convening of the Committee on Employee Discipline (October 10, 2002), thus, the Court is curious as to why the said affidavit was never presented during the committee's investigatory hearings.** In fact, based on the final report of the said committee entitled "Final Recommendation on the Case of Ma. Socorro R. Villapando, Senior Sales Manager — South Tagalog Operations," dated November 4, 2002, **the affidavit of Ms. Gurango was never considered by the committee since all that was brought before it was only the joint affidavit of Milagros Perez and David Sandoval and the affidavit of private respondent Michelena.** Having not been brought before the committee, therefore, the **petitioner never had the opportunity to answer the charges against her in the Gurango affidavit.** As such, the said affidavit should not be considered.
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> At any rate, **even if the Gurango affidavit would be considered, the said affidavit does not, in any way, prove that the petitioner influenced people to join another company. All that the affidavit proves is that it was the First Vice-President Dario B. Martinez who tried to influence Sharon H. Gurango to move to another company and not the petitioner [Socorro] R. Villapando.** While the said affidavit appears to show that the petitioner knew of Mr. Martinez's plans of moving to another company, mere knowing and

deliberately influencing people to leave the company are two very different things.[33]

Thus, in view of the irregularities identified by the CA, the Court cannot take Ms. Gurango's affidavit into account. In dismissing an employee for just cause, it must be shown that the employer fairly made a determination of just cause in good faith, taking into consideration all of the evidence available to him. But as the appellate court noted, the affidavit of Ms. Gurango was never presented before the investigation panel, merely surfacing only during the proceedings before the Labor Arbiter, in spite of the fact that the same was supposedly executed as early as September 9, 2002, an entire month before the time the Committee on Employee Discipline convened. Thus, not only is there no showing that said affidavit was considered by petitioners in arriving at their decision to dismiss Villapando, Villapando never had the opportunity to address the accusations stated therein. As such, the Court cannot consider the same.

Neither can the Court give due regard to the affidavit of petitioner Michelena for as the CA mentioned, he did not witness first-hand Villapando's alleged disloyal acts of influencing people to transfer to a competing company.[34] Moreover, Michelena's allegation that Villapando answered in the affirmative when he asked her if she told her subordinates to leave Cocoplans for another company can hardly suffice as convincing proof in light of the obvious hostility between him and Villapando as well as Villapando's categorical and repeated denials of the imputations against her.

Thus, bearing in mind the fact that the Court cannot take into consideration the foregoing documentary proof submitted by petitioners for the aforestated reasons, it appears that the only remaining piece of evidence that petitioners could have used in arriving at their decision to dismiss Villapando is the Joint Affidavit executed by Ms. Perez and Mr. Sandoval. Yet,

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[33] *Rollo*, pp. 50-51. (Emphasis ours)

[34] *Id.* at 52.

as pointed out by the appellate court, the probative value of the same is rather doubtful.

It is not disputed that apart from the Joint Affidavit, records reveal another document likewise executed by Ms. Perez containing statements directly contradictory to those found in the Joint Affidavit. To this Court, the same, indeed, casts doubt on the reliability of the Joint Affidavit. The fact that the earlier written statement was not notarized nor affirmed by Ms. Perez does not automatically make it fabricated, especially since no proof was offered to sufficiently dispute its authenticity. In the face of two conflicting pieces of evidence, the Court is curious as to why petitioners did not exert any effort in verifying with Ms. Perez the reliability of said documents. Moreover, even granting the Joint Affidavit to be valid as to Mr. Sandoval, such affidavit cannot adequately amount to instigating a "mass resignation" with the end goal of completely abandoning petitioner Cocoplans.[35] If there were really multiple invitations to join "nationwide mass resignations," petitioners could have easily found many other witnesses, apart from Mr. Sandoval, to categorically attest thereto. Also, if Villapando truly desired to boycott Cocoplans and convince Mr. Sandoval in transferring to another company, why is it that she promoted him to Senior Area Manager in May 2002,[36] an act that might even encourage him to stay?

To repeat, in justifying dismissals due to loss of trust and confidence, there must be an actual breach of duty committed by the employee, established by substantial evidence.[37] The Court is of the view, however, that a single Joint Affidavit of doubtful probative value can hardly be considered as substantial. Had petitioners provided the Court with other convincing proof, apart from said Joint Affidavit, that Villapando had, indeed, wilfully influenced her subordinates to transfer to a competing company, their claims of loss of confidence could have been sustained.

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[35] *Id.* at 7.

[36] *Id.* at 115.

[37] *Lima Land, Inc., et al. v. Cuevas*, *supra* note 28, at 50.

As the Court now sees it, petitioners terminated the services of Villapando on the mere basis of the Joint Affidavit executed by Ms. Perez and Mr. Sandoval, which, as previously discussed, is put in doubt by conflicting evidence. Hence, in the absence of sufficient proof, the Court finds that petitioners failed to discharge the onus of proving the validity of Villapando's dismissal.

Indeed, while an employer may terminate managerial employees for just cause to protect its own interest, such prerogative must be exercised with compassion and understanding bearing in mind that, in the execution of said prerogative, what is at stake is not only the employee's position, but his very livelihood, his very breadbasket.[38] As such, when there is doubt between the evidence submitted by the employer and that submitted by the employee, the scales of justice must be tilted in favor of the employee. This is consistent with the rule that an employer's cause could only succeed on the strength of its own evidence and not on the weakness of the employee's.[39] Thus, when the breach of trust or loss of confidence alleged is not borne by clearly established facts, an employee's dismissal on said ground cannot be sustained.

In view of the foregoing, the Court finds proper the CA's award of backwages in favor of Villapando computed from the date of her dismissal on November 4, 2002 up to the finality of this decision, the deletion of attorney's fees, as well as the award of separation pay in lieu of reinstatement computed from the time of her engagement up to the finality of this decision. Due to petitioners' contention in their Memorandum of Appeal[40] dated February 19, 2004, however, that the Labor Arbiter erred in his determination of the exact date of the start of Villapando's employment with the company, the Court deems it necessary to remand the case to the Labor Arbiter for purposes of computing

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[38] *Id.* at 53.

[39] *Misamis Oriental II Electric Service Cooperative (MORESCO II) v. Cagalawan*, 694 Phil. 268, 283 (2012).

[40] *Rollo*, p. 133.

the proper amount of separation pay due to Villapando, with due regard to the evidence presented by the parties as to the beginning date of Villapando's engagement.

WHEREFORE, premises considered, the instant petition is **DENIED**. The assailed Decision dated February 4, 2008 and Resolution dated May 27, 2008 of the Court of Appeals in CA-G.R. SP No. 88759 are **AFFIRMED** with **MODIFICATION**. Petitioners Cocoplans, Inc. and Caesar T. Michelena are hereby **ORDERED** to **PAY** respondent Ma. Socorro R. Villapando the following: (1) backwages computed from the date of her dismissal on November 4, 2002 up to the finality of this Decision; (2) separation pay in lieu of reinstatement computed from the time of her engagement up to the finality of this Decision; and (3) legal interest at six percent (6%) *per annum* of the total monetary awards, computed from the finality of this Decision until full satisfaction thereof.

For this purpose, the records of this case are hereby **REMANDED** to the Labor Arbiter for the proper computation of the aforestated awards, with due regard to the evidence presented by the parties as to the beginning date of Villapando's engagement.

SO ORDERED.

Velasco, Jr. (Chairperson), *Perez,* and *Reyes, JJ.,* concur.

Jardeleza, J., on leave.

THIRD DIVISION

[G.R. No. 190520. May 30, 2016]

LAND BANK OF THE PHILIPPINES, *petitioner, vs.* **SPOUSES ANTONIO AND CARMEN AVANCEÑA,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; COMPREHENSIVE AGRARIAN REFORM LAW (CARP) [REPUBLIC ACT NO. 6657]; EXPROPRIATION; JUST COMPENSATION; THE COURT ALLOWED THE GRANT OF INTEREST IN EXPROPRIATION CASES WHERE THERE IS DELAY IN THE PAYMENT OF JUST COMPENSATION; RATIONALE; CASE AT BAR.— The certificate of title to respondents-spouses' land was canceled and a new certificate was issued in the government's name in December 1991 without giving the former just compensation for such taking. We have allowed the grant of interest in expropriation cases where there is delay in the payment of just compensation. We recognize that the owner's loss is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost. The rationale for imposing the interest is to compensate the landowners for the income they would have made had they been properly compensated for their properties at the time of the taking. x x x Thus, the CA did not err in imposing interest on the just compensation which will be determined after the remand of the case to the SAC (Special Agrarian Court). The interest should be computed from December 1991 up to the full payment of just compensation and not only up to the time petitioner deposited the valuation in 1996 as the CA ruled. The concept of just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also payment within a reasonable time from its taking. Without prompt payment, compensation cannot be considered "just" inasmuch as the property owner is made to suffer the consequences of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss.

2. CIVIL LAW; DAMAGES; INTEREST; THE RATE OF INTEREST TO BE PAID SHALL BE IN ACCORDANCE WITH THE REVISIONS GOVERNING THE RATE OF INTEREST ESTABLISHED BY BANGKO SENTRAL NG PILIPINAS MONETARY BOARD CIRCULAR NO. 799, SERIES OF 2013; APPLICATION IN CASE AT BAR.— The award of interest is imposed in the nature of damages for delay in payment which, in effect, makes the obligation on the part of the government one of forbearance to ensure prompt payment of the value of the land and limit the opportunity loss of the owner. The just compensation due respondents-spouses shall earn legal interest at the rate of 12% *per annum* computed from the time of taking in December 1991 until June 30, 2013. And from July 1, 2013 until full payment, the interest will be at the new legal rate of 6% *per annum,* in accordance with the revisions governing the rate of interest established by Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013. The amount which petitioner had already paid respondents-spouses by virtue of the RTC's Order granting the issuance of the Writ of Execution dated October 2, 2000 shall be deducted from the amount of the just compensation which will be awarded after the remand of this case.

APPEARANCES OF COUNSEL

Legal Services Group for petitioner.
Sobrevinas Hayudini Navarro & San Juan for respondents.

D E C I S I O N

PERALTA, *J.*:

Before us is a petition for review on *certiorari* filed by petitioner Land Bank of the Philippines seeking to annul and set aside the Decision[1] dated August 11, 2008 of the Court of Appeals (*CA*)

[1] Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Edgardo A. Camello and Edgardo T. Lloren concurring; *rollo*, pp. 41-61.

issued in CA-G.R. CV No. 00067 directing it to pay twelve percent (12%) interest *per annum* for the delay in the payment of just compensation. Also assailed is the CA Resolution[2] dated December 1, 2009 denying reconsideration thereof.

Respondents-spouses Antonio and Carmen Avanceña were the registered owners of a parcel of agricultural land situated at Sanghan, Cabadbaran, Agusan del Norte covered by Transfer Certificate of Title No. RT-2937 containing an area of 205.0074 hectares. In 1988, respondents spouses voluntarily offered to sell their land to the government under the Comprehensive Agrarian Reform Program (*CARP*), which consisted of 160.2532 hectares of the land. In 1991, petitioner Land Bank of the Philippines initially valued the subject lot at ₱1,877,516.09 based on the guidelines prescribed in DAR Administrative Order No. 17, Series of 1989. Upon recomputation in 1994 and based on DAR AO No. 6, Series of 1992, as amended, by DAR AO No. 11, Series of 1994, the land was revalued at ₱3,337,672.78 but respondents rejected the valuation. Petitioner deposited the difference in the cash portion between the revalued amount and the initial valuation of ₱1,877,516.09 in trust for the respondents on July 24, 1996. The parties brought the matter of valuation to the Department of Agrarian Reform Adjudication Board (*DARAB*), Caraga Regional Office, which affirmed petitioner's second valuation.

Respondents-spouses filed with the Regional Trial Court, acting as a Special Agrarian Court (*SAC*), a complaint for determination of just compensation, docketed as Civil Case No. 4507. They prayed for a valuation of no less than ₱200,000.00 per hectare for the subject lot or in the alternative, to appoint Commissioners to determine the just compensation; and that they be allowed to withdraw the valuation amount that petitioner had deposited for them including the earned interest, pending the court's final valuation. Petitioner filed its Answer alleging that the valuation was computed based on the factors enumerated in Section 17

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[2] Penned by Associate Justice Edgardo A. Camello, with Associate Justices Edgardo T. Lloren and Leoncia R. Dimagiba, concurring; *id.* at 62-64.

of Republic Act No. (R.A.) 6657, the Comprehensive Agrarian Reform Law.

While the complaint was pending, petitioner made a reevaluation of the property using the valuation prescribed by DAR AO 5, series of 1998 which yielded the amount of ₱9,057,180.32.

On March 29, 2000, the SAC issued its Decision,[3] the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered directing the defendants Land Bank of the Philippines (*LBP*) and the Department of Agrarian Reform (*DAR*) to pay plaintiffs the following:
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> 1. The sum of Twenty Million Four Hundred Seventy-Five Thousand, Seven Hundred Seventy-Five (₱20,475,775) Pesos for the 160.253 hectares [of] land with its improvements with six (6%) percent legal interest thereon, less the provisional deposits from April 1991 until actually paid;
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> 2. The sum of One Hundred Thousand (₱100,000) Pesos, as Attorneys' fees;
>
> 3. The sum of One Hundred Thousand (₱100,000) Pesos, litigation expenses;
>
> 4. All other claims and counterclaims are dismissed for lack of merit.
>
> SO ORDERED.[4]

Petitioner's motion for reconsideration was denied, hence it appealed the decision with the CA. In the meantime, respondents spouses moved for the execution of the RTC decision pending appeal[5] which was granted in a Resolution[6] dated October 2, 2000; thus, the writ of execution was issued and implemented.

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[3] Per Judge Galdino B. Jardin, Sr.; *id.* at 240-254.

[4] *Id.* at 253-254.

[5] *Id.* at 255-259.

[6] *Id.* at 260-262.

On August 11, 2008, the CA issued the assailed decision, the decretal portion of which reads:

> WHEREFORE, in view of all the foregoing, the instant appeal is hereby GRANTED and the assailed March 29, 2006 decision of the Regional Trial Court (RTC), 10th Judicial Region, Branch 5, Butuan City, in Civil Case No. 4507, is hereby SET ASIDE. Consequently, this case is remanded to the court *a quo* for the recomputation of just compensation. In determining the valuation of the subject property, the factors provided under Section 17 of R.A. 6657 shall be considered in accord with the formula prescribed in DAR Administrative Order No. 5, Series of 1998. Moreover, the just compensation due the [S]pouses Avanceña should bear 12% interest per annum from the time title to the property was transferred in the name of the government up to the time that LBP deposited the amount of its valuation for the subject land under the account of the appellees. The basis of the 12% interest would be the just compensation that would be determined by the court *a quo* after remand of the instant case.
>
> SO ORDERED.[7]

Petitioner filed a motion for partial reconsideration arguing that the CA erred in awarding interest at the rate of 12% p.a. reckoned from the time title to property was transferred in the name of the government to the time petitioner deposited the valuation in July 1996. It argued that upon receipt of the DAR order of deposit, it immediately deposited the cash portion of the initial valuation of ₱1,877,516.09 on October 17, 1991, thus it never incurred delay as the title to the subject lot was transferred in the name of the government only in December 1991.

On December 1, 2009, the CA issued its resolution denying the motion for reconsideration. It found that nowhere in the records showed that petitioner made a deposit of ₱1,877,516.09 on October 17, 1991.

Dissatisfied, petitioner is now before us alleging that:

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[7] *Id.* at 61.

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN AWARDING INTEREST AT THE RATE OF 12% PER ANNUM FROM THE TIME TITLE TO THE PROPERTY WAS TRANSFERRED IN THE NAME OF THE GOVERNMENT IN 1991 UP TO THE TIME LBP ALLEGEDLY DEPOSITED THE VALUATION IN 1996.[8]

Petitioner claims that it deposited cash and bonds for the initial valuation of ₱1,877,516.09 on October 17, 1991. It attached in this petition a Certification[9] dated October 22, 1991 which stated that the cash and bonds due the respondents-spouses have been earmarked by petitioner for respondents spouses on October 17, 1991. It argues that such deposit was the basis for the DAR to take possession of the property and caused the issuance of the title in the name of the government in December 1991, pursuant to Section 16 (e) of RA 6657, thus, it did not incur any delay in depositing the amounts due the respondents-spouses which can validly justify the payment of interest.

Petitioner cites the case of *Apo Fruits Corporation, et al. v. CA*[10] saying that we have categorically declared therein that payment of interest for delay cannot be applied where there is prompt and valid payment of just compensation as initially determined, as subsequently determined after revaluation, and even if the amount was later on increased pursuant to the court's judgment.

Petitioner further contends that despite the pendency of the case with the CA, the RTC issued a Writ of Execution dated March 9, 2000 directing petitioner to pay the RTC's valuation of ₱20,475,775.00 plus legal interest thereon at the rate of 6% *per annum* from April 1991 until fully paid; that since such valuation was, however, set aside by the CA in its assailed decision, there is now a huge possibility that the recomputed value will be much lower than ₱20,475,775.00; that the advance payment it made amounting to ₱23,416,772.55 may have exceeded

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[8] *Id.* at 24-25.

[9] *Id.* at 184.

[10] 565 Phil. 418, 443 (2007).

the value of the subject land so that there is a need for respondents spouses to return the difference between its valuation of ₱9,057,182.30 and the advance payment.

We are not persuaded.

The CA found that the title to respondents spouses' land was canceled and a new title was issued in the name of the Republic of the Philippines in December 1991, but there was no showing that petitioner had made payments prior to the taking of the land.

Thus, there was delay in the payment of just compensation which entitles the respondents spouses to the payment of interest from the time the property was transferred in the name of the government in December 1991 up to the time petitioner deposited the valuation in the account of the respondents-spouses in July 1996. We agree with the CA that petitioner should pay interest for the delay in the payment of just compensation. However, such payment of interest should be computed up to the full payment of just compensation.

Petitioner argues that it had made a deposit on October 17, 1991, *i.e.*, prior to the cancellation of the title of the respondents-spouses, and submitted with us a Certification dated October 22, 1991 issued by the petitioner's Bonds Servicing Department stating that it had earmarked the sum of ₱1,877,516.09 in cash and in LBP bonds as compensation for the parcel of lands covered by RT-2937 in the name of respondents spouses on October 17, 1991 pursuant to RA 6657 through voluntary offer. However, such certification was not among those that the petitioner offered as evidence during the trial.[11] More importantly, We had rejected the practice of earmarking funds and opening trust accounts for purposes of effecting payment, hence, the law[12] requires

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[11] *Rollo*, pp. 263-264.

[12] Section 16 (e) of RA 6657 provides as follows:

Sec. 16. *Procedure for Acquisition of Private Lands* —

x x x x x x x x x

payment of just compensation in cash or Land Bank of the Philippines (*LBP*) bonds, not by trust account.[13]

The certificate of title to respondents-spouses' land was canceled and a new certificate was issued in the government's name in December 1991 without giving the former just compensation for such taking. We have allowed the grant of interest in expropriation cases where there is delay in the payment of just compensation.[14] We recognize that the owner's loss is not only his property but also its income-generating potential.[15] Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost.[16] The rationale for imposing the interest is to compensate the landowners for the income they would have made had they been properly compensated for their properties at the time of the taking.[17]

In *Republic v. CA*,[18] we held:

(e) Upon receipt by the landowner of the corresponding payment or, in case of rejection or no response from the landowner, upon *the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds* in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. x x x

[13] *Heirs of Tantoco, Sr. v. CA,* 523 Phil. 257, 278 (2006), citing *Sta. Rosa Realty Development Corporation v. Court of Appeals*, 419 Phil. 457, 475 (2001); *Land Bank of the Philippines v. Court of Appeals*, 319 Phil. 246, 258 (1995).

[14] *Land Bank of the Philippines v. Alsua*, G.R. No. 211351, February 4, 2015; *Land Bank of the Philippines v. Santiago, Jr.*, 696 Phil. 142, 162 (2012).

[15] *Secretary of the Department of Public Works and Highways v. Tecson,* G.R. No. 179334, April 21, 2015.

[16] *Id.*

[17] *Land Bank of the Philippines v. Obias, et al.*, 684 Phil. 296, 304 (2012).

[18] 433 Phil. 106 (2002).

The constitutional limitation of "just compensation" is considered to be the sum equivalent to the market value of the property, broadly described to be the price fixed by the seller in open market in the usual and ordinary course of legal action and competition or the fair value of the property as between one who receives, and one who desires to sell it, fixed at the time of the actual taking by the government. Thus, if property is taken for public use before compensation is deposited with the court having jurisdiction over the case, the final compensation must include interests on its just value to be computed from the time the property is taken to the time when compensation is actually paid or deposited with the court. In fine, between the taking of the property and the actual payment, legal interests accrue in order to place the owner in a position as good as (but not better than) the position he was in before the taking occurred.

The Bulacan trial court, in its 1979 decision, was correct in imposing interests on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% *per annum* should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time. Article 1250 of the Civil Code, providing that, in case of extraordinary inflation or deflation, the value of the currency at the time of the establishment of the obligation shall be the basis for the payment when no agreement to the contrary is stipulated, has strict application only to contractual obligations. In other words, a contractual agreement is needed for the effects of extraordinary inflation to be taken into account to alter the value of the currency.[19]

Thus, the CA did not err in imposing interest on the just compensation which will be determined after the remand of the case to the SAC. The interest should be computed from December 1991 up to the full payment of just compensation and not only up to the time petitioner deposited the valuation in 1996 as the CA ruled. The concept of just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also payment within a reasonable time from its

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[19] *Republic v. CA, supra*, at 122-123.

taking.[20] Without prompt payment, compensation cannot be considered "just" inasmuch as the property owner is made to suffer the consequences of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss.[21]

The award of interest is imposed in the nature of damages for delay in payment which, in effect, makes the obligation on the part of the government one of forbearance to ensure prompt payment of the value of the land and limit the opportunity loss of the owner.[22] The just compensation due respondents-spouses shall earn legal interest at the rate of 12% *per annum* computed from the time of taking in December 1991 until June 30, 2013.[23] And from July 1, 2013 until full payment, the interest will be at the new legal rate of 6% *per annum*, in accordance with the revisions governing the rate of interest established by Bangko Sentral ng Pilipinas Monetary Board Circular No. 799,[24] Series of 2013.[25] The amount which petitioner had already paid respondents-spouses by virtue of the RTC's Order granting the issuance of the Writ of Execution dated October 2, 2000 shall be deducted from the amount of the just compensation which will be awarded after the remand of this case.

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[20] *Land Bank of the Philippines v. Soriano, et al.*, 634 Phil. 426, 435 (2010).

[21] *Id.*

[22] *Republic of the Philippines, represented by Department of Public Works and Highways v. Soriano*, G.R. No. 211666, February 25, 2015; *Land Bank of the Philippines v. Rivera,* G.R. No. 182431, February 27, 2013, 692 SCRA 148, 153, citing *Land Bank of the Philippines v. Celada,* 515 Phil. 467, 484 (2006) citing *Land Bank of the Philippines v. Wycoco,* 464 Phil. 83, 100 (2004), further citing *Reyes v. National Housing Authority,* 443 Phil. 603, 616 (2003).

[23] *Land Bank of the Philippines v. Lajom*, G.R. No. 184982, August 20, 2014, 733 SCRA 511, 524.

[24] Entitled "RATE OF INTEREST IN THE ABSENCE OF STIPULATION" (June 21, 2013).

[25] See *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 455.

Petitioner's reliance on our Third Division's December 19, 2007 Resolution in the case of *Apo Fruits Corporation v. CA* [26] wherein we declared that the payment of interest for the delay of payment cannot be applied where there is prompt and valid payment of just compensation as initially determined, even if the amount of just compensation was later on increased pursuant to the Court's judgment, is misplaced. We found then that as Land Bank had deposited pertinent amounts in favor of the landowners within fourteen months after the latter filed their complaint for determination of just compensation with the SAC, there was no unreasonable delay in the payment of just compensation which entitled the landowners to the payment of 12% interest *per annum* on the unpaid just compensation.

However, such resolution was subsequently reversed and set aside in our En Banc Resolution dated October 12, 2010 where we granted the landowners' motion for reconsideration. We ordered the Land Bank to pay the landowners an interest at the rate of 12% *per annum* on the unpaid balance of the just compensation, computed from the date the Government took the properties on December 9, 1996, until the respondent Land Bank fully paid the balance of the principal amount on May 9, 2008. We ruled that notwithstanding that the Land Bank had immediately paid the remaining unpaid balance of the just compensation as finally determined by the court, however, 12 long years had passed before the landowners were fully paid. Thus, the landowners were entitled to legal interest from the time of the taking of the property until the actual payment in order to place the owner in a position as good as, but not better than, the position he was in before the taking occurred.[27] The imposition of such interest was to compensate the landowners for the income they would have made had they been properly compensated for their properties at the time of the taking.[28] Thus, we held:

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[26] *Supra* note 10.

[27] *Republic of the Philippine v. Court of Appeals, supra* note 18.

[28] *Land Bank v. Obias*, *supra* note 17.

Let it be remembered that shorn of its eminent domain and social justice aspects, what the agrarian land reform program involves is the purchase by the government, through the LBP, of agricultural lands for sale and distribution to farmers. As a purchase, it involves an exchange of values the landholdings in exchange for the LBPs payment. In determining the just compensation for this exchange, however, the measure to be borne in mind is not the taker's gain but the owner's loss since what is involved is the takeover of private property under the States coercive power. As mentioned above, in the value-for-value exchange in an eminent domain situation, the State must ensure that the individual whose property is taken is not shortchanged and must hence carry the burden of showing that the just compensation requirement of the Bill of Rights is satisfied.

The owner's loss, of course, is not only his property but also its income-generating potential. Thus, when property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost. The just compensation is made available to the property owner so that he may derive income from this compensation, in the same manner that he would have derived income from his expropriated property. If full compensation is not paid for property taken, then the State must make up for the shortfall in the earning potential immediately lost due to the taking, and the absence of replacement property from which income can be derived; interest on the unpaid compensation becomes due as compliance with the constitutional mandate on eminent domain and as a basic measure of fairness.[29]

As in the *Apo* case, respondents-spouses voluntarily offered to sell their land pursuant to the government's land reform program, however, the valuation made by the LBP on the land was rejected by the former for being undervalued. Respondents-spouses had to resort to the filing of the case with the RTC, sitting as SAC, for the determination of just compensation of their land. It has already been 25 years but respondents-spouses have not received the full amount of the just compensation due them, and further delay can be expected with the remand of the case to the SAC for the recomputation of the just compensation.

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[29] *Apo Fruits Corporation v. Land Bank of the Philippines,* 647 Phil. 251, 273 (2010).

Thus, the long delay entitles them to the payment of interest to compensate for the loss of income due to the taking.[30]

Petitioner's claim for reimbursement of the amount it had already paid to respondents-spouses by virtue of the writ of execution pending appeal then issued by the SAC is not meritorious. The recomputed amount of just compensation due the respondents-spouses shall only be determined after the remand of the case to the SAC. It would only be that time which would establish whether the payment made to them was more than the just compensation that they are entitled to.

There is also no basis for petitioner to claim that respondents-spouses are merely entitled to provisionally receive its valuation of ₱9,057,182.30 pending the final determination of the just compensation. Notably, the CA's decision rejected petitioner's valuation as well, thus:

> It has been stated in a number of cases that in computing the just compensation for expropriation proceedings, it is the value of the land at the time of the taking which should be taken into consideration. This being so, then in determining the value of the land for the payment of just compensation, the time of taking should be the basis.
>
> In the case at bar, the court *a quo* failed to consider the value and the character of the land at the time it was taken by the government in 1991. Instead, the former assessed the market value of the idle portion of the subject lot as a riceland. Yet, per LBP's Field Investigation Report (FIR) prepared in 1990, the subject lot was not yet devoted to rice or corn at that time, although its idle portion was classified as suitable for said crops. Also, in computing the value of the land, the court *a quo* considered the land's appreciation value from the time of taking in 1991 up to the filing of the case in 1997 and of appellee's potential profit from the land's suitability to rice and corn, which We find to be contrary to the settled criterion in determining just compensation. Hence erroneous.
>
> The foregoing pronouncements do not, however, mean that We favor LBP's valuation of ₱9,057,10.32 for the subject lot. The same is found to be non-reflective of just compensation because the Tax

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[30] *Id.*

Declaration used by LBP in fixing the market value of the land in its initial valuation for the year 1986, as indicated in the FIR. Additionally, no evidence was adduced to show that LBP used the correct tax declaration (TD), which should be the 1991 TD, in fixing the market value in its latest computation of the land's valuation.

Notably, LBP's initial valuation of the land in 1991 was ₱1,877,516.09 and became ₱3,337,672.78 after recomputation in 1994, pursuant to DAR AO No. 11, Series of 1994. During the pendency of the case in court, DAR AO No. 5 series of 1998 was issued; hence, LBP accordingly recomputed its valuation and came up with the amount of ₱9,057,180.32 (the amount of ₱8,955,269.16 constitutes the value of the land while ₱101,913.14 was the value of the legal easement).

Albeit LBP claims to have faithfully observed and applied the prescribed formula in DAR AO No. 5, series of 1998, in its recomputation of the land's valuation, it adduced no evidence, like the official computation sheets, to show that the latest valuation of the land was indeed arrived at using the prescribed formula and that the correct documents indicating the factors enumerated in Section 17 of RA 6657 were actually considered. Hence, We cannot accept LBP's latest valuation as well.

Consequently, We deem it proper to remand this case to the court a quo for a recomputation of the just compensation. x x x[31]

Therefore, until the SAC had finally determined the just compensation due the respondents-spouses upon remand of the case, it could not be said that the payment made by virtue of the writ of execution pending appeal had exceeded the value of the subject property.

Moreover, assuming arguendo that the amount paid by virtue of the execution pending appeal would be more than the recomputed amount of the just compensation, any excess amount should be returned to petitioner as provided under Section 5, Rule 39 of the Rules of Court, to wit:

Section 5. *Effect of reversal of executed judgment.* — Where the executed judgment is reversed totally or partially, or annulled,

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[31] *Rollo*, pp. 57-58.

on appeal or otherwise, the trial court may, on motion, issue such orders of restitution or reparation of damages as equity and justice may warrant under the circumstances.

WHEREFORE, the dispositive portion of the Decision dated August 11, 2008 of the Court of Appeals in CA-G.R. CV No. 00067 is hereby modified and shall now read as follows:

WHEREFORE, in view of all the foregoing, the instant appeal is hereby GRANTED and the assailed March 29, 2006 decision of the Regional Trial Court (RTC), 10th Judicial Region, Branch 5, Butuan City, in Civil Case No. 4507, is hereby SET ASIDE. Consequently, this case is remanded to the court *a quo* for the recomputation of just compensation. The interest on the recomputed just compensation should be computed from December 1991 up to the payment of the full amount of just compensation less whatever amounts received by the respondents-spouses.

SO ORDERED.

Velasco, Jr. (Chairperson), *Perez,* and *Reyes, JJ.,* concur.

Jardeleza, J., on leave.

SECOND DIVISION

[G.R. No. 195669. May 30, 2016]

BRADFORD UNITED CHURCH OF CHRIST, INC., *petitioner, vs.* **DANTE ANDO, ABENIGO AUGIS, EDGAR CARDONES, ZACARIAS GUTIERREZ, CORNELIO IBARRA, JR., ZENAIDA IBARRA, TEOFILO LIRASAN, EUNICE LIRASAN, RUTH MISSION, DOLLY ROSALES & EUNICE**

TAMBANGAN, in their capacities as MANDAUE BRADFORD CHURCH COUNCIL MEMBERS; MANDAUE BRADFORD CHURCH; AND UNITED CHURCH OF CHRIST IN THE PHILIPPINES, INC., *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS AND PRACTICE; CERTIFICATION AGAINST FORUM SHOPPING; FORUM SHOPPING EXISTS WHERE THE ELEMENTS OF *LITIS PENDENTIA* ARE PRESENT OR WHERE A FINAL JUDGMENT IN ONE CASE WILL AMOUNT TO *RES JUDICATA* IN ANOTHER.—** [Section 5, Rule 7 of the Rules of Court] requires a twofold compliance, and this covers both the non-commission of forum-shopping itself, and the submission of the certification against forum-shopping. x x x. The essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. It exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another.

2. **ID.; ID.; ID.; ID.; *LITIS PENDENTIA*; REQUISITES; NO IDENTITY OF ISSUES RAISED BETWEEN THE UNLAWFUL DETAINER CASE AND ACTION FOR RECOVERY OF OWNERSHIP.** [F]or *litis pendentia* to be a ground for the dismissal of an action, the following requisites must concur: (a) identity of parties, or at least such parties who represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case. Here, there is only identity of parties between the summary action of unlawful detainer and the land ownership recovery case. However, the issues raised are not identical or similar in the two cases. The issue in the unlawful detainer case is which party is entitled to, or should be awarded, the material

or physical possession of the disputed parcel of land, (or possession thereof as a fact); whereas the issue in the action for recovery of ownership is which party has the right to be recognized as lawful owner of the disputed parcels of land.

3. ID.; ID.; ID.; ID.; *RES JUDICATA*; REQUISITES.— With respect to *res judicata*, the following requisites must concur to bar the institution of a subsequent action: "(1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction over the subject matter and [over] the parties; (3) it must be a judgment on the merits; and (4) there must be, between the first and second actions, (a) identity of parties, (b) identity of subject matter, and (c) identity of cause of action."

4. ID.; ID.; ID.; ID.; A PENDING ACTION INVOLVING OWNERSHIP NEITHER SUSPENDS NOR BARS THE PROCEEDINGS IN THE SUMMARY ACTION FOR EJECTMENT PERTAINING TO THE SAME PROPERTY BECAUSE THERE IS NO IDENTITY OF CAUSES OF ACTION BETWEEN THE TWO, FOR IN THE ACTION FOR RECOVERY OF OWNERSHIP, THE QUESTION TO BE RESOLVED IS WHICH PARTY HAS THE LAWFUL TITLE OR DOMINICAL RIGHT TO THE DISPUTED PREMISES, WHEREAS IN THE SUMMARY ACTION FOR UNLAWFUL DETAINER, THE QUESTION TO BE RESOLVED IS WHICH PARTY HAS THE BETTER OR SUPERIOR RIGHT TO THE PHYSICAL/ MATERIAL POSSESSION.— It bears notice that in its certification against non-forum shopping, now attached to this instant Petition, BUCCI mentioned that the decision in the land ownership recovery case was still pending appeal before the CA, a claim that was not controverted at all by respondents. Simply put, this means that the former judgment is not yet final. Furthermore, the causes of action in the two cases are not identical or similar. To repeat, in the summary action of unlawful detainer, the question to be resolved is which party has the better or superior right to the physical/material possession (or *de facto* possession) of the disputed premises. Whereas in the action for recovery of ownership, the question to be resolved is which party has the lawful title or dominical right (*i.e.,* owner's right) to the disputed premises. Thus, in *Malabanan*

v. Rural Bank of Cabuyao, Inc. the petitioner therein asserted, among others, that the complaint for unlawful detainer against him must be dismissed on grounds of *litis pendencia* and forum-shopping in view of the pending case for annulment of an action for *dacion en pago* and for the transfer certificate of title in another case, this Court reiterated the well-settled rule that a pending action involving ownership neither suspends nor bars the proceedings in the summary action for ejectment pertaining to the same property, in view of the dissimilarities or differences in the reliefs prayed for.

5. ID.; ID.; ID.; ID.; A FAVORABLE RULING OBTAINED BY THE PARTY IN THE ACTION FOR RECOVERY OF OWNERSHIP WILL NOT COMPEL OR CONSTRAIN THE OTHER COURT TO OBLIGATORILY RULE IN THE SUMMARY ACTION FOR EJECTMENT THAT IT IS ENTITLED TO THE MATERIAL OR PHYSICAL POSSESSION OF THE DISPUTED PROPERTY BECAUSE EVEN IF THE SAID PARTY PROVED THAT IT HAS THE LAWFUL TITLE TO OR OWNERSHIP OF THE DISPUTED PROPERTY, IT IS STILL NECESSARY TO RESOLVE IN THE SUMMARY ACTION FOR UNLAWFUL DETAINER WHETHER THERE ARE VALID OR UNEXPIRED AGREEMENTS BETWEEN THE PARTIES THAT WOULD JUSTIFY THE REFUSAL TO VACATE BY THE ACTUAL OCCUPANTS.— The CA xxx erred in holding that, "[a]n adjudication in respondents' recovery of ownership case would constitute an adjudication of petitioner BUCCI's unlawful detainer case, such that the court handling the latter case would be bound thereby and could not render a contrary ruling in the issue of physical or material possession." It bears belaboring that BUCCI alleged in the instant Petition that although the RTC dismissed the complaint against it in the land ownership recovery case, it still filed the unlawful detainer case because there was never a ruling in the former case as to who between the parties had the better right to the material or physical possession (or possession *de facto*) of the subject property. Of course, no less significant is the assertion by BUCCI that although it had previously tolerated or put up with the lawful occupation of the disputed property by respondent MBC, it nonetheless had to put an end to such tolerance or forbearance, because all possible avenues for reconciliation or compromise

between the parties in this case had already been closed. Thus, a favorable ruling for BUCCI in the action for recovery of ownership would not all compel or constrain the other court (here the MTCC of Mandaue City) to also obligatorily rule in the summary action of ejectment that BUCCI is entitled to the material or physical possession, (or possession *de facto*) of the disputed Lot 3-F because even if it be proved that it has the lawful title to, or the ownership of, the disputed lots, there is still both the need and necessity to resolve in the summary action of unlawful detainer whether there are valid or unexpired agreements between the parties that would justify the refusal to vacate by the actual occupants of the disputed property. Indeed, in a summary action of ejectment, even the lawful owner of a parcel of land can be ousted or evicted therefrom by a lessee or tenant who holds a better or superior right to the material or physical (or *de facto*) possession thereof by virtue of a valid lease or leasehold right thereto.

6. ID.; SPECIAL CIVIL ACTIONS; EJECTMENT; SUMMARY ACTION FOR EJECTMENT AND PLENARY ACTION FOR RECOVERY OF POSSESSION AND/OR OWNERSHIP OF REAL PROPERTY, DISTINGUISHED.—In *Custodio v. Corrado*, we declared that *res judicata* did not obtain in the case because, among others, the summary action of ejectment was different from the case for recovery of possession and ownership. There, we expounded that: x x x. The distinction between a summary action of ejectment and a plenary action for recovery of possession and/or ownership of the land is well-settled in our jurisprudence. What really distinguishes an action for unlawful detainer from a possessory action (*accion publiciana*) and from a reinvindicatory action (*accion reinvindicatoria*) is that the first is limited to the question of *possession de facto*. An unlawful detainer suit (*accion interdictal*) together with forcible entry are the two forms of an ejectment suit that may be filed to recover possession of real property. Aside from the summary action of ejectment, *accion publiciana* or the plenary action to recover the right of possession and *accion reinvindicatoria* or the action to recover ownership which includes recovery of possession, make up the three kinds of actions to judicially recover possession.

APPEARANCES OF COUNSEL

Paulino B. Labrado for petitioner.
Merari D. Dadula for respondents.

D E C I S I O N

DEL CASTILLO, *J.*:

Well-settled is the rule that the filing of the summary action for unlawful detainer during the pendency of an action for recovery of ownership of the same parcel of land subject of the summary action of unlawful detainer does not amount to forum-shopping.

Assailed in this Petition for Review on *Certiorari*[1] are the December 10, 2010 Decision[2] of the Court of Appeals (CA) which dismissed the Petition in CA-G.R. SP No. 01935 and its January 26, 2011 Resolution[3] which denied petitioner's Motion for Reconsideration thereon.[4]

Proceedings before the Municipal Trial Court in Cities (MTCC)

Before Branch 2 of the MTCC of Mandaue City, the petitioner Bradford United Church of Christ, Inc. (BUCCI) filed a Complaint for unlawful detainer and damages against herein respondents Dante Ando, Abenigo Augis, Edgar Cardones, Zacarias Gutierrez, Cornelio Ibarra, Jr., Zenaida Ibarra, Teofilo Lirasan, Eunice Lirasan, Ruth Mission, Dolly Rosales and Eunice Tambangan, in their capacities as Members of the Mandaue Bradford Church Council, the Mandaue Bradford Church (MBC), and the United Church of Christ in the Philippines, Inc. (UCCPI). This Complaint was docketed thereat as Civil Case No. 4936.[5]

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[1] *Rollo*, pp. 3-46.

[2] *Id.* at 47-55; penned by Associate Justice Socorro B. Inting and concurred in by Executive Justice Portia A. Hormachuelos and Associate Justice Edwin D. Sorongon.

[3] *Id.* at 63-64.

[4] CA *rollo*, pp. 118-125.

[5] *Rollo*, p. 48.

In an Order dated February 9, 2005, the MTCC directed BUCCI to show cause why its Complaint should not be dismissed for its failure to comply with the requirement on the certification against forum-shopping under Rule 7, Section 5 of the Rules of Court.[6] According to the MTCC, BUCCI failed to mention in its certification against non-forum-shopping a complete statement of the present status of another case concerning the recovery of ownership of certain parcels of land earlier filed before the Regional Trial Court (RTC) by the UCCPI and the MBC against BUCCI. (Civil Case No. MAN-1669, captioned *"United Church of Christ in the Philippines, Inc. and Mandaue Bradford Church, Plaintiff v. Bradford United Church of Christ in the Philippines, Defendant, for Recovery of Ownership with Preliminary Injunction"*.)[7]

The recovery of ownership case also involved Lot 3-F, the same parcel of land subject of the unlawful detainer case, and yet another parcel of land, denominated simply as Lot 3-C. On October 13, 1997, the RTC of Mandaue City rendered its judgment in the recovery of ownership case against therein plaintiffs UCCPI and MBC and in favor of therein defendant BUCCI. On November 19, 1997, both the MBC and the UCCPI filed a motion for reconsideration of said decision but their motion was denied by Order of March 10, 2005.[8]

Meanwhile, the MTCC Branch 2 of Mandaue City, issued an Order[9] dated March 31, 2005 dismissing the unlawful detainer case with prejudice for BUCCI's failure to comply with the rule on certification against forum shopping. BUCCI appealed to the RTC which was docketed as Civil Case No. MAN-5126-A.

Proceedings before the Regional Trial Court

In its Decision[10] of March 13, 2006 in the unlawful detainer case, the RTC of Mandaue City, Branch 56, affirmed the MTCC's

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[6] *Id.*

[7] *Id.*

[8] CA *rollo*, p. 64; penned by Presiding Judge Augustine A. Vestil.

[9] *Id.* at 42-44.

[10] *Rollo*, pp. 56-61.

dismissal thereof, with prejudice. The RTC held that BUCCI was guilty of forum-shopping because it failed to certify under oath that there was another action involving the same parties and the same Lot 3-F still pending before another court.

BUCCI moved for reconsideration but it was denied in the Order[11] of June 23, 2006.

Aggrieved, BUCCI filed a Petition for Review[12] before the CA docketed as CA-G.R. SP No. 01935.

Proceedings before the Court of Appeals

In its Decision[13] of December 10, 2010, the CA held that the MTCC and the RTC correctly dismissed the unlawful detainer case. The CA opined that whatever decision that would be rendered in the action for recovery of ownership of the parcels of land in question would amount to *res judicata* in the unlawful detainer case. The CA ruled that identity of the causes of action does not mean absolute identity, and that the test lies not in the form of action but in whether the same set of facts or evidence would support both causes of action. Furthermore, the CA found that BUCCI indeed failed to state in the certification against forum-shopping in the unlawful detainer case a complete statement of the status of the land ownership recovery case; and that such failure impinges against Section 5, Rule 7 of the Rules of Court. Accordingly, the CA dismissed BUCCI's Petition for Review. The CA likewise denied BUCCI's Motion for Reconsideration in its Resolution dated January 26, 2011.[14]

Hence, BUCCI is now before this Court through this Petition for Review on *Certiorari*.[15]

Issue

Petitioner presents the following issue for our consideration:

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[11] *Id.* at 62.

[12] CA *rollo*, pp. 2-27.

[13] *Rollo*, pp. 47-55.

[14] *Id.* at 63-64.

[15] *Id.* at 3-46.

WHETHER XXX THE COURT OF APPEALS IS CORRECT IN HOLDING THAT PETITIONER IS GUILTY OF FORUM[-] SHOPPING FOR FILING THE CASE FOR EJECTMENT OR UNLAWFUL DETAINER (CIVIL CASE NO. 4936) DURING THE PENDENCY OF THE [ACTION FOR] RECOVERY OF OWNERSHIP X X X (CIVIL CASE NO. MAN-1669)[,] AND FOR FAILING TO [DISCLOSE] THE PENDENCY OF THE [LATTER CIVIL CASE NO. MAN-1669] IN THE CERTIFICATION OF NON[-] FORUM[-]SHOPPING IN THE [FORMER CIVIL CASE NO. 4936].[16]

The fundamental issue to be resolved in this case is whether BUCCI committed forum-shopping when it failed to disclose in the certification on non-forum shopping of the unlawful detainer case a complete statement of the status of the action for recovery of ownership of property then pending before the RTC of Mandaue City. The unlawful detainer suit involved Lot 3-F which was also involved in the complaint for recovery of ownership.

Herein petitioner BUCCI's verification and certification against forum-shopping attached to the instant Petition, stated that UCCP had also filed an appeal with the CA pertaining to the recovery of ownership suit; and this appeal was docketed as CA-G.R. No. 00983, then still pending adjudication before the CA. In the same verification and certification against forum-shopping, BUCCI stressed that the case for recovery of ownership of the disputed parcels of land was entirely different from the unlawful detainer case, because the first case does not involve at all the issue of material/physical possession of Lot 3-F.[17]

Petitioner's arguments

BUCCI posits that the most decisive factor in determining the existence of forum-shopping is the presence of all the elements of *litis pendentia*, namely, (1) identity of parties or representation in both cases; (2) identity of rights asserted and reliefs prayed for; (3) the reliefs are founded on the same facts; and (4) the identity of the preceding particulars should be such that any

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[16] *Id.* at 16-17.

[17] *Id.* at 44.

judgment which may be rendered in the other action, will, regardless of which party is successful, amount to *res judicata* in the action under consideration.

BUCCI likewise maintains that there is only identity of parties between the unlawful detainer case and the case for recovery of ownership; and that the other three essential elements are absent, to wit: that there be identity of cause/s of action; that the reliefs sought are founded on the same facts; and that the identity of the two preceding particulars be such that any judgment which may be rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration. Specifically, BUCCI maintains that the cause of action in Civil Case No. MAN-1669 is for recovery of ownership of the parcels of land in dispute, whereas the cause of action in Civil Case No. 4936, the summary action of unlawful detainer, is the determination of who has the better or superior right to the material/physical possession (or possession *de facto*), of Lot 3-F; that the prayer that they be declared the lawful owners of the disputed lots in said Civil Case No. MAN-1669 is entirely different or dissimilar from the relief/s prayed for in the summary action of unlawful detainer (Civil Case No. 4936) by BUCCI, which is that BUCCI be given or awarded the material or physical possession (or possession *de facto*) of the disputed Lot 3-F.

Respondents' arguments

Respondents counter that BUCCI's claim that the issues involved in the two cases are dissimilar or different is of no moment or consequence because the latter's deliberate non-disclosure in the certificate against non-forum shopping in the summary action of unlawful detainer of the pendency-in-fact of the action for recovery of ownership of the disputed parcels of land, which involved the same parties and the same property, in the action for recovery of ownership, is an irremissibly fatal defect that cannot be cured by mere amendment pursuant to Section 5, Rule 7 of the Rules of Court.

Our Ruling

The Petition is meritorious.

Section 5, Rule 7 of the Rules of Court, provides:

SEC. 5. *Certification against forum[-]shopping*. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission, of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum[-]shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (n)

The above-stated rule requires a twofold compliance, and this covers both the non-commission of forum-shopping itself, and the submission of the certification against forum-shopping.[18]

x x x The essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. It exists where the elements of *litis pendentia* are present

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[18] *Spouses Melo v. Court of Appeals*, 376 Phil. 204, 213-214 (1999); *Spouses Ong v. Court of Appeals*, 433 Phil. 490, 501-502 (2002).

or where a final judgment in one case will amount to *res judicata* in another. On the other hand, for *litis pendentia* to be a ground for the dismissal of an action, the following requisites must concur: (a) identity of parties, or at least such parties who represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.[19]

Here, there is only identity of parties between the summary action of unlawful detainer and the land ownership recovery case. However, the issues raised are not identical or similar in the two cases. The issue in the unlawful detainer case is which party is entitled to, or should be awarded, the material or physical possession of the disputed parcel of land, (or possession thereof as a fact); whereas the issue in the action for recovery of ownership is which party has the right to be recognized as lawful owner of the disputed parcels of land.

With respect to *res judicata*, the following requisites must concur to bar the institution of a subsequent action: "(1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction over the subject matter and [over] the parties; (3) it must be a judgment on the merits; and (4) there must be, between the first and second actions, (a) identity of parties, (b) identity of subject matter, and (c) identity of cause of action."[20] It bears notice that in its certification against non-forum shopping, now attached to this instant Petition, BUCCI mentioned that the decision in the land ownership recovery case was still pending appeal before the CA, a claim that was not controverted at all by respondents. Simply put, this means that the former judgment is not yet final. Furthermore, the causes of action in the two cases are not identical or similar. To repeat, in the summary action of unlawful detainer, the question to be resolved is which party has the better or superior right to the

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[19] *Spouses Melo v. Court of Appeals*, *id.* at 211.

[20] *Custodio v. Corrado*, 479 Phil. 415, 424 (2004).

physical/material possession (or *de facto* possession) of the disputed premises. Whereas in the action for recovery of ownership, the question to be resolved is which party has the lawful title or dominical right (*i.e.*, owner's right) to the disputed premises. Thus, in *Malabanan v. Rural Bank of Cabuyao, Inc.*[21] the petitioner therein asserted, among others, that the complaint for unlawful detainer against him must be dismissed on grounds of *litis pendencia* and forum-shopping in view of the pending case for annulment of an action for *dacion en pago* and for the transfer certificate of title in another case, this Court reiterated the well-settled rule that a pending action involving ownership neither suspends nor bars the proceedings in the summary action for ejectment pertaining to the same property, in view of the dissimilarities or differences in the reliefs prayed for.

> Petitioner and respondent are the same parties in the annulment and ejectment cases. The issue of ownership was likewise being contended, with same set of evidence being presented in both cases. However, it cannot be inferred that a judgment in the ejectment case would amount to *res judicata* in the annulment case, and *vice-versa.*
>
> The issue is hardly a novel one. It has been laid to rest by heaps of cases iterating the principle that a judgment rendered in an ejectment case shall not bar an action between the same parties respecting title to the land or building nor shall it be conclusive as to the facts therein found in a case between the same parties upon a different cause of action involving possession.
>
> It bears emphasizing that in ejectment suits, the only issue for resolution is the physical or material possession of the property involved, independent of any claim of ownership by any of the party litigants. However, the issue of ownership may be provisionally ruled upon for the sole purpose of determining who is entitled to possession *de facto*. Therefore, the provisional determination of ownership in the ejectment case cannot be clothed with finality.
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> Corollarily, the incidental issue of whether a pending action for annulment would abate an ejectment suit must be resolved in the negative.

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[21] 605 Phil. 523 (2009).

A pending action involving ownership of the same property does not bar the filing or consideration of an ejectment suit, nor suspend the proceedings. This is so because an ejectment case is simply designed to summarily restore physical possession of a piece of land or building to one who has been illegally or forcibly deprived thereof, without prejudice to the settlement of the parties' opposing claims of juridical possession in appropriate proceedings.[22]

The CA thus erred in holding that, "[a]n adjudication in respondents' recovery of ownership case would constitute an adjudication of petitioner BUCCI's unlawful detainer case, such that the court handling the latter case would be bound thereby and could not render a contrary ruling in the issue of physical or material possession."[23] It bears belaboring that BUCCI alleged in the instant Petition that although the RTC dismissed the complaint against it in the land ownership recovery case, it still filed the unlawful detainer case because there was never a ruling in the former case as to who between the parties had the better right to the material or physical possession (or possession *de facto)* of the subject property. Of course, no less significant is the assertion by BUCCI that although it had previously tolerated or put up with the lawful occupation of the disputed property by respondent MBC, it nonetheless had to put an end to such tolerance or forbearance, because all possible avenues for reconciliation or compromise between the parties in this case had already been closed. [24] Thus, a favorable ruling for BUCCI in the action for recovery of ownership would not at all compel or constrain the other court (here the MTCC of Mandaue City) to also obligatorily rule in the summary action of ejectment that BUCCI is entitled to the material or physical possession, (or possession *de facto*) of the disputed Lot 3-F because even if it be proved that it has the lawful title to, or the ownership of, the disputed lots, there is still both the need and necessity to resolve in the summary action of unlawful detainer whether there are valid or unexpired agreements between the parties

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[22] *Id.* at 530-531.

[23] *Rollo*, p. 54.

[24] *Id.* at 14.

that would justify the refusal to vacate by the actual occupants of the disputed property. Indeed, in a summary action of ejectment, even the lawful owner of a parcel of land can be ousted or evicted therefrom by a lessee or tenant who holds a better or superior right to the material or physical (or *de facto*) possession thereof by virtue of a valid lease or leasehold right thereto.

In *Custodio v. Corrado*,[25] we declared that *res judicata* did not obtain in the case because, among others, the summary action of ejectment was different from the case for recovery of possession and ownership. There, we expounded that:

> There is also no identity of causes of action between Civil Case Nos. 116 and 120. x x x
>
> x x x x x x x x x
>
> The distinction between a summary action of ejectment and a plenary action for recovery of possession and/or ownership of the land is well-settled in our jurisprudence. What really distinguishes an action for unlawful detainer from a possessory action (*accion publiciana*) and from a reinvindicatory action (*accion reinvindicatoria*) is that the first is limited to the question of *possession de facto.* An unlawful detainer suit (*accion interdictal*) together with forcible entry are the two forms of an ejectment suit that may be filed to recover possession of real property. Aside from the summary action of ejectment, *accion publiciana* or the plenary action to recover the right of possession and *accion reinvindicatoria* or the action to recover ownership which includes recovery of possession, make up the three kinds of actions to judicially recover possession.
>
> Further, it bears stressing that the issue on the applicability of *res judicata* to the circumstance obtaining in this case is far from novel and not without precedence. In *Vda. de Villanueva v. Court of Appeals*, we held that a judgment in a case for forcible entry which involved only the issue of physical possession (possession *de facto*) and not ownership will not bar an action between the same parties respecting title or ownership, such as an *accion reinvindicatoria* or a suit to recover possession of a parcel of land as an element of ownership, because there is no identity of causes of action between the two.[26]

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[25] *Custodio v. Corrado*, *supra* note 19.

[26] *Id.* at 425-426.

This ruling holds true in the present Petition.

WHEREFORE, the Petition is **GRANTED.** The December 10, 2010 Decision of the Court of Appeals and its January 26, 2011 Resolution in CA-G.R. SP No. 01935 are **REVERSED and SET ASIDE.** The Municipal Trial Court in Cities of Mandaue City, Branch 2 is hereby **DIRECTED** to give due course to the complaint for unlawful detainer and damages, docketed thereat as Civil Case No. 4936, instituted therein by petitioner Bradford United Church of Christ, Inc. against therein respondents.

Without costs.

SO ORDERED.

Carpio (Chairperson), *Brion, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 200973. May 30, 2016]

REPUBLIC OF THE PHILIPPINES, represented by the Regional Executive Director, Department of Environment and Natural Resources (DENR) — Region IV, Manila, *petitioner, vs.* **AMOR HACHERO and THE REGISTER OF DEEDS OF PALAWAN,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; PETITION FOR CANCELLATION OF TITLE AND REVERSION OF LAND BACK TO THE GOVERNMENT; THE REPUBLIC SHOWED CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT LAND WAS INALIENABLE AND NON-

DISPOSABLE.—Records reveal that on October 15, 1998, upon the approval of Hachero's application by CENRO of Palawan, Free Patent No. 045307-98-9384 was issued and, on May 7, 1999, the property was subsequently registered under OCT No. E-18011. Thereafter, in an effort to find out fake or illegal titles, the DENR created a task force to investigate and evaluate all issued patents and titles. An investigation conducted by a representative of the Regional Executive Director of the Regional Office No. IV revealed that the subject land covered by OCT No. E-18011 was still timberland and, therefore, could not be segregated from the public domain as timberlands were classified as inalienable and non-disposable public lands. Accordingly, both Sim Luto, Land Management Officer III, and Diosdado L. Ocampo, Community Environment and Natural Resources Officer, prepared and signed the Inspection Report, dated July 24, 2000, and Verification, dated July 17, 2000, attesting to the fact the subject land fell within the timberland zone under Project No. 2A, L.C. Map No. 839, released on December 9, 1929. For said reason, both recommended the cancellation of OCT No. E-18011. Aside from the Inspection Report and the Verification, the Republic also adduced maps prepared by the National Mapping and Resource Information Authority (NAMRIA), which showed that the subject land was located within the periphery of the land area classified as unclassified public forest and beyond the alienable and disposable area. In other words, as the maps clearly reveal, every inch of the subject land is inside the unclassified public forest area. Evidently, these maps presented by the Republic, together with the Inspection Report and the Verification, all clearly demonstrate that the subject land is not yet subject to disposition.

2. **ID.; ID.; ID.; CANCELLATION OF TITLE AND REVERSION IS PROPER WHERE THERE EXISTS A MISTAKE OR OVERSIGHT IN GRANTING FREE PATENT OVER INALIENABLE LAND.—** In the case at bench, although the Republic's action for cancellation of patent and title and for reversion was not based on fraud or misrepresentation on the part of Hachero, his title could still be cancelled and the subject land reverted back to the State because the grant was made through mistake or oversight. This could probably be the reason why, shortly after one (1) year from the issuance of OCT No. E-18011 to Hachero, the DENR personnel conducted another

investigation and verification on the subject land. It would appear that they suspected that a mistake was made in their issuance of the patent as the subject land had not been reclassified or released as alienable or disposable land. It remained plotted within the timberland classification zone. This time, they supported their findings with maps prepared by the NAMRIA. The Republic also followed the proper legal procedure for cancellation of patent and title and for reversion. They filed a complaint in court and notified Hachero through summons. They gave Hachero an opportunity to be heard in court. For unknown reasons, however, he disregarded the summons, allowed himself to be declared in default, and forfeited his right to adduce evidence in his defense.

3. ID.; ID.; ID.; PRESCRIPTION AND ESTOPPEL CANNOT LIE AGAINST THE STATE.— Contrary to the observation of the courts below, there is nothing incomprehensible or puzzling or suspicious about the complete turnaround made by the DENR after its re-investigation. The Court has carefully reviewed the records and found nothing anomalous. At any rate, it is a time-honored principle that the statute of limitations or the lapse of time does not run against the State. Jurisprudence also recognizes the State's immunity from estoppel as a result of the mistakes or errors or its officials and agents. These well-established principles apply in the case at bench.

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.
Alexander A. Rivera for respondents.

D E C I S I O N

MENDOZA, *J.*:

Subject of this petition for review on *certiorari* is the July 4, 2011 Decision[1] of the Court of Appeals (*CA*), in CA-G.R.

[1] *Rollo*, pp. 36-43. Penned by Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Rosemari D. Carandang and Ramon R. Garcia.

CV No. 87267 and its March 6, 2012 Resolution,[2] affirming the March 29, 2006 Decision[3] of the Regional Trial Court, Branch 48, Puerto Princesa, Palawan (*RTC*), which denied the Petition for Cancellation of Free Patent, Original Certificate of Title and Reversion filed by the Republic of the Philippines (*Republic*).

The Antecedents

Sometime in 1996, Amor Hachero (*Hachero*) filed his Free Patent Application No. 045307-969 covering Lot No. 1514, CAD-1150-D (*subject land*) before the Community Environment and Natural Resources Office (*CENRO*) of Palawan. The subject land, with an area of 3.1308 hectares or 31,308 square meters (*subject land*), is located in Sagrada, Busuanga, Palawan.[4]

The said application for free patent was later approved by the Provincial Environment and Natural Resources Officer (*PENRO*) of Palawan based on the following findings:

1) That Hachero was a natural-born Filipino citizen of the Philippines and, therefore, qualified to acquire public land through free patent;

2) That the land applied for had been classified as alienable and disposable and, therefore, subject to disposition under the Public Land Law;

3) That an investigation conducted by the Land Investigator/ Inspector/Deputy Public Land Inspector Sim A. Luto, found that the subject land had been occupied and cultivated by Hachero himself and/or through his predecessor-in-interest since June 12, 1945 or prior thereto;

4) That the notice for the acquisition of the land by Hachero was published in accordance with law and that no other person provided a better right to the land applied for;

5) That there was no adverse claim involving the land still pending determination before the CENRO; and

[2] *Id.* at 54.

[3] Not attached to the petition.

[4] *Id.* at 13.

6) That the claim of Hachero was complete and there was no record in the CENRO of any obstacle to the issuance of the patent.[5]

On October 15, 1998, Free Patent No. 045307-98-9384 was issued to Hachero and the subject land was registered under Original Certificate of Title (*OCT*) No. E-18011 on May 7, 1999.

After an inspection and verification were conducted by the CENRO in 2000, it was discovered that the subject land, covered by OCT No. E-18011, was still classified as timberland and so not susceptible of private ownership under the Free Patent provision of the Public Land Act.[6]

Consequently, on November 26, 2002, the Republic, represented by the Regional Executive Director, Department of Environment and Natural Resources (*DENR*)-Region IV, Manila, filed the Complaint for the Cancellation of Free Patent No. 045307-98-9384 and OCT No. E-18011 and for Reversion, which was docketed as Civil Case No. 3726.

Despite personal receipt of the summons and the complaint, however, Hachero did not file any responsive pleading within the period required by law. Upon the Republic's motion, the RTC declared Hachero in default. Thereafter, the Republic was allowed to present its evidence *ex-parte*.[7]

The Republic presented its lone witness, Diosdado Ocampo, former CENRO officer of Palawan, and formally offered the following documents as its exhibits: a) Application for Free Patent of Amor Hachero; b) Orders of Approval of the Application and Issuance of Free Patent; c) Free Patent No. 045307-98-9384; d) OCT No. E-18011 issued in the name of Amor Hachero; e) Inspection Report, dated July 24, 2000; and f) Verification, dated July 17, 2000, both issued by one Sim Luto.[8]

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[5] *Id.* at 37.

[6] *Id.* at 13-14.

[7] *Id.* at 14.

[8] *Id.* at 38.

The Ruling of the RTC

On March 29, 2006, the RTC rendered its decision in favor of Hachero. The dispositive portion of the RTC decision reads:

> WHEREFORE, premises considered, the Court hereby resolves to deny the instant action for cancellation of Free Patent and Original Certificate of Title and Reversion for lack of merit. No pronouncement as to costs.
>
> IT IS SO ORDERED.[9]

The RTC explained that the free patent and title had already been issued after Hachero was found to have complied with all the requirements; that it was the Republic itself thru the DENR-CENRO, Coron, which brought the subject land under the operation of the Torrens System; that it could not understand the complete turnabout made by the same office and its officials who certified before that the subject land was alienable and disposable and who approved Hachero's application; that the Republic failed to show the document which stated that the subject land was still timberland as indicated under Project No. 2A L.C. Map No. 839, released on December 9, 1929, despite the fact that said document was already available at the CENRO office at the time of the application for free patent; that the lands adjacent to the subject land were already alienable and disposable; that the free patent and the title itself were public documents entitled to the presumption of regularity; and that the verification and inspection report of one Sim Luto together with the other CENRO officials presented by the Republic were insufficient to defeat Hachero's patent and title.[10]

The Ruling of the CA

On July 4, 2011, the CA affirmed the RTC decision, stating that the verification presented by the Republic could not be given probative value because L.C. Map No. 839, dated December 9, 1929, which served as basis for the verification, was not

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[9] *Id.* at 40.

[10] *Id.* at 38-40. As quoted in the CA decision.

presented before the RTC. According to the CA, the Inspection Report, standing alone, was not sufficient to overcome the burden imposed upon the Republic and could not serve as basis of the reversion of the subject land. The CA doubted the subsequent findings of the land investigator that the subject land was still timberland because he was the same land investigator who previously evaluated the subject land and certified that it was alienable and disposable.[11]

Not in conformity, the Republic filed the subject petition anchored on the following:

GROUNDS

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE DISMISSAL OF PETITIONER'S ACTION FOR CANCELLATION OF FREE PATENT NO. 045307-98-9384 AND ORIGINAL CERTIFICATE OF TITLE (OCT) NO. E-18011 AND REVERSION, CONSIDERING THAT:

I

THE DISCHARGE OF THE OFFICIAL FUNCTIONS BY THE INVESTIGATING PERSONNEL OF THE DENR IN THIS CASE HAS THE PRESUMPTION OF REGULARITY, WHICH PRIVATE RESPONDENT FAILED TO REBUT.

II

THE PREVIOUS FACTUAL MISAPPRECIATION COMMITTED BY THE DENR EMPLOYEES CANNOT AND SHOULD NOT BIND THE GOVERNMENT, ESPECIALLY WHEN, AS IN THIS CASE, THE MISTAKE OR ERROR REFERS TO IMMUTABLE MATTERS SUCH AS ALIENABILITY OF A PORTION OF PUBLIC DOMAIN.[12]

In advocacy of its cause, the Republic basically argues that per its investigation and verification conducted in July 2000, the free patent issued to Hachero was defective and erroneous considering that the land it covered fell within the timberland zone. It contends that the said factual findings carry great weight

[11] *Id.* at 41-42.

[12] *Id.* at 17.

and should be accorded respect by the courts due to the special knowledge and expertise of DENR personnel over matters within their jurisdiction. Considering that the DENR personnel acted in the discharge of their official functions, the Republic asserted that they have in their favor the presumption of regularity in the performance of their official duties. Moreover, Hachero failed to rebut the DENR's investigation report and, for said reason, the presumption in favor of the investigating personnel and their report has become conclusive.

The Republic further contends that the title issued to Hachero, which had been issued based on an erroneous DENR finding that the land was alienable, can still be overturned by a later report stating otherwise. Thus, the Inspection Report,[13] dated July 24, 2000, and Verification Report,[14] dated July 17, 2000, superseded the previous finding that the subject land was alienable and disposable.

The Republic avers that the State is not estopped by the mistakes of its officers and employees and that the previous factual misappreciation committed by DENR employees cannot bind the government.[15]

Hachero's counter-position

Hachero counters that the petition should be dismissed on the ground that it has raised substantially factual matters. He points out that the findings of fact of the RTC and the CA are final and conclusive and cannot be reviewed on appeal if there is no showing of grave abuse of discretion. He calls the attention of the Court to the fact that the officials, who previously certified to the alienability and disposability of the subject land but made a complete turn around by declaring otherwise, could not have made a mistake or error. He asserts that the main document a vital piece of data denominated as Cadastral Map No. 839, which became the basis for the reinspection/reinvestigation and

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[13] Records, p. 93.

[14] *Id.* at 94.

[15] *Rollo*, pp. 147-148.

verification by CENRO, Coron, was released on December 9, 1929 and admittedly already in their records when the application was approved for titling, and yet was not presented in court as evidence. Finally, Hachero stresses that the government cannot be allowed to deal dishonorably or capriciously with its citizens and that titleholders may not be made to bear the unfavorable effect of the mistake or negligence of the State's agents, in the absence of his complicity in a fraud or manifest damage to third persons.[16]

The Court's Ruling

The Court finds merit in the petition.

General Rule and Exceptions when factual findings of the trial court are affirmed by the CA

It is generally settled in jurisprudence that the findings of fact of the trial court specially when affirmed by the CA are final, binding and conclusive and may not be re-examined by this Court. There are, however, several exceptions to this rule, to wit:

1] When the findings are grounded entirely on speculation, surmises or conjectures;
2] When the inference made is manifestly mistaken, absurd or impossible;
3] When there is grave abuse of discretion;
4] When the judgment is based on misapprehension of facts;
5] When the findings of facts are conflicting;
6] When in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7] When the findings of the CA are contrary to that of the trial court;
8] When the findings are conclusions without citation of specific evidence on which they are based;
9] When the facts set forth in the petition as well as in the main and reply briefs are not disputed;

[16] *Id.* at 100-102.

10] When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and

11] When the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[17]

After combing through the records, the Court is of the considered view that there is a need to review the findings of the courts below due to the presence of some of the enumerated exceptions mentioned above, which are 1) when the judgment is based on misapprehension of facts; and 2) when the findings of fact are contradicted by the evidence on record.

The Republic showed clear and convincing proof that the subject land was inalienable and non-disposable

Records reveal that on October 15, 1998, upon the approval of Hachero's application by CENRO of Palawan, Free Patent No. 045307-98-9384 was issued and, on May 7, 1999, the property was subsequently registered under OCT No. E-18011.

Thereafter, in an effort to find out fake or illegal titles, the DENR created a task force to investigate and evaluate all issued patents and titles. An investigation conducted by a representative of the Regional Executive Director of the Regional Office No. IV revealed that the subject land covered by OCT No. E-18011 was still timberland and, therefore, could not be segregated from the public domain as timberlands were classified as inalienable and non-disposable public lands.

Accordingly, both Sim Luto, Land Management Officer III, and Diosdado L. Ocampo, Community Environment and Natural Resources Officer, prepared and signed the Inspection Report, dated July 24, 2000, and Verification, dated July 17, 2000, attesting to the fact the subject land fell within the timberland zone under Project No. 2A, L.C. Map No. 839, released on December 9, 1929. For said reason, both recommended the cancellation of OCT No. E-18011.

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[17] *Republic-Bureau of Forest Development v. Roxas*, G.R. Nos. 157988 and 160640, December 11, 2013, 712 SCRA 177, 200.

Aside from the Inspection Report and the Verification, the Republic also adduced maps[18] prepared by the National Mapping and Resource Information Authority (NAMRIA), which showed that the subject land was located within the periphery of the land area classified as unclassified public forest and beyond the alienable and disposable area. In other words, as the maps clearly reveal, every inch of the subject land is inside the unclassified public forest area. Evidently, these maps presented by the Republic, together with the Inspection Report and the Verification, all clearly demonstrate that the subject land is not yet subject to disposition.

Presumption of regularity in the performance of official duties applies favorably to Republic

The Court would have wanted to study Hachero's position on the matter, but he did not file an answer or responsive pleading to the complaint filed by the Republic before the RTC. It appears from the records, however, that he was duly served with the summons together with a copy of the complaint. He, apparently, opted to ignore it, in effect, waived his right to rebut the allegations thereof at the first opportunity.

There being a controversion, the presumption of regularity in the performance of official duties applies favorably to the Republic. This means that the DENR's inspection report and the verification stating that the subject land is still inalienable has become conclusive. The doctrine in *Bustillo vs. People*,[19]

> xxx In sum, the petitioners have in their favor the presumption of regularity in the performance of official duties which the records failed to rebut. The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, **unless the presumption is rebutted, it becomes conclusive.** Every reasonable intendment will be made in support of the presumption

[18] *Rollo*, pp. 156-158.

[19] 634 Phil. 547-556 (2010).

and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness.

[Emphasis Supplied]

and in *Farolan v. Solmac Marketing Corp.*,[20]

In the same vein, the presumption, disputable though it may be, that an official duty has been regularly performed applies in favor of the petitioners. *Omnia praesumuntur rite et solemniter esse acta.* (All things are presumed to be correctly and solemnly done.) It was private respondent's burden to overcome this *juris tantum* presumption. We are not persuaded that it has been able to do so.

are both instructive.

Cancellation of title and reversion proper where there exists a mistake or oversight in granting free patent over inalienable land

The courts below ruled that the Inspection Report and the Verification had no probative value because the land classification map (L.C. Map No. 839) on which they were based was not presented in the trial court. Likewise, the courts below considered the subsequent findings of the land investigator — that the land still belonged to the public domain — as doubtful because the officials who previously evaluated and verified that the subject land was alienable were the same officials who now investigated and verified the same and found it inalienable.

The Court holds otherwise.

Reversion is an action where the ultimate relief sought is to revert the land back to the government under the Regalian doctrine. Considering that the land subject of the action originated from a grant by the government, its cancellation therefore is a matter between the grantor and the grantee.[21] In *Republic v. Guerrero*, [22]

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[20] 272-A Phil. 127-140 (1991).

[21] *Republic-Bureau of Forest Development v. Roxas*, *supra* note 17, at 210.

[22] 520 Phil. 296 (2006).

the Court gave a more general statement that "this remedy of reversion can only be availed of in cases of fraudulent or unlawful inclusion of the land in patents or certificates of title."[23] Nonetheless, the Court recognized in *Republic v. Mangotara*,[24] that there were instances when it granted reversion for reasons other than fraud:

> xxx . In *Estate of the Late Jesus S. Yujuico v. Republic* (*Yujuico case*), reversion was defined as an action which seeks to restore public land fraudulently awarded and disposed of to private individuals or corporations to the mass of public domain. It bears to point out, though, that the Court also allowed the resort by the Government to actions for reversion to cancel titles that were void for reasons other than fraud, i.e., violation by the grantee of a patent of the conditions imposed by law; and lack of jurisdiction of the Director of Lands to grant a patent covering inalienable forest land or portion of a river, **even when such grant was made through mere oversight.**[25]
>
> [Emphasis Supplied]

In the case at bench, although the Republic's action for cancellation of patent and title and for reversion was not based on fraud or misrepresentation on the part of Hachero, his title could still be cancelled and the subject land reverted back to the State because the grant was made through mistake or oversight. This could probably be the reason why, shortly after one (1) year from the issuance of OCT No. E-18011 to Hachero, the DENR personnel conducted another investigation and verification on the subject land. It would appear that they suspected that a mistake was made in their issuance of the patent as the subject land had not been reclassified or released as alienable or disposable land. It remained plotted within the timberland classification zone. This time, they supported their findings with maps prepared by the NAMRIA. The Republic also followed the proper legal procedure for cancellation of patent and title and for reversion. They filed a complaint in court and notified Hachero through

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[23] *Id.* at 314.

[24] 635 Phil. 353 (2010).

[25] *Id.* at 461.

summons. They gave Hachero an opportunity to be heard in court. For unknown reasons, however, he disregarded the summons, allowed himself to be declared in default, and forfeited his right to adduce evidence in his defense.

Prescription and estoppel cannot lie against the State

Contrary to the observation of the courts below, there is nothing incomprehensible or puzzling or suspicious about the complete turnaround made by the DENR after its re-investigation. The Court has carefully reviewed the records and found nothing anomalous.

At any rate, it is a time-honored principle that the statute of limitations or the lapse of time does not run against the State. Jurisprudence also recognizes the State's immunity from estoppel as a result of the mistakes or errors of its officials and agents. These well-established principles apply in the case at bench. The Court in *Republic v. Roxas* elucidated:

> It is true that once a homestead patent granted in accordance with the Public Land Act is registered pursuant to Act 496, otherwise known as The Land Registration Act, or Presidential Decree No. 1529, otherwise known as The Property Registration Decree, the certificate of title issued by virtue of said patent has the force and effect of a Torrens title issued under said registration laws. We expounded in Ybañez v. Intermediate Appellate Court that:
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> The certificate of title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein. After the expiration of the one (1) year period from the issuance of the decree of registration upon which it is based, it becomes incontrovertible. The settled rule is that a decree of registration and the certificate of title issued pursuant thereto may be attacked on the ground of actual fraud within one (1) year from the date of its entry and such an attack must be direct and not by a collateral proceeding. The validity of the certificate of title in this regard can be threshed out only in an action expressly filed for the purpose.
>
> It must be emphasized that a certificate of title issued under an administrative proceeding pursuant to a homestead patent, as in the instant case, is as indefeasible as a certificate of title issued

under a judicial registration proceeding, provided the land covered by said certificate is a disposable public land within the contemplation of the Public Land Law.

There is no specific provision in the Public Land Law (C.A. No. 141, as amended) or the Land Registration Act (Act 496), now P.D. 1529, fixing the one (1) year period within which the public land patent is open to review on the ground of actual fraud as in Section 38 of the Land Registration Act, now Section 32 of P.D. 1529, and clothing a public land patent certificate of title with indefeasibility. Nevertheless, the pertinent pronouncements in the aforecited cases clearly reveal that Section 38 of the Land Registration Act, now Section 32 of P.D. 1529 was applied by implication by this Court to the patent issued by the Director of Lands duly approved by the Secretary of Natural Resources, under the signature of the President of the Philippines in accordance with law. The date of issuance of the patent, therefore, corresponds to the date of the issuance of the decree in ordinary registration cases because the decree finally awards the land applied for registration to the party entitled to it, and the patent issued by the Director of Lands equally and finally grants, awards, and conveys the land applied for to the applicant. This, to our mind, is in consonance with the intent and spirit of the homestead laws, i.e., conservation of a family home, and to encourage the settlement, residence and cultivation and improvement of the lands of the public domain. If the title to the land grant in favor of the homesteader would be subjected to inquiry, contest and decision after it has been given by the Government thru the process of proceedings in accordance with the Public Land Law, there would arise uncertainty, confusion and suspicion on the government's system of distributing public agricultural lands pursuant to the "Land for the Landless" policy of the State. (Emphases ours, citations omitted.)

Yet, we emphasize that our statement in the aforequoted case that a certificate of title issued pursuant to a homestead patent becomes indefeasible after one year, is subject to the proviso that "the land covered by said certificate is a disposable public land within the contemplation of the Public Land Law." As we have ruled herein, the subject property is part of the Matchwood Forest Reserve and is inalienable and not subject to disposition. Being contrary to the Public Land Law, Homestead Patent No. 111598 and OCT No. P-5885 issued in respondent Roxas's name are void; and the right of petitioner Republic to seek cancellation of such void patent/title and reversion of the subject property to the State is imprescriptible.

We have addressed the same questions on indefeasibility of title and prescription in *Mangotara*, thus:

It is evident from the foregoing jurisprudence that despite the lapse of one year from the entry of a decree of registration/certificate of title, the State, through the Solicitor General, may still institute an action for reversion when said decree/certificate was acquired by fraud or misrepresentation. Indefeasibility of a title does not attach to titles secured by fraud and misrepresentation. Well-settled is the doctrine that the registration of a patent under the Torrens system does not by itself vest title; it merely confirms the registrant's already existing one. Verily, registration under the Torrens system is not a mode of acquiring ownership.

But then again, the Court had several times in the past recognized the right of the State to avail itself of the remedy of reversion in other instances when the title to the land is void for reasons other than having been secured by fraud or misrepresentation. One such case is *Spouses Morandarte v. Court of Appeals*, where the Bureau of Lands (BOL), by mistake and oversight, granted a patent to the spouses Morandarte which included a portion of the Miputak River. The Republic instituted an action for reversion 10 years after the issuance of an OCT in the name of the spouses Morandarte. The Court ruled:

Be that as it may, **the mistake or error of the officials or agents** of the BOL in this regard **cannot be invoked against the government** with regard to property of the public domain. It has been said that **the State cannot be estopped by the omission, mistake or error of its officials or agents.**

It is well-recognized that if a person obtains a title under the Public Land Act which includes, by oversight, lands which cannot be registered under the Torrens system, or when the Director of Lands did not have jurisdiction over the same because it is a public domain, the grantee does not, by virtue of the said certificate of title alone, become the owner of the land or property illegally included. Otherwise stated, property of the public domain is incapable of registration and its inclusion in a title nullifies that title.

Another example is the case of *Republic of the Phils. v. CFI of Lanao del Norte, Br. IV*, in which the homestead patent issued by the State became null and void because of the grantee's violation of the conditions for the grant. The Court ordered the reversion

even though the land subject of the patent was already covered by an OCT and the Republic availed itself of the said remedy more than 11 years after the cause of action accrued, because:

There is merit in this appeal considering that the statute of limitation does not lie against the State. Civil Case No. 1382 of the lower court for reversion is a suit brought by the petitioner Republic of the Philippines as a sovereign state and, by the express provision of Section 118 of Commonwealth Act No. 141, any transfer or alienation of a homestead grant within five (5) years from the issuance of the patent is null and void and constitute a cause for reversion of the homestead to the State. In *Republic vs. Ruiz*, 23 SCRA 348, We held that "the Court below committed no error in ordering the reversion to plaintiff of the land grant involved herein, notwithstanding the fact that the original certificate of title based on the patent had been cancelled and another certificate issued in the names of the grantee heirs. Thus, where a grantee is found not entitled to hold and possess in fee simple the land, by reason of his having violated Section 118 of the Public Land Law, the Court may properly order its reconveyance to the grantor, although the property has already been brought under the operation of the Torrens System. And, this right of the government to bring an appropriate action for reconveyance is not barred by the lapse of time: the Statute of Limitations does not run against the State." (Italics supplied). The above ruling was reiterated in *Republic vs. Mina*, 114 SCRA 945.

If the Republic is able to establish after trial and hearing of Civil Case No. 6686 that the decrees and OCTs in Doña Demetria's name are void for some reason, then the trial court can still order the reversion of the parcels of land covered by the same because indefeasibility cannot attach to a void decree or certificate of title. x x x (Citations omitted.)

Neither can respondent Roxas successfully invoke the doctrine of estoppel against petitioner Republic. While it is true that respondent Roxas was granted Homestead Patent No. 111598 and OCT No. P-5885 only after undergoing appropriate administrative proceedings, the Government is not now estopped from questioning the validity of said homestead patent and certificate of title. It is, after all, hornbook law that **the principle of estoppel does not operate against the Government for the act of its agents.** And while there may be circumstances when equitable estoppel was applied against public authorities, i.e., when the Government did not undertake any act to

In other words, if at the time of the filing of the complaint more than one year had elapsed since the defendant had turned the plaintiff out of possession or the defendant's possession had become illegal, the action will be not one of forcible entry or unlawful detainer, but an *accion publiciana*.[70]

In these lights, we no longer find it necessary to pass upon the other issue raised in the present petition.

WHEREFORE, we hereby **GRANT** the petition for review on *certiorari*. The resolutions dated March 18, 2011 and March 8, 2012 of the Court of Appeals in CA-G.R. CEB-SP No. 05741 are **REVERSED** and **SET ASIDE**. The complaint for unlawful detainer is, hereby, **DISMISSED**. No costs.

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 204277. May 30, 2016]

PROCTER AND GAMBLE ASIA PTE LTD., *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. CIVIL LAW; CIVIL CODE; EFFECT AND APPLICATION OF LAWS; *STARE DECISIS*; TO BE APPLICABLE, THE COURT MUST CATEGORICALLY RULE ON AN ISSUE

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[70] *Supra* note 63, at 46.

EXPRESSLY RAISED BY THE PARTIES.— Under Section 112 of the NIRC, if the administrative claim for tax credit or refund of input taxes is not acted upon by the CIR within 120 days from the date of submission of complete documents in support of the application, the taxpayer affected may appeal the unacted claim with the CTA within 30 days from the expiration of the 120-day period. In *Aichi*, this Court ruled that observance of the 120- and 30-day periods is crucial in the filing of an appeal before the CTA. By "crucial," this Court meant that its observance is jurisdictional and mandatory, not merely permissive. Contrary to the PGAPL's claim, this court has not abandoned the *Aichi* doctrine, more specifically in *Intel, San Roque (2009), Panasonic, AT&T, Hitachi, Silicon, Kepco, Microsoft, Southern Philippines Power Corporation,* and *Western Mindanao Power Corporation.* While all such cases dealt with claims for tax credit or refund of excess input tax, the rulings of this Court were on the issue of compliance with applicable requirements supporting the taxpayer's claim. The issue of whether compliance with the 120- and 30-day periods under Section 112 of the NIRC is mandatory and jurisdictional was never squarely raised in any of the petitioner's cited cases. The basic rule is that past decisions of this Court [should] be followed in the adjudication of cases. However, for a ruling of this Court to come within this rule (known as *stare decisis*), the Court must categorically rule on an issue expressly raised by the parties; it must be a ruling on an issue directly raised. When the court resolves an issue merely *sub silentio, stare decisis* does not apply on the issue touched upon. In fact, the same argument was struck down by this court in *San Roque-Taganito*. There, we held that, **"[a]ny issue, whether raised or not by the parties, but not passed upon by the court, does not have any value as a precedent**." From this perspective, the *Aichi* Doctrine could not have been overturned by subsequent cases before this Court that were decided based on another issue and the application of a different doctrine or rule of law. In the same vein, the cases cited by PGAPL are irrelevant to the present case, because they did not rule on the jurisdictional and mandatory nature of the 120- and 30-day periods.

2. TAXATION; NATIONAL INTERNAL REVENUE CODE OF 1997; VALUE-ADDED TAX; REFUNDS OR TAX CREDITS

OF INPUT TAX; ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES; COMPLIANCE WITH THE 120- AND 30-DAY PERIODS IS MANDATORY IN THE FILING OF JUDICIAL CLAIMS BEFORE THE COURT OF TAX APPEALS; EXCEPTION.— *Aichi* is the prevailing doctrine on the matter of mandatory compliance with the 120- and 30-day periods in the filing of judicial claims of tax credit or refund before the CTA. However, in the manner of most rules, the *Aichi* Doctrine is also subject to exceptions. In accordance with the equitable estoppel principle under Section 246 of the NIRC, we ruled in *San Roque-Taganito* that there are exceptions to the strict rule that compliance with the *Aichi* Doctrine is mandatory and jurisdictional, one of which is BIR Ruling No. DA-489-03. If the CIR issues a ruling, either a specific one applicable to a particular taxpayer or a general interpretative rule applicable to all taxpayers, and, as a result, misleads the taxpayers affected by the rule, into filing prematurely judicial claims with the CTA, the CIR cannot be allowed to later on question the CTA's assumption of jurisdiction over such claim. Since then, this Court has consistently adopted the ruling in *San Roque-Taganito* in holding that BIR Ruling No. DA-489-03 is an exception to the *Aichi* Doctrine. We see no reason to disturb what is now a settled ruling. Therefore, as a general interpretative rule, all taxpayers may rely on BIR Ruling No. DA-489-03 from the time of its issuance on December 10, 2003, until its effective reversal by the *Aichi* Doctrine adopted on October 6, 2010. Thus, judicial claims for tax credit or refund instituted before the CTA should be given due course, despite their failure to comply with the 120- and 30-day periods.

APPEARANCES OF COUNSEL

A.M. Sison, Jr. Partners for petitioner.
Zambrano and Gruba Law Offices, co-counsel for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

BRION, *J.*:

Before us is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court seeking the reversal of the decision[2] dated June 18, 2012, and the resolution[3] dated November 8, 2012 of the Court of Tax Appeals (*CTA*) *en banc* in CTA EB Case No. 740 (CTA Case No. 7683). In the assailed decision and resolution, the CTA *en banc* affirmed the decision[4] dated November 9, 2010 and resolution[5] dated March 7, 2011, of the CTA Second Division (*CTA Division*). The latter dismissed the petition of Procter & Gamble Asia Pte. Ltd. (*PGAPL*) for premature filing.

The Facts

Petitioner PGAPL is a foreign corporation duly organized and existing under the laws of Singapore, with a Regional Operating Headquarters (*ROHQ*) in the Philippines. The ROHQ provides management, marketing, technical and financial advisory, and other qualified services to its related parties. PGAPL is registered as a Value Added Tax (*VAT*) taxpayer with the Bureau of Internal Revenue (*BIR*). On the other hand, respondent is the duly appointed Commissioner of Internal Revenue (*CIR*), empowered to perform the duties of said office including, among others, the duty to act upon and approve claims for refunds or tax credits as provided by law.

On October 24, 2005, and January 26, 2006, PGAPL filed with the BIR its Original Quarterly VAT returns for the Third and Fourth quarters of 2005, respectively.

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[1] *Rollo*, pp. 49-92.

[2] Penned by CTA Associate Justice Cielito N. Mindaro-Grulla, and concurred in by Associate Justice Juanito C. Castañeda; *id.* at 8-33. CTA Presiding Justice Ernesto D. Acosta and Associate Justice Lovell R. Bautista concurred with the majority, with a separate dissenting opinion; *id.* at 34-47.

[3] *Id.* at 155-161.

[4] *Id.* at 209-218.

[5] *Id.* at 220-223.

On April 4, 2007, PGAPL amended its Quarterly VAT returns for the last two quarters of 2005, reporting both sales subject to 10% VAT and zero-rated sales. For the last two quarters of 2005, PGAPL claimed it incurred unutilized input VAT amounting to ₱53,624,427.14.

On August 21, 2007, PGAPL filed an administrative claim for tax refund with the BIR for input VAT attributable to its zero-rated sales covering the period July 2005 to September 2005 and October 2005 to December 2005.

Claiming that the CIR has not acted on its application, PGAPL elevated the case to the CTA by filing a petition for review[6] before the CTA division on September 27, 2007.

The CTA Division dismissed PGAPL's petition.[7] It ruled that the filing of the judicial claim for tax refund or credit before the CTA is premature, because the petitioner proceeded with its appeal even before the expiration of the 120-day period given to the CIR to decide on its claim for tax refund or credit of excess input VAT. Section 112 of the National Internal Revenue Code of 1997 (*NIRC*) provides that in case of denial of his claim for tax credit or refund or failure of the CIR to act on the application within 120 days, the taxpayer may, within 30 days from the receipt of the notice of denial or after the expiration of the 120-day period, appeal the decision or unacted claim with the CTA. The CTA Division emphasized that, as enunciated in *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*,[8] **compliance with the aforesaid 120- and 30-day periods is crucial in filing an appeal before the CTA** (*Aichi Doctrine*).

PGAPL moved for reconsideration, but the CTA denied its motion in a resolution dated March 7, 2011.[9] The CTA Division struck down PGAPL's argument that respondent is already

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[6] *Id.* at 225-252.

[7] In its decision dated November 8, 2012, *supra* note 4.

[8] G.R. No. 184823, October 6, 2010, 632 SCRA 423, 444.

[9] *Supra* note 5.

estopped from raising the issue of jurisdiction considering that it already actively participated in all stages of the proceedings and that the CTA has proceeded to try the case without bringing into petitioner's attention that it has no jurisdiction to do so. It ruled that parties are not barred from assailing the jurisdiction of the court, even when the case has already been tried and decided upon. Jurisdiction must exist as a matter of law and may not be conferred by the consent of the parties or by estoppel.[10]

Thereafter, petitioner filed a petition for review[11] before the CTA *en banc*.

In its decision[12] dated June 18, 2012, the CTA *en banc* affirmed the decision and resolution of the CTA Division. It found that PGAPL's administrative claim for excess input VAT credit or refund was timely filed with the BIR on August 21, 2007. However, its judicial claim before the CTA was filed on September 27, 2007, or only 37 days after it had filed its administrative claim.

Based on these timelines, the CTA *en banc* held that PGAPL's petition was prematurely filed. Thus, the CTA had no jurisdiction to hear and decide its appeal. The CTA *en banc* reiterated that, based on *Aichi*, the premature filing of a taxpayer's claim for tax credit or refund on input VAT before the CTA warrants dismissal as the CTA did not acquire jurisdiction over the claim.

The CTA *en banc* further held that, contrary to petitioner's claim, the Aichi Doctrine was not effectively abandoned by the Supreme Court in its rulings in *Hitachi Global Storage Technologies Corp. v. Commissioner of Internal Revenue*,[13] *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*,[14] and *Kepco Philippines Corporation v. Commissioner of Internal Revenue*.[15] It observed that in PGAPL's cited cases, the issue

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[10] CTA Division citing *Cudiamat v. Batangas Savings and Loan Bank, Inc.* (G.R. No. 182403, March 9, 2010).

[11] *Rollo*, pp. 274-235.

[12] *Supra* note 2.

[13] G.R. No. 174212, October 20, 2010, 634 SCRA 205.

[14] G.R. No. 172378, January 17, 2011, 639 SCRA 521.

[15] G.R. No. 179961, January 31, 2011, 641 SCRA 70.

of compliance with the 120- and 30-day periods under Section 112 of the NIRC was never squarely raised. Thus, *Aichi* remains the prevailing doctrine on the compliance with the 120- and 30-day periods.

The CTA *en banc* further ruled that *Hitachi, Silicon*, and *Kepco* could not have overturned *Aichi*. Such reversal would run counter to the constitutional mandate that no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the Supreme Court sitting *en banc*.[16]

The CTA *en banc* also denied petitioner's motion for reconsideration.[17] Hence, on December 28, 2010, PGAPL filed the present petition.

PGAPL insists that this Court had abandoned the *Aichi* Doctrine not only in *Hitachi, Silicon*, and *Kepco*, but also in *Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue,*[18] *Southern Philippines Power Corporation v. Commissioner of Internal Revenue*,[19] and *Western Mindanao Power Corporation v. Commissioner of Internal Revenue*.[20]

PGAPL also posits that the premature filing of its judicial claim is not fatal to its case. It is not jurisdictional, but merely a failure to exhaust administrative remedies, which, when analyzed more closely, only amounts to a lack of cause of action. Thus, its petition before the CTA might have been infirm, but the CIR should be deemed to have waived this infirmity when it did not file a motion to dismiss and opted to participate at the trial.

PGAPL further argues that its constitutional rights to due process and equal protection of laws were violated when their

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[16] See Article VIII, Section 4 (3), 1987 Constitution. *Hitachi, Silicon*, and *Kepco* were all decided by the Supreme Court sitting in division.

[17] *Supra* note 3.

[18] G.R. No. 180173, April 11, 2011, 647 SCRA 398.

[19] G.R. No. 179632, October 19, 2011, 659 SCRA 658.

[20] G.R. No. 181136, June 13, 2012, 672 SCRA 350.

judicial claim for tax credit or refund was dismissed due to noncompliance with the *Aichi* Doctrine. It noted that the claims filed by the taxpayers in *Intel*,[21] *San Roque,*[22] *Panasonic,*[23] *AT&T,*[24] *Hitachi, Silicon, Kepco, Microsoft, Southern Philippines Power,* and *Western Mindanao Power* were given due course despite the similar failure to observe the 120- and 30-day periods.

Finally, petitioner claims that even assuming that the *Aichi* Doctrine has not been overturned, it does not apply to its case, because the facts in *Aichi* are not identical with those in the present case. Further, the respondent should be considered estopped from questioning the jurisdiction of the CTA, considering that it has participated in all stages of the case.

On February 6, 2013,[25] we required the CIR to comment on the petition.

In the meantime, on February 12, 2013, we decided the consolidated cases of *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue*, and *Philex Mining Corporation v. Commissioner of Internal Revenue*.[26] In *San Roque-Taganito*, we recognized the effectivity of BIR Ruling No. DA-489-03, which expressly stated that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review." We said:

There is no dispute that the 120-day period is mandatory and jurisdictional, and that the CTA does not acquire jurisdiction over a judicial claim that is filed before the expiration of the 120-day

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[21] G.R. No. 182364, August 3, 2010, 626 SCRA 567.

[22] G.R. No. 180345, November 25, 2009, 605 SCRA 536.

[23] G.R. No. 178090, February 8, 2010, 612 SCRA 28.

[24] G.R. No. 182364, August 3, 2010, 626 SCRA 567.

[25] See undated Notice issued by the Supreme Court, *rollo*, p. 500.

[26] G.R. Nos. 187485, 196113, and 197156, February 12, 2013, 690 SCRA 336.

period. There are, however, **two exceptions to this rule**. The first exception is if the Commissioner, through a specific ruling, misleads a particular taxpayer to prematurely file a judicial claim with the CTA. **The second exception is where the Commissioner, *through a general interpretative rule* issued under Section 4 of the Tax Code, misleads all taxpayers into filing prematurely judicial claims with the CTA.** In these cases, the Commissioner cannot be allowed to later on question the CTA's assumption of jurisdiction over such claim since equitable estoppel has set in as expressly authorized under Section 246 of the Tax Code (*emphasis ours*).

In finding that the said BIR ruling is a **general interpretative rule,** which is an exception to the doctrine laid down in *Aichi*, this court held that taxpayers **acting in good faith** should not be made to suffer for adhering to general interpretative rules of the CIR interpreting tax laws, should such interpretation later turn out to be erroneous and be reversed by the CIR or this court. Thus, We clarified that **strict compliance with the 120- and 30-day periods is necessary for a judicial claim of tax credit or refund to prosper, except for the period from December 10, 2003, the issuance of BIR DA-489-03, to October 6, 2010, when this court adopted the *Aichi* Doctrine**. Hence, a judicial claim for tax credit or refund filed within the period mentioned above will be deemed to have been filed on time.

On May 6, 2013, even before the CIR could comment, PGAPL filed a manifestation[27] invoking in its favor this court's ruling *San Roque-Taganito*. Petitioner claims that since its judicial claim was filed before the CTA on September 27, 2007, when BIR Ruling No. DA-489-03 was in effect, its judicial claim should be deemed as having been timely filed.

In her comment[28] dated June 11, 2013, the CIR argues that her office has the exclusive and original jurisdiction to interpret tax laws, subject to the review of the Secretary of Finance, as provided in Section 4 of the NIRC. Hence, BIR Ruling No. DA-489-03 was issued *ultra vires*, having been issued by BIR

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[27] *Id.* at 510-517.

[28] *Rollo*, pp. 523-539.

Deputy Commissioner Jose Mario C. Bunag, not by the CIR. The CIR further claims that even if we assume that the said ruling is valid, it still does not apply to the case of PGAPL, because it did not prove that it acted in good faith. According to respondent, if PGAPL truly relied on the BIR ruling in good faith, it should have raised the rule set forth in the said BIR ruling as early as the time the present case was pending before the CTA.

The Court's Ruling

We find the petition meritorious.

BIR Ruling No. DA-489-03 is an exception to the Aichi Doctrine

Under Section 112 of the NIRC,[29] if the administrative claim for tax credit or refund of input taxes is not acted upon by the CIR within 120 days from the date of submission of complete documents in support of the application, the taxpayer affected may appeal the unacted claim with the CTA within 30 days from the expiration of the 120-day period.

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[29] SEC. 112. **Refunds or Tax Credits of Input Tax.** —

(A) *Zero-rated or Effectively Zero-rated Sales.* — Any VAT-registered person whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent such input tax has not been applied against output tax. . . xxx

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(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals.

In *Aichi*, this Court ruled that observance of the 120- and 30-day periods is crucial in the filing of an appeal before the CTA. By "crucial," this Court meant that its observance is jurisdictional and mandatory, not merely permissive.

Contrary to the PGAPL's claim, this court has not abandoned the *Aichi* doctrine, more specifically in *Intel*, *San Roque (2009), Panasonic, AT&T, Hitachi, Silicon, Kepco, Microsoft, Southern Philippines Power Corporation,* and *Western Mindanao Power Corporation.*

While all such cases dealt with claims for tax credit or refund of excess input tax, the rulings of this Court were on the issue of compliance with applicable requirements supporting the taxpayer's claim. The issue of whether compliance with the 120- and 30-day periods under Section 112 of the NIRC is mandatory and jurisdictional was never squarely raised in any of the petitioner's cited cases.

The basic rule is that past decisions of this Court be followed in the adjudication of cases. However, for a ruling of this Court to come within this rule (known as *stare decisis*), the Court must categorically rule on an issue expressly raised by the parties; it must be a ruling on an issue directly raised.[30] When the court resolves an issue merely *sub silentio, stare decisis* does not apply on the issue touched upon.[31]

In fact, the same argument was struck down by this court in *San Roque-Taganito*. There, we held that, "**[a]ny issue, whether raised or not by the parties, but not passed upon by the court, does not have any value as a precedent.**"[32] (*emphasis in the original*)

From this perspective, the *Aichi* Doctrine could not have been overturned by subsequent cases before this Court that were decided based on another issue and the application of a different

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[30] *People v. Macadaeg*, 91 Phil. 410 (1952).

[31] *Hebron v. Reyes*, 104 Phil. 175 (1958).

[32] *Supra* note 26.

doctrine or rule of law. In the same vein, the cases cited by PGAPL are irrelevant to the present case, because they did not rule on the jurisdictional and mandatory nature of the 120- and 30-day periods.

Indeed, *Aichi* is the prevailing doctrine on the matter of mandatory compliance with the 120- and 30-day periods in the filing of judicial claims of tax credit or refund before the CTA. However, in the manner of most rules, the *Aichi* Doctrine is also subject to exceptions.

In accordance with the equitable estoppel principle under Section 246 of the NIRC,[33] we ruled in *San Roque-Taganito* that there are exceptions to the strict rule that compliance with the *Aichi* Doctrine is mandatory and jurisdictional, one of which is BIR Ruling No. DA-489-03. If the CIR issues a ruling, either a specific one applicable to a particular taxpayer or a general interpretative rule applicable to all taxpayers, and, as a result, misleads the taxpayers affected by the rule, into filing prematurely judicial claims with the CTA, the CIR cannot be allowed to later on question the CTA's assumption of jurisdiction over such claim.[34]

Since then, this Court has consistently adopted the ruling in *San Roque-Taganito* in holding that BIR Ruling No. DA-489-

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[33] SEC. 246. **Non-Retroactivity of Rulings.** — Any revocation, modification or reversal of any of the rules and regulations promulgated in accordance with the preceding Sections or any of the rulings or circulars promulgated by the Commissioner shall not be given retroactive application if the revocation, modification or reversal will be prejudicial to the taxpayers, except in the following cases:

(a) Where the taxpayer deliberately misstates or omits material facts from his return or any document required of him by the Bureau of Internal Revenue;

(b) Where the facts subsequently gathered by the Bureau of Internal Revenue are materially different from the facts on which the ruling is based; or

(c) Where the taxpayer acted in bad faith.

[34] *Supra* note 26.

03 is an exception to the *Aichi* Doctrine.[35] We see no reason to disturb what is now a settled ruling.

Therefore, as a general interpretative rule, all taxpayers may rely on BIR Ruling No. DA-489-03 from the time of its issuance on December 10, 2003, until its effective reversal by the *Aichi* Doctrine adopted on October 6, 2010. Thus, judicial claims for tax credit or refund instituted before the CTA should be given due course, despite their failure to comply with the 120- and 30-day periods.

BIR Ruling No. DA-489-03 is valid even if issued by the Deputy Commissioner.

The respondent now impugns the validity of BIR Ruling No. DA-489-03. The CIR argues that the BIR ruling was issued only by the Deputy Commissioner and not by the CIR, who, under Section 4 of the NIRC,[36] has original and exclusive jurisdiction in interpreting provisions of the NIRC.

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[35] See *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 08, 2015; *Commissioner of Internal Revenue v. Air Liquide Philippines, Inc.*, G.R. No. 210646, July 29, 2015; *ROHM Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 205543, June 30, 2014; *Visayas Geothermal Power Company v. Commissioner of Internal Revenue*, G.R. No. 197525, June 04, 2014; *Commissioner of Internal Revenue v. Team Sual Corporation*, G.R. No. 194105, February 05, 2014; *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*, G.R. No. 191498, January 15, 2014; *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. Nos. 198729-30, January 15, 2014; *Team Energy Corporation v. Commissioner of Internal Revenue*, G.R. No. 197760, January 13, 2014; *Commissioner of Internal Revenue v. Visayas Geothermal Power Company*, G.R. No. 181276, November 11, 2013 and; *Republic of the Philippines v. GST Philippines, Inc.*, G.R. No. 190872, October 17, 2013.

[36] SEC. 4. **Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.** — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered

We are not persuaded by the CIR's contention.

This issue has been settled in the Court *en banc*'s resolution dated October 8, 2013 in the consolidated cases of *San Roque-Taganito*[37] where we upheld the validity of the BIR ruling, because the power to interpret rules and regulations is not exclusive and may be delegated by the CIR[38] to the Deputy Commissioner.

PGAPL is presumed to have relied on BIR Ruling No. DA-489-03 in good faith.

Finally, the CIR questions PGAPL's good faith in relying on BIR Ruling No. DA-489-03. To the CIR, if PGAPL truly relied on the BIR ruling in good faith, it should have cited the ruling as basis as early as the proceedings before the CTA. The CIR claims that since PGAPL failed to establish that it acted in good faith, it cannot raise the exception set forth in BIR Ruling No. DA-489-03.

We disagree with the CIR's reasoning.

First, good faith is always presumed and this presumption can only be overcome by clear and convincing evidence.[39] Good faith, or its absence, is a question of fact that is better determined by the lower courts. This Court cannot, without sufficient reason, throw out a presumption that arises as a matter of law and is well-entrenched in our legal system.[40]

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by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

[37] G.R. Nos. 187485, 196113 & 197156, October 8, 2013, 707 SCRA 66.

[38] *Id.* at 86.

[39] *Ford Philippines, Inc. v. Court of Appeals*, G.R. No. 99039, February 3, 1997, 267 SCRA 320 citing *Philippine Air Lines v. Miano*, 242 SCRA 235, 238 (1995).

[40] G.R. Nos. 209287, 209135-36, 209155, 209164, 209260, 209442, 209517 & 209569, February 3, 2015.

The mere allegation that the petitioner failed to raise BIR Ruling No. DA-489-03 before the CTA is insufficient to negate this presumption.

Second, even if petitioner did not raise the BIR ruling before the CTA, we can take cognizance of an official act emanating from the BIR, an executive department of the government.[41] Judicial notice of BIR Ruling No. DA-489-03 is all the more mandatory especially when it has been applied consistently by this Court in its past rulings.[42]

Based on the foregoing, we rule that the judicial claim that PGAPL filed with the CTA on September 27, 2007 (during the effectivity of BIR Ruling No. DA-489-03) was timely filed.

WHEREFORE, premises considered, we **GRANT** the petition. The decision dated June 18, 2012, and the resolution dated November 8, 2012 of the CTA *en banc* in CTA EB Case No. 740 are hereby **REVERSED** and **SET ASIDE**. Accordingly, we **REMAND** the case to the CTA Second Division for the proper determination of the creditable or refundable amount due to the petitioner, if any.

SO ORDERED.

Carpio (Chairperson), *del Castillo,* and *Mendoza, JJ.,* concur.

Leonen, J., dissents, consistent with his position in *San Roque v. CIR.*

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[41] Section 1, Rule 129, Rules of Court.

[42] *Supra* note 35.

contest the title for an unreasonable length of time and the lot was already alienated to innocent buyers for value, such are not present in this case. More importantly, we cannot use the equitable principle of estoppel to defeat the law. Under the Public Land Act and Presidential Proclamation No. 678 dated February 5, 1941, the subject property is part of the Matchwood Forest Reserve which is inalienable and not subject to disposition.[26]

[Emphases Supplied; citations omitted]

WHEREFORE, the petition is **GRANTED.** The July 4, 2011 Decision of the Court of Appeals in CA-G.R. CV No. 87267 and its March 6, 2012 Resolution are **REVERSED** and **SET ASIDE**. Free Patent No. 045307-98-9384 and OCT No. E-18011 in the name of Amor Hachero are hereby declared **NULL** and **VOID** and **CANCELLED**.

The subject land is ordered reverted to the public domain as part of the inalienable timberland.

SO ORDERED.

Carpio (Chairperson), *Brion, del Castillo,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 201289. May 30, 2016]

SPOUSES ROLANDO AND SUSIE GOLEZ, *petitioners, vs.* **HEIRS OF DOMINGO BERTULDO, Namely: ERINITA BERTULDO-BERNALES, FLORENCIO BERTULDO, DOMINADOR BERTULDO, RODEL**

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[26] *Republic-Bureau of Forest Development v. Roxas*, *supra* note 17, at 211-216.

BERTULDO and ROGER BERTULDO, herein represented by their Co-heir and duly appointed attorney-in-fact, ERINITA BERNALES, *respondents.*

SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; UNLAWFUL DETAINER; NATURE; ALLEGATIONS SUFFICIENT FOR AN UNLAWFUL DETAINER CASE.—** Unlawful detainer is a summary action for the recovery of possession of real property. This action may be filed by a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied. A complaint for unlawful detainer must allege that: (a) the possession of the defendant was originally legal, as his possession was permitted by the plaintiff on account of an express or implied contract between them; (b) the defendant's possession became illegal when the plaintiff demanded that the defendant vacate the subject property due to the expiration or termination of the right to possess under the contract; (c) the defendant refused to heed such demand; and (d) the case for unlawful detainer is instituted within one year from the date of last demand. The allegations in the complaint determine both the nature of the action and the jurisdiction of the court. The complaint must specifically allege the facts constituting unlawful detainer. In the absence of these factual allegations, an action for unlawful detainer is **not** the proper remedy and the municipal trial court does not have jurisdiction over the case.

2. **ID.; ID.; ID.; NO CAUSE OF ACTION FOR UNLAWFUL DETAINER IN CASE AT BAR.—** In the present case, paragraph 6 of the complaint clearly characterized the Sps. Golez's possession of Lot 1025 as **unlawful from the start** and bereft of contractual or legal basis. Domingo **did not tolerate** the possession of Sps. Golez since he had immediately objected and protested over the construction of Sps. Golez's house on Lot 1025. Notably, the RTC expressly found that there was **no tolerance or permission** on the part of Domingo on the construction of the Sps. Golez house on Lot 1025. Since tolerance

has not been effectively alleged in the complaint, the complaint fails to state a cause of action for unlawful detainer. Therefore, the MCTC had no jurisdiction over the respondents' complaint.

3. ID.; ID.; ID.; ID.; WHERE THE ACTION FOR FORCIBLE ENTRY HAD ALREADY PRESCRIBED, THE PROPER ACTION WOULD BE AN *ACCION PUBLICIANA*.— [T]he Sps. Golez's possession should be deemed **illegal from the beginning** and the proper action which the respondents should have filed was one for forcible entry. An action for forcible entry, however, prescribes one year reckoned from the date of the defendant's actual entry into the land. In the present case, the Sps. Golez entered the property immediately after the sale in 1976. Thus, their action for forcible entry had already prescribed. Since the action for forcible entry has already prescribed, one of the remedies for the respondent heirs to recover the possession of Lot 1025 is *accion publiciana*. *Accion publiciana* is the plenary action to recover the right of possession which should be brought to the proper Regional Trial Court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title. In other words, if at the time of the filing of the complaint more than one year head elapsed since the defendant had turned the plaintiff out of possession or the defendant's possession had become illegal, the action will be not one of forcible entry or unlawful detainer, but an *accion publiciana*.

APPEARANCES OF COUNSEL

Alovera Amores and Banday for petitioners.
Antonio A. Bisnar for respondents.

D E C I S I O N

BRION, *J.*:

We resolve the petition for review on *certiorari* filed by petitioners-spouses Rolando and Susie Golez (*Sps. Golez*)

assailing the **March 18, 2011** resolution[1] and **March 8, 2012** resolution[2] of the Court of Appeals (CA) in **CA-G.R. CEB-SP No. 05741** on the ground that respondents Heirs of Domingo Bertuldo (collectively referred to in this case as *respondents*) have no cause of action for unlawful detainer.

The Facts

The dispute involves two neighboring unregistered parcels of land located at Roxas, Capiz,[3] designated as **Lot 1024**[4] and **Lot 1025.**[5]

In 1976, Benito Bertuldo (*Benito*) sold **Lot 1024** to Asuncion Segovia acting for her daughter, Susie Golez.[6] They executed a Deed of Absolute Sale dated December 10, 1976, clearly indicating the lot's metes and bounds.[7]

After the sale, the Sps. Golez started the construction of their house on **Lot 1025**,[8] instead of on Lot 1024.

Domingo Bertuldo (*Domingo*), Benito's first cousin,[9] claimed ownership over Lot 1025 and protested against the Sps. Golez's house construction.[10] In response, the Sps. Golez assured Domingo that the construction was being done on Lot 1024.[11]

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[1] Penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Pampio A. Abarintos and Myra V. Garcia-Fernandez, *rollo*, p. 32.

[2] Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Pampio A. Abarintos and Ramon Paul L. Hernando.

[3] Presently known as Roxas city in Capiz province.

[4] Records, p. 293: Lot 1024 has an area of 590 square meters.

[5] Records, p. 293: Lot 1025 has an area of 1,484 square meters.

[6] Asuncion Segovia acted as the petitioner Susie Golez' trustee when she bought Lot 1024. See Records, pp. 15, 16 and 293.

[7] Records, p. 15.

[8] *Rollo*, p. 11.

[9] Records, p. 294.

[10] *Rollo*, p. 11.

[11] Records, p. 342.

Sometime in 1993 and after Domingo's death, the respondents conducted a relocation survey on Lot 1025.[12] The relocation survey revealed that the Sps. Golez's house stood on Lot 1025.[13] The respondents confronted the Sps. Golez with this result.

The Sps. Golez claimed that Benito clearly pointed to Susie Golez the natural boundaries of Lot 1025 whose entire area was the subject of the sale between Asuncion Segovia and Benito.[14] To correct the alleged error in the sale, Asuncion Segovia and Benito executed an *Amended Deed of Absolute Sale*[15] in 1993 to change the stated property sold as "Lot 1024" to "Lot 1025", including the specification of the metes and bounds of Lot 1025.[16]

Case for Quieting of Title

Proceeding from the Amended Deed of Absolute Sale, the Sps. Golez, on August 4, 1993, filed with the Regional Trial Court (*RTC*) in Roxas City a *Complaint for Quieting of Title*[17] over Lot 1025 against the respondents.

The RTC dismissed the Sps. Golez's complaint and held that they purchased Lot 1024, not Lot 1025, from Benito.[18]

The RTC decision was subsequently affirmed by both the CA and this Court through a resolution docketed as **SC G.R. No. 178990** entitled *Spouses Rolando and Susie Golez vs. Heirs of Domingo Bertuldo, namely: Genoveva Bertuldo, et al.*[19] The Sps. Golez sought reconsideration of the Court's ruling; the

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[12] Records, p. 342.

[13] Records, p. 342.

[14] *Rollo*, p. 11.

[15] Records, p. 21.

[16] *Rollo*, p. 11.

[17] Docketed as Civil Case No. 6341, RTC Br. 14, Roxas City 14, Roxas City. See Records, at 16-19.

[18] Records, p. 293.

[19] *Id.* at 48-49, 293.

Court denied the motion with finality through its Order dated **January 28, 2008**.[20]

Meanwhile, the respondents filed an application[21] for free patent over Lot 1025 with the Community Environment and Natural Resources Office (CENRO), Roxas City, on December 1, 2007. Susie Golez contested the respondents' application and filed her own application[22] for free patent over Lot 1025.[23]

The Sps. Golez continued their possession of Lot 1025 despite the respondents' demand that the Sps. Golez vacate the property.[24]

The Present Case for Unlawful Detainer

On February 17, 2009, the respondents filed a *Complaint for Unlawful Detainer*[25] against the Sps. Golez with the Municipal Circuit Trial Court (MCTC) of President Roxas, Capiz, in Civil Case No. 507.[26]

The Sps. Golez filed their *Answer*[27] and averred the following: *first*, the respondents' application for free patent over Lot 1025 negates their claim of ownership since they expressly acknowledged that the subject lot forms part of the public domain.[28]

Second, the ejectment complaint must be dismissed since there was **no tolerance from the start** of the Sps. Golez' possession of Lot 1025. To stress, the late Domingo Bertuldo objected and protested against the construction of the house.[29]

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[20] *Id.* at 49.

[21] *Id.* at 76.

[22] *Id.* at 88.

[23] *Rollo*, p. 12.

[24] *Id.*

[25] Docketed as Civil Case No. 507, MCTC 6, Pres. Roxas, Capiz. Records, pp. 1-7.

[26] *Rollo*, p. 33.

[27] Records, pp. 56-74.

[28] *Id.* at 57.

[29] *Id.* at 70-72.

Upon motion by the Sps. Golez, the MCTC ordered the conduct of a relocation survey. The survey result showed that 99.99% of the house of Sps. Golez occupied Lot 1025.[30]

The MCTC Ruling

The MCTC, in its decision dated September 20, 2010,[31] decided in favor of the respondents and ordered the Sps. Golez to:

1. Vacate and remove their house on the subject Lot 1025 and peacefully deliver its possession to the plaintiffs (*herein* respondent heirs of Domingo Bertuldo);
2. Pay One Thousand Pesos (₱1,000.00) per month as reasonable rent for the occupancy of the subject lot starting from the date of the last demand to vacate up to the time that they vacate the same;
3. Pay the amount of ₱20,000.00 representing attorney's fees plus ₱5,000.00 as litigation expenses and costs of the suit.

The MCTC recognized that what the Sps. Golez actually bought from Benito was Lot 1024 which issue has already been decided with finality by no less than the Supreme Court.[32] Since the survey result showed that the Sps. Golez's entire house occupies Lot 1025, the Sps. Golez are in unlawful possession of Lot 1025 under an erroneous claim of ownership.[33]

The MCTC also held that the Sps. Golez's possession of Lot 1025 was **originally lawful because they believed that they bought Lot 1025 from Benito Bertuldo**, as evidenced by the execution of the *Amended Deed of Absolute Sale* and the filing of the quieting of title case against the respondents.[34] Their possession became illegal when the RTC dismissed the quieting

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[30] *Id.*

[31] *Id.* at 289-197.

[32] *Id.* at 293.

[33] *Id.*

[34] *Id.* at 295.

of title case and ruled that the Sps. Golez bought Lot 1024, not Lot 1025.[35]

On appeal to the RTC, the Sps. Golez reiterated their argument that there is no cause of action for unlawful detainer because Domingo's protest over the Sps. Golez's house construction on Lot 1025 **negates the presence of tolerance** which is an essential element of an action for unlawful detainer.[36]

In addition, the Sps. Golez argued that the complaint, which should have been for forcible entry, is already barred by prescription.[37]

The RTC Ruling

In its decision dated January 4, 2011, the RTC[38] dismissed the appeal and affirmed the MCTC decision *in toto*.

The RTC held that the continued stay of the Sps. Golez on Lot 1025, despite the respondents' demand for them to vacate the property and the finality of the Court's decision in the quieting of title case — which declared that the Sps. Golez do not own Lot 1025 — constituted the act of unlawfully detaining the property from its owner.[39]

The RTC explained that there was **no tolerance or permission** on the part of Domingo on the construction of the Sps. Golez house on Lot 1025 because the Sps. Golez assured him that the construction was done on Lot 1024.[40]

When, however, the 1993 relocation survey result showed that the Sps. Golez house stood on Lot 1025, the respondents immediately confronted the Sps. Golez about the result.[41] The

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[35] *Id.* at 295.

[36] *Id.* at 342.

[37] *Id.* at 342.

[38] *Id.* at 341-343.

[39] *Id.* at 343.

[40] *Id.* at 342.

[41] *Id.* at 342.

Sps. Golez, instead of making representations with the respondents about the matter, filed a civil action for quieting of title which interrupted the one-year prescriptive period for the respondent heirs to file an action for unlawful detainer.[42]

The RTC found that the Supreme Court's Order denying the motion for reconsideration on the civil action for quieting of title case was only received by the respondent heirs on March 7, 2008.[43] Since the complaint for unlawful detainer was filed on February 17, 2009, or eleven (11) months and fifteen (15) days from their receipt of the Order, the action for unlawful detainer was filed within the one-year prescriptive period.[44]

The Sps. Golez appealed the RTC's decision and contended that the respondents' application for free patent over Lot 1025 is a supervening event that contradicts their position that they are the lawful and rightful owners of the subject property.[45] Hence, the supervening event should be considered notwithstanding the decision in the quieting of title case that the Sps. Golez do not own Lot 1025.[46]

Further, the Sps. Golez argued that the prudent way to proceed with the case is for the CA to wait for the resolution of the Secretary of the Department of Environment and Natural Resources (*DENR resolution*) on the respondents' free patent application over Lot 1025.[47]

The CA Ruling

In its Resolution[48] dated March 18, 2011, the CA dismissed the appeal and affirmed the MCTC and RTC decisions.[49] The

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[42] *Id.* at 342-343.

[43] *Id.* at 343.

[44] *Id.* at 343.

[45] *Rollo*, pp. 16-17.

[46] *Id.* at 17.

[47] *Id.* at 33.

[48] *Id.* at 32-33.

[49] *Rollo*, pp. 32-33.

CA held that it does not need to wait for the DENR Secretary resolution on the respondents' free patent application over Lot 1025 because the Supreme Court has already ruled that the respondents are the lawful and rightful owners of Lot 1025.[50]

On April 18, 2011, the Sps. Golez filed a *Motion for Reconsideration*[51] on the CA Resolution and, on June 10, 2011, a *Supplemental Motion*.[52] The Sps. Golez manifested that the Office of the DENR Secretary rendered a decision, awarding a 400-square meter portion, out of the 1,484 square meter total area, of Lot 1025 to the Sps. Golez and that the same should be considered by the CA.[53]

In a Resolution[54] dated March 8, 2012, the CA denied the motions reasoning that the Sps. Golez merely reiterated the same matters considered and passed upon in the earlier CA resolution.

The Petition

The Sps. Golez raises the following issues before us:

I.

WHETHER OR NOT THE UNLAWFUL DETAINER CASE FILED BY THE RESPONDENTS AGAINST THE PETITIONERS WAS PROPER.

II.

WHETHER OR NOT THE APPLICATION FOR FREE PATENT FILED BY THE RESPONDENTS OVER LOT 1025 IS A SUPERVENING EVENT THAT SHOULD HAVE EXPUNGED THE DECISION IN THE QUIETING OF TITLE CASE.[55]

OUR RULING

We grant the petition.

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[50] *Id.* at 33.

[51] *Id.* at 39-42.

[52] *Id.* at 43-45.

[53] *Id.* at 43-44.

[54] *Id.* at 36-37.

[55] *Id.* at 20-21.

The core issue in this case is whether an action for unlawful detainer is the proper remedy.

Section 1, Rule 70 of the Revised Rules of Court, states that a person deprived of possession of land "by force, intimidation, threat, strategy, or stealth," or a person against whom the possession of any land "is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied," may at any time "within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession."

The Rule defines two entirely distinct causes of action, to wit: (a) action to recover possession founded on illegal occupation from the beginning — forcible entry; and (b) action founded on unlawful detention by a person who originally acquired possession lawfully — unlawful detainer.[56]

The law and jurisprudence leave no doubt that what determines the cause of action is the nature of the defendants' **entry** into the land. If the entry is illegal, then the cause of action against the intruder is forcible entry. If, on the other hand, the entry is legal but thereafter possession becomes illegal, the cause of action is unlawful detainer. The latter must be filed within one year from the date of the last demand.[57]

No cause of action for an unlawful detainer.

Unlawful detainer is a summary action for the recovery of possession of real property. This action may be filed by a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession by virtue of any contract, express or implied. A complaint for unlawful detainer must allege that: (a) the possession of the defendant was originally

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[56] *Sarona, et al. v. Villegas, et al.*, 131 Phil. 365, 369 (1968).

[57] *Id.* at 369.

legal, as his possession was permitted by the plaintiff on account of an express or implied contract between them; (b) the defendant's possession became illegal when the plaintiff demanded that the defendant vacate the subject property due to the expiration or termination of the right to possess under the contract; (c) the defendant refused to heed such demand; and (d) the case for unlawful detainer is instituted within one year from the date of last demand.[58]

The allegations in the complaint determine both the nature of the action and the jurisdiction of the court. The complaint must specifically allege the facts constituting unlawful detainer. In the absence of these factual allegations, an action for unlawful detainer is **not** the proper remedy and the municipal trial court does not have jurisdiction over the case.[59]

In the *Complaint*,[60] the respondents presented the following allegations to show unlawful detainer:

x x x x x x x x x

3. During his lifetime, Domingo Bertuldo is the absolute owner and actual possessor of Lot 1025, Pilar Cadastre situated at Barangay Aranguel, Pres. Roxas, Capiz x x x;

5. Sometime on December 10, 1976, defendant Susie Golez, through her mother, Asuncion Segovia, acquired from Benito Bertuldo, a piece of real property, Lot 1024, Pilar Cadastre, containing an area of 590 square meters situated at Barangay Aranguel, Pres. Roxas, Capiz x x x;

6. Thereafter, the defendants constructed their residential house on the property; however, Domingo Bertuldo observed that a portion of the house is being constructed on his property, Lot 1025, Pilar Cadastre, for this reason, **he made known his objections and protestations to its constructions.**

7. Defendants completely disregarded the objections and protestations made by Domingo Bertuldo. Instead, they

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[58] *Jose v. Alfuerto, et al.*, 699 Phil. 307, 316 (2012).

[59] *Id.*

[60] Records, pp. 1-6.

assured him that the house is being constructed on their property, Lot 1024, Pilar Cadastre, thus, defendants succeeded in constructing their residential house.

8. Sometime in 1993, **after the death of Domingo Bertuldo,** his heirs, the plaintiffs caused the relocation survey of their property, Lot 1025, Pilar Cadastre. The relocation survey conducted revealed that portion of the house of defendants was constructed on Lot 1025, Pilar Cadastre;

9. Plaintiffs then confronted the defendants with the result of the relocation survey, however, instead of making representations with them for the continued use of a portion of their property, Lot 1025, Pilar Cadastre, a case was filed by the defendants against them x x x;

10. Sometime on March 31, 2000, after trial on the merits, a decision was rendered by the Regional Trial Court, Branch 14, Roxas City, dismissing the complaint filed by the defendants x x x;

17. Defendants are in possession of a portion of Lot 1025, Pilar Cadastre, wherein **a portion of their house was constructed by reason of the tolerance and benevolence** on the part of the plaintiffs;

18. The said **tolerance and benevolence extended were withdrawn when sometime on November 11, 2008, demand was sent by plaintiffs to defendants, for them to vacate and remove a portion of the house belonging to them** and constructed on Lot 1025 x x x

x x x x x x x x x

21. Due to refusal of the defendants to vacate and remove their house on Lot 1025, Pilar Cadastre, plaintiffs were left with no recourse but to cause the filing of this instant case x x x. [emphases supplied]

The respondents' allegations in the Complaint are contrary to the requirements for an unlawful detainer case. In an unlawful detainer, the possession of the defendant was originally legal and his possession was permitted by the owner through an express or implied contract.[61]

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[61] *Jose v. Alfuerto, et al.*, *supra* note 58.

In the present case, paragraph 6 of the complaint clearly characterized the Sps. Golez's possession of Lot 1025 as **unlawful from the start** and bereft of contractual or legal basis. Domingo **did not tolerate** the possession of Sps. Golez since he had immediately objected and protested over the construction of Sps. Golez's house on Lot 1025. Notably, the RTC expressly found that there was **no tolerance or permission** on the part of Domingo on the construction of the Sps. Golez house on Lot 1025.[62]

Since tolerance has not been effectively alleged in the complaint, the complaint fails to state a cause of action for unlawful detainer. Therefore, the MCTC had no jurisdiction over the respondents' complaint.

Even assuming *arguendo* that the complaint sufficiently stated a cause of action, the respondents still failed to prove that they or Domingo tolerated the Sps. Golez's possession on account of an express or implied contract between them.

In *Sps. Valdez v. Court of Appeals*,[63] the Court ruled that where the complaint did not satisfy the jurisdictional requirement of a valid cause for unlawful detainer, the municipal trial court had no jurisdiction over the case. Thus:

> To justify an action for unlawful detainer, it is essential that the plaintiff's supposed acts of tolerance must have been present right from the start of the possession which is later sought to be recovered. Otherwise, if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy.[64]

To emphasize, the respondents' allegation of "tolerance" in the *Complaint* is unsubstantiated by the evidence on record and contradicted by the allegation that the Sps. Golez's entry on Lot 1025 was unlawful from the very beginning.

In *Sarona, et al. v. Villegas, et al.*,[65] the Court cited Prof. Arturo M. Tolentino's definition and characterizes "tolerance" in the following manner:

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[62] Records, p. 342.

[63] 523 Phil. 39 (2006).

[64] *Id.* at 47.

[65] *Supra* note 56, at 372-373.

Professor Arturo M. Tolentino states that acts merely tolerated are "those which by reason of neighborliness or familiarity, the owner of property *allows* his neighbor or another person to do on the property; they are generally those particular services or benefits which one's property can give to another without material injury or prejudice to the owner, who *permits* them out of friendship or courtesy." He adds that: "[t]hey are acts of little disturbances which a person, in the interest of neighborliness or friendly relations, *permits* others to do on his property, such as passing over the land, tying a horse therein, or getting some water from a well." And, Tolentino continues, even though "this is *continued* for a long time, no right will be acquired by prescription." Further expounding on the concept, Tolentino writes: "There is tacit consent of the possessor to the acts which are merely tolerated. Thus, *not every case of knowledge and silence* on the part of the possessor *can be considered mere tolerance*. By virtue of tolerance that is considered as an authorization, permission or license, acts of possession are realized or performed. **The question reduces itself to the existence or non-existence of the permission."** [emphasis supplied]

The Court has consistently adopted the position that tolerance or permission must have been present at the beginning of possession. If the possession was unlawful from the start, an action for unlawful detainer would not be the proper remedy and should be dismissed.[66] Thus in *Sarona*, the Court explained:

A close assessment of the law and the concept of the word "tolerance" confirms our view heretofore expressed that such tolerance must be present right from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer — not of forcible entry. Indeed, to hold otherwise would espouse a dangerous doctrine. And for two reasons: *First*. Forcible entry into the land is an open challenge to the right of the possessor. Violation of that right authorizes the speedy redress — in the inferior court — provided for in the rules. If one year from the forcible entry is allowed to lapse before suit is filed, then the remedy ceases to be speedy; and the possessor is deemed to have waived his right to seek relief in the inferior court. *Second*. If a forcible entry action *in the inferior court* is allowed after the lapse of a number of years, then the result may well be that no action of forcible entry can really

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[66] *Supra* note 58, at 319.

prescribe. No matter how long such defendant is in physical possession, plaintiff will merely make a demand, bring suit in the inferior court — upon a plea of tolerance to prevent prescription to set in — and summarily throw him out of the land. Such a conclusion is unreasonable. Especially if we bear in mind the postulates that proceedings of forcible entry and unlawful detainer are summary in nature, and that the one year time-bar to the suit is but in pursuance of the summary nature of the action.[67]

It is not the first time that this Court adjudged contradictory statements in a complaint for unlawful detainer as a basis for dismissal.[68] In *Unida v. Heirs of Urban*,[69] the plaintiff's claim that he merely tolerated the defendant's possession was contradicted by the allegation that the entry to the subject property was unlawful from the very beginning. The Court then ruled that the unlawful detainer action should fail.

In these lights, the Sps. Golez's possession should be deemed **illegal from the beginning** and the proper action which the respondents should have filed was one for forcible entry. An action for forcible entry, however, prescribes one year reckoned from the date of the defendant's actual entry into the land.

In the present case, the Sps. Golez entered the property immediately after the sale in 1976. Thus, their action for forcible entry had already prescribed.

Since the action for forcible entry has already prescribed, one of the remedies for the respondent heirs to recover the possession of Lot 1025 is *accion publiciana*. *Accion publiciana* is the plenary action to recover the right of possession which should be brought to the proper Regional Trial Court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title.

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[67] *Supra* note 56, at 373.

[68] *Supra* note 58, at 319.

[69] 499 Phil. 64, 70 (2005).

SECOND DIVISION

[G.R. No. 205711. May 30, 2016]

PEDRO DE LEON, *petitioner, vs.* **NENITA DE LEON-REYES, JESUS REYES, MYETH REYES and JENNETH REYES,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; APPEAL BY *CERTIORARI* UNDER RULE 45 OF THE RULES OF COURT; LIMITED TO QUESTIONS OF LAW.— [T]his Court is not a trier of facts. An appeal by *certiorari* to this Court under Rule 45 of the Rules of Court is limited to questions of law. Save for a few judicially carved exceptions, this Court will not disturb the factual findings of trial courts. Pedro unjustifiably faults the CA for not finding the existence of fraud and forgery. However, the RTC already passed upon this question and found **no basis** to conclude that the grant of the patent to Nenita was accompanied by fraud or forgery. Other than his self-serving testimony, Pedro failed to substantiate his allegation of forgery with clear and convincing evidence. Pedro has nobody to blame but himself for his failure to formally offer any documentary evidence that could have supported his claim. As the rules clearly state, courts will not consider evidence unless it has been formally offered. A litigant's failure to make a formal offer of evidence within a considerable period of time is considered a *waiver* of its submission; evidence that has not been offered shall be excluded and rejected. Notably, both the RTC and the CA agree that Nenita with her family are the true owners of the subject lots and that the free patents and the OCTs issued to them are valid. We find no reason to revisit this factual finding of the lower courts.

2. ID.; ID.; JUDGMENTS; *RES JUDICATA*; BY CONCLUSIVENESS OF JUDGMENT; DOES NOT EXIST WHEN THE DISMISSAL OF A COMPLAINT WAS NOT ON THE MERITS AND WAS WITHOUT PREJUDICE TO THE RE-FILING.— [T]he MCTC's dismissal cannot produce the effect of conclusiveness of judgment. In *Spouses Antonio v. Sayman,*

we clearly explained the concept of *res judicata* by conclusiveness of judgment. x x x **"[A]ny right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.** Stated differently, conclusiveness of judgment finds application **when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction**." x x x Evidently, the MCTC's dismissal of Nenita's ejectment complaint, as affirmed by the RTC, produced no such effect because the dismissal was **not on the merits and was without prejudiced to the re-filing** of the case. Any pronouncements made with respect to the issue of possession were merely *obiter dicta.*

3. CIVIL LAW; COMMONWEALTH ACT NO. 141 (THE PUBLIC LAND ACT); CONFIRMATION OF IMPERFECT OR INCOMPLETE TITLES; JUDICIAL CONFIRMATION; THE POSSESSOR IS DEEMED TO HAVE ACQUIRED, BY OPERATION OF LAW, RIGHT TO A GRANT OVER THE LAND UPON COMPLIANCE WITH THE REQUIREMENT OF OPEN, CONTINUOUS, EXCLUSIVE, AND NOTORIOUS POSSESSION AND OCCUPATION OF THE LAND SINCE JUNE 12, 1945.— Under Section 11 of the Public Land Act *(PLA)*, there are two modes of disposing public lands through confirmation of imperfect or incomplete titles: (1) by judicial confirmation; and (2) by administrative legalization, otherwise known as the grant of free patents. The substantive provisions governing the first mode are found in Chapter VIII (Sections 47-57) of the PLA while its procedural aspect is governed by Chapter III (Sections 14-38) of the Property Registration Decree. Section 48 of the PLA particularly specifies who are entitled to judicial confirmation or completion of imperfect titles x x x. Upon compliance with the conditions of Sec. 48 (b) of the PLA, the possessor is deemed to have acquired, by operation of law, right to a grant over the land. For all legal intents and purposes, the land is segregated from the public domain, because the beneficiary is conclusively presumed to have performed all the conditions essential to a

Government grant. The land becomes *private* in character and is now beyond the authority of the director of lands to dispose of. At that point, original registration of the title, *via* judicial proceedings, takes place as a matter of course; the registration court does not grant the applicant title over the property but merely recognizes the applicant's existing title which had already vested upon the applicant's compliance with the requirement of open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945.

4. ID.; ID.; ID.; ADMINISTRATIVE LEGALIZATION; FREE PATENT, DEFINED; THE APPLICANT FOR A FREE PATENT RECOGNIZES THAT THE LAND APPLIED FOR BELONGS TO THE GOVERNMENT.— Chapter VII (Section 44-46) of the PLA substantively governs administrative legalization through the grant of free patents. Section 44 particularly identifies who are entitled to a grant of a free patent x x x. Unlike an applicant in judicial confirmation of title who claims ownership over the land, the applicant for a free patent recognizes that the land applied for *belongs to the government*. A patent, by its very definition, is a governmental *grant* of a right, a privilege, or authority. A free patent, like the one issued to Nenita, is an instrument by which the government *conveys a grant of* ***public land*** to a private person.

5. POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE AGENCIES; DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; HAS THE POWER TO RESOLVE CONFLICTING CLAIMS OVER PUBLIC LANDS AND DETERMINE AN APPLICANT'S ENTITLEMENT TO THE GRANT OF A FREE PATENT.— Pursuant to the Administrative Code and the PLA, the DENR has ***exclusive*** jurisdiction over the management and disposition of public lands. In the exercise of this jurisdiction, the DENR has the power to resolve conflicting claims over public lands and determine an applicant's entitlement to the grant of a free patent. Unless it can be shown that the land subject of a free patent had previously acquired a private character, regular courts would have no power to conclusively resolve conflicting claims of ownership or possession *de jure* owing to the *public character* of the land. The Director of Lands (ultimately, the DENR Secretary), not the court, has jurisdiction to determine,

as between two or more applicants for a free patent, who has satisfactorily met the requirements of the law for the issuance of a free patent. The court has no jurisdiction over that matter. x x x Under the PLA, for public land to attain a private character by operation of law, the applicant must have openly, continuously, exclusively, and notoriously *possessed and occupied* alienable agricultural land of the public domain, in the concept of an owner, **since June 12, 1945**. Pedro's failure to prove the private character of the subject lands divests the regular courts of jurisdiction to resolve his claim of ownership thereon. The courts may not usurp the authority of the Director of Lands and of the DENR to dispose of lands of the public domain through administrative proceedings under the PLA.

6. REMEDIAL LAW; ACTIONS; RECONVEYANCE; NOT AVAILABLE WHEN THE SUBJECT PROPERTY IS PUBLIC LAND BECAUSE A PRIVATE PERSON, WHO IS EVIDENTLY NOT THE LANDOWNER, WOULD HAVE NO RIGHT TO RECOVER THE PROPERTY; EXCEPTION.— [T]he remedy of reconveyance is only available to a landowner whose *private* property was erroneously or fraudulently registered in the name of another. It is not available when the subject property is *public land* because a private person, who is evidently not the landowner, would have no right to recover the property. It would simply revert to the public domain. Thus, reconveyance cannot be resorted to by a rival applicant to question the State's grant of a free patent. The exception to this rule is when a free patent was issued over **private lands** that are beyond the jurisdiction of the Director of Lands/DENR to dispose of.

7. ID.; ID.; PRESCRIPTION AND LACHES; CANNOT APPLY TO LANDS REGISTERED UNDER THE TORRENS SYSTEM.— [W]e agree with the CA that Nenita's right to recover possession of the property had not been barred by laches. As the registered owners of the subject properties, Nenita and her family have the imprescriptible right to recover possession thereof from any person illegally occupying it. As we held in *Spouses Ocampo v. Heirs of Dionisio*, prescription and laches cannot apply to land registered under the Torrens system. No title to registered land, in derogation of that of the registered owner, shall be acquired by prescription or adverse possession.

APPEARANCES OF COUNSEL

The Law Firm of Gappi Gappi and Partners for petitioner.
Mariemeir I. Marcos-Rivera for respondents.

D E C I S I O N

BRION, *J.*:

This is a petition for review on *certiorari* filed by Pedro de Leon from the **May 31, 2012** decision[1] and **January 16, 2013** resolution[2] of the Court of Appeals (*CA*) in **CA-G.R. CV No. 90307**.[3] The CA reversed the Regional Trial Court's (*RTC*) finding of laches in **Civil Case Nos. 02-08 and 02-20.**[4]

Antecedents

Petitioner Pedro de Leon (*Pedro*) and respondent Nenita de Leon-Reyes (*Nenita*) are the legitimate children of Alejandro de Leon (*Alejandro*). Nenita is married to respondent Jesus Reyes with whom she has two children: respondents Myeth and Jenneth, both surnamed Reyes.

During his lifetime, Alejandro *possessed* two parcels of public land (subject lots) in Brgy. Burgos, San Jose, Tarlac. The lots, designated as Lot No. 6952 and Lot No. 6521, have a combined area of 171,939 square meters.

Sometime between 1995 and 1996, the government granted **free patents** covering the subject lots in favor of Nenita and her family. Consequently, the Register of Deeds issued the following Original Certificates of Title (*OCT*):

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[1] *Rollo*, p. 38.

[2] *Id.* at 62.

[3] Both penned by Associate Justice Rebecca de Guia-Salvador and concurred in by Associate Justices Normandie B. Pizarro and Rodil V. Zalameda.

[4] RTC, Camiling, Tarlac, Branch 68, through Presiding Judge Jose S. Vallo; *rollo*, pp. 90-100.

1. OCT No. 16757[5] covering Lot No. 6521 (39,270 square meters) issued on July 13, 1995, in the name of Nenita de Leon-Reyes;
2. OCT No. 17580[6] covering Lot No. 6952-G (32,934 square meters) issued on March 8, 1996, in the name of Nenita de Leon-Reyes;
3. OCT No. 17581[7] covering Lot No. 6952-A (14,098 square meters) issued on March 8, 1996, in the name of Myeth L. Reyes; and
4. OCT No. 17582[8] covering Lot No. 6952-B (10,000 square meters) issued on March 8, 1996, in the name of Jenneth Reyes.

Sometime after the issuance of the titles, Pedro filed a Protest with the Department of Environment and Natural Resources (*DENR*) on the grounds of fraud and misrepresentation of facts in the acquisition of title.[9]

In a complaint dated May 22, 1997, Nenita's family filed an unlawful detainer case against Pedro before the 1st Municipal Circuit Trial Court (*MCTC*), Sta. Ignacia, Tarlac. The complaint was docketed as **Civil Case No. 319-SJ (97)**.

On May 19, 1998, the MCTC dismissed the ejectment case without prejudice due to the pendency of Pedro's protest before the Bureau of Lands/DENR.[10]

Nenita's family appealed the dismissal to the Regional Trial Court, Branch 68, Camiling, Tarlac, where it was docketed as **Civil Case No. 98-33.**

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[5] *Rollo*, p. 63.

[6] *Id.* at 70.

[7] *Id.* at 72.

[8] *Id.* at 74.

[9] *Id.* at 43.

[10] *Id.* at 78.

On July 21, 1999, the RTC affirmed the MCTC's dismissal of the complaint without prejudice to the filing of the proper action with the proper forum.[11]

Soon after, the DENR dismissed Pedro's Protest after finding that Nenita (and her family) had met all the requisites for a public land grant.[12] The DENR upheld the validity of the grant of patents to Nenita's family.[13] Pedro did not appeal the DENR's dismissal of his protest.[14]

On February 5, 2002, Nenita and her family filed a complaint against Pedro for Recovery of Possession and Damages. The case was docketed as **Civil Case No. 02-08.**

On April 16, 2002, Pedro likewise filed a complaint against Nenita's family for Reconveyance of Title and Damages. His complaint was docketed as **Civil Case No. 02-20.**

Nenita claimed that Alejandro transferred his possessory rights over the property to her in a document dated May 5, 1970. [15] The document became the basis for her free patent application with the DENR. She also denied that any fraud or wrongdoing attended her application and invoked the DENR's dismissal of Pedro's protest for his failure to rebut the presumption of regularity in the issuance of the patent.[16]

Pedro claimed that Alejandro transferred possession over the subject lots to him in 1971 and that he had been in possession of it ever since.[17] He claimed that he asked Nenita for assistance to cause the titling of the properties in his name but the latter took advantage of his lack of education and fraudulently acquired

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[11] *Id.* at 84.

[12] *Id.* at 48.

[13] *Id.* at 43.

[14] *Id.* at 57.

[15] *Id.* at 45.

[16] *Id.* at 43, 93.

[17] *Id.* at 41.

a free patent in her name instead. Pedro further contested the May 5, 1970 Transfer of Rights in favor of Nenita as a forgery.[18]

The RTC consolidated and jointly heard the two cases. After the presentation of testimonial evidence, Pedro was given several opportunities to make a Formal Offer of his documentary evidence. However, he failed to do so and the consolidated case was submitted for decision without his documentary evidence.[19]

Ruling of the RTC

The RTC divided the issues in two: *first*, whether the Transfer of Rights and the subsequent grant of free patents to Nenita's family were valid; and *second*, whether Nenita's family were entitled to possession of the subject lots.

On the first issue, the court found the transfer of rights, as well as the subsequent issuance of free patents, valid. Pedro, the RTC reasoned, failed to adduce sufficient evidence to invalidate the deed of transfer and the issuance of the patents. The RTC added that there were no clear and convincing evidence to substantiate his allegations of forgery; in fact, **Pedro did not even make a formal offer of his documentary evidence.**[20]

However, on the second issue, the RTC held that Nenita's family was no longer entitled to recover possession of the subject lots due to the principle of laches. It held that Nenita failed to raise a restraining arm against Pedro's introduction of several improvements on the subject lots, such as the construction of his house, the planting of several fruit-bearing and several teak trees, and his sole appropriation of the entirety of the harvests; Nenita's inaction for over 32 years (since the execution of the Transfer of Rights); and her undeniable knowledge of Pedro's adverse possession extinguished her right to recover the properties due to her own inexcusable negligence.[21]

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[18] *Id.* at 47.

[19] *Id.* at 50.

[20] *Id.* at 98.

[21] *Id.* at 99.

The RTC then declared Nenita and her family's titles as null and void and ordered them to pay Pedro damages.

Ruling of the CA

On May 31, 2012, the CA reversed the RTC's ruling, validated the OCTs in the name of Nenita's family, and ordered Pedro to surrender possession of the subject lot.

As the RTC did, the CA validated Nenita's ownership of the disputed lots. The CA found that despite Pedro's denomination of his complaint as one for "Reconveyance of Titles and Damages," it was, in fact, one for reversion which he had no legal personality to file. The CA reasoned that Pedro's failure to allege that the subject lots were private lands, or even just alienable and disposable lands of the public domain, and his admission of State ownership over the subject lots were fatal to his complaint for reconveyance.[22]

Citing *Banguilan v. Court of Appeals*,[23] the CA explained that when the complaint admits State ownership of the land or admits it to be public land, then the case is one for reversion, *not reconveyance*.[24] If the grantees' patents were cancelled, as Pedro prayed for, the result would have been the return of ownership over the lots to the State, not to a contending claimant like Pedro who had no legal interest over them.

The CA emphasized that Pedro failed to prove, or even allege, the private or alienable character of the subject lots. Thus, he had no personality to ask for their reconveyance because that right belongs to the State, the previous owner of the subject lots.

The CA further pointed out that Pedro failed to appeal the DENR's dismissal of his Protest case against the grant of the patents to Nenita's family.[25] Thus, the DENR's findings that

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[22] *Id.* at 54.

[23] 550 Phil. 739 (2007).

[24] *Rollo*, pp. 54-55.

[25] *Id.* at 57.

(1) the free patents and OCTs granted to Nenita's family were valid and that (2) Pedro and his family already owned a total of 30 hectares of land — and *therefore, no longer entitled to a grant of any more alienable and disposable public lands* — had attained finality.

On the issue of laches, the CA held that the length of time between the formal grant of the patents and the issuance of the OCTs in 1995-1996, and the filing of the complaint for Recovery of Possession in 2002 was insufficient to constitute laches. As Nenita alleged in her complaint in Civil Case No. 02-08, Pedro's occupation of a portion of the properties was out of mere tolerance, without any contract and without paying any rentals; her generosity to her estranged brother should not be used against her.[26]

Pedro moved for reconsideration but the CA denied the motion on January 16, 2013. The denial paved the way for the present petition.

The Parties' Arguments

Pedro insists that he is the rightful owner of the property. He argues that the CA erred in not finding the existence of fraud and/or forgery and that a title emanating from a fraudulently secured free patent does not become indefeasible.

Citing *Lorzano v. Tabayag*,[27] Pedro concedes that a fraudulently secured patent can only be assailed by the government in an action for reversion, but emphasizes that direct reconveyance is available when public land was fraudulently and in breach of trust titled in the name of the defendant. Reconveyance exists as an enforcement of a constructive trust.[28]

Moreover, Pedro claims that as of the date of the grant of the free patent to Nenita's family, the properties had already ceased to be part of the public domain on account of his continued

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[26] *Id.* at 59.

[27] 681 Phil. 39 (2012).

[28] *Rollo*, pp. 20-25.

occupation and possession for the period required by law. Thus, the lots were beyond the DENR's jurisdiction to dispose of.[29]

He also argues that the MCTC's dismissal of the ejectment case **[Civil Case No. 319-SJ (97)]**[30] that Nenita filed against him in 1997, which was subsequently affirmed by the RTC in **Civil Case No. 98-33,** conclusively proves that he had possessed the subject lots since 1971.

Nenita counters that: (1) Pedro raises questions of fact that are improper in a petition for review on *certiorari*; (2) despite the denomination of Pedro's original complaint before the RTC, it was, in fact, an action for reversion; (3) as established during the trial, Pedro had already received 211,846 square meters of property as his share in the inheritance of their father; and (4) the subject lots were her rightful share from the estate of their father.

Our Ruling

We **DENY** the petition for lack of merit.

First, we emphasize that this Court is not a trier of facts. An appeal by *certiorari* to this Court under Rule 45 of the Rules of Court is limited to questions of law. Save for a few judicially carved exceptions,[31] this Court will not disturb the factual findings of trial courts.

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[29] *Id.* at 17.

[30] *Id.* at 76.

[31] (1) When the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked

Pedro unjustifiably faults the CA for not finding the existence of fraud and forgery. However, the RTC already passed upon this question and found **no basis** to conclude that the grant of the patent to Nenita was accompanied by fraud or forgery.

Other than his self-serving testimony, Pedro failed to substantiate his allegation of forgery with clear and convincing evidence. Pedro has nobody to blame but himself for his failure to formally offer any documentary evidence that could have supported his claim.[32]

As the rules clearly state, courts will not consider evidence unless it has been formally offered.[33] A litigant's failure to make a formal offer of evidence within a considerable period of time is considered a *waiver* of its submission; evidence that has not been offered shall be excluded and rejected.

Notably, both the RTC and the CA agree that Nenita with her family are the true owners of the subject lots and that the free patents and the OCTs issued to them are val*id.* We find no reason to revisit this factual finding of the lower courts.

Second, Pedro's contention that the judgment in the ejectment case conclusively proves his prior possession since 1971 — and therefore proves fraud — is unwarranted.

The dispositive portion of the MCTC's decision reads:

WHEREFORE, **in the meantime that the Protest is pending with the Bureau of Land[s], this case is dismissed without prejudice.**

The Counterclaims are likewise dismissed.

SO ORDERED. (emphasis supplied)

While the fallo of the RTC's decision reads:

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certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

[32] *Rollo*, p. 50.

[33] Rule 132, Sec. 34, Rules of Court.

WHEREFORE, in view of the foregoing, **the Decision appealled [sic] from is hereby AFFIRMED** and this case be [sic] DISMISSED without prejudice to the filing of the proper action in a proper forum.

SO ORDERED. [emphases supplied, underscoring retained]

As Pedro himself admits, the MCTC's dismissal of Nenita's ejectment case was based on the pendency of *his* protest before the Bureau of Lands. While the Courts may appear to have passed upon the issue of prior physical possession, the *fallo* clearly shows that the dismissal was not made based on the merits of the case. When a conflict exists between the dispositive portion (or the *fallo*) and the opinion of the court in the body of the decision, the former must prevail.[34]

Ultimately, the MCTC's dismissal cannot produce the effect of conclusiveness of judgment. In *Spouses Antonio v. Sayman*[35] we clearly explained the concept of *res judicata* by conclusiveness of judgment.

The principle of res judicata is applicable by way of (1) "bar by prior judgment" and (2) "conclusiveness of judgment." This Court had occasion to explain the difference between these two aspects of res judicata as follows:

There is "bar by prior judgment" when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or other tribunal.

But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. This is

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[34] 697 Phil. 619, 630 (2012).

[35] 646 Phil. 90, 99-100 (2010).

the concept of res judicata known as "conclusiveness of judgment." Stated differently, **any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.**

Stated differently, conclusiveness of judgment finds application **when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction.** The fact or question settled by final judgment or order binds the parties to that action (and persons in privity [sic] with them or their successors-in-interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; the conclusively settled fact or question cannot again be litigated in any future or other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action. Thus, only the identities of parties and issues are required for the operation of the principle of conclusiveness of judgment. [emphases supplied]

Evidently, the MCTC's dismissal of Nenita's ejectment complaint, as affirmed by the RTC, produced no such effect because the dismissal was **not on the merits and was without prejudice to the re-filing** of the case. Any pronouncements made with respect to the issue of possession were merely *obiter dicta.*

Third, the public character of the subject lands precludes the RTC from resolving the conflicting claims of "ownership" between Pedro and Nenita.

Under Section 11 of the Public Land Act (*PLA*),[36] there are two modes of disposing public lands through confirmation of imperfect or incomplete titles: (1) by judicial confirmation; and

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[36] Commonwealth Act No. 141 [PUBLIC LAND ACT] (1936), as amended.

(2) by administrative legalization, otherwise known as the grant of free patents.[37]

The substantive provisions governing the first mode are found in Chapter VIII (Sections 47-57) of the PLA while its procedural aspect is governed by Chapter III (Sections 14-38) of the Property Registration Decree.[38]

Section 48 of the PLA particularly specifies who are entitled to judicial confirmation or completion of imperfect titles:

> b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and, occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, since June 12, 1945, immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure. Those shall be **conclusively presumed to have performed all the conditions essential to a government grant** and shall be entitled to a certificate of title under the provisions of this chapter.[39] [emphasis supplied]

Upon compliance with the conditions of Sec. 48 (b) of the PLA, the possessor is deemed to have acquired, by operation of law, right to a grant over the land. For all legal intents and purposes, the land is segregated from the public domain, because the beneficiary is conclusively presumed to have performed all the conditions essential to a Government grant.[40] The land becomes

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[37] Sec. 11. Public lands suitable for agricultural purposes can be disposed of only as follows:

1. For homestead settlement;
2. By sale;
3. By lease; and
4. By confirmation of imperfect or incomplete titles:
   (a) By judicial legalization
   (b) By administrative legalization (free patent).
   [emphases supplied]

[38] Presidential Decree No. 1529 (1978).

[39] Sec. 44, PUBLIC LAND ACT, as amended by P.D. 1073 (1977).

[40] *Martinez v. Court of Appeals*, 566 Phil. 590, 600 (2008).

private in character and is now beyond the authority of the director of lands to dispose of.[41]

At that point, original registration of the title, *via* judicial proceedings, takes place as a matter of course; the registration court does not grant the applicant title over the property but merely recognizes the applicant's existing title which had already vested upon the applicant's compliance with the requirement of open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945.

On the other hand, Chapter VII (Sections 44-46) of the PLA substantively governs administrative legalization through the grant of free patents. Section 44 particularly identifies who are entitled to a grant of a free patent:

> Sec. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, **for at least thirty (30) years prior to the effectivity of this amendatory Act,** has continuously **occupied and cultivated**, either by himself or through his predecessors-in-interest a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares x x x.[42] [emphasis supplied]

Unlike an applicant in judicial confirmation of title who claims ownership over the land, the applicant for a free patent recognizes that the land applied for *belongs to the government*. A patent, by its very definition, is a governmental *grant* of a right, a privilege, or authority.[43] A free patent, like the one issued to Nenita, is an instrument by which the government *conveys a grant of* ***public land*** to a private person.[44]

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[41] *Id.*

[42] Sec. 44, PUBLIC LAND ACT, as amended by Republic Act No. 6940 (1990).

[43] *Black's Law Dictionary* (8th ed. 2004), p. 3554.

[44] *Id.* at 3555.

Pursuant to the Administrative Code[45] and the PLA,[46] the DENR has ***exclusive*** jurisdiction over the management and disposition of public lands. In the exercise of this jurisdiction, the DENR has the power to resolve conflicting claims over public lands and determine an applicant's entitlement to the grant of a free patent.[47]

Unless it can be shown that the land subject of a free patent had previously acquired a private character, regular courts would have no power to conclusively resolve conflicting claims of ownership or possession *de jure* owing to the *public character* of the land.[48] The Director of Lands (ultimately, the DENR Secretary), not the court, has jurisdiction to determine, as between two or more applicants for a free patent, who has satisfactorily met the requirements of the law for the issuance of a free patent.[49] The court has no jurisdiction over that matter.

In this case, Pedro failed to prove that the subject land had attained a private character; as the CA observed, Pedro's

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[45] Book IV, Title XIV, Chap. 1, Sec. 4, Executive Order No. 292 [ADMINISTRATIVE CODE] (1987):

Section 4. *Powers and Functions.* — The Department [of Environment and Natural Resources] shall:

(4) Exercise supervision and control over forest lands, alienable and disposable public lands, mineral resources and, in the process of exercising such control, impose appropriate taxes, fees, charges, rentals and any such form of levy and collect such revenues for the exploration, development, utilization or gathering of such resources; x x x

(15) Exercise *exclusive jurisdiction* on the management and disposition of all lands of the public domain and serve as the sole agency responsible for classification, sub-classification, surveying and titling of lands in consultation with appropriate agencies[.] (Underscoring supplied).

[46] PUBLIC LAND ACT, as amended:

Section 3. The Secretary of [Environment and Natural Resources] shall be the executive officer charged with carrying out the provisions of this Act through the Director of Lands, who shall act under his immediate control.

[47] *Bagunu v. Sps. Aggabao*, 671 Phil. 183, 196-198 (2011).

[48] *Id.* at 199-200.

[49] *Maximo v. CFI of Capiz*, 261 Phil. 534, 539 (1990).

complaint in Civil Case No. 02-20 failed to **even allege** that the subject lands were private lands or alienable and disposable lands of the public domain.[50] What Pedro alleged was that the subject lands were public land which he had possessed since 1971, "*thereby (he) had acquired a right to a grant, a government grant, without the formality of application for confirmation of title thereto*."[51]

Under the PLA, for public land to attain a private character by operation of law, the applicant must have openly, continuously, exclusively, and notoriously *possessed and occupied* alienable agricultural land of the public domain, in the concept of an owner, **since June 12, 1945**.[52] Pedro's failure to prove the private character of the subject lands divests the regular courts of

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[50] *Rollo*, p. 54.

[51] *Id.*

[52] In *Heirs of Malabanan v. Republic*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, the majority of the Court ruled:

(1) In connection with Section 14 (1) of the Property Registration Decree, Section 48 (b) of the Public Land Act recognizes and confirms that "those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain, under a bona fide claim of acquisition of ownership, since June 12, 1945" have acquired ownership of, and registrable title to, such lands based on the length and quality of their possession.

(a) Since **Section 48 (b) merely requires possession since 12 June 1945 and does not require that the lands should have been alienable and disposable during the entire period of possession,** the possessor is entitled to secure judicial confirmation of his title thereto as soon as it is declared alienable and disposable, subject to the timeframe imposed by Section 47 of the Public Land Act.

(b) The right to register granted under Section 48 (b) of the Public Land Act is further confirmed by Section 14 (1) of the Property Registration Decree.

(2) In complying with Section 14 (2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public

jurisdiction to resolve his claim of ownership thereon. The courts may not usurp the authority of the Director of Lands and of the

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> domain lands become only patrimonial property not only with a declaration that these are alienable or disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.
>
> (a) Patrimonial property is private property of the government. The person acquires ownership of patrimonial property by prescription under the Civil Code is entitled to secure registration thereof under Section 14 (2) of the Property Registration Decree.
>
> (b) There are two kinds of prescription by which patrimonial property may be acquired, one ordinary and other extraordinary. Under ordinary acquisitive prescription, a person acquires ownership of a patrimonial property through possession for at least ten (10) years, in good faith and with just title. Under extraordinary acquisitive prescription, a person's uninterrupted adverse possession of patrimonial property for at least thirty (30) years, regardless of good faith or just title, ripens into ownership.
>
> [emphasis supplied]

In his Concurring and Dissenting Opinion, *J*. Brion, on the other hand, discussed:

> The *ponencia* assumes, based on its statutory construction reasoning and its reading of Section 48 (b) of the PLA, that all that the law requires is possession from June 12, 1945 and that it suffices if the land has been classified as alienable at the time of application for registration. As heretofore discussed, this cut-off date was painstakingly set by law and should be given full significance. Under its formulation, it appears clear that PD 1073 did not expressly state what Section 48 (b) should provide under the amendment PD 1073 introduced in terms of the exact wording of the amended Section 48 (b). But under the PD 1073 formulation, the intent to count the alienability to June 12, 1945 appears very clear. The provision applies only to alienable and disposable lands of the public domain that is described in terms of the character of the possession required since June 12, 1945. This intent seen in the direct, continuous and seamless linking of the alienable and disposable lands of the public domain to June 12, 1945 under the wording of the Decree is clear and should be respected.
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> x x x x x x x x x
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> To summarize, I submit in this Concurring and Dissenting Opinion that:
>
> 1. The hierarchy of laws on public domain must be given full application

DENR to dispose of lands of the public domain through administrative proceedings under the PLA.[53]

Pedro had the opportunity to assert his claim over the subject lands before the DENR when he filed his Protest. However, he did not appeal the dismissal of his claim. The PLA[54] and the doctrine of primary jurisdiction render the DENR's factual

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in considering lands of the public domain. Top consideration should be accorded to the Philippine Constitution, particularly its Article XII, followed by the consideration of applicable special laws the PLA and the PRD, insofar as this Decree applies to lands of the public domain. The Civil Code and other general laws apply to the extent expressly called for by the primary laws or to supply any of the latters deficiencies.

2. The ruling in this *ponencia* and in Naguit that the classification of public lands as alienable and disposable does not need to date back to June 12, 1945 at the latest, is wrong because:

a. Under the Constitutions regalian doctrine, classification is a required step whose full import should be given full effect and recognition; giving legal effect to possession prior to classification runs counter to the regalian doctrine.

b. **The Public Land Act applies only from the time a public land is classified as alienable and disposable; thus, Section 48 (b) of this law and the possession it requires cannot be recognized prior to any classification.**

c. Under the Civil Code, [O]nly things and rights which are susceptible of being appropriated may be the object of possession. Prior to the classification of a public land as alienable and disposable, a land of the public domain cannot be appropriated; hence, any claimed possession cannot have legal effects.

d. There are other modes of acquiring alienable and disposable lands of the public domain under the Public Land Act; this legal reality renders the *ponencias* absurdity argument misplaced.

e. The alleged absurdity of the law addresses the wisdom of the law and is a matter for the Legislature, not for this Court, to address.

Consequently, *Naguit* must be abandoned and rejected for being based on legally-flawed premises and for being an aberration in land registration jurisprudence. At the very least, the present *ponencia* cannot be viewed as an authority on the effective possession prior to classification since this ruling, by the *ponencias* own admission, is not necessary for the resolution of the present case. [emphasis supplied]

[53] *Maximo v. CFI of Capiz*, *supra* note 49, at 539.

[54] PUBLIC LAND ACT, **Section 4.** Subject to said control, the Director of Lands shall have direct executive control of the survey, classification,

findings conclusive on the courts in the absence of grave abuse of discretion; the doctrine of *res judicata* bars Pedro from re-litigating his claim before a different tribunal.

Fourth, the remedy of reconveyance is only available to a landowner whose *private* property was erroneously or fraudulently registered in the name of another. It is not available when the subject property is *public land* because a private person, who is evidently not the landowner, would have no right to recover the property. It would simply revert to the public domain.

Thus, reconveyance cannot be resorted to by a rival applicant to question the State's grant of a free patent.[55] The exception to this rule is when a free patent was issued over **private lands** that are beyond the jurisdiction of the Director of Lands/DENR to dispose of.[56]

Lastly, we agree with the CA that Nenita's right to recover possession of the property had not been barred by laches. As the registered owners of the subject properties, Nenita and her family have the imprescriptible right to recover possession thereof from any person illegally occupying it.

As we held in *Spouses Ocampo v. Heirs of Dionisio*,[57] prescription and laches cannot apply to land registered under the Torrens system.[58] No title to registered land, in derogation of that of the registered owner, shall be acquired by prescription or adverse possession.[59]

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lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Environment and Natural Resources.

[55] *Maximo v. CFI of Capiz*, *supra* note 49, at 540.

[56] See the cases of *Hortizuela v. Tagufa*, G.R. No. 205867, February 23, 2015 and *Lorzano v. Tabayag*, *supra* note 27.

[57] G.R. No. 191101, October 1, 2014, 737 SCRA 381.

[58] *Id.* at 381, 394.

[59] Section 47, P.D. 1529.

WHEREFORE, in the light of these considerations, we hereby **DENY** the petition for lack of merit. Accordingly, we AFFIRM the May 31, 2012 decision and the January 16, 2013 resolution of the Court of Appeals in CA-G.R. CV No. 90307.

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 207597. May 30, 2016]

ANECITO CAMPOS, *petitioner, vs.* **BANK OF THE PHILIPPINE ISLANDS, now substituted by HOUSTON HOMEDEPOT, INC.,** *respondent.*

SYLLABUS

1. MERCANTILE LAW; ACT NO. 3135 (REAL ESTATE MORTGAGE LAW), AS AMENDED; EXTRAJUDICIAL FORECLOSURE SALE; THE PURCHASER OF A FORECLOSED PROPERTY IS ALLOWED TO FILE AN *EX PARTE* MOTION TO ACQUIRE POSSESSION OF THE PROPERTY.— Section 7 of Act No. 3135, as amended by Act No. 4118, explicitly allows the purchaser of a foreclosed property to file an *ex parte* motion to acquire possession of the property x x x. Neither the Bank nor the trial court was obligated to furnish Campos with notice of the proceedings. An *ex parte* proceeding is one made at the instance and for the benefit of one party only, and without giving notice to or hearing from any person adversely affected. Campos was not entitled to participate in the proceedings except to the extent permitted by Section 8 of Act No. 3135. Considering that he never questioned the validity of the sale, Campos' remedy

was to institute a separate civil action for the value of the improvements.

2. ID.; ID.; ID.; FOLLOWING THE CONSOLIDATION OF OWNERSHIP AND THE ISSUANCE OF A NEW CERTIFICATE OF TITLE IN THE PURCHASER'S NAME, THE PURCHASER CAN DEMAND POSSESSION AT ANY TIME AS A RESULT OF HIS ABSOLUTE OWNERSHIP AND IT BECOMES THE MINISTERIAL DUTY OF THE COURT TO ISSUE A WRIT OF POSSESSION.— Failure to redeem the foreclosed property extinguishes the mortgagor's remaining interest in it. Following the consolidation of ownership and the issuance of a new certificate of title in the purchaser's name, *the purchaser can demand possession at any time as a result of his absolute ownership*. With the consolidated title, the purchaser becomes entitled to possession and it becomes the **ministerial duty** of the court to issue a writ of possession. Likewise, the implementation of the writ is a ministerial duty; otherwise, the writ will be a useless paper judgment. The writ issues as a matter of course and **the court is left with no alternative or discretion except to issue the writ.** The rationale is to immediately vest possession of the property in the purchaser, such possession being founded on his right of ownership. The only exception is if the property is possessed by a third party whose possession is adverse to the mortgagor.

3. REMEDIAL LAW; CIVIL PROCEDURE; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GRAVE ABUSE OF DISCRETION; WHEN PRESENT.— [T]he term "grave abuse of discretion" has a specific and well-defined meaning; it is not an amorphous concept that can be shaped or manipulated to suit a litigant's purpose. It is present when there is such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or where power is exercised arbitrarily or in a despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of positive duty, or to a virtual refusal to perform a legal duty or act at all in contemplation of law. The RTC did not act capriciously or arbitrarily. In fact, it observed the provisions of Act No. 3135 and narrowly adhered to prevailing jurisprudence on the ministerial nature of its duty to issue a writ of possession.

4. CIVIL LAW; CIVIL CODE; OBLIGATIONS AND CONTRACTS; AUTONOMY OF CONTRACTS; CONTRACTUAL OBLIGATIONS HAVE THE FORCE OF LAW BETWEEN THE PARTIES AND SHOULD BE COMPLIED WITH IN GOOD FAITH.— [T]he mortgage contracts themselves specifically include *"all the buildings and improvements now existing or which may hereafter be erected or constructed [on the properties]"* as part of the mortgage. This renders the value of the improvements and Campos' alleged good faith immaterial; he voluntarily included the building when he entered into the mortgage. "Article 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient provided they are not contrary to law, morals, good customs, public order, or public policy." This Civil Code provision asserts the Autonomy of Contracts. Contractual obligations have the force of law between the parties and should be complied with in good faith. The Courts will not rescue a litigant from his bad bargains, protect him from unwise investments, relieve him from disadvantageous contracts, or annul the effects of his foolish acts unless there has been a violation of the law.

APPEARANCES OF COUNSEL

Law Office of Mirano Mirano Mirano & Mirano for petitioner.

Amego Law Office and Associates for Houston HomeDepot, Inc.

Roem Arbolado for respondent.

D E C I S I O N

BRION, *J.*:

This is a petition for review on *certiorari* assailing the Court of Appeals' (*CA*) dismissal of Anecito ***Campos***' petition for *certiorari* in **CA-G.R. CEB SP No. 02964**[1] where he questioned

[1] Penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Carmelita Salandanan-Manahan and Zenaida T. Galapate-Laguilles.

the denial of his motion to suspend the implementation of a writ of possession in **CAD Case No. 06-2266.**[2]

Antecedents

The CA found the facts outlined below.

In 1980, petitioner Campos mortgaged fourteen (14) lots in favor of the Far East Bank and Trust, Co. (*FEBTC*) — now merged with respondent Bank of the Philippine Islands (*BPI/ the Bank*) — to secure a One (1) Million peso loan. Among these lots was the then vacant Lot No. 7-G-4 (*subject lot*).[3]

Sometime in the late 1980's, Campos constructed a two-storey building on the subject lot allegedly with the knowledge and consent of the Bank.

Due to unfortunate business losses, Campos failed to pay his loan. The loan eventually ballooned to Eleven (11) Million pesos (₱11,000,000.00).[4] Consequently, the Bank moved for the **extrajudicial foreclosure** of the mortgaged lots.[5]

The Bank was issued a Certificate of Sale after becoming the highest bidder during the public auction at a bid of 11.3 million pesos.

When Campos failed to redeem the properties within the legal redemption period, the Bank consolidated its ownership of the properties.[6] Thereafter, it filed a verified *ex parte* motion for the issuance of a writ of possession before the Regional Trial Court (*RTC*).[7]

On August 7, 2006, the RTC granted the motion and ordered the Clerk of Court and the Ex Officio Sheriff of the RTC to place the Bank in possession of the lots.[8]

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[2] RTC, Negros Occidental, Branch 46, Bacolod City, through Judge George S. Patriarca.

[3] *Rollo*, p. 107.

[4] *Id.* at 108.

[5] *Id.*

[6] *Id.*

[7] *Id.* at 57, 108.

[8] *Id.* at 63, 108.

On September 8, 2006, the RTC issued a Writ of Possession commanding the *Ex Officio* Provincial Sheriff of Negros Occidental to execute the August 7, 2006 Order.[9]

Long after the RTC's August 7, 2006 Order became final and executory, Campos filed a *Motion for the Suspension of the Implementation of the Writ of Possession and/or to Allow Mortgagor to Present Evidence of Good Faith* dated February 12, 2007.[10]

Campos claimed that he constructed the building on subject Lot No. 7-G-4 in good faith and with the Bank's consent. Citing Article 546[11] in relation to Articles 448[12] and 450[13] of the Civil Code, Campos argues that he has the right to retain possession

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[9] *Id.* at 73, 109.

[10] *Id.* at 81, 109.

[11] Article 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[12] Article 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

[13] Article 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.

of the subject lot until the Bank reimburses him the value of the building.[14]

The Bank opposed the motion arguing that the purchaser in a foreclosure sale has no obligation to reimburse the mortgagor for the value of the improvements.[15] More importantly, the Bank cited the Mortgage Contract which stipulates:

> x x x the MORTGAGOR does hereby transfer and convey by way of mortgage unto the MORTGAGEE, its successors or assigns, the parcels of land which are described in the list inserted on the back of this document and/or appended hereto, **together with all the buildings and improvements now existing or which may hereafter be erected or constructed thereon** of which the MORTGAGOR declares that he/it is the absolute owner free from all liens and incumbrances [*sic*].[16] x x x [emphases supplied]

On April 16, 2007, the RTC denied Campos' motion for lack of merit.[17] Citing *Ong v. Court of Appeals*[18] and *De Vera v. Agloro*,[19] the RTC explained that upon the expiration of the redemption period, its duty to issue a writ of possession is ministerial. It likewise explained that any cause of action for the reimbursement may be pursued in a separate civil action but not in a non-litigious and *ex parte* proceeding for the issuance of a writ of possession.[20]

On April 20, 2007, Campos moved for reconsideration[21] citing *Policarpio v. Court of Appeals*[22] where the Court permitted the heirs of a mortgagor to present evidence that they were builders in good faith.

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[14] *Id.* at 82-83.

[15] *Id.* at 86.

[16] *Id.* at 87.

[17] *Id.* at 93.

[18] 388 Phil. 857 (2000).

[19] 489 Phil. 185 (2005).

[20] *Rollo*, pp. 94-95.

[21] *Id.* at 96.

[22] 214 Phil. 36 (1984).

On September 10, 2007, the RTC denied the motion for reconsideration.[23] It explained that in *Policarpio*, the main issue was denial of due process because the trial court had called for evidence on the matter of good faith several times. However, the court capriciously reversed itself during the absence of the petitioners' counsel due to illness, and received the respondent's evidence *ex parte*.

The RTC further held that the motion for suspension was filed long after the writ of possession attained finality.

Campos responded to the denial through a petition for *certiorari* with the CA with an application for a Temporary Restraining Order (*TRO*). The petition was docketed as **CA-G.R. CEB-SP No. 02964.**

On **July 24, 2012**, the CA dismissed the petition after finding no grave abuse of discretion on the part of the RTC.[24] The CA held that the RTC's action is allowed under Section 7 of Act No. 3135 which grants the purchaser the right to demand a writ of possession upon the lapse of the redemption period. Accordingly, it was the RTC's ministerial duty to issue a writ of possession. Campos' remedy under Section 8 of Act No. 3135 was to file a petition to set aside or cancel the writ of possession within thirty days after the Bank was given possession.[25]

Campos moved for reconsideration[26] reiterating that he had not been furnished a copy of the *ex parte motion* or of the RTC's order granting the writ of possession. He also asserted the applicability of *Policarpio* to his situation.

On May 23, 2013, the CA denied Campos' motion for reconsideration. Hence, the present petition for review on *certiorari*.

The Petition

Campos insists on his right to prove that he was a builder in good faith pursuant to *Policarpio*. He also claims: (1) that the

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[23] *Rollo*, p. 103.

[24] *Id.* at 105.

[25] *Id.* at 113.

[26] *Id.* at 117.

bank already has 13 of the 14 mortgaged lots; (2) that the 13 lots have an assessed value of 12 million pesos and a market value of 15 million pesos — many times the value of the original loan; and (3) that the original 1 million peso loan ballooned to 11 million due to exorbitant interest rates and excessive penalties charged by the Bank.

He argues that the Bank did not furnish him a copy of its *ex parte* motion for a writ of possession and that he was denied notice of the proceedings.[27] Lastly, he contends that the Bank will unduly enrich itself at his expense if he is not reimbursed the value of the improvements he constructed in good faith.[28]

The Counter-arguments

On May 18, 2015, Houston HomeDepot, Inc., (*Houston*), as the Bank's transferee *pendente lite*, filed its comment on the petition with leave of court.[29] Houston disputed Campos' claim of good faith, citing the stipulation that included all future improvements as part of the mortgage.[30]

Houston further alleged that Campos made it difficult to come to an amicable arrangement. Campos allegedly dismantled the bulk of the improvements and locked up the premises while Houston's motion to enforce the writ of possession was being heard by the trial court.[31]

On July 3, 2015, the Bank also filed its comment to the petition.[32] It refuted Campos' claim as to the original value of the loan and produced the Mortgage Contracts which put the value of the loan at ₱9,324,000.00.[33]

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[27] *Id.* at 23-24.

[28] *Id.* at 25.

[29] *Id.* at 159.

[30] *Id.*

[31] *Id.* at 160.

[32] *Id.* at 184.

[33] *Id.* at 190.

The Bank, moreover, noted that the earliest Mortgage Contract was dated June 28, 1990 — later than "the late 1980s" when Campos allegedly constructed the building.[34] Even if the building was constructed after the mortgage, the contract expressly stipulates that any future improvements form part of the mortgage.[35] The Bank further maintained that Campos resorted to the wrong remedy by filing a motion to suspend the implementation of the writ of possession.

Lastly, the Bank denied the applicability of *Policarpio*, arguing: (1) that Policarpio involved a **judicial** foreclosure; and (2) that in *Policarpio*, an heir of the deceased mortgagor allegedly constructed a new house on the lot 3 years ***after*** the foreclosure sale with the consent of the mortgagee bank.[36] The Bank argues that neither is true in the present case.

Our Ruling

We **DENY** the petition for lack of merit.

We emphasize at the outset that this Court is not a trier of facts. It is not our function to weigh conflicting evidence all over again after the lower courts have sifted through them. Except for a few recognized exceptions,[37] this Court will not disturb

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[34] *Id.* at 191.

[35] *Id.* at 192.

[36] *Id.* at 193.

[37] (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

the factual findings of the trial courts. Thus, we refrain from passing upon the conflicting allegations of the parties as to the original amount of the loan. Moreover, the conflicting factual details are immaterial to the resolution of the case.

Notably, the present appeal by certiorari stems from the CA's denial of a petition for *certiorari*. The case before the CA was a limited and extraordinary form of judicial review whose only purpose was to determine whether or not the RTC acted without jurisdiction or committed grave abuse of discretion.

This appeal by *certiorari* of the CA's dismissal is an even narrower form of review. Our present function is *not* to determine whether the RTC committed errors of law, but to determine whether the CA committed errors of law in dismissing the petition for *certiorari.* The core issue remains whether or not the RTC acted beyond its jurisdiction or gravely abused its discretion in denying Campos' motion to suspend the implementation of the writ of possession.

It did not.

First, Section 7 of Act No. 3135, as amended by Act No. 4118, explicitly allows the purchaser of a foreclosed property to file an *ex parte* motion to acquire possession of the property:

> Section 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed **in form of an ex parte motion** x x x **and the court shall**, upon approval of the bond, **order that a writ of possession issue**, addressed to the sheriff of the province in which the property is situated, who shall **execute said order immediately**.[38] [emphases supplied]

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[38] Sec. 7, Act No. 3135 (1924) as amended by Act No. 4118 (1933).

Neither the Bank nor the trial court was obligated to furnish Campos with notice of the proceedings. An *ex parte* proceeding is one made at the instance and for the benefit of one party only, and without giving notice to or hearing from any person adversely affected.[39] Campos was not entitled to participate in the proceedings except to the extent permitted by Section 8 of Act No. 3135.[40] Considering that he never questioned the validity of the sale, Campos' remedy was to institute a separate civil action for the value of the improvements.

Failure to redeem the foreclosed property extinguishes the mortgagor's remaining interest in it. Following the consolidation of ownership and the issuance of a new certificate of title in the purchaser's name, *the purchaser can demand possession at any time as a result of his absolute ownership*.[41] With the consolidated title, the purchaser becomes entitled to possession and it becomes the **ministerial duty** of the court to issue a writ of possession.[42] Likewise, the implementation of the writ is a ministerial duty; otherwise, the writ will be a useless paper judgment.[43]

The writ issues as a matter of course and **the court is left with no alternative or discretion except to issue the writ.**[44] The rationale is to immediately vest possession of the property in the purchaser, such possession being founded on his right of ownership.[45]

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[39] *Black's Law Dictionary*, Eight Edition (2004), p. 1737.

[40] Section 8. The debtor may, in the proceedings in which possession was requested, **but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession cancelled**, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, x x x

[41] *Edralin v. Philippine Veterans Bank*, 660 Phil. 368, 380-381 (2011).

[42] *Id.* at 381; *Bank of the Philippine Islands v. Tarampi*, 594 Phil. 198, 205 (2008); *Carpo v. Chua*, 508 Phil. 462, 477 (2005); and *Cabling v. Lumampas*, G.R. No. 196950, June 18, 2014, 726 SCRA 628, 633-634.

[43] *Bank of the Philippine Islands v. Tarampi*, *supra* note 42, at 206.

[44] *Id.* at 205.

[45] *Dayrit v. Philippine Bank of Communications*, 435 Phil. 120 (2002).

The only exception is if the property is possessed by a third party whose possession is adverse to the mortgagor.[46]

The RTC therefore did not err — and did not abuse its discretion — when it issued the writ of possession *ex parte* and denied Campos' motion to suspend its implementation.

Second, the term "grave abuse of discretion" has a specific and well-defined meaning; it is not an amorphous concept that can be shaped or manipulated to suit a litigant's purpose.[47] It is present when there is such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction,[48] or where power is exercised arbitrarily or in a despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of positive duty, or to a virtual refusal to perform a legal duty or act at all in contemplation of law.[49]

The RTC did not act capriciously or arbitrarily. In fact, it observed the provisions of Act No. 3135 and narrowly adhered to prevailing jurisprudence on the ministerial nature of its duty to issue a writ of possession.

Third, we reject Campos' argument citing *Policarpio* as authority to contradict overwhelming jurisprudence that the RTC's duty to issue a writ of possession in extrajudicial foreclosure sales is ministerial.

The *lis mota* in *Policarpio* was not the character of a writ of possession but the arbitrariness of the trial court's actions. The trial court, after repeatedly calling for the mortgagor's heirs to present evidence of their good faith, suddenly changed its

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[46] Rule 39, Sec. 33, Rules of Court; See *Cabling v. Lumampas*, *supra* note 42, at 634-635.

[47] *Yu v. Judge Reyes-Carpio*, 667 Phil. 474, 481-482 (2011); *Dycoco v. Court of Appeals,* G.R. No. 147257, July 31, 2013, 702 SCRA 566, 580; and *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission,* G.R. No. 155306, August 28, 2013, 704 SCRA 24, 39.

[48] *Abad Santos v. Province of Tarlac*, 67 Phil. 480 (1939); *Tan v. People*, 88 Phil. 609 (1951); and *Pajo v. Ago*, 108 Phil. 905 (1960).

[49] *Tavera-Luna, Inc. v. Nable*, 67 Phil. 340 (1939); *Alafriz v. Nable*, 72 Phil. 278 (1941); and *Liwanag v. Castillo*, 106 Phil. 375 (1959).

mind when their lawyer was absent due to illness. The trial court then capriciously heard, received, and admitted the bank's evidence while the petitioner was not represented in court.[50]

Moreover, *Policarpio* is an outlier involving a **judicial** foreclosure of mortgaged property. In that case, the mortgagee-bank did not immediately acquire possession of the property even though the court already confirmed the sale.[51] The mortgagor's heirs retained possession of the property and allegedly negotiated with the Bank to repurchase it.[52] In the meantime, the ancestral house located on the property was destroyed by a typhoon, prompting the heirs to rebuild it.[53]

The mortgagees' construction was made three years *after* title to the property was consolidated in the Bank but before the latter acquired possession. In other words, the mortgagees built on the Bank's property.

Articles 448, 450, and 546 fall under Chapter II (The Right of Accession) of Book II, Title II of the Civil Code. These provisions on the good faith of the builder contemplate situations when a person builds *on the land of another*. They do not apply when, as in the present case, the owner builds on his own property.

The developments *subsequent* to the consolidation of title in the bank's name as well as the judicial character of the foreclosure removed *Policarpio* from the ambit of Section 7 of Act No. 3135 and placed it within the coverage of the Rules on Accession.

Lastly, the mortgage contracts themselves specifically include "*all the buildings and improvements now existing or which may hereafter be erected or constructed [on the properties]*" as part of the mortgage. This renders the value of the improvements and Campos' alleged good faith immaterial; he voluntarily included the building when he entered into the mortgage.

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[50] *Id.* at 44-45.

[51] *Policarpio v. Court of Appeals*, *supra* note 22, at 39, 41.

[52] *Id.* at 41.

[53] *Id.* at 46.

Article 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient provided they are not contrary to law, morals, good customs, public order, or public policy.[54]

This Civil Code provision asserts the Autonomy of Contracts. Contractual obligations have the force of law between the parties and should be complied with in good faith. The Courts will not rescue a litigant from his bad bargains, protect him from unwise investments, relieve him from disadvantageous contracts, or annul the effects of his foolish acts unless there has been a violation of law.[55]

WHEREFORE, premises considered, we hereby **DENY** the petition for lack of merit, and accordingly **AFFIRM** the July 24, 2012 decision and the May 23, 2013 resolution of the Court of Appeals in CA-G.R. CEB SP No. 02964.

SO ORDERED.

Carpio (Chairperson), *del Castillo, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 211485. May 30, 2016]

MAGALLANES WATERCRAFT ASSOCIATION, INC., as represented by its Board of Trustees, namely: EDILBERTO M. BAJAO, GERARDO O. PLAZA, ISABELITA MULIG, EDNA ABEJAY, MARCELO DONAN, NENITA O. VARQUEZ, MERLYN ALVAREZ, EDNA EXCLAMADOR, and CESAR

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[54] Art. 1306, CIVIL CODE.

[55] *Vales v. Villa*, 35 Phil. 769, 788 (1916).

MONSON, *petitioner, vs.* **MARGARITO C. AUGUIS and DIOSCORO C. BASNIG,** *respondents.*

SYLLABUS

1. **COMMERCIAL LAW; CORPORATIONS; CORPORATE POWERS INCLUDE IMPLIED AND INCIDENTAL POWERS; PETITIONER MWAI CAN PROPERLY IMPOSE SANCTIONS ON DELINQUENT MEMBERS.—** Section 45 of the Corporation Code provides for the powers possessed by a corporation, x x x a corporation has: (1) express powers, which are bestowed upon by law or its articles of incorporation; and (2) necessary or incidental powers to the exercise of those expressly conferred. An act which cannot fall under a corporation's express or necessary or incidental powers is an *ultra vires* act. x x x Under Section 3(a) and Section 3(c) Article 3 of MWAI's By-Laws, its members are bound x x x "[t]o pay membership dues and other assessments of the association." x x x MWAI could not be faulted in suspending the rights and privileges of its delinquent members. The fact alone that neither the articles of incorporation nor the by-laws of MWAI granted its Board the authority to discipline members does not make the suspension of the rights and privileges of the respondents *ultra vires*. x x x MWAI can properly impose sanctions on Auguis and Basnig for being delinquent members considering that the payment of membership dues enables MWAI to discharge its duties and functions enumerated under its charter. x x x Also, the imposition of the temporary ban on the use of MWAI's berthing facilities until Auguis and Basnig have paid their outstanding obligations was a reasonable measure that the former could undertake to ensure the prompt payment of its membership dues. Otherwise, MWAI will be rendered inutile as it will have no means of ensuring that its members will promptly settle their obligations. It will be exposed to deleterious consequences as it will be unable to continue with its operations if the members continue to be delinquent in the payment of their obligations, without fear of possible sanctions.

2. **CIVIL LAW; DAMAGES; TEMPERATE DAMAGES AND ATTORNEY'S FEES, AWARDED.—** Temperate damages may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty. As such, its award is

> premised on the fact that actual damages could have been recovered were it not for the fact that the precise amount of damages could not be accurately ascertained. In other words, if a party-claimant had not suffered any damages, no damages either actual nor temperate, are recoverable. Damages resulting from a person's valid exercise of a right, is *damnum absque injuria*. x x x Anent the award of attorney's fees, the Court likewise finds it without basis. It is a settled rule that attorney's fees shall not be recovered as cost where the party's persistence in litigation is based on his mistaken belief in the righteousness of his cause.

APPEARANCES OF COUNSEL

Libres Zulieta Jalad & Ong Yiu Law Offices for petitioner.
Cembrano Luneta Mag-usara & Vitor Law Offices for respondents.

D E C I S I O N

MENDOZA, *J.*:

This petition for review on *certiorari*, filed under Rule 45 of the Rules of Court, seeks to reverse and set aside the March 14, 2013 Decision[1] and the January 17, 2014 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 01170-MIN, which affirmed with modification the January 11, 2007 Decision of the Regional Trial Court, Branch 33, Butuan City (*RTC*) in SEC Case No. 11-2004 (Civil Case No. 5420).

Petitioner Magallanes Watercraft Association, Inc. (*MWAI*) is a local association of motorized *banca* owners and operators ferrying cargoes and passengers from Magallanes, Agusan del Norte, to Butuan City and back. Respondents Margarito C. Auguis (*Auguis*) and Dioscoro C. Basnig (*Basnig*) were members

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[1] Penned by Associate Justice Jhosep Y. Lopez, with Associate Justice Edgardo T. Lloren and Associate Justice Henri Jean Paul B. Inting, concurring; *rollo*, pp. 77-91.

[2] *Id.* at 24-25.

and officers of MWAI — vice-president and secretary, respectively.[3]

On December 5, 2003, the Board of Trustees (*Board*) of MWAI passed Resolution No. 1, Series of 2003, and thereafter issued Memorandum No. 001 suspending the rights and privileges of Auguis and Basnig as members of the association for thirty (30) days for their refusal to pay their membership dues and berthing fees because of their pending oral complaint and demand for financial audit of the association funds. Auguis had an accumulated unpaid obligation of ₱4,059.00 while Basnig had ₱7,552.00.[4]

In spite of the suspension of their privileges as members, Auguis and Basnig still failed to settle their obligations with MWAI. For said reason, the latter issued Memorandum No. 002, Series of 2004, dated January 8, 2004, suspending their rights and privileges for *another* thirty (30) days.[5]

On February 6, 2004, respondents filed an action for damages and attorney's fees with a prayer for the issuance of a writ of preliminary injunction before the RTC. In its January 11, 2007 decision, the trial court ordered Auguis and Basnig to pay their unpaid accounts. It, nonetheless, required MWAI to pay them actual damages and attorney's fees.[6]

Aggrieved, MWAI appealed before the CA.

The CA Ruling

In its March 14, 2013 decision, the CA affirmed with modification the RTC decision. According to the appellate court, the RTC correctly held that MWAI was guilty of an *ultra vires* act. The CA noted that neither MWAI's Articles of Incorporation nor its By-Laws[7] contained any provision that expressly and/or impliedly vested power or authority upon its Board to recommend the imposition of disciplinary sanctions on its

[3] *Id.* at 10.

[4] *Id.* at 10-11.

[5] *Id.* at 11.

[6] *Id.* at 11-12.

[7] *Id.* at 42-46.

delinquent officers and/or members. It further noted that MWAI lacked the authority to suspend the right of the respondents to operate their *bancas*, which was granted through a Certificate of Public Convenience. The appellate court pointed out that the Maritime Industry Authority (*MARINA*) expressly reminded MWAI that it was the sole government agency which had the authority to suspend, cancel and/or revoke the franchise of the two. The CA explained that the suspension of their berthing privileges resulted in the failure of the latter to operate their *bancas* — contrary to the express reminder of the MARINA. Hence, the CA concluded that MWAI acted beyond the scope of its powers when it suspended the rights of Auguis and Basnig as members of MWAI to berth on the seaport of Magallanes and operate their bancas.

It also ruled that MWAI was bound to indemnify respondents because they suffered financial losses as a result of the illegal suspension of their berthing privileges and their right to operate their *bancas*. The appellate court agreed with the RTC that MWAI was liable for damages in favor of the respondents. The CA, however, deleted the award of actual damages for their failure to adduce evidence to prove the claimed loss of actual income. It, nonetheless, awarded them temperate damages in recognition of the pecuniary loss they suffered. Moreover, the CA saw it fit to grant a reduced amount of attorney's fees because Auguis and Basnig were compelled to litigate or incur expenses to protect their interests. The dispositive portion of the CA decision reads:

WHEREFORE, for lack of merit, the present appeal is hereby **DISMISSED**. The assailed Decision dated 11 January 2007 of the Regional Trial Court (RTC), 10th Judicial Region, Branch 33 of Libertad, Butuan City in SEC Case No. 11-2004 (Civil Case No. 5420) is **AFFIRMED** with **MODIFICATION** as follows:

1. **DELETING** the award for actual damages. In lieu thereof, temperate damages in the amount of ₱40,000.00 and ₱20,000.00 are respectively awarded to appellees Dioscoro C. Basnig and Margarito C. Auguis;

2. **IMPOSING** legal interest at the rate of 12% *per annum* from the finality of this decision until its full satisfaction; and

3. **REDUCING** the attorney's fees to ₱30,000.00.

SO ORDERED.[8]

MWAI moved for reconsideration, but its motion was denied by the CA in its January 17, 2014 resolution.

Undaunted, it filed this present petition with the sole

ASSIGNMENT OF ERROR

THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AWARDED TEMPERATE DAMAGES WITH A LEGAL RATE OF INTEREST OF 12% PER ANNUM FROM THE FINALITY OF THE DECISION UNTIL FULLY PAID AS WELL AS REDUCED ATTORNEY'S FEES IN FAVOR OF THE RESPONDENTS.[9]

MWAI insists that the award of temperate damages and attorney's fees was baseless. It faults the CA in finding that it was guilty of an *ultra vires* act when it suspended respondents' berthing rights because its by-laws obliged Auguis and Basnig as members to: (1) obey and comply with the by-laws, rules and regulations that may be promulgated by the association from time to time; and (2) to pay its membership dues and other assessments. Thus, MWAI argues that respondents cannot claim either actual or temperate damages because the suspension of their rights and privileges was anchored on its by-laws.

Petitioner also contends that respondents are not entitled to attorney's fees either because the award of attorney's fees is the exception rather than the rule. It points out that it was through respondents' own fault that their rights were suspended. Hence, they cannot be considered as having been compelled to litigate.

In their Comment,[10] dated July 16, 2015, respondents countered that they were entitled to temperate damages as the suspension of their operations was arbitrary, baseless and contrary to law

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[8] *Id.* at 90-91.

[9] *Id.* at 13.

[10] *Id.* at 122-123.

and public policy. They claimed that attorney's fees were rightfully awarded because they were compelled to litigate as a consequence of MWAI's *ultra vires* act.

In its Reply to the Comment,[11] dated January 5, 2016, MWAI reiterated the arguments it presented in its petition for review.

The Court's Ruling

The petition is meritorious.

Corporate powers include implied and incidental powers

Central to the resolution of the propriety of the award of temperate damages and attorney's fees is the contested authority of MWAI to suspend rights and privileges of its members for the latter's failure to pay their obligations. If the suspension of rights and privileges of members is not among the corporate powers granted to MWAI, then the same is an *ultra vires* act which exposes MWAI to possible liability.

Section 45 of the Corporation Code provides for the powers possesssed by a corporation, to wit:

> Sec. 45. *Ultra vires acts of corporations*. — No corporation under this Code shall possess or exercise any corporate powers except those conferred by this Code or by its articles of incorporation and except such as are necessary or incidental to the exercise of the powers so conferred.

From a reading of the said provision, it is clear that a corporation has: (1) express powers, which are bestowed upon by law or its articles of incorporation; and (2) necessary or incidental powers to the exercise of those expressly conferred. An act which cannot fall under a corporation's express or necessary or incidental powers is an *ultra vires* act. In *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*[12] (*University of Mindanao*), the Court explained:

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[11] *Id.* at 127-130.

[12] G.R. Nos. 194964-65, January 11, 2016.

Corporations are artificial entities granted legal personalities upon their creation by their incorporators in accordance with law. Unlike natural persons, they have no inherent powers. Third persons dealing with corporations cannot assume that corporations have powers. It is up to those persons dealing with corporations to determine their competence as expressly defined by the law and their articles of incorporation.

A corporation may exercise its powers only within those definitions. Corporate acts that are outside those express definitions under the law or articles of incorporation or those "committed outside the object for which a corporation is created" are *ultra vires*.

x x x **x x x** **x x x**

[Emphasis Supplied]

The CA concluded that the suspension by MWAI of respondents' rights as members for their failure to settle membership dues was an *ultra vires* act as MWAI's articles of incorporation and by-laws were bereft of any provision that expressly and impliedly vested power or authority upon its Board to recommend the imposition of disciplinary actions on its delinquent officers and/or members.

The Court disagrees.

Under Section 3 (a) and Section 3 (c) Article V of MWAI's By-Laws, its members are bound "[t]o obey and comply with the by-laws, rules and regulations that may be promulgated by the association from time to time" and "[t]o pay membership dues and other assessments of the association."[13] Thus, the respondents were obligated to pay the membership dues of which they were delinquent. MWAI could not be faulted in suspending the rights and privileges of its delinquent members.

The fact alone that neither the articles of incorporation nor the by-laws of MWAI granted its Board the authority to discipline members does not make the suspension of the rights and privileges of the respondents *ultra vires*. In *National Power Corporation*

[13] *Rollo*, p. 45.

v. Vera,[14] the Court stressed that an act might be considered within corporate powers, even if it was not among the express powers, if the same served the corporate ends, to wit:

> For if that act is one which is lawful in itself and not otherwise prohibited, and is done for the purpose of serving corporate ends, and reasonably contributes to the promotion of those ends in a substantial and not in a remote and fanciful sense, it may be fairly considered within the corporation's charter powers.

This Court is guided by jurisprudence in the application of the above standard. In the 1963 case of *Republic of the Philippines v. Acoje Mining Company, Inc.* [G.R. No. L-18062, February 28, 1963, 7 SCRA 361] **the Court affirmed the rule that a corporation is not restricted to the exercise of powers expressly conferred upon it by its charter, but has the power to do what is reasonably necessary or proper to promote the interest or welfare of the corporation.**

[Emphasis Supplied]

In *University of Mindanao*, the Court wrote that corporations were not limited to the express powers enumerated in their charters, but might also perform powers necessary or incidental thereto, to wit:

> A corporation may exercise its powers only within those definitions. Corporate acts that are outside those express definitions under the law or articles of incorporation or those "committed outside the object for which a corporation is created" are *ultra vires.*
>
> **The only exception to this rule is when acts are necessary and incidental to carry out a corporation's purposes, and to the exercise of powers conferred by the Corporation Code and under a corporation's articles of incorporation.** x x x
>
> x x x x x x x x x

Montelibano, et al. v. Bacolod-Murcia Milling Co., Inc. stated the test to determine if a corporate act is in accordance with its purposes:

> It is a question, therefore, in each case, of the logical relation of the act to the corporate purpose expressed in the charter.

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[14] 252 Phil. 747 (1989).

> If that act is one which is lawful in itself, and not otherwise prohibited, is done for the purpose of serving corporate ends, and is reasonably tributary to the promotion of those ends, in a substantial, and not in a remote and fanciful, sense, it may fairly be considered within charter powers. **The test to be applied is whether the act in question is in direct and immediate furtherance of the corporation's business, fairly incident to the express powers and reasonably necessary to their exercise.** If so, the corporation has the power to do it; otherwise, not.
>
> [Emphases Supplied; citations omitted]

Based on the foregoing, MWAI can properly impose sanctions on Auguis and Basnig for being delinquent members considering that the payment of membership dues enables MWAI to discharge its duties and functions enumerated under its charter. Moreover, respondents were obligated by the by-laws of the association to pay said dues. The suspension of their rights and privileges is not an *ultra vires* act as it is reasonably necessary or proper in order to further the interest and welfare of MWAI. Also, the imposition of the temporary ban on the use of MWAI's berthing facilities until Auguis and Basnig have paid their outstanding obligations was a reasonable measure that the former could undertake to ensure the prompt payment of its membership dues.[15] Otherwise, MWAI will be rendered inutile as it will have no means of ensuring that its members will promptly settle their obligations. It will be exposed to deleterious consequences as it will be unable to continue with its operations if the members continue to be delinquent in the payment of their obligations, without fear of possible sanctions.

Award of Temperate Damages improper

Having settled the propriety of respondents' suspension of privileges, the Court finds that the grant of temperate damages in their favor is baseless. Temperate damages may be recovered when the court finds that some pecuniary loss has been suffered

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[15] *Twin Towers Condominium Corporation v. C*A, 46 Phil. 280 (2003).

but its amount cannot, from the nature of the case, be proved with certainty.[16] As such, its award is premised on the fact that actual damages could have been recovered were it not for the fact that the precise amount of damages could not be accurately ascertained. In other words, if a party-claimant had not suffered any damages, no damages either actual nor temperate, are recoverable.

Damages resulting from a person's valid exercise of a right, is *damnum absque injuria.*[17] In *Diaz v. Davao Light and Power Co., Inc.*,[18] the Court further expounded, to wit:

> Petitioner may have suffered damages as a result of the filing of the complaints. However, there is a material distinction between damages and injury. Injury is the illegal invasion of a legal right; damage is the loss, hurt or harm which results from the injury; and damages are the recompense or compensation awarded for the damage suffered. Thus, there can be damage without injury in those instances in which the loss or harm was not the result of a violation of a legal duty. In such cases, the consequences must be borne by the injured person alone; the law affords no remedy for damages resulting from an act which does not amount to a legal injury or wrong. These situations are often called *damnum absque injuria*. Whatever damages Diaz may have suffered would have to be borne by him alone since it was his acts which led to the filing of the complaints against him.

Considering that the suspension of Auguis and Basnig was in the lawful exercise of MWAI's rights and powers as a corporation, no remedy for any consequent damage, which they could have suffered, is available. They shall bear the losses they may have suffered as a consequence of their lawful suspension. Further, the Court notes that in suspending the rights and privileges of the said respondents, MWAI merely denied them access from its berthing facilities and in no way suspended or revoked their certificates of public convenience.

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[16] Article 2224 of the Civil Code.

[17] *ABS-CBN Broadcasting Corporation v. CA*, 361 Phil. 499, 532 (1999).

[18] 549 Phil. 271 (2007).

Anent the award of attorney's fees, the Court likewise finds it without basis. It is a settled rule that attorney's fees shall not be recovered as cost where the party's persistence in litigation is based on his mistaken belief in the righteousness of his cause.[19]

WHEREFORE, the petition is **GRANTED.** The March 14, 2013 Decision and the January 17, 2014 Resolution of the Court of Appeals in CA-G.R. CV No. 01170-MIN are **REVERSED** and **SET ASIDE.** The complaint for damages against petitioner Magallanes Watercraft Association, Inc. is **DISMISSED** for lack of merit.

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 211698. May 30, 2016]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **CESAR P. RAYOS DEL SOL, LYDIA P. RAYOS DEL SOL, GLORIA P. RAYOS DEL SOL and ELVIRA P. RAYOS DEL SOL,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; TAX DECLARATIONS HAVE PROBATIVE VALUE IN LAND REGISTRATION PROCEEDINGS.— The records reveal that respondents and their predecessors-in-interest religiously paid the realty taxes of the subject lot over the decades. Although a tax declaration

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[19] *Josefa v. Manila Electric Company*, G.R. No. 182705, July 18, 2014, 730 SCRA 126, 150.

by itself is not adequate to prove ownership, it may serve as sufficient basis for inferring possession. The voluntary declaration of a piece of real property for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the state and all other interested parties with an intention to contribute needed revenues to the government. Such an act strengthens one's *bona fide* claim of acquisition of ownership. As properly found by the CA, even though the earliest tax declaration was not dated June 12, 1945 or earlier, it did not mean that the applicants failed to comply with Section 14(1) of P.D. No. 1529. In *Recto v. Republic*, it was held that "[a]s long as the testimony supporting possession for the required period is credible, the court will grant the petition for registration." x x x Hence, even if the earliest tax declaration was not dated June 12, 1945 or earlier, the application may still be granted as long as the evidence presented, as a whole, established the applicants' open, continuous, exclusive, and notorious possession of the subject property, in the concept of an owner, on or before June 12, 1945.

2. ID.; ID.; TESTIMONIAL EVIDENCE ESTABLISHES RESPONDENTS' CLAIM OF POSSESSION AND OCCUPATION. — The above testimony conveys that from the time Gloria was born in 1942, respondents, through their father, Jose, had been occupying the land in the concept of an owner. Evidently, the same testimony substantiates respondents' claim that they have been in possession of the property since June 12, 1945. Gloria specifically stated that her father and her husband had been working as farmers of the land for respondents and their father. She also expressly recognized respondents as the owners of the subject lot and even testified in detail as to the arrangement her family had with respondents in cultivating the land and sharing the harvest. More importantly, Gloria's testimony was to the effect that from the time her father worked as a farmer of the subject lot, there were no other claimants over the land. She stressed that respondents and their father were known as the owners of the property. The said testimony reflects the exclusive and notorious characteristics of respondents' possession over the land and their occupation of it in the concept of an owner to the exclusion of all other persons.

3. ID.; ID.; ID.; DOCUMENTARY EVIDENCE SUBSTANTIATES RESPONDENTS' NATURE AND CHARACTER OF POSSESSION.— Aside from testimonial evidence, respondents presented documentary evidence to establish that they had an open and continuous possession of the subject property. The Extrajudicial Settlement of the Estate of Felipe Rayos Del Sol would show that the subject property had been part of Felipe's estate and it had been adjudicated to respondents. This would also confirm that the ownership and possession of the subject land by respondents from the time of Felipe's death had continued up to the present. Also, respondents offered the Deed of Absolute Sale between them and the Republic. The OSG attempts to deny the relevance of such deed, alleging that it pertains to Lot 8173-A-2 and not to Lot 8173-A, which is the subject matter of the present case. Again, the said argument of the OSG fails to persuade. There is no dispute that Lot 8173-A was subdivided into four (4) lots, one of which was Lot No. 8173-A-2. Necessarily, the latter, which was the subject of the deed of sale, was part of the former. Even the OSG admits that "Lot No. 8173-A-2 is presumptuously a portion of Lot 8173-A xxx." Hence, the relevance of the deed of sale in the registration proceedings cannot be denied. x x x The tax declarations, together with the credible testimonies of Lydia and Gloria, and the documents presented to bolster the application, indeed prove that respondents have been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of ownership since June 12, 1945. To the Court's mind, the evidence offered by respondents satisfies the burden of proof and constitutes clear and convincing evidence to merit a grant of their application. Glaringly, the OSG did not present an iota of evidence to disprove or contradict the claims of respondents.

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.
Patdu Aguilar Law Firm for respondents.

D E C I S I O N

MENDOZA, *J.*:

This petition for review on *certiorari* under Rule 45 of the Rules of Court assails the September 25, 2013 Decision[1] and the February 25, 2014 Resolution[2] of the Court of Appeals (*CA*) in CA-G.R. CV No. 96654, which affirmed the July 20, 2010 Decision[3] of the Regional Trial Court, Branch 271, Pasig City (*RTC*) in a land registration case filed under Section 14 (1) of Presidential Decree (*P.D.*) No. 1529.

The Facts

On January 16, 2009, an application for land registration involving Lot 8173-A, with an area of 33,298 square meters, located in Barangay Ligid Tipas, Taguig, Metro Manila, with an assessed value of ₱665,960.00, was filed by the respondent siblings, namely: Cesar P. Rayos Del Sol, Lydia P. Rayos Del Sol, Gloria P. Rayos Del Sol, and Elvira P. Rayos Del Sol (*respondents*).[4]

Respondents alleged, among others, that they were the children of Jose Rayos Del Sol (*Jose*) and the grandchildren of Felipe Del Sol (*Felipe*); that they inherited Lot 8173-A from their father, Jose, who, in turn, inherited the same from his father, Felipe; that on August 3, 1996, they executed the Extra-judicial Settlement of the Estate of Felipe Rayos Del Sol,[5] wherein Lot 8173-A was adjudicated to them *pro indiviso*; and that, through their predecessor-in-interest, they had been in open, continuous, exclusive, and notorious possession and occupation of alienable

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[1] Penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Jane Aurora C. Lantion and Eduardo B. Peralta, Jr.; *rollo*, pp. 61-74.

[2] *Id.* at 76.

[3] Penned by Judge Paz Esperanza M. Cortes; *id.* at 77-92.

[4] *Id.* at 77-78.

[5] *Id.* at 57-58.

and disposable land of public domain under a *bona fid*e claim of ownership since the 1930s, when Felipe was still alive.[6]

Respondents declared that on January 4, 2004, Lot No. 8173 was subdivided into four (4) parcels of land — Lot 8173-A-1 consisting of 25,335 square meters; Lot 8173-A-2 consisting of 1,138 square meters; Lot 8173-A-3 consisting of 6,756 square meters; and Lot 8173-A-4 consisting of 71 square meters.[7] Moreover, they averred that in 2006, the Republic of the Philippines (*Republic*), through the Department of Public Works and Highways (*DPWH*), purchased Lot 8173-A-2, a portion of the subject lot, which was embodied in the undated Deed of Absolute Sale.[8]

During the trial, respondent Lydia Rayos del Sol-Alcantara (*Lydia*), Gloria Serviño (*Gloria*), wife of the present tenant of the subject lot, and Engineer Justa delas Alas (*Engr. delas Alas*) were presented as witnesses by respondents.

Lydia testified that she, together with the other respondents, inherited the subject lot from their father, Jose, who died on September 25, 1953 per his death certificate; that their father inherited the same from their grandfather Felipe, who died on July 2, 1932 per his epitaph; that Felipe cultivated the lot during his lifetime and planted it with rice, vegetables and some fruit trees and then Jose continued farming the same; that respondents also cultivated the lot through their caretaker; that they possessed the lot for more than seventy (70) years since their grandfather's time; and that they paid the taxes on the lot.[9]

Gloria testified that the subject lot was composed of more than three (3) hectares which they had farmed for respondents, who were the owners of the lot; that respondents were the children of the previous owner, Jose, for whom her father and her husband had worked; that nobody else claimed the lot; and that she was

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[6] *Id.* at 79.

[7] *Id.* at 78-79.

[8] *Id.* at 52-56.

[9] *Id.* at 81.

born in 1942 and she grew up knowing that her father farmed the lot for Jose.

For her part, Engr. delas Alas testified that she conducted a survey on the lot and issued the corresponding Geodetic Engineer Certificate[10] and Technical Description,[11] which were approved by the Department of Environment and Natural Resources.

Respondents presented, among others, the following documents: (1) Extrajudicial Settlement of the Estate of Felipe, dated August 3, 1996; (2) Deed of Absolute Sale of Lot 8173-A-2, undated; (3) Conversion Subdivision Plan,[12] which stated that the subject lot was inside an alienable and disposable land as per L.C. Map No. 2623 certified by the Bureau of Forest Development on January 3, 1968; and (4) tax declarations of Lot 8173-A for the years 1948, 1965, 1973, 1978, 1979, 1984, 1990, 1993, 1999, and 2002,[13] and the new tax declarations for subdivided lots for the years 2005 to 2006.[14]

The RTC Ruling

In its decision, dated July 20, 2010, the RTC ruled that Lot 8173-A could be registered in respondents' names. The trial court stated that respondents were able to prove that they and their predecessors-in-interest had been in possession of the subject lot under the circumstances provided in Section 14 of P.D. No. 1529; that they had actual possession of the subject lot; and that the tax declarations they presented constituted sufficient proof of possession in the concept of an owner for more than thirty (30) years.

The RTC further stated that even if the subject lot was only declared as alienable and disposable public land in 1968, their continued possession during Felipe's lifetime up to the present

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[10] *Id.* at 43.

[11] *Id.* at 42.

[12] *Id.* at 40-41.

[13] *Id.* at 39.

[14] *Id.* at 48-51.

had already been more than thirty (30) years. Hence, the trial court concluded that the applicants were entitled to the issuance of the decree of registration on the subject lot pursuant to Section 39 of P.D. No. 1529. The dispositive portion of the decision reads:

> WHEREFORE, judgment is hereby rendered thus:
>
> The title of the petitioners Cesar P. Rayos Del Sol, Lydia P. Rayos Del Sol, Gloria P. Rayos Del Sol and Elvira P. Rayos Del Sol on Lot 8173-A of Thirty Three Thousand Two Hundred Ninety Eight Square Meters (33,298 sqms.), more or less, as shown by the Conversion Subdivision Plan Swo-00-01890 and the corresponding technical descriptions, situated at Barangay Ligid, Tipas, Taguig, Metro Manila is hereby CONFIRMED.
>
> Upon the finality of judgment, let the proper decree of Registration and Certificate of Title be issued in the names of Cesar P. Rayos Del Sol, Lydia P. Rayos Del Sol, Gloria P. Rayos Del Sol and Elvira P. Rayos Del Sol pursuant to Section 39 of P.D. 1529.
>
> Let two (2) copies of this Decision be furnished the Land Registration Authority Administrator thru the Chief of the Docket Division of said Office at East Avenue, Quezon City.
>
> SO ORDERED.[15]

On September 6, 2010, the Republic moved for reconsideration but its motion was denied in the RTC resolution, dated November 16, 2010.

Aggrieved, Republic, through the Office of the Solicitor General (OSG), elevated an appeal before the CA.

The CA Ruling

In its assailed decision, dated September 25, 2013, the CA dismissed the Republic's appeal. The CA stated that the subject lot had been declared as alienable and disposable land as early as January 3, 1968. The appellate court found that respondents were able to present sufficient evidence to prove that they had an open, exclusive, continuous, and notorious possession and

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[15] *Id.* at 92.

occupation under a *bona fide* claim of ownership over the subject land. The CA gave full credence to the witnesses who testified that respondents' open and continuous possession of the subject property began as early as the 1930s when their grandfather, Felipe, cultivated the land and planted it with rice, vegetables and some fruit trees; that upon Felipe's death, their father, Jose, took over the ownership and possession of the same; and that upon the latter's death, respondents, through their tenants, continued farming the said land.

The CA opined that although tax declarations, as a rule, were not conclusive evidence of ownership, these served as proof that respondents had a claim of title over the subject land and as sufficient basis for inferring possession. Finally, the CA added that the deed of absolute sale between respondents and the DPWH acknowledged that the former were the true and lawful owners of the subject parcel of land described as Lot No. 8173-A-2.

The Republic moved for reconsideration, but its motion was denied by the CA in its assailed resolution, dated February 25, 2014.

Hence, this petition.

ISSUE

WHETHER OR NOT RESPONDENTS WERE ABLE TO ESTABLISH THE REQUIREMENTS SET IN SECTION 14 OF PD NO. 1529 AND THAT SHE AND HER PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION AND OCCUPATION OF THE SUBJECT PROPERTY FOR THE PERIOD REQUIRED BY LAW.[16]

The OSG argues, *first*, that respondents failed to prove that their predecessors-in-interest had been occupying the subject land since June 12, 1945, as required by Section 14 (1) of P.D. No. 1529. The earliest tax declaration presented by respondents was only for 1948, clearly short of the required period of occupation. The OSG asserts that the tax declarations are

[16] *Id.* at 15.

inconclusive to prove the character of possession over the property. *Second*, the OSG claims that respondents were not able to establish that they had an open, exclusive, continuous, and notorious possession and occupation under a *bona fide* claim of ownership over the subject land. It points out that the testimonies of the witnesses were general in character and bereft of specific overt acts of possession or dominion regarding the subject land. *Lastly*, the OSG stresses that the deed of sale between respondents and the DPWH pertained to Lot 8173-A-2, and not the subject of the present case, Lot 8173-A.

In their Comment,[17] respondents countered that the testimonies of their witnesses sufficiently established that, through their predecessors-in-interest, they had been in open and continuous possession of the subject land even before June 12, 1945. They also asserted that Gloria's testimony bolstered the fact that from the time she was born in 1942, her father was already the tenant of the subject lot and that respondents' father, Jose, owned the property. Together with the tax declarations, respondents insisted that these pieces of evidence were sufficient to grant their registration. They also claimed that although the sale between respondent and the Republic only referred to Lot 8173-A-2, the same was undeniably a portion of Lot 8173-A, the lot in question.

In its Reply,[18] the OSG averred that it was impossible for Lydia, a witness for respondents, to observe their grandfather, Jose, cultivate the subject land because the latter died in 1932, while she was only born in 1937. Further, the OSG reiterated that respondents did not establish any specific overt acts of possession or dominion over the land.

The Court's Ruling

The Court denies the petition.

The applicable law in this case is Section 14 (1) of P.D. No. 1529, otherwise known as the Property Registration Decree, which provides:

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[17] *Id.* at 170-182.

[18] *Id.*

Section 14. Who may apply. The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.

x x x x x x x x x

Section 14 (1) of P.D. No. 1529 refers to the original registration of "imperfect" titles to public land acquired under Section 11 (4) in relation to Section 48 (b) of Commonwealth Act No. 141, or the Public Land Act, as amended. The requisites under the said provision are enumerated as follow:

1. That the subject land forms part of the alienable and disposable lands of the public domain;

2. That the applicants, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive and notorious possession and occupation of the subject land under a bona fide claim of ownership; and

3. That such possession and occupation must be since June 12, 1945 or earlier.[19]

A person who seeks the registration of title to a piece of land on the basis of possession by himself and his predecessors-in-interest must prove his claim by clear and convincing evidence, that is, he must prove his title and should not rely on the absence or weakness of evidence of the oppositors.[20]

In the present case, the OSG does not question respondents' compliance with the first requisite, or the fact that the subject land formed part of the alienable and disposable land of the public domain. It is undisputed that the subject lot was inside

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[19] *Republic v. Santos*, 691 Phil. 367, 377 (2012).

[20] *Republic v. Belmonte*, G.R. No. 197028, October 9, 2013, 707 SCRA 330.

an alienable and disposable land as per L.C. Map No. 2623, certified by the Bureau of Forest Development on January 3, 1968. The OSG alleges, however, that respondents failed to comply with the second and third requisites, or that the applicants had not been in open, continuous, exclusive and notorious possession and occupation of the subject land under a *bona fide* claim of ownership since June 12, 1945.

The OSG argues that the earliest tax declaration presented by respondents was in the year 1948, hence, they could not have possessed the land since June 12, 1945 or earlier, as required by Section 14 of P.D. No. 1529. The OSG also insists that respondents failed to establish that they had, through their predecessors-in-interest, an open, continuous, exclusive and notorious possession and occupation of the subject land under a *bona fide* claim of ownership and, hence, their application for registration must be denied.

The Court is not persuaded.

First, only where pure questions of law are raised or involved can an appeal be brought to the Court via a petition for review on *certiorari* under Rule 45.[21] In this case, the OSG evidently presents questions of fact because it assails the CA and the RTC's appreciation of the evidence offered by respondents. If the petition requires a calibration of the evidence presented, then it poses a question of fact, which cannot be raised before the Court.

Second, even if the Court applies procedural liberality, a judicious scrutiny of the records shows that both the CA and the RTC properly appreciated the evidence and validly granted respondents' application for land registration.

Tax declarations have probative value in land registration proceedings

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[21] *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 767 (2013).

The records reveal that respondents and their predecessors-in-interest religiously paid the realty taxes of the subject lot over the decades. Although a tax declaration by itself is not adequate to prove ownership, it may serve as sufficient basis for inferring possession. The voluntary declaration of a piece of real property for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the state and all other interested parties with an intention to contribute needed revenues to the government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.[22]

As properly found by the CA, even though the earliest tax declaration was not dated June 12, 1945 or earlier, it did not mean that the applicants failed to comply with Section 14 (1) of P.D. No. 1529. In *Recto v. Republic*,[23] it was held that "[a]s long as the testimony supporting possession for the required period is credible, the court will grant the petition for registration."

Similarly, in *Spouses Llanes v. Republic*,[24] the earliest tax declaration presented in the application under Section 14 (1) of P.D. 1529 was only for 1948. The Court, nevertheless, espoused:

> xxx While tax declarations and receipts are not incontrovertible evidence of ownership, they constitute, at least, proof that the holder has a claim of title over the property. xxx Tax declarations are good *indicia* of possession in the concept of an owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. Moreover, while tax declarations and receipts are not conclusive evidence of ownership and do not prove title to the land, nevertheless, when coupled with actual possession, they constitute evidence of great weight and can be the basis of a claim of ownership through prescription.[25]

In that case, the Court took into account the testimonial and documentary evidence presented by the applicants therein, as a

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[22] *Mistica v. Republic*, 615 Phil. 468, 477 (2009).

[23] 483 Phil. 81 (2004).

[24] 592 Phil. 623 (2008).

[25] *Id.* at 635.

whole, and found that they had been in an open, continuous, exclusive, and notorious possession of the subject property, in the concept of an owner, even prior to June 12, 1945.

Hence, even if the earliest tax declaration was not dated June 12, 1945 or earlier, the application may still be granted as long as the evidence presented, as a whole, established the applicants' open, continuous, exclusive, and notorious possession of the subject property, in the concept of an owner, on or before June 12, 1945.

In the case at bench, the Court finds that the CA and the RTC did not simply grant the registration of respondents based solely on the presentation of their tax declarations. Both courts considered respondents' testimonial and documentary evidence to prove (1) that they and their predecessors-in-interest had occupied and possessed the subject land since June 12, 1945; and (2) that they had occupied the same in open, continuous, exclusive, and notorious manner, under a *bona fide* claim of ownership. Their evidence shall be discussed *in seriatim*.

Testimonial evidence establish respondents' claim of possession and occupation since June 12, 1945 or earlier

Respondents presented Lydia and Gloria as their witnesses. A review of their testimonies showed that they have proven the assailed requisites under Section 14 (1) of P.D. No. 1529. Lydia's pertinent testimony is as follows:

Atty. Aguilar

Q. Since when had your grandfather been in open and continuous possession of the property?

A. When he was still alive until his death.

Q. Can you tell us, when did your grandfather die?

A. July 2, 1932.

Court

Q. Why do you say that he owned the property aside from the tax declarations?

A. Because I have seen them cultivate the land.

Q. And do you recall what was planted on the property?

A. It was planted with rice, vegetables and some fruit trees.

Q. And upon the death of your grandfather, who took over the ownership and possession of the property?

A. My father Jose Rayos del Sol continued farming the land.

Q. And upon his death of your father in 1953, who continued with the cultivation of the land?

A. Upon the death of my father, I, together with my co-petitioners, my siblings, continued farming the land.

Court

Q. How do you do that?

A. We have a caretaker who tills the land.

Q. And who is that caretaker?

A. A certain Ramon, I forgot his family name. Until now he is working with us.

Atty. Aguilar

Q. From the time that your grandfather cultivated the property, how long has your family been in open and continuous possession of the lot?

A. For over seventy (70) years now.

[Emphases Supplied]

As can be gleaned from above, Lydia explained the origin of their property. It was respondents' grandfather, Felipe, who first possessed and cultivated the land until his death in 1932. Afterwards, it was their father, Jose, who continued its cultivation. Then, when Jose died in 1953, respondents cultivated and farmed the land through their caretaker. Noticeably, the possession and occupancy of respondents and their predecessors-in-interest happened prior to June 12, 1945. Though, as the OSG pointed out, that it was improbable for Lydia to meet Felipe, who died

in 1932, it was undeniable that her testimony referred to their possession of the land even before June 12, 1945.

Lydia also testified on the nature and characteristic of their possession over the subject land. When asked whether she could recall what crops were planted on the property, she replied that there were rice, vegetables and some fruit trees. True enough, the tax declaration[26] for Lot 8173-A declared the subject land as a rice field. She added that it was their caretaker who tilled the land in their behalf. Moreover, Lydia stated that from the time her grandfather cultivated the land, their family had been in an open and continuous possession of the subject lot for seventy (70) years, clearly sufficient to establish their claim of ownership over the same.

Gloria, the wife of the tenant, testified as follows:

Court

Q. What is the identity of the lot?

A. The lot is at Malaking Kahoy, Palingon, Tipas, and Taguig of more than three (3) hectares.

Q. Do you know the boundaries of the lot?

A. I do not know, my husband knows.

Q. Why do you know that the petitioners are the owners of the property?

A. Because they are the children of the owner of the lot for whom my father used to work and for the lot is now being farmed by my husband.

Q. And who is the previous owner of the property?

A. Jose Rayos Del Sol and the petitioners are his children.

Q. You said that your father previously worked for Jose Rayos Del Sol, since when did your father work with Jose Rayos Del Sol?

A. I was born in 1942 and since I grew into reason, it was my father who served as a farmer for Jose Rayos Del Sol.

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[26] *Rollo*, p. 39.

Q. Aside from farming, what was your father doing in that property?

A. He served only as a farmer.

Q. And since when did your father farm on that land?

A. Until the year 1980.

Q. And from 1980 to the present, who is farming that property?

A. My husband.

Q. What is the name of your husband?

A. Ramon Serviño.

Q. At the time your father was farming the property, do you know the nature of his arrangement with Jose Rayos del Sol?

A. Yes, ma'am.

Q And what was their arrangement?

A. Their agreement was that my father will provide the labor and Jose Rayos Del Sol will provide the capital.

Q. You said that since 1980 you and your husband were farming the property. Now, what is your arrangement with the petitioners regarding that lot?

A. "Buwisan." We will provide the labor and capital and they provide the lot and we only give them a percentage of the harvest.

Q. Since the time your father worked as a farmer on the lot and up to the present, do you know if there are claimants on the property?

A. No, ma'am.

Q. And from the time of your father up to the present, do you know who are the owners of that property?

A. During the time of my father, Jose Rayos Del Sol and after his death, his children.

[Emphases Supplied]

The above testimony conveys that from the time Gloria was born in 1942, respondents, through their father, Jose, had been

occupying the land in the concept of an owner. Evidently, the same testimony substantiates respondents' claim that they have been in possession of the property since June 12, 1945. Gloria specifically stated that her father and her husband had been working as farmers of the land for respondents and their father. She also expressly recognized respondents as the owners of the subject lot and even testified in detail as to the arrangement her family had with respondents in cultivating the land and sharing the harvest.

More importantly, Gloria's testimony was to the effect that from the time her father worked as a farmer of the subject lot, there were no other claimants over the land. She stressed that respondents and their father were known as the owners of the property. The said testimony reflects the exclusive and notorious characteristics of respondents' possession over the land and their occupation of it in the concept of an owner to the exclusion of all other persons.

Documentary evidence substantiate respondents' nature and character of possession

Aside from testimonial evidence, respondents presented documentary evidence to establish that they had an open and continuous possession of the subject property. The Extrajudicial Settlement of the Estate of Felipe Rayos Del Sol would show that the subject property had been part of Felipe's estate and it had been adjudicated to respondents. This would also confirm that the ownership and possession of the subject land by respondents from the time of Felipe's death had continued up to the present.

Also, respondents offered the Deed of Absolute Sale between them and the Republic. The OSG attempts to deny the relevance of such deed, alleging that it pertains to Lot 8173-A-2 and not to Lot 8173-A, which is the subject matter of the present case.

Again, the said argument of the OSG fails to persuade.

There is no dispute that Lot 8173-A was subdivided into four (4) lots, one of which was Lot No. 8173-A-2. Necessarily, the latter, which was the subject of the deed of sale, was part

of the former. Even the OSG admits that "Lot No. 8173-A-2 is presumptuously a portion of Lot 8173-A xxx."[27] Hence, the relevance of the deed of sale in the registration proceedings cannot be denied.

The Court is of the view that the Republic would not have bought Lot 8173-A-2 from respondents if it believed that there was some other claimant to the property. As correctly stated by the CA, although the deed of absolute sale "may not be considered as direct proof of ownership on the part of [respondents], it is sufficient proof to substantiate the latter's allegations that they have been in open, continuous, exclusive and notorious possession and occupation of the subject property and that the same has not been claimed by any other person." [28]

The tax declarations, together with the credible testimonies of Lydia and Gloria, and the documents presented to bolster the application, indeed prove that respondents have been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a *bona fide* claim of ownership since June 12, 1945. To the Court's mind, the evidence offered by respondents satisfies the burden of proof and constitutes clear and convincing evidence to merit a grant of their application. Glaringly, the OSG did not present an iota of evidence to disprove or contradict the claims of respondents.

In fine, as all the requisites under Section 14 (1) of P.D. No. 1529 have been complied with, respondents' application for original registration of imperfect title is in order.

WHEREFORE, the petition is **DENIED**. The September 25, 2013 Decision and the February 25, 2014 Resolution of the Court of Appeals in CA-G.R. CV No. 96654 are hereby **AFFIRMED *in toto*.**

SO ORDERED.

Carpio (Chairperson), *Brion, del Castillo,* and *Leonen, JJ.,* concur.

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[27] *Id.* at 23.

[28] *Id.* at 73-74.

SECOND DIVISION

[G.R. No. 217680. May 30, 2016]

FELIX L. ARRIOLA, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; APPEALS; ONLY QUESTIONS OF LAW MAY BE RAISED; EXCEPTIONS.— [A]s a general rule, a question of fact is beyond the function of this Court in a petition for review under Rule 45 of the Rules of Court in which only questions of law may be raised but there are exceptions. It is a settled doctrine that the factual findings of the appellate court are generally conclusive, and even carry more weight when it affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the record or that they are so glaringly erroneous as to constitute grave abuse of discretion. Factual issues, however, may be resolved by this Court in the following instances: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the CA went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellee; (7) the findings of fact of the CA are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record.

2. ID.; CRIMINAL PROCEDURE; EVERY CRIMINAL CONVICTION REQUIRES THE PROSECUTION TO PROVE THE FACT OF THE CRIME AND THAT THE ACCUSED IS THE PERPETRATOR OF THE CRIME.— Every criminal conviction requires the prosecution to prove

two things: (1) the fact of the crime, that the presence of all the elements of the crime with which the accused stands charged, and (2) the fact that the accused is the perpetrator of the crime. When a crime is committed, it is the duty of the prosecution to prove the identity of the perpetrator of the crime beyond reasonable doubt for there can be no conviction even if the commission of the crime is established. In the case at bench, the State, aside from showing the existence of the crime of falsification of public document, has the burden of correctly identifying the author of such crime. Both facts must be proven beyond reasonable doubt on the strength of the prosecution evidence and without solace from the weakness of the defense.

3. REMEDIAL LAW; EVIDENCE; CIRCUMSTANTIAL EVIDENCE; REQUISITES.— [C]onviction is not always based on direct evidence for it may also rest purely on circumstantial evidence. The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt. The corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person. The circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent and with any other rational hypothesis except that of guilt. x x x The peculiarity of circumstantial evidence is that the series of events pointing to the commission of a felony is appreciated not singly but collectively. The guilt of the accused cannot be deduced from scrutinizing just one (1) particular piece of evidence. It is more like a puzzle which when put together reveals a convincing picture pointing to the conclusion that the accused is the author of the crime. x x x Circumstantial evidence must exclude the possibility that some other person had committed the offense.

4. ID.; ID.; WEIGHT AND SUFFICIENCY; IN A CRIMINAL CASE, GUILT MUST BE PROVED BEYOND REASONABLE DOUBT.— Although the denial interposed

by Arriola is by nature a weak defense, the same is inconsequential as the prosecution failed to discharge the onus of establishing his identity and culpability as the perpetrator. To reiterate, conviction must be based on the strength of the prosecution and not on the weakness of the defense, that is the obligation is upon the shoulders of the prosecution to prove the guilt of the accused and not the accused to prove his innocence. In other words, the prosecution has the burden to prove that the accused is guilty beyond reasonable doubt of the crime charged. Indeed, the presumption of innocence is not overcome by mere suspicion or conjecture; by a probability that the accused committed the crime; or by the fact that he had the opportunity to do so. Mere speculation and probabilities cannot substitute for proof required in establishing the guilt of an accused beyond reasonable doubt. Courts must judge the guilt or innocence of the accused based on facts and not on mere conjectures, presumptions, or suspicions.

APPEARANCES OF COUNSEL

Jennifer R. Santos for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

MENDOZA, *J.*:

Before the Court is a petition for review on *certiorari*, filed by petitioner Felix L. Arriola (*Arriola*), seeking to reverse and set aside the September 15, 2014 Decision[1] and the March 6, 2015 Resolution[2] of the Court of Appeals (*CA*) in CA-G.R. CR No. 34921, which affirmed the Consolidated Judgment,[3] dated April 12, 2012, of the Regional Trial Court, Branch 17, Manila, in twenty one (21) falsification of public document cases.

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[1] Penned by Associate Justice Japar B. Dimaampao, with Associate Justice Elihu A. Ybañez and Associate Justice Carmelita S. Manahan, concurring; *rollo*, pp. 90-103.

[2] *Id.* at 105-106.

[3] Penned by Acting Presiding Judge Ma. Theresa Dolores C. Gomez-Estoesta; *id.* at 75-88.

The Antecedents

Petitioner Arriola and Ma. Theresa Tabuzo (*Tabuzo*), a.k.a. Girlie Moore (Tabuzo) were indicted for twenty-one (21) counts of Falsification of Public Document, defined and penalized under Article 171 of the Revised Penal Code (*RPC*). The 21 separate Informations[4] filed against Arriola and Tabuzo were consolidated before the RTC and docketed as Criminal Case Nos. 03-219432 to 03-219452.

Arriola voluntarily surrendered and was allowed to post bail for his provisional liberty.[5] When arraigned on May 27, 2004, he entered a plea of not guilty to the charges.[6] Meanwhile, Tabuzo was finally apprehended on June 14, 2004 and upon arraignment, she also pleaded not guilty to the charges.[7] Tabuzo was subsequently released on the basis of a personal bail which she posted on November 5, 2004.[8] During the pre-trial for Arriola, the parties stipulated, among others, that he was an employee of the Manila City Hall.[9] The pre-trial for Tabuzo was terminated[10] because of her non-appearance. Considering that Tabuzo absconded, trial in absentia proceeded against her.

As synthesized by the RTC, the facts are as follows:

In the year 2002, Gregg Business Agency, a local accounting firm, needed to procure community tax certificates (*CTC*s) for twenty one (21) of its clients. It then appeared that Rosalinda Pagapong (Pagapong), its Liaison Officer, was instructed by the owner to coordinate with a certain "Girlie Moore" to obtain the same. This was the same "Girlie Moore" who personally visited the accounting firm on January 17, 2002 to get the names of the clients after receiving

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[4] Records, pp. 2-43.

[5] *Id.* at 102.

[6] *Id.* at 139.

[7] *Id.* at 186.

[8] *Id.* at 189.

[9] *Id.* at 275.

[10] *Id.* at 308.

a total amount of ₱38,500.00 to process the CTCs. She promised that she will deliver the CTCs by January 19, 2002.

However, it was only on January 31, 2002, after frequent follow-ups, that Pagapong was able to obtain from "Girlie Moore" the CTCs. They met at the Inner Court of the Manila City Hall located at the ground floor. A soon as Pagapong received the CTCs, she proceeded to the Releasing Area of the Office of the City Treasurer to secure an Order of Payment and presented the CTCs as a requirement. It was at such instance that, upon verification, the CTCs were found to be fake or falsified. Pagapong was thereafter subjected to investigation at the Office of the City Treasurer.

At around 4:30 in the afternoon of the same day, Liberty M. Toledo, then the City Treasurer of Manila, was apprised of the falsified CTCs with Serial Nos. 15492830 to 15492850 found in the possession of Pagapong. The CTCs bearing the same serial numbers were counter-checked from the files of the Office of the City Treasurer and were found to have been actually stamped as "UNEMPLOYED" under "MANILA, CLASS A — ONLY," having been issued to unemployed residents of the City of Manila for a fee of ₱5.00 each. Further verification from the records disclosed that the CTCs with the same serial numbers were requisitioned by and issued to Felix Arriola, Local Treasury Operations Officer I of the Office of the City Treasurer of Manila. A subsequent inquiry with Pagapong revealed that the CTCs were obtained from "Girlie Moore." Another verification with the Department of Public Services (DPS) revealed that the woman who posed as "Girlie Moore" was actually Ma. Theresa Tabuzo, then employed as Manila Aide I assigned at District 4 of the City of Manila.

The requisition of Community Tax Certificates in the name of accountable officer Felix L. Arriola was the subject of stipulation between the prosecution and the defense per Order, dated September 20, 2006 which stated, in lieu of the intended testimony of prosecution witness Priscilla M. Panganiban, OIC of the Accountable Forms Section of the Office of the City Treasurer of Manila, viz.:

x x x x x x x x x

> 2. x x x that on January 18, 2002, accused Felix Arriola was issued one thousand pieces of Community Tax Certificates "A" as evidenced by his signature on the Requisition Form dated January 18, 2002;

3. x x x per Accountable Forms Control Card, accused Felix Arriola was issued Community Tax Certificates "A" on January 18, 2002, one thousand pieces, with Serial Nos. 15492401 to 15493400, inclusive;

4. that accused Felix Arriola remitted on January 21, 2002 the triplicate copies of the Community Tax Certificate "A" Nos. 15492601 to 15492900, which were issued to him on January 18, 2002; and

5. x x x the triplicate copies of the Community Tax Certificate Nos. 15492801 to 15492850 were remitted by accused Felix Arriola on January 21, 2002 and these were all Class A Community Tax Certificates.

The supposed presentation of prosecution witness Evelyn Uy was considered waived in view of her non-appearance during the hearing of April 16, 2009.

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For his defense, accused Felix L. Arriola interposed the defense of denial.

Accused Arriola averred that he is presently employed as Revenue Examiner of the Office of the City Treasurer of Manila tasked with the duty of computing business taxes and collecting tax deficiencies. In the course of his employment as such, he denied having known the person of Ma. Theresa Tabuzo nor of having participated in the falsification of CTCs which specifically implicated Ma. Theresa Tabuzo.

In the year 2002, he admitted to have occupied the position of an accountable officer who held the responsibility of requisitioning CTCs. He had five (5) employees then under him who issued the CTCs to individual taxpayers and it was to them that he gave the CTC booklets for such purpose. Such booklets were under Class "A" at the cost of ₱5.00 each. He further averred that after receiving the amount of ₱250.00 from each booklet from the collectors, he immediately remitted the same to the Office of the City Treasurer.

On January 28, 2002, he recounted that Community Tax Certificate No. 15492830 was issued by Elena Ronquillo as the booklet which contained the same was given to said Elena Ronquillo. The booklets which were returned to him no longer contained the originals thereof

as what was returned were the duplicate and triplicate copies; hence, he had no control in the issuance of the originals. From his assessment of the duplicate and triplicate copies of the booklets, he found no unusual alterations of any portions thereof. When he was thus summoned for questioning by Ms. Rosalie Reyes, OIC of the Administrative Division, he denied any implication in the issuance of falsified CTCs. He likewise denied having written the entries in the questioned CTCs. He endeavored to ask Elena Ronquillo of the purported anomaly but the latter also denied knowledge of the same. He likewise denied having known Rosalinda Pagapong.[11]

The Ruling of the RTC

On April 12, 2012, the RTC rendered its consolidated judgment finding Arriola and Tabuzo guilty as charged. It concluded that the prosecution had satisfactorily proven all the elements of the crime of Falsification of Public Document. The RTC stated that, although there was no direct evidence linking Arriola to the commission of the crime, adequate circumstantial evidence was adduced by the prosecution which established with moral certainty that he was the perpetrator of the alterations in the subject CTCs bearing Control Nos. 15492830 to 15492850 marked as Exhibits "A" to "A-20."[12] With regard to Tabuzo, the Court found that she acted as the courier in delivering the falsified CTCs to the requesting party. The RTC added that the manner by which the two accused committed the felonious acts revealed a community of criminal design, and so it eventually concluded that conspiracy existed. It brushed aside Arriola's defense of denial for his failure to substantiate the same by sufficient and competent evidence.

Not in conformity, Arriola appealed the RTC judgment of conviction before the CA.

The Ruling of the CA

In its assailed September 15, 2014 decision, the CA found no cogent reason to reverse the findings of facts and conclusions

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[11] *Id.* at 78-81.

[12] *Id.* at 620-630.

reached by the RTC and, thus, affirmed the conviction of Arriola and Tabuzo for 21 counts of the crime of falsification of public document. The CA wrote that the evidence proffered by the prosecution had established with certitude the commission of the offense and the identities of its culprits. At the end, the CA decreed:

> WHEREFORE, the Appeal is hereby DENIED. The Consolidated Judgment dated 12 April 2012 of the Regional Trial Court of Manila, Branch 17, in Criminal Case Nos. 03-219433-03-219452, is AFFIRMED.
>
> SO ORDERED.[13]

Arriola moved for reconsideration of the September 15, 2014 decision, but his motion was denied by the CA in its March 6, 2015 Resolution.

Insisting on his innocence, Arriola elevated the decision of the CA via a petition for review on *certiorari* to this Court and raised the following

ISSUES

A. The evidence for the prosecution failed to establish the guilt of petitioner beyond reasonable doubt.[14]

B. The authorities cited to support the conviction of petitioner are not applicable.[15]

The Court's Ruling

The Court gives the benefit of the doubt to the accused.

At the outset, the respondent, through the Office of the Solicitor General (*OSG*), has contended that the present petition should be dismissed on the ground that it raises questions of fact. The contention is not persuasive. Indeed, as a general rule, a question of fact is beyond the function of this Court in a petition for

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[13] *Rollo*, p. 102.

[14] *Id.* at 11.

[15] *Id.* at 15.

review under Rule 45 of the Rules of Court in which only questions of law may be raised but there are exceptions. It is a settled doctrine that the factual findings of the appellate court are generally conclusive, and even carry more weight when it affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the record or that they are so glaringly erroneous as to constitute grave abuse of discretion.[16] Factual issues, however, may be resolved by this Court in the following instances: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the CA went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellee; (7) the findings of fact of the CA are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the CA are premised on the supposed absence of evidence and contradicted by the evidence on record.[17]

In the case at bench, the CA concurred with the findings of fact by the RTC that were based on circumstantial evidence. For said reason, the Court is compelled to review the evidence on record as the findings were merely deduced from several circumstances.

Every criminal conviction requires the prosecution to prove two things: (1) the fact of the crime, that the presence of all the elements of the crime with which the accused stands charged, and (2) the fact that the accused is the perpetrator of the crime.[18] When a crime is committed, it is the duty of the prosecution to prove the identity of the perpetrator of the crime beyond reasonable

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[16] *Libuit v. People*, 506 Phil. 591, 599 (2005).

[17] *Cornes v. Leal Realty Centrum Co., Inc.*, 582 Phil. 528, 549 (2008).

[18] *People v. Ayola*, 416 Phil. 861, 871 (2001).

doubt for there can be no conviction even if the commission of the crime is established.[19] In the case at bench, the State, aside from showing the existence of the crime of falsification of public document, has the burden of correctly identifying the author of such crime. Both facts must be proven beyond reasonable doubt on the strength of the prosecution evidence and without solace from the weakness of the defense.[20]

The Court pored over the entire records of both courts *a quo* and concluded that Arriola should be exonerated. Contrary to the findings by the RTC, the circumstantial evidence adduced by the prosecution failed to evoke the moral certainty that the petitioner was guilty.

Clearly, there is no direct evidence that links Arriola to the commission of the crime. As the RTC itself stated, "[a]lthough no eyewitness could particularly delineate the particular scheme or method used in the falsification of subject CTCs, the vestiges of all alterations made thereon could only be pinned down to the public accountability of accused Felix L. Arriola and his complicity with known fixer, "Girlie Moore," otherwise identified as accused Ma. Theresa Tabuzo."[21] The RTC was, thus, compelled to rely solely on the following pieces of circumstantial evidence which appeared to have been established to justify its finding of guilt:

1) That on January 18, 2002, Arriola requisitioned from the Accountable Forms Section of the Office of the City Treasurer of Manila the issuance of One Thousand (1,000) pieces of Class A CTCs as evidenced by his signature appearing on the Requisition Slip,[22] dated January 18, 2002, marked as Exhibit "J" for the prosecution;

2) That as shown in the Accountable Forms Control Card,[23] marked as Exhibit "K" for the prosecution, Arriola was issued One Thousand (1,000) pieces of Class A CTCs

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[19] *People v. Sinco*, 408 Phil. 1, 12 (2001).

[20] *People v. Limpangog,* 444 Phil. 691, 709 (2003).

[21] *Rollo*, p. 81.

[22] Records, p. 642.

[23] *Id.* at 643-644.

with inclusive control numbers from 15492401 to 15493400;

3) That Class A CTCs were issued only to unemployed residents of the City of Manila for a standard fee of ₱5.00 each;

4) That on January 21, 2002, Arriola remitted the amount of ₱1,500.00 representing the collection for the issued Class A CTC Nos. 15492601 to 15492900 as well as the triplicate copies thereof;

5) That the collection for the triplicate copies of CTC Nos. 15492830 to 15492850[24] were among those remitted by Arriola on January 21, 2002 and these were all Class A CTCs;

6) That on January 31, 2002, Tabuzo delivered to Rosalinda Pagapong (*Pagapong*), the Liaison Officer of Gregg Business Agency, the CTCs with control numbers 15492830 to 15492850, now categorized as Class B CTCs because a higher fee was charged for each CTC ranging from ₱143.00 to ₱5,005.00, depending on the declared taxable income of the taxpayers.

7) That Gregg Business Agency paid Tabuzo the amount of ₱38,500.00 for securing the latter CTCs;

8) That the CTCs found in the possession of Pagapong were fake as the CTCs bearing the same control numbers had already been issued to unemployed residents of Manila per files of the Office of the City Treasurer.

The Court cannot fully agree with the RTC and the CA that the foregoing pieces of circumstantial evidence inexorably led to the conclusion that the petitioner falsified the subject CTCs.

True, conviction is not always based on direct evidence for it may also rest purely on circumstantial evidence. The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and

[24] *Id.* at 631-637.

(3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[25] The corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.[26] The circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent and with any other rational hypothesis except that of guilt.[27]

On the basis of these principles, the Court is of the view that the circumstantial evidence cited by the RTC raised doubt as to the guilt of Arriola. The circumstantial evidence of the prosecution failed to muster the quantum of proof required in criminal cases — guilt beyond reasonable doubt. Moreover, the circumstances enumerated by the trial court did not completely discount the possibility that other than the petitioner, another person or persons could have falsified the subject CTCs.

The prosecution's principal witness, Liberty M. Toledo (*Toledo*), the City Treasurer of Manila at the time of the incident, testified that she merely presumed that Arriola conspired and connived with Tabuzo in the falsification because he was the accountable officer who requisitioned for the booklets containing the falsified CTCs. Toledo claimed that the accountable officer should be held liable for any alterations done on the subject CTCs.[28] Lending much weight on Toledo's testimony, the RTC concluded that because Arriola was the accountable officer who requisitioned the subject CTCs, then he "is the only person who could have accomplished the crimes charged."[29] Thus, the RTC wrote:

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[25] Section 4, Rule 133 of the Rules of Court, *People v. Canlas*, 423 Phil. 665, 677 (2001).

[26] *People v. Flores*, 389 Phil. 532, 541 (2000).

[27] *People v. Abillar*, 400 Phil. 245, 249 (2000).

[28] TSN, dated August 17, 2006, pp. 17-20.

[29] *Rollo*, p. 81.

Co-accused Ma. Theresa Tabuzo, being a mere Manila Aide 1 from the Department of Public Service, could not be isolated for having alone committed the crimes charged. Obviously, she has no direct hand in the requisitioning and issuance of community tax certificates from the Office of the City Treasurer. An insider would have accomplished the falsifications. It would, therefore, summon a conspiratorial act to accomplish the misdeed.

With the connection of accused Felix L. Arriola with the Cash Division of the Office of the City Treasurer of Manila, it did not take a fertile imagination to extend his complicity of the crime to that of co-accused Ma. Theresa Tabuzo.

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In this case, the intolerable delay in the delivery of subject CTCs by accused Ma. Theresa Tabuzo to Gregg Business Agency could only explain her dependency on the complicity of another connected with the Office of the City Treasurer. As already adverted to, she could not possibly commit the crimes alone. It then highly appeared that the falsification was traced to the accountability of accused Felix L. Arriola who, by his own sordid means, **must have duplicated the Class-A CTCs with serial numbers 15492830 — check to 15492850 — check to misrepresent them as Class-B CTCs**.[30]

[Emphases Supplied]

The conclusion by the RTC that Arriola was the perpetrator of the falsification simply because the booklet, which contained the Class A CTCs bearing control numbers 15492830 to 15492850, was among those issued to him upon his request was speculative. It must be stressed that the subject CTCs found in the possession of Pagapong were different from, and were mere replicas or imitations of, the Class A CTCs with Serial Numbers 15492830 to 15492850. This is evident from the fact that the Class A CTCs were already issued to the unemployed residents of Manila on January 21, 2002 while those handed over by Tabuzo to Pagapong were issued much later or on January 28, 2002. Not a shred of definitive evidence was proffered by the prosecution to prove that Arriola, between the time he received

[30] *Id.* at 84-85.

the booklets of CTCs on January 18, 2002 and before their issuance to the unemployed residents of Manila, had the Class A CTCs with control numbers 15492830 to 15492850 duplicated or copied and that, thereafter, supplied the details written on the CTCs found in the possession of Pagapong. There is absolutely no proof of what transpired during that interval. The prosecution, in effect, asked the courts merely to guess or to surmise that A must have falsified the Class A CTCs during such interregnum.

There was no showing either that the replicas of the Class A CTCs with control numbers 15492830 to 15492850, which Tabuzo delivered to Pagapong, came from Arriola, or that he was the one who actually made the duplicates. These gaps in the prosecution account spawn doubts in the mind of a reasonable person. Verily, there was no concrete prosecution evidence that would link Arriola to the falsification.

The peculiarity of circumstantial evidence is that the series of events pointing to the commission of a felony is appreciated not singly but collectively. The guilt of the accused cannot be deduced from scrutinizing just one (1) particular piece of evidence. It is more like a puzzle which when put together reveals a convincing picture pointing to the conclusion that the accused is the author of the crime.[31] Here, the story pieced together by the RTC from the evidence of the prosecution provides no moral certainty of the petitioner's guilt. There is a paucity of evidence to show that Arriola had a direct hand in the falsification.

In light of the blurry evidence of the prosecution, the possibility that another person or persons could have authored the crime cannot be totally discounted. Records do not show that after Arriola received the Class A CTCs from the Accountable Forms Section of the Office of the City Treasurer, he immediately put them in a place not accessible to anyone but himself. It must be remembered that Arriola had five (5) subordinates who were tasked with the duty of issuing the Class A CTCs to the public. Anyone of these five subordinates could have gotten hold of the booklet containing the Class A CTCs with control numbers

[31] *People v. Monje*, 438 Phil. 716, 733 (2002).

15492830 to 15492850 and had them duplicated or copied. Circumstantial evidence must exclude the possibility that some other person had committed the offense.[32] The absence of evidence as to the non-accessibility of the CTCs precludes the Court from concluding with certainty that no other person or persons, aside from Arriola, could be the culprit in the falsification. The evidence at hand neither proves his authorship of the crime nor forecloses the possibility that another person is liable.

Although the denial interposed by Arriola is by nature a weak defense, the same is inconsequential as the prosecution failed to discharge the onus of establishing his identity and culpability as the perpetrator. To reiterate, conviction must be based on the strength of the prosecution and not on the weakness of the defense, that is the obligation is upon the shoulders of the prosecution to prove the guilt of the accused and not the accused to prove his innocence.[33] In other words, the prosecution has the burden to prove that the accused is guilty beyond reasonable doubt of the crime charged.

Indeed, the presumption of innocence is not overcome by mere suspicion or conjecture; by a probability that the accused committed the crime; or by the fact that he had the opportunity to do so. Mere speculation and probabilities cannot substitute for proof required in establishing the guilt of an accused beyond reasonable doubt.[34] Courts must judge the guilt or innocence of the accused based on facts and not on mere conjectures, presumptions, or suspicions.[35]

It could be that Arriola had actually participated in the commission of the crime. The Court, however, cannot convict him when the circumstantial evidence relied upon by the RTC and subscribed to by the CA is plainly inadequate and

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[32] *People v. Ayola*, *supra* note 18, at 873-874.

[33] *People v. Galvez*, 548 Phil. 436, 470 (2007).

[34] *People v. Canlas*, *supra* note 25, at 684-685.

[35] *Crisostomo v. Sandiganbayan*, 495 Phil. 718 (2005).

unconvincing. Thus, it cannot be said that the prosecution was able to prove his guilt beyond reasonable doubt.

> x x x And where there is a reasonable doubt as to the guilt of an accused, he must be acquitted even though his innocence may be questioned, for it is not sufficient for the proof to establish a probability, even though strong, that the fact charged is more likely to be true than the contrary. Proof beyond reasonable doubt, more than mere likelihood, requires moral certainty — a certainty that convinces and satisfies the reason and conscience of those who are to act upon it.[36]

WHEREFORE, the petition is **GRANTED**.

The September 15, 2014 Decision and the March 6, 2015 Resolution of the Court of Appeals in CA-G.R. CR No. 34921, which affirmed the April 12, 2012 Consolidated Judgment of the Regional Trial Court, Branch 17, Manila, in Criminal Case Nos. 03-219432 to 03-219452, are **REVERSED** and **SET ASIDE**.

Petitioner Felix L. Arriola is **ACQUITTED**, for failure of the prosecution to prove his guilt beyond reasonable doubt, of Twenty-One (21) counts of Falsification of Public Document.

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Leonen, JJ.*, concur.

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[36] *Ambagan v. People*, G.R. Nos. 204481-82, October 14, 2015.

EN BANC

[A.C. No. 5179. May 31, 2016]

DIONNIE RICAFORT, *complainant, vs.* **ATTY. RENE O. MEDINA,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; DISCIPLINE OF LAWYERS; IN ADMINISTRATIVE CASES AGAINST LAWYERS, THE REQUIRED BURDEN OF PROOF IS PREPONDERANCE OF EVIDENCE, OR EVIDENCE THAT IS SUPERIOR, OR MORE CONVINCING, OR OF "GREATER WEIGHT THAN THE OTHER"; ESTABLISHED IN CASE AT BAR.— It is true that this Court does not tolerate the unceremonious use of disciplinary proceedings to harass its officers with baseless allegations. This Court will exercise its disciplinary power against its officers only if allegations of misconduct are established. A lawyer is presumed to be innocent of the charges against him or her. He or she enjoys the presumption that his or her acts are consistent with his or her oath. Thus, the burden of proof still rests upon complainant to prove his or her claim. In administrative cases against lawyers, the required burden of proof is preponderance of evidence, or evidence that is superior, more convincing, or of "greater weight than the other." x x x The slapping incident was not only alleged by complainant in detail in his signed and notarized Affidavit; complainant's Affidavit was also supported by the signed and notarized Affidavit of a traffic aide present during the incident. It was even the traffic aide who informed complainant of respondent's plate number. In finding that complainant was slapped by respondent, Commissioner De La Rama gave weight to the letter sent by the League of Mayors and ruled that "the people's faith in the legal profession eroded" because of respondent's act of slapping complainant. The Integrated Bar of the Philippines Board of Governors correctly affirmed and adopted this finding.

2. ID.; ID.; THE PURPOSE OF ADMINISTRATIVE PROCEEDINGS IS TO ENSURE THAT THE PUBLIC IS

PROTECTED FROM LAWYERS WHO ARE NO LONGER FIT FOR THE PROFESSION; APPLICATION IN CASE AT BAR.— The purpose of administrative proceedings is to ensure that the public is protected from lawyers who are no longer fit for the profession. In this instance, this Court will not tolerate the arrogance of and harassment committed by its officers. x x x By itself, the act of humiliating another in public by slapping him or her on the face hints of a character that disregards the human dignity of another. Respondent's question to complainant, *"Wa ka makaila sa ako?"* ("Do you not know me?") confirms such character and his potential to abuse the profession as a tool for bullying, harassment, and discrimination. This arrogance is intolerable. It discredits the legal profession by perpetuating a stereotype that is unreflective of the nobility of the profession. As officers of the court and of the law, lawyers are granted the privilege to serve the public, not to bully them to submission. Good character is a continuing qualification for lawyers. This Court has the power to impose disciplinary sanctions to lawyers who commit acts of misconduct in either a public or private capacity if the acts show them unworthy to remain officers of the court.

3. ID.; ID.; COMPLAINANT'S ABSENCE DURING THE HEARINGS BEFORE THE INTEGRATED BAR OF THE PHILIPPINES IS NOT A BAR AGAINST A FINDING OF ADMINISTRATIVE LIABILITY; RATIONALE.— This Court has previously established that disciplinary proceedings against lawyers are *sui generis.* They are neither civil nor criminal in nature. They are not a determination of the parties' rights. Rather, they are pursued as a matter of public interest and as a means to determine a lawyer's fitness to continue holding the privileges of being a court officer. x x x As in criminal cases, complainants in administrative actions against lawyers are mere witnesses. They are not indispensable to the proceedings. It is the investigative process and the finding of administrative liability that are important in disciplinary proceedings. Hence, complainant's absence during the hearings before the Integrated Bar of the Philippines is not a bar against a finding of administrative liability.

RESOLUTION

LEONEN, *J.*:

Complainant Dionnie Ricafort filed a complaint for disbarment[1] against respondent Atty. Rene O. Medina on December 10, 1999.[2]

Complainant alleged that at about 7:30 a.m. on October 4, 1999, his tricycle sideswiped respondent's car along Sarvida Street in Surigao City.[3] Respondent alighted from his car and confronted complainant. Respondent allegedly snapped at complainant, saying: "*Wa ka makaila sa ako*?" ("Do you not know me?") Respondent proceeded to slap complainant, and then left.[4]

Later, Manuel Cuizon, a traffic aide, informed complainant of the plate number of respondent's car.[5] Complainant later learned that the driver of the car was Atty. Rene O. Medina, a provincial board member of Surigao del Norte.[6]

According to complainant, he felt "hurt, embarrassed[,] and humiliated."[7] Respondent's act showed arrogance and disrespect for his oath of office as a lawyer. Complainant alleged that this act constituted gross misconduct.[8]

Attached to complainant's letter were his Affidavit,[9] Manuel Cuizon's Affidavit,[10] and a letter[11] dated October 27, 1999 signed

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[1] *Rollo*, pp. 1-7.

[2] *Id.* at 121.

[3] *Id.*

[4] *Id.* at 3.

[5] *Id.* at 121.

[6] *Id.*

[7] *Id.* at 4.

[8] *Id.* at 5.

[9] *Id.* at 9.

[10] *Id.* at 10.

[11] *Id.* at 21-23.

by Mayor Arlencita E. Navarro (Mayor Navarro), League of Mayors President of Surigao del Norte Chapter. In her letter, Mayor Navarro stated that respondent slapped complainant and caused him great humiliation.[12] Thus, respondent should be administratively penalized for his gross misconduct and abuse of authority:

Dear Mr. Chief Justice:

This is to bring to your attention an incident that occurred last October 4, 1999 in Surigao City, committed by Provincial Board Member Rene O. Medina.

The said public official slapped in full public view a certain **Donnie Ricafort**, a tricycle driver, causing great humiliation on the person. We believe that such conduct is very unbecoming of an elected official. Considering the nature and purpose of your Office, it is respectfully submitted that appropriate action be taken on the matter as such uncalled for abuse consists of gross misconduct and abuse of authority.

Attached herewith is a copy of the affidavit of the victim and the petition of the Municipal Mayors League of Surigao del Norte.

Thank you very much for your attention and more power.

Very truly yours,

(Sgd.)
Mayor ARLENCITA E. NAVARRO
Mayor's League President
Surigao del Norte Chapter[13]
(Emphasis in the original)

Attached to Mayor Navarro's letter were two (2) pages containing the signatures of 19 Mayors of different municipalities in Surigao Del Norte.[14]

In his Comment,[15] respondent denied slapping complainant. He alleged that the incident happened while he was bringing

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[12] *Id.* at 21.

[13] *Id.* Complainant's name is spelled in his Affidavit is "Dionnie" (*Id.* at 7).

[14] *Id.* at 22-23.

[15] *Id.* at 43-45.

his 10-year-old son to school.[16] He further alleged that complainant's reckless driving caused complainant's tricycle to bump the fender of respondent's car.[17] When respondent alighted from his car to check the damage, complainant approached him in an unfriendly manner.[18] Respondent pushed complainant on the chest to defend himself.[19] Sensing, however, that complainant was not making a move against his son and himself, respondent asked complainant if his tricycle suffered any damage and if they should wait for a traffic officer.[20] Both parties agreed that they were both too busy to wait for a traffic officer who would prepare a sketch.[21] No traffic officer was present during the incident.[22]

Four or five days after the traffic incident, respondent became the subject of attacks on radio programs by the Provincial Governor's allies, accusing him of slapping the tricycle driver.[23] He alleged that complainant's Affidavit was caused to be prepared by the Provincial Governor as it was prepared in the English language, which was unknown to complainant.[24] Respondent was identified with those who politically opposed the Provincial Governor.[25]

According to respondent, the parties already settled whatever issue that might have arisen out of the incident during the conciliation proceedings before the Office of the Punong Barangay of Barangay Washington, Surigao City.[26] During the proceedings,

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[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.* at 43-44.

[22] *Id.* at 44.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

respondent explained that he pushed complainant because of fear that complainant was carrying a weapon, as he assumed tricycle drivers did.[27] On the other hand, complainant explained that he went near respondent to check if there was damage to respondent's car.[28] As part of the settlement, respondent agreed to no longer demand any indemnity for the damage caused by the tricycle to his car.[29]

Attached to respondent's Comment was the Certification[30] dated October 27, 2006 of the Officer-in-Charge Punong Barangay stating that the case had already been mediated by Punong Barangay Adriano F. Laxa and was amicably settled by the parties.[31]

On December 5, 2006, this Court referred the case to the Integrated Bar of the Philippines for investigation, report, and recommendation.[32]

Only respondent appeared in the Mandatory Conference set by the Integrated Bar of the Philippines on July 20, 2007.[33] Integrated Bar of the Philippines Commissioner Jose I. De La Rama, Jr. (Commissioner De La Rama) noted the Certification from Barangay Washington, Surigao City attesting that the case between the parties had already been settled.[34] Commissioner De La Rama supposed that this settlement "could be the reason why the complainant has not been appearing in this case[.]"[35] The Mandatory Conference was reset to September 21, 2007.[36]

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[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] *Id.* at 49.

[31] *Id.* at 44 and 49.

[32] *Id.* at 52.

[33] *Id.* at 97, Order dated July 20, 2007.

[34] *Id.*

[35] *Id.*

[36] *Id.*

In the subsequent Mandatory Conference on September 21, 2007, only respondent appeared.[37] Hence, the Commission proceeded with the case ex-parte.[38]

In his Report[39] dated July 4, 2008, Commissioner De La Rama recommended the penalty of suspension from the practice of law for 60 days from notice for misconduct and violation of Canon 7, Rule 7.03 of the Code of Professional Responsibility, thus:

> **WHEREFORE**, in view of the foregoing, it is with deep regret to recommend for the suspension of Atty. Rene O. Medina from the practice of law for a period of sixty (60) days from notice hereof due to misconduct and violation of Canon 7.03 of the Code of Professional Responsibility, for behaving in an scandalous manner that tends to discredit the legal profession.[40] (Emphasis in the original)

Commissioner De La Rama found that contrary to respondent's claim, there was indeed a slapping incident.[41] The slapping incident was witnessed by one Manuel Cuizon, based on: (1) the photocopy of Manuel Cuizon's Affidavit attached to complainant's complaint; [42] and (2) the signatures on the League of Mayors' letter dated October 29, 1999 of the Surigao Mayors who believed that respondent was guilty of gross misconduct and abuse of authority and should be held administratively liable.[43]

On August 14, 2008, the Integrated Bar of the Philippines Board of Governors issued the Resolution[44] adopting and approving with modification Commissioner De La Rama's recommendation, thus:

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[37] *Id.* at 101, Integrated Bar of the Philippines Order.

[38] *Id.*

[39] *Id.* at 121-128.

[40] *Id.* at 128.

[41] *Id.* at 124.

[42] *Id.*

[43] *Id.* at 125.

[44] *Id.* at 120.

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, ***with modification****, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's misconduct and violation of Canon 7.03 of the Code of Professional Responsibility, for behaving in a scandalous manner, Atty. Rene O. Medina is hereby* ***SUSPENDED*** *from the practice of law for thirty (30) days.*[45] (Emphasis in the original)

Respondent moved for reconsideration[46] of the Board of Governors' August 14, 2008 Resolution. The Motion for Reconsideration was denied by the Board of Governors in the Resolution[47] dated March 22, 2014.

We resolve whether respondent Atty. Rene O. Medina should be held administratively liable.

There is sufficient proof to establish that respondent slapped complainant.

Respondent's defense consists of his denial that the slapping incident happened.[48] He stresses complainant's seeming disinterest in and lack of participation throughout the case and hints that this administrative case is politically motivated.[49]

It is true that this Court does not tolerate the unceremonious use of disciplinary proceedings to harass its officers with baseless allegations. This Court will exercise its disciplinary power against its officers only if allegations of misconduct are established.[50]

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[45] *Id.*

[46] *Id.* at 139-142, Motion for Reconsideration dated November 24, 2008.

[47] *Id.* at 153.

[48] *Id.* at 43, Comment.

[49] *Id.* at 44.

[50] See *Ferancullo v. Atty. Ferancullo, Jr.,* 538 Phil. 501, 511 (2006) [Per *J.* Tinga, *En Banc*].

A lawyer is presumed to be innocent of the charges against him or her. He or she enjoys the presumption that his or her acts are consistent with his or her oath.[51]

Thus, the burden of proof still rests upon complainant to prove his or her claim.[52]

In administrative cases against lawyers, the required burden of proof is preponderance of evidence,[53] or evidence that is superior, more convincing, or of "greater weight than the other."[54]

In this case, complainant discharged this burden.

During the fact-finding investigation, Commissioner De La Rama — as the Integrated Bar of the Philippines Board of Governors also adopted — found that the slapping incident actually occurred.[55]

The slapping incident was not only alleged by complainant in detail in his signed and notarized Affidavit;[56] complainant's Affidavit was also supported by the signed and notarized Affidavit [57] of a traffic aide present during the incident. It was even the traffic aide who informed complainant of respondent's plate number.[58]

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[51] *Aba v. De Guzman, Jr.*, 678 Phil. 588, 599-600 (2011) [Per *J.* Carpio, Second Division]; *In Re: Atty. Felizardo M. De Guzman*, 154 Phil. 127, 133 (1974) [Per *J.* Muñoz Palma, First Division]; *In Re: De Guzman v. Tadeo*, 68 Phil. 554, 554-555 and 558-559 (1939) [Per *J.* Laurel, *En Banc*]; *In Re: Atty. Eusebio Tionko*, 43 Phil. 191, 191 and 194 (1922) [Per *J.* Malcolm, *En Banc*]; *Acosta v. Serrano*, 166 Phil. 257, 262 (1977) [Per *J.* Bernardo, Second Division].

[52] *Atty. Solidon v. Atty. Macalalad*, 627 Phil. 284, 289 (2010) [Per *J.* Brion, Second Division].

[53] *Id.*

[54] *Guevarra v. Eala*, 555 Phil. 713, 725 (2007) [*Per Curiam, En Banc*].

[55] *Rollo*, p. 124, Commissioner's Report.

[56] *Id.* at 9.

[57] *Id.* at 20.

[58] *Id.* at 4.

In finding that complainant was slapped by respondent,[59] Commissioner De La Rama gave weight to the letter sent by the League of Mayors and ruled that "the people's faith in the legal profession eroded"[60] because of respondent's act of slapping complainant.[61] The Integrated Bar of the Philippines Board of Governors correctly affirmed and adopted this finding.

The League of Mayors' letter, signed by no less than 19 Mayors, strengthened complainant's allegations. Contrary to respondent's claim that it shows the political motive behind this case, the letter reinforced complainant's credibility and motive. The presence of 19 Mayors' signatures only reinforced the appalling nature of respondent's act. It reflects the public's reaction to respondent's display of arrogance.

The purpose of administrative proceedings is to ensure that the public is protected from lawyers who are no longer fit for the profession. In this instance, this Court will not tolerate the arrogance of and harassment committed by its officers.

Canon 7, Rule 7.03 of the Code of Professional Responsibility provides:

> Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

By itself, the act of humiliating another in public by slapping him or her on the face hints of a character that disregards the human dignity of another. Respondent's question to complainant, "*Wa ka makaila sa ako*?" ("Do you not know me?") confirms such character and his potential to abuse the profession as a tool for bullying, harassment, and discrimination.

This arrogance is intolerable. It discredits the legal profession by perpetuating a stereotype that is unreflective of the nobility

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[59] *Id.* at 126.

[60] *Id.* at 127.

[61] *Id.*

of the profession. As officers of the court and of the law, lawyers are granted the privilege to serve the public, not to bully them to submission.

Good character is a continuing qualification for lawyers.[62] This Court has the power to impose disciplinary sanctions to lawyers who commit acts of misconduct in either a public or private capacity if the acts show them unworthy to remain officers of the court.[63]

This Court has previously established that disciplinary proceedings against lawyers are *sui generis*.[64] They are neither civil nor criminal in nature. They are not a determination of the parties' rights. Rather, they are pursued as a matter of public interest and as a means to determine a lawyer's fitness to continue holding the privileges of being a court officer. In *Ylaya v. Gacott*:[65]

> Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor.[66]

As in criminal cases, complainants in administrative actions against lawyers are mere witnesses. They are not indispensable

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[62] *Rural Bank of Silay, Inc. v. Pilla*, 403 Phil. 1, 9 (2001) [Per *J*. Kapunan, *En Banc*].

[63] *Ducat, Jr. v. Villalon, Jr.,* 392 Phil. 394, 402 (2000) [Per *J*. De Leon, Jr., Second Division].

[64] *Ylaya v. Gacott*, 702 Phil. 390, 406 (2013) [Per *J*. Brion, Second Division].

[65] *Ylaya v. Gacott*, 702 Phil. 390 (2013) [Per *J*. Brion, Second Division].

[66] *Id.* at 407.

to the proceedings. It is the investigative process and the finding of administrative liability that are important in disciplinary proceedings.[67]

Hence, complainant's absence during the hearings before the Integrated Bar of the Philippines is not a bar against a finding of administrative liability.

WHEREFORE, the findings of fact of the Integrated Bar of the Philippines are **ADOPTED** and **APPROVED**. Respondent Atty. Rene O. Medina is found to have violated Canon 7, Rule 7.03 of the Code of Professional Responsibility, and is **SUSPENDED** from the practice of law for three (3) months.

Let copies of this Resolution be attached to the personal records of respondent as attorney, and be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for proper dissemination to all courts throughout the country.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Brion, Peralta, Bersamin, del Castillo, Perez, Mendoza, Reyes, and *Caguioa, JJ.,* concur.

Leonardo-de Castro and *Perlas-Bernabe, JJ.,* on official business.

Jardeleza, J., on official leave.

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[67] *Id.*

EN BANC

[A.C. No. 10373. May 31, 2016]
(Formerly CBD Case No. 08-2280)

FLORA C. MARIANO, *petitioner, vs.* **ATTY. ANSELMO ECHANEZ,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; AUTHENTICATION AND PROOF OF DOCUMENTS; THE ACT OF NOTARIZATION BY A NOTARY PUBLIC CONVERTS A PRIVATE DOCUMENT INTO A PUBLIC DOCUMENT MAKING THAT DOCUMENT ADMISSIBLE IN EVIDENCE WITHOUT FURTHER PROOF OF AUTHENTICITY.— Time and again, this Court has stressed that notarization is not an empty, meaningless and routine act. It is invested with substantive public interest that only those who are qualified or authorized may act as notaries public. It must be emphasized that the act of notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of authenticity. A notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties.

2. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY; IN A NUMBER OF CASES, THE COURT HAS SUBJECTED LAWYERS TO DISCIPLINARY ACTION FOR NOTARIZING DOCUMENTS OUTSIDE THEIR TERRITORIAL JURISDICTION OR WITH EXPIRED COMMISSION; ESTABLISHED IN CASE AT BAR.— In the instant case, it is undisputable that Atty. Echanez performed notarial acts on several documents without a valid notarial commission. The fact of his lack of notarial commission at the time of the unauthorized notarizations was likewise sufficiently established by the certifications issued by the Executive Judges in the territory where Atty. Echanez performed the unauthorized notarial acts. Atty. Echanez, for misrepresenting in the said documents that he was a notary public for and in Cordon,

Isabela, when it is apparent and, in fact, uncontroverted that he was not, he further committed a form of falsehood which is undoubtedly anathema to the lawyer's oath. This transgression also runs afoul of Rule 1.01, Canon 1 of the Code of Professional Responsibility which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." In a number of cases, the Court has subjected lawyers to disciplinary action for notarizing documents outside their territorial jurisdiction or with an expired commission.

3. ID.; ID.; ID.; IMPOSABLE PENALTY.— In the case of *Nunga v. Viray,* a lawyer was suspended by the Court for three (3) years for notarizing an instrument without a commission. In *Zoreta v. Simpliciano,* the respondent was likewise suspended from the practice of law for a period of two (2) years and was permanently barred from being commissioned as a notary public for notarizing several documents after the expiration of his commission. In the more recent case of *Laquindanum v. Quintana,* the Court suspended a lawyer for six (6) months and was disqualified from being commissioned as notary public for a period of two (2) years because he notarized documents outside the area of his commission, and with an expired commission. x x x **WHEREFORE,** respondent Atty. Anselmo S. Echanez is hereby **SUSPENDED** from the practice of law for two (2) years and **BARRED PERMANENTLY** from being commissioned as Notary Public, effective upon his receipt of a copy of this decision with a stern warning that a repetition of the same shall be dealt with severely.

4. ID.; ID.; FAILURE TO ATTEND THE MANDATORY CONFERENCE AND TO SUBMIT HIS ANSWER AND POSITION PAPER WITHOUT ANY VALID EXPLANATION IS ENOUGH REASON TO MAKE A LAWYER ADMINISTRATIVELY LIABLE; PRESENT IN CASE AT BAR.— Likewise, Atty. Echanez' conduct in the course of proceedings before the IBP is also a matter of concern. Atty. Echanez, despite notices, did not even attempt to present any defense on the complaint against him. He did not even attend the mandatory conference set by the IBP. He ignored the IBP's directive to file his answer and position paper which resulted in the years of delay in the resolution of this case. Clearly, this conduct runs counter to the precepts of the Code of Professional Responsibility and violates the lawyers oath which

imposes upon every member of the Bar the duty to delay no man for money or malice. In *Ngayan v. Tugade,* we ruled that [a lawyer's] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despiciency for his oath of office in violation of Section 3, Rule 138 of the Rules of Court. Atty. Echanez's failure to attend the mandatory conference and to submit his Answer and Position paper without any valid explanation is enough reason to make him administratively liable since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a member thereof but more so because IBP is the Court-designated investigator of this case. As an officer of the Court, Atty. Echanez is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP.

D E C I S I O N

PERALTA, *J.*:

Before us is a Complaint Affidavit for Disbarment dated August 25, 2008[1] filed by Flora C. Mariano (*Mariano*) against respondent Atty. Anselmo Echanez (*Atty. Echanez*), for violation of the Notarial Law by performing notarial acts on documents without a notarial commission.

In support of her complaint, Mariano attached several documents to show proof that Atty. Echanez has indeed performed notarial acts without a notarial commission, to *wit*: (1) Complaint dated June 18, 2007;[2] (2) Joint-Affidavit of Gina Pimentel and Marilyn Cayaban dated May 8, 2008;[3] (3) Affidavit of Ginalyn Ancheta dated May 8, 2008;[4] and (4) Joint-Affidavit dated May

[1] *Rollo*, pp. 2-3.

[2] *Id.* at 9-13.

[3] *Id.* at 14-15.

[4] *Id.* at 17-18.

8, 2008.[5] Also attached to the complaint is a document containing the list of those who were issued notarial commissions for the year 2006-2007 signed by Executive Judge Efren Cacatian of the Regional Trial Court of Santiago City where Atty. Echanez's name was not included as duly appointed notary public.[6]

The Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*) ordered Atty. Echanez to submit his answer to the complaint against him.[7]

Atty. Echanez moved for extension to file his Answer but nevertheless failed to submit his Answer. Thus, the IBP-CBD, deemed Atty. Echanez to be in default.[8]

On July 24, 2009, during the mandatory conference, only Mariano appeared. The IBP-CBD directed the parties to submit their position papers but again only Mariano submitted her verified position paper.

In her position paper, Mariano maintained that Atty. Echanez is unauthorized to perform notarial services. To support her allegation, Mariano submitted the Certificate of Lack of Authority for a Notarial Act issued by Executive Judge Anastacio D. Anghad showing that Atty. Echanez has not been commissioned as a notary public for and within the jurisdiction of the RTC, Santiago City[9] at the time of the unauthorized notarization on May 8, 2008.[10] Mariano likewise attached a Certification issued by Executive Judge Efren M. Cacatian, RTC, Santiago City enumerating those lawyers who have been commissioned as notary public within and for the territorial jurisdiction of the RTC of Santiago City for the term of 2007-2008, which does not include Atty. Echanez's name.[11]

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[5] *Id.* at 19-20.

[6] *Id.* at 6.

[7] *Id.* at 21.

[8] *Id.* at 22-23.

[9] Includes the Municipalities of Cordon, Ramon and San Isidro.

[10] *Rollo*, p. 62.

[11] *Id.* at 67.

On May 14, 2011, the Board of Governors of the Integrated Bar of the Philippines issued a Resolution No. XIX-2011-273 remanding the case to the investigating commissioner to refer the documents to the clerk of court of the Regional Trial Court of Isabela who issued Atty. Echanez's notarial commission for proper verification.[12]

In its Report and Recommendation,[13] the IBP-CBD found Atty. Echanez liable for malpractice for notarizing documents without a notarial commission. The IBP-CBD further noted that Atty. Echanez ignored the processes of the Commission by failing to file an answer on the complaint, thus, it recommended that Atty. Echanez be suspended from the practice of law for two (2) years and that he be permanently barred from being commissioned as notary public.

In a Notice of Resolution No. XX-2013-850 dated June 22, 2013,[14] the IBP-Board of Governors adopted and approved *in toto* the Report and Recommendation of the IBP-CBD.

No motion for reconsideration has been filed by either party.

RULING

We concur with the findings and the recommended penalty of the IBP-CBD.

Time and again, this Court has stressed that notarization is not an empty, meaningless and routine act. It is invested with substantive public interest that only those who are qualified or authorized may act as notaries public. It must be emphasized that the act of notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of authenticity. A notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe with

[12] *Id.* at 68.

[13] *Id.* at 72-75.

[14] *Id.* at 71.

utmost care the basic requirements in the performance of their duties.[15]

In the instant case, it is undisputable that Atty. Echanez performed notarial acts on several documents without a valid notarial commission.[16] The fact of his lack of notarial commission at the time of the unauthorized notarizations was likewise sufficiently established by the certifications issued by the Executive Judges in the territory where Atty. Echanez performed the unauthorized notarial acts.[17]

Atty. Echanez, for misrepresenting in the said documents that he was a notary public for and in Cordon, Isabela, when it is apparent and, in fact, uncontroverted that he was not, he further committed a form of falsehood which is undoubtedly anathema to the lawyer's oath. This transgression also runs afoul of Rule 1.01, Canon 1 of the Code of Professional Responsibility which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."[18]

In a number of cases, the Court has subjected lawyers to disciplinary action for notarizing documents outside their territorial jurisdiction or with an expired commission. In the case of *Nunga v. Viray*,[19] a lawyer was suspended by the Court for three (3) years for notarizing an instrument without a commission. In *Zoreta v. Simpliciano*,[20] the respondent was likewise suspended from the practice of law for a period of two (2) years and was permanently barred from being commissioned as a notary public for notarizing several documents after the

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[15] *St. Louis University Laboratory High School (SLU-LHS) Faculty and Staff v. Dela Cruz*, 531 Phil. 213, 226 (2006); *Zaballero v. Montalvan*, 473 Phil. 18, 24 (2004).

[16] *Supra* notes 2-5.

[17] *Supra* notes 6 and 9.

[18] *Almazan v. Felipe*, A.C. No. 7184, September 17, 2014, 735 SCRA 230.

[19] 366 Phil. 155, 161 (1999).

[20] 485 Phil. 395 (2004).

expiration of his commission. In the more recent case of *Laquindanum v. Quintana*,[21] the Court suspended a lawyer for six (6) months and was disqualified from being commissioned as notary public for a period of two (2) years because he notarized documents outside the area of his commission, and with an expired commission.[22]

Likewise, Atty. Echanez' conduct in the course of proceedings before the IBP is also a matter of concern. Atty. Echanez, despite notices, did not even attempt to present any defense on the complaint against him. He did not even attend the mandatory conference set by the IBP. He ignored the IBP's directive to file his answer and position paper which resulted in the years of delay in the resolution of this case. Clearly, this conduct runs counter to the precepts of the Code of Professional Responsibility and violates the lawyers oath which imposes upon every member of the Bar the duty to delay no man for money or malice.

In *Ngayan v. Tugade*,[23] we ruled that [a lawyer's] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despiciency for his oath of office in violation of Section 3, Rule 138 of the Rules of Court.

Atty. Echanez's failure to attend the mandatory conference and to submit his Answer and Position paper without any valid explanation is enough reason to make him administratively liable since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a member thereof but more so because IBP is the Court-designated investigator of this case.[24] As an officer of the Court, Atty. Echanez is expected to know that a resolution of this Court is not a mere request but an

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[21] 608 Phil. 727 (2009).

[22] A.M. No. 09-6-1-SC, January 21, 2015 — RE: VIOLATION OF RULES ON NOTARIAL PRACTICE.

[23] 271 Phil. 654 (1991).

[24] *Vecino v. Ortiz*, 579 Phil. 14, 17 (2008).

order which should be complied with promptly and completely. This is also true of the orders of the IBP.[25]

WHEREFORE, respondent Atty. Anselmo S. Echanez is hereby **SUSPENDED** from the practice of law for two (2) years and **BARRED PERMANENTLY** from being commissioned as Notary Public, effective upon his receipt of a copy of this decision with a stern warning that a repetition of the same shall be dealt with severely.

Let copies of this decision be furnished all the courts of the land through the Office of the Court Administrator, the Integrated Bar of the Philippines, the Office of the Bar Confidant, and be recorded in the personal files of the respondent.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Brion, Bersamin, del Castillo, Perez, Mendoza, Reyes, Leonen, and *Caguioa, JJ.,* concur.

Leonardo-de Castro and *Perlas-Bernabe, JJ.,* on official business.

Jardeleza, J., on official leave.

EN BANC

[A.C. No. 10675. May 31, 2016]

DATU ISMAEL MALANGAS, *complainant, vs.* **ATTY. PAUL C. ZAIDE,** *respondent.*

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[25] *Gone v. Ga*, A.C. No. 7771, 662 Phil. 610, 617 (2011).

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; CODE OF PROFESSIONAL RESPONSIBILITY; DEMANDS THE UTMOST DEGREE OF FIDELITY AND GOOD FAITH IN DEALING WITH THE MONEYS ENTRUSTED TO LAWYERS BECAUSE OF THEIR FIDUCIARY RELATIONSHIP.— Respondent lawyer claims that as a mere associate in the Zaragoza-Macabangkit Law offices, "he has NO participation whatsoever regarding the fees the complainant is giving to the office." But, as pointed out by Commissioner Cachapero, respondent lawyer himself admitted that he received "₱7,000.00 for the docket fees and the rest [was paid] as advance fees for his services and the usual visitation done [by] him at the hospital." Because of this admission, it can be concluded that respondent lawyer received fees "for his services" from the complainant himself. Further bolstering the fact that respondent lawyer did in fact receive fees for his professional services are complainant's demand letters – one received on September 1, 2004 and another delivered by registered mail on September 9, 2004 – asking respondent lawyer to return the amount of ₱20,000.00 acceptance fee and to account for the docket fees paid to the RTC of Iligan City. x x x Finally, respondent lawyer's former law partners belied his claim that he did not receive, as in fact it was the law firm which received, the amounts paid by the complainant. x x x Respondent lawyer's refusal to account for the funds given to him, especially his refusal to return the amount paid in excess of what was required as docket fees, clearly violated Rules 16.01 and 16.03 of the CPR x x x. "The Code of Professional Responsibility demands the utmost degree of fidelity and good faith in dealing with the moneys entrusted to lawyers because of their fiduciary relationship." Any lawyer who does not live up to this duty must be prepared to take the consequences of his waywardness.

2. ID.; ID.; ID.; THE DUTY OF A LAWYER NOT TO NEGLECT A LEGAL MATTER ENTRUSTED TO HIM IS VIOLATED WHEN HE FAILS TO FILE THE APPROPRIATE PLEADING AND TO APPEAR AT THE HEARINGS IN CONNECTION THEREWITH.— By his deliberate failure to file a Comment on or Opposition to NEMA's Motion to Dismiss in said Civil Case No. 6380, and by his failure to

appear at the hearings in connection therewith, respondent lawyer unduly delayed the case as the trial court had to postpone the hearings thereon, and this, in turn, naturally arrested the progress of the case insofar as NEMA was concerned. x x x These failings are clearly offensive to Rules 18.03 and 18.04 of the CPR. If respondent lawyer's claim that he and complainant had indeed agreed to drop the case against NEMA were true, then he as an officer of the court should have saved the Court's precious time by at least promptly manifesting his lack of objection to NEMA's Motion to Dismiss. This he did not do.

3. ID.; ID.; NEED NOT ONLY ENJOY THE REWARDS AND PRIVILEGES OF AN ATTORNEY BUT SHOULD TAKE THE HEAVY BURDEN OF RESPONSIBILITY AND DUTY THAT A FULL-FLEDGED MEMBERSHIP IN THE PHILIPPINE BAR NECESSARILY ENTAILS.— Given the gravity of the offenses imputed against him, and considering that this is his second administrative case, respondent lawyer's defense that he was a young lawyer when he went astray, hardly merits sympathy from this Court. Surely respondent lawyer could not have been unaware that when he took the solemn oath to become a member of the bar, he did so not only to enjoy the rewards and privileges of an attorney and counsellor at law, but he also took upon his shoulders the heavy burden of responsibility and duty that a full-fledged membership in the Philippine Bar necessarily entailed. Respondent lawyer could not have been oblivious of the fact that the exercise of a right or privilege is always encumbered with the burden of responsibility and duty.

APPEARANCES OF COUNSEL

Dulcesimo Tampus for complainant.

R E S O L U T I O N

DEL CASTILLO, *J.*:

Before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP), complainant Datu Ismael

Malangas (complainant) instituted this verified complaint[1] for disbarment against Atty. Paul C. Zaide (respondent lawyer).

Factual Antecedents

Complainant accused respondent lawyer of committing acts of dishonesty, breach of trust, and violation of the Canons of Judicial Ethics[2] in relation to the complaint for damages (Civil Case No. 6380 of the Regional Trial Court [RTC] of Lanao del Norte at Iligan City) that he filed against Paul Alfeche (Alfeche) and the NEMA Electrical and Industrial Sales, Inc./ Melanio Siao (NEMA). Complainant averred that on March 6, 2003, he figured in an accident while crossing Quezon Avenue, Iligan City, when two vehicles hit and pinned him in between them, causing him to lose consciousness; that he was then brought to a hospital where he was confined for four months; that he was later transferred to other hospitals where he underwent different major operations for which he spent more than ₱1.5 million; and that despite the operations, he remained crippled and bed ridden.

Because of these, he engaged respondent lawyer's professional services to prosecute his complaint for damages against therein defendants Alfeche and NEMA; that he gave respondent lawyer ₱20,000.00 as acceptance fee and ₱50,000.00 as filing fees; that respondent lawyer made him believe that the amount of ₱50,000.00 was needed as filing fees in order to commence a ₱5 million-damage suit covering the accrued and anticipated damages caused by the accident; that subsequently, respondent lawyer filed on his behalf a complaint for damages before the RTC of Iligan City, thereat docketed as Civil Case No. 6380; that respondent lawyer then furnished him (complainant) with a copy of said Complaint seeking to recover damages in the amount of ₱5 million; and that to assure him that the complaint had indeed been filed, this complaint was stamped "received" by the RTC.

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[1] *Rollo*, pp. 3-9.

[2] Should be CODE OF PROFESSIONAL RESPONSIBILITY.

According to complainant, he later discovered, however, that his Complaint had been dismissed by the RTC because of "failure to prosecute," for the reason that respondent lawyer did not attend two hearings in the case, and also because respondent lawyer did not submit an Opposition to the Motion to Dismiss filed therein by NEMA; that on account of this, he asked respondent lawyer to file a Motion for Reconsideration, only to find out later that respondent lawyer not only did not file a motion for reconsideration from the Order of dismissal issued by the RTC, but worse, respondent lawyer instead filed a Withdrawal of Appearance as counsel effectively leaving him without counsel to prosecute his case; and that after this, he sent a relative to the RTC, where he further discovered through this relative that the amount of damages sought in the Complaint filed by respondent lawyer was only ₱250,000.00, and not ₱5 million, as stated in the copy of the Complaint given to him by respondent lawyer.

Challenging complainant's allegations, respondent lawyer claimed that complainant was in fact a client of the Zaragoza-Macabangkit Law Offices, a law firm that he joined way back in 2002, right after he passed the Bar Examinations; and that as a junior associate in that law firm, he only received appearance fees in attending to complainant's civil case. Respondent lawyer specifically denied that he received an acceptance fee of ₱20,000.00, and explained that complainant was already an established client of the law office he was working for.

As regards the amount of damages, respondent lawyer claimed that in the Complaint he filed before the RTC, he was even reluctant to ask for ₱250,000.00 in damages, as complainant's hospital bills did not reach this amount; but that he nevertheless prayed for this amount because he was anticipating that complainant would incur additional expenses as a result of the accident. According to respondent lawyer, the complaint which embodied a prayer for ₱5 million in damages "was clearly maneuvered to create an impression that (he, respondent lawyer) defrauded the complainant."[3]

[3] *Rollo*, p. 51.

Lastly, respondent lawyer contended that although he deliberately skipped attending the hearings set by the RTC in said Civil Case No. 6380, and that although he also intentionally filed no opposition to NEMA's Motion to Dismiss, these matters were initially agreed upon between him and complainant after he (respondent lawyer) discovered that NEMA's car did not in fact hit complainant, because NEMA's car was not illegally parked where it was at the time of the accident; that although complainant was aware of these facts, complainant suddenly changed his mind, and insisted on continuing with the case against NEMA, and pressing for the claim of ₱5 million in damages, because complainant believed that NEMA had more leviable properties than the other defendant Alfeche. According to respondent lawyer, he also found out that despite the fact that Alfeche had already settled with complainant, the latter still persisted in pursuing the civil case against Alfeche;[4] that at this point, he realized that complainant was acting under the compulsion of greed in pressing for the continuation of the case against his adversaries; and that because of these reasons, he decided to withdraw from the case as complainant's counsel.

Proceedings before the Integrated Bar of the Philippines

Following the investigation, Commissioner Oliver A. Cachapero of the IBP Commission on Bar Discipline submitted his Report and Recommendation[5] dated January 29, 2013 finding respondent lawyer guilty of dishonesty and breach of trust, for which he recommended a penalty of two years suspension against respondent lawyer. Commissioner Cachapero found complainant's allegations more credible than respondent lawyer's explanations, thus —

> Respondent further mentioned that he has been handling cases for or against Complainant since he embarked on law practice and has never received acceptance fee from Complainant. He pictured himself as giving out *pro bono* services to Complainant for two (2)

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[4] *Id.* at 60.

[5] *Id.* at 372-377.

years. However, he may have contradicted his declaration in this regard when in his Answer he mentioned that he received ₱7,000.00 for docket fee and the rest was paid as advance fees for his services and the usual visitation done by him at the hospital.[6]

As regards the true amount of damages sought in said Civil Case No. 6380, Commissioner Cachapero had this to say:

The undersigned deems the complainant's tale plausible enough. The aforesaid page containing a statement of claim amounting to ₱5,000,000.00 shows impeccably that it was typed simultaneously with the rest of the pages of the complaint. There is no showing that it was merely inserted as a supplement or addition after taking out a genuine page of the same. It is a constituent part of the complaint which could only have been printed and/or typed by the respondent or his agent.

Respondent claimed that the insertion of the page (*page 8*) was 'maneuvered' by Complainant. If these were true, what would have motivated Complainant to do such a 'switching' act? None. In fact, following his discovery of the same, he conducted himself out like a man wronged. He wrote respondent twice in September 2004 (September 1 and 9, 2004) and castigated respondent for his switching act. Surprisingly, respondent did not care to take the matter up with complainant through letter or personal confrontation. To the undersigned, respondent's act of paying no heed to such claim from Complainant reveals a subtle affirmation of his fault in this regard.[7]

Ultimately, Commissioner Cachapero found respondent lawyer negligent in the handling of complainant's case, citing the RTC's Order of July 1, 2004, to wit —

In this regard the record will show that as early as May 18, 2004, plaintiff's counsel was furnished a copy of said motion, but for reasons only known to him no comment or opposition was registered by plaintiff. In fact, if only to afford plaintiff [a chance] to countervail movant's motion, last May 24, 2004, as prayed for, plaintiff's counsel was given ten (10) days to file an Opposition, but sad to say, until now, notwithstanding the lapse of practically 37 days no opposition,

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[6] *Id.* at 375.

[7] *Id.* at 376.

neither a comment was filed by plaintiff. With this development the Court will have to confine its scrutiny solely on the motion to dismiss of movant.[8]

Action of the IBP Board of Governors

Via Resolution No. XX-2013-91,[9] the IBP Board of Governors adopted and approved the Report and Recommendation of Commissioner Cachapero, *viz.*:

> RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex 'A', and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that Respondent committed Dishonesty, Breach of Trust and Negligence to Complainant, Atty. Paul C. Zaide is hereby SUSPENDED from practice of law for two (2) years.

On January 11, 2014[10] respondent lawyer moved for reconsideration of the foregoing Resolution. But in its Resolution[11] of May 4, 2014, the IBP Board of Governors denied respondent lawyer's Motion for Reconsideration.

Our Ruling

After a careful review of the records, we find respondent lawyer guilty of professional misconduct and of violating Canons 1,[12] 16,[13] and 18[14] of the Code of Professional Responsibility

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[8] *Id.* at 376-377.

[9] *Id.* at 371.

[10] *Id.* at 378-397.

[11] *Id.* at 440-441.

[12] Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

[13] Rule 16.01 — A lawyer shall account for all money or property collected or received for or from the client.

Rule 16.03 — A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the

(CPR). Not only do we find complainant's version more credible but we also note the glaring inconsistencies in respondent lawyer's allegations.

Respondent lawyer claims that as a mere associate in the Zaragoza-Macabangkit Law offices, "he has NO participation whatsoever regarding the fees the complainant is giving to the office."[15] But, as pointed out by Commissioner Cachapero, respondent lawyer himself admitted that he received "₱7,000.00 for the docket fees and the rest [was paid] as advance fees for his services and the usual visitation done [by] him at the hospital."[16] Because of this admission, it can be concluded that respondent lawyer received fees "for his services" from the complainant himself.

Further bolstering the fact that respondent lawyer did in fact receive fees for his professional services are complainant's demand letters[17] — one received on September 1, 2004 and another delivered by registered mail on September 9, 2004 — asking respondent lawyer to return the amount of ₱20,000.00 acceptance fee and to account for the docket fees paid to the RTC of Iligan City. To these, respondent lawyer merely replied that he "was made to understand that the 'docket fee' in Alfeche case is part of [respondent's] claims"[18] without denying that he had received

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funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

[14] Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Rule 18.04 — A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

[15] *Rollo*, p. 382.

[16] *Id.* at 58.

[17] *Id.* at 35-36.

[18] *Id.* at 33.

such amount. The complainant was thus constrained to conduct his own investigation against his own lawyer, in the course of which he discovered that of the ₱50,000.00 alleged filing fees that he gave respondent lawyer, only ₱2,623.60 was paid by respondent lawyer to the RTC. As Commissioner Cachapero aptly stated in his Report and Recommendation,[19] "[r]espondent's act of paying no heed to such claim from [c]omplainant reveals a subtle affirmation" that he, indeed, received the acceptance fee.

Finally, respondent lawyer's former law partners belied his claim that he did not receive, as in fact it was the law firm which received, the amounts paid by the complainant. In their Joint Affidavit,[20] lawyers Leo M. Zaragoza and Alex E. Macabangkit averred that "the payment made by complainant to Atty. Zaide belongs to him exclusively and we do not interfere in the arrangement x x x and we do not [have] any share thereof."[21]

Respondent lawyer's refusal to account for the funds given to him, especially his refusal to return the amount paid in excess of what was required as docket fees, clearly violated Rules 16.01 and 16.03 of the CPR, to wit:

> Rule 16.01 — A lawyer shall account for all money or property collected or received for or from the client.
>
> Rule 16.03 — A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

"The Code of Professional Responsibility demands the utmost degree of fidelity and good faith in dealing with the moneys entrusted to lawyers because of their fiduciary relationship."[22]

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[19] *Id.* at 376.

[20] *Id.* at 409-411.

[21] *Id.* at 409.

[22] *Tarog v. Atty. Ricafort,* 660 Phil. 618, 630 (2011).

Any lawyer who does not live up to this duty must be prepared to take the consequences of his waywardness.

As regards the alleged switching of page 8 of the complaint, respondent lawyer claimed that it was complainant who switched the pages "to create an impression that respondent lawyer defrauded the complainant."[23] He asserted in his Motion for Reconsideration that he came to learn of the ₱5 million claim only during the disbarment proceedings and that he "thought it was a joke as respondent lawyer was NOT able to attend the preliminary conference at the IBP Cagayan de Oro City, where he could have seen the document."[24] That respondent lawyer seems to find it hard to get together with himself is shown by the fact that on the very same page of his Motion for Reconsideration, he himself admitted that "when respondent lawyer was told of the amount, he asked the clerk of the office to change it to a more reasonable and realistic relief, which was eventually heeded, which respondent lawyer was NOT aware that herein complainant was able to get a draft copy prepared by the office."[25] To borrow Commissioner Cachapero's apt observation, this obvious contradiction renders his defense doubtful, to say the least. Notably, respondent lawyer's former law partners also belied his claim that Lorna B. Martinez, the person who supposedly typed the Complaint, was a personnel of their law firm. In their Joint Affidavit, they contended that "Lorna B. Martinez was never our Office Staff. She never prepared any pleading in the office for any of us including that of Atty. Zaide."[26]

Respondent lawyer's transgressions did not end there. By his deliberate failure to file a Comment on or Opposition to NEMA's Motion to Dismiss in said Civil Case No. 6380, and by his failure to appear at the hearings in connection therewith,

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[23] *Rollo*, p. 51.

[24] *Id.* at 383.

[25] *Id.*

[26] *Id.* at 410.

respondent lawyer unduly delayed the case as the trial court had to postpone the hearings thereon, and this, in turn, naturally arrested the progress of the case insofar as NEMA was concerned. As previously mentioned, the RTC had to put off for 37 days its ruling on NEMA's Motion to Dismiss because respondent lawyer moved for time to oppose the same. Yet, despite the 10-day extension given to him, respondent lawyer still failed to appear at the hearings or file the appropriate pleading. These failings are clearly offensive to Rules 18.03[27] and 18.04[28] of the CPR. If respondent lawyer's claim that he and complainant had indeed agreed to drop the case against NEMA were true, then he as an officer of the court should have saved the Court's precious time by at least promptly manifesting his lack of objection to NEMA's Motion to Dismiss. This he did not do.

Given the gravity of the offenses imputed against him, and considering that this is his second administrative case,[29] respondent lawyer's defense that he was a young lawyer when he went astray, hardly merits sympathy from this Court. Surely respondent lawyer could not have been unaware that when he took the solemn oath to become a member of the bar, he did so not only to enjoy the rewards and privileges of an attorney and counsellor at law, but he also took upon his shoulders the heavy burden of responsibility and duty that a full-fledged membership in the Philippine Bar necessarily entailed. Respondent lawyer could not have been oblivious of the fact that the exercise of a right or privilege is always encumbered with the burden of responsibility and duty.

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[27] Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

[28] Rule 18.04 — A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

[29] See *Gimeno v. Atty. Zaide*, A.C. No. 10303, April 22, 2015. Therein respondent lawyer was found guilty of violating the 2004 Rules on Notarial Practice and for using intemperate, offensive, and abusive language. His notarial commission was revoked; he was also disqualified from being commissioned as a notary public for a period of two years. He was likewise suspended from the practice of law for one year.

WHEREFORE, Atty. Paul C. Zaide is hereby **SUSPENDED** from the practice of law for two (2) years effective immediately. Atty. Paul C. Zaide is also **ORDERED** to promptly return to complainant the sums given to him as acceptance fee and docket fees in the amount of ₱70,000.00, from which should be deducted the amount of ₱2,623.60 paid as docketing fees.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Brion, Peralta, Bersamin, Perez, Mendoza, Reyes, Leonen, and *Caguioa, JJ.,* concur.

Leonardo-de Castro, Perlas-Bernabe, and *Jardeleza, JJ.,* on official leave.

EN BANC

[G.R. No. 217725. May 31, 2016]

GLENN A. CHONG and ANG KAPATIRAN PARTY, represented by NORMAN V. CABRERA, *petitioners, vs.* **SENATE OF THE PHILIPPINES, represented by SENATE PRESIDENT FRANKLIN M. DRILON; HOUSE OF REPRESENTATIVES, represented by SPEAKER FELICIANO S. BELMONTE, JR.; COMMISSION ON ELECTIONS, represented by ACTING CHAIRPERSON CHRISTIAN ROBERT S. LIM; ADVISORY COUNCIL, represented by UNDERSECRETARY LOUIS NAPOLEON C. CASAMBRE; TECHNICAL EVALUATION COMMITTEE, represented by DOST SECRETARY MARIO G. MONTEJO; DEPARTMENT OF BUDGET AND MANAGEMENT, headed by SECRETARY FLORENCIO B. ABAD,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ELECTION LAWS; RA 8436 (ACT AUTHORIZING THE COMELEC TO USE AUTOMATED ELECTION SYSTEM (AES) IN THE MAY 11, 1998 ELECTIONS AND IN SUBSEQUENT ELECTIONS), AS AMEMDED BY RA 9369; CREATION OF AN ADVISORY COUNCIL (AC) AND A TECHNICAL EVALUATION COMMITTEE (TEC) DOES NOT UNDERMINE THE INDEPENDENCE OF THE COMELEC AND INFRINGE UPON ITS POWER AS THE FUNCTIONS OF THE AC AND TEC ARE MERELY ADVISORY AND RECOMMENDATORY IN NATURE.— The crux of this petition is whether Sections 8, 9, 10 and 11 of R.A. No. 8436, as amended by Section 9 of R.A. No. 9369, insofar as they provide for the creation of the AC and the TEC, are unconstitutional for allegedly being violative of Section 2 (1), Article IX-C of the 1987 Constitution. x x x The petitioners conclude that with the creation of the AC and the TEC, pursuant to Sections 8, 9, 10 and 11 of R.A. No. 8436, the Congress undermine the independence of the COMELEC and infringe upon its power. The Court, however, finds that the petitioners' thesis finds no support in the evidence presented. A careful examination of the assailed provisions would reveal that the AC and the TEC's functions are merely advisory and recommendatory in nature. The AC's primordial task is to recommend the most appropriate technology to the AES, while the TEC's sole function is to certify that the AES, including its hardware and software components, is operating properly, securely and accurately, in accordance with the provisions of law. x x x Evidently, the AC and the TEC were created to aid the COMELEC in fulfilling its mandate and authority to use an effective AES for free, orderly, honest, peaceful, credible and informed elections. The actions of the AC and the TEC neither bind nor prohibit the COMELEC from enforcing and administering election laws. Moreso, the AC and the TEC are not permanent in nature. This is evident in Sections 8 and 11 of R.A. No. 8436, as amended. x x x Lastly, the petitioners have failed to discharge the burden of overcoming the presumption that the assailed provisions are valid and constitutional since they failed to present substantial evidence to support their claim. Besides, the constitutionality of R.A.

No. 9369 has already been upheld by this Court in *Barangay Association for National Advancement and Transparency (BANAT) Party-List v. COMELEC.*

2. ID.; STATUTORY CONSTRUCTION; EVERY LAW IS PRESUMED VALID; COURTS ADOPT A LIBERAL INTERPRETATION IN FAVOR OF THE CONSTITUTIONALITY OF LEGISLATION.— Settled is the rule that every law is presumed valid. Courts are to adopt a liberal interpretation in favor of the constitutionality of legislation, as Congress is deemed to have enacted a valid, sensible, and just law.[14] To strike down a law as unconstitutional, the petitioners have the burden to prove a clear and unequivocal breach of the Constitution. In case of doubt in the sufficiency of proof establishing unconstitutionality, the Court must sustain legislation because to invalidate a law based on baseless supposition is an affront to the wisdom not only of the legislature that passed it but also of the executive which approved it.

APPEARANCES OF COUNSEL

Manuelito R. Luna for petitioners.
The Solicitor General for respondents.

D E C I S I O N

REYES, *J.*:

This petition for *certiorari*[1] and/or prohibition with prayer for the issuance of a writ of preliminary injunction and/or a temporary restraining order, assails the constitutionality of Sections 8, 9, 10 and 11 of Republic Act (R.A.) No. 8436,[2] as

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[1] *Rollo*, pp. 3-54.

[2] AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES. Approved on December 22, 1997.

amended by Section 9[3] of R.A. No. 9369,[4] providing for the

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[3] **SEC. 9**. New Sections 8, 9, 10 and 11 are hereby provided to read as follows:

"SEC. 8. *The Advisory Council*. — The Commission shall create an Advisory Council, hereafter referred to as the Council, which shall be convened not later than eighteen (18) months prior to the next scheduled electoral exercise, and deactivated six months after completion of canvassing: *Provided*, for purposes of the 2007 elections, the Advisory Council shall be immediately convened within ten (10) days after the effectivity of this Act.

The Council shall be composed of the following members, who must be registered Filipino voters, of known independence, competence and probity:

(a) The Chairman of the Commission on Information and Communications Technology (CICT) who shall act as the chairman of the Council;

(b) One member from the Department of Science and Technology;

(c) One member from the Department of Education;

(d) One member representing the academe, to be selected by the chair of the Advisory Council from among the list of nominees submitted by the country's academic institutions;

(e) Three members representing ICT professional organizations to be selected by the chair of the Advisory Council from among the list of nominees submitted by Philippine-based ICT professional organizations. Nominees shall be individuals, at least one of whom shall be experienced in managing or implementing large-scale IT projects.

(f) Two members representing non-governmental electoral reform organizations, to be selected by the chair of the Advisory Council from among the list of nominees submitted by the country's non-governmental electoral reform organizations.

A person who is affiliated with any political party or candidate for any national position, or is related to a candidate for any national position by affinity or consanguinity within the fourth civil degree, shall not be eligible for appointment or designation to the Advisory Council. Should any such situation arise at any time during the incumbency of a member, the designation or appointment of that member, shall *ipso facto* be terminated.

Any member of the Advisory Council is prohibited from engaging, directly or indirectly, with any entity that advocates, markets, imports, produces or in any manner handles software, hardware or any equipment that may be used for election purposes for personal gain.

Any violation of the two immediate preceding paragraphs shall disqualify said member from the Advisory Council and shall be punishable as provided in this Act and shall be penalized in accordance with the Anti-Graft and Corrupt Practices Act and other related laws.

The council may avail itself of the expertise and services of resource persons who are of known independence, competence and probity, are

creation of an Advisory Council (AC) and a Technical Evaluation Committee (TEC), on the ground that it encroaches on the

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nonpartisan, and do not posses any of the disqualifications applicable to a member of the Advisory Council as provided herein. The resource persons shall also be subject to the same prohibitions and penalties as the members of the Advisory Council.

The Commission on Information and Communications Technology (CICT), shall include in its annual appropriation the funds necessary to enable the Council to effectively perform its functions."

"SEC. 9. *Functions of the Advisory Council.* — The Council shall have the following functions:

1. Recommend the most appropriate, secure, applicable and cost-effective technology to be applied in the AES, in whole or in part, at that specific point in time.

2. Participate as nonvoting members of the Bids and Awards Committee in the conduct of the bidding process for the AES. Members of the Advisory Council representing the ICT professional organizations are hereby excluded from participating in any manner in the Bids and Awards Committee.

3. Participate as nonvoting members of the steering committee tasked with the implementation of the AES. Members of the Advisory Council representing the ICT professional organizations are hereby excluded from participating in any manner in the steering committee.

4. Provide advice and assistance in the review of the systems planning, inception, development, testing, operationalization, and evaluation stages.

5. Provide advice and/or assistance in the identification, assessment and resolution of systems problems or inadequacies as may surface or resurface in the course of the bidding, acquisition, testing, operationalization, re-use, storage or disposition of the AES equipment and/or resources as the case may be.

6. Provide advice and/or assistance in the risk management of the AES especially when a contingency or disaster situation arises.

7. Prepare and submit a written report, which shall be submitted within six months from the date of the election to the oversight committee, evaluating the use of the AES.

Nothing in the role of the Council or any outside intervention or influence shall be construed as an abdication or diminution of the Commission's authority and responsibility for the effective development, management and implementation of the AES and this Act.

The Advisory Council shall be entitled to a just and reasonable amount of *per diem* allowances and/or *honoraria* to cover the expenses of the services rendered chargeable against the budget of the Commission."

Commission on Elections' (COMELEC) mandate to administer

"SEC. 10. *The Technical Evaluation Committee.* — The Commission, in collaboration with the chairman of the Advisory Council, shall establish an independent technical evaluation committee, herein known as the Committee, composed of a representative each from the Commission, the Commission on Information and Communications Technology and the Department of Science and Technology who shall act as chairman of the Committee.

The Committee shall be immediately convened within ten (10) days after the effectivity of this Act."

"SEC. 11. *Functions of the Technical Evaluation Committee*. — The Committee shall certify, through an established international certification entity to be chosen by the Commission from the recommendations of the Advisory Council, not later than three months before the date of the electoral exercise, categorically stating that the AES, including its hardware and software components, is operating properly, securely, and accurately, in accordance with the provisions of this Act based, among others, on the following documented results:

1. The successful conduct of a field testing process followed by a mock election event in one or more cities/municipalities;
2. The successful completion of audit on the accuracy, functionality and security controls of the AES software;
3. The successful completion of a source code review;
4. A certification that the source code is kept in escrow with the Bangko Sentral ng Pilipinas;
5. A certification that the source code reviewed is one and the same as that used by the equipment; and
6. The development, provisioning, and operationalization of a continuity plan to cover risks to the AES at all points in the process such that a failure of elections, whether at voting, counting or consolidation, may be avoided.

For purposes of the 2007 elections, the certification shall be done not later than eight weeks prior to the date of the elections.

If the Commission decides to proceed with the use of the AES without the Committee's certification, it must submit its reason in writing, to the Oversight Committee, no less than thirty (30) days prior to the electoral exercise where the AES will be used.

The Committee may avail itself of the expertise and services of resource persons who are of known independence, competence and probity, are nonpartisan, and who do not possess any of the disqualifications applicable to a member of the Advisory Council as provided herein. The resource persons shall also be subject to the same prohibitions and penalties as the members of the Advisory Council.

and enforce all laws relating to the elections as provided for in Section 2 (1),[5] Article IX-C of the 1987 Constitution.

The Facts

The factual background of this case dates back to the enactment of R.A. No. 8436 on December 22, 1997 authorizing the adoption of an automated election system (AES) in the May 11, 1998 national and local elections and onwards. On January 23, 2007, R.A. No. 9369 was signed into law, amending R.A. No. 8436. Of particular relevance in R.A. No. 9369 are Sections 8, 9, 10 and 11 which calls for the creation of the AC and the TEC.

In *Roque, Jr., et al. v. COMELEC, et al.*,[6] the Court stated that the AC is to recommend, among other functions, the most appropriate, secure, applicable and cost-effective technology to be applied to the AES; while the TEC is tasked to certify, through an established international certification committee, not later than three months before the elections, by categorically stating that the AES, inclusive of its hardware and software components, is operating properly and accurately based on defined and documented standards.[7]

Nevertheless, almost eight years after the passage of R.A. No. 9369, and almost six years after the conclusion of the 2010 elections, and just several months before the 2016 elections, Glenn Chong and Ang Kapatiran Party (petitioners) came to

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The Committee shall closely coordinate with the steering committee of the Commission tasked with the implementation of the AES in the identification and agreement of the project deliverables and timelines, and in the formulation of the acceptance criteria for each deliverable."

[4] AN ACT AMENDING REPUBLIC ACT NO. 8436. Approved on January 23, 2007.

[5] **Section 2.** The Commission on Elections shall exercise the following powers and functions:

1. Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

[6] 615 Phil. 149 (2009).

[7] *Id.* at 192.

this Court to assail the constitutionality of the creation of the AC and the TEC. According to the petitioners: (1) the AC and the TEC are so patently incompatible with a functioning COMELEC; (2) a mere AC should not be allowed to dictate upon the COMELEC in regard with the technology to be applied in the AES; and (3) the recommendation of the AC for the COMELEC to re-use the Precinct Count Optical Scan machines, Consolidation and Canvassing System, peripherals, laptops, equipment, software, *etcetera*, in the 2016 elections, as well as its past actions, are patent nullities.

In compliance with the Court's Resolution[8] dated June 16, 2015, the respondents submitted its Comment.[9] Summing up the arguments of the respondents, they essentially stated that: (1) the existence of the AC and the TEC does not limit or prevent the exercise of the COMELEC's constitutional mandate to enforce election laws; (2) the AC and the TEC merely ensure that the COMELEC will put in place an effective AES that will clearly and accurately reflect the will of the sovereign people; (3) the power to provide these safeguards is within the authority of the Congress, whose power includes the power to ensure the faithful execution of its policies; and (4) the assailed provisions of R.A. No. 8436, as amended by Section 9 of R.A. No. 9369 enjoys the presumption of constitutionality.

The Issue

The crux of this petition is whether Sections 8, 9, 10 and 11 of R.A. No. 8436, as amended by Section 9 of R.A. No. 9369, insofar as they provide for the creation of the AC and the TEC, are unconstitutional for allegedly being violative of Section 2 (1), Article IX-C of the 1987 Constitution.

Ruling of the Court

The petition has no merit.

The petitioners conclude that with the creation of the AC and the TEC, pursuant to Sections 8, 9, 10 and 11 of R.A. No.

[8] *Rollo*, pp. 78-79.

[9] *Id.* at 104-149.

8436, the Congress undermine the independence of the COMELEC and infringe upon its power.

The Court, however, finds that the petitioners' thesis finds no support in the evidence presented. A careful examination of the assailed provisions would reveal that the AC and the TEC's functions are merely advisory and recommendatory in nature. The AC's primordial task is to recommend the most appropriate technology to the AES, while the TEC's sole function is to certify that the AES, including its hardware and software components, is operating properly, securely and accurately, in accordance with the provisions of law.

The functions of the AC are recommendatory, as can be gleaned from the assailed provision itself in Section 9 of R.A. No. 8436 which provides that the functions of the AC are merely to recommend, to provide advice and/or assistance, and to participate as nonvoting members with respect to the COMELEC's fulfillment of its mandate and authority to use the AES, and which in all instances, is subject to the approval and final decision of the COMELEC. On the other hand, the TEC's exclusive function is to certify, through an established international certification entity to be chosen by the COMELEC from the recommendations of the AC that the AES, including its hardware and software components, is operating properly, securely, and accurately, in accordance with the provisions of law.

The Court has conspicuously observed that the petitioners expediently removed in their petition the following paragraph when they quoted Section 9 of R.A. No. 9369 which amended Section 9 of R.A. No. 8436, which recognizes the authority of the COMELEC to enforce the said laws:

> Nothing in the role of the Council or any outside intervention or influence shall be construed as an abdication or diminution of the Commission's authority and responsibility for the effective development, management and implementation of the AES and this Act.

Evidently, the AC and the TEC were created to aid the COMELEC in fulfilling its mandate and authority to use an effective AES for free, orderly, honest, peaceful, credible and

informed elections. The actions of the AC and the TEC neither bind nor prohibit the COMELEC from enforcing and administering election laws.

Moreso, the AC and the TEC are not permanent in nature. This is evident in Sections 8 and 11 of R.A. No. 8436, as amended. The AC shall be convened not later than 18 months prior to the next scheduled electoral exercise, and deactivated six months after completion of canvassing, while the TEC shall be immediately convened within 10 days after the effectivity of R.A. No. 9369; however, the TEC shall make the certification not later than three months before the date of the electoral exercises.

Lastly, the petitioners have failed to discharge the burden of overcoming the presumption that the assailed provisions are valid and constitutional since they failed to present substantial evidence to support their claim.

Besides, the constitutionality of R.A. No. 9369 has already been upheld by this Court in *Barangay Association for National Advancement and Transparency (BANAT) Party-List v. COMELEC*.[10] In the said case, therein petitioners alleged that R.A. No. 9369 violates Section 26 (1), Article VI of the 1987 Constitution, claiming that the title of R.A. No. 9369 is misleading because it speaks of poll automation but contains substantial provisions dealing with the manual canvassing of election returns. They further alleged that Sections 34, 37, 38, and 43 are neither embraced in the title nor germane to the subject matter of R.A. No. 9369. The Court then sustained the constitutionality of R.A. No. 9369 holding that a title which declares a statute to be an act to amend a specified code is sufficient and the precise nature of the amendatory act need not be further stated. Moreso, the assailed provisions dealing with the amendments to specific provisions of R.A. No. 7166[11] and Batas Pambansa

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[10] 612 Phil. 793 (2009).

[11] AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR, AND FOR OTHER PURPOSES. Approved on November 26, 1991.

Bilang 881[12] are likewise germane to the subject matter of R.A. No. 9369.

Settled is the rule that every law is presumed valid.[13] Courts are to adopt a liberal interpretation in favor of the constitutionality of legislation, as Congress is deemed to have enacted a valid, sensible, and just law.[14] To strike down a law as unconstitutional, the petitioners have the burden to prove a clear and unequivocal breach of the Constitution. In case of doubt in the sufficiency of proof establishing unconstitutionality, the Court must sustain legislation because to invalidate a law based on baseless supposition is an affront to the wisdom not only of the legislature that passed it but also of the executive which approved it.[15]

All told, the Court finds no clear violation of the Constitution which would warrant a pronouncement that Sections 8, 9, 10 and 11 of R.A. No. 8436, as amended by Section 9 of R.A. No. 9369, are unconstitutional and vo*id.* The power to enforce and administer R.A. No. 8436, as amended by R.A. No. 9369, is still exclusively lodged in the COMELEC, and the AC and the TEC may not substitute its own opinion for the judgment of the COMELEC, thus:

> In sum, the Congress created the [AC] and the TEC not to encroach upon the exclusive power of the COMELEC to enforce and administer laws relating to the conduct of the elections, but to (1) ensure that the COMELEC is guided and assisted by experts in the field of technology in adopting the most effective and efficient [AES]; and (2) to ensure clean elections by having disinterested parties closely

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[12] OMNIBUS ELECTION CODE OF THE PHILIPPINES. Approved on December 3, 1985.

[13] *Lawyers Against Monopoly and Poverty (LAMP), et al. v. The Secretary of Budget and Management, et al.*, 686 Phil. 357, 372 (2012), citing *Fariñas v. The Executive Secretary*, 463 Phil. 179, 197 (2003).

[14] *Id.*

[15] *Smart Communications, Inc. v. Municipality of Malvar, Batangas*, 727 Phil. 430, 447 (2014), citing *Lawyers Against Monopoly and Poverty (LAMP), et al. v. The Secretary of Budget and Management, et al.*, *supra* note 13, at 373.

monitor the COMELEC in procuring systems that operate properly, securely, and accurately. As such, it is apparent that, through the [AC] and the TEC, the Congress merely checks and balances the power of the COMELEC to enforce and administer R.A. No. 8436, as amended by R.A. No. 9369. It does not, however, substitute its own wisdom for that of the COMELEC.[16]

WHEREFORE, the instant petition is hereby **DISMISSED**.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Brion, Peralta, Bersamin, del Castillo, Perez, Mendoza, Leonen, and *Caguioa, JJ.,* concur.

Leonardo-de Castro and *Perlas-Bernabe, JJ.,* on official business

Jardeleza, J., on official leave.

EN BANC

[G.R. No. 218363. May 31, 2016]

ENGR. ARTEMIO A. QUINTERO, JR., GENERAL MANAGER, CAUAYAN CITY WATER DISTRICT (CCWD) CAUAYAN CITY, ISABELA, *petitioner, vs.* **COMMISSION ON AUDIT,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; CAUAYAN CITY WATER DISTRICT (CCWD); BOARD OF DIRECTORS (BOD); POWER TO FIX THE COMPENSATION OF ITS GENERAL MANAGER (GM) UNDER SEC. 23 OF PD 198 AS AMENDED BY SEC. 2 OF RA 9286; MUST OBSERVE

[16] *Rollo*, p. 137.

THE LIMITS PROVIDED IN THE SALARY STANDARDIZATION LAW (SSL).— R.A No. 9286 reiterated the power of the BOD to set the salary of the GM and that it merely amended the provisions of P.D. No. 198 to provide the GMs with security of tenure preventing their removal without cause and due process. Indubitably, the Congress empowered the BOD of LWDs to fix the salary of its GM. x x x The question on whether the salaries of GMs of LWDs are covered by the provisions of the SSL is not a novel one as it had long been laid to rest by the Court. In *Mendoza v. COA* (*Mendoza*), the Court categorically ruled that the LWDs must observe the limits provided in the SSL in fixing the salaries of their GMs.

2. ID.; ID.; ID.; ID.; ID.; ID; RA 9286 DID NOT REPEAL THE SSL.— R.A. No. 9286 did not repeal the SSL. Neither was there an express provision repealing the SSL nor can repeal be implied in this case. An implied repeal transpires when a substantial conflict exists between the new and the prior laws, and occurs only when there is an irreconcilable inconsistency and repugnancy in the terms of the new and the old statute. It must be remembered that repeal by implication is disfavored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume.

3. ID.; ID.; ID.; ID.; ID.; ID; DISALLOWED AMOUNT NEED NOT BE REFUNDED ON THE BASIS OF GOOD FAITH.— The Court, nevertheless, finds that Quintero need not refund the amount subject of ND No. 2010-01-101 on the basis of good faith. In *Mendoza*, the Court exempted the responsible officer from refunding the disallowed amount on the basis of good faith. x x x Similar to the above-quoted case, Quintero had no hand in fixing the amount of the salary he received as it was fixed pursuant to the resolution issued by the BOD of CCWD. Also, at the time his salary increase was approved, there was no categorical pronouncement yet from the Court that the LWDs were subject to the coverage of the SSL.

APPEARANCES OF COUNSEL

The Solicitor General for respondent.

D E C I S I O N

MENDOZA, *J.*:

This petition for *certiorari* under Rule 64 of the Revised Rules of Court seeks to reverse and set aside the July 18, 2014 Decision[1] and the March 9, 2015 Resolution[2] of the Commission on Audit (*COA*), which affirmed the April 25, 2011 Decision[3] of the COA Regional Office No. II (*Regional Office*), upholding Notice of Disallowance (*ND*) No. 2010-01-101,[4] dated March 9, 2010, representing the overpayment of salary and year-end bonus of petitioner Engr. Artemio A. Quintero, Jr. (*Quintero*), the General Manager (*GM*) of Cauayan City Water District (*CCWD*).

On March 28, 2008, the Board of Directors (*BOD*) of CCWD passed Board Resolution No. 004, Series of 2008,[5] which upgraded the monthly salary of the GM from ₱25,392.00 to ₱45,738.00 on the basis of Section 2 of Republic Act (*R.A.*) No. 9286.[6] The CCWD's Plantilla of Personnel and Salary Adjustment was thereafter submitted to the Department of Budget and Management (*DBM*) for approval. After going over the plantilla, the DBM informed Quintero through a letter that although Section 2 of R.A. No. 9286 empowered the BOD of LWDs to fix the compensation of the GM, it should comply with the compensation standardization policy laid down in R.A. No. 6758 or the Salary Standardization Law (*SSL*).[7]

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[1] Concurred in by Chairperson Ma. Gracia M. Pulido Tan, Commissioner Heidi L. Mendoza and Commissioner Jose A. Fabia; *rollo* pp. 19-23.

[2] *Id.* at 34.

[3] Penned by Officer-in-Charge Atty. Elwin Gregorio A. Torre; *id.* at 29-33.

[4] *Id.* at 92.

[5] *Id.* at 77.

[6] An Act Further Amending Presidential Decree No. 198, otherwise known as the "Provincial Water Utilities Act of 1973," as amended.

[7] *Rollo*, p. 29.

After the COA's audit and advice,[8] on December 2009, Quintero voluntarily stopped receiving his salary based on the adjusted rates.[9] On March 9, 2010, the COA, through Auditor Mercedes V. Reyes, issued ND No. 2010-01-101 disallowing the overpayment in Quintero's adjusted salary, which amounted to ₱364,659.50.[10]

Disagreeing with the findings of the COA Auditor, Quintero appealed before the COA Regional Office.

The Regional Office Ruling

In its April 25, 2011 decision, the COA Regional Office upheld ND No. 2010-01-101 and stated that the BOD of CCWD should have taken into consideration the provisions of R.A. No. 6758 or the SSL when it issued the resolution fixing the salary of its GM. The Regional Office pointed out that if it were the intent of the Congress to exempt the local water district (*LWD*) from the coverage of R.A. No. 6758, then it should have expressly provided it in R.A. No. 9286.

Also, the COA Regional Office disagreed with Quintero that the upgraded salary of the GM was subject to Section 7 of Executive Order (*E.O.*) No. 811[11] on non-diminution in the salary of incumbent employees. The Regional Office noted that the provision of the E.O. presupposed that the basic salary given was sanctioned under the law because no vested right could be derived from the upgrading of salary made in contravention of the law. It explained that the BOD of CCWD could upgrade Quintero's salary of ₱25,392.00, but it should be within the provision of R.A. No. 6758 which fixed it at no more than ₱35,615.00 a month for the year 2008 and 2009.

Unsatisfied with the decision, Quintero appealed before the COA.

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[8] *Id.* at 87-91.

[9] *Id.* at 7.

[10] *Id.* at 30.

[11] June 17, 2009.

The COA Ruling

In its July 18, 2014 decision, the COA upheld the decision of its Regional Office. Although it agreed with Quintero that the BOD had the authority to fix the compensation of the GM, it stated that the said authority was not absolute as the compensation of the GM should conform to the provisions of R.A. No. 6758, or the SSL, and to existing rules and regulations. Further, the COA reiterated that no vested right could be derived from the salary increase of Quintero as it emanated from an erroneous interpretation of law.

Aggrieved, Quintero moved for reconsideration of the decision but his motion was denied by the COA in its March 9, 2015 resolution.

Hence, this present petition raising the following:

ISSUES

A] WHETHER OR NOT COA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT THE CCWD BOARD HAS NO AUTHORITY TO FIX THE SALARY OF THE GENERAL MANAGER, THAT RA 9286 IS NOT INCONSISTENT WITH THE PROVISIONS OF THE SSL.

B] WHETHER OR NOT COA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT RECOGNIZING THAT SECTION 23 OF PD 198, AS AMENDED BY RA 9286, IS NOT AN EXCEPTION TO THE SSL.

C] WHETHER OR NOT ENGR. ARTEMIO A. QUINTERO SHOULD BE HELD LIABLE TO REFUND THE AMOUNT RECEIVED AND DISALLOWED.[12]

Basically, the main issue to be resolved is whether the salary increase of Quintero was rightfully disallowed by the COA.

Quintero argues that by the express provision of Section 23 of Presidential Decree (*P.D.*) No. 198,[13] as amended by R.A. No.

[12] *Rollo* p. 8.

[13] The Provincial Water Utilities Act of 1973.

9286, the BOD of LWDs is empowered to fix the compensation of its GM. He claims that this legislative grant of authority is clear and unequivocal. He posits that in enacting R.A. No. 9286, Congress knew of the provisions of the SSL but it still chose to delegate to the BOD of LWDs the authority to fix the compensation of the GM. Thus, he concludes that the salary of the GM cannot be limited by the SSL provision because to do so will diminish the authority bestowed upon the BOD of LWDs.

Quintero also avers that R.A. No. 9286, a later law, repealed the SSL, a prior law, because the provisions of the latter were inconsistent with the provisions of the former. He further stated that his salary as fixed by the BOD of CCWD was valid because it should be deemed an exception from the coverage of the SSL.

Quintero then points out that the LWDs did not receive any budget from the DBM or the national government and, therefore, it might be deemed from the provisions of P.D. No. 198 that the BOD of LWDs had the full authority to fix the compensation of its GM. He is of the view that his salary could not be adversely affected even with the provisions of the SSL claiming protection under Section 7 of E.O. No. 811 on diminution of salaries. He, nevertheless, insists that in the event that his adjusted salary would be ultimately disapproved, he should not be required to refund the same on the basis of good faith.

In its Comment,[14] dated October 5, 2015, the COA countered that R.A. No. 9286 did not impliedly repeal the SSL because an implied repeal was disfavored by law. It noted that the amendment introduced by R.A. No. 9286 only changed the last sentence of Section 23 of P.D. No. 198 to state that the GM should not be removed from office except for cause and after due process.

The COA explained that R.A. No. 9286 did not give additional power to the BOD to determine the compensation of the GM beyond the rate prescribed by the SSL and, as such, no inconsistency was created as regards the power of the BOD to fix the salary of the GM. It likewise opined that R.A. No. 9286 did not constitute an exception to the coverage of the SSL.

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[14] *Rollo*, pp. 58-73.

Moreover, the COA assailed Quintero's claim of good faith contending that no sufficient evidence on record was available to establish that the latter received the disallowed amount in good faith. It also held that good faith was raised for the first time on appeal because Quintero's position before the COA Regional Office was that he had acquired a vested right over the adjusted salary.

In his Reply,[15] dated February 29, 2016, Quintero alleged that the Congress, by virtue of its Joint Resolution No. 4,[16] expressly recognized that R.A. No. 9286 was inconsistent with the SSL. Due to the inconsistency, he argued that there could be no other conclusion but that R.A. No. 9286 had amended provisions of the SSL which was incongruous therewith particularly the authority of the BOD to fix and determine the salary of the GM.

Quintero once again invoked good faith claiming that he was a mere recipient of the salary and that there was neither evidence nor any allegation that it was he who caused the increase of his salary beyond the limit provided under the SSL. He manifested that the BOD merely relied on the provisions of R.A. No. 9286 and that he immediately stopped the processing of his adjusted salary when so advised by the COA sometime in 2009.

The Court's Ruling

Central to the resolution of the issue at hand is the power of the BOD to fix the compensation of its GM, as vested by Section 23 of P.D. No. 198, as amended by Section 2 of R.A. No. 9286.

Section 23 of P.D. No. 198 reads:

> At the first meeting of the Board, or as soon thereafter practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall serve at the pleasure of the Board.

Section 2 of R.A. No. 9286 amended Section 23 of P.D. No. 198, which now provides:

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[15] *Id.* at 117-123.

[16] June 17, 2009.

At the first meeting of the Board, or as soon thereafter practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall not be removed from office, except for cause and after due process.

A reading of the above-cited provisions reveals that R.A No. 9286 reiterated the power of the BOD to set the salary of the GM and that it merely amended the provisions of P.D. No. 198 to provide the GMs with security of tenure preventing their removal without cause and due process. Indubitably, the Congress empowered the BOD of LWDs to fix the salary of its GM.

Quintero views this power to be immutable as the BOD may fix the salary of its GM even beyond the limits prescribed by the SSL. The COA, on the other hand, concedes that the BOD of CCWD has the power to increase Quintero's salary. It opines, however, that this power is not an unbridled power and the salary to be set by the BOD must always be within the standards set by the SSL.

The question on whether the salaries of GMs of LWDs are covered by the provisions of the SSL is not a novel one as it had long been laid to rest by the Court. In *Mendoza v. COA (Mendoza)*,[17] the Court categorically ruled that the LWDs must observe the limits provided in the SSL in fixing the salaries of their GMs, to wit:

The Salary Standardization Law applies to all government positions, including those in government-owned or controlled corporations, without qualification. **The exception to this rule is when the government-owned or controlled corporation's charter specifically exempts the corporation from the coverage of the Salary Standardization Law.** To resolve this case, We examine the provisions of Presidential Decree No. 198 exempting water utilities from the Salary Standardization Law. The petitioner asserts that it is Section 23 of Presidential Decree No. 198, as amended, which grants water utilities this exemption.

Section 23 of Presidential Decree No. 198, promulgated on May 25, 1973, was originally phrased as follows:

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[17] G.R. No. 195395, September 10, 2013, 705 SCRA 306.

> Section 23. *Additional Officers.* — At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager, an auditor, and an attorney, and shall define their duties and fix their compensation. Said officers shall service at the pleasure of the board.

On April 2, 2004, Republic Act No. 9286 was passed amending certain provisions of Presidential Decree No. 198, including its Section 23, thus:

> Sec. 23. *The General Manager.* — At the first meeting of the Board, or as soon thereafter as practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall not be removed from office, except for cause and after due process.

We are not convinced that Section 23 of Presidential Decree No. 198, as amended, or any of its provisions, exempts water utilities from the coverage of the Salary Standardization Law. In statutes subsequent to Republic Act No. 6758, Congress consistently provided not only for the power to fix compensation but also the agency's or corporation's exemption from the Salary Standardization Law. **If Congress had intended to exempt water utilities from the coverage of the Salary Standardization Law and other laws on compensation and position classification, it could have expressly provided in Presidential Decree No. 198 an exemption clause similar to those provided in the respective charters of the Philippine Postal Corporation, Trade Investment and Development Corporation, Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation.**

Congress could have amended Section 23 of Presidential Decree No. 198 to expressly provide that the compensation of a general manager is exempted from the Salary Standardization Law. However, Congress did not. Section 23 was amended to emphasize that the general manager "shall not be removed from office, except for cause and after due process."[18]

[Emphases Supplied]

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[18] *Id.* at 331-334.

Applying the pronouncements in *Mendoza*, the Court cannot countenance Quintero's position that the provisions of Section 23 of P.D. No. 198, as amended, should be deemed an exception to the SSL. In amending P.D. No. 198, R.A. No. 9286 merely provided security of tenure for the GM but it did not state that the LWDs were to be exempt from the coverage of the SSL. If Congress indeed intended to exempt the LWDs from the SSL, it could have easily provided for an exemption clause similar to the charters of other government-owned and controlled corporations which were legislated to be exempt from the provisions of R.A. No. 6758 or the SSL.

Moreover, R.A. No. 9286 did not repeal the SSL. Neither was there an express provision repealing the SSL nor can repeal be implied in this case. An implied repeal transpires when a substantial conflict exists between the new and the prior laws, and occurs only when there is an irreconcilable inconsistency and repugnancy in the terms of the new and the old statute.[19] It must be remembered that repeal by implication is disfavored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume.[20]

Contrary to Quintero's claims, no irreconcilable inconsistency exists between the SSL and R.A. No. 9286 to warrant the conclusion that the latter impliedly repealed the former. The two seemingly contradicting laws may be harmoniously construed in such a manner that the power of the BOD of LWDs to fix the salary of its GM is still recognized. This power, however, is subject to the limitation that the salary set must be within the rates prescribed by the SSL.

Good faith exempts responsible officers from making a refund

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[19] *Javier v. COMELEC*, G.R. No. 215847, January 12, 2016.

[20] *Philippine International Trading Corporation v. COA*, 635 Phil. 447, 459 (2010).

The Court, nevertheless, finds that Quintero need not refund the amount subject of ND No. 2010-01-101 on the basis of good faith. In *Mendoza*, the Court exempted the responsible officer from refunding the disallowed amount on the basis of good faith, to wit:

> The salaries petitioner Mendoza received were fixed by the Talisay Water District's board of directors pursuant to Section 23 of the Presidential Decree No. 198. **Petitioner Mendoza had no hand in fixing the amount of compensation he received. Moreover, at the time petitioner Mendoza received the disputed amount in 2005 and 2006, there was no jurisprudence yet ruling that water utilities are not exempted from the Salary Standardization Law.**
>
> Pursuant to *De Jesus v. Commission on Audit,* petitioner Mendoza received the disallowed salaries in good faith. He need not refund the disallowed amount.[21]
>
> [Emphasis Supplied]

Similar to the above-quoted case, Quintero had no hand in fixing the amount of the salary he received as it was fixed pursuant to the resolution issued by the BOD of CCWD. Also, at the time his salary increase was approved, there was no categorical pronouncement yet from the Court that the LWDs were subject to the coverage of the SSL.

WHEREFORE, the July 18, 2014 Decision of the Commission on Audit is **AFFIRMED** with **MODIFICATION** in that Engr. Artemio Quintero, Jr. is absolved from refunding the amount covered by Notice of Disallowance No. 2010-01-101.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Brion, Peralta, Bersamin, del Castillo, Perez, Reyes, Leonen, and *Caguioa, JJ.,* concur.

Leonardo-de Castro, Perlas-Bernabe, and *Jardeleza, JJ.,* on official leave.

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[21] *Supra* note 17, at 339.

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Application of — The Advisory Council and the Technical Evaluation Committee were created to aid the COMELEC in fulfilling its mandate and authority to use an effective Automated Election System for free, orderly, honest, peaceful, credible and informed elections; the actions of the Advisory Council and the Technical Evaluation Committee neither bind nor prohibit the COMELEC from enforcing and administering election laws. (Chong *vs.* Senate of the Phils., G.R. No. 217725, May 31, 2016) p. 942

ACTIONS

Cause of action — Elements are as follows: 1) A right in favor of the plaintiff by whatever means and under whatever law it arises or is created; 2) An obligation on the part of the named defendant to respect or not to violate such right; and 3) Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief. (PNB *vs.* Sps. Rivera, G.R. No. 189577, April 20, 2016) p. 450

— For a cause of action to exist, there must be a right existing in favor of the plaintiff; a corresponding obligation on the part of the defendant to respect such right; and an act or omission of the defendant which constitutes a violation of the plaintiff's right which defendant had the duty to respect. (Pilipinas Shell Foundation, Inc. *vs.* Fredecuces, G.R. No. 174333, April 20, 2016) p. 409

Dismissal of — An order denying a motion to dismiss is interlocutory and, hence, not appealable; it is an interlocutory order since it did not finally dispose of the case; in such a situation, the aggrieved party's remedy is to file a special civil action for *certiorari* under Rule 65 of the Rules of Court. (Paramount Life & General Ins. Corp. *vs.* Castro, G.R. No. 195728, April 19, 2016) p. 163

— Lack of cause of action refers to the insufficiency of the factual basis for the action; dismissal due to lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff; it is a proper ground for a demurrer to evidence under Rule 33 of the Revised Rules of Civil Procedure. (PNB *vs.* Sps. Rivera, G.R. No. 189577, April 20, 2016) p. 450

ADMINISTRATIVE LAW

Exhaustion of administrative remedies — Doctrine of exhaustion of administrative remedies does not apply when the issue deals with a question of law; a question of law exists when the law applicable to a particular set of facts is not settled, whereas a question of fact arises when the truth or falsehood of alleged facts is in doubt. (Ronquillo, Jr. *vs.* Nat'l. Electrification Administration, G.R. No. 172593, April 20, 2016) p. 382

Government-owned and controlled corporations — Corporate Compensation Circular No. 10 specifically includes the COLA granted to employees of government-owned and controlled corporations as part of their basic salary beginning July 1, 1989. (Ronquillo, Jr. *vs.* Nat'l. Electrification Administration, G.R. No. 172593, April 20, 2016) p. 382

Public officers — The Court exempted the responsible officer from refunding the disallowed amount on the basis of good faith. (Engr. Quintero, Jr. *vs.* COA, G.R. No. 218363, May 31, 2016) p. 953

Salary Standardization Law — Power to fix the compensation of its general manager under Sec. 23 of P.D. No. 198 as amended by Sec. 2 of R.A. No. 9286 must observe the limits provided in the Salary Standardization Law. (Engr. Quintero, Jr. *vs.* COA, G.R. No. 218363, May 31, 2016) p. 953

AGGRAVATING CIRCUMSTANCES

Treachery — There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make; the essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape. (People *vs.* Camposano *y* Tiolanto, @ "Punday/Masta", G.R. No. 207659, April 20, 2016) p. 563

AGRARIAN LAWS

Agrarian dispute — Jurisdiction over agrarian disputes lies with the DARAB; an agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship, or otherwise, over lands devoted to agriculture, including disputes concerning farm workers associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements. (Heirs of Exequiel Hagoriles *vs.* Hernaez, G.R. No. 199628, April 20, 2016) p.491

AGRICULTURAL TENANCY ACT OF THE PHILIPPINES (R.A. NO. 1199)

Obligation of landholder —- The obligation to provide home lots to agricultural lessees or tenants rests upon the landholder; a tenant is entitled to a home lot suitable for dwelling with an area of not more than three percent (3%) of the area of his landholding, provided that it does not exceed one thousand square meters (1,000 sq.

m.); it shall be located at a convenient and suitable place within the land of the landholder to be designated by the latter where the tenant shall construct his dwelling and may raise vegetables, poultry, pigs and other animals and engage in minor industries, the products of which shall accrue to the tenant exclusively. (Heirs of Exequiel Hagoriles *vs.* Hernaez, G.R. No. 199628, April 20, 2016) p.491

ALIBI

Defense of — For the defense of alibi to prosper, it must be proved that it was physically impossible for the accused to be present at the scene of the crime at the time of its commission. (People *vs.* Camposano *y* Tiolanto, @ "Punday/Masta", G.R. No. 207659, April 20, 2016) p. 563

APPEALS

Petition for review on certiorari to the Supreme Court under Rule 45 — A factual issue cannot be resolved therein. (Toledo *vs.* CA, G.R. No. 167838, April 20, 2016) p. 379

— A question of fact is not reviewable. (Nicolas *vs.* People, G.R. No. 186107, April 20, 2016) p. 443

— An appeal by *certiorari* to the Supreme Court under Rule 45 of the Rules of Court is limited to questions of law. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

— Findings of fact of the CA are final and conclusive, and the Supreme Court will not review them on appeal; this is because under the Rules of Court and settled jurisprudence, a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to questions of law. (Cocoplans, Inc. *vs.* Villapando, G.R. No. 183129, May 30, 2016) p. 734

— Only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court; if the issue invites a review of the evidence on record,

the question posed is one of fact. (Pidlaoan *vs.* Jacob Pidlaoan, G.R. No. 196470, April 20, 2016) p. 476

— The factual findings of the appellate court are generally conclusive, and even carry more weight when it affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the record or that they are so glaringly erroneous as to constitute grave abuse of discretion. (Arriola *vs.* People, G.R. No. 217680, May 30, 2016) p. 895

— The issue of fraud would require the Court to inquire into the weight of evidentiary matters to determine the merits of the petition and is essentially factual in nature; it is basic that factual questions cannot be entertained in a Rule 45 petition, unless it falls under any of the recognized exceptions found in jurisprudence. (Domingo *vs.* Sps. Molina, G.R. No. 200274, April 20, 2016) p. 506

— The jurisdiction of the Supreme Court in cases brought to it from the CA is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive. (Malayan Ins. Co., Inc. *vs.* Alibudbud, G.R. No. 209011, April 20, 2016) p. 584

— When the trial court's factual findings have been affirmed by the CA, the findings are generally conclusive and binding upon the Court and may no longer be reviewed on Rule 45 petitions. (*Id.*)

Petition for review under Rule 43 of the Rules of Court — Rule 43 of the Rules of Court governs the appeals from quasi-judicial agencies, such as the IPO, to the CA; an appeal to the CA must be filed within a period of fifteen (15) days; while an extension of fifteen (15) days and a further extension of another fifteen (15) days may be requested, the second extension may be granted at the CA's discretion and only for the most compelling reason; motions for extensions are not granted as a matter of right but in the sound discretion of the court, and lawyers should never presume that their motions for extensions

or postponement will be granted or that they will be granted the length of time they pray for; the general rule is that a second motion for extension is not granted, except when the CA finds a compelling reason to grant the extension. (Levi Strauss & Co. *vs.* Atty. Blancaflor, G.R. No. 206779, April 20, 2016) p. 552

— The perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but jurisdictional, and the failure to perfect that appeal renders the judgment of the court final and executory. (*Id.*)

Points of law, theories, issues, and arguments — A bare characterization in a petition of unlawfulness, is merely a legal conclusion and a wish of the pleader, and such a legal conclusion unsubstantiated by facts which could give it life, has no standing in any court where issues must be presented and determined by facts in ordinary and concise language. (Capitol Wireless, Inc. *vs.* Prov'l. Treasurer of Batangas, G.R. No. 180110, May 30, 2016) p. 712

— A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. (Abayon *vs.* House of Representatives Electoral Tribunal (HRET), G.R. No. 222236, May 3, 2016) p. 683

Question of law — There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as the truth or the falsehood of alleged facts; question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted; in contrast, a question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific

surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation. (Capitol Wireless, Inc. *vs.* Prov'l. Treasurer of Batangas, G.R. No. 180110, May 30, 2016) p. 712

ATTORNEYS

Administrative liability — A lawyer's failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despiciency for his oath of office in violation of Sec. 3, Rule 138 of the Rules of Court. (Mariano *vs.* Atty. Echanez, A.C. No. 10373[Formerly CBD Case No. 08-2280], May 31, 2016) p. 923

Code of Professional Responsibility — A lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed on him. (Tulio *vs.* Atty. Buhangin, A.C. No. 7110, April 20, 2016) p. 292

— A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct; in a number of cases, the Court has subjected lawyers to disciplinary action for notarizing documents outside their territorial jurisdiction or with an expired commission. (Mariano *vs.* Atty. Echanez, A.C. No. 10373[Formerly CBD Case No. 08-2280], May 31, 2016) p. 923

— A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others. (PHILCOMSAT Holdings Corp. *vs.* Atty. Lokin, Jr., A.C. No. 11139, April 19, 2016) p. 1

— It is every lawyer's duty to maintain the high regard to the profession by staying true to his oath and keeping his actions beyond reproach. (*Id.*)

— Lawyers need not only enjoy the rewards and privileges of an attorney but should take the heavy burden of responsibility and duty that a full-fledged membership

in the Philippine Bar necessarily entails. (Datu Ismael Malangas *vs.* Atty. Zaide, A.C. No. 10675, May 31, 2016) p. 930

— The Code of Professional Responsibility demands the utmost degree of fidelity and good faith in dealing with the moneys entrusted to lawyers because of their fiduciary relationship; any lawyer who does not live up to this duty must be prepared to take the consequences of his waywardness. (*Id.*)

— The duty of a lawyer not to neglect a legal matter entrusted to him is violated when he fails to file the appropriate pleading and to appear at the hearings. (*Id.*)

Conflict of interest — A conflict of interest exists when an incumbent government employee represents another government employee or public officer in a case pending before the Office of the Ombudsman; the incumbent officer ultimately goes against government's mandate under the Constitution to prosecute public officers or employees who have committed acts or omissions that appear to be illegal, unjust, improper, or inefficient. (Fajardo *vs.* Atty. Alvarez, A.C. No. 9018, April 20, 2016) p. 303

— A lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. (Tulio *vs.* Atty. Buhangin, A.C. No. 7110, April 20, 2016) p. 292

Disbarment — A disbarment proceeding is separate and distinct from a criminal action filed against a lawyer despite being involved in the same set of facts. (PHILCOMSAT Holdings Corp. vs. Atty. Lokin, Jr., A.C. No. 11139, April 19, 2016) p. 1

Liability of — As an officer of the Court, a lawyer is expected to know that a resolution of the Supreme Court is not a mere request but an order which should be complied with promptly and completely; this is also true of the

orders of the IBP. (Tulio *vs.* Atty. Buhangin, A.C. No. 7110, April 20, 2016) p. 292

— In administrative cases against lawyers, the required burden of proof is preponderance of evidence, or evidence that is superior, more convincing, or of greater weight than the other. (Ricafort *vs.* Atty. Medina, A.C. No. 5179, May 31, 2016) p. 911

— Lawyers shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court; a lawyer that approaches a judge to try to gain influence and receive a favorable outcome for his or her client violates Canon 13 of the Code of Professional Responsibility; this act of influence peddling is highly immoral and has no place in the legal profession. (Fajardo *vs.* Atty. Alvarez, A.C. No. 9018, April 20, 2016) p. 303

— Lawyers should not be hastily disciplined or penalized unless it is shown that they committed a transgression of their oath or their duties, which reflects on their fitness to enjoy continued status as a member of the bar. (*Id.*)

— The purpose of administrative proceedings is to ensure that the public is protected from lawyers who are no longer fit for the profession. (Ricafort *vs.* Atty. Medina, A.C. No. 5179, May 31, 2016) p. 911

Practice of law — Government officials or employees are prohibited from engaging in private practice of their profession unless authorized by their department heads; if authorized, the practice of profession must not conflict nor tend to conflict with the official functions of the government official or employee. (Fajardo *vs.* Atty. Alvarez, A.C. No. 9018, April 20, 2016) p. 303

Sui generis — Disciplinary proceedings against lawyers are *sui generis;* they are neither civil nor criminal in nature; they are not a determination of the parties' rights; they are pursued as a matter of public interest and as a means

to determine a lawyer's fitness to continue holding the privileges of being a court officer. (Ricafort *vs.* Atty. Medina, A.C. No. 5179, May 31, 2016) p. 911

CERTIORARI

Petition for — It is present when there is such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or where power is exercised arbitrarily or in a despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of positive duty, or to a virtual refusal to perform a legal duty or act at all in contemplation of law. (Campos *vs.* BPI, G.R. No. 207597, May 30, 2016) p. 853

— Respondent herein made no effort at all to explain her failure to state all the material dates in her Petition for *Certiorari* before the Court of Appeals; the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel the Court to suspend procedural rules; absent compelling reason to disregard the Rules, the Court of Appeals should have had no other choice but to enforce the same by dismissing the noncompliant Petition. (Blue Eagle Mgm't. Inc. *vs.* Naval, G.R. No. 192488, April 19, 2016) p. 133

COMMISSION ON ELECTIONS

Failure of elections — Testimonies of a minute portion of the registered voters in the said precincts should not be used as a tool to silence the voice of the majority expressed through their votes during elections; to do so would disenfranchise the will of the majority and reward a candidate not chosen by the people to be their representative; with such dire consequences, it is but expected that annulment of elections be judiciously exercised with utmost caution and resorted only in exceptional circumstances. (Abayon *vs.* House of Representatives Electoral Tribunal (HRET), G.R. No. 222236, May 3, 2016) p. 683

Jurisdiction — The COMELEC's jurisdiction to settle the struggle for leadership within the party is well established, emanating from one of its constitutional functions, under Art. IX-C, Sec. 2, Par. 5, of the 1987 Constitution, which is to register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government, and that this singular power of COMELEC to rule upon questions of party identity and leadership is an incident to its enforcement powers. (Rivera *vs.* COMELEC, G.R. No. 210273, April 19, 2016) p. 176

Powers — The nature of the COMELEC's power to declare failure of elections, to wit: Sec. 2(1) of Art. IX (C) of the Constitution gives COMELEC the broad power to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall; this constitutional provision is to give COMELEC all the necessary and incidental powers for it to achieve its primordial objective of holding free, orderly, honest, peaceful and credible elections; the functions of the COMELEC under the Constitution are essentially executive and administrative in nature. (Abayon *vs.* House of Representatives Electoral Tribunal (HRET), G.R. No. 222236, May 3, 2016) p. 683

— The power to declare a failure of elections should be exercised with utmost care and only under circumstances which demonstrate beyond doubt that the disregard of the law had been so fundamental or so persistent and continuous that it is impossible to distinguish what votes are lawful and what are unlawful, or to arrive at any certain result whatsoever, or that the great body of the voters have been prevented by violence, intimidation and threats from exercising their franchise; a protestant alleging terrorism in an election protest must establish by clear and convincing evidence that the will of the majority has been muted by violence, intimidation or threats. (*Id.*)

— The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial; the quasi-judicial power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws and to be the sole judge of all pre-proclamation controversies and of all contests relating to the elections, returns, and qualifications; its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress; its administrative function refers to the enforcement and administration of election laws. (*Id.*)

Rules of procedure — The COMELEC Divisions are granted adjudicatory powers to decide election cases, provided that the COMELEC *en banc* shall resolve motions for reconsideration of the division rulings. (Legaspi *vs.* COMELEC, G.R. No. 216572, April 19, 2016) p. 235

— The Supreme Court sitting en banc is not an appellate court *vis-a-vis* its Divisions, and it exercises no appellate jurisdiction over the latter; each division of the Court is considered not a body inferior to the Court *en banc*, and sits veritably as the Court *en banc* itself. (*Id.*)

— Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied; Sec. 3, Art. IX-C of the Constitution bestows on the COMELEC divisions the authority to decide election cases; their decisions are capable of attaining finality, without need of any affirmative or confirmatory action on the part of the COMELEC *en banc.* (*Id.*)

COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989 (R.A. NO. 6758)

Application of — Allowances, fringe benefits or any additional financial incentives, whether or not integrated into the standardized salaries prescribed by R.A. No. 6758, should continue to be enjoyed by employees who were incumbents and were actually receiving those benefits as of July 1, 1989. (PCSO *vs.* Chairperson Pulido-Tan, G.R. No. 216776, April 19, 2016) p. 266

— Recipients or payees need not refund disallowed benefits or allowances when it was received in good faith and there is no finding of bad faith or malice; officers who participated in the approval of such disallowed amount are required to refund only those received if they are found to be in bad faith or grossly negligent amounting to bad faith; public officials who are directly responsible for, or participated in making the illegal expenditures, as well as those who actually received the amounts therefrom shall be solidarily liable for their reimbursement.

— R.A. No. 6758 does not require that the DBM should first define those allowances that are to be integrated with the standardized salary rates of government employees before the additional compensation could be integrated into the employees' salaries; instead, until and unless the DBM issues rules and regulations, the enumerated exclusions in items (1) to (6) remain exclusive. (*Id.*)

— Where there is an express provision of the law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties on account of an error committed by public officials in granting the benefit; an executive act shall be valid only when it is not contrary to the laws or the Constitution. (*Id.*)

Cost of living allowance — The COLA has not been expressly excluded from the general rule of integration. (Ronquillo, Jr. *vs.* Nat'l. Electrification Administration, G.R. No. 172593, April 20, 2016) p. 382

Rule on integration — Allowances are generally integrated into the government employee's standardized salary rates; all other allowances, save for these items, are deemed included in the government employee's standardized salary; these are as follows; (1) representation and transportation allowances (RATA); (2) clothing and laundry allowances; (3) subsistence allowance of marine officers and crew on board government vessels; (4) subsistence allowance of hospital personnel; (5) hazard pay; (6) allowances of foreign service personnel stationed abroad; and (7) such other additional compensation not otherwise specified in Sec. 12 as may be determined by the Department of Budget and Management. (Ronquillo, Jr. *vs.* Nat'l. Electrification Administration, G.R. No. 172593, April 20, 2016) p. 382

— Enumerated exceptions belong to one category of privilege called allowances which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. (*Id.*)

COMPREHENSIVE AGRARIAN REFORM LAW (R.A. NO. 6657)

Expropriation — When property is taken, full compensation of its value must immediately be paid to achieve a fair exchange for the property and the potential income lost; the rationale for imposing the interest is to compensate the landowners for the income they would have made had they been properly compensated for their properties at the time of the taking. (LBP *vs.* Sps. Avanceña, G.R. No. 190520, May 30, 2016) p. 755

CONTRACTS

Contractual obligations — Have the force of law between the parties and should be complied with in good faith; the Courts will not rescue a litigant from his bad bargains, protect him from unwise investments, relieve him from disadvantageous contracts, or annul the effects of his foolish acts unless there has been a violation of law. (Campos *vs.* BPI, G.R. No. 207597, May 30, 2016) p. 853

Judicial compromise — Parties to a suit may enter into a compromise agreement to avoid litigation or put an end to one already commenced; a compromise agreement intended to resolve a matter already under litigation is a judicial compromise, which has the force and effect of a judgment of the court; however, no execution of the compromise agreement may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed. (Heirs of Exequiel Hagoriles *vs.* Hernaez, G.R. No. 199628, April 20, 2016) p. 491

Simulation of — A document is absolutely simulated when the parties have no intent to bind themselves at all, while it is relatively simulated when the parties concealed their true agreement; the true nature of a contract is determined by the parties' intention, which can be ascertained from their contemporaneous and subsequent acts. (Pidlaoan *vs.* Jacob Pidlaoan, G.R. No. 196470, April 20, 2016) p. 476

CO-OWNERSHIP

Concept of — Co-ownership exists when the ownership of an undivided thing or right belongs to different persons; if a person builds on another's land in good faith, the land owner may either: (a) appropriate the works as his own after paying indemnity; or (b) oblige the builder to pay the price of the land. (Pidlaoan *vs.* Jacob Pidlaoan, G.R. No. 196470, April 20, 2016) p. 476

CORPORATIONS

Powers — Corporation has: (1) express powers, which are bestowed upon by law or its articles of incorporation; and (2) necessary or incidental powers to the exercise of those expressly conferred; an act which cannot fall under a corporation's express or necessary or incidental powers is an *ultra vires* act. (Magallanes Watercraft Assoc., Inc. *vs.* Auguis, G.R. No. 211485, May 30, 2016) p. 866

Stockholders' meeting — A person who was not a stockholder of record is not entitled to be notified of the stockholders' meeting. (Engr. Quintero, Jr. *vs.* COA, G.R. No. 218363, May 31, 2016) p. 953

(Guy *vs* .Guy, G.R. No. 184068, April 19, 2016) p. 99

— The law only requires sending or mailing of the notice of a stockholders' meeting to the stockholders of the corporation; a stockholder is deemed to have received the notice after it was properly mailed to him. (*Id.*)

COURT PERSONNEL

Code of Conduct for Court Personnel — Court personnel shall not be required to perform any work outside the scope of their job description; diligent and proper performance of official duties thus impels that court personnel should be well aware of and duly act within the scope of their assigned duties and responsibilities. (Prosecutor III Tabao *vs.* Sheriff IV Cabcabin, AM No, P-16-3437[Formerly OCA IPI No. 11-3665-P], April 20, 2016) p. 335

Dishonesty — A serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity. (Gubatanga *vs.* Bodoy, A.M. No. P-16-3447[Formerly OCA IPI, No. 08-2915-P], April 19, 2016) p. 30

— Act of surreptitiously withdrawing from the trial court's bank account without any stamp of authority constitutes dishonesty; persons involved in the dispensation of justice, from the highest official to the lowest employee, must live up to the strictest standards of integrity, probity, uprightness and diligence in the public service. (*Id.*)

CRIMINAL LIABILITY

Death of the accused pending appeal — Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon;

the claim for civil liability survives notwithstanding the death of the accused, if the same may also be predicated on a source of obligation other than *delict*; where the civil liability survives, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Sec. 1, Rule 111 of the 1985 Rules on Criminal Procedure, as amended; the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. (People *vs.* Lipata *y* Ortiza, G.R. No. 200302, April 20, 2016) p. 520

CRIMINAL PROCEDURE

Duties of the prosecution — Every criminal conviction requires the prosecution to prove two things: (1) the fact of the crime, that there is the presence of all the elements of the crime with which the accused stands charged; and (2) the fact that the accused is the perpetrator of the crime; when a crime is committed, it is the duty of the prosecution to prove the identity of the perpetrator of the crime beyond reasonable doubt for there can be no conviction even if the commission of the crime is established. (Arriola *vs.* People, G.R. No. 217680, May 30, 2016) p. 895

Information — An accused cannot be convicted of an offense that is not clearly charged in the information, this rule is not without exception; the right to assail the sufficiency of the information or the admission of the evidence may be waived by the accused. (People *vs.* Castañas *y* Espinosa, G.R. No. 192428, April 20, 2016) p. 463

Prosecution of civil action — The independent civil actions in Arts. 32, 33, 34 and 2176, as well as claims from sources of obligation other than *delict*, are not deemed instituted with the criminal action but may be filed separately by the offended party even without reservation; the separate civil action proceeds independently of the criminal proceedings and requires only a preponderance of evidence; the civil action which may thereafter be

instituted against the estate or legal representatives of the decedent is taken from the new provisions of Sec. 16 of Rule 3 in relation to the rules for prosecuting claims against his estate in Rules 86 and 87. (People *vs.* Lipata *y* Ortiza, G.R. No. 200302, April 20, 2016) p. 520

DAMAGES

Interest — The award of interest is imposed in the nature of damages for delay in payment which, in effect, makes the obligation on the part of the government one of forbearance to ensure prompt payment of the value of the land and limit the opportunity loss of the owner; the just compensation due shall earn legal interest at the rate of 12% *per annum* computed from the time of taking until full payment. (LBP *vs.* Sps. Avanceña, G.R. No. 190520, May 30, 2016) p. 755

Temperate damages — Temperate damages may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty; its award is premised on the fact that actual damages could have been recovered were it not for the fact that the precise amount of damages could not be accurately ascertained. (Magallanes Watercraft Assoc., Inc. *vs.* Auguis, G.R. No. 211485, May 30, 2016) p. 866

DEFAULT

Declaration of — Declaration of default under Sec. 3 of Rule 9 with the effect of failure to appear under Sec. 5 of Rule 18, distinguished; failure to file a responsive pleading within the reglementary period is the sole ground for an order of default under Rule 9; under Rule 18, failure of the defendant to appear at the pre-trial conference results in the plaintiff being allowed to present evidence *ex parte;* the difference is that a declaration of default under Rule 9 allows the Court to proceed to render judgment granting the claimant such relief as his pleading may warrant; while the effect of default under Rule 18 allows the plaintiff to present

evidence *ex parte* and for the Court to render judgment on the basis thereof. (Paramount Life & General Ins. Corp. *vs.* Castro, G.R. No. 195728, April 19, 2016) p. 163

DENIAL

Defense of — Mere denial cannot prevail over the positive testimony of a witness; the defense of denial is treated as a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters; for it to prosper, denial must be supported by strong and convincing evidence and this, the appellant failed to do in the instant case. (People *vs.* Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

— The defense of denial has been invariably viewed by the Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for rape; in order to prosper, the defense of denial must be proved with strong and convincing evidence and the appellant miserably failed in this regard. (People *vs.* Mendoza, G.R. No. 214349, April 20, 2016) p. 641

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Powers — Has exclusive jurisdiction over the management and disposition of public lands; in the exercise of this jurisdiction, the DENR has the power to resolve conflicting claims over public lands and determine an applicant's entitlement to the grant of a free patent; unless it can be shown that the land subject of a free patent had previously acquired a private character, regular courts would have no power to conclusively resolve conflicting claims of ownership or possession *de jure* owing to the public character of the land. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

EJECTMENT

Action for — Action for unlawful detainer distinguished from a possessory action (*accion publiciana*) and from a

reinvindicatory action (*accion reinvindicatoria*); the first is limited to the question of *possession de facto;* an unlawful detainer suit (*accion interdictal*) together with forcible entry are the two forms of an ejectment suit that may be filed to recover possession of real property; aside from the summary action of ejectment, *accion publiciana* or the plenary action to recover the right of possession and *accion reinvindicatoria* or the action to recover ownership which includes recovery of possession, make up the three kinds of actions to judicially recover possession. (Bradford United Church of Christ, Inc. *vs.* Ando, G.R. No. 195669, May 30, 2016) p. 769

EMINENT DOMAIN

Just compensation — Any valuation for just compensation laid down in the statutes may serve only as a guiding principle; that the depreciated replacement cost applies in computing just compensation; in applying this method, the owner is compensated for his actual loss at the date of the taking of the expropriated property. (Rep. of the PhilI. *vs.* Hon. Mupas, G.R. No. 181892, April 19, 2016) p. 40

— Interest rates of 12% or 6% per annum on a yearly basis, as the term suggests, without distinguishing whether it is a leap year or not. (*Id*.)

— The delay in the payment of just compensation, and not the delay in the proceedings for its computation, is the legal basis for the imposition of interest on the unpaid just compensation. (*Id*.)

— The interest in eminent domain cases runs as a matter of law and follows as a matter of course from the right of the owner to be placed in as good a position as money can accomplish, as of the date of taking. (*Id*.)

— Upon full payment of the just compensation finally adjudged in this decision, the title to the property shall be fully vested in the Republic. (*Id*.)

EMPLOYMENT, TERMINATION OF

Closure of business — The determination to cease operations is a prerogative of management which the State does not usually interfere with, as no business or undertaking must be required to continue operating simply because it has to maintain its workers in employment, and such act would be tantamount to a taking of property without due process of law; (3) requirements to properly effectuate termination on the ground of closure or cessation of business operations; these are: *(a)* service of a written notice to the employees and to the DOLE at least one (1) month before the intended date of termination; *(b)* the cessation of business must be *bona fide* in character; and (*c*) payment to the employees of termination pay amounting to one (1) month pay or at least one-half month pay for every year of service, whichever is higher. (PNCC Skyway Corp. *vs.* Sec. of Labor and Employment, G.R. No. 213299, April 19, 2016) p. 221

Dismissal from employment — The burden of proving just and valid cause for dismissing an employee from his employment rests upon the employer; failure by the employer to discharge this burden shall result in the finding that the dismissal is unjustified. (Cocoplans, Inc. *vs.* Villapando, G.R. No. 183129, May 30, 2016) p. 734

— To constitute a valid dismissal from employment, two (2) requisites must concur, *viz.:* (a) the employee must be afforded due process, *i.e.,* he must be given an opportunity to be heard and defend himself; and (b) the dismissal must be for a valid cause, as provided in Art. 282 of the Labor Code, or for any of the authorized causes under Arts. 283 and 284 of the same Code. (*Id*.)

Loss of trust and confidence — Loss of trust and confidence, as a just cause for termination of employment, is premised on the fact that an employee concerned holds a position where greater trust is placed by management and from whom greater fidelity to duty is correspondingly expected;

loss of confidence must not also be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary; in order to constitute a just cause for dismissal, the act complained of must be work-related and show that the employee concerned is unfit to continue working for the employer. (Cocoplans, Inc. *vs.* Villapando, G.R. No. 183129, May 30, 2016) p. 734

Redundancy — The characterization of an employee's services as superfluous or no longer necessary and, therefore, properly terminable, is an exercise of business judgment on the part of the employer. (Malayan Ins. Co., Inc. *vs.* Alibudbud, G.R. No. 209011, April 20, 2016) p. 584

Resignation — Court accorded weight to the resignation letters of the employees because although said letters were prepared by the company, the employees signed the same voluntarily. (Blue Eagle Mgm't. Inc. *vs*. Naval, G.R. No. 192488, April 19, 2016) p. 133

— For the resignation of an employee to be a viable defense in an action for illegal dismissal, an employer must prove that the resignation was voluntary, and its evidence thereon must be clear, positive, and convincing; the employer cannot rely on the weakness of the employee's evidence. (*Id*.)

Separation pay — The legally-mandated rate for separation pay provided under Art. 298 (formerly, Art. 283) of the Labor Code, as amended, is equivalent to "one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. (PNCC Skyway Corp. *vs.* Sec. of Labor and Employment, G.R. No. 213299, April 19, 2016) p. 221

ESTOPPEL

Principle of — Statute of limitations or the lapse of time does not run against the State; the State's immunity is recognized from estoppel as a result of the mistakes or errors of its officials and agents. (Rep. of the Phils. *vs.* Hachero, G.R. No. 200973, May 30, 2016) p. 784

EVIDENCE

Authentication and proof of documents — The act of notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of authenticity; a notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties. (Mariano *vs.* Atty. Echanez, A.C. No. 10373[Formerly CBD Case No. 08-2280], May 31, 2016) p. 923

Circumstantial evidence — A judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt; the corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person. (Arriola *vs.* People, G.R. No. 217680, May 30, 2016) p. 895

Judicial admissions — Considered conclusive and do not require proof when made by a party in the course of the proceedings. (Pidlaoan *vs.* Jacob Pidlaoan, G.R. No. 196470, April 20, 2016) p. 476

Weight and sufficiency of — Conviction must be based on the strength of the prosecution and not on the weakness of the defense, that is the obligation is upon the shoulders of the prosecution to prove the guilt of the accused and not the accused to prove his innocence; the prosecution has the burden to prove that the accused is guilty beyond reasonable doubt of the crime charged. (Arriola *vs.* People, G.R. No. 217680, May 30, 2016) p. 895

FAMILY CODE

Conjugal partnership of gains — Article 130 of the Family Code requires the liquidation of the conjugal partnership upon death of a spouse and prohibits any disposition or encumbrance of the conjugal property prior to the conjugal partnership liquidation; while Art. 130 of the Family Code provides that any disposition involving the conjugal property without prior liquidation of the partnership shall be void, this rule does not apply since the provisions of the Family Code shall be "without prejudice to vested rights already acquired in accordance with the Civil Code or other laws." (Domingo *vs.* Sps. Molina, G.R. No. 200274, April 20, 2016) p. 506

— By means of the conjugal partnership of gains the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage. (Heirs of Exequiel Hagoriles *vs.* Hernaez, G.R. No. 199628, April 20, 2016) p.491

— Properties of a dissolved conjugal partnership fall under the regime of co-ownership among the surviving spouse and the heirs of the deceased spouse until final liquidation and partition; the surviving spouse, however, has an actual and vested one-half undivided share of the properties, which does not consist of determinate and segregated properties until liquidation and partition of the conjugal partnership. (Domingo *vs.* Sps. Molina, G.R. No. 200274, April 20, 2016) p. 506

FORCIBLE ENTRY

Action for — An action for forcible entry prescribes in one year reckoned from the date of the defendant's actual entry into the land; if at the time of the filing of the complaint more than one year had elapsed since the defendant had turned the plaintiff out of possession or the defendant's possession had become illegal, the action

will be not be one of forcible entry or unlawful detainer, but an *accion publiciana*. (Sps. Golez *vs.* Heirs of Domingo Bertuldo, G.R. No. 201289, May 30, 2016) p. 801

FORECLOSURE

Extrajudicial foreclosure — Personal notice to the mortgagor in extrajudicial foreclosure proceedings is not necessary; Sec. 3 of R.A. No. 3135 only requires the posting of the notice of sale in three public places and the publication of that notice in a newspaper of general circulation. (PNB *vs.* Sps. Rivera, G.R. No. 189577, April 20, 2016) p. 450

FORUM SHOPPING

Certification against forum shopping — The essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment; it exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another. (Bradford United Church of Christ, Inc. *vs.* Ando, G.R. No. 195669, May 30, 2016) p. 769

Concept — A favorable ruling obtained by the party in the action for recovery of ownership would not all compel or constrain the other court to obligatorily rule in the summary action of ejectment that it is entitled to the material or physical possession, (or possession *de facto*) of the disputed property because even if it be proved that it has the lawful title to or the ownership of the disputed lots, there is still both the need and necessity to resolve in the summary action of unlawful detainer whether there are valid or unexpired agreements between the parties that would justify the refusal to vacate by the actual occupants of the disputed property; in a summary action of ejectment, even the lawful owner of a parcel of land can be ousted or evicted therefrom by a lessee or tenant who holds a better or superior right to the material or physical (or *de facto*) possession thereof by virtue of

a valid lease or leasehold right thereto. (Bradford United Church of Christ, Inc. *vs.* Ando, G.R. No. 195669, May 30, 2016) p. 769

— A pending action involving ownership neither suspends nor bars the proceedings in the summary action for ejectment pertaining to the same property, in view of the dissimilarities or differences in the reliefs prayed for. (*Id*.)

— Committed in three ways, to wit: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet *(litis pendentia)*; (2) filing multiple cases based on the same cause of action and with the same prayer, the previous case having been finally resolved *(res judicata)*; or (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*). (Commissioner of Customs *vs.* Pilipinas Shell Petroleum Corp. (PSPC), G.R. No. 205002, April 20, 2016) p. 537

— There is forum shopping when a party seeks a favorable opinion in another forum, other than by an appeal or by *certiorari,* as a result of an adverse opinion in one forum, or when he institutes two or more actions or proceedings grounded on the same cause, hoping that one or the other court would make a favorable disposition on his case. (*Id*.)

— To constitute forum shopping the following elements must be present: (1) identity of the parties or, at least, of the parties who represent the same interest in both actions; (2) identity of the rights asserted and relief prayed for, as the latter is founded on the same set of facts; and (3) identity of the two preceding particulars, such that any judgment rendered in the other action will amount to *res judicata* in the action under consideration or will constitute *litis pendentia.* (*Id*.)

HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET)

Annulment of elections — Difference between the annulment of elections by electoral tribunals and the declaration of failure of elections by the COMELEC; *first,* the former is an incident of the judicial function of electoral tribunals while the latter is in the exercise of the COMELEC's administrative function; s*econd,* electoral tribunals only annul the election results connected with the election contest before it whereas the declaration of failure of elections by the COMELEC relates to the entire election in the concerned precinct or political unit; in annulling elections, the HRET does so only to determine who among the candidates garnered a majority of the legal votes cast; the COMELEC, on the other hand, declares a failure of elections with the objective of holding or continuing the elections, which were not held or were suspended, or if there was one, resulted in a failure to elect; when COMELEC declares a failure of elections, special elections will have to be conducted; there is no overlap of jurisdiction because when the COMELEC declares a failure of elections on the ground of violence, intimidation, terrorism or other irregularities, it does so in its administrative capacity; when electoral tribunals annul elections under the same grounds, they do so in the performance of their quasi-judicial functions. (Abayon *vs.* House of Representatives Electoral Tribunal (HRET), G.R. No. 222236, May 3, 2016) p. 683

Jurisdiction — The power of the HRET to annul elections differ from the power granted to the COMELEC to declare failure of elections; the Constitution no less, grants the HRET with exclusive jurisdiction to decide all election contests involving the members of the House of Representatives, which necessarily includes those which raise the issue of fraud, terrorism or other irregularities committed before, during or after the elections; the phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the

validity of the contestee's title; the annulment of election results is but a power concomitant to the HRET's constitutional mandate to determine the validity of the contestee's title. (Abayon *vs.* House of Representatives Electoral Tribunal (HRET), G.R. No. 222236, May 3, 2016) p. 683

— The HRET is the sole judge of all contests relating to the election, returns and qualifications of members of the House of Representatives, and may annul election results if in its determination, fraud, terrorism or other electoral irregularities existed to warrant the annulment. (*Id.*)

Powers — HRET's independence is not without limits as the Court retains *certiorari* jurisdiction over it if only to check whether it had gravely abused its discretion. (Abayon *vs.* House of Representatives Electoral Tribunal (HRET), G.R. No. 222236, May 3, 2016) p. 683

— Once a winning candidate has been proclaimed, taken his oath, and assumed office as Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. (Rivera *vs.* COMELEC, G.R. No. 210273, April 19, 2016) p. 176

— The sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives is the House of Representatives Electoral Tribunal (HRET). (*Id.*)

JUDGES

Duties — Judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved; there is no excuse for mediocrity in the performance of judicial functions; the position of judge exacts nothing less than the faithful observance of the law and the Constitution in the discharge of official

duties. (Office of the Court Administrator *vs.* Judge Casalan, A.M. No. RTJ-14-2385[Formerly A.M. No. 14-4-115-RTC], April 20, 2016) p. 350

Misconduct — Unjustified failure to comply with directives of the Office of the Court Administrator constitutes misconduct and exacerbates administrative liability. (Office of the Court Administrator *vs.* Judge Casalan, A.M. No. RTJ-14-2385[Formerly A.M. No. 14-4-115-RTC], April 20, 2016) p. 350

Undue delay in rendering decision — Delay in case disposition is a major culprit in the erosion of public faith and confidence in the judiciary and the lowering of its standards. (*Re*: Evaluation of Administrative Liability of Hon. Antonio C. Lubao, Br. 22, RTC, General Santos City, A.M. No. 15-09-314-RTC, April 19, 2016) p. 14

— Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of Sec. 16, Art. III of the Constitution; failure to render decisions and orders within the reglementary period is also a breach of Rule 3.05, Canon 3 of the Code of Judicial Conduct and Sec. 5, Canon 6 of the New Code of Judicial Conduct; classified as less serious charges under Sec. 9, Rule 140 of the Rules of Court. (Office of the Court Administrator *vs.* Judge Casalan, A.M. No. RTJ-14-2385[Formerly A.M. No. 14-4-115-RTC], April 20, 2016) p. 350

JUDGMENTS

Immutability of final judgment — Upon finality of the judgment, the Court loses its jurisdiction to amend, modify or alter the same; the mandatory character, however, of the rule on immutability of final judgments was not designed to be an inflexible tool to excuse and overlook prejudicial circumstances. (Rep. of the Phils. *vs.* Homer and Ma. Susana Dagondon, G.R. No. 210540, April 19, 2016) p. 210

LAND REGISTRATION

Cancellation of title and reversion — Proper where there exists a mistake or oversight in granting free patent over inalienable land. (Rep. of the Phils. *vs.* Hachero, G.R. No. 200973, May 30, 2016) p. 784

Tax declarations — Although a tax declaration by itself is not adequate to prove ownership, it may serve as sufficient basis for inferring possession; the voluntary declaration of the piece of real property for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the state and all other interested parties with an intention to contribute needed revenues to the government. (Rep. of the Phils. *vs.* Rayos Del Sol, G.R. No. 211698, May 30, 2016) p. 877

Torrens System — One who deals with property registered under the Torrens system has a right to rely on what appears on the face of the certificate of title and need not inquire further as to the property's ownership. (Pidlaoan *vs.* Jacob Pidlaoan, G.R. No. 196470, April 20, 2016) p. 476

— Registration under the Torrens system does not create or vest title; a certificate of title merely serves as an evidence of ownership in the property; the issuance of a certificate of title does not preclude the possibility that persons not named in the certificate may be co-owners of the real property, or that the registered owner is only holding the property in trust for another person. (*Id.*)

LITIS PENDENCIA

Concept of — When there is more than one suit pending between the same parties for the same cause of action, *litis pendentia* exists and a motion to dismiss may be filed on this ground; referred to as *lis pendens* or *auter action pendant, litis pendentia* has the following elements: first, identity of parties, or at least such parties as those representing the same interests in both actions; second,

identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts and third, identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case. (Bradford United Church of Christ, Inc. *vs.* Ando, G.R. No. 195669, May 30, 2016) p. 769

(Pilipinas Shell Foundation, Inc. *vs.* Fredecuces, G.R. No. 174333, April 20, 2016) p. 409

MOTION TO DISMISS

Failure to state a cause of action — If the allegations of the complaint do not state the concurrence of the elements of a cause of action, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action which is the proper remedy under Sec. 1 (g) of Rule 16 of the Revised Rules of Civil Procedure; by filing a Motion to Dismiss, a defendant hypothetically admits the truth of the material allegations of the ultimate facts contained in the plaintiff's complaint; when a motion to dismiss is grounded on the failure to state a cause of action, a ruling thereon should, as a rule, be based only on the facts alleged in the complaint. (PNB *vs.* Sps. Rivera, G.R. No. 189577, April 20, 2016) p. 450

— In filing a motion to dismiss on the ground of failure to state a cause of action, a defendant hypothetically admits the truth of the facts alleged in the complaint; since allegations of evidentiary facts and conclusion of law are omitted in pleadings, the hypothetical admission is limited to the relevant and material facts well pleaded in the complaint and inferences fairly deducible therefrom. (Pilipinas Shell Foundation, Inc. *vs.* Fredecuces, G.R. No. 174333, April 20, 2016) p. 409

— There is no hypothetical admission of the veracity of allegations if their falsity is subject to judicial notice, or if such allegations are legally impossible, or if these refer to facts which are inadmissible in evidence, or if

by the record or document included in the pleading these allegations appear unfounded. (*Id*.)

NATIONAL INTERNAL REVENUE CODE OF 1997 (R.A. NO. 8424)

Application of — A certificate of deposit is a written acknowledgment by a bank of the receipt of a sum of money on deposit which the bank promises to pay to the depositor, to the order of the depositor, or to some other person or his order, whereby the relation of debtor or creditor between the bank and the depositor is created. (ING Bank N.V. *vs.* Commissioner of Internal Revenue, G.R. No. 167679, April 20, 2016) p. 361

— A documentary stamp tax is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale, or transfer of an obligation, right, or property; the tax is levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments; the documentary stamp tax due is paid by the person making, signing, issuing, accepting, or transferring the instrument. (*Id*.)

Tax credit or refund — If the CIR issues a ruling, either a specific one applicable to a particular taxpayer or a general interpretative rule applicable to all taxpayers, and, as a result, misleads the taxpayers affected by the rule, into filing prematurely judicial claims with the CTA, the CIR cannot be allowed to later on question the CTA's assumption of jurisdiction over such claim; judicial claims for tax credit or refund instituted before the CTA should be given due course, despite their failure to comply with the 120- and 30-day periods. (Procter and Gamble Asia Pte Ltd. *vs*. Commissioner of Internal Revenue, G.R. No. 204277, May 30, 2016) p. 817

OBLIGATIONS

Subrogation — Subrogation is the substitution of one person by another with reference to a lawful claim or right, so

that he who is substituted succeeds to the rights of the other in relation to a debt or claim, including its remedies or securities; it contemplates full substitution such that it places the party subrogated in the shoes of the creditor, and he may use all means that the creditor could employ to enforce payment; given that the subrogee merely steps into the shoes of the creditor, he acquires no right greater than those of the latter. (Wellex Group, Inc. *vs*. Sheriff Urieta of the Sandiganbayan Security and Sheriff Services, G.R. No. 211098, April 20, 2016) p. 594

PARTIES

Real parties in interest — Only those who have had their day in court are considered the real parties in interest in an action, and it is they who are bound by the judgment therein and by writs of execution issued pursuant thereto. (Wellex Group, Inc. *vs.* Sheriff Urieta of the Sandiganbayan Security and Sheriff Services, G.R. No. 211098, April 20, 2016) p. 594

PARTITION

Action for — The appropriate recourse of co-owners in cases where their consent were not secured in a sale of the entire property as well as in a sale merely of the undivided shares of some of the co-owners is an action for partition under Rule 69 of the Revised Rules of Court. (Domingo *vs.* Sps. Molina, G.R. No. 200274, April 20, 2016) p. 506

PHILIPPINE CHARITY SWEEPSTAKES OFFICE

PCSO Charter — The PCSO charter evidently does not grant its Board the unbridled authority to set salaries and allowances of officials and employees. (PCSO *vs.* Chairperson Pulido-Tan, G.R. No. 216776, April 19, 2016) p. 266

Standardized Salaries of PCSO Officials and employees — All kinds of allowances are integrated into the prescribed standardized salary rates except: (1) representation and transportation allowances *(RATA);* (2) clothing and laundry allowances; (3) subsistence allowance of marine

officers and crew on board government vessels; (4) subsistence allowance of hospital personnel; (5) hazard pay; (6) allowance of foreign service personnel stationed abroad; and (7) such other additional compensation not otherwise specified in Sec. 12 as may be determined by the DBM; since the COLA is not among those expressly excluded from integration by R.A. No. 6758, it should be considered as deemed integrated in the standardized salaries of the PCSO officials and employees under the general rule of integration. (PCSO *vs.* Chairperson Pulido-Tan, G.R. No. 216776, April 19, 2016) p. 266

PLEADINGS

Verification — Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct. (William Go Que Construction *vs.* CA, G.R. No. 191699, April 19, 2016) p. 117

— Verification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative; on the other hand, the certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different *fora.* (*Id.*)

PRESCRIPTION

Concept — Prescription and laches cannot apply to land registered under the Torrens System; no title to registered land, in derogation of that of the registered owner shall be acquired by prescription or adverse possession. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

PUBLIC LAND ACT (C.A. NO. 141)

Patent — A patent is a governmental grant of a right, a privilege, or authority; free patent is an instrument by which the

government conveys a grant of public land to a private person. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

Section 11 — Two modes of disposing public lands through confirmation of imperfect or incomplete titles: (1) by judicial confirmation; and (2) by administrative legalization, otherwise known as the grant of free patents. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

PUBLIC OFFICERS AND EMPLOYEES

Benefits — There is no diminution of pay when an existing benefit is substituted in exchange for one of equal or better value. (Ronquillo, Jr. *vs.* Nat'l. Electrification Administration, G.R. No. 172593, April 20, 2016) p. 382

Double compensation — Unless otherwise provided by law, government employees cannot be paid an extra remuneration for the same office that already has a fixed compensation. (Ronquillo, Jr. *vs.* Nat'l. Electrification Administration, G.R. No. 172593, April 20, 2016) p. 382

RAPE

Commission of — Carnal knowledge is proven by proof of the entry or introduction of the male organ into the female organ; the touching or entry of the penis into the labia *majora* or the labia *minora* of the pudendum of the victim's genitalia constitutes consummated rape. (People *vs.* Mendoza, G.R. No. 214349, April 20, 2016) p. 641

— Elements are: (1) that the offender had carnal knowledge of a woman; and (2) that he accomplished this act through force, threat, or intimidation; when she was deprived of reason or otherwise unconscious; by means of fraudulent machination or grave abuse of authority; or when she was under twelve (12) years of age or was demented. (People *vs.* Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

— In concluding that carnal knowledge took place, full penetration of the vaginal orifice is not an essential ingredient, nor is the rupture of the hymen necessary; the mere touching of the external genitalia by the penis capable of consummating the sexual act is sufficient to constitute carnal knowledge; the touching of the *labia majora* or the *labia minora* of the pudendum by the penis constitutes consummated rape. (People *vs.* Castañas *y* Espinosa, G.R. No. 192428, April 20, 2016) p. 463

— Lust is no respecter of time and place, thus, rape can be committed even in places where people congregate, in parks, along the roadside, within the school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. (*Id.*)

— When the testimony of a rape victim is consistent with the medical findings, there is sufficient basis to conclude that there has been carnal knowledge. (*Id.*)

— Whenever the crime of rape is committed with the use of a deadly weapon, the penalty shall be reclusion perpetua to death as provided under Art. 266-B of the Revised Penal Code. (People *vs.* Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

Qualified rape — The elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; and (5) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim. (People *vs.* Mendoza, G.R. No. 214349, April 20, 2016) p. 641

Statutory rape — Statutory rape is committed by sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or the lack of it to the sexual act; proof of force, intimidation, or consent is unnecessary; to convict an accused of the crime of statutory

rape, the prosecution carries the burden of proving: (1) the age of the complainant; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the complainant. (People *vs.* Castañas *y* Espinosa, G.R. No. 192428, April 20, 2016) p. 463

REAL ESTATE MORTGAGE LAW (ACT NO. 3135)

Application of — Failure to redeem the foreclosed property extinguishes the mortgagor's remaining interest in it; following the consolidation of ownership and the issuance of a new certificate of title in the purchaser's name, the purchaser can demand possession at any time as a result of his absolute ownership; with the consolidated title, the purchaser becomes entitled to possession and it becomes the ministerial duty of the court to issue a writ of possession. (Campos *vs.* BPI, G.R. No. 207597, May 30, 2016) p. 853

Section 7 — Allows the purchaser of a foreclosed property to file an *ex parte* motion to acquire possession of the property. (Campos *vs.* BPI, G.R. No. 207597, May 30, 2016) p. 853

RECONSTITUTION OF TITLE (R.A. NO. 26)

Application of — Failure to prove that the land sought to be reconstituted had already been registered under the Torrens System rendered judicial reconstitution under R.A. No. 26 improper. (Rep. of the Phils. *vs.* Homer and Ma. Susana Dagondon, G.R. No. 210540, April 19, 2016) p. 210

— The reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land; R.A. No. 26 presupposes that the property whose title is sought to be reconstituted has already been brought under the provisions of the Torrens System; the following must be present for an order for reconstitution to issue: *(a)* that the certificate of title had been lost or destroyed; *(b)* that the documents

presented by petitioner are sufficient and proper to warrant reconstitution of the lost or destroyed certificate of title; *(c)* that the petitioner is the registered owner of the property or had an interest therein; *(d)* that the certificate of title was in force at the time it was lost and destroyed; and *(e)* that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title. (*Id*.)

RECONVEYANCE

Action for — The remedy of reconveyance is only available to a landowner whose private property was erroneously or fraudulently registered in the name of another; it is not available when the subject property is public land because a private person would have no right to recover the property. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

REGIONAL TRIAL COURTS

Jurisdiction — An ordinary civil case entailing the propriety of the actions of a creditor in proceeding against the security for its loan, which necessitates the application of the provisions of the Civil Code, falls under the exclusive jurisdiction of the Regional Trial Courts. (Wellex Group, Inc. *vs.* Sheriff Urieta of the Sandiganbayan Security and Sheriff Services, G.R. No. 211098, April 20, 2016) p. 594

REPLEVIN

Action for — An action whereby the owner or person entitled to repossession of goods or chattels may recover those goods or chattels from one who has wrongfully distrained or taken, or who wrongfully detains such goods or chattels; it is designed to permit one having right to possession to recover property in specie from one who has wrongfully taken or detained the property. (Malayan Ins. Co., Inc. *vs.* Alibudbud, G.R. No. 209011, April 20, 2016) p. 584

— An action which involves the parties' relationship as debtor and creditor, and not their employer-employee relationship, is civil in nature. (*Id*.)

RES JUDICATA

Elements of — Requisites must concur to bar the institution of a subsequent action: (1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction over the subject matter and over the parties; (3) it must be a judgment on the merits; and (4) there must be, between the first and second actions, (a) identity of parties, (b) identity of subject matter, and (c) identity of cause of action. (Bradford United Church of Christ, Inc. *vs.* Ando, G.R. No. 195669, May 30, 2016) p. 769

Principle of — Conclusiveness of judgment finds application when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction. (De Leon *vs.* De Leon-Reyes, G.R. No. 205711, May 30, 2016) p. 832

SALES

Equitable mortgage — One which, although lacking in some formality or other requisites demanded by statute, nevertheless reveals the intention of the parties to charge real property as security for a debt, and contains nothing impossible or contrary to law; a contract of absolute sale shall be presumed an equitable mortgage if one, the parties entered into a contract denominated as a contract of sale; and two, their intention was to secure an existing debt by way of mortgage. (Pidlaoan *vs.* Jacob Pidlaoan, G.R. No. 196470, April 20, 2016) p. 476

SHERIFFS

Duties — Tasked with serving writs and processes of the court; keeping custody of attached properties; maintaining the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and performing such other duties as may be assigned by the Executive Judge, Presiding Judge and/

or Branch Clerk of Court. (Prosecutor III Tabao *vs.* Sheriff IV Cabcabin, AM No, P-16-3437[Formerly OCA IPI No. 11-3665-P], April 20, 2016) p. 335

Simple misconduct — A transgression of some established rule of action, an unlawful behavior, or negligence committed by a public officer; under Sec. 46, D (2) of the Revised Rules on Administrative Cases in the Civil Service *(RRACS),* simple misconduct is considered a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months, for the first offense; and dismissal from the service for the second offense. (Prosecutor III Tabao *vs.* Sheriff IV Cabcabin, AM No, P-16-3437[Formerly OCA IPI No. 11-3665-P], April 20, 2016) p. 335

STARE DECISIS

Principle of — Past decisions of the Supreme Court should be followed in the adjudication of cases; however, for a ruling of the Supreme Court to come within this rule known as *stare decisis*, the Court must categorically rule on an issue expressly raised by the parties; it must be a ruling on an issue directly raised; when the court resolves an issue merely *sub silentio, stare decisis* does not apply on the issue touched upon. (Procter and Gamble Asia Pte Ltd. *vs.* Commissioner of Internal Revenue, G.R. No. 204277, May 30, 2016) p. 817

STATUTES

Implied repeal — An implied repeal transpires when a substantial conflict exists between the new and the prior laws, and occurs only when there is an irreconcilable inconsistency and repugnancy in the terms of the new and the old statute; repeal by implication is disfavored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume. (Engr. Quintero, Jr. *vs.* COA, G.R. No. 218363, May 31, 2016) p. 953

Interpretation of — Every law is presumed valid; courts are to adopt a liberal interpretation in favor of the constitutionality of legislation, as Congress is deemed to have enacted a valid, sensible, and just law; to strike down a law as unconstitutional, the petitioners have the burden to prove a clear and unequivocal breach of the Constitution. (Chong *vs.* Senate of the Phils., G.R. No. 217725, May 31, 2016) p. 942

TAX AMNESTY PROGRAM (R.A. NO. 9480)

Application of — In the operation of the withholding tax system, the income payee is the taxpayer, the person on whom the tax is imposed, while the income payor, a separate entity, acts no more than an agent of the government for the collection of the tax in order to ensure its payment; the withholding agent is merely a tax collector, not a taxpayer; the liability of the withholding agents is independent from that of the taxpayer. (ING Bank N.V. *vs.* Commissioner of Internal Revenue, G.R. No. 167679, April 20, 2016) p. 361

— The law expressly covers all national internal revenue taxes for the taxable year 2005 and prior years that have remained unpaid as of December 31, 2005; the documentary stamp tax is considered a national internal revenue tax under Sec. 21 of R. A. No. 8424, otherwise known as the National Internal Revenue Code of 1997. (*Id.*)

TAXATION

Real property taxation — A portion of the submarine cable system lies within Philippine territory and thus falls within the jurisdiction of the said local taxing authorities; whether referred to as Philippine 'internal waters' under Art. I of the Constitution or as 'archipelagic waters' under UNCLOS Part III, Art. 49 (1, 2, 4), the Philippines exercises sovereignty over the body of water lying landward of its baselines, including the air space over it and the submarine areas underneath. (Capitol Wireless, Inc. *vs.*

Prov'l. Treasurer of Batangas, G.R. No. 180110, May 30, 2016) p. 712

— Jurisdiction or authority over part of the subject submarine cable system lying within Philippine jurisdiction includes the authority to tax the same, for taxation is one of the three basic and necessary attributes of sovereignty, and such authority has been delegated by the national legislature to the local governments with respect to real property taxation. (*Id.*)

— Petitioner's case is one replete with questions of fact instead of pure questions of law, which renders its filing in a judicial forum improper because it is instead cognizable by local administrative bodies like the Board of Assessment Appeals, which are the proper venues for trying factual issues. (*Id.*)

— Real property tax exemption privileges are expressly withdrawn upon the effectivity of the Local Government Code; tax exemptions are strictly construed against the taxpayer because taxes are considered the lifeblood of the nation. (*Id.*)

— Submarine or undersea communications cables are akin to electric transmission lines; no longer exempted from real property tax and may qualify as "machinery" subject to real property tax under the Local Government Code; both electric lines and communications cables, in the strictest sense, are not directly adhered to the soil but pass through posts, relays or landing stations, but both may be classified under the term "machinery" as real property under Art. 415(5) of the Civil Code for the simple reason that such pieces of equipment serve the owner's business or tend to meet the needs of his industry or works that are on real estate. (*Id.*)

— The general rule of a prerequisite recourse to administrative remedies applies when questions of fact are raised, but the exception of direct court action is allowed when purely questions of law are involved; prior

resort to administrative action is required when among the issues raised is an allegedly erroneous assessment, like when the reasonableness of the amount is challenged, while direct court action is permitted when only the legality, power, validity or authority of the assessment itself is in question. (*Id*.)

THIRD-PARTY COMPLAINT

Third-party defendant — A defendant is permitted to bring in a third-party defendant to litigate a separate cause of action in respect of the plaintiff's claim against a third party in the original and principal case; the objective is to avoid circuitry of action and unnecessary proliferation of lawsuits, as well as to expeditiously dispose of the entire subject matter arising from one particular set of facts, in one litigation. (Paramount Life & General Ins. Corp. *vs.* Castro, G.R. No. 195728, April 19, 2016) p. 163

UNLAWFUL DETAINER

Action for — A complaint for unlawful detainer must allege that: (a) the possession of the defendant was originally legal, as his possession was permitted by the plaintiff on account of an express or implied contract between them; (b) the defendant's possession became illegal when the plaintiff demanded that the defendant vacate the subject property due to the expiration or termination of the right to possess under the contract; (c) the defendant refused to heed such demand; and (d) the case for unlawful detainer is instituted within one year from the date of last demand. (Sps. Golez *vs.* Heirs of Domingo Bertuldo, G.R. No. 201289, May 30, 2016) p. 801

— If tolerance has not been effectively alleged in the complaint, the complaint fails to state a cause of action for unlawful detainer. (*Id*.)

WITNESSES

Credibility of — A rape victim would not charge her attacker at all and thereafter expose herself to the inevitable stigma and indignities her accusation will entail unless

what she asserts is the truth for it is her natural instinct to protect her honor. (People *vs*. Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

— A victim of rape is not expected to have an accurate or errorless recollection of the traumatic experience that was so humiliating and painful, that she might, in fact, be trying to obliterate it from her memory; for that reason, minor lapses or inconsistencies in the rape victim's testimony cannot be a ground to destroy her credibility or more so, serve as basis for appellant's acquittal. (*Id*.)

— Assessment of the witnesses' credibility is best left to the trial court because of its unique opportunity to scrutinize the witnesses first hand and observe their demeanor, conduct, and attitude under grilling examination. (People *vs*. Camposano *y* Tiolanto, @ "Punday/Masta", G.R. No. 207659, April 20, 2016) p. 563

— Factual findings of the trial courts are generally given full weight, credit and utmost respect on appeal especially when such findings are supported by substantial evidence on record. (People *vs*. Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

— In rape cases, primordial is the credibility of the victim's testimony because the accused may be convicted solely on said testimony provided it is credible, natural, convincing and consistent with human nature and the normal course of things; testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. (People *vs*. Castañas *y* Espinosa, G.R. No. 192428, April 20, 2016) p. 463

— The Court accords full weight and credit to the testimony of a rape victim, more so, if she were a child-victim for youth and immaturity are badges of truth and sincerity. (People *vs*. Mendoza, G.R. No. 214349, April 20, 2016) p. 641

— The Court will not interfere with the judgment of the trial court in passing upon the credibility of the witnesses or the veracity of their respective testimonies unless a material fact or circumstance has been overlooked which, if properly considered, would affect the outcome of the case. (*Id*.)

— Victims respond differently to trauma and there is no standard form of behavioral response when persons suffer from one. (People *vs*. Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

Testimony of — Expert testimony like an examining physician is merely corroborative in character and not essential to conviction; in rape cases, the accused may be convicted on the basis of the sole uncorroborated testimony of the victim as long as said testimony is clear, positive and convincing. (People *vs*. Ulanday @ "Saroy", G.R. No. 216010, April 20, 2016) p. 663

— In terms of evidentiary weight, affirmative testimony is decidedly superior to negative testimony. (People *vs.* Camposano *y* Tiolanto, @ "Punday/Masta", G.R. No. 207659, April 20, 2016) p. 563

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D. BOOKS

(Local)

Campos, Jose C. Jr. and Lopez-Campos, Maria Clara,
The Corporation Code: Comments, Notes and
Selected Cases Vol. I, 413 (1990) 108
Lopez, Rosario N., The Corporation Code
of the Philippines (Annotated) Volume
Two, 685 (1994) 108
Paras, Edgardo L., Civil Code of the Philippines
Annotated (16th ed. 2008), Vol. II, pp. 28-29 727
Regalado, Florenz D., 2 Remedial Law
Compendium 352 (2004) 534
Tolentino, Arturo M., Civil Code of the Philippines
II 2004, p. 110 486
Tolentino, Arturo M., 1 Commentaries and
Jurisprudence on the Civil Code of the
Philippines 121-122 (1990) 536

II. FOREIGN AUTHORITIES

BOOKS

Black, Henry Campbell, M.A., Black's Law Dictionary
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Black's Law Dictionary (8th ed. 2004),
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