PHILIPPINE REPORTS

VOL. 880

AUGUST 27, 2020 - SEPTEMBER 1, 2020

VOLUME 880

REPORTS ON CASES

DECIDED BY THE

SUPREME COURT

OF THE

PHILIPPINES

FOR THE PERIOD

AUGUST 27, 2020 - SEPTEMBER 1, 2020

Prepared
by

The Office of the Reporter
Supreme Court
Manila
2023

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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

FIRST DIVISION

[G.R. No. 200010. August 27, 2020]

HOME CREDIT MUTUAL BUILDING AND LOAN ASSOCIATION and/or RONNIE B. ALCANTARA, *Petitioners, v.* **MA. ROLLETTE G. PRUDENTE,** *Respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR STANDARDS; PROHIBITION AGAINST ELIMINATION OR DIMINUTION OF BENEFITS; GENERALLY, EMPLOYEES HAVE A VESTED RIGHT OVER EXISTING BENEFITS THAT THE EMPLOYER VOLUNTARILY GRANTED THEM; THE BENEFITS CANNOT BE REDUCED, DIMINISHED, DISCONTINUED OR ELIMINATED CONSISTENT WITH THE CONSTITUTIONAL MANDATE TO PROTECT THE RIGHT OF WORKERS AND PROMOTE THEIR WELFARE. — Generally, employees have a vested right over existing benefits that the employer voluntarily granted them. These benefits cannot be reduced, diminished, discontinued or eliminated consistent with the constitutional mandate to protect the rights of workers and promote their welfare.

2. ID.; ID.; ID.; APPLIES ONLY IF THE BENEFIT IS BASED ON AN EXPRESS POLICY, A WRITTEN CONTRACT, OR HAS RIPENED INTO A PRACTICE; WHEN TO BE CONSIDERED A COMPANY PRACTICE; CASE AT BAR. — Clearly, the non-diminution rule applies only if the benefit

is based on an express policy, a written contract, or has ripened into a practice. In this case, Rollette's claim that the car plan was part of her hiring package was unsubstantiated. Admittedly, Home Credit has no existing car plan at the time Rollette was hired. Rollette's employment contract does not even contain any express provision on her entitlement to a service vehicle at full company cost. Therefore, it is incongruous for the CA to conclude that the grant of a service vehicle was part of Rollette's hiring package. Similarly, we find that the car plan has not ripened into a company practice. As a rule, "*practice*" or "*custom*" is not a source of a legally demandable or enforceable right. In labor cases, however, benefits which were voluntarily given by the employer, and which have ripened into company practice, are considered as rights and are subject to the non-diminution rule. To be considered a company practice, the benefit must be consistently and deliberately granted by the employer over a long period of time. It requires an indubitable showing that the employer agreed to continue giving the benefit knowing fully well that the employee is not covered by any provision of law or agreement for its payment. The burden to establish that the benefit has ripened into a company practice rests with the employee. Here, the labor tribunals correctly held that Home Credit's act of giving service vehicles to Rollette has been a company practice — but not as to the non-participation aspect. There was no substantial evidence to prove that the car plan at full company cost had ripened into company practice. Notably, the only time Rollette was given a service vehicle fully paid for by the company was for her first car. For the second vehicle, the company already imposed a maximum limit of ₱660,000.00 but Rollette never questioned this. She willingly paid for the equity in excess of said limit. Thus, the elements of consistency and deliberateness are not present.

APPEARANCES OF COUNSEL

Cesar Y. Salera for petitioners.
Glynnis Theresa C. Matriz-Acosta for respondent.

D E C I S I O N

LOPEZ, *J.*:

There is no greater crime than desire.
There is no greater disaster than discontent.
There is no greater misfortune than greed.

Therefore:

To have enough of enough is always enough.

- Tao Te Ching, Chapter 46

Whether an employer violated the rule on non-diminution of benefits when it adopted a cost sharing scheme in its car plan for employees is the core issue in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeal's (CA) Decision[1] dated August 31, 2011 in CA-G.R. SP No. 117332, which reversed the findings of the National Labor Relations Commission (NLRC).

ANTECEDENTS

In 1997, Home Credit Mutual Building and Loan Association gave its employee Rollette Prudente her first service vehicle. Later, Rollete purchased the vehicle from Home Credit at its depreciated value. In 2003, Home Credit granted Rollete's request for a second service vehicle. However, Home Credit required Rollete to pay for additional equity in excess of the maximum limit of ₱660,000.00. In 2008, Rollete again purchased the vehicle at its depreciated value.

In 2009, Rollette applied for a third service vehicle. This time, Home Credit informed Rollette that she must pay the equity more than ₱550,000.00. Home Credit likewise adopted a cost sharing scheme where Rollette must shoulder 40% of the acquisition price. Aggrieved, Rollette filed a complaint against Home Credit for violation of Article 100 of the Labor Code on non-diminution of benefits before the Labor Arbiter (LA).

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[1] *Rollo*, pp. 51-68; penned by Associate Justice Ramon A. Cruz, with the concurrence of Associate Justices Jose C. Reyes, Jr. (now a Member of this Court) and Antonio L. Villamor.

On October 30, 2009, the LA dismissed Rollette's complaint and held that Home Credit's new 60%-40% cost sharing scheme on the acquisition of service vehicle did not constitute diminution of benefit.[2] The LA explained that what ripened into a company practice is the employer's act of granting transportation facility to its employees. However, as to the specific details of the grant, *i.e.*, the covered employees, period of depreciation, car model, company share or participation, may vary as these call for the exercise of management prerogative.[3] In its Decision dated August 5, 2010, the NLRC affirmed the LA's findings, thus:

> WHEREFORE, absent grave abuse of discretion or serious error in the resolution of the issues raised in this case. We SUSTAIN the disposition a quo.
>
> SO ORDERED.[4]

Dissatisfied, Rollette elevated the case to the CA through a petition for *certiorari*. On August 31, 2011, the CA reversed the labor tribunals' findings. It held that the car plan at full company cost or on a non-participation basis has evolved into a company practice. The employer cannot unilaterally withdraw or reduce the benefit. Also, the service vehicle given to Rollette is not akin to a bonus or an act of gratuity which can be withdrawn at will. The car plan was part of Rollette's hiring package. Lastly, there was no competent evidence showing that the car provision was contingent on the realization of company profits.[5] In sum, the new scheme diminished Rollette's benefits as she will be forced to shell out part of the vehicle's cost,[6] to wit:

> **WHEREFORE**, the petition is GRANTED. The Decision dated August 5, 2010 and Resolution dated October 6, 2010 of the Fifth Division of the National Labor Relations Commission are REVERSED and SET ASIDE and a new one entered:

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[2] *Id.* at 119-126.

[3] *Id.* at 123-126.

[4] *Id.* at 128.

[5] *Id.* at 66-67.

[6] *Id.* at 51-68.

(1) Ordering Home Credit Mutual Building and Loan Association to provide the full car benefit of the petitioner without diminution consisting of a car service of the same worth or value as that of Honda Civic LXi on a non-participatory basis (full company cost) with transfer of ownership after five (5) years.

(2) Ordering Home Credit Mutual Building and Loan Association to pay Ma. Rolette Prudente moral damages in the amount of Fifty Thousand Pesos (₱50,000.00), Philippine Currency, exemplary damages in the amount of Fifty Thousand Pesos (₱50,000.00), Philippine Currency and attorney's fees in the amount of ten percent (10%) of the total award.

SO ORDERED.[7] (Emphasis in the original.)

Home Credit sought reconsideration but was denied.[8] Hence, this recourse.[9]

RULING

The petition is meritorious.

There is no dispute that Rollette received service vehicles from Home Credit in 1997 and in 2003. The LA and the NLRC both held that the car plan has ripened into a company practice but the specific manner by which it is given may vary and is subject to management prerogative. On the other hand, the CA ruled that Rollette is entitled to a service vehicle at full company cost as this benefit was part of her hiring package. Also, Home Credit may not diminish this benefit which it had practiced for a long period of time. The question now is whether the CA committed reversible error in finding that Home Credit violated the rule against diminution of benefits.

Generally, employees have a vested right over existing benefits that the employer voluntarily granted them.[10] These benefits

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[7] *Supra* note 5.

[8] *Rollo*, pp. 70-71.

[9] *Id.* at 8-45.

[10] *University of the East v. University of the East Employees' Association*, 673 Phil. 273, 286 (2011).

cannot be reduced, diminished, discontinued or eliminated[11] consistent with the constitutional mandate to protect the rights of workers and promote their welfare.[12] Apropos is Article 100 of the Labor Code, *viz.*:

> ART. 100. *Prohibition against Elimination or Diminution of Benefits.* — Nothing in this Book shall be construed to eliminate or in any way diminish supplements, or other employee benefits **being enjoyed at the time of promulgation of this Code**. (Emphasis Supplied.)

In *Arco Metal Products, Co., Inc. v. Samahan ng mga Manggagawa sa Arco Metal-NAFLU (SAMARM-NAFLU, et al.)*,[13] we stressed that the principle of non-diminution of benefits is founded on the constitutional mandate to "*protect the rights of workers and promote their welfare*" *and* "*to afford labor full protection.*" In his separate concurring opinion, Justice Arturo Brion clarified that the basis for non-diminution rule is not Article 100 which refers solely to "*benefits enjoyed at the time of the promulgation of the Labor Code*" thus:

> x x x Article 100 refers solely to the non-diminution of benefits enjoyed at the time of the promulgation of the Labor Code. **Employer-employee relationship is contractual and is based on the express terms of the employment contract as well as on its implied terms, among them, those not expressly agreed upon but which the employer has freely, voluntarily and consistently extended to its employees**. Under the principle of mutuality of contracts embodied in Article 1308 of the Civil Code, the terms of a contract — both express and implied — cannot be withdrawn except by mutual consent or agreement of the contracting parties. x x x[14] (Emphasis supplied.)

Clearly, the non-diminution rule applies only if the benefit is based on an express policy, a written contract, or has ripened

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[11] *Eastern Telecommunications Philippines, Inc. v. Eastern Telecoms Employees Union*, 681 Phil. 519, 535 (2012); *Tiangco, et al. v. Hon. Leogardo, Jr., et al.*, 207 Phil. 235 (1983).

[12] Constitution, Art. II, Sec. 18; and Art. XIII, Sec. 3.

[13] 577 Phil. 1 (2008), citing CONSTITUTION, Article II, Section 18 and Article XIII, Section 3.

[14] *Id.* at 12.

into a practice.[15] In this case, Rollette's claim that the car plan was part of her hiring package was unsubstantiated. Admittedly, Home Credit has no existing car plan at the time Rollette was hired. Rollette's employment contract does not even contain any express provision on her entitlement to a service vehicle at full company cost.[16] Therefore, it is incongruous for the CA to conclude that the grant of a service vehicle was part of Rollette's hiring package.

Similarly, we find that the car plan has not ripened into a company practice. As a rule, "*practice*" or "*custom*" is not a source of a legally demandable or enforceable right. In labor cases, however, benefits which were voluntarily given by the employer, and which have ripened into company practice, are considered as rights and are subject to the non-diminution rule.[17] To be considered a company practice, the benefit must be consistently and deliberately granted by the employer over a long period of time. It requires an indubitable showing that the employer agreed to continue giving the benefit knowing fully well that the employee is not covered by any provision of law or agreement for its payment.[18] The burden to establish that the benefit has ripened into a company practice rests with the employee.[19]

Here, the labor tribunals correctly held that Home Credit's act of giving service vehicles to Rollette has been a company practice — but not as to the non-participation aspect. There was no substantial evidence to prove that the car plan at full company cost had ripened into company practice. Notably, the only time

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[15] *Central Azucarera de Tarlac v. Central Azucarera de Tarlac Labor Union-NLU*, 639 Phil. 633, 641 (2010).

[16] *Rollo*, p. 108.

[17] *Makati Stock Exchange, Inc., et al. v. Campos*, 603 Phil. 121, 132-133 (2009).

[18] *Vergara, Jr. v. Coca-Cola Bottlers Philippines, Inc.*, 707 Phil. 255, 262-263 (2013).

[19] *Galang, et al. v. Boie Takeda Chemicals, Inc., et al.*, 790 Phil. 582, 602 (2016).

Rollette was given a service vehicle fully paid for by the company was for her first car. For the second vehicle, the company already imposed a maximum limit of ₱660,000.00 but Rollette never questioned this. She willingly paid for the equity in excess of said limit. Thus, the elements of consistency and deliberateness are not present.

At this point, we emphasize that any employee benefit enjoyed cannot be reduced and discontinued. Otherwise, the constitutional mandate to afford full protection to labor is offended.[20] But, even as the law is solicitous of the welfare of employees, it must also protect the right of an employer to exercise what are clearly management prerogatives, like the adoption of a new car plan at a new cost sharing scheme, with a reduced maximum limit. The free will of management to conduct its own business affairs to achieve its purpose cannot be denied,[21] especially in this case wherein Home Credit is willing to give one hand by giving a service vehicle to Rollette but she wanted to grab the entire arm.

FOR THESE REASONS, the petition is **GRANTED.** The Court of Appeals' Decision dated August 31, 2011 in CA-G.R. SP No. 117332 is **REVERSED** and **SET ASIDE**. The National Labor Relations Commission's Decision dated August 5, 2010, which affirmed the labor arbiter's dismissal of the complaint is **REINSTATED**.

SO ORDERED.

Peralta, C.J., Caguioa, Hernando,[*] and *Lazaro-Javier, JJ.*, concur.

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[20] *Barroga v. Data Center College of the Philippines, et al.*, 667 Phil. 808, 820 (2011).

[21] *Aguanza v. Asian Terminal, Inc., et al.*, 612 Phil. 1009, 1018 (2009).

[*] Designated additional Member per Raffle dated June 29, 2020.

FIRST DIVISION

[G.R. No. 210302. August 27, 2020]

INTEGRATED MICRO ELECTRONICS, INC., *Petitioner*, *v.* **STANDARD INSURANCE CO., INC.**, *Respondent*.

SYLLABUS

1. MERCANTILE LAW; INSURANCE LAW; CONTRACTS OF INSURANCE; THE PROVISIONS MUST BE TAKEN AND UNDERSTOOD IN THEIR PLAIN, ORDINARY AND POPULAR SENSE IF THEY ARE CLEAR AND UNAMBIGUOUS. — Contracts of insurance must be construed according to the sense and meaning of the terms which the parties themselves have used. If the provisions are clear and unambiguous, they must be taken and understood in their plain, ordinary and popular sense. This is consistent with the cardinal rule of interpretation that "*[i]f the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control*. Here, the insurance policy provides the manner and period of filing of a claim x x x. It is explicit that if a claim is made and rejected, an action or suit should be commenced within a period of 12 months. There is no qualification nor distinction whether it is the insurer's initial or final rejection. The parties did not agree that the insurer should first deny any request for reconsideration before a suit for indemnity may be filed. Thus, based on the plain and ordinary context of the agreement, the parties contemplated that the cause of action for loss or damages arising from the insurance contract shall accrue from rejection of the claim at the first instance.

2. REMEDIAL LAW; CIVIL PROCEDURE; SUMMONS; SERVICE OF SUMMONS FOR JURIDICAL ENTITIES; MAY BE MADE ON THE PRESIDENT, MANAGING PARTNER, GENERAL MANAGER, CORPORATE SECRETARY, TREASURER, OR IN-HOUSE COUNSEL. — [T]he CA is correct in finding that the service of summons upon the legal assistant of Standard Insurance's in-house counsel is improper. Rule 14, Section 11 of the 1997 Rules of Court provides the manner of serving summons to a corporation, thus

> — Sec. 11. *Service upon domestic private juridical entity*. — When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, **service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel.** x x x [T]his provision amended Rule 14, Section 13 of the 1964 Rules of Court that allowed service to an agent of a corporation. The new rule, however, has specifically identified and limited the persons to whom service of summons must be made. Contrary to Integrated Micro's assertion, the amendment effectively abandoned the substantial compliance doctrine and restricted the persons authorized to receive summons for juridical entities.

APPEARANCES OF COUNSEL

Batuhan Blando Concepcion & Trillana for petitioner.
Angara Abello Concepcion Regala & Cruz for respondent.

D E C I S I O N

LOPEZ, *J.*:

The proper interpretation of the terms of a contract and the validity of service of summons are the main issues in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Decision[1] dated March 26, 2013 in CA-G.R. SP No. 124433, which reversed the findings of the Regional Trial Court (RTC).

ANTECEDENTS

Sometime in March 2009, a panel of insurers composed of Standard Insurance Co., Inc. (Standard Insurance), together with United Coconut Planters Bank (UCPB) General Insurance, Co. Inc., Pioneer Insurance and Surety Corporation, Bank of the Philippine Islands (BPI) M/S Insurance Corporation, and

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[1] *Rollo*, pp. 57-66; penned by Associate Justice Francisco P. Acosta, with the concurrence of Associate Justices Fernanda Lampas-Peralta and Angelita A. Gacutan.

Malayan Insurance Co., Inc., issued Policy No. HOF09FD-FAR086036[2] in favor of Integrated Micro Electronics, Inc. (Integrated Micro), insuring all of its properties against *"all risks of physical loss, destruction of, or damage, including fire"* for the period March 31, 2009 to March 31, 2010.[3]

On May 24, 2009, a fire broke out at Integrated Micro's building causing damage to its production equipment and machineries.[4] Thus, on May 25, 2009, Integrated Micro filed a claim for indemnity from Standard Insurance[5] but was rejected on February 24, 2010[6] on the ground that the cause of the loss was an excluded peril. Aggrieved, Integrated Micro sought reconsideration.[7] In a letter dated April 12, 2010,[8] Standard Insurance denied the reconsideration which Integrated Micro received on April 15, 2010. Almost a year thereafter, on April 11, 2011, Integrated Micro filed a complaint[9] for specific performance and damages against Standard Insurance before the RTC asking actual damages of US$1,117,056.84, or its peso equivalent at the time of loss, or the amount of ₱52,892,641.35.

Standard Insurance moved to dismiss[10] the complaint for invalid service of summons, lack of cause of action, and prescription. Allegedly, the summons was served upon the legal assistant or the secretary of Standard Insurance's in-house counsel, who was not authorized to receive summons under Section 11, Rule 14 of the 1997 Rules of Court. Also, mere allegation of occurrence of fire is insufficient to establish a

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[2] *Id.* at 30, 131-183.

[3] *Id.* at 31.

[4] *Id.* at 103-104.

[5] *Id.*

[6] *Rollo*, pp. 112-113.

[7] *Id.* at 114.

[8] *Id.* at 115-117.

[9] *Id.* at 118-123.

[10] *Id.* at 124-147.

cause of action. The policy requires that the fire must be unforeseen, sudden, and accidental. At any rate, Integrated Micro's cause of action had prescribed because it filed the complaint beyond the 12-month period from the rejection of the claim. Standard Insurance notified Integrated Micro about the denial of its claim on February 24, 2010. However, Integrated Micro commenced the complaint on April 11, 2011, about two months after the cause of action has prescribed.

On November 9, 2011,[11] the RTC denied the motion to dismiss and directed Standard Insurance to file a responsive pleading. Dissatisfied, Standard Insurance sought reconsideration but was denied. Hence, Standard Insurance filed a petition for *certiorari* with the CA docketed as CA-G.R. SP No. 124433. On March 26, 2013,[12] the CA granted the petition and ruled that Integrated Micro's cause of action had prescribed and that the summons was improperly served, *viz.*:

> Under the insurance policy x x x, "if a claim be made and rejected and an action or suit be not commenced either in the Insurance Commission[,] or any Court of competent jurisdiction within twelve (12) months from receipt of notice of such rejection, or in case of arbitration taking place as provided herein within twelve (12) months after due notice of the award made by the arbitrator or arbitrators or umpire, then the claim shall for all purposes be deemed to have been abandoned and shall not be thereafter be recoverable x x x."
>
> Undoubtedly, the complaint was filed out of time.
>
> Jurisprudence dictates that the aforementioned period must be reckoned from the date the claim was rejected or denied. This doctrine was highlighted by the Supreme Court in *Summit Guarantee, et al. vs. Hon. De Guzman, viz.*:
>
> > **"The one-year period should instead be counted from the date of rejection by the insurer as this is the time when the cause of action accrues."**
>
> In the instant case, the respondent had until 24 February 2011 to file a complaint against the petitioner. However, the records reveal

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[11] *Id.* at 69-70.

[12] *Supra* note 1.

that the case was filed on 11 April 2011 or a period of one and a half (1 ½) months after the cause of action has prescribed. Thus, it is evident that the respondent had lost its right to file its claim from the petitioner.

x x x x x x x x x

Further, We find that the instant complaint is likewise dismissible on the ground that the service of summons was invalid as it was served on the legal assistant of the in-house counsel.

x x x x x x x x x

WHEREFORE, premises considered, the instant Petition is **GRANTED**. Accordingly, the Orders dated 9 November 2011 and 13 February 2012 of the court *a quo* are hereby **NULLIFIED** and **SET ASIDE**.[13] (Emphases supplied.)

Integrated Micro's motion for reconsideration was denied.[14] Hence, this petition for review on *certiorari* arguing that the CA gravely erred in finding that:

A. THE CLAIM OF PETITIONER x x x HAS PRESCRIBED;

B. THE SERVICE OF SUMMONS TO RESPONDENT x x x WAS INVALID.[15]

Integrated Micro cites *Eagle Star Ins., Co., Ltd., et al. v. Chia Yu*[16] and insists that its cause of action has not prescribed. The cause of action only accrues when the insurer finally rejects the claim.[17] Accordingly, Standard Insurance's Letter dated February 24, 2010 denying Integrated Micro's claim is only initial and did not prejudice any request for reconsideration. The 12-month prescriptive period should be reckoned from April 15, 2010 when Integrated Micro received the final rejection of its request for reconsideration. Also, the service of summons

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[13] *Rollo*, pp. 61-65.

[14] *Id.* at 25-26.

[15] *Id.* at 35.

[16] 96 Phil. 696 (1955).

[17] *Id.* at 701.

upon the legal assistant or secretary of insurer's in-house counsel is considered substantial compliance since Standard Insurance actually received the summons.

RULING

The petition is unmeritorious.

Contracts of insurance must be construed according to the sense and meaning of the terms which the parties themselves have used. If the provisions are clear and unambiguous, they must be taken and understood in their plain, ordinary and popular sense.[18] This is consistent with the cardinal rule of interpretation that *"[i]f the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control."*[19] Here, the insurance policy provides the manner and period of filing of a claim, thus:

GENERAL CONDITIONS APPLICABLE UNDER ALL SECTIONS

x x x x x x x x x

Claim

x x x x x x x x x

If a claim be made and rejected and an action or suit be not commenced either in the Insurance Commission or any Court of competent jurisdiction **within twelve (12) months from receipt of notice of such rejection**, or in case of arbitration taking place as provided herein within twelve (12) months after due notice of the award made by the arbitrator or arbitrators or umpire, **then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable hereunder**.[20] (Emphasis supplied.)

It is explicit that if a claim is made and rejected, an action or suit should be commenced within a period of 12 months. There is no qualification nor distinction whether it is the insurer's

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[18] *Alpha Insurance and Surety Co. v. Castor*, 717 Phil. 131, 137-138 (2013).

[19] CIVIL CODE OF THE PHILIPPINES, Art. 1370, par. (1).

[20] *Rollo*, p. 174.

initial or final rejection. The parties did not agree that the insurer should first deny any request for reconsideration before a suit for indemnity may be filed. Thus, based on the plain and ordinary context of the agreement, the parties contemplated that the cause of action for loss or damages arising from the insurance contract shall accrue from rejection of the claim at the first instance.

True, in the *Eagle Star* case that Integrated Micro cited, we ruled that the accrual of the cause of action for filing an insurance claim shall commence when there is a ***final rejection*** by the insurance company to avoid unnecessary suit. As to when such final rejection occurs, however, we did not go beyond the terms of the insurance contract to simplify the prompt settlement of insurance claims. In that case, the insurance policy provided that the insured should file his claim, first, with the carrier, and then with the insurer. The **"final rejection"** refers to the rejection by the insurance company. Although the *Eagle Star* case used the phrase **"final rejection,"** the same cannot be taken to mean the rejection of a petition for reconsideration. Thus, in the subsequent case of *Sun Insurance Office, Ltd. v. Court of Appeals, et al.*,[21] we clarified that once there is a refusal conveyed by the insurer to the claimant, expressly or impliedly, the 12-month prescriptive period should commence to run,[22] without awaiting any reconsideration, lest new body of rules be promulgated to resolve the conflict, thus:

> x x x **the rejection referred to should be construed as the rejection, in the first instance, for if what is being referred to is a reiterated rejection conveyed in a resolution of a petition for reconsideration, such should have been expressly stipulated**.
>
> Thus, **to allow the filing of a motion for reconsideration to suspend the running of the prescriptive period of twelve months, a whole new body of rules on the matter should be promulgated so as to avoid any conflict that may be brought by it**, such as:
>
> a) whether the mere filing of a plea for reconsideration of a denial is sufficient or must it be supported by arguments/affidavits/material evidence;

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[21] 272-A Phil. 155 (1991).

[22] *Id.* at 158.

b) how many petitions for reconsideration should be permitted?[23] (Emphases supplied.)

We echoed the same reasons in *H.H. Hollero Construction, Inc. v. GSIS, et al.*[24] and maintained that "*x x x 'final rejection' simply means denial by the insurer of the claims of the insured and not the rejection or denial by the insurer of the insured's motion or request for reconsideration. The rejection referred to should be construed as the rejection in the first instance x x x.*"[25] Accordingly, the CA did not err in ruling that Integrated Micro's cause of action had prescribed. To be sure, Integrated Micro received the notice rejecting its claim on February 24, 2010, but the complaint was filed only on April 11, 2011, which is beyond the 12-month prescriptive period.

Likewise, the CA is correct in finding that the service of summons upon the legal assistant of Standard Insurance's in-house counsel is improper. Rule 14, Section 11 of the 1997 Rules of Court provides the manner of serving summons to a corporation, thus —

> Sec. 11. *Service upon domestic private juridical entity*. — When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, **service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel**. (Emphasis supplied.)

Notably, this provision amended Rule 14, Section 13[26] of the 1964 Rules of Court that allowed service to an agent of a corporation. The new rule, however, has specifically identified

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

[24] 744 Phil. 11 (2014).

[25] *Id.* at 18.

[26] RULES OF COURT (1964), Rule 14, Section 13 stated: Service upon private domestic corporation or partnership. — If the defendant is a corporation organized under the laws of the Philippines or a partnership duly registered, service may be made on the president, manager, secretary, cashier, agent, or any of its directors.

and limited the persons to whom service of summons must be made.[27] Contrary to Integrated Micro's assertion, the amendment effectively abandoned the substantial compliance doctrine and restricted the persons authorized to receive summons for juridical entities. As aptly discussed in *Sps. Mason v. Court of Appeals*,[28] *viz.*:

> The question of whether the substantial compliance rule is still applicable under Section 11, Rule 14 of the 1997 Rules of Civil Procedure has been settled in *Villarosa* which applies squarely to the instant case. x x x We held that **there was no valid service of summons on Villarosa as service was made through a person not included in the enumeration in Section 11, Rule 14 of the 1997 Rules of Civil Procedure, which revised the Section 13, Rule 14 of the 1964 Rules of Court. We discarded the trial court's basis for denying the motion to dismiss, namely, private respondent's substantial compliance with the rule on service of summons, and fully agreed with petitioner's assertions that the enumeration under the new rule is restricted, limited and exclusive**, following the rule in statutory construction that *expressio unios est exclusio alterius*. Had the Rules of Court Revision Committee intended to liberalize the rule on service of summons, we said, it could have easily done so by clear and concise language. **Absent a manifest intent to liberalize the rule, we stressed strict compliance with Section 11, Rule 14 of the 1997 Rules of Civil Procedure**.[29] (Emphasis supplied.)

FOR THESE REASONS, the petition is **DENIED.** The Court of Appeals' Decision dated March 26, 2013 in CA-G.R. SP No. 124433 is **AFFIRMED**.

SO ORDERED.

Caguioa (*Acting Chairperson*), *Reyes, Jr., Hernando,*[*] and *Lazaro-Javier, JJ.*, concur.

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[27] *G.V. Florida Transport, Inc. v. Tiara Commercial Corp.*, 820 Phil. 235, 252 (2017).

[28] 459 Phil. 689 (2003).

[29] *Id.* at 697-698.

[*] Designated additional Member per raffle dated June 29, 2020, in lieu of Chief Justice Peralta (*no part*).

FIRST DIVISION

[G.R. No. 217138. August 27, 2020]

VITARICH CORPORATION, *Petitioner*, *v.* **FEMINA R. DAGMIL**, *Respondent.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; ANSWER; DISCRETION OF THE TRIAL COURT TO ALLOW FILING OF ANSWER EVEN AFTER THE REGLEMENTARY PERIOD; APPLICATION IN CASE AT BAR. — We have enunciated in *Sablas v. Sablas* the principle that it is within the sound discretion of the trial court to permit the defendant to file his answer and to be heard on the merits even after the reglementary period for filing the responsive pleading expires. The rule is that the answer should be admitted when it is filed before a declaration of default provided there is no showing that defendant intends to delay the proceedings and no prejudice is caused to the plaintiff. x x x [Here], we find that the CA correctly reversed the judgment of default. Foremost, Femina moved to admit her answer before she was declared in default. Femina filed her motion through registered mail on January 31, 2011 while the order of default was issued on February 8, 2011. The fact of mailing on the said date is undisputed. It was mentioned in the RTC and CA's findings and admitted in the parties' pleadings. Notably, Section 3, Rule 13 of the Rules of Court provides that if a pleading is filed by registered mail, then the date of mailing shall be considered as the date of filing. It does not matter when the court actually receives the mailed pleading. Thus, this circumstance must be fully appreciated in favor of Femina. Applying the *Sablas* ruling, the RTC should have considered Femina's answer since it was filed before the declaration of default. x x x In sum, while there are instances when a party may be properly declared in default, these cases should be deemed exceptions to the rule and should be resorted to only in clear cases of obstinate refusal or inordinate neglect in complying with the orders of the court. Otherwise, any judgment by default that the trial court may subsequently render is intrinsically void

for having been rendered pursuant to a patently invalid order of default.

APPEARANCES OF COUNSEL

Nenita D.C. Tuazon for petitioner.
Psyche Rizsa VI B. Fontanilla-Mamadra for respondent.

D E C I S I O N

LOPEZ, *J.*:

The propriety of an order of default is the core issue in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Decision[1] dated October 31, 2014 in CA-G.R. SP No. 131472, which set aside the Regional Trial Court's (RTC) Decision dated April 1, 2011 in Civil Case No. 33-M-2010.

ANTECEDENTS

On January 15, 2010, Vitarich Corporation filed an action for sum of money against Femina Dagmil before the RTC Branch 11 of Malolos City docketed as Civil Case No. 33-M-2010.[2] Upon receipt of summons, Femina's counsel, Atty. Nepthali Solilapsi, moved to dismiss the case on ground of improper venue.[3] On August 17, 2010, the RTC denied the motion and directed Femina to answer the complaint.[4] Atty. Solilapsi received the Order on November 3, 2010 but Femina did not submit any responsive pleading.[5] On January 5, 2011, Vitarich sought to declare Femina in default.[6] Meantime, Femina's new counsel, Atty. Emilio

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[1] *Rollo*, pp. 13-29; penned by Associate Justice Fernanda Lampas-Peralta, with the concurrence of Associate Justices Francisco P. Acosta and Myra V. Garcia-Fernandez.

[2] *Id.* at 42-49.

[3] *Id.* at 53-56.

[4] *Id.* at 63-64.

[5] *Id.* at 65.

[6] *Id.* at 68-70.

Quianzon, Jr., entered his appearance and filed on January 31, 2011 a motion to admit answer.[7]

On February 8, 2011, the RTC declared Femina in default and allowed Vitarich to present its evidence *ex-parte*. Meanwhile, on March 1, 2011, the RTC denied Atty. Quianzon, Jr.'s entry of appearance and Femina's motion to admit answer.[8] On April 1, 2011, the RTC granted the complaint and ordered Femina to pay Vitarich the following amounts,[9] to wit:

1. The amount of FIFTEEN MILLION EIGHT HUNDRED TWENTY NINE THOUSAND EIGHT HUNDRED FORTY PESOS (₱15,829,840.00) representing the principal obligation plus interest at the rate of twenty four (24%) *per annum* from the filing of the complaint.
2. To pay the plaintiff the amount of Two Hundred Thousand Pesos (₱200,000.00) as and for attorney's fees and;
3. To pay the cost of suit.[10]

Aggrieved, Femina filed a petition for relief[11] from judgment based on her former counsel's excusable negligence. Allegedly, Atty. Solilapsi failed to timely read the order directing her to file an answer because his secretary placed it on a wrong case folder. Moreover, Atty. Solilapsi was saddled with health issues and seldom reported to his office that made it difficult for her to correspond with him. Femina also filed a motion for new trial[12] claiming mistake and/or excusable negligence and that she has a meritorious defense.

On June 7, 2012, the RTC denied the motion for new trial emphasizing that Femina is bound by the action of her counsel.[13]

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

[8] *Id.* at 75.

[9] *Id.* at 77-79.

[10] *Id.* at 79.

[11] *Id.* at 80-88.

[12] *Id.* at 89-97.

[13] *Id.* at 118-119.

Dissatisfied, Femina filed motions for reconsideration and to resolve the petition for relief from judgment. On May 20, 2013, the RTC denied the motions, *viz.*:

> [T]his Court, after a careful review of the records, is of the view and so holds that the points raised therein, have been passed upon in the resolution of denial, hence, for lack of any compelling ground to warrant a modification or reversal thereof, the instant motion is hereby DENIED.
>
> Concerning herein defendants['] petition for relief, it is noted that the said petition is basically anchored upon similar grounds as her motion for new trial which, needless to state, have been dealt with extensively in the Order of June 7, 2012, hence, on that basis alone, the Court hereby finds no meritorious reason to give due course.
>
> Neither can the Court grant defendants' prayer to appeal the default judgment in view of plaintiffs' opposition, defendant having failed to appeal the decision within the reglementary period.
>
> SO ORDERED.[14]

Femina filed a petition for *certiorari*[15] before the CA, docketed as CA-G.R. SP No. 131472, faulting the RTC with grave abuse of discretion. On October 31, 2014, the CA reversed the April 1, 2011 judgment of default and remanded the case for further proceedings. It also ordered the RTC to admit Femina's answer,[16] thus:

> The Court finds that the trial court gravely abused its discretion in rendering judgment by default, despite the several remedies resorted to by petitioner in order for her to be given her day in court. There is no denying that petitioner availed of the following remedies:
>
> (I) "Entry of Appearance and Motion to Admit Answer[;"]
> (II) Petition for Relief of the Orders dated February 8, 2011 and March 1, 2011;
> (III) Motion for New Trial of the Decision dated April 1, 2011; and

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[14] *Id.* at 123.

[15] *Id.* at 124-135.

[16] *Id.* at 19-29.

(IV) Motion for Reconsideration of the Order dated June 7, 2012 denying petitioner's motion for new trial.

By availing of the foregoing remedies, petitioner had manifested a strong desire to file an answer to prove her defense which should not have been disregarded by the trial court. It must also be stressed that when petitioner filed her motion to admit answer on January 31, 2011, the trial court had not yet declared her in default. The Order of default was issued on February 8, 2011. x x x

x x x x x x x x x

Thus, it would be in keeping with justice and equity to allow petitioner's prayer for new trial in order for her to present her evidence; and for the trial court to determine with certainty whether the computation presented by private respondent reflects the true and real obligation of petitioner.[17]

Hence, this petition. Vitarich argued that there is no proof that Femina filed her motion to admit answer before the RTC declared her in default. Further, the health issues of Atty. Solilapsi and the mistake of his secretary do not constitute excusable negligence.[18]

RULING

The petition is unmeritorious.

We have enunciated in *Sablas v. Sablas*[19] the principle that it is within the sound discretion of the trial court to permit the defendant to file his answer and to be heard on the merits even after the reglementary period for filing the responsive pleading expires. The rule is that the answer should be admitted when it is filed before a declaration of default provided there is no showing that defendant intends to delay the proceedings and no prejudice is caused to the plaintiff.[20]

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[17] *Id.* at 25-29.

[18] *Id.* at 3-15.

[19] 553 Phil. 271 (2007).

[20] *Id.* at 276.

In *Sablas*, the petitioners filed a motion for extension of time to file their answer. But, they were able to file a responsive pleading three days late from the expiration of the requested period. While the answer was filed out of time, the trial court admitted the pleading because no motion to declare the petitioners in default was filed. Corollarily, the trial court denied the respondents' subsequent motion to declare the petitioners in default. The Court of Appeals then reversed the trial court's ruling and remanded the case for reception of plaintiffs' evidence. However, this Court held that the CA erred in ruling that the trial court had no recourse but to declare petitioners in default when they failed to file their answer within the requested period, thus:

> **The rule is that the defendant's answer should be admitted where it is filed before a declaration of default and no prejudice is caused to the plaintiff**. Where the answer is filed beyond the reglementary period but before the defendant is declared in default **and there is no showing that defendant intends to delay the case, the answer should be admitted**.
>
> Therefore, the trial court correctly admitted the answer of petitioner spouses even if it was filed out of time because, at the time of its filing, they were not yet declared in default nor was a motion to declare them in default ever filed. Neither was there a showing that petitioner spouses intended to delay the case.
>
> x x x x x x x x x
>
> **Since the trial court already admitted the answer, it was correct in denying the subsequent motion of respondents to declare petitioner spouses in default**.[21] (Emphasis supplied; citations omitted.)

In *Sablas*, we cited *Indiana Aerospace University v. Comm. on Higher Educ.*[22] which set aside an order of default. In that case, the petitioner sought to declare the respondent in default. On the same date, the respondent moved for an extension of time to file an answer. Yet, the trial court still issued an order of default even if the respondent submitted a responsive pleading

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[21] *Id.* at 276-277.

[22] 408 Phil. 483 (2001).

within the requested period. We ruled that the trial court committed grave abuse of discretion because placing the respondent in default served no practical purpose, thus:

> Petitioner claims that in issuing the default Order, the RTC did not act with grave abuse of discretion, because respondent had failed to file its answer within fifteen days after receiving the August 14, 1998 Order.
>
> **We disagree. Quite the contrary, the trial court gravely abused its discretion when it declared respondent in default despite the latter's filing of an Answer. Placing respondent in default thereafter served no practical purpose**.
>
> Petitioner was lax in calling the attention of the Court to the fifteen-day period for filing an answer. It moved to declare respondent in default only on September 20, 1998, when the filing period had expired on August 30, 1998. The only conclusion in this case is that petitioner has not been prejudiced by the delay. The same leniency can also be accorded to the RTC, which declared respondent in default only on December 9, 1998, or twenty-two days after the latter had filed its Answer on November 17, 1998. **Defendant's Answer should be admitted, because it had been filed before it was declared in default, *and* no prejudice was caused to plaintiff**. x x x[23] (Emphases supplied; citations omitted.)

In *Hernandez v. Agoncillo*,[24] however, we clarified the ruling in *Sablas* and held that it is not mandatory on the part of the trial court to admit an answer which is belatedly filed even though the defendant is not yet declared in default. Settled is the rule that it is within the discretion of the trial court to permit the filing of an answer even beyond the reglementary period, provided that there is justification for the belated action and there is no showing that the defendant intended to delay the proceedings.[25] In that case, we found the petitioner guilty of inexcusable neglect and deliberately employing delay in the prosecution of the civil case against him. Also, we noted

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[23] *Id.* at 497-498.

[24] 697 Phil. 459 (2012).

[25] *Id.* at 466.

significant differences between the *Sablas* and *Hernandez* cases, to wit:

> The Court finds no cogent reason to depart from the above ruling of the MeTC, as affirmed by the RTC and the CA.
>
> *Sablas* differs from the instant case on two aspects, to wit: *first*, in *Sablas*, the petitioners' motion for extension to file their answer was seasonably filed while in the present case, petitioner's Motion for Extension to File His Answer was filed beyond the 15-day period allowed by the Rules of Court; *second*, in *Sablas*, since the trial court admitted the petitioners' Answer, this Court held that the trial court was correct in denying the subsequent motion of the respondent to declare the petitioners in default while, in the instant case, the MeTC denied due course to petitioner's Answer on the ground that the Motion for Extension was not seasonably filed and that the Answer was filed beyond the period requested in the Motion for Extension, thus, justifying the order of default. Thus, the principle enunciated in *Sablas* is not applicable in the present case.
>
> In this respect, the Court agrees with the CA in its ruling that procedural rules are not to be ignored or disdained at will to suit the convenience of a party.[26]

Given these precepts, we find that the CA correctly reversed the judgment of default. Foremost, Femina moved to admit her answer before she was declared in default. Femina filed her motion through registered mail on January 31, 2011 while the order of default was issued on February 8, 2011. The fact of mailing on the said date is undisputed. It was mentioned in the RTC and CA's findings and admitted in the parties' pleadings. Notably, Section 3, Rule 13 of the Rules of Court provides that if a pleading is filed by registered mail, then the date of mailing shall be considered as the date of filing. It does not matter when the court actually receives the mailed pleading.[27] Thus, this circumstance must be fully appreciated in favor of Femina. Applying the *Sablas* ruling, the RTC should have considered Femina's answer since it was filed before the declaration of default.

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[26] *Id.* at 466-467.

[27] *Russel v. Ebasan, et al.*, 633 Phil. 384, 391 (2010).

Moreover, persuasive reasons justified the belated filing of the motion to admit answer.[28] The records reveal that Atty. Solilapsi had been confined in the hospital twice in January 2011. He was treated for Pulmonary Tuberculosis Class 3 (Intensive Phase) and was advised to take a rest for two months.[29] This caused Atty. Solilapsi to be absent from office most of the time and to ask for his discharge as counsel. The delay was compounded by the mistake of Atty. Solilapsi's secretary who placed the order to file answer in the wrong case folder. These predicaments forced Femina to hire a new counsel to defend her case. Further, Femina's answer shows that she has a *prima facie* meritorious defense. The allegations that Femina did not receive several deliveries and that Vitarich money claims of ₱15,829,840.00 were bloated must be determined in a full-blown trial. The outcome of the case, after all, will still depend on the strength of the parties' respective evidence. Applying the *Hernandez* ruling, the RTC should have liberally exercised its discretion and permitted the filing of an answer even beyond the reglementary period.

To be sure, there is no showing that Femina intended to delay the proceedings. As the CA aptly held, Femina availed several post-judgment remedies which evinced her desire to file an answer and to establish her defenses. More importantly, Vitarich did not suffer any damage. It appears that Femina's counsel received on November 3, 2010 the notice to file answer and had 15 days or until November 18, 2010 to comply. Yet, Vitarich moved to declare Femina in default only on January 5, 2011 or 48 days from the expiration of the reglementary period. The only conclusion is that Vitarich has not been prejudiced by the delay. Otherwise, Vitarich would not have been lenient and opted to wait that long before invoking its right.

Taken together, we affirm the CA's findings that the RTC gravely abused its discretion in rendering the judgment of default. The RTC could have rectified the palpable error by lifting the

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[28] *Mercader v. Judge Bonto*, 181 Phil. 201 (1979).

[29] *Rollo*, p. 26.

order of default, admitting Femina's answer and considering it in deciding the case. Applying the *Indiana Aerospace University* ruling, declaring the defendant in default after the filing of answer served no practical purpose. However, the RTC unceremoniously discarded the compelling circumstances resulting in a violation of Femina's right to present evidence on her behalf. Consequently, the premature and improvident order of default and judgment of default are void. It is the avowed policy of the law to accord both parties every opportunity to pursue and defend their cases in the open and relegate technicality to the background in the interest of substantial justice.[30] On this point, we reiterate the ruling in *Akut v. CA*,[31] that courts should be liberal in setting aside orders of default, for default judgments are frowned upon, thus:

> The controlling principle ignored by respondent court is that it is within sound judicial discretion to set aside an order of default and to permit a defendant to file his answer and to be heard on the merits even after the reglementary period for the filing of the answer has expired. **This discretion should lean towards giving party-litigants every opportunity to properly present their conflicting claims on the merits of the controversy without resorting to technicalities. Courts should be liberal in setting aside orders of default, for default judgments are frowned upon**, and unless it clearly appears that reopening of the case is intended for delay, it is best that the trial courts give both parties every chance to fight their case fairly and in the open, without resort to technicality. x x x
>
> x x x Moreover, petitioners' answer shows that they have a *prima facie* meritorious defense. **They should, therefore, be given their day in court to avoid the danger of committing a grave injustice if they were denied an opportunity to introduce evidence in their behalf**.[32] (Emphases supplied; citation omitted.)

In sum, while there are instances when a party may be properly declared in default, these cases should be deemed exceptions

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[30] *Republic of the Philippines v. Sandiganbayan (Second Division)*, 309 Phil. 488, 493 (1994).

[31] 201 Phil. 680 (1982).

[32] *Id.* at 687.

to the rule and should be resorted to only in clear cases of obstinate refusal or inordinate neglect in complying with the orders of the court.[33] Otherwise, any judgment by default that the trial court may subsequently render is intrinsically void for having been rendered pursuant to a patently invalid order of default.[34]

FOR THESE REASONS, the petition is **DENIED.** The Court of Appeal's Decision dated October 31, 2014 in CA-G.R. SP No. 131472 is **AFFIRMED**.

SO ORDERED.

Caguioa (*Acting Chairperson*), *Reyes, Jr., Lazaro-Javier,* and *Delos Santos,*[*] *JJ.*, concur.

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[33] *Leyte v. Cusi*, 236 Phil. 532, 535 (1987).

[34] *Omico Mining and Industrial Corp. v. Judge Vallejos*, 159 Phil. 886 (1975); and *Matute v. CA*, 136 Phil. 157 (1969).

[*] Designated as additional Member *in lieu* of Chief Justice Peralta *per* raffle dated June 29, 2020.

FIRST DIVISION

[G.R. No. 223018. August 27, 2020]

LEONARDA JAMAGO SALABE, *Petitioner*, *v.* **SOCIAL SECURITY COMMISSION AND MARINO TALICTIC, IN HIS CAPACITY AS OFFICER-IN-CHARGE AND BRANCH HEAD, SSS-TAGBILARAN CITY BRANCH**, *Respondents*.

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; REPUBLIC ACT NO. 1161 (THE SOCIAL SECURITY ACT OF 1954), AS AMENDED; RETIREMENT BENEFITS; ELIGIBILITY FOR RETIREMENT BENEFITS; REQUIREMENTS. — Leonarda was registered as a member of SSS in August 1978. The applicable law at that time was RA 1161 or the Social Security Act of 1954 x x x. RA 1161 did not expressly cover self-employed individuals. Section 11, however, allows a person previously employed to continue paying contributions in order to retain his or her benefits as a member x x x. Thus, when Leonarda's employment with Ana ended in February, 1979, she continued paying contributions to SSS under Section 11. Subsequently, on January 1, 1980, Presidential Decree (PD) 1636 took effect, amending RA 1161 and enlarging the scope of the SSS' compulsory coverage to include the self-employed x x x. R.A. 1161, as amended by PD 1636 was still in effect when Leonarda applied for retirement benefits in 1993. The eligibility requirements for retirement benefits are set forth under Section 12-B of the law, as amended x x x. Hence, to be eligible for retirement benefits, Leonarda must establish that (a) she is a covered employee, (b) paid at least 120 contributions prior to the semester of her retirement, (c) has reached the age of 60, and (d) is not receiving monthly compensation of at least ₱300.00.

2. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; RULE 45 PETITION; FACTUAL MATTERS ARE GENERALLY BEYOND THE PURVIEW OF THE PETITION; EXCEPTIONS. — [W]hether Leonarda is a *bona fide* member of the SSS hinges on whether there was a valid employer-

employee relationship between Ana and her. While the existence of an employer-employee relationship is a factual matter generally beyond the purview of a Rule 45 petition, the Court finds that three (3) of the recognized exceptions to the rule obtain in this case, *viz.*: **(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures**; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; **(8) When the findings of fact 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 respondents; and **(10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on records.** Here, the factual finding that Leonarda was not Ana's employee was based on a mere conjecture, speculation, or an estimate x x x. Too, such conclusion was based on an investigation which was not supported by any sort of evidence. Contrary to the findings of the Court of Appeals, Leonarda sufficiently established that she was employed by Ana.

3. LABOR AND SOCIAL LEGISLATION; REPUBLIC ACT NO. 1161 (THE SOCIAL SECURITY ACT OF 1954), AS AMENDED; RETIREMENT BENEFITS; THE CANCELLATION OF MEMBERSHIP AND RETIREMENT PENSION OF A MEMBER BEFORE ACCORDING HER AN OPPORTUNITY TO BE HEARD ON HER ELIGIBILITY IS A DEPRIVATION OF DUE PROCESS. — [T]he Court observes that Leonarda was deprived of due process when the SSS canceled her membership and retirement pension before according her an opportunity to be heard on her eligibility. x x x Here, Leonarda had been receiving pension benefits of ₱1,362.75 since 1993 until it was unilaterally cancelled by the SSS in 2001. She never knew the cause of the cancellation until 2008 when respondent Talictic informed her in writing that the cancellation of her membership was due to the cancelation of Ana's membership in the system. As it turned

out, Leonarda's case was a derivative of the earlier investigation against Ana who allegedly failed to prove that she actually had employees in her *carinderia*. Thus, SSS Investigator Miel recommended the cancellation of Ana's membership in the system, which recommendation was approved in 2001. It bears [to] stress, however, that Leonarda was never a party to the investigation against Ana. Thus, Leonarda could not have possibly been bound by the results thereof. Indeed, a decision rendered in a proceeding does not bind or prejudice a person not impleaded therein, for no person shall be adversely affected by the outcome of a proceeding in which he or she is not a party. The exception to this rule — successors in interest, is inapplicable here since Ana's interest as the purported employer is surely different from the interest of her purported employee Leonarda. x x x Section 5(d) of RA 8282, which amended RA 1161 and took effect in 1997, was already in force when the SSS implemented its ruling that cancelled Ana's membership leading to the cancellation of Leonarda's membership and monthly pension. x x x [T]he SSS could have only canceled Leonarda's pension if there was already a final ruling against her to that effect. x x x [T]he ruling against Ana could not have been such final ruling required under Section 5. It simply does not bind Leonarda. Hence, the cancelation of Leonarda's SSS membership had no factual or legal basis.

4. ID.; LABOR RELATIONS; EMPLOYER-EMPLOYEE RELATIONSHIP; THERE IS NO HARD AND FAST RULE DESIGNED TO ESTABLISH THE ELEMENTS OF AN EMPLOYER-EMPLOYEE RELATIONSHIP BUT SOME FORMS OF EVIDENCE HAVE BEEN ACCEPTED WHICH INCLUDE WITNESSES' TESTIMONIAL EVIDENCE. — We find the affidavits and testimonies of Leonarda's witnesses to be credible, candid, and consistent on material points. They were all able to support Leonarda's claim that there was an employer-employee relationship between her and Ana. Indeed, they positively identified her and her role in the *carinderia* as helper. At any rate, the Court does not only take these documents and testimonies at face value, but also considers Leonarda's circumstances. For one, she offered possibly the best evidence available to her, given that thirty (30) years had already elapsed since her separation from employment with Ana. For another, the Court is not unmindful that a *carinderia* at a public market is part of a small and rather informal economy that could not

reasonably be expected to maintain a comprehensive documentation, more so beyond its operating lifetime. Still another, Ana had already passed away, making any record or papers in her possession even more difficult, if not impossible, to procure. Thus, it would be contrary to the dictates of fair play and justice to demand Leonarda to submit pay slips, time sheets, or any other paper documentation of her employment. Indeed, the Court has consistently ruled that there is no hard and fast rule designed to establish the elements of an employer-employee relationship. Some forms of evidence that have accepted to establish the elements include, but are not limited to, identification cards, cash vouchers, **social security registration**, appointment letters or employment contracts, payroll, organization charts, and personnel lists, among others. Too, the Court has also accepted witnesses' testimonial evidence to sufficiently establish employer-employee relationship, as here.

5. ID.; ID.; ID.; FOUR-FOLD TEST; REQUISITES. — Even applying the more stringent standards of the four-fold test, Leonarda satisfied its requisites in establishing her employment. To be sure, the elements are: 1) the selection and engagement of the employees; 2) the payment of wages; 3) the power of dismissal; and 4) the power to control the employee's conduct. Leonarda and her witnesses proved: *first*, Ana personally hired Leonarda as helper; *second*, Ana paid Leonarda a daily wage of ₱30.00, albeit on a weekly or monthly basis; *third*, corollary to the power to hire, Ana could have fired Leonarda; *fourth* and most importantly, Ana as owner directly supervised Leonarda in her work as helper or dishwasher.

6. ID.; REPUBLIC ACT NO. 1161 (THE SOCIAL SECURITY ACT OF 1954), AS AMENDED; EMPLOYMENT RECORDS AND REPORTS; FAILURE TO COMPLY WITH THE REPORTORIAL REQUIREMENTS DOES NOT RESULT IN THE AUTOMATIC CANCELLATION OF THE MEMBERSHIP OF THE COVERED EMPLOYEE. — Ana's failure to comply with reportorial requirements merely called for the application of Section 24 of RA 1161 x x x. The provision does not mandate the automatic cancellation of the membership of the covered employee. Weighed against SSC's bare assertion, we find Leonarda's position to be more tenable. The SSC should not have made a sweeping cancellation of the membership of all of Ana's employees in view of the SSC's

own findings that at least some of them were legitimate. These legitimate employees, including Leonarda, should not be prejudiced by the SSC's over-arching allegation of fraud.

7. ID.; SOCIAL LEGISLATION CASES; DOUBTS SHOULD BE LIBERALLY CONSTRUED IN FAVOR OF THE INTENDED BENEFICIARY OF THE LAW. — Suffice it to state that in cases involving social legislation, doubts should be liberally construed in favor of the intended beneficiary of the law. x x x To be sure, even if both parties have presented substantial evidence to support their allegations, the *equipoise* rule dictates that the scales of justice must be titled in favor of labor, as here. x x x Assuming x x x that Leonarda was not an employee of Ana, this does not automatically entail the invalidation of her 137 contributions to SSS. For Leonarda may be placed under the category "self-employed" pursuant to the liberality rule. In fact, she may even be considered as a voluntary paying member. The application of liberality in this kind of situation is not out of the ordinary. x x x Hence, even if the Court rules that Leonarda was never an employee of Ana, this would not necessarily entail the invalidity of **all** her contributions. Rather, this would call for the application of liberality wherein Leonarda could be considered as a self-employed or voluntary paying member as of January 1, 1980 when PD 1636 took effect, expanding the scope of RA 1161 to include the self-employed.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioner.
SSS Legal Department for respondents.

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This petition for review on *certiorari*[1] seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. S.P. No. 07954 entitled *Leonarda Jamago Salabe v. Social Security*

[1] *Rollo*, pp. 9-25.

System and Marino Talictic, in his capacity as Officer-in-Charge and Branch Head, SSS-Tagbilaran City Branch:

1. Decision[2] dated December 1, 2014, affirming the rulings of respondent Social Security Commission which upheld the invalidation of petitioner's SSS membership and the cancellation of her pension benefits; and
2. Resolution[3] dated January 28, 2016 denying reconsideration.

Antecedents

The Petition

Petitioner Leonarda Jamago Salabe sought relief from the Social Security Commission[4] via her Petition dated March 31, 2008. She essentially alleged:

From August 1978 to February 1979, she worked as a helper[5] in the *carinderia* of one Ana Macas at the Jagna Public Market, Jagna, Bohol. By virtue of this employment, Ana registered her for social security purposes. Thus, she became a *bona fide* member of the Social Security System (SSS)[6] with Social Security Number 06-0618084-5.[7]

After her employment with Ana, she continued her membership with SSS as a voluntary paying member and

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[2] Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernando (Now a member of the Supreme Court) and Marie Christine Azcarraga-Jacob, concurring; *rollo*, pp. 85-98.

[3] Penned by Associate Justice Edgardo L. Delos Santos (Now a member of the Supreme Court) with Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino, concurring; *rollo*, pp. 106-108.

[4] *Rollo*, pp. 43-52.

[5] As attested by a disinterested person through an Affidavit by one Sabas G. Ranin, marked Annex "F", *rollo*, p. 52.

[6] "Employee Static Information" page downloaded from SSS website, attached as Annex "A", *rollo*, p. 47; "Employment History" page downloaded from SSS website, attached as Annex "B", *rollo*, p. 48.

[7] *Rollo*, p. 43.

diligently paid her monthly premiums for a total of one hundred thirty-seven (137) contributions.[8]

In 1993, when she reached the age of sixty (60), she filed an application for retirement benefits with the SSS which got approved. That same year, she started receiving a monthly pension of ₱1,362.75.[9]

Sometime in 2001, however, the SSS suddenly and unilaterally terminated her monthly pension so she inquired with the local SSS branch regarding its cause.[10]

By Letter[11] dated March 24, 2008, through respondent Marino B. Talictic, Officer-in-Charge and Branch Head, SSS-Tagbilaran City Branch, informed her that her membership was cancelled for there was purportedly no employer-employee relationship between her and Ana, *viz.*:

> Dear Sir/Madam:
>
> This has reference to your retirement pension, which was cancelled in 7/2001. Our review of the records showed the following:
>
> 1. You were employed by ER Ana Macas, ID# 06-1663518-6 whose membership with the system was cancelled due to **"No EE-ER Relationship."**
>
> 2. As a result of the cancellation of the membership of the employer, all contributions remitted in favor of any of its alleged employees cannot be considered in the computation of benefit. Since it has no basis, the same is therefore subject to refund.
>
> 3. Your voluntary membership after separation from employment with cancelled employer were also invalid.
>
> In this connection, you may opt to file a petition to the Social Security Commission (SSC) should you decide to pursue the

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[8] *Id.* at 45, "Contributions — Actual Premiums" page downloaded from SSS website, attached as Annex "C", *rollo*, p. 49.

[9] *Id.*; Attached Affidavit marked Annex "D", and Pension and Check Voucher marked Annex "E", *Rollo*, pp. 50-52.

[10] *Id.*

[11] *Id.* at 44, marked Annex "G", by OIC Branch Head Marino B. Talictic.

resumption of your monthly pension. For further clarification on the matter, please feel free to visit our SSS Tagbilaran Office.

Thank you.

Very sincerely yours,

(sgd.)
MARINO B. TALICTIC
OIC, Branch Head

(Emphasis and underscoring in the original)

She thus asked to be declared a *bona fide* employee of Ana and a *bona fide* member of the SSS, and that her retirement pension be restored. She likewise asked for other just and equitable remedies under the premises.[12]

The Answer

By Answer[13] dated August 28, 2008, the SSS riposted, in the main:

Records showed that Leonarda became a covered employee in 1978 and became a retiree-pensioner effective November 6, 1993 with a monthly pension of ₱1,584.83. Her last one was given on July 2001.[14]

Under Memorandum Report[15] dated April 14, 1989, then SSS Provincial Officer Lamberto C. Miel, Jr. recommended the cancellation of Leonarda's SSS membership for failure of her alleged employer Ana Macas to prove that she actually had employees in her *carinderia*, *viz.*:

This has reference to the letter-complaint allegedly signed by business firms whose SSS membership were withdrawn and cancelled due to lack of Employer-Employee Relationship.

x x x x x x x x x

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[12] *Id.* at 45.

[13] *Id.* at 53-57.

[14] *Id.* at 54.

[15] *Id.* at 58-60.

. . . the letter complaint had given us some leads or information regarding violations of SSS coverage of employees and self-employed persons. The investigation conducted on the basis of this report disclosed the following:

x x x x x x x x x

6. Ana Macas — SSS No. 06-1663578-6 — **The investigation showed that subject firm could not present any proof of employment of its reported employees despite repeated demands**. All the reported were already separated and had applied for voluntary membership. **In view of the absence of employer-employee relationship, it is recommended that withdrawal of SSS membership of subject firm and its employees be effected.** (emphases added)

In the absence of an employer-employee relationship between Ana and Leonarda, Leonarda's membership with SSS had no factual and legal basis. Consequently, her payment of monthly premiums during her alleged employment with Ana, as well as her subsequent voluntary payments, were just as ineffective.[16]

It was incumbent upon Leonarda to prove the fact of her employment with Ana Macas by clear and convincing evidence. As it was, however, she only offered self-serving affidavits uncorroborated by documentary proof. Thus, the cancellation of Leonarda's retirement pension was in order.[17]

Leonarda's Position Paper

In her Position Paper,[18] Leonarda further averred:

The so called SSS Memorandum Report dated April 14, 1989 sought to establish material facts that occurred in 1978 or eleven (11) years ago. SSS conveniently declared there was no employer-employee relationship based solely on ground that *the subject firm could not present any proof of employment of its reported employees*. As a humble *carinderia*, the SSS could not have

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[16] *Id.* at 55; 86-87.

[17] *Id.* at 55-56; 87.

[18] *Id.* at 61-65.

reasonably expected it to have kept employment records of all its employees throughout its existence. At any rate, she should not be faulted for the alleged infraction of her employer.[19]

More, as much as she would like to implead Ana Macas in her petition, the latter had already passed away. Ana's son Ceferino Macas, nonetheless, executed a sworn declaration attesting to her employment. She also attached sworn declarations of disinterested witnesses Sabas Ranin and Ricardo Viñalon to corroborate her claim.[20]

Finally, she relied on ***Social Security System v. Court of Appeals***,[21] where the Court decreed *the testimonial evidence of the claimant and her witnesses constitute positive and credible evidence of the existence of an employer-employee relationship*.

The SSS' Position Paper

By Manifestation dated August 28, 2009, the SSS adopted its Answer in lieu of filing its Position Paper.

Administrative Hearing before the SSC

During the clarificatory hearing, **Leonarda Salabe** testified: In August 1978, Ana personally recruited and hired her as a helper (dishwasher) in her restaurant at the Jagna Public Market; her salary was ₱30.00 per day, paid on a weekly or monthly basis; she worked from Mondays through Saturdays from 7 o'clock in the morning to 5 o'clock in the afternoon, and even on Sundays when there were plenty of customers; the restaurant had a four (4) to five (5)-table capacity; Ana had six (6) employees, including her; Ana herself supervised them; her employment lasted for five (5) months; she and her co-workers regularly remitted their SSS contributions.[22]

Ceferino Macas corroborated Leonarda's testimony. He further testified that he executed an Affidavit dated April 21,

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[19] *Id.* at 62.

[20] *Id.*

[21] 401 Phil. 132, 146 (2000).

[22] *Rollo*, p. 70.

2008; his parents Ana and Vicente operated a small restaurant *(carinderia)* which had a six (6)-table capacity and was frequented by a lot of patrons *(suki)*; his mother regularly remitted SSS contributions; many people from their place also registered under the system to avail of the coverage; he personally knew Leonarda because they were neighbors and his mother hired her as a helper in their *carinderia*; his mother's employees worked for short periods only, the longest employment lasted about two (2) years; in any given month, the number of his mother's employees did not reach ten (10).[23]

Ricardo O. Viñalon affirmed the contents of his Affidavit dated January 21, 2008. He testified further that he used to sell and deliver meat to Ana's *carinderia*; there, he met Leonarda who worked as a helper; the *carinderia* only had about three (3) to five (5) employees at a time, considering the small size; he was covered by the system himself, being a self-employed member.[24]

The Social Security Commission's Ruling

By Resolution[25] dated June 6, 2012, the Social Security Commission dismissed the petition, *viz.*:

> WHEREFORE, the petition is hereby DISMISSED for lack of merit.
>
> The SSS is ordered to demand within thirty (30) days from receipt hereof, the refund of the monthly pensions paid to petitioner Salabe on account of her "retirement" on November 6, 1993, minus all contributions paid by her, including those she paid as a voluntary member.
>
> SO ORDERED.[26]

At the outset, it noted the inconsistency in its records where Ana reported Leonarda as "***Leonarda A. Jamago***, widow

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[23] *Id.* at 71.

[24] *Id.*

[25] Penned by Commissioner Bienvenido E. Laguesma; *rollo*, pp. 66-75.

[26] *Rollo*, p. 74.

(assigned SS. No. 06-06*18084-5) for SS coverage effective August 1978*," while Leonarda represented herself in the proceedings as ***"Leonarda Jamago Salabe"*** with a "married" civil status. She failed to explain or reconcile the inconsistency before the Commission, making her identity questionable.[27]

At any rate, Leonarda failed to prove her employment with Ana Macas.[28]

Leonarda allegedly worked at Ana's *carinderia* which had five (5) to six (6) tables maximum and listed twelve (12) employees for 1978. At the end of 1978, however, Ana remitted contributions for a total of twenty (20) employees, more than the eleven (11) employees she had paid for in the previous quarter (ending September 1978).[29]

Among Ana's twelve (12) employees, only three (3) were long-time employees. This conformed with Ricardo's testimony that the *carinderia* had about three (3) to five (5) employees only. Thus, most of Ana's supposed employees, Leonarda included, were not legitimate employees at all; their so called employments were mere accommodations for purposes of qualifying them as members of the SSS.[30]

In the absence of an employer-employee relationship, Leonarda could not be deemed a *bona fide* member of the SSS. Consequently, she could not have paid contributions either as a covered employee or as a voluntary member. For to be considered a voluntary member, one should have earlier been separated from employment but was nevertheless allowed to continue paying contributions to maintain the right to full benefits. Leonarda, therefore, had no right to remit voluntary contributions and receive a monthly pension from the SSS.[31]

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[27] *Id.* at 72.

[28] *Id.*

[29] *Id.*

[30] *Id.* at 73.

[31] *Id.*

By Order[32] dated June 10, 2013, the SSC denied Leonarda's motion for reconsideration.[33]

Proceedings before the Court of Appeals

Aggrieved, Leonarda assailed the SSC Resolutions[34] dated June 6, 2012 and June 10, 2013 before the Court of Appeals. She argued:

First. Her right to due process was violated by the unilateral investigation initiated by a certain by SSS Provincial Officer Miel. In fact, she was not even furnished with copy of Miel's memorandum report. She only got hold of it when the SSS attached a copy thereof to its answer before the SSC.[35] Among the cardinal administrative due process rights postulated in ***Ang Tibay v. CIR***,[36] "the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected"; and that the decision must be rendered "in such a manner that the parties to the proceedings can know the various issues involved, and the reasons for the decisions rendered." None of these requirements were complied with by the SSS when it invalidated her membership.[37]

Second. The SSC erred when invalidated her SSS membership and cancelled her retirement pension despite the presence of sufficient evidence showing that she was really an employee at Ana's *carinderia*. The SSC merely relied on the presumption of regularity accorded to its investigation. On the other hand, she presented witnesses Ceferino and Ricardo to corroborate her claim.

Too, the SSC merely hinged its finding on the number of Ana's employees *vis-à-vis* the size of her *carinderia*, *viz.*:

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[32] *Id.* at 79-84.

[33] *Id.* at 76-78.

[34] *Id.* at 26-42; Petition for Review before the Court of Appeals.

[35] *Id.* at 31.

[36] 69 Phil. 635 (1940).

[37] *Rollo*, p. 32.

The rest of the reported employees were "new" and had no previous employers. As there were more "employees" than the number of tables that the small restaurant had, the Commission concluded that a majority of these 20 reported individuals were not really legitimate employees of Macas. Even the petitioner's testimony supports such findings, as she declared that at the time of her employment, there were then only 5 employees, already including herself. (Resolution of the SSC dated June 6, 2012; Italics and underscoring supplied by petitioner)

Notably though, the SSC did not even apply the four-fold test in determining the existence of an employer-employee relationship.[38]

Third. Under the principle of estoppel, the SSC was already barred from questioning her status as an SSS member. After the SSS approved her membership, it received her total one hundred thirty-seven (137) contributions. Though SSS Provincial Officer Miel formally recommended the cancellation of her membership as early as April 14, 1989, this was not immediately acted upon. Meanwhile, she turned sixty (60) on November 6, 1993 and applied with SSS for pension benefits. Her application got approved and she had been receiving pension benefits until it got cancelled in 2001. But it was only on March 24, 2008 when she was formally informed of the cancellation.

Surely, when she applied for retirement benefits, the SSS would have inevitably come across Miel's Memorandum Report dated April 14, 1989 recommending the cancelation of her membership. Yet the SSS still approved her claim for pension. It cannot, a decade later rule that she was after all ineligible not only to receive retirement benefits, but also to become a voluntary member of the SSS.

Had the SSS wanted to validly assail her membership, it should have done so at the earliest opportunity. To demand a refund from her now in the twilight of her years would be against the principles of justice, equity, and good conscience.[39]

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[38] *Id.* at 33.

[39] *Id.* at 36-37.

Finally. The SSS should not be unjustly enriched, and Leonarda prejudiced, by its own inaction or negligence as regards the Memorandum Report dated April 14, 1989.

The Court of Appeals' Ruling

Through its Decision[40] dated December 1, 2014, the Court of Appeals affirmed.

First, it gave weight and credence to the factual findings of the SSC, being the agency with expertise on the matter. Such findings of administrative agencies with primary jurisdiction are generally accorded not only respect, but even finality if supported by substantial evidence.[41]

Second, the absence of an employer-employee relationship between Ana and Leonarda was sufficiently established. This was based on Miel's investigation as well as the testimonies given before the SSC. Too, Leonarda's failure to present documentary evidence such as a timesheets, pay slips, pay roll, or cash vouchers was fatal to her cause.[42]

Third, there was no violation of due process. Among the duties of the SSC is to protect workers by requiring reports and conducting investigations to ensure that the proper benefits are received by the rightful members.[43]

Fourth. The SSC did its investigation and resolved the issue at the earliest possible time. It was impossible for SSC to investigate first before accepting a prospective member. The fact that it accepted contributions from a person claiming to be a member does not mean it is already accepting as valid the payor's membership. A person's membership with the SSS is always subject to validation and investigation.[44]

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[40] *Id.* at 85-98; Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernando (Now a member of the Supreme Court) and Marie Christine Azcarraga-Jacob, concurring.

[41] *Id.* at 92.

[42] *Id.* at 96.

[43] *Id.* at 93.

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

Finally. The SSS was not unjustly enriched since the SSC ordered the refund of Leonarda's contributions.[45]

Through its Resolution[46] dated January 28, 2016, the Court of Appeals denied reconsideration.[47]

The Present Appeal

Leonarda now seeks affirmative relief from the Court and prays for the dispositions of the Court of Appeals to be reversed.[48] She faults the Court of Appeals for affirming the SSC Resolutions which discontinued her monthly pension and cancelled her SSS membership.

For one, no particular form of evidence is required to prove the existence of an employer-employee relationship.[49]

The present case involves a peculiar situation where it was neither she nor Ana Macas who questioned the employment, but a third party, anchored on the theory of an "accommodation" employment. Hence, the burden was unduly shifted to Ana to prove the existence of an employer-employee relationship between her and Leonarda. Unfortunately, Ana had already died so Leonarda had to rely on the affidavits of Ana's son and disinterested third persons which the SSC nonetheless rejected.[50]

Leonarda's failure to present documentary evidence to prove her employment does not mean there was no employer-employee relationship at all between her and Ana Macas. To determine its existence, the four-fold test, which does not require a particular form of evidence, should have been applied. Thus, any competent

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[45] *Id.* at 97.

[46] Penned by Associate Justice Edgardo L. Delos Santos (Now a member of the Supreme Court) with Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino, concurring; *rollo*, pp. 106-108.

[47] *Rollo*, pp. 99-105.

[48] *Id.* at 9-25; Petition for Review on *Certiorari*.

[49] *Id.* at 14-17.

[50] *Id.* at 15.

and relevant evidence may be admitted.[51] ***SSS v. Court of Appeals***[52] decrees:

> Petitioners further argue that 'complainant miserably failed to present any documentary evidence to prove his employment. There was no timesheet, pay slip and/or payroll/cash voucher to speak of. Absence of these material documents are necessarily fatal to complainant's cause.'
>
> We do not agree. No particular form of evidence is required to prove the existence of an employer-employee relationship. Any competent and relevant evidence to prove the relationship may be admitted. For, if only documentary evidence would be required to show that relationship, no scheming employer would ever be brought before the bar of justice, as no employer would wish to come out with any trace of the illegality he has authored considering that it should take much weightier proof to invalidate a written instrument. Thus, as in this case where the employer-employee relationship between petitioners and Esita was sufficiently proved by testimonial evidence, the absence of time sheet, time record or payroll has become inconsequential. (Underscoring in the original)

Ana's positive act of registering Leonardo under the system was an admission or acknowledgment of the employer-employee relationship between them. This should have been considered as reliable and substantial proof of her employment, as corroborated by the affidavits and testimonies of Ceferino, Sabas, and Ricardo.[53]

More, Section 8 (d), Republic Act 8282[54] itself defines an employee, thus:

> Any person who performs services for an employer in which either or both mental or physical efforts are used and who receives

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[51] Citing *Lirio v. Genovia*, 677 Phil. 134, 148 (2011).

[52] 401 Phil. 132 (2000), citing *Opulencia Ice Plant and Storage v. NLRC*, 298-A Phil. 449 (1993).

[53] *Rollo*, p. 16.

[54] AN ACT FURTHER STRENGTHENING THE SOCIAL SECURITY SYSTEM THEREBY AMENDING FOR THIS PURPOSE, REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW.

compensation for such services, where there is an employer-employee relationship: Provided, That a self-employed person shall be both employee and employer at the same time.

As a dishwasher who performed services at Ana's *carinderia* and received compensation therefor, she was indubitably Ana's employee.[55]

For another, the cancellation of her retirement pension and membership was too harsh a penalty considering she is a beneficiary of a law enacted for social legislation, under which compassionate justice should prevail.[56] Our jurisdiction commands a liberal construction of social legislation in favor of laborers, especially to retirees who need sustenance when she is no longer capable to earn a livelihood.[57]

In its *Comment*,[58] the SSC agrees that as a general rule, the existence of an employer-employee relationship may be proved by any evidence other than documentary, which is precisely why it called for clarificatory hearings and allowed Leonarda to present testimonial evidence. Despite this opportunity given to Leonarda, she nevertheless failed to establish her employer-employee relation with Ana. On the contrary, the SSC found Ana to have employed an illegal scheme for her so called workers to get registered under the system and avail of its benefits.[59] It was highly suspicious for Ana to have hired twenty (20) employees to operate her small *carinderia* of five (5) to six (6) tables, leading to the *obvious conclusion* that this mass reporting of "employees" was done essentially for accommodation.[60]

In her *Reply*,[61] Leonarda maintains that the SSC failed to meet quantum of evidence required in administrative proceedings.

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[55] *Rollo*, p. 17.

[56] *Id.* at 17-20.

[57] *Id.* at 17-18.

[58] *Id.* at 140-146.

[59] *Id.* at 142.

[60] *Id.* at 142-144.

[61] *Id.* at 148-152.

More, the lengthy period of ten (10) years between the termination of her employment and Miel's investigation makes the SSCs findings all the more questionable. As for the other issues, she reiterates the arguments she had exhaustively discussed in her earlier pleadings.[62]

In its *Memorandum*,[63] the SSC echoes: factual findings in the performance of duty by administrative agencies with expertise should be accorded not just respect, but finality; its findings here are supported by substantial evidence based on its investigation; with the cancellation of Ana's registration, the very foundation of Leonarda's membership crumbles. Her membership, too, must be cancelled. Finally, social welfare legislations are only construed liberally in favor of those intended to be benefited when there is doubt or ambiguity in the law which does not obtain here.[64]

In her *Memorandum*,[65] Leonarda maintains: she had acquired a vested right to receive her monthly pension under the law which the SSC took away without due process; the SSC's factual findings were not supported by substantial evidence, but a lazy conclusion; the twenty (20) employees could have worked part time and in shifts and would nonetheless still be employees; the cancellation of Ana's employer's registration should not affect the fact that there was an employer-employee relationship that validly existed between them; she registered under the system in good faith; assuming *arguendo* that Ana merely accommodated her, it was not proscribed by the law or its implementing rules and regulations; if at all, Ana should have only been fined; finally, the cancellation of Ana's employer's registration leading to the invalidation of her membership does not have legal basis.

Issue

Is Leonarda entitled to retirement benefits from the SSS?

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[62] *Id.* at 150.

[63] Dated April 20, 2017; *rollo*, pp. 163-172.

[64] *Rollo*, p. 169.

[65] *Id.* at 173-187.

Ruling

We grant the petition.

The Governing Law

Leonarda prays for the dispositions of the Court of Appeals to be reversed and set aside to effectively restore her membership with the SSS and the payment of her retirement benefits.

To recall, Leonarda was registered as a member of SSS in August 1978. The applicable law at that time was RA 1161 or the Social Security Act of 1954, *viz.*:

SECTION 9. (a) *Compulsory Coverage*. — Upon determination by the Commission pursuant to paragraphs (a) and (b) of section four hereof, **coverage in the System shall be compulsory upon all employees between the ages of eighteen and sixty years, inclusive**, if they have been for at least six months in the service of an employer who is a member of the System: *Provided*, That the Commission may not compel any employer to become a member of the System unless he shall have been in operation for at least three years and has, at the time of admission, two hundred employees: *Provided, further*, That any employer otherwise qualified to be a member may be exempted by the Commission from the provisions of this Act (a) if said employer can satisfactorily show that he did not make any profit in any one year for the last three consecutive years, or (b) if he is maintaining for his employee's compulsory contributions are not higher, and employer's contribution not lower, than those required in this Act: *Provided, further*, That any such employer, with the consent of the majority of his employees participating in the plan, may liquidate such plan and become a member of the System: *Provided, finally*, That any amount accruing to an employee as a result of such liquidation shall not be paid to him but shall be remitted to the System to be credited to his account therein.

An employer exempt from the provision of this Act for the reason that he has an equivalent plan shall, nevertheless, be a member of the System with respect to all his other employees who are not included in such plan, or who may refuse to join or continue under said plan.

(b) *Voluntary Coverage*. — Under such rules and regulations as the Commission may prescribe, any employer not required to be a member of the System may become a member thereof and have his employees

come under the provisions of this Act if the majority of his employees do not object; and any individual in the employ of the Government, or of any of its political subdivisions, branches, or instrumentalities, including corporations owned or controlled by the Government, as well as any individual employed by a private entity not subject to compulsory membership under this Act may join the System by paying twice the employee's contribution prescribed in section nineteen. Any other individual may likewise join the System, subject to such rules and regulations as may be prescribed by the Commission.

Section 8 of the law defines "employees" as follows:

(d) *Employee*. — Any person who performs services for an "employer" in which either or both mental and physical efforts are used and who receives compensation for such services.

Verily, RA 1161 did not expressly cover self-employed individuals. Section 11, however, allows a person previously employed to continue paying contributions in order to retain his or her benefits as a member, *viz.*:

SECTION 11. *Effect of Separation from Employment*. — When an **employee under compulsory coverage is separated from employment**, his employer's contribution on his account shall cease at the end of the month of separation, **but said employee may continue his membership in the System and receive the benefits of this Act**, in accordance with such rules and regulations as may be promulgated by the Commission.

Thus, when Leonarda's employment with Ana ended in February, 1979, she continued paying contributions to SSS under Section 11.

Subsequently, on January 1, 1980, Presidential Decree (PD) 1636 took effect, amending RA 1161 and enlarging the scope of the SSS' compulsory coverage to include the self-employed, *viz.*:

SECTION 8. *Terms Defined*. — x x x

x x x x x x x x x

(c) Employer Any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry,

undertaking or activity or any kind and uses the services of another person who is under his orders as regards the employment except the Government and any of its political subdivision, branches or instrumentalities, including corporations owned or controlled by the Government: **Provided, that a self-employed professional shall be both employee and employer at the same time.**
(d) Employee Any person who performs services for an employer in which either or both mental and physical efforts are used and who receives compensation for such services, where there is an employer-employee relationship; **Provided, That a self-employed professional shall be both employee and employer at the same time.**

x x x x x x x x x

Sec. 9-A. **Compulsory coverage of the self-employed.** — Coverage in the SSS shall also be compulsory upon all self-employed persons earning ₱1,800.00 or more per annum; x x x

RA 1161, as amended by PD 1636 was still in effect when Leonarda applied for retirement benefits in 1993. The eligibility requirements for retirement benefits are set forth under Section 12-B of the law, as amended, thus:

SECTION 12-B. *Retirement benefits*. – (a) A covered employee **who had paid at least one hundred twenty monthly contributions prior to the semester of retirement**; and who (1) **has reached the age of sixty years** and is not receiving monthly compensation of at least three hundred pesos, or (2) has reached the age of sixty-five years, shall be entitled for as long as he lives to the monthly pension: Provided, That his dependents born before his retirement of a marriage subsisting when he was fifty-seven years old shall be entitled to the dependents' pension.

x x x x x x x x x

Hence, to be eligible for retirement benefits, Leonarda must establish that (a) she is a covered employee, (b) paid at least 120 contributions prior to the semester of her retirement, (c) has reached the age of 60, and (d) is not receiving monthly compensation of at least ₱300.00.

The sole issue here is the presence of the first requirement.

Leonarda was Ana's Employee

Indeed, there is no dispute that Leonarda had made 137 contributions to SSS during her lifetime. Too, she turned 60 in 1993. The records also made no mention whatsoever about Leonarda's sources of compensation.

What appears on record, however, is that the Court of Appeals affirmed the SSC's cancelation of Leonarda's membership on ground that she was not a legitimate employee of Ana. She could not have therefore been a covered employee under Section 9 of RA 1161 prior to its amendment, nor could she have continued making payments under Section 11 of the same law. Consequently, she was not a valid member of the SSS and, thus, not entitled to retirement pensions; her payments under the system must be returned.

We disagree with the findings of the Court of Appeals.

a. Factual findings generally not subject to review; Exceptions

As stated, whether Leonarda is a *bona fide* member of the SSS hinges on whether there was a valid employer-employee relationship between Ana and her. While the existence of an employer-employee relationship is a factual matter generally beyond the purview of a Rule 45 petition, the Court finds that three (3) of the recognized exceptions to the rule obtain in this case, *viz.*:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; **(8) When the findings of fact 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 respondents; and **(10) The finding of fact of the Court of Appeals**

is premised on the supposed absence of evidence and is contradicted by the evidence on records. (Emphasis supplied)[66]

Here, the factual finding that Leonarda was not Ana's employee was based on a mere conjecture, speculation, or an estimate, as will be discussed below. Too, such conclusion was based on an investigation which was not supported by any sort of evidence. Contrary to the findings of the Court of Appeals, Leonarda sufficiently established that she was employed by Ana.

b. Leonarda was deprived due process of law

Preliminarily, the Court observes that Leonarda was deprived of due process when the SSS canceled her membership and retirement pension before according her an opportunity to be heard on her eligibility.

In ***GSIS v. Montesclaros***,[67] the Court pronounced:

> x x x [W]here the employee **retires and meets the eligibility requirements, he acquires a vested right to benefits that is protected by the due process clause**. Retirees enjoy a protected property interest whenever they acquire a right to immediate payment under pre-existing law. x x x **No law can deprive such person of his pension rights without due process of law, that is, without notice and opportunity to be heard**. (citations omitted; emphasis and underscoring supplied)

Here, Leonarda had been receiving pension benefits of ₱1,362.75 since 1993 until it was unilaterally cancelled by the SSS in 2001. She never knew the cause of the cancellation until 2008 when respondent Talictic informed her in writing that the cancellation of her membership was due to the cancelation of Ana's membership in the system.

As it turned out, Leonarda's case was a derivative of the earlier investigation against Ana who allegedly failed to prove that she actually had employees in her *carinderia*. Thus, SSS Investigator Miel recommended the cancellation of Ana's

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[66] *Sps. Miano v. Manila Electric Co.*, 800 Phil. 118, 123 (2016).

[67] 478 Phil. 573, 584 (2000). [En Banc, Carpio, J.]

membership in the system, which recommendation was approved in 2001.

It bears stress, however, that Leonarda was never a party to the investigation against Ana. Thus, Leonarda could not have possibly been bound by the results thereof. Indeed, a decision rendered in a proceeding does not bind or prejudice a person not impleaded therein, for no person shall be adversely affected by the outcome of a proceeding in which he or she is not a party.[68] The exception to this rule — successors in interest,[69] is inapplicable here since Ana's interest as the purported employer is surely different from the interest of her purported employee Leonarda.

Perhaps aware of this due process violation, respondent Talictic, in the same letter in 2008, advised Leonarda to file a petition with the SSC should she decide to pursue the restoration of her monthly pension. This, however, is paradoxical.

Section 5 (d) of RA 8282, which amended RA 1161 and took effect in 1997, was already in force when the SSS implemented its ruling that cancelled Ana's membership leading to the cancellation of Leonarda's membership and monthly pension. It states:

(d) Execution of Decisions. – The Commission may, *motu proprio* or on motion of any interested party, issue a writ of execution to enforce any of its decisions or awards, **after it has become final and executory**, in the same manner as the decision of the Regional Trial Court by directing the city or provincial sheriff or the sheriff whom it may appoint to enforce such final decision or execute such writ; and any person who shall fail or refuse to comply with such

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[68] *Guy v. Gacott*, 778 Phil. 308, 320 (2016), citing *Muñoz v. Yabut, Jr.*, 665 Phil. 488 (2011).

[69] Section 47 (b) of Rule 39, Rules of Court:
(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; x x x.

decision, award or writ, after being required to do so shall, upon application by the Commission, pursuant to Rule 71 of the Rules of Court, be punished for contempt. (emphasis added)

Verily, the SSS could have only canceled Leonarda's pension if there was already a final ruling against her to that effect. As earlier explained though, the ruling against Ana could not have been such final ruling required under Section 5. It simply does not bind Leonarda. Hence, the cancelation of Leonarda's SSS membership had no factual or legal basis.

At any rate, even assuming that the ruling against Ana was final and binding on Leonarda as well, why would Talictic advise Leonarda to file a new petition to establish the fact of employment?

The situation would have been different had the SSS rejected Leonarda's application for retirement benefits in 1993. After all, the SSS was already informed as early as 1989 of Ana's supposed fraudulent scheme. Thus, when the SSS approved her application despite knowledge thereof, Leonarda obtained a vested right to her pension benefits. Consequently, though not estopped, the SSS could not have deprived her of these benefit without due process.

In fine, the SSS violated Leonarda's constitutional right to due process of law **first**, when it unilaterally canceled her membership and retirement pension without affording her an opportunity to be heard, **second**, when it implemented the cancelation of her membership and retirement pension despite the absence of a final ruling to that effect, and **third**, when it failed to notify Leonarda of the cause of the cancelation until seven (7) years later. To make matters worse, the advice to Leonarda to file a case only came when Ana had already passed away. Worse still, the SSS asked Leonarda to prove that she was a dishwasher at a humble *carinderia* thirty (30) years after her separation from employment. For these reasons alone, the petition should already be granted.

c. There is substantial evidence to establish that Leonarda was Ana's employee

The deprivation of her right to due process notwithstanding, Leonarda was nevertheless able to prove that she was an employee at Ana's *carinderia*. During the clarificatory hearings before the SSC, Leonarda offered the following pieces evidence: her affidavit and testimony; affidavit of Sabas Ranin; affidavit and testimony of Ceferino Macas as son of *carinderia* owner Ana Macas who had since passed away; and affidavit and testimony of Ricardo Viñalon as disinterested third person.

Sabas G. Ranin essentially stated under the pain of perjury: he was a firewood supplier to small restaurants at the Jagna public market from 1975 to 1988; he personally knows Leonarda whom he met at Ana's *carinderia*; Leonarda started working for Ana in August 1978.[70]

Ricardo O. Viñalon expressed in his affidavit that he personally knew Leonarda whom he met in August 1978 when Leonarda started working for Ana at the latter's *carinderia*; he was acquainted with her because he used to deliver meats to the *carinderia* on a daily basis.[71] In the October 5, 2009 SSC clarificatory hearing, he added that Ana's *carinderia* had about three (3) to five (5) employees at a time, but never more than ten (10) since the place was not that big to accommodate many workers.[72]

Ceferino Macas was also present at the clarificatory hearing and he testified that his parents Ana and Vicente Macas owned and operated *carinderia* at the Jagna Public Market; it had six (6) tables and attracted a lot of customers *(suki)*; he personally knew Leonarda as their neighbor and as one of the workers at the *carinderia*; specifically, she worked as a server or a dishwasher every day from 7 o'clock in the morning until 5 o'clock in the afternoon; she worked at his mother's *carinderia* for around five (5) to seven (7) months; after her separation therefrom, Leonarda chose to be a self-employed SSS member;

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[70] *Rollo*, p. 52.

[71] *Id.* at 65.

[72] *Id.* at 70-71.

finally, the *carinderia* had four (4) to five (5) workers at a time, but never more than a total of ten (10) in any given month.

We find the affidavits and testimonies of Leonarda's witnesses to be credible, candid, and consistent on material points. They were all able to support Leonarda's claim that there was an employer-employee relationship between her and Ana. Indeed, they positively identified her and her role in the *carinderia* as helper.

At any rate, the Court does not only take these documents and testimonies at face value, but also considers Leonarda's circumstances. For one, she offered possibly the best evidence available to her, given that thirty (30) years had already elapsed since her separation from employment with Ana. For another, the Court is not unmindful that a *carinderia* at a public market is part of a small and rather informal economy that could not reasonably be expected to maintain a comprehensive documentation, more so beyond its operating lifetime. Still another, Ana had already passed away, making any record or papers in her possession even more difficult, if not impossible, to procure. Thus, it would be contrary to the dictates of fair play and justice to demand Leonarda to submit pay slips, time sheets, or any other paper documentation of her employment.

Indeed, the Court has consistently ruled that there is no hard and fast rule designed to establish the elements of an employer-employee relationship.[73] Some forms evidence that have accepted to establish the elements include, but are not limited to, identification cards, cash vouchers, **social security registration**, appointment letters or employment contracts, payroll, organization charts, and personnel lists, among others.[74]

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[73] *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 450 (2014), citing *Consulta v. Court of Appeals*, 493 Phil. 842, 847 (2005) [Per J. Carpio, First Division]; *Caurdanetaan Piece Workers Union v. Laguesma*, 350 Phil. 35, 74 (1998), 350 Phil. 35 (1998).

[74] *Fuji* citing *Tenazas v. R. Villegas Taxi Transport*, 731 Phil. 217, 230 (2014) [Per J. Reyes, First Division], and *Meteoro v. Creative Creatures, Inc.*, 610 Phil. 150, 161 (2009) [Per J. Nachura, Third Division].

Too, the Court has also accepted witnesses' testimonial evidence to sufficiently establish employer-employee relationship, as here.[75]

Even applying the more stringent standards of the four-fold test, Leonarda satisfied its requisites in establishing her employment. To be sure, the elements are: 1) the selection and engagement of the employees; 2) the payment of wages; 3) the power of dismissal; and 4) the power to control the employee's conduct.[76] Leonarda and her witnesses proved: *first*, Ana personally hired Leonarda as helper; *second*, Ana paid Leonarda a daily wage of ₱30.00, albeit on a weekly or monthly basis; *third*, corollary to the power to hire, Ana could have fired Leonarda; *fourth* and most importantly, Ana as owner directly supervised Leonarda in her work as helper or dishwasher.

d. The SSS failed to disprove the fact of Leonarda's employment

Even with the testimonies and affidavits offered by Leonarda, the SSC essentially found it unbelievable that a *carinderia* with a maximum of six (6) tables employed twenty (20) workers to operate. With these "doubtful" figures, it had the "obvious conclusion" that the hiring of majority, if not all, of these purported employees was done for accommodation. More:

> **The investigation showed that subject firm could not present any proof of employment of its reported employees despite repeated demands.** All the reported were already separated and had applied for voluntary membership. **In view of the absence of employer-employee relationship, it is recommended that withdrawal of SSS membership of subject firm and its employees be effected.** (Emphasis supplied)

We are not persuaded.

***First*,** the SSC had no actual basis for its conclusion that Ana had fake employees, but a mere assumption which came

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[75] *Opulencia Ice Plant and Storage v. NLRC*, 298-A Phil. 449 (1993).

[76] *Marsman & Company, Inc. v. Sta. Rita*, G.R. No. 194765, April 23, 2018, citing *Bazar v. Ruizol*, 797 Phil. 656, 665 (2016).

to fore just because Ana allegedly failed to respond to its demands to prove that her employees, including Leonarda, were not merely accommodated for inclusion in the social security system. To be sure, the factual findings of the SSC pertaining to its cancellation of Ana's registration cannot be used against Leonarda. More, the belated investigation that took thirty (30) years to commence, through no fault of Leonarda, should not prejudice her.

Second, assuming *arguendo* that most of Ana's workers were indeed merely accommodated to be registered under the system, the SSC did not establish with substantial evidence that Leonarda was one of them. The SSC itself admitted that Ana had legitimate employees. In fact, among the many faces and names who may be more imagined than real, the witnesses here **positively identified** Leonarda as a legitimate employee, erasing any doubt on her employment.

Finally, Ana's failure to comply with reportorial requirements merely called for the application of Section 24 of RA 1161, *viz.*:

> Section 24. Employment Records and Reports. — (a) Each employer **shall immediately report to the SSS the names, ages, civil status, occupations, salaries and dependents of all his employees who are subject to compulsory coverage**: Provided, That if an employee subject to compulsory coverage should die or become sick or disabled **or reach the age of sixty without the SSS having previously received any report or written communication about him from his employer** or a contribution paid in his name by his employer, ***the said employer shall pay to the SSS the damages*** equivalent to the benefits to which said employee would have been entitled had his name been reported on time by the employer to the SSS, except that ***in case of pension benefits, the employer shall be liable to pay the SSS damages*** equivalent to five year's monthly pension; including dependents' pension: Provided, further, That if the contingency occurs within thirty days from the date of employment, the employer shall be relieved of his liability for damages. (As amended by Sec. 15, R.A. 1792; Sec. 9, R.A. 4857; Sec. 13, P.D. No. 24, S-1972; Sec. 16, P.D. No. 735, S-1975; and Sec. 12, P.D. No. 1202, S-1977) (Emphases and underscoring supplied)

The provision does not mandate the automatic cancellation of the membership of the covered employee.

Weighed against SSC's bare assertion, we find Leonarda's position to be more tenable. The SSC should not have made a sweeping cancellation of the membership of all of Ana's employees in view of the SSC's own findings that at least some of them were legitimate. These legitimate employees, including Leonarda, should not be prejudiced by the SSC's over-arching allegation of fraud.

e. A case of social legislation and the liberality rule

Suffice it to state that in cases involving social legislation, doubts should be liberally construed in favor of the intended beneficiary of the law.[77]

In ***Philippine National Bank v. Dalmacio***, the Court emphasized:

> Retirement laws, in particular, are liberally construed in favor of the retiree because their objective is to provide for the retiree's sustenance and, hopefully, even comfort, when he no longer has the capability to earn a livelihood. The liberal approach aims to achieve the humanitarian purposes of the law in order that efficiency, security, and well-being of government employees may be enhanced. Indeed, retirement laws are liberally construed and administered in favor of the persons intended to be benefited, and all doubts are resolved in favor of the retiree to achieve their humanitarian purpose.

To be sure, even if both parties have presented substantial evidence to support their allegations, the *equipoise* rule dictates that the scales of justice must be titled in favor of labor, as here.[78]

Leonarda may be considered a Self-Employed or Voluntary Paying Member

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[77] *PNB v. Dalmacio*, 813 Phil. 127, 138 (2017), citing *GSIS v. De Leon*, 649 Phil. 610 (2010).

[78] *Hubilla v. Hsy Marketing Ltd. Co.*, G.R. No. 207354, January 10, 2018.

Assuming further that Leonarda was not an employee of Ana, this does not automatically entail the invalidation of her 137 contributions to SSS. For Leonarda may be placed under the category "self-employed" pursuant to the liberality rule. In fact, she may even be considered as a voluntary paying member.

The application of liberality in this kind of situation is not out of the ordinary. In ***Haveria v. SSS***,[79] the Court found no employer-employee relationship between therein petitioner and the SSSEA. The Court, nonetheless, considered Haveria's contributions remitted by the SSSEA as voluntary contributions to allow him to receive his pension which was then suspended by the SSC. Similarly, Haveria registered with the SSS in May 1966 or under RA 1161, as here, and the SSSEA remitted his monthly contributions from May 1966 to December 1981. The Court ruled:

> Under R.A. No. 1161, there are two kinds of coverage: compulsory coverage and voluntary coverage. The Act provides:
>
> x x x x x x x x x
>
> (b) Voluntary Coverage. — x x x any employer not required to be a member of the System may become a member thereof and have his employees come under the provisions of this Act if the majority of his employees do not object; and any individual in the employ of the Government, or of any of its political subdivisions, branches, or instrumentalities, including corporations owned or controlled by the Government, as well as any individual employed by a private entity not subject to compulsory membership under this Act may join the System by paying twice the employee's contribution prescribed in section nineteen. Any other individual may likewise join the System, subject to such rules and regulations as may be prescribed by the Commission.[80]
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> x x x x x x x x x

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[79] G.R. No. 181154, August 22, 2018. [Resolution, per Second Division, Caguioa, J.]

[80] Available electronically at https://www.officialgazette.gov.ph/1954/06/18/republic-act-no-1161/.

Haveria was reported by the SSSEA as an employee, and he claims coverage as a compulsory member of the SSS. As correctly held by the SSC and CA, the SSSEA, a labor organization, **cannot be considered an employer under the law**. The Labor Code expressly excludes labor organizations from the definition of an employer, except when they directly hire employees to render services for the union or association. Aside from his bare allegation that he was an employee of the SSSEA, Haveria did not present any other fact to substantiate his claim of employment with the SSSEA. He did not state his day-to-day duties or responsibilities and work hours; he did not even present proof of employment such as pay slips and contract of employment. **Thus, the SSSEA was not an employer and Haveria was not its employee, but merely a member or officer thereof.**

x x x x x x x x x

x x x Consequently, his compulsory coverage while supposedly employed with the SSSEA was erroneous.

x x x x x x x x x

x x x **in the interest of justice and equity, Haveria's contributions remitted by the SSSEA <u>shall be considered as voluntary contributions</u> so that his contributions can reach the minimum 120 monthly contributions for qualification to a retirement pension.** x x x (Emphases supplied)

Hence, even if the Court rules that Leonarda was never an employee of Ana, this would not necessarily entail the invalidity of **all** her contributions. Rather, this would call for the application of liberality wherein Leonarda could be considered as a self-employed or voluntary paying member as of January 1, 1980 when PD 1636 took effect, expanding the scope of RA 1161 to include the self-employed.

Here, it is undisputed that Leonarda made a total of 137 contributions to the SSS. Meanwhile, she could have only paid a maximum of seventeen (17) months of contribution from the time she got registered under the system in August 1978 until PD 1636 took effect on January 1, 1980. Thus, even if we deduct these seventeen (17) contributions made prior to the effectivity of PD 1636, Leonarda would still have made one hundred twenty (120) valid contributions before she turned sixty (60) in 1993,

the minimum required to qualify for retirement benefits. Consequently, Leonarda has satisfied the qualifications to receive her pension.

Retirees look forward to a life of dignified simplicity and sustenance, if not comfort, after their economically productive years. If we deny Leonarda's petition, then we deny her the very humanitarian purpose of the law — which she has been deprived of for nineteen (19) long years now. What should have been her comfortable twilight years, Leonarda was burdened with worries and anxiety of the laborious process of pleading her case.

The SSS should have been more sympathetic with its stakeholders — careful, not brash; supportive, not vindictive; or at the very least true to its mandate.

ACCORDINGLY, the petition is **GRANTED.** The Decision dated December 1, 2014 and Resolution dated January 28, 2016 of the Court of Appeals in CA-G.R. S.P. No. 07954 are **REVERSED** and **SET ASIDE**.

Respondent Social Security System is hereby ordered to:

1) **REINSTATE** petitioner Leonarda Jamago Salabe's membership with the system;

2) **VALIDATE** petitioner's 137 paid contributions;

3) **RESTORE** petitioner's right to retirement benefits; and

4) **PAY** petitioner her accrued retirement benefits from August 2001. This amount shall earn twelve percent[81] (12%) interest computed from the time her pension was withheld in August 2001 until June 30, 2013 and six percent[82] (6%) from July 1, 2013 until fully paid.

SO ORDERED.

Peralta, C.J., Caguioa, Reyes, Jr., and *Lopez, JJ.*, concur.

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[81] Central Bank Circular No. 905, s. 1982.

[82] Central Bank Circular No. 799, s. 2013.

FIRST DIVISION

[G.R. No. 224572. August 27, 2020]

SPOUSES ROMEO ANASTACIO, SR. and NORMA T. ANASTACIO, *Petitioners*, *v.* **HEIRS OF THE LATE SPOUSES JUAN F. COLOMA and JULIANA PARAZO**, *Respondents*.

SYLLABUS

1. CIVIL LAW; FAMILY CODE; ALL PROPERTIES ACQUIRED DURING MARRIAGE WHETHER THE ACQUISITION APPEARS TO HAVE BEEN MADE, CONTRACTED OR REGISTERED IN THE NAME OF ONE SPOUSE OR BOTH SPOUSES ARE CONJUGAL UNTIL THE CONTRARY IS PROVED. — Article 116 of the Family Code is explicit as to who has the burden to prove that property acquired during the marriage is not conjugal[.] x x x A rebuttable presumption is established in Article 116 and the party who invokes that presumption must first establish that the property was acquired during the marriage because the proof of acquisition during the marriage is a condition *sine qua non* for the operation of the presumption in favor of the conjugal partnership. It is not necessary to prove that the property was acquired with conjugal funds and the presumption still applies even when the manner in which the property was acquired does not appear. Once the condition *sine qua non* is established, then the presumption that all properties acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one spouse or both spouses, are conjugal, remains until the contrary is proved.

2. ID.; OBLIGATIONS AND CONTRACTS; CONTRACTS; CONSENT; AN OFFER BECOMES INEFFECTIVE UPON THE DEATH, CIVIL INTERDICTION, INSANITY, OR INSOLVENCY OF EITHER PARTY BEFORE ACCEPTANCE IS CONVEYED. — Under Article 1323 of the Civil Code, an offer becomes ineffective upon the death, civil interdiction, insanity, or insolvency of either party before acceptance is conveyed. When Juan died on August 26, 2006, the continuing offer contemplated under Article 124 of the Family

Code became ineffective and could not have materialized into a binding contract. It must be remembered that Juliana even died earlier on August 17, 2006 and there is no evidence that she consented to the sale of the subject property by Juan in favor of petitioners.

APPEARANCES OF COUNSEL

Amador P. Casino, Jr. for petitioners.
David P. Briones for respondents.

R E S O L U T I O N

CAGUIOA, *J.*:

Before the Court is the Petition for Review[1] (Petition) under Rule 45 of the Rules of Court filed by petitioners Spouses Romeo Anastacio, Sr. and Norma T. Anastacio (petitioners) assailing the Decision[2] dated April 21, 2015 (Decision) and Resolution[3] dated May 10, 2016 of the Court of Appeals[4] in CA-G.R. CV No. 99619. The CA Decision granted the appeal of the Heirs of the Late Spouses Juan F. Coloma (Juan) and Juliana Parazo (Juliana) as well as reversed and set aside the Decision[5] dated September 11, 2012 rendered by the Regional Trial Court of Camiling, Tarlac, Branch 68 (RTC) in Civil Case No. 08-09, which dismissed the Complaint for Annulment of Document, Recovery of Ownership and Possession with Prayer for Writ of Preliminary Injunction. The CA Resolution denied petitioners' motion for reconsideration.

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[1] *Rollo*, pp. 8-33, excluding Annexes.

[2] Id. at 35-47. Penned by Associate Justice Rodil V. Zalameda (now a Member of the Court), with Associate Justices Sesinando E. Villon and Pedro B. Corales, concurring.

[3] Id. at 48-49.

[4] Thirteenth Division and Former Thirteenth Division.

[5] *Rollo*, pp. 68-76. Penned by Presiding Judge Jose S. Vallo.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

> The case involves a dispute over a parcel of land [(subject property)] consisting of [19,247] square meters situated in San Jose, Tarlac. Title to the subject property, particularly Transfer Certificate of Title [(TCT)] No. 56899 of the Registry of Deeds of Tarlac, shows [Juan] as the registered owner thereof since [January 14, 1965], with the certificate of title likewise carried the inscription of his marriage to [Juliana]. Both Juan and Juliana are now deceased, leaving x x x Rudy P. Coloma and Marcela C. Reyes [(respondents)] as their legitimate heirs.
>
> According to [respondents], the subject property is under the possession of [petitioners] by mere tolerance of their parents. Thus, upon the demise of their parents, [respondents] demanded the surrender of its possession. However, [petitioners] refused, which led to the filing of a case for Recovery of Possession and Title against them before the Municipal Circuit Trial Court [(MCTC)] of Sta. Ignacia, Tarlac, docketed as Civil Case No. 645-SJ (07).
>
> In their Answer before the MCTC, [petitioners] claimed right of ownership over the subject property by virtue of an alleged Deed of Absolute Sale dated [October 7, 2004[6]] executed by Juan during his lifetime. On account of such claim of ownership, the MCTC dismissed the said case, without prejudice to the filing of the subject complaint with the proper court.
>
> Later on, [respondents] filed the Complaint before the [RTC], this time for Annulment of Document, Recovery of Ownership and Possession with Prayer for Writ of Preliminary injunction, claiming that the Deed of Absolute Sale allegedly executed by their father in favor of [petitioners] is void on two x x x grounds. First, that the signature of their father, Juan, as appearing thereon is a forgery; and second, that there is no conformity or consent given by their mother, Juliana, to the alleged sale.
>
> Answering, [petitioners] maintained the same theory as in the earlier MCTC case against them: that they are owners of the [subject] property by virtue of the subject Deed of Absolute Sale dated [October 7, 2004] executed by Juan. Further, they maintained that x x x they

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[6] Mistakenly indicated as 2014 in the CA Decision.

have paid Juan [₱100,000.00] as first payment in 2003 and [₱260,000.00] upon execution of the said Deed of Absolute Sale, apart from the [₱100,000.00] they spent as expenses for the wake and burial of Juan. [Petitioners] also claimed that the consent of Juliana was not necessary to effect a valid sale since the subject property was the sole property of Juan, having inherited the same from his paternal ancestors and the spouses had long been separated from bed [and board].

A Pre-Trial Order dated [March 6, 2009] was issued by the [RTC] summarizing the stipulations made by the contending parties, to wit:

x x x x x x x x x

1. That [Juan] died on August 26, 2006;
2. That [Juliana] died on August 17, 2006;
3. That the subject property was registered by [Juan] married to [Juliana] in 1965;
4. That the subject property was registered during the lifetime of the spouses [Juan and Juliana].

x x x x x x x x x

Thereafter, trial on the merits ensued.

In support of their claims, [respondents] presented, among others, a handwriting expert, PO3 Leslie Ramales, who testified that the questioned signature of Juan as appearing on the Deed of Absolute Sale and the latter's standard signatures, were not written by one and the same person.

On the other hand, [petitioners] harped on the alleged separation from bed and board of Juan and Juliana and presented Juan's alleged paramour since 1978, Carmelita Palma [(Palma)]. Said witness testified that during the lifetime of Juan, [he] mortgaged, and subsequently sold the subject property to [petitioners] via [a] Deed of Absolu[t]e Sale. [Petitioner] Romeo Anastacio also took the stand and confirmed the testimony of Palma, that the subject property was mortgaged to him by Juan in 2003 for [₱100,000.00)] and thereafter, sold the same property to him in 2004 for [₱260,000.00].

The [RTC] on [September 11, 2012] issued [its] Decision x x x, ruling in favor of [petitioners], stating that the evidence on record failed to establish the alleged falsification of the Deed of Absolute

Sale. The [RTC] likewise ruled that the subject property was the exclusive property of Juan, thus, did not require the consent of h[is] wife, Juliana. [The dispositive portion of the RTC Decision states:

WHEREFORE, premises considered, the above-entitled case is hereby Dismissed.

SO ORDERED.][7]

Respondents appealed to the CA.

Ruling of the CA

In the Decision dated April 21, 2015, the CA found the appeal meritorious.[8] The CA, from its examination of the documentary evidence submitted, observed that "it is plainly apparent that the questioned signature of Juan x x x in the Deed of Absolute Sale is utterly dissimilar from his customary signatures appearing on the Catulagan Panggep Ti Salda[9] and the Voter Registration Record, leading [the CA] to agree with the handwriting expert that the signatures of [Juan] were not made by one and the same person and likewise, to believe that [Juan's] signature is a forgery."[10]

The CA also ruled that the RTC erred in concluding that the subject property was owned exclusively by Juan and could be sold without the consent of his legal wife, Juliana.[11] The CA based its ruling on the following: (1) aside from the self-serving claims of petitioners, no other evidence was presented to prove that the subject property was Juan's exclusive property; (2) based on the stipulations of the parties, the subject property was registered in the name of Juan and Juliana in 1965 and during their lifetime, which makes the property presumably conjugal; (3) Juan acquired ownership of the subject property, not by succession, but by virtue of a sale in his favor by a

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[7] *Rollo*, pp. 36-39, 76.

[8] Id. at 40.

[9] Translated Agreement Pertaining to a Mortgage.

[10] *Rollo*, pp. 42-43.

[11] Id. at 44.

certain Laurelio Valete (Valete) during the subsistence of his marriage with Juliana as evidenced by the inscription on both TCT No. 56899 and the source title, TCT No. 53369, that the latter was being cancelled by virtue of the sale made by Valete in favor of Juan.[12] The CA concluded that the Deed of Absolute Sale between petitioners and Juan is void and of no legal effect.[13]

As to petitioners' claim that they made several payments to Juan for the alleged sale of the subject property, the CA found that the handwritten breakdown of the alleged payments, which was not even dated and did not bear the signature of Juan, was not a credible evidence.[14] Even on the assumption that petitioners indeed made the said payments to Juan, the CA citing *Fuentes v. Roca*,[15] ruled that petitioners were not entitled to the return of the amounts paid because only buyers in good faith are allowed recovery of the payments made by the buyers of a land sold without the consent of the deceased seller's spouse, chargeable against the latter's estate upon a finding that the buyers were in good faith; and in this case, petitioners were not buyers in good faith because, being aware that Juan and Juliana were separated from bed and board, they should have been cautious to look into the authority of Juan to sell the subject property.[16]

The dispositive portion of the CA Decision states:

WHEREFORE, IN VIEW OF THE FOREGOING, the appeal is **GRANTED** and the assailed Decision issued by the court *a quo* is hereby **REVERSED** AND **SET ASIDE**.

Accordingly, judgment is hereby rendered as follows:

1. Declaring the Deed of Absolute Sale dated [October 7, 2004] null and void;

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[12] Id.

[13] Id. at 45.

[14] Id. at 46.

[15] G.R. No. 178902, April 21, 2010, 618 SCRA 702.

[16] *Rollo*, p. 46.

2. Ordering [petitioners] to surrender TCT No. 56899 of the Registry of Deeds of Tarlac to [respondents];

3. Ordering [petitioners], their successors-in-interest, heirs or assignees, to vacate and restore possession of the subject property covered by TCT No. 56899 of the Registry of Deeds of Tarlac to [respondents];

4. Ordering [petitioners] to pay the costs of the suit.

SO ORDERED.[17]

Petitioners filed a motion for reconsideration, which the CA denied in its Resolution[18] dated May 10, 2016.

Hence, the instant Petition. Respondents filed a Comment to the Petition[19] while petitioners filed a Reply to Respondents' Comment.[20]

The Issues

The Petition states the following issues to be resolved:

1. Whether the CA erred when it declared Juan's signature in the Deed of Absolute Sale dated October 7, 2004 (DAS) a forgery.

2. Whether the CA erred in declaring that the DAS does not carry the presumption of regularity in its notarization and execution.

3. Whether the CA erred in declaring that the subject property is the conjugal property of the late spouses Juan and Juliana.

4. Whether the CA erred in declaring that petitioners were not in good faith in acquiring the subject property from Juan.[21]

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[17] Id. at 46-47.

[18] Id. at 48-49.

[19] Id. at 106-114.

[20] Id. at 121-127.

[21] Id. at 15.

The Court's Ruling

The Petition lacks merit.

It appears that the four issues raised in the Petition are not purely questions of law. All involve a review of the lower courts' factual findings which formed their bases for the legal conclusions that they arrived at. Given that there is a conflict in the factual findings of the RTC and the CA, which is an admitted exception to the rule that only questions of law may be raised in a Rule 45 *certiorari* petition, the Court will consider the said four issues.

The Court will tackle the third issue ahead of the rest.

Petitioners argue that respondents have the burden to prove that the subject property was owned by both Juan and Juliana, having made that allegation in the Complaint.[22] They also take the position that TCT No. 56899 presents a conclusive presumption that the land described therein was the capital of, and owned exclusively by Juan and that Juan is stated in the said TCT to have been married to Juliana is merely descriptive of his civil status.[23] Thus, petitioners claim that the DAS is valid and the consent of Juliana was not required when Juan sold the subject property to them.[24]

Petitioners' arguments are erroneous.

Article 105 of the Family Code provides that the provisions of Chapter 4, Conjugal Partnership of Gains (CPG), shall also apply to CPG already established before the effectivity of the Family Code, without prejudice to vested rights already acquired in accordance with the Civil Code or other laws. It will be recalled that based on the stipulations of the parties, the subject property was acquired in 1965 during the lifetime of Juan and Juliana while they were married, and it was registered in the name of Juan married to Juliana.

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[22] See id. at 29.

[23] Id. at 30.

[24] Id. at 31.

In 1965, the prevailing property regime between husband and wife was the CPG. There being no evidence to the contrary, the property regime between Juan and Juliana was the CPG.

Article 116 of the Family Code is explicit as to who has the burden to prove that property acquired during the marriage is not conjugal, to wit:

> ART. 116. All property acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one or both spouses, is presumed to be conjugal unless the contrary is proved. (160a)

A rebuttable presumption is established in Article 116 and the party who invokes that presumption must first establish that the property was acquired during the marriage because the proof of acquisition during the marriage is a condition *sine qua non* for the operation of the presumption in favor of the conjugal partnership.[25] It is not necessary to prove that the property was acquired with conjugal funds and the presumption still applies even when the manner in which the property was acquired does not appear.[26] Once the condition *sine qua non* is established, then the presumption that all properties acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one spouse or both spouses, are conjugal, remains until the contrary is proved.

Given the very stipulations made during the Pre-Trial and TCT No. 56899, respondents had laid the predicate for the presumption under Article 116 to be invoked. They had established that the property was acquired during the marriage of their parents. To overcome the presumption in favor of the conjugal partnership, petitioners were required to prove the contrary.

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[25] Arturo M. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, VOLUME I WITH THE FAMILY CODE OF THE PHILIPPINES, 1990 Edition, pp. 430-431. Citations omitted.

[26] Id. at 430.

Unfortunately, petitioners' evidence that TCT No. 56899 was registered in the name of Juan married to Juliana and the sale from the previous owner, Valete, to Juan only mentioned Juan as the buyer fell short to overcome the presumption. In fact, such evidence even bolsters the presumption that respondents invoked. To reiterate, the presumption is created even if the **acquisition appears to have been made, contracted or registered in the name of one spouse**. Petitioners' claim that Juan acquired the subject property by succession was belied by the inscription on both TCT No. 56899 and its predecessor title, TCT No. 53369, that the latter was being cancelled by virtue of the sale made by Valete in favor of Juan.[27]

Therefore, petitioners' postulation that the certificate of title having been registered in the name of Juan married to Juliana establishes a conclusive presumption that the land described therein was owned exclusively by Juan is incorrect because it directly runs counter to Article 116 of the Family Code.

Petitioners should have endeavored to prove their claim that the subject property was the exclusive property of Juan in conformity with Article 109 of the Family Code, which provides:

> ART. 109. The following shall be the exclusive property of each spouse:
>
> (1) That which is brought to the marriage as his or her own;
>
> (2) That which each acquires during the marriage by gratuitous title;
>
> (3) That which is acquired by right of redemption, by barter or by exchange with property belonging to only one of the spouses; and
>
> (4) That which is purchased with exclusive money of the wife or of the husband. (148a)

Clearly, the first three instances do not apply in this case. Regarding the fourth instance, petitioners could not have established that the subject property was purchased with the exclusive money of Juan through the testimony of his paramour Carmelita Palma because she testified that she became his live-

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[27] *Rollo*, p. 29.

in partner only beginning 1978 (until his death in 2006),[28] which was after the acquisition of the subject property by Juan.

Since petitioners have not presented strong, clear, convincing evidence[29] that the subject property was exclusive property of Juan, its alienation to them required the consent of Juliana to be valid pursuant to Article 124 of the Family Code, which provides in part:

> ART. 124. x x x
>
> x x x These powers [of administration] do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. **In the absence of such authority or consent, the disposition or encumbrance shall be void.** However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (165a) (Emphasis supplied)

Under Article 1323 of the Civil Code, an offer becomes ineffective upon the death, civil interdiction, insanity, or insolvency of either party before acceptance is conveyed. When Juan died on August 26, 2006, the continuing offer contemplated under Article 124 of the Family Code became ineffective and could not have materialized into a binding contract. It must be remembered that Juliana even died earlier on August 17, 2006 and there is no evidence that she consented to the sale of the subject property by Juan in favor of petitioners.

The fact that Juan and Juliana were separated from bed and board *(a mensa et thoro)* at the time of the supposed sale of the subject property by Juan to petitioners did not exempt the disposition from the requirement of obtaining the other spouse's consent under Article 116 of the Family Code.[30] Juan was not

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[28] Id. at 12.

[29] Arturo M. Tolentino, supra note 25, at 432. Citations omitted.

[30] See *Wong v. Intermediate Appellate Court*, G.R. No. 70082, August 19, 1991, 200 SCRA 792.

without any recourse, he should have gotten the required authority from the court.

Given that the subject property was the conjugal property of Juan and Juliana, the CA correctly ruled that the sale of the subject property by Juan without the consent of Juliana in favor of petitioners contemplated in the DAS is void.

The Court need not rule on the issues of forgery, and the presumption of regularity in the notarization and execution of the DAS, given the established nullity of the sale. It is now inconsequential for the Court to rule on whether the signature of Juan appearing in the DAS is a forgery because even if it were genuine, the DAS would still be void. In the same vein, even if the Court overturns the CA in its finding on the irregularity that attended the notarization of the DAS, the sale would not thereby be validated.

On the fourth issue, petitioners have posited it as their fourth argument for the allowance of the Petition.[31] However, they forgot to include the said argument in the Discussion portion of the Petition. They stopped at the discussion of their third argument or issue. Maybe they are banking on the idea that if they are able to convince the Court that the subject property is not conjugal, then the fourth issue becomes redundant. In the absence of a direct refutation by petitioners of the ruling of the CA that they acquired the subject property in bad faith, the Court is left with no alternative but to uphold the CA.

Besides, petitioners merely prayed in their Answer[32] for the dismissal of the Complaint and for respondents to be made liable to pay ₱500,000.00 as actual damages (without any allegation as to what they constituted), ₱50,000.00 as moral and exemplary damages and ₱50,000.00 as attorney's fees.[33] They never prayed in the alternative that in case the DAS is declared void, they should be allowed to recover what they had paid to Juan.

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[31] *Rollo*, p. 15.

[32] Id. at 55-57.

[33] Id. at 56.

Moreover, their handwritten list of the sums that they allegedly paid to Juan totaling ₱525,000.00 is self-serving as it did not bear any date and the signature of Juan; and it even included ₱40,000.00 for "additional cash for overhauling of Jeep" and ₱125,000.00 "during the wake of [Juan]" which were purportedly given in 2005 and 2006, respectively, after the sale of the subject property to them.[34]

WHEREFORE, the Petition is hereby **DENIED.** Accordingly, the Decision dated April 21, 2015 and Resolution dated May 10, 2016 of the Court of Appeals in CA-G.R. CV No. 99619 are **AFFIRMED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Reyes, Jr., Lazaro-Javier,* and *Lopez, JJ.*, concur.

[34] Id. at 59.

FIRST DIVISION

[G.R. No. 228138. August 27, 2020]

REMEDIOS M. MASCARIÑAS, *Petitioner*, *v.* **BPI FAMILY SAVINGS BANK, INC.**, *Respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; MUST BE FILED STRICTLY WITHIN SIXTY (60) DAYS FROM NOTICE OF JUDGMENT OR FROM ORDER DENYING A MOTION FOR RECONSIDERATION; PERIOD MAY BE EXTENDED SUBJECT TO THE COURT'S SOUND DISCRETION. — In ***Thenamaris Philippines, Inc. v. Court of Appeals***, the Court clarified that while a petition for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration, the period may be extended subject to the court's sound discretion. For this purpose, one should be able to provide a reasonable or meritorious explanation for his or her failure to comply with the sixty-day period.

2. ID.; RULES OF PROCEDURE; MAY BE RELAXED WHEN THE STRICT APPLICATION THEREOF WOULD RESULT IN IRREPARABLE DAMAGE, IF NOT GRAVE INJUSTICE TO A LITIGANT. — [W]hen strict application of the rules would result in irreparable damage, if not grave injustice to a litigant, as in this case, the Court is compelled to relax the rules in the higher interest of substantial justice. In ***De Guzman v. Sandiganbayan,*** we decreed: The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. **That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around.** Truly then, technicalities, in the appropriate language of Justice Makalintal, "should give way to the realities of the situation."

3. ID.; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; THE SUPREME COURT MAY RESOLVE THE CASE ON THE MERITS INSTEAD OF REMANDING THE CASE TO THE COURT OF APPEALS IN ORDER TO PREVENT FURTHER DELAY IN ITS DISPOSITION AND FOR PURPOSES OF ECONOMY AND EXPEDIENCY; IT IS WITHIN THE PLENARY POWER OF THE SUPREME COURT TO REVIEW MATTERS EVEN THOSE NOT RAISED ON APPEAL IF IT FINDS THAT THEIR CONSIDERATION IS NECESSARY IN ARRIVING AT A JUST DISPOSITION OF THE CASE; CASE AT BAR. — The case has pended since 2014 or for six (6) years now, albeit, it involves a simple, nay, uncomplicated issue. For purposes of economy and expediency and to prevent further delay in the disposition of the case, the Court deems it proper as well to resolve the case on the merits here and now, instead of tossing it back to the Court of Appeals. ***Ching v. Court of Appeals*** is relevant: x x x [T]he Supreme Court may, on certain exceptional instances, resolve the merit of a case on the basis of the records and other evidence before it, most especially when the resolution of these issues would best serve the ends of justice and promote the speedy disposition of cases. Thus, considering the peculiar circumstances attendant in the instant case, this Court sees the cogency to exercise its plenary power: **"It is a rule of procedure for the Supreme Court to strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation. No useful purpose will be served if a case or the determination of an issue in a case is remanded to the trial court only to have its decision raised again to the Court of Appeals and from there to the Supreme Court** (citing *Board of Commissioners vs. Judge Joselito de la Rosa and Judge Capulong*, G.R. Nos. 95122-23). **"We have laid down the rule that the remand of the case or of an issue to the lower court for further reception of evidence is not necessary where the Court is in position to resolve the dispute based on the records before it and particularly where the ends of justice would not be subserved by the remand thereof** (*Escudem vs. Dulay*, 158 SCRA 69). Moreover, the Supreme Court is clothed with ample authority to review matters, even those not raised on appeal if it finds that their consideration is necessary in arriving at a just disposition of the case." On many occasions, the Court, in the public interest and for the expeditious

administration of justice, has resolved actions on the merits instead of remanding them to the trial court for further proceedings, such as where the ends of justice would not be subserved by the remand of the case.

APPEARANCES OF COUNSEL

Raul A. Mora for petitioner.
Panopio Escober & Associates for respondent.

D E C I S I O N

LAZARO-JAVIER, *J.*:

ANTECEDENTS

In LRC Case No. Q-19021 (04) entitled *Application for Issuance of a Writ of Possession (By virtue of Extra-Judicial Foreclosure of Real Estate Mortgage) – BPI Family Savings Bank, Inc.*, the Regional Trial Court-Quezon City, Branch 215 issued in favor of respondent BPI Family Savings Bank, Inc. a writ of possession over Lot 3-30-C-2 covered by TCT No. N-266377 with an area of 206 square meters.[1] The lot was previously covered by TCT No. N-221465 (RT-122312/255084) in the name of mortgagor Josephine Abila.

When the sheriff went to the supposed lot to serve the notice to vacate, the occupant, herein petitioner Remedios Mascariñas, claimed that the lot on which the writ of possession was being erroneously implemented actually belongs to her, that is, Lot 3-30-C-1, measuring 1,552 square meters, situated in Caloocan City, and covered by TCT No. T-142901. She allegedly purchased it sometime in 2007 at an auction sale, for which, a writ of possession[2] was issued in her name by the Regional Trial Court-Branch 129, Caloocan City in Civil Case No. C-21521 entitled *Remedios Mascariñas v. Josephine Abila*. The confusion may have arisen from the fact that the lot subject of the writ and her

[1] Docketed as LRC No. Q-19021 (04).

[2] *Rollo*, p. 26.

lot were both previously owned by one Josephine Abila and both lots are situated along the boundaries of Quezon City and Caloocan City.

She also moved to quash the writ of possession and submitted the sketch plan issued by the Land Registration Authority (LRA) and pictures to prove that the bank's property is now part of Galino Street, Quezon City.

For its part, the bank reiterated that in 2012, it had already submitted to the court a relocation survey prepared by RC Tollo Surveying Services.[3] The relocation survey properly identified the metes and bounds of Lot 3-30-C-2 and its actual location, as opposed to petitioner's sketch plan which allegedly failed to identify the exact location of her property.

Petitioner replied that the bank's unsigned survey plan cannot prevail over her sketch plan which bears the approval of the LRA.[4]

Under Order dated June 24, 2014, the trial court denied the motion to quash. It held that the writ of possession specifically covered the bank's TCT No. N-266377 and not TCT No. T-142901 which petitioner claimed to have been issued in her name. The trial court noted that the two (2) titles bear different technical descriptions.

Petitioner moved to clarify the aforesaid order and for the same to specifically state that the writ of possession cannot be enforced on her property. The motion was denied under Order dated October 20, 2014.

Petitioner moved for reconsideration. At the same time, she prayed for a survey of both lots so the real subject of the writ of possession may be determined with certainty.

Under Order dated April 25, 2016, the trial court denied the motion. On May 5, 2016, petitioner received notice of the order.

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[3] *Id.* at 64.

[4] *Id.* at 71-72.

On July 4, 2016 (the sixtieth day counted from May 5, 2016), petitioner filed with the Court of Appeals a motion for an extension of fifteen (15) days or until July 19, 2016 to file her intended petition for *certiorari*. Her counsel cited pressure of work as ground therefor.[5]

The Court of Appeals' Ruling

By Resolution[6] dated July 13, 2016, the Court of Appeals denied petitioner's motion for extension following Sec. 4, Rule 65 of the Rules of Court and citing ***Mid-Islands Power Generation Corporation v. Court of Appeals, et al.***

Petitioner then filed a motion to admit the petition[7] alleging that even before she received the denial of her motion for extension, she had already filed said petition as of July 19, 2016.[8] She averred that not only was her counsel saddled with heavy workload, he, too, was suffering from failing health, old age, and his frequent long trips from San Pedro, Laguna to his office in Quezon City, all of which compelled said counsel to seek the one-time fifteen (15)-day extension from the Court of Appeals. She invoked Section 4 of Rule 65 of the Rules of Court, as amended by SC Administrative Memo No. 00-2-03 where an extension was allowed, provided it did not exceed fifteen (15) days.

Under Resolution dated August 16, 2016, the Court of Appeals noted without action the motion to admit.[9]

Petitioner's subsequent motion for reconsideration was also denied per Resolution dated November 4, 2016.

THE PRESENT PETITION

Petitioner now seeks affirmative relief from the Court, specifically praying that her petition for *certiorari* in CA-G.R.

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[5] *Id.* at 87-88.

[6] CA-G.R. SP No. 146409, *id.* at 96.

[7] *Id.* at 97-100.

[8] Petition for *Certiorari* was filed on July 19, 2016 while the CA Resolution was received on July 21, 2016, *id.* at 98.

[9] *Id.* at 102.

SP No. 146409 which she had already filed on July 19, 2016 be admitted. She reiterates that her counsel's heavy workload, failing health, old age, and frequent long trips from San Pedro, Laguna to his office in Quezon City caused her counsel to seek the one-time fifteen (15)-day extension to file the petition. On this score, she asks the Court to look into the merits of her petition over the strict application of the sixty-day reglementary period. She claims that the trial court's peremptory denial of her plea for a survey of both lots has posed an irreparable grave damage to her right to property.

The bank opposes the petition, harping on petitioner's failure to adduce sufficient cause to relax the strict application of the sixty-day reglementary period. It stresses that the rationale of the amendment introduced by A.M. No. 07-7-12-SC is to prevent abuse of Rule 65 to delay a case or defeat the ends of justice, citing ***Laguna Metts Corp. v. CA***.[10]

ISSUES

I

Will the grant of petitioner's motion for a one-time extension of fifteen (15) days to file her intended petition for *certiorari* in CA-G.R. SP No. 146409 and her subsequent motion to admit the petition serve the higher interest of substantial justice?

II

Is petitioner's plea for a survey of the lot subject of the writ of possession and her own lot a necessary and indispensable measure to ascertain their exact locations once and for all so as to avoid the reckless implementation of the writ on the wrong property?

RULING

The grant of petitioner's motion for extension and subsequent motion to admit will serve the higher interest of substantial justice.

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[10] 611 Phil. 530, 537 (2009).

In its assailed resolutions, the Court of Appeals stressed that the filing of a motion for extension to file a petition for *certiorari* was already deleted when A.M. No. 07-7-12-SC further amended Section 4 of Rule 65.[11] While recognizing the exceptions laid down in ***Domdom v. Sandiganbayan***,[12] the Court of Appeals did not find "pressure of work" as sufficient justification to apply ***Domdom*** here. Nor did it consider counsel's "failing health" as a justification considering that this reason was belatedly cited only after the petition had already been denied.

In ***Thenamaris Philippines, Inc. v. Court of Appeals***,[13] the Court clarified that while a petition for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration, the period may be extended subject to the court's sound discretion. For this purpose, one should be able to provide a reasonable or meritorious explanation for his or her failure to comply with the sixty-day period.

Here, petitioner stated that her counsel needed additional time to file the petition as he was also burdened with other equally important cases. Petitioner also mentioned, albeit belatedly, her counsel's failing health, old age, and frequent long trips from San Pedro, Laguna to Quezon City which had taken a toll on his health.

On several occasions, the Court had ruled that heavy workload is relative and often self-serving, and that standing alone, it is not a sufficient reason to deviate from the sixty-day rule.[14] We have oft reminded lawyers to handle only as many cases as they can efficiently handle because it is not enough that they

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[11] Took effect on December 27, 2007.

[12] 627 Phil. 341 (2010).

[13] 725 Phil. 590, 600 (2014).

[14] *Piotrowski v. Court of Appeals*, 776 Phil. 389, 398 (2016); *Heirs of Ramon B. Gayares v. Pacific Asia Overseas Shipping Corporation*, 691 Phil. 46, 54 (2012); *J. Tiosejo Investment Corp. v. Spouses Ang*, 644 Phil. 601, 612 (2010).

are qualified to handle legal matters, for they are also required to prepare adequately and give the appropriate attention to their legal works.[15] As for the alleged failing health and old age of petitioner's counsel, the Court of Appeals correctly opined that the invocation of these grounds in support of the motion for extension appears to be a mere afterthought.

This notwithstanding, however, when strict application of the rules would result in irreparable damage, if not grave injustice to a litigant, as in this case, the Court is compelled to relax the rules in the higher interest of substantial justice. In ***De Guzman v. Sandiganbayan***,[16] we decreed:

> The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. **That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around.** Truly then, technicalities, in the appropriate language of Justice Makalintal, "should give way to the realities of the situation." x x x (Emphasis supplied)

We, thus, relaxed the technical rules in ***Tanenglian v. Lorenzo***[17] when, in the broader interest of justice, we gave due course to the appeal, albeit, it was a wrong remedy and filed beyond the reglementary period, *viz.*:

> We have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules, allowing us, depending on the circumstances, to set aside technical infirmities and give due course to the appeal. In cases where we dispense with the technicalities, we do not mean to undermine the force and effectivity of the periods set by law. **In those rare cases where we did not**

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[15] *Miwa v. Medina*, 458 Phil. 920, 928 (2003); *Hernandez vs. Agoncillo*, 697 Phil. 459, 470 (2012).

[16] 326 Phil. 182, 191 (1996).

[17] 573 Phil. 472, 485 (2008).

stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause. (Emphasis supplied)

Here, precluding petitioner from pursuing her appellate remedy based on a mere technicality will most probably cause her to perpetually and irreparably lose her 1,552 square meter property as a result of what she calls an erroneous, nay, unjust implementation of the writ of possession not on the property of the bank, but hers.

Verily, therefore, the Court resolves to grant petitioner's motion for a one-time extension of fifteen (15) days and admit the petition for *certiorari* she had already filed on July 19, 2016.

The survey of both Lot 3-30-C-1 and Lot 3-30-C-2 is a necessary and indispensable measure to prevent a miscarriage of justice.

The case has pended since 2014 or for six (6) years now, albeit, it involves a simple, nay, uncomplicated issue. For purposes of economy and expediency and to prevent further delay in the disposition of the case, the Court deems it proper as well to resolve the case on the merits here and now, instead of tossing it back to the Court of Appeals. ***Ching v. Court of Appeals***[18] is relevant:

x x x [T]he Supreme Court may, on certain exceptional instances, resolve the merit of a case on the basis of the records and other evidence before it, most especially when the resolution of these issues would best serve the ends of justice and promote the speedy disposition of cases.

Thus, considering the peculiar circumstances attendant in the instant case, this Court sees the cogency to exercise its plenary power:

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[18] 387 Phil. 28, 42 (2000).

"**It is a rule of procedure for the Supreme Court to strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation. No useful purpose will be served if a case or the determination of an issue in a case is remanded to the trial court only to have its decision raised again to the Court of Appeals and from there to the Supreme Court** (citing *Board of Commissioners vs. Judge Joselito de la Rosa and Judge Capulong*, G.R. Nos. 95122-23)."

"**We have laid down the rule that the remand of the case or of an issue to the lower court for further reception of evidence is not necessary where the Court is in position to resolve the dispute based on the records before it and particularly where the ends of justice would not be subserved by the remand thereof** (*Escudem vs. Dulay*, 158 SCRA 69). Moreover, the Supreme Court is clothed with ample authority to review matters, even those not raised on appeal if it finds that their consideration is necessary in arriving at a just disposition of the case."

On many occasions, the Court, in the public interest and for the expeditious administration of justice, has resolved actions on the merits instead of remanding them to the trial court for further proceedings, such as where the ends of justice would not be subserved by the remand of the case. (Emphasis supplied)

Records show that petitioner promptly filed a motion to quash the writ of possession on ground that it was being erroneously implemented on her property Lot 3-30-C-1 instead of the bank's Lot 3-30-C-2. She also prayed that a survey be made on both lots to ascertain once and for all their exact locations and identities and consequently avoid a reckless enforcement of the writ of possession on the wrong property.

The trial court recognized that the two (2) lots were previously owned by mortgagor Josephine Abila. They are covered by two (2) different TCTs and bear different technical descriptions, *viz.*:

TCT T-142901 For the Registry of Deeds of Caloocan City (Remedios Mascariñas)	**TCT N-266377** For the Registry of Deeds of Quezon City (BPI Family Savings Bank, Inc.)
A parcel of land (**Lot 3-30-C-1** of the subdivision plan (LRC) Psd-180310, being a portion of Lot 3-30-C, Psd-7061, LRC Rec. No. 4429), situated in the **Dist. of Balintawak, Caloocan City**, Province of Rizal, Island of Luzon. Bounded on the NE., points 6 to 1 by 11th Ave. (Lot 30-A) 10 m. wide; **on the SS., points 1 to 2 by Lot 3-30-C-2 of the subdivision plan**; on the S., points 2 to 3 by Lot 23-C-26, Psd 976 (Julian de Guzman); and on the W., points 3 to 5 by property of Julian De Guzman, Lot 23-C-26, Psd-976) and property of Alejandro Sagana (Lot 1-23-C-24, Psd-976); and points 5 to 6 by Lot 31-C, Psd-7060 property of Bruno Sagana. Beginning at a point marked "1" on plan, being N. 88 deg., 01'E., 2841.02 m. from BLLM No. 1, Caloocan, Rizal; thence S. 22 deg. 37'W., 34.23 m. to point 2; thence S. 88 deg. 19'W., 29.07 m. to point 3; thence N. 3 deg. 24'W., 16.39 m. to point 4; thence N. 1 deg. 07'W., 14.89 m. to point 5; thence N. 5 deg. 52'W., 19.00 m. to point 6; thence S. 68 deg. 37'E., 48.40 m. to the point of beginning; containing an area of ONE THOUSAND FIVE HUNDRED FIFTY TWO (1,552) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: **points 1 by existing Cal. City-Quezon City**	A parcel of land (**Lot 3-30-C-2** of the subdn. plan (LRC) Psd-180310, being a portion of Lot 3-30-C, Psd-7061, LRC Rec. No. 4429), situated in the **Dist. of Balintawak, Quezon City**, Is. of Luzon. Bounded on the NE., points 1-2 by 11th Ave. (Lot 30-A 10 m. wide; on the NE., and SE., points 2-4 by Lot 29-C; Psd-7089 (Victor Climaco) on the SE., points 4 to 5 by Lot 23-C-10, Psd-976 (Leoncio Samson) on the S., points 5 to 6 by Lot 23-C-26; Psd-976 (Juliana de Guzman) and **on the NW., points 6 to 1 by Lot 3-30-C-1 of the subdn. plan.** Beginning at a point marked "1" on plan, being N. 88 deg, 01'E., 2841.02 m. from BLLM No. 1, Caloocan, Rizal; thence S. 68 deg, 37'E., 3.55 m. to point 2; thence, S. 17 deg. 46'E., 1.16 m. to point 3; thence S. 14 deg. 49'E, 15.92 m. to point 4; thence S. 15 deg. 29'W., 14.05 m. to point 5; thence S. 80 deg. 19'W., 9.02 m. to point 6; thence N. 22 deg. 37'E., 34.23 m. to point of beginning; containing an area of TWO HUNDRED SIX (206) SQ. METERS, more or less. All points referred to are indicated on the plan and are marked on the ground as the ff.: **points 1 by existing Ca. City, Quezon City, boundary pole marked**; points 2 to 5 by Old PLS and points 6 by PS cyl. conc. mons. 15x60 cm.; bearings true; declaration 0 deg.

Boundary pole marked, point 3 to 6 by Old PLS and points 2 by P.S. cyl. conc. mons. 15 x 60 cm., bearings true; dec. 0 deg. 48'E., date of the original survey, Sept. 8-27, Oct. 4-21 and Nov. 17-18, 1911 and that the subdivision survey, executed by H.R. Santamaria, Geodetic Engineer on May 4, 1973.	48'E, date of the original survey, Sept. 8-27, Oct. 4-21 and Nov. 17-18, 1911 and that the subd. survey, executed by H.R. Santamaria, Geod. Engr. on May 4, 1973.

Based on these technical descriptions, the two (2) lots are adjacent to each other and both lie along the boundaries of Caloocan City and Quezon City. Petitioner's lot lies on the Caloocan City side while the bank's, on the Quezon City side. The parties, nonetheless, have conflicting claims on the exact locations of their respective lots. The bank insists that its Lot 3-30-C-2 is being occupied by petitioner who, on the other hand, claims that the lot owned by the bank actually lies on the eastern side now forming part of Galino St., Quezon City. Clearly, therefore, the survey of both lots is a necessary, nay, indispensable measure to ensure the correct enforcement of the writ of possession on Lot 3-30-C-2 itself, and not on the wrong property.

ACCORDINGLY, the petition is **GRANTED**. The Court of Appeals Resolutions dated July 13, 2016, August 16, 2016 and November 4, 2016 in CA-G.R. SP No. 146409 are **REVERSED** and **SET ASIDE**. Petitioner's Motion for Extension of Time to File Petition for *Certiorari* dated July 4, 2016 is **GRANTED** and the Petition for *Certiorari* dated July 18, 2016, thereafter filed, **ADMITTED**.

The Regional Trial Court-Quezon City, Branch 215 is **ORDERED** to appoint a surveyor to immediately conduct a survey of Lot 3-30-C-1 covered by TCT No. T-142901 and Lot 3-30-C-2 covered by TCT No. N-266377 to ensure the correct enforcement of the writ of possession issued in favor of BPI Family Savings Bank. The parties shall bear the survey fees corresponding to their respective lots.

SO ORDERED.

Peralta, C.J., Caguioa, Reyes, Jr., and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 228608. August 27, 2020]

DELFIN R. PILAPIL, JR., *Petitioner*, *v.* **LYDIA Y. CU**, *Respondent*.

[G.R. No. 228589. August 27, 2020]

PEOPLE OF THE PHILIPPINES, *Petitioner*, *v.* **LYDIA Y. CU**, *Respondent*.

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES; A GOVERNMENT LED SEARCH AND SEIZURE MUST GENERALLY BE SANCTIONED BY A JUDICIAL WARRANT TO BE REGARDED AS REASONABLE; EXCEPTIONS, ENUMERATED. — Section 2, Article III of the Constitution ordains the right of the people against *unreasonable* searches and seizures by the government. x x x Fortifying such right is the *exclusionary principle* adopted in Section 3(b), Article III of the Constitution. The principle renders any evidence obtained through unreasonable search or seizure as inadmissible for any purpose in any proceeding[.] x x x What then are unreasonable searches and seizures as contemplated by the cited constitutional provisions? The rule of thumb, as may be deduced from Section 2, Article III of the Constitution itself, is that searches and seizures which are undertaken by the government outside the auspices of a valid search warrant are considered unreasonable. To be regarded reasonable, government-led search and seizure must generally be sanctioned by a judicial warrant issued in accordance with requirements prescribed in the aforementioned constitutional provision. The foregoing rule, however, is not without any exceptions. Indeed, jurisprudence has recognized several, though very specific, instances where warrantless searches and seizures can be considered reasonable and, hence, not subject to the exclusionary principle. Some of these instances, studded throughout our case law, are: 1. Consented searches;

2. Searches incidental to a lawful arrest; 3. Searches of a moving vehicle; 4. Seizures of evidence in plain view; 5. Searches incident of inspection, supervision and regulation sanctioned by the State in the exercise of its police power; 6. Customs searches; 7. Stop and Frisk searches; and 8. Searches under exigent and emergency circumstances.

2. ID.; ID.; ID.; ID.; REQUISITES THAT MUST CONCUR IN ORDER TO VALIDLY INVOKE THE PLAIN VIEW DOCTRINE, NOT PRESENT IN THE INSTANT CASE; HAVING INSPECTED THE MINING SITE WITHOUT A JUDICIAL WARRANT, PETITIONER AND HIS TEAM WERE NOT IN A LAWFUL POSITION WHEN THEY DISCOVERED THE SUBJECT EXPLOSIVES; A MUNICIPAL MAYOR HAS NO STATUTORY AUTHORITY TO CONDUCT A WARRANTLESS INSPECTION OF A MINING SITE. — Under the plain view doctrine, objects falling within the plain view of a law enforcement officer, who has a right to be in a position to have that view, may be validly seized by such officer without a warrant and, thus, may be introduced in evidence. An object is deemed in plain view when it is "*open to eye and hand*" or is "*plainly exposed to sight*." In *Miclat, Jr. v. People*, we identified the three (3) requisites that must concur in order to validly invoke the doctrine, to wit: The "plain view" doctrine applies when the following requisites concur: **(a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure**. x x x The established facts betray the claim of petitioners that the plain view doctrine justifies the warrantless seizure of the subject explosives. The first and third requisites necessary to validly invoke the said doctrine are not present in the instant case. x x x The first requisite of the plain view doctrine assumes that the law enforcement officer has "*a prior justification for an intrusion or is in a position from which he can view a particular area*[.]" This means that the officer who made the warrantless seizure must have been in a *lawful* position when he discovered the target contraband or evidence in plain view. x x x In the case at bench, it is undisputed that Mayor Pilapil

and his team entered and conducted an ocular inspection on the mining site of BCMC and Prime Rock without any judicial warrant. x x x The foregoing facts clearly establish that Mayor Pilapil and his inspection team were not in a lawful position when they discovered the subject explosives. The intrusion and inspection of the mining site of BCMC and Prime Rock, which afforded Mayor Pilapil and his team the opportunity to view the subject explosives, were illegal as they were not sanctioned by a warrant. Moreover, there is nothing in the facts which indicate that such entry and inspection fall within any of the recognized instances of valid warrantless searches. x x x [T]he Mining Act and its RIRR do not confer any authority upon a municipal mayor to conduct any kind of inspection on any mining area or site. x x x Mayor Pilapil's intrusion and warrantless inspection on the mining site operated by BCMC and Prime Rock find absolutely no justification under the Mining Act and its RIRR. A municipal mayor—*on his own and acting by himself*—has no authority to order and conduct any of the administrative inspections sanctioned under the said act and executive rule.

3. ID.; ID.; ID.; ID.; ID.; THE INCRIMINATING CHARACTER OF THE SUBJECT EXPLOSIVES WAS NOT IMMEDIATELY APPARENT. — [I]n order to satisfy the third requisite of the plain view doctrine, it must be established that the seized item—*on the basis of the attending facts and surrounding circumstances*—reasonably appeared, to the officer who made the seizure, as a contraband or an evidence of a crime. x x x [T]his requisite was not met in this case. Taking another look at the established facts, we are convinced that the incriminating character of the subject explosives—if indeed they have one—-was not immediately apparent to Mayor Pilapil and his inspection team. The facts attending and surrounding the discovery and seizure of the subject explosives could not have engendered a reasonable belief on the part of Mayor Pilapil and his team that the subject explosives were contraband or evidence of a crime, *viz.*: 1. The presence of the explosives within a mining site is not unusual. x x x 2. At the time they were first discovered by a member of Mayor Pilapil's inspection team, the subject explosives were not being used or even being prepared to be used. They were kept in bags which, in turn, were stored inside an open room. Thus, no inference that such explosives were evidence of any alleged illegal mining can be

drawn. The foregoing circumstances clearly contradict any notion that there was any observable illegality in the subject explosives. Mayor Pilapil and his inspection team seized the subject explosives without any probable cause, nay without any reason, apart from the subject explosives being exposed to their sight.

APPEARANCES OF COUNSEL

Escobido & Pulgar Law Offices for petitioner Delfin R. Pilapil, Jr.

Quiazon Makalintal Barot Torres Ibarra Sison & Damaso for respondent Lydia Y. Cu.

D E C I S I O N

PERALTA, *C.J.*:

For decision are the petitions[1] assailing the Decision[2] dated June 10, 2016 and the Resolution[3] dated December 2, 2016 of the Court of Appeals *(CA)* in CA-G.R. SP No. 133253.

The facts are as follows:

Prelude

The Bicol Chromite and Manganese Corporation (*BCMC*) is the holder of Mineral Production Sharing Agreement (*MPSA*) No. 211-2005-V. The MPSA granted unto BCMC the right to mine a specific site located in Barangay Himagtocon, Lagonoy, Camarines Sur.

In 2009, BCMC entered into an Operating Agreement[4] with Prime Rock Philippines Company (*Prime Rock*) allowing the latter to, among others, operate the aforesaid mining site.

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[1] Filed under Rule 45 of the Rules of Court.

[2] *Rollo* (G.R. No. 228589), pp. 16-26. Penned by Associate Justice Danton Q. Bueser, with the concurrence of Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco.

[3] *Id.* at 79-82.

[4] CA *rollo*, pp. 205-208.

However, on January 31, 2011, the Mines and Geosciences Bureau-Regional Office 5 (*MGB-RO5*) issued a Cease and Desist Order (*CDO*)[5] against Prime Rock enjoining the latter from engaging in any mining activities.

Inspection of the Mining Site

Around six (6) months after the issuance of the CDO, petitioner Delfin R. Pilapil, Jr. (*Mayor Pilapil*)—then mayor of the municipality of Lagonoy—received reports about the existence of an illegal mining operation in Barangay Himagtocon.[6] Mayor Pilapil supposedly also received reports that Prime Rock had filed an appeal against the CDO.[7] To verify these reports and to ensure that the CDO is not being violated, petitioner decided to conduct an ocular inspection of the mining site operated by BCMC and Prime Rock.[8]

On August 24, 2011, petitioner, accompanied by a team of eight (8) policemen and two (2) barangay captains, entered the mining site.[9] While inspecting the site's premises, Barangay Captain (*BC*) Roger Pejedoro—one of the companions of petitioner—happened upon an open stockroom that contained numerous bags of what appeared to be explosives.[10] BC Pejedoro reported his discovery to another member of the inspection team, Senior Police Officer 2 (*SPO2*) Rey H. Alis, who, in turn, informed Mayor Pilapil. Mayor Pilapil forthwith ordered the seizure of the said bags.[11]

Inventory of the seized items yielded 41 sacks of explosives, with an aggregate weight of 1,061 kilos, and 4 ½ rolls of safety fuses (*subject explosives*).[12] The subject explosives

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[5] *Rollo* (G.R. No. 228589), p. 121.

[6] *Id.* at 125-126.

[7] *Id.*

[8] *Id.* at 126.

[9] *Id.*

[10] *Id.* at 124.

[11] *Id.* at 126.

[12] *Id.* at 130.

were then kept at the Explosive Magazine, Provincial Public Safety Management Company in Tigaon, Camarines Sur, for safekeeping.[13]

On August 26, 2011, the Camarines Sur Police Provincial Office of the Philippine National Police issued a Certification stating that, as per the records in its office, no permit to *transport* or *withdraw* explosives had been issued to Prime Rock.[14]

Proceedings in the RTC

On the basis of the foregoing events, an Information[15] for illegal possession of explosives[16] was lodged before the Regional

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[13] *Id.*

[14] *Id.* at 131.

[15] *Id.* at 134-135. The Information was docketed as Criminal Case No. T-3754.

[16] As punished under Section 3 of Presidential Decree (*PD*) No. 1866, as amended by Republic Act (RA) No. 9516. The said section reads:

Section 3. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of an Explosive or Incendiary Device.* — The penalty of *reclusion perpetua* shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive or incendiary character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person, including but not limited to, hand grenade(s), rifle grenade(s), "pillbox bomb," "molotov cocktail bomb," "fire bomb," and other similar explosive and incendiary devices.

Provided, That mere possession of any explosive or incendiary device shall be *prima facie* evidence that the person had knowledge of the existence and the explosive or incendiary character of the device.

Provided, however, That a temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device, without the knowledge of its existence or its explosive or incendiary character, shall not be a violation of this Section.

Provided, Further, That the temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

Provided, finally, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the court may determine

Trial Court *(RTC)* in Camarines Sur against certain officers and employees of BCMC and Prime Rock. Among those accused in the said Information were respondent Lydia Cu, the president of BCMC,[17] and one Manuel Ley, the president of Prime Rock.[18] The accusatory portion of the Information reads:

> That on or about the 24th day of August 2011 in Sitio Benguet, Barangay Himagtocon, Municipality of Lagony *(sic)*, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to possess, conspiring, confederating and helping one another, did then and there, willfully, illegally and knowingly have in their possession, custody and control, forty one (41) sacks of explosives and four (4) and half (1/2) rolls of safety fuse which is breakdown *(sic)*:
>
> | | SACKS | KILO |
> |---|---|---|
> | | 7 sacks | 200 |
> | | 7 sacks | 190 |
> | | 7 sacks | 200 |
> | | 7 sacks | 140 |
> | | 7 sacks | 175 |
> | | 6 sacks | 156 |
> | TOTAL | 41 sacks | 1,061 kilos |
>
> without any authority in law nor permit to carry and possess the same, to the prejudice of the Republic of the Philippines.[19]

The information was docketed as Criminal Case No. T-3754 and was raffled to Branch 58 of the RTC of San Jose, Camarines Sur.

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the absence of the intent to possess, otherwise referred to as "*animus possidendi*," in accordance with the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended.

[17] CA *rollo*, p. 330.

[18] *Rollo* (G.R. No. 228589), pp. 126-127. The other accused were Benny Go, Jr., Enrique Loo and Li Chuntong. Go, Loo and Chuntong were the employees of Prime Rock who acted as caretakers of the mining site after the MGB-RO5 issued the CDO and who were present thereat during the ocular inspection made by Mayor Pilapil and his team.

[19] *Id.* at 134-135.

On September 28, 2012, the RTC issued warrants of arrest against Cu and Ley, and their other co-accused in Criminal Case No. T-3754.[20]

Both Cu and Ley filed motions[21] questioning, among others, the existence of probable cause to justify the issuance of warrants of arrest against them. There, they raised qualm regarding the admissibility in evidence of the subject explosives, arguing that the same had been seized by Mayor Pilapil in violation of the constitutional proscription against unreasonable searches and seizures.

On October 23, 2012, the RTC issued an order holding in abeyance the implementation of *all* warrants of arrest in order to review the evidence on record and determine the existence of probable cause to justify the issuance of such warrants.[22]

On November 27, 2012, the RTC issued an order suspending the proceedings in Criminal Case No. T-3754.[23]

On January 4, 2013, the prosecution filed an omnibus motion assailing the November 27, 2012 order of the RTC and seeking the implementation of the warrants of arrest.[24]

On October 22, 2013, the RTC issued an Order[25] finding probable cause to hold Cu, Ley, Go, Loo and Chuntong for trial, and reinstating the September 28, 2012 warrants of arrest against them.

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[20] CA *rollo*, pp. 409-413.

[21] *Rollo* (G.R. No. 228589), pp. 93-94. On October 16, 2012, Ley filed a motion for judicial determination of probable cause and the recall of the warrant of arrest against him. On November 5, 2012, Cu filed her own motion asking for the lifting of the warrant of arrest against her and the suspension of the proceedings in Criminal Case No. T-3754 in light of the petition for review she filed before the Department of Justice.

[22] *Id.* at 35.

[23] *Id.* at 35-36.

[24] *Id.* at 36.

[25] *Id.* at 91-106. The order was penned by Presiding Judge Ma. Angela Acompañado-Arroyo.

Proceedings in the CA

Cu challenged the latest order of the RTC with the CA *via* a petition for *certiorari*.[26] Cu impleaded the presiding judge[27] of the RTC and Mayor Pilapil as respondents in such petition.

On January 8, 2014, the CA required the inclusion of petitioner People of the Philippines *(the People)* as a respondent in her *certiorari* petition.[28]

On March 4, 2014, Cu filed a supplement to her petition reiterating as an issue the supposed defect of the subject explosives for having been procured through a warrantless, hence illegal, raid of the mining site operated by BCMC and Prime Rock.[29] She postulated that the seized explosives were "*fruits of a poisonous tree*" that could not be the basis of a finding of probable cause against her.

On June 10, 2016, the CA rendered a Decision[30] favoring the above postulation of Cu. The CA thus decreed the setting aside of the October 22, 2013 Order of the RTC, the dismissal of the information in Criminal Case No. T-3754, and the quashal of the warrant of arrest against Cu. The dispositive portion of the CA's Decision reads:

WHEREFORE, in view of the foregoing, the Order dated October 22, 2013 is hereby **SET ASIDE**. The Information charging [Cu] of violation of Section 3, Republic Act No. 9516, being based on a "*fruit of a poisonous tree*" is **DISMISSED**. Accordingly, the Warrant of Arrest against [Cu] is ordered **QUASHED**.[31] (Emphases in the original)

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[26] *Id.* at 83-90.

[27] *Supra* note 25.

[28] CA *rollo*, p. 51.

[29] *Id.* at 64-74.

[30] *Supra* note 2.

[31] *Id.* at 26.

The People and Mayor Pilapil (collectively, petitioners) filed their respective motions of reconsideration, but the CA remained steadfast.[32] Hence, the present petitions.[33]

The petitioners claim that the CA erred in subscribing to Cu's position. They insist on the competence of the subject explosives as evidence and claim that the same have been seized legally. They argue that while Mayor Pilapil's ocular inspection of the mining site was conducted without a search warrant, the consequent taking of the subject explosives may nonetheless be justified under the *plain view doctrine*.[34]

OUR RULING

Mayor Pliapil's seizure of the subject explosives is illegal and cannot be justified under the plain view doctrine. The warrantless ocular inspection of the mining site operated by BCMC and Prime Rock that preceded such seizure, and which allowed Mayor Pilapil and his team of police officers and barangay officials to catch a view of the subject explosives, finds no authority under any provision of any law. In addition, established circumstances suggest that the incriminating nature of the subject explosives could not have been immediately apparent to Mayor Pilapil and his inspection team.

The subject explosives were thus seized in violation of the constitutional proscription against unreasonable searches and seizures. As such, they were correctly regarded by the CA as "*fruits of a poisonous tree*" subject to the *exclusionary principle*. Fittingly, they cannot be considered as valid bases of a finding of probable cause to arrest and detain an accused for trial.

Hence, we deny the petitions.

Section 2, Article III of the Constitution ordains the right of the people against *unreasonable* searches and seizures by the government. The provision reacts:

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[32] *Supra* note 3.

[33] *Rollo* (G.R. No. 228589), pp. 31-60; and *rollo* (G.R. No. 228608), pp. 26-53.

[34] *Id.*

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Fortifying such right is the *exclusionary principle* adopted in Section 3 (b), Article III of the Constitution. The principle renders any evidence obtained through unreasonable search or seizure as inadmissible for any purpose in any proceeding, *viz.*:

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

What then are unreasonable searches and seizures as contemplated by the cited constitutional provisions?

The rule of thumb, as may be deduced from Section 2, Article III of the Constitution itself, is that searches and seizures which are undertaken by the government outside the auspices of a valid search warrant are considered unreasonable.[35] To be regarded reasonable, government-led search and seizure must generally be sanctioned by a judicial warrant issued in accordance with requirements prescribed in the aforementioned constitutional provision.

The foregoing rule, however, is not without any exceptions. Indeed, jurisprudence has recognized several, though very specific, instances where warrantless searches and seizures can be considered reasonable and, hence, not subject to the exclusionary principle.[36] Some of these instances, studded throughout our case law, are:[37]

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[35] *People v. Evaristo*, 290-A Phil. 194, 200 (1992).

[36] *Id.*

[37] See De Leon, Hector S. and De Leon, Hector M., Jr., *Philippine Constitutional Law Principles and Cases* (2017 edition), pp. 389-397.

1. Consented searches;[38]
2. Searches incidental to a lawful arrest;[39]
3. Searches of a moving vehicle;[40]
4. Seizures of evidence in plain view;[41]
5. Searches incident of inspection, supervision and regulation sanctioned by the State in the exercise of its police power;[42]
6. Customs searches;[43]
7. Stop and Frisk searches;[44] and
8. Searches under exigent and emergency circumstances.[45]

The instance of particular significance to the case at bench is the so-called seizures pursuant to the *plain view doctrine*.

Under the plain view doctrine, objects falling within the plain view of a law enforcement officer, who has a right to be in a position to have that view, may be validly seized by such officer without a warrant and, thus, may be introduced in evidence.[46] An object is deemed in plain view when it is "*open to eye and hand*"[47] or is "*plainly exposed to sight*."[48] In *Miclat, Jr. v. People*,[49] we identified the three (3) requisites that must concur in order to validly invoke the doctrine, to wit:

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[38] See *People v. Kagui Malasugui*, 63 Phil. 221 (1936).

[39] See *Alvero v. Dizon*, 76 Phil. 637 (1946).

[40] See *Mustang Lumber, Inc. v. CA*, 327 Phil. 214 (1996).

[41] See *People v. Evaristo, supra* note 35.

[42] See *City of Manila v. Laguio, Jr.*, 495 Phil. 289 (2005). See also *United States v. Biswell*, 406 U.S. 311 (1972); and *Donovan v. Dewey*, 452 U.S. 594 (1981).

[43] See *Papa, et al. v. Mago, et al.*, 130 Phil. 886 (1968).

[44] See *Manalili v. Court of Appeals*, 345 Phil. 632 (1997).

[45] See *People v. De Gracia*, 304 Phil. 118 (1994).

[46] *Miclat, Jr. v. People*, 672 Phil. 191, 206 (2011).

[47] Cruz, Isagani A. and Cruz, Carlo L., *Constitutional Law* (2015 edition), p. 372, citing *Horris v. U.S.*, 390 U.S. 234 (1968).

[48] *Miclat, Jr. v. People of the Philippines, supra* note 46, at 207.

[49] *Id.* at 206 (emphasis in the original).

The "plain view" doctrine applies when the following requisites concur: **(a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure**.

Guided by the foregoing principles, we now address the issues at hand.

I

The established facts betray the claim of petitioners that the plain view doctrine justifies the warrantless seizure of the subject explosives. The first and third requisites necessary to validly invoke the said doctrine are not present in the instant case.

A

The first requisite of the plain view doctrine assumes that the law enforcement officer has "*a prior justification for an intrusion or is in a position from which he can view a particular area*[.]"[50] This means that the officer who made the warrantless seizure must have been in a *lawful* position when he discovered the target contraband or evidence in plain view. Here, it was established that Mayor Pilapil and his team of police officers and barangay officials were able to view the subject explosives during the course of their ocular inspection on the mining site operated by BCMC and Prime Rock. Hence, in order to ascertain the existence of the first requisite of the doctrine in the case at bench, an inquiry into the legality of such inspection is necessary.

Mayor Pilapil and His Inspection Team Were Not in a Lawful Position When They Discovered the Subject Explosives

In the case at bench, it is undisputed that Mayor Pilapil and his team entered and conducted an ocular inspection on the

[50] *Id.*

mining site of BCMC and Prime Rock without any judicial warrant. As petitioners concede, Mayor Pilapil was moved to carry out such entry and inspection solely by reports which suggest that Prime Rock was engaging in mining activities, in violation of the CDO issued by the MGB-RO5.[51] Upon reaching the mining site, however, Mayor Pilapil and his inspection team actually encountered no active mining operations.[52] What they were able to chance upon were the subject explosives which, at the time, were kept in bags and stored inside a room, albeit one whose door was ajar.[53]

The foregoing facts clearly establish that Mayor Pilapil and his inspection team were not in a lawful position when they discovered the subject explosives. The intrusion and inspection of the mining site of BCMC and Prime Rock, which afforded Mayor Pilapil and his team the opportunity to view the subject explosives, were illegal as they were not sanctioned by a warrant. Moreover, there is nothing in the facts which indicate that such entry and inspection fall within any of the recognized instances of valid warrantless searches.

Mayor Pilapil Has No Statutory Authority to Conduct A Warrantless Inspection Of The Mining Site Operated By BCMC And Prime Rock

The petitioners would insist, however, that Mayor Pilapil was authorized to enter and undertake a warrantless inspection of the mining site operated by BCMC and Prime Rock by

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[51] *Rollo* (G.R. No. 228589), p. 126.

[52] The fact that Prime Rock was engaged in mining activities in violation of the CDO of the MGB-RO5 was not established in the facts of the case. On the other hand, the affidavits executed by Mayor Pilapil (*id.* at 126-127), BC Pejedoro (*id.* at 124) and a certain SPO3 Romulo Peñero (*id.* at 128) were curiously silent as to whether they caught Prime Rock engaged in any form of mining activity.

[53] *Id.* at 126 and 136-137.

virtue of the following provisions of the law and executive regulations:[54]

1. **Section 444 (b) (3) (iv) of Republic Act (RA) No. 7160 or the Local Government Code of 1991 (*LGC*)**,[55] which gives municipal mayors the power to issue business licenses and permits. Citing the case of *Hon. Lim v. Court of Appeals*,[56] the petitioners argue that such power effectively gives a municipal mayor the power to conduct warrantless inspections and investigations of private commercial establishments for any violation of the conditions of their licenses and permits;[57]

2. **Section 8 (e) of DENR[58] Administrative Order No. 2010-21 or the Revised Implementing Rules and Regulations (*RIRR*) of RA No. 7942**[59] which allows

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[54] *Id.* at 48-53.

[55] **Section 444.** *The Chief Executive: Powers, Duties, Functions and Compensation.* —

x x x x x x x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for [a]gro-industrial development and country-wide growth and progress, and relative thereto, shall:

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance[.]

[56] 435 Phil. 857 (2002).

[57] *Rollo* (G.R. No. 228589), p. 49.

[58] Department of Environment and Natural Resources.

[59] **Section 8.** *Role of Local Government.*

Subject to Section 8 of the Act and pursuant to the Local Government Code and other pertinent laws, the LGUs shall have the following roles in mining projects within their respective jurisdictions:

x x x x x x x x x

local government units to participate in the monitoring of any mining activity as a member of the Multipartite Monitoring Team *(MMT)* described under Section 185 of the RIRR of the Philippine Mining Act of 1995 (*Mining Act*); and

3. **Sections 80, 87 and 94 of the RIRR of RA No. 7942** which grant unto the governor or mayor the authority to inspect quarry, sand and gravel, guano, and gemstone gathering areas.

The scatter-shot citation of legal provisions does not impress. None of them justify Mayor Pilapil's warrantless entry and inspection of the mining site of BCMC and Prime Rock.

To begin with, Section 444 (b) (3) (iv) of the LGC does not — whether expressly or impliedly — authorize a municipal mayor to conduct warrantless inspections of mining sites. The petitioners, in that sense, misconstrued the case of *Hon. Lim v. Court of Appeals*.[60] The power of a mayor "*to inspect and investigate private commercial establishments for any violation of the conditions of their* [business] *licenses and permits*,"[61] which was recognized in *Lim*, could not extend to searches of mining sites in view of the unique inspection scheme over such sites established under RA No. 7942, or the Mining Act, and its RIRR.

Mining operations in the country are principally regulated by the Mining Act and its RIRR.[62] As part and parcel of their regulatory thrust, the said act and executive rule did allow the government — **through particular agencies or officials, for specific purposes and subject to definite limitations or conditions** — to enter and conduct inspections in mining sites and areas. These administrative inspections, duly authorized

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e. To participate in the monitoring of any mining activity as a member of the Multipartite Monitoring Team referred to in Section 185 hereof[.]

[60] *Supra* note 56.

[61] *Id.* at 867.

[62] See Section 15 of RA No. 7942.

and reasonably limited by statute and regulation, are examples of *inspections sanctioned by the State in the exercise of its police power* that, as aforementioned, may be considered as among the instances of valid warrantless searches.[63]

As they now stand, however, the Mining Act and its RIRR do not confer any authority upon a municipal mayor to conduct any kind of inspection on any mining area or site. A rundown of the administrative inspections sanctioned by the said act and executive rule makes this clear:

1. Section 66[64] of the Mining Act, in relation to Section 145[65] of the RIRR, allows the conduct of a **safety**

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[63] In the American case of *Donovan v. Dewey* (452 U.S. 594 [1981]), the United States Supreme Court explained the rationale behind this consideration:

[U]nlike searches of private homes, which generally must be conducted pursuant to a warrant in order to be reasonable under the Fourth Amendment, legislative schemes authorizing warrantless administrative searches of commercial property do not necessarily violate the Fourth Amendment. x x x. **The greater latitude to conduct warrantless inspections of commercial property reflects the fact that the expectation of privacy that the owner of commercial property enjoys in such property differs significantly from the sanctity accorded an individual's home, and that this privacy interest may, in certain circumstances, be adequately protected by regulatory schemes authorizing warrantless inspections**.

The interest of the owner of commercial property is not one in being free from any inspections. Congress has broad authority to regulate commercial enterprises engaged in or affecting interstate commerce, and an inspection program may in some cases be a necessary component of federal regulation. Rather, the Fourth Amendment protects the interest of the owner of property in being free from **unreasonable** intrusions onto his property by agents of the government. x x x.

x x x x x x x x x

[***Colonnade Catering Corp. v. United States*** and ***United States v. Biswell***] **make clear that a warrant may not be constitutionally required when Congress has reasonably determined that warrantless searches are necessary to further a regulatory scheme and the federal regulatory presence is sufficiently comprehensive and defined that the owner of commercial property cannot help but be aware that his property will be subject to periodic inspections undertaken for specific purposes**. (Emphases supplied, citations omitted)

[64] Section 66. *Mine Inspection.* — The regional director shall have exclusive

inspection of all installations in a mining or quarrying site. Such inspection, which must be carried out at reasonable hours of the day or night and in a manner that will not impede or obstruct the work of the mining contractor or permittee, can only be conducted by **a regional director of the MGB or his duly authorized representative**.

2. As part of the terms and conditions of an Exploration Permit, Section 22 (d)[66] of the RIRR sanctions the semi-annual **inspection of mining exploration sites in order to verify the exploration work program report** submitted by the permittee. This inspection can only be conducted by the **MGB or a regional office thereof**.

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jurisdiction over the safety inspection of all installations, surface or underground, in mining operations at reasonable hours of the day or night and as much as possible in a manner that will not impede or obstruct work in progress of a contractor or permittee.

[65] Section 145. *Mine/Quarry Safety Inspection and Audit*.

The Regional Director or his/her duly authorized representative shall have exclusive jurisdiction over the conduct of safety inspection of all installations, surface or underground, in mining/quarrying operations and monitoring of the safety and health program in a manner that will not impede or obstruct work in progress of a Contractor/Permittee/Lessee/Permit Holder and shall submit to the Director a quarterly report on their inspection and/or monitoring activities: *Provided*, That the Director shall undertake safety audit annually or as may be necessary to assess the effectiveness of the safety and health program.

[66] Section 22. *Terms and Conditions of an Exploration Permit*.

An Exploration Permit shall contain the following terms and conditions:

x x x x x x x x x

d. The Permittee shall submit to the Bureau/Regional Office concerned within thirty (30) calendar days after the end of each semester a report under oath of the Exploration Work Program implementation and expenditures showing discrepancies/deviations including the results of the survey, laboratory reports, geological reports/maps subject to semi-annual inspection and verification by the Bureau/Regional Office concerned at the expense of the Permittee: *Provided*, That any expenditure in excess of the yearly budget of the approved Exploration Work Program may be carried forward and credited to the succeeding years covering the duration of the Permit[.]

3. As part of the terms and conditions of a Quarry Permit and of a Sand and Gravel Permit, Section 80 (a) (5)[67] of the RIRR allows the **inspection and examination of the permit area** by the **regional director of the MGB, or by the provincial governor or city mayor concerned**.

4. As part of the terms and conditions of a Government Gratuitous Permit, Section 80 (b) (6)[68] of the RIRR allows the **inspection and examination of the permit area** by the **regional director of the MGB, or by the provincial governor or city mayor concerned**.

5. As part of the terms and conditions of a Guano Permit, Section 87 (d)[69] of the RIRR allows the **inspection and examination of the permit area** by the **regional**

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[67] Section 80. *Specific Terms and Conditions of a Quarry or Commercial/ Industrial Sand and Gravel or Government Gratuitous Permit*.

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Quarry or Commercial/ Industrial Sand and Gravel or Government Gratuitous Permit:

a. For Quarry or Commercial/Industrial Sand and Gravel Permit:

x x x x x x x x x

5. The Permit/permit area can be inspected and examined at all times by the Regional Director/Provincial Governor/City Mayor concerned[.]

[68] Section 80. *Specific Terms and Conditions of a Quarry or Commercial/ Industrial Sand and Gravel or Government Gratuitous Permit*.

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Quarry or Commercial/ Industrial Sand and Gravel or Government Gratuitous Permit:

x x x x x x x x x

b. For Government Gratuitous Permit:

x x x x x x x x x

6. The Permit/permit area can be inspected and examined at all times by the Regional Director/Provincial Governor/City Mayor concerned[.]

[69] Section 87. *Specific Terms and Conditions of a Guano Permit*.

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Commercial/Industrial Guano Permit:

x x x x x x x x x

d. The Permit/permit area can be inspected and examined at all times by the Regional Director/Provincial Governor/City Mayor concerned[.]

director of the MGB, or by the provincial governor or city mayor concerned.

6. As part of the terms and conditions of a Gemstone Gathering Permit, Section 94 (g)[70] of the RIRR allows the **inspection and examination of the permit area** by the **regional director of the MGB, or by the provincial governor or city mayor concerned**.

7. As part of the terms and conditions of a Mineral Processing Permit, Section 113 (c)[71] of the RIRR allows **inspection of mineral processing sites in order to validate activity reports** submitted by the permittee. This inspection can only be conducted by the **Director or a regional director of the MGB**.

8. As part of the conditions of an Electrical or Mechanical Installation Permit, Section 152 (a)[72] of the RIRR authorizes the **inspection of a newly installed mechanical or electrical installation** in any mining or quarrying site. Such inspection, which must be done prior to regular operation, is conducted by **a regional**

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[70] Section 94. *Specific Terms and Conditions of a Gemstone Gathering Permit*.

In addition to those mentioned in Section 79 hereof, the following specific terms and conditions shall be incorporated in the Gemstone Gathering Permit:

x x x x x x x x x

g. The Permit/permit area can be inspected and examined at all times by the Regional Director/Provincial Governor/City Mayor concerned[.]

[71] Section 113. *Terms and Conditions of a Mineral Processing Permit*.

x x x x x x x x x

c. The Permit Holder shall submit to the Bureau/Regional Office concerned production and activity reports prescribed in Chapter XXIX of these implementing rules and regulations. The Director/Regional Director concerned may conduct an on-site validation of the submitted reports: *Provided*, That the Permit Holder shall be charged verification and inspection fees thereof[.]

[72] Section 152. *Conditions of an Electrical/Mechanical Installations Permit*.

a. Upon completion of installation but prior to regular operation, an inspection shall be conducted by the Regional Director concerned or his/her duly authorized representative[.]

director of the MGB or his duly authorized representative.

9. Section 158[73] of the RIRR sanctions the **field inspection of storage facilities for explosives** of a mining contractor or permittee. Such inspection, which must be done immediately after the mining contractor or permittee files a purchaser's permit application, **can only be conducted by a regional director of the MGB**.

10. Section 174[74] of the RIRR subjects every mining operation to an **environmental monitoring and audit** in order to determine a mining contractor's or permittee's compliance with the approved Environmental Protection and Enhancement Program or the Annual Environmental Protection and Enhancement Program required under Section 69 of the Mining Act, and Sections 169 and 171 of the RIRR. Such monitoring and audit are conducted semi-annually by the MMT, described under Section 185 of the RIRR.

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[73] Section 158. *Field Inspection of Proposed Storage Facilities (Magazines) and Verification of Blasting Scheme*.

Immediately after the filing of application for Purchaser's License, the Regional Director concerned shall authorize the conduct of field inspection of storage facilities to determine whether or not the location and specifications of magazines are in accordance with those prescribed under Department Administrative Order No. 2000-98 and to verify the proposed blasting scheme(s). The applicant shall bear all expenses in the field verification and the cost of transportation of the field investigators from their Official Station to the mine/quarry site and return.

[74] Section 174. *Environmental Monitoring and Audit*.

To ensure and check performance of and compliance with the approved EPEP/AEPEP by the Contractors/Permit Holders, an MMT, as described in Section 185 hereof, shall monitor every quarter, or more frequently as may be deemed necessary, the activities stipulated in the EPEP/AEPEP. The expenses for such monitoring shall be chargeable against the Monitoring Trust Fund of the MRF as provided for in Section 181 hereof. The environmental monitoring reports shall be submitted by the MMT to the MRF Committee and shall serve as part of the agenda during its meetings as mentioned in Section 184 hereof. Said reports shall also be submitted to the CLRF Steering Committee to serve as one of the bases for the annual environmental audit it shall conduct.

The MMT is composed of the following: (a) a representative from the MGB regional office, (b) a representative from the DENR regional office, (c) a representative from the Environmental Management Bureau regional office, (d) a representative of the mining contractor or permittee, (e) a representative from the affected community or communities, (f) a representative from the affected indigenous cultural community or communities, if any, and (g) a representative from an environmental non-government organization.[75]

11. As part of the terms and conditions of a Mineral Agreement or a Financial or Technical Assistance Agreement *(FTAA)*, Section 228 (c)[76] of the RIRR subjects the premises of mining contractors who availed of the benefits under Sections 222 to 227 of the RIRR to the **visitorial powers** of the MGB. The power allows **duly authorized representatives of the MGB** to conduct **inspection and examination of the books of accounts and other pertinent records and documents** of such contractors in order to ascertain a contractor's compliance with the Mining Act and its RIRR, as well as the terms and conditions of the Mineral Agreement or FTAA.

12. As part of the terms and conditions of a Drilling Lease Agreement, Section 248 (h)[77] of the RIRR allows the

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[75] Section 185 of the RIRR.

[76] Section 228. *Conditions for Availment of Incentives.*

The Contractor's right to avail of incentives under Sections 222 to 227, shall be subject to the following conditions:

x x x x x x x x x

c. Visitorial powers. — The Contractor shall allow the duly authorized representatives of the Bureau to inspect and examine its books of accounts and other pertinent records and documents to ascertain compliance with the Act and its implementing rules and regulations and the terms and conditions of the Mineral Agreement or FTAA[.]

[77] Section 248. *Terms and Conditions of the Drilling Lease Agreement.*

The terms and conditions of the Drilling Lease Agreement are the following:

x x x x x x x x x

> **inspection of the drilling operations** of the lessee. The said inspection, which may be done at any time during the subsistence of the drilling lease agreement, can only be conducted by the **Director of the MGB or his duly authorized representative**.

As can be observed, most of the administrative inspections sanctioned under the Mining Act and its RIRR fall under the exclusive responsibility of the MGB—either through its Director, one of its regional directors or an authorized representative of the said officials.[78] There are only two outliers to this norm—the *first* is the environmental monitoring and audit of mining sites under Section 174 of the RIRR, and the *second* is the inspection of mining permit areas that are covered by a Quarry, Sand and Gravel, Government Gratuitous, Guano, or Gemstone Gathering Permit pursuant to Sections 80 (a) (5), 80 (b) (6), 87 (d) and 94 (a) of the same regulation. The first has to be carried out by an MMT as described under Section 185 of the RIRR. The second, on the other hand, may be conducted by a provincial governor or city mayor, in addition to the regional director of the MGB.

Verily, Mayor Pilapil's intrusion and warrantless inspection on the mining site operated by BCMC and Prime Rock find absolutely no justification under the Mining Act and its RIRR. A municipal mayor—*on his own and acting by himself*—has no authority to order and conduct any of the administrative inspections sanctioned under the said act and executive rule. In this respect, we no longer perceive any need to dwell into petitioners' invocation of Sections 8 (e), 80, 87 and 94 of the RIRR as grounds for Mayor Pilapil's actions; the same simply has no merit.

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h. The Director or his/her duly authorized representative may conduct an inspection of the drilling operation at any time during the term of the lease at the expense of the lessee[.]

[78] The pervasive role accorded to the MGB in the conduct of administrative inspections of the country's mining sites and areas echoes its status as the bureau primary responsible with the implementation of the Mining Act and entrusted with "*direct charge in the administration x x x of* [the country's] *mineral lands and mineral resources[.]*" (See Section 9 of RA No. 7942).

Mayor Pilapil's zeal to curb illegal mining activities within his municipality is commendable. However, that zeal can never justify taking a course of action that is not authorized under the law, much less be an excuse to flout basic constitutional rights of the people. Upon receiving the reports that Prime Rock was allegedly engaged in illegal mining, Mayor Pilapil could have simply applied for a judicial warrant to search the mining site of BCMC and Prime Rock for the purpose of verifying such report. Yet, he did not. Instead, Mayor Pilapil, on his own initiative, assembled a team of police officers and barangay officials, and led them in a raid that is not sanctioned by any provision of law. Under such circumstances, we cannot but make the conclusion that the warrantless ocular inspection conducted by Mayor Pilapil and his team on the mining site operated by BCMC and Prime Rock was illegal.

The illegality of the aforesaid ocular inspection means that Mayor Pilapil and his team were not in a lawful position when they were able to view the subject explosives. By this, the first requisite for a valid invocation of the plain view doctrine cannot be considered satisfied. Accordingly, Mayor Pilapil and his team's subsequent warrantless seizure of the subject explosives is not reasonable and runs against the constitutional proscription against unreasonable searches and seizures.

B

Assuming for the sake of argument that Mayor Pilapil's prior intrusion and inspection of the mining site operated by BCMC and Prime Rock had been lawful, the warrantless seizure of the subject explosives still cannot be sustained. The third requisite of the plain view doctrine—that the incriminating character of the item seized must have been immediately apparent to the officer who made the seizure—is just the same absent in the case at bench.

Even in the midst of a valid intrusion by a law enforcement officer, the plain view doctrine cannot be used to justify the indiscriminate seizure of any item that happens to fall within such officer's open view.[79] A contrary rule is nothing short of

[79] See *Coolidge v. New Hampshire*, 403 U.S. 443 (1971).

allowing government agents to conduct general exploratory searches of evidence—a scenario precisely condemned by the Constitution.[80] Thus, as conceived in jurisprudence, only items whose *incriminating character is immediately apparent* to the law enforcement officer may be seized pursuant to the plain view doctrine.[81]

In *United Laboratories, Inc. v. Isip*,[82] we laid down the test to determine when the "*incriminating character*" of a seized item may be considered as "*immediately apparent*" for purposes of applying the plain view doctrine:

> The immediately apparent test does not require an unduly high degree of certainty as to the incriminating character of evidence. **It requires merely that the seizure be presumptively reasonable assuming that there is probable cause to associate the property with criminal activity; that a nexus exists between a viewed object and criminal activity**.
>
> Incriminating means the furnishing of evidence as proof of circumstances tending to prove the guilt of a person.
>
> Indeed, probable cause is a flexible, common sense standard. **It merely requires that the facts available to the officer would warrant a man of reasonable caution and belief that certain items may be contrabanded or stolen property or useful as evidence of a crime**. It does not require proof that such belief be correct or more likely than true. A practical, non-traditional probability that incriminating evidence is involved is all that is required. The evidence thus collected must be seen and verified as understood by those experienced in the field of law enforcement.[83] (Emphases supplied, citations omitted).

Stated otherwise, in order to satisfy the third requisite of the plain view doctrine, it must be established that the seized item—*on the basis of the attending facts and surrounding*

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[80] *Id.*

[81] See *Dimal v. People*, G.R. No. 216922, April 18, 2018, 862 SCRA 62, 95-96.

[82] 500 Phil. 342 (2005).

[83] *Id.* at 363.

circumstances—reasonably appeared, to the officer who made the seizure, as a contraband or an evidence of a crime.

As said, this requisite was not met in this case.

Taking another look at the established facts, we are convinced that the incriminating character of the subject explosives—if indeed they have one—was not immediately apparent to Mayor Pilapil and his inspection team. The facts attending and surrounding the discovery and seizure of the subject explosives could not have engendered a reasonable belief on the part of Mayor Pilapil and his team that the subject explosives were contraband or evidence of a crime, *viz.*:

1. The presence of the explosives within a mining site is not unusual. Even the Mining Act recognizes the necessity of explosives in certain mining operations and, by this reason, confers a *conditional* right on the part of a mining contractor or permittee to possess and use explosives, provided they procure the proper government licenses therefor.[84] Hence, the mere possession of explosives, especially by a mining contractor in a mining site, cannot be instantly characterized as illegal *per se*.

2. At the time they were first discovered by a member of Mayor Pilapil's inspection team, the subject explosives were not being used or even being prepared to be used. They were kept in bags which, in turn, were stored inside an open room.[85] Thus, no inference that such explosives were evidence of any alleged illegal mining can be drawn.

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[84] Section 74 of the Mining Act provides:

Section 74. *Right to Possess Explosives*. — A contractor/exploration permittee [has] the right to possess and use explosives within his contract/permit area as may be necessary for his mining operations upon approval of an application with the appropriate government agency in accordance with existing laws, rules and regulations promulgated thereunder: Provided, That the Government reserves the right to regulate and control the explosive accessories to ensure safe mining operations.

[85] *Rollo* (G.R. No. 228589), pp. 126 and 136-137.

The foregoing circumstances clearly contradict any notion that there was any observable illegality in the subject explosives. Mayor Pilapil and his inspection team seized the subject explosives without any probable cause, nay without any reason, apart from the subject explosives being exposed to their sight. Such seizure, therefore, is arbitrary and seems to have been made only in the hopes that the subject explosives would subsequently prove to be a contraband or an evidence of a crime. The seizure, in other words, is nothing but a veiled fishing expedition of evidence.

Their incriminating character not being immediately apparent, the subject explosives—even if discovered in plain view—are not items that may be validly seized without a warrant pursuant to the plain view doctrine. Accordingly, Mayor Pilapil and his team's warrantless seizure of the subject explosives is not reasonable and runs against the constitutional proscription against unreasonable searches and seizures.

II

Since the subject explosives have been unequivocally seized in violation of the constitutional proscription against unreasonable searches and seizures, they are properly regarded by the CA as "*fruits of a poisonous tree*" subject to the *exclusionary principle* set forth in Section 3 (b), Article III of the Constitution. The subject explosives are inadmissible and may not be considered as evidence for any purpose in any proceeding[86]—including as bases for a finding of probable cause to arrest and detain an accused for trial.

Without the subject explosives, the indictment for illegal possession of explosives and, ultimately, the warrant of arrest against Cu will have no leg to stand on.

With that, we must deny the present petitions.

WHEREFORE, premises considered, the consolidated petitions are **DENIED**. The Decision dated June 10, 2016 and

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[86] CONSTITUTION, Section 3 (b) of Article III.

the Resolution dated December 2, 2016 of the Court of Appeals in CA-G.R. SP No. 133253 are **AFFIRMED**.

SO ORDERED.

Caguioa, Reyes, Jr., Lazaro-Javier, and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 229332. August 27, 2020]

MARCELINO B. MAGALONA, *Petitioner*, *v.* **PEOPLE OF THE PHILIPPINES,** *Respondent*.

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; ONLY QUESTIONS OF FACT ARE ENTERTAINED THEREIN; QUESTIONS OF FACT, WHEN PRESENT. — As a rule, only questions of law are entertained in Petition for Review under Rule 45, and only in exceptional circumstances has the Court entertained questions of facts. 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 relevance of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation."

2. ID.; ID.; ID.; ID.; WHEN FACTUAL ISSUES MAY BE REVIEWED. — The Court may review factual issues if any of the following is present: (1) [W]hen 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 Court has consistently

ruled that the factual findings of the CA affirming those of the trial court are final and conclusive, and they cannot be reviewed by the Court which has jurisdiction to rule only on questions of law in petitions to review decisions of the CA filed before the Court except when the above circumstances apply.

APPEARANCES OF COUNSEL

YF Lim and Associates Law Offices for petitioner.
The Solicitor General for respondent.

D E C I S I O N

REYES, J. JR., *J.*:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, seeking to reverse the Decision dated August 26, 2016[2] and Resolution dated January 13, 2017,[3] issued by the Court of Appeals (CA) in CA-G.R. CR No. 37514.

The Facts

Petitioner Marcelino B. Magalona (Petitioner) and his co-accused Evedin Vergara (Evedin) were charged with *Estafa*, under the following Information:

That in (sic) or about 11th day of February [2005], 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 one another, with intent to gain, by means of false pretenses or fraudulent acts executed prior to (sic) or simultaneously with the (sic) commission of the (sic) fraud, did then and there willfully, unlawfully and feloniously defraud the complainant one JOEL P. LONGARES amounting to THREE MILLION FIVE HUNDRED THOUSAND

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[1] *Rollo*, pp. 8-35.

[2] Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Franchito N. Diamante and Carmelita Salandanan-Manahan, concurring; id. at 61-71.

[3] Id. at 73-74.

(Php3,500,000.00) PESOS, Philippine Currency, committed in the following manner to wit:

That the accused EVEDIN VERGARA introduced the other accused MARCELINO B. MAGALONA to the complainant and convinced the complainant to grant a loan in favor of MARCELINO MAGALONA in the amount of Php3,500,000.00, that the accused EVEDIN VERGARA assured the complainant that the other Accused MARCELINO MAGALONA has the capacity to pay the loan and had several real estate properties which were given as security for the loan, to wit: Cityland property described as a condominium unit covered by CCT No. 17533 at Wack-Wack Road, Mandaluyong City, Transfer of Certificate of Title Nos. T-220998 and T-334802 issued by the Registry of Deeds of the Province of Rizal, which they represented to be registered under the name of Accused MARCELINO B. MAGALONA, who allegedly has valid Title and ownership over the said Rizal Properties, but they knew fully well that the said representations were false because the Accused MARCELINO B. MAGALONA was not authorized by the real registered owner of Wack-Wack Cityland property as security or collateral for any credit or loan, and that the Transfer Certificates of Title Nos. T-220998 and T-334802 issued by the Registry of Deeds of the Province of Rizal were spurious documents, that by virtue of said representations, complainant granted a loan in favor of MARCELINO MAGALONA in the amount of Php3,500,000.00, who, once in possession of the money, misappropriated, misapplied and converted the same for their personal use and benefit, despite repeated demands failed and refused to pay the said amount of Php3,500,000.00 to the damage and prejudice of the Complainant in the aforesaid amount of Php3,500,000.00.

CONTRARY TO LAW.[4]

On arraignment, only petitioner entered a plea of Not Guilty as Evedin was still at large. Pre-trial and trial then ensued.

During Pre-trial, the following were stipulated upon by the parties: 1) existence of the Counter-Affidavit of the petitioner; 2) existence of the Counter-Affidavit executed by the petitioner together with the Reply-Affidavit executed by private complainant Joel Longares (Joel); 3) existence of Transfer Certificates of Title (TCT) Nos. 220998 and 334802 registered

[4] Id. at 45-46.

in the name of Petitioner; and 4) existence of the Deed of Absolute Sale dated December 8, 1970 between Irene Escusora and Marcelino Magalona.[5]

As culled from the records, the prosecution's version of facts are as follows:

Evedin was the Account Officer of Equitable-PCI Bank (EPCIB) Philam Branch, Las Piñas (EPCIB). For several years, she handled and managed the Peso/Dollar account of Joel. Sometime in February 2005, Evedin asked Joel if he could extend a loan to her friend, Petitioner, for a project in Binangonan, Rizal. The said loan would be secured by real properties located in Wack-Wack and Binangonan. Joel was given the assurance that the loan would be paid with interest within three months or a maximum of six months. Joel, however, found out that the condominium in Wack-Wack was owned by one Timothy Sycip (Timothy). Evedin assured that petitioner was authorized to use the condominium as collateral, that petitioner is a good person and a family friend, and that she will be responsible with petitioner. Evedin likewise informed Joel that there is another property in Binangonan that will secure the loan.

Thus, Joel agreed to extend the loan in the amount of ₱3,500,000.00 in favor of petitioner, payable within a period of six months from February 11, 2005, until August 11, 2005, with interest at the rate of 10% per month. After three months, Joel followed up the payment of the loan, but Evedin replied that petitioner could not pay the loan yet. Despite subsequent repeated follow-ups, the loan remained unpaid. The parties then arranged a meeting where petitioner presented to Joel two properties in Binangonan under his name and covered by TCT Nos. 220998 and 334802 as collaterals. Petitioner also convinced him anew to join in the development of these properties, assuring him that he would pay him after the development thereof and that part of the same would be given as payment of the loan.

Joel, however, found out that TCT Nos. 220998 and 334802 covering the Binangonan properties, and registered under the

[5] Id. at 62-63.

name of petitioner were fake and spurious. He likewise discovered that petitioner was never authorized by Timothy to mortgage the condominium unit in Wack-Wack. Thus, on September 17, 2005, Joel demanded the payment of the principal amount and interest of the loan amounting to ₱5,950,000.00. His demand however, was unheeded.[6]

The Defense, on the other hand, alleged the following facts:

Petitioner alleged that he met Evedin through his Pastor whose sibling is the husband of the latter. In January 2005, at EPCIB, petitioner told Evedin that his boss, Paul Sycip (Paul), the father of Timothy wanted to mortgage his condominium in Wack-Wack for ₱1,500,000.00. Evedin later informed him that she wanted to see the certified true copy of the title of the condominium unit, as well as the unit itself. In the first week of February 2005, petitioner, Evedin and Joel inspected the condominium unit. A week later, Evedin informed petitioner that the loan was approved and instructed petitioner to prepare a Special Power of Attorney (SPA) in favor of Joel.

When the necessary papers were ready, Evedin and petitioner met at EPCIB. Tessie Daez (Tessie), whom Paul authorized to mortgage the condominium unit, also arrived. Evedin examined the two SPAs in favor of Tessie and Joel, as well as the certified true copy of the title of the condominium unit. Since Tessie did not bring the original duplicate copy of the title, Evedin released only ₱1,200,000.00 to the former. After Tessie left, Evedin made petitioner sign on a blank one-half sheet of bond paper. The following day, Tessie brought the original duplicate copy of the title. Thus, the remaining ₱300,000.00 was given to petitioner, who, in turn, handed it to Paul.

In June 2005, Evedin requested a meeting with petitioner. Petitioner brought his wife and a neighbor, who was a real estate agent, to the meeting, while Joel was with his lawyer, Atty. Dela Vega. Evedin, on the other hand, was accompanied by her husband. At the said meeting, the development of petitioner's property in Binangonan was discussed. Petitioner proposed that

[6] Id. at 63-64.

before Joel could develop the Binangonan property, he should first give a cash out equivalent to 10% to 15% of the total amount, or around ₱10,000,000. Joel agreed, but said he would get the money from the loan payment of Paul. Joel then instructed Atty. Dela Vega to make petitioner sign a Promissory Note, wherein he undertook to pay the loan of Paul. Upon Joel's assurance that he would be the mortgagee of the subject condominium unit, petitioner signed the Promissory Note. The spaces for the name, address, and amount were, however, left blank. Since the project did not push through, petitioner was surprised that a case was filed against him.[7]

Ruling of the RTC

In the Judgment dated September 10, 2014,[8] the RTC found petitioner guilty beyond reasonable doubt for the crime of Other Deceits under Article 318 of the Revised Penal Code (RPC), which, according to the RTC, is included in the offense charged.

The dispositive portion thereof reads:

> IN THE LIGHT OF ALL THE FOREGOING, judgment is hereby rendered finding the accused Marcelino B. Magalona GUILTY for the crime of Other Deceits under Article 318 of the Revised Penal Code. Accordingly, accused Marcelino B. Magalona is hereby sentenced to suffer the straight penalty of imprisonment of six (6) months of arresto mayor and to indemnify and pay complainant Joel P. Longares the amount of Php300,000.00 representing the money that the complainant had parted.
>
> Let this case be archived as against accused Evedin Vergara pending her arrest.
>
> SO ORDERED.[9]

Joel filed a Motion for Partial Reconsideration of this Judgment, praying that the above Judgment be reconsidered and that petitioner be found civilly liable for the payment of

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[7] Id. at 64-65.

[8] Id. at 45-59.

[9] Id. at 59.

the amount of ₱3,500,000.00 plus interest, liquidated damages and attorney's fees.

Petitioner, on the other hand, filed a Motion for Reconsideration seeking the reversal of the Judgment dated September 10, 2014.

The RTC, in its Order dated March 12, 2015, denied Petitioner's Motion for lack of merit. It, however, granted the Partial Motion for Reconsideration filed by Joel. The dispositive portion of this Order states:

> WHEREFORE, premises considered, the instant Motion for Reconsideration and its Supplement filed by the accused Marcelino B. Magalona, through counsel, is hereby **DENIED** for *lack of merit*.
>
> On the other hand, the Partial Motion for Reconsideration filed by private complainant Joel Longares, through counsel, is hereby **GRANTED** for being impressed with merit.
>
> Accordingly, the Decision, dated September 10, 2014, is hereby **PARTIALLY MODIFIED** in so far as the civil aspect of the judgment is concerned. Accused Marcelino B. Magalona is hereby ordered to indemnify and pay complainant Joel P. Longares the amount of ₱3,500,000.00 representing the money that the complainant had parted to the accused as evidenced by receipts and other documentary pieces of evidence. The Promissory Note was also signed by the accused Marcelino B. Magalona acknowledging to have received the said amount of ₱3,500,000.00 as loan from complainant Joel Longares.
>
> SO ORDERED.[10]

Aggrieved, petitioner elevated the matter to the CA, ascribing error upon the RTC for finding him guilty of the crime of Other Deceits and for increasing his liability to Joel from ₱300,000.00 to ₱3,500,000.00.

Ruling of the CA

The CA affirmed the conviction of petitioner of the crime of Other Deceits under paragraph 1 of Article 318 of the RPC. According to the CA, petitioner could not be convicted of Estafa as the pieces of evidence show that it was Evedin, not petitioner,

[10] Id. at 66-67.

who instigated the deception. Joel had already agreed to release the loan to petitioner even before the latter had shown him the titles to his Binangonan property. Nevertheless, the CA ruled that petitioner participated in the dupery as he led Joel to believe that he had real estate in Binangonan and had the capacity to pay the subject loan. The CA likewise affirmed the civil liability of petitioner in the amount of ₱3,500,000.00 since it was duly proven by the Promissory Note signed by him, and by his admission of the existence of the Acknowledgment Receipt. Thus, the CA disposed the case in this wise:

> **WHEREFORE**, the *Appeal* is hereby **DENIED**.
>
> The *Judgment* dated 10 September 2014 of the Regional Trial Court of Las Piñas, Branch 202, in Criminal Case No. 09-0884, is **AFFIRMED AS MODIFIED** by the *Order* dated 12 March 2015.
>
> **SO ORDERED**.[11]

Petitioner sought the reconsideration of this Decision, but the CA, in the Resolution dated January 13, 2017, denied his motion for failing to advance substantial arguments or establish clear and compelling grounds that would justify the CA to reverse its Decision.

Hence, this petition raising the following errors:

I.

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE ELEMENTS OF THE CRIME OF OTHER DECEITS AS DEFINED AND PENALIZED UNDER ARTICLE 318 OF THE REVISED PENAL CODE ARE ATTENDANT IN THE PRESENT CASE.

II.

THE COURT OF APPEALS GRAVELY ERRED IN SUSTAINING WITHOUT JUDICIOUSLY DISCUSSING THE TRIAL COURT'S ORDER INCREASING PETITIONER'S LIABILITY FROM ₱300,000.00 TO ₱3,500,000.00 INSTEAD OF EXONERATING HIM FROM CIVIL LIABILITY.

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[11] Id. at 70.

Petitioner argues that the prosecution failed to adduce proof beyond reasonable doubt demonstrating the concurrence of the elements of the crime of Other Deceits. He maintains that he employed neither deceit nor pretense prior to, or simultaneously with the commission of the fraud which constitutes the very cause for Joel to part with his money. He points out that Joel admitted that were it not for Evedin's representation that petitioner can pay the loan, he would not have agreed to loan his money to the latter, and that Joel was already convinced to release the loan before his first meeting with him. Petitioner further maintains that assuming *arguendo* that he committed deceit or pretense by making Joel believe that he had real property in Binangonan and by signing the Promissory Note, such actuations do not appear to have been committed prior to, or simultaneously with the commission of the fraud. Moreover, he claims that the Binangonan property was offered as collateral only after Joel released the loan to Evedin.

Petitioner also contends that he ought to be exonerated from any civil liability as he should be acquitted on the ground that he is not the author of the act or omission complained of.

The Court's Ruling

We deny the Petition.

As a rule, only questions of law are entertained in Petition for Review under Rule 45, and only in exceptional circumstances has the Court entertained questions of facts.[12] 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 relevance of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation."[13]

Section 1, Rule 45 of the Rules of Court provides:

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[12] *Century Iron Works, Inc. v. Banas*, 711 Phil. 576, 585 (2013).

[13] *Lacson v. MJ Lacson Development Co., Inc.*, 652 Phil. 34, 47 (2010).

SEC. 1. Filing of petition with Supreme Court. — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

The Court may review factual issues if any of the following is present:

(1) [W]hen 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.[14]

The Court has consistently ruled that the factual findings of the CA affirming those of the trial court are final and conclusive, and they cannot be reviewed by the Court which has jurisdiction to rule only on questions of law in petitions to review decisions of the CA filed before the Court except when the above circumstances apply.[15]

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[14] *Kim Liong v. People*, G.R. No. 200630, June 4, 2018.

[15] *Republic v. Saromo*, G.R. No. 189803, March 14, 2018.

The determination of whether the elements of the crimes charged exist pertains to question of facts as this requires the recalibration of the whole evidence presented, which the Court may only entertain under the above enumerated circumstances. Petitioner, however, failed to establish that this case falls under any of the exceptions. On this score alone, this Petition should be denied.

Finally, conformably with *Nacar vs. Gallery Frames*,[16] an interest at the rate of 6% per annum is imposed upon the monetary award from the finality of this decision until full satisfaction.

WHEREFORE, the instant Petition is **DENIED**. The Decision dated August 26, 2016 and Resolution dated January 13, 2017, issued by the Court of Appeals in CA-G.R. CR No. 37514 are **AFFIRMED with MODIFICATION** in that the monetary award shall earn interest at the rate of 6% per annum from the date of finality of this Decision until full payment.

SO ORDERED.

Peralta, C.J. (*Chairperson*)*, Caguioa, Lazaro-Javier,* and *Lopez, JJ.*, concur.

[16] Supra note 4.

FIRST DIVISION

[G.R. No. 229372. August 27, 2020]

MARYVILLE MANILA, INC., *Petitioner*, *v.* **LLOYD C. ESPINOSA,** *Respondent*.

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; IN LABOR CASES, THE COURT OF APPEALS IS EMPOWERED TO EVALUATE THE MATERIALITY AND SIGNIFICANCE OF THE EVIDENCE ALLEGED TO HAVE BEEN CAPRICIOUSLY, WHIMSICALLY, OR ARBITRARILY DISREGARDED BY THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) IN RELATION TO ALL OTHER EVIDENCE ON RECORD; THE SUPREME COURT IS NOT PRECLUDED FROM REVIEWING THE FACTUAL ISSUES WHEN THERE ARE CONFLICTING FINDINGS BY THE COURT OF APPEALS, THE NLRC AND THE LABOR ARBITER. — Foremost, we cannot fault the CA in reviewing the parties' evidence in *certiorari* proceedings. In labor cases, the CA is empowered to evaluate the materiality and significance of the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record. The CA can grant the prerogative writ of *certiorari* when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the LA; and when necessary to arrive at a just decision of the case. To make this finding, the CA necessarily has to view the evidence to determine if the NLRC ruling had substantial basis. Contrary to Maryville Manila's contention, the CA can examine the evidence of the parties since the factual findings of the NLRC and the LA are contradicting. Indeed, this Court has the same authority to sift through the factual findings of both the CA and the NLRC in the event of their conflict. This Court is not precluded from reviewing the factual issues when there are conflicting findings by the CA, the NLRC and the LA.

2. ID.; EVIDENCE; BURDEN OF PROOF; RESTS UPON THE PARTY WHO ASSERTS AND NOT UPON HE WHO DENIES IT; CASE AT BAR. — Notably, Lloyd's cause of action is for total and permanent disability benefits and not illegal dismissal or pre-termination of his overseas employment contract. The fact that the petitioner in *Barros* is a seafarer like Lloyd and that voluntary repatriation was put in issue are immaterial. The rule on burden of proof in illegal dismissal cases cannot be unduly applied in proving whether a seafarer was repatriated for medical reasons. At any rate, Lloyd's claim that he was medically repatriated is an affirmative allegation and the burden of proof rests upon the party who asserts and not upon he who denies it. The nature of things is that one who denies a fact cannot produce any proof of it. Admittedly, Lloyd failed to discharge this burden and did not present substantial evidence as to the cause of his repatriation.

3. LABOR AND SOCIAL LEGISLATION; 2010 PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION-STANDARD EMPLOYMENT CONTRACT (2010 POEA-SEC); SECTION 32-A THEREOF; APPLIES IF THE ILLNESS MANIFESTS OR IS DISCOVERED AFTER THE TERM OF THE SEAFARER'S CONTRACT; IF THE CONDITIONS ARE NOT LISTED AS OCCUPATIONAL ILLNESSES UNDER SECTION 32-A OF THE POEA-SEC, THE SEAFARER IS REQUIRED TO PROVE THE REASONABLE LINK BETWEEN HIS ILLNESS AND NATURE OF WORK; CASE AT BAR. — In resolving claims for disability benefits, it is imperative to integrate the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) with every agreement between a seafarer and his employer. Lloyd's latest employment contract with Maryville Manila and Maryville Maritime was executed on January 10, 2012 and is covered by the 2010 Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships. In *Ventis Maritime Corporation v. Salenga,* we clarified that Section 20-A of the POEA-SEC is irrelevant if the seafarer did not suffer an illness or injury during the term of his contract. Rather, it is Section 32-A of the POEA-SEC which will apply if the illness manifests or is discovered after the term of the seafarer's contract, to wit: x x x **[I]f the seafarer suffers from an illness or injury during the term of the contract, the process in Section 20(A)**

applies. The employer is obliged to continue to pay the seafarer's wages, and to cover the cost of treatment and medical repatriation, if needed. **After medical repatriation, the seafarer has the duty to report to the company-designated physician within three days upon his return.** The employer shall then pay sickness allowance while the seafarer is being treated. And thereafter, the dispute resolution mechanism with regard to the medical assessments of the company-designated, seafarer-appointed, and independent and third doctor, shall apply. x x x **In instances where the illness manifests itself or is discovered after the term of the seafarer's contract, the illness may either be (1) an occupational illness listed under Section 32-A of the POEA-SEC, in which case, it is categorized as a work-related illness if it complies with the conditions stated in Section 32-A, or (2) an illness not listed as an occupational illness under Section 32-A but is reasonably linked to the work of the seafarer. x x x** In this case, Lloyd was diagnosed with *"Occupational Stress Disorder (Work-related); Hypomanic Mood Disorder, to consider; Bipolar Condition; R/O Schizophrenic Episode; and Post-traumatic Stress Disorder"* after the term of his contract. These conditions are not listed as occupational illnesses under Section 32-A of the POEA-SEC. As such, Lloyd is required to prove the reasonable link between his illnesses and nature of work. Lloyd must establish the risks involved in his work, his illnesses were contracted as a result of his exposure to the risks, the diseases were contracted within a period of exposure and under such other factors necessary to contract them, and he was not notoriously negligent. Yet, Lloyd failed to pass the reasonable linkage test.

4. ID.; ID.; ID.; ID.; ID.; AWARD OF COMPENSATION AND DISABILITY BENEFITS CANNOT REST ON SPECULATIONS, PRESUMPTIONS AND CONJECTURES; DENIAL OF CLAIM FOR DISABILITY BENEFITS, PROPER IN CASE AT BAR. — All told, Lloyd is not entitled to total and permanent disability benefits for failure to prove that he was repatriated for medical reasons and that a reasonable link exists between his illnesses and nature of work. Absent substantial evidence as reasonable basis, this Court is left with no choice but to deny Lloyd's claim for disability benefits, lest an injustice be caused to his employer. The award of compensation and disability benefits cannot rest on speculations, presumptions and conjectures. Although labor contracts are

impressed with public interest and the provisions of the POEA-SEC must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, still the rule is that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.

APPEARANCES OF COUNSEL

Ortega Bacorro Odulio Calma & Carbonell for petitioner.
Bermejo Laurino-Bermejo Law Offices for respondent.

D E C I S I O N

LOPEZ, *J.*:

The reasonable link between the seafarer's illnesses and nature of work is the main issue in this Petition for Review on *Certiorari* under Rule 45 assailing the Court of Appeal's (CA) Decision[1] dated September 1, 2016 in CA-G.R. SP No. 138222, which reversed and set aside the findings of the National Labor Relations Commission (NLRC).

ANTECEDENTS

On September 12, 2010, Maryville Manila, Inc. (Maryville Manila), a local manning agency acting for and in behalf of its principal Maryville Maritime, Inc. (Maryville Maritime), deployed Lloyd Espinosa (Lloyd) as a seafarer on board the vessel M/V Renuar. On December 11, 2010 to April 23, 2011, the Somali pirates held hostage the vessel and its entire crew. On May 5, 2011, Lloyd was repatriated.[2] On January 10, 2012, Maryville Manila re-hired Lloyd to work on board M/V Iron Manolis for a period of nine months. However, Lloyd was repatriated after seven months or on August 29, 2012.[3]

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[1] *Rollo* at 20-B-25-B; penned by Associate Justice Normandie B. Pizarro, with the concurrence of Associate Justices Samuel H. Gaerlan (now a Member of this Court) and Ma. Luisa C. Quijano-Padilla.

[2] *Id.* at 21-A.

[3] *Id.* at 21-A.

On July 15, 2013, Lloyd filed a complaint for total and permanent disability benefits against Maryville Manila and Maryville Maritime before the labor arbiter (LA). Lloyd alleged that he was repatriated after suffering flashbacks of the hostage incident and experiencing mental breakdown. Yet, Maryville Manila refused to give him medical assistance when he arrived in the Philippines. He then sought on February 12, 2013 the advice of a clinical psychologist who diagnosed him with "*Occupational Stress Disorder (Work-related); Hypomanic Mood Disorder, to consider; Bipolar Condition; R/O Schizophrenic Episode; and [Post-traumatic] Stress Disorder.*"[4] This work-related and work-aggravated condition rendered him permanently incapacitated to work as a seafarer.[5] On the other hand, Maryville Manila and Maryville Maritime claimed that Lloyd voluntarily disembarked from the vessel without any medical incident or accident. Moreover, Lloyd did not immediately report to the company-designated physician after his repatriation. It was only in July 2013 that Lloyd visited Maryville Manila asking for another contract of employment.[6]

On February 28, 2014, the LA granted Lloyd's claim for total and permanent disability benefits. It explained that Maryville Manila and Maryville Maritime failed to prove that Lloyd voluntarily requested his repatriation. Likewise, Lloyd's failure to immediately report to the company-designated physician will not prevent him from claiming disability compensation. The reportorial requirement is only a condition *sine qua non* for entitlement to sickness allowance,[7] thus:

> At the outset, while it may be conceded that the instant complaint was only filed several months after the complainant's repatriation and that there was no record at all that shows that complainant was repatriated due to his present illness, this Office, however, cannot help but consider the glaring fact that complainant, for one reason or another, had failed to finish his last contract with respondent. x x x

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[4] *Id.* at 42-B-43-A.

[5] *Id.* at 21-B.

[6] *Id.*

[7] *Rollo*, pp. 115-122.

[T]his Office finds the respondents' allegation that it was complainant who requested for his early repatriation bereft of any evidentiary support. As correctly pointed out by the complainant, respondents could have easily presented pertinent evidence, [*i.e.*,] master's report, to prove such an allegation. This notwithstanding, respondents, for no apparent valid reason, lifted no finger to do so, thus, renders their stance, highly suspect. x x x

x x x x x x x x x

In addition, **anent the respondents' contention that complainant failed to report within three days after his repatriation, be that as it may, this, albeit assailed by complainant**, does not detract from the complainant's entitlement to full disability compensation. It should be stressed that compliance with the provision of the POEA Contract on the reportorial requirement is a condition [*sine qua non*] only for claiming sickness allowance and not for a total permanent disability benefits. x x x

Thus, **granting that complainant had failed to report within three days, albeit he insisted that he indeed reported but respondents refused to accommodate him**, complainant had merely waived, in effect, his right to sickness allowance and never his complaint for total and permanent disability.

x x x x x x x x x

WHEREFORE, premises considered, judgment is hereby rendered declaring the complainant entitled to total and permanent disability benefits in the amount of **USD60,000.00** under the POEA Contract, *[sic]* and attorney's fee equivalent to ten percent of the said amount.

However, all other claims, including the claim for moral and exemplary damages are denied for lack of factual basis.

SO ORDERED.[8] (Emphases supplied.)

Dissatisfied, both parties appealed to the NLRC. Maryville Manila and Maryville Maritime maintained that Lloyd is not entitled to any disability benefit. In contrast, Lloyd argued that the LA should grant him double compensation benefit due to disability in high risk areas.[9] On August 29, 2014, the NLRC

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[8] *Id.* at 119-122.

[9] *Id.* at 22-A.

reversed the LA's findings and dismissed Lloyd's complaint. It ratiocinated that Lloyd failed to establish that he was repatriated for medical reasons. Also, it held that the reportorial requirement applies to claims for disability compensation. Lastly, there was no reason to relax the requirement absent evidence that Lloyd was incapacitated to submit himself to post-employment medical examination before the company-designated physician or that he had submitted a written notice to that effect,[10] *viz.*:

> **WHEREFORE**, premises considered, respondents' appeal is **GRANTED** and the Labor Arbiter's Decision dated February 28, 2014 is **VACATED AND SET ASIDE**. A new one is hereby entered **DISMISSING** complainant-appellant's complaint for total and permanent disability benefits. Accordingly, his partial appeal is **DENIED** for lack of merit.
>
> **SO ORDERED**.[11]

Unsuccessful at a reconsideration,[12] Lloyd elevated the case to the CA through a petition for *certiorari* docketed as CA-G.R. SP No. 138222. On September 1, 2016, the CA set aside the NLRC's Decision and reinstated the LA's award of total and permanent disability benefits. The CA cited *Baron, et al. v. EPE Transport, Inc., et al.*[13] and *Barros v. NLRC*[14] and ruled that the burden rests upon Maryville Manila and Maryville Maritime to prove that Lloyd was not medically repatriated. It also cited *Career Philippines Shipmanagement, Inc., et al. v. Serna*[15] and held that Lloyd sought medical examination but was refused, thus:

> There is no dispute that the Petitioner was repatriated before the end of his contract with the Private Respondent. The parties, however, cannot agree on the reason for such repatriation. **As there is no showing**

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[10] *Id.* at 124-135.

[11] *Id.* at 134.

[12] *Id.* at 137-139.

[13] 765 Phil. 866 (2015).

[14] 373 Phil. 635 (1999).

[15] 700 Phil. 1 (2012).

of a clear, valid, and legal cause for the Petitioner's repatriation, the issue will, therefore, be resolved in like manner as claims for illegal dismissal, which means that the burden is on the employer to prove that the termination was for a valid or authorized cause.

x x x x x x x x x

As for the post-employment medical examination requirement, both the Petitioner and the Private Respondents failed to present supporting evidence of their contrasting claims. On the part of the Petitioner, he failed to show proof that he was refused medical examination while, on the part of the Private Respondents, the latter failed to present proof that the Petitioner made such a request. Pertinent on this score is the Supreme Court's pronouncement in *Career Philippines Shipmanagement, Inc., et al. v. Serna, viz.*:

> x x x While Serna's verified claim with respect to his July 14, 1999 visit to the petitioner's office may be seen by some as a bare allegation, we note that the petitioners' corresponding denial is itself also a bare allegation that, worse, is unsupported by other evidence on record. [In contrast, the events that transpired after the July 14, 1999 visit, as extensively discussed by the CA above, effectively served to corroborate Serna's claim on the visit's purpose, i.e., to seek medical assistance.] Under these circumstances, we find no grave abuse of discretion on the part of the NLRC when it affirmed the labor arbiter ruling and gave credence to Serna on this point. Under the evidentiary rules, a positive assertion is generally entitled to more weight than a plain denial.
>
> **We note on this point that the obligation imposed by the mandatory reporting requirement under Section 20 (B) (3) of the 1996 POEA-SEC is not solely on the seafarer. It requires the employer to likewise act on the report, and in this sense partakes of the nature of a reciprocal obligation.** Reciprocal obligations are those which arise from the same cause, and where each party is effectively a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other. **While the mandatory reporting requirement obliges the seafarer to be present for the post-employment medical examination, which must be conducted within three (3) working days upon the seafarer's return, it also poses the employer the implied obligation to conduct a meaningful and timely examination of the seafarer**.

Using the foregoing as baseline, it could thus be concluded that, *first*, **as between the Petitioner and the Private Respondents' contrasting claims, the Petitioner's positive assertion that he sought, but was refused, medical examination is entitled to more weight than the Private Respondents' bare denial** and, *second*, **the lack of a post-medical examination in this case cannot be used to defeat respondent's [Petitioner, in this case] claim since the failure to subject the seafarer to this requirement was not due to the seafarer's fault but to the inadvertence or deliberate refusal of petitioners [Private Respondents, in this case].** Needless to stress, the time-honored rule that, in controversies between a laborer and his employer, doubts reasonably arising from the evidence should be resolved in the former's favor in consonance with the avowed policy of the State to give maximum aid and protection to labor finds application at bench.

x x x x x x x x x

WHEREFORE, the petition is **GRANTED**. The assailed dispositions are **REVERSED** and **SET ASIDE**. Accordingly, the Decision of the Labor Arbiter is **REINSTATED**. No costs.

SO ORDERED.[16] (Emphases supplied.)

Maryville Manila moved for a reconsideration but was denied.[17] Hence, this recourse. Maryville Manila argued that the CA erred in evaluating the parties' evidence in *certiorari* proceedings and insisted that Lloyd was neither repatriated for medical reason nor refused medical treatment.[18]

RULING

The petition is meritorious.

Foremost, we cannot fault the CA in reviewing the parties' evidence in *certiorari* proceedings. In labor cases, the CA is empowered to evaluate the materiality and significance of the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other

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[16] *Rollo*, pp. 23-25.

[17] *Id.* at 26-A-27.

[18] *Id.* at 10-B-16-B.

evidence on record. The CA can grant the prerogative writ of *certiorari* when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the NLRC contradict those of the LA; and when necessary to arrive at a just decision of the case.[19] To make this finding, the CA necessarily has to view the evidence to determine if the NLRC ruling had substantial basis.[20] Contrary to Maryville Manila's contention, the CA can examine the evidence of the parties since the factual findings of the NLRC and the LA are contradicting. Indeed, this Court has the same authority to sift through the factual findings of both the CA and the NLRC in the event of their conflict.[21] This Court is not precluded from reviewing the factual issues when there are conflicting findings by the CA, the NLRC and the LA.[22]

Here, we find that the CA erroneously concluded that Lloyd was medically repatriated and that Maryville Manila and Maryville Maritime have the burden to establish otherwise. The CA misread the rulings in *Baron* and *Barros* which involved cases for illegal dismissal. In *Baron*, the petitioners, who are taxi drivers, asserted that they were unceremoniously dismissed after they charged respondents of violating the collective bargaining agreement. The respondents did not refute such absence from work but averred that it was petitioners who abandoned their jobs. However, the theory of abandonment was unsubstantiated. In that case, we ruled that the Labor Code places upon the employer the burden of proving that the dismissal of

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[19] *Paredes v. Feed the Children Philippines, Inc., et al.*, 769 Phil. 418, 434 (2015), citing *Univac Development, Inc. v. Soriano*, 711 Phil. 516, 525 (2013).

[20] *Id.*, citing *Diamond Taxi, et al. v. Llamas, Jr.*, 729 Phil. 364, 376 (2014).

[21] *Paredes v. Feed the Children Philippines, Inc., et al.*, 769 Phil. 418, 435 (2015), citing *Pepsi-Cola Products Philippines, Inc. v. Molon*, 704 Phil. 120 (2013).

[22] *Id.*, citing *Plastimer Industrial Corporation, et al. v. Gopo, et al.*, 658 Phil. 627, 633 (2011).

an employee was for a valid or authorized cause. It does not distinguish whether the employer admits or does not admit the dismissal.[23] In *Barros*, the petitioner, a seafarer, claims illegal dismissal, recovery of salaries corresponding to the unexpired portion of his employment contract, repatriation expenses, unauthorized deductions and payments, damages and attorney's fees. In that case, we denied the private respondents' argument that the petitioner voluntarily terminated his employment on the claim that he himself requested repatriation. The private respondents did not dispute that petitioner was repatriated prior to the expiration of his employment contract. As such, it is incumbent upon the employer to prove that the petitioner was not dismissed, or if dismissed, that the dismissal was not illegal; otherwise, the dismissal would be unjustified.

Notably, Lloyd's cause of action is for total and permanent disability benefits and not illegal dismissal or pre-termination of his overseas employment contract. The fact that the petitioner in *Barros* is a seafarer like Lloyd and that voluntary repatriation was put in issue are immaterial. The rule on burden of proof in illegal dismissal cases cannot be unduly applied in proving whether a seafarer was repatriated for medical reasons. At any rate, Lloyd's claim that he was medically repatriated is an affirmative allegation and the burden of proof rests upon the party who asserts and not upon he who denies it. The nature of things is that one who denies a fact cannot produce any proof of it.[24] Admittedly, Lloyd failed to discharge this burden and did not present substantial evidence as to the cause of his repatriation.

Likewise, we observed that the CA heavily relied in *Career Philippines Shipmanagement, Inc.*, in ruling that Lloyd was refused medical treatment. In that case, the CA, the NLRC and the LA speak as one in their findings that the seafarer reported

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[23] *Sevillana v. I.T. (International) Corp./Samir Maddah & Travellers Insurance & Surety Corp.*, 408 Phil. 570, 583-584 (2001).

[24] *Sambalilo, et al. v. Sps. Llarenas*, 811 Phil. 552, 568 (2017). See also *Princess Talent Center Production, Inc., et al. v. Masagca*, 829 Phil. 381 (2018).

to the company-designated physician within three working days from arrival in the Philippines. Also, it discussed instances where the award of disability benefits was sustained even if the seafarer had been assessed by a personal physician, thus:

> The labor arbiter, the NLRC, and the CA are one in finding that on July 14, 1999, **or two days after his repatriation**, Serna reported to the office of Career Phils., specifically to report his medical complaints, only to be told to wait for his referral to company-designated physicians. The referral came not on the following day, but nearly three (3) weeks after, on August 3, 1999.
>
> We see no reason to disturb the lower tribunals' finding. x x x
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> x x x x x x x x x
>
> **The petitioners failed to perform their obligation of providing timely medical examination, thus rendering meaningless Serna's compliance with the mandatory reporting requirement.** With his July 14, 1999 visit, Serna clearly lived up to his end of the agreement; it was the petitioners who defaulted on theirs. They cannot now be heard to claim that Serna should forfeit the right to claim disability benefits under the POEA-SEC and their CBA.
>
> The Court has in the past, *under unique circumstances*, sustained the award of disability benefits even if the seafarer's disability had been assessed by a personal physician. In *Philippine Transmarine Carriers, Inc. v. NLRC*, we affirmed the grant by the CA and by the NLRC of disability benefits to a claimant, based on the recommendation of a physician not designated by the employer. **The "claimant consulted a physician of his choice when the company-designated physician refused to examine him."** In *Cabuyoc v. Inter-Orient Navigation Shipmanagement, Inc.*, we reinstated the NLRC's decision, affirmatory of that of the labor arbiter, which awarded sickness wages to the petitioner therein even if his disability had been assessed by the Philippine General Hospital, not by a company-designated hospital. **Similar to the case at bar, the seafarer in *Cabuyoc* initially sought medical assistance from the respondent employer but it refused to extend him help**.[25] (Emphases supplied; citations omitted.)

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[25] *Career Philippines Shipmanagement, Inc., et al. v. Serna*, 700 Phil. 1, 14-16 (2012).

Career Philippines Shipmanagement, Inc. is far different from Lloyd's case. Here, there is no unanimous and definite finding that Lloyd timely reported to the company-designated physician. The LA even brushed aside this issue and held that compliance with the reportorial requirement applies only to claims for sickness allowance and not to disability benefits. On the other hand, the NLRC found that Lloyd "*failed to substantiate his allegations that he sought respondent-appellants' help for his purported medical condition and that the same was refused*."[26] On appeal, the CA ruled that Lloyd's "*assertion that he sought, but was refused, medical examination is entitled to more weight than the Private Respondents' bare denial x x x*."[27] In these circumstances, we agree with the NLRC that Lloyd did not report to the company-designated physician. Again, it is Lloyd who has the duty to establish his affirmative allegation that he submitted himself to post-medical examination after his repatriation. Nevertheless, Lloyd failed to present substantial evidence to prove this assertion. In contrast, Maryville Manila, which denies such allegation, has no burden to produce such proof.

Absent evidence of medical repatriation and refusal to give treatment, it can be reasonably deduced that Lloyd suffered illnesses after the term of his contract. To be sure, Lloyd consulted a clinical psychologist on February 12, 2013 or after almost six months from his repatriation on August 29, 2012. The psychologist declared Lloyd permanently unfit for further sea service. Thereafter, Lloyd filed a complaint for total and permanent disability benefits.

In resolving claims for disability benefits, it is imperative to integrate the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) with every agreement between a seafarer and his employer.[28] Lloyd's latest

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[26] *Rollo*, p. 131.

[27] *Id.* at 24-B.

[28] *C.F. Sharp Crew Mgm't., Inc., et al. v. Legal Heirs of the Late Godofredo Repiso*, 780 Phil. 645, 665-666 (2016).

employment contract with Maryville Manila and Maryville Maritime was executed on January 10, 2012 and is covered by the 2010 Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships.[29] In *Ventis Maritime Corporation v. Salenga*,[30] we clarified that Section 20-A of the POEA-SEC is irrelevant if the seafarer did not suffer an illness or injury during the term of his contract. Rather, it is Section 32-A of the POEA-SEC which will apply if the illness manifests or is discovered after the term of the seafarer's contract, to wit:

> [S]eafarer's complaints for disability benefits arise from (1) injury or illness that manifests or is discovered **during** the term of the seafarer's contract, which is usually while the seafarer is on board the vessel or (2) illness that manifests or is discovered **after** the contract, which is usually after the seafarer has disembarked from the vessel. **As further explained below, it is only in the first scenario that Section 20(A) of the POEA-SEC applies**.
>
> x x x x x x x x x

Accordingly, it was an error for the CA to rely on Section 20(A) of the POEA-SEC. Section 20(A) applies only if the seafarer suffers from an illness or injury **during the term of his contract**, *i.e.*, while he is employed. Section 20(A) of the POEA-SEC clearly states the parameters of its applicability:

> **SECTION 20. COMPENSATION AND BENEFITS. —**
>
> A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS
>
> The liabilities of the employer when the seafarer **suffers work-related injury or illness *during the term of his contract*** are as follows:
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> x x x x x x x x x

Based on the foregoing, **if the seafarer suffers from an illness or injury during the term of the contract, the process in Section**

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[29] See POEA Memorandum Circular No. 10, Series of 2010, dated October 26, 2010.

[30] G.R. No. 238578, June 8, 2020.

20(A) applies. The employer is obliged to continue to pay the seafarer's wages, and to cover the cost of treatment and medical repatriation, if needed. **After medical repatriation, the seafarer has the duty to report to the company-designated physician within three days upon his return.** The employer shall then pay sickness allowance while the seafarer is being treated. And thereafter, the dispute resolution mechanism with regard to the medical assessments of the company-designated, seafarer-appointed, and independent and third doctor, shall apply.

x x x x x x x x x

In instances where the illness manifests itself or is discovered after the term of the seafarer's contract, the illness may either be (1) an occupational illness listed under Section 32-A of the POEA-SEC, in which case, it is categorized as a work-related illness if it complies with the conditions stated in Section 32-A, or (2) an illness not listed as an occupational illness under Section 32-A but is reasonably linked to the work of the seafarer.

For the first type, the POEA-SEC has clearly defined a work-related illness as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." What this means is that to be entitled to disability benefits, a seafarer must show compliance with the conditions under Section 32-A, as follows:

1. The seafarer's work must involve the risks described therein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it; and
4. There was no notorious negligence on the part of the seafarer.

As to the second type of illness — one that is **not listed as an occupational disease in Section 32-A** — *Magsaysay Maritime Services v. Laurel*, instructs that **the seafarer may still claim provided** that he suffered a disability occasioned by a disease contracted on account of or aggravated by working conditions. For this illness, "[i]t is sufficient that **there is a reasonable linkage between the disease suffered by the employee and his work** to lead a rational mind to conclude that his work may have contributed to the establishment or, *at the very least, aggravation of any pre-existing*

condition he might have had." Operationalizing this, to prove this reasonable linkage, it is imperative that the seafarer must prove the requirements under Section 32-A: the risks involved in his work; his illness was contracted as a result of his exposure to the risks; the disease was contracted within a period of exposure and under such other factors necessary to contract it; and he was not notoriously negligent.

x x x x x x x x x

More importantly, the rule applies that whoever claims entitlement to benefits provided by law should establish his right thereto by substantial evidence which is more than a mere scintilla; it is real and substantial, and not merely apparent. Further, while in compensation proceedings in particular, the test of proof is merely probability and not ultimate degree of certainty, the conclusions of the courts must still be based on real evidence and not just inferences and speculations. (Emphases supplied; citations omitted.)

In this case, Lloyd was diagnosed with "*Occupational Stress Disorder (Work-related); Hypomanic Mood Disorder, to consider; Bipolar Condition; R/O Schizophrenic Episode; and Post-traumatic Stress Disorder*"[31] after the term of his contract. These conditions are not listed as occupational illnesses under Section 32-A of the POEA-SEC. As such, Lloyd is required to prove the reasonable link between his illnesses and nature of work. Lloyd must establish the risks involved in his work, his illnesses were contracted as a result of his exposure to the risks, the diseases were contracted within a period of exposure and under such other factors necessary to contract them, and he was not notoriously negligent. Yet, Lloyd failed to pass the reasonable linkage test.

In his complaint, Lloyd alleged that from December 11, 2010 to April 23, 2011, the Somali pirates held hostage M/V Renuar and its entire crew. However, the clinical psychologist reported a different date of piracy which transpired in February 2012, thus:

[31] *Supra* note 4.

This is to certify that **LLOYD C. ESPINOSA**, x x x was seen and treated by the undersigned because of the following:

NOI: Occupational Stress Disorder (Work-related);
Hypomanic Mood Disorder, to consider;
Bipolar Condition;
R/O Schizophrenic Episode;
Post-traumatic Stress Disorder;
DOI: On repeated and persistent episodes in a series of [e]xacerbations **after a traumatic incident in 2012**;
TOI: Persistent episodes from aforesaid period;
POI: **MV Renuar, that sailed from Brazil and was in the seas of Iran in February 2012 when sometime during aforesaid period above-named seaman and fellow seamen on board above-named ship were hostage *[sic]* by Somalian pirated; *[sic]*** and

incurring the following: History points out that from above-mentioned dates, above-named patient suffered the following signs and symptoms of palpitations, accompanied with chest pains and tachycardia; tremors, muscle tension, and tingling in the extremities; light-headedness and dizziness; upset stomach; feeling of weakness and fatigue; irritability; restlessness and feeling of being on edge; difficulty concentrating and feeling blank; and wakefulness or total lack of sleep. **The condition started when above-named patient and his co-seafarers suffered from punishments, including deprivation from food, water and liberty from Somalian pirates.** He was repatriated and had undergone treatment sessions with the undersigned for the following diagnosed conditions. x x x[32] (Emphases supplied.)

At any rate, there is no substantial evidence on the link between Lloyd's supposed illnesses and nature of work. Foremost, piracy is a risk confronting all seafarers while in voyage, but the clinical report only made general statements on punishments and deprivation of food, water and liberty. The relationship of the risk and the diseases was not fairly established. There was no proof or explanation as to how Lloyd acquired the illnesses as a result of the hostage incident. The psychologists hastily concluded that Lloyd's conditions started after the piracy. Moreover, Lloyd's actions after the hostage incident are

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[32] *Rollo*, pp. 42-B-43-B.

incompatible with the clinical psychologist's findings. Lloyd was repatriated from M/V Renuar on May 5, 2011 but he applied again and was deployed on January 10, 2012 on board M/V Iron Manolis. There is no indication, during the intervening period of eight months from repatriation to deployment, that Lloyd experienced any sign of the alleged diseases. In fact, Lloyd passed the pre-employment medical examination and was cleared for re-employment. Lloyd even claimed that he "*more than fully and ably discharged his duties and responsibilities expected of him on board the vessel.*"[33] Verily, it would be improbable for Lloyd to properly perform his tasks as he claims if he had palpitations, chest pains, tremors, muscle tension, dizziness, upset stomach, fatigue, irritability, restlessness and total lack of sleep. Quite the contrary, these symptoms were belied since Lloyd lasted for seven months in M/V Iron Manolis.

All told, Lloyd is not entitled to total and permanent disability benefits for failure to prove that he was repatriated for medical reasons and that a reasonable link exists between his illnesses and nature of work. Absent substantial evidence as reasonable basis, this Court is left with no choice but to deny Lloyd's claim for disability benefits, lest an injustice be caused to his employer. The award of compensation and disability benefits cannot rest on speculations, presumptions and conjectures.[34] Although labor contracts are impressed with public interest and the provisions of the POEA-SEC must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, still the rule is that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.[35]

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[33] *Id.* at 49.

[34] *Andrada v. Agemar Manning Agency, Inc., et al.*, 698 Phil. 170, 184 (2012). See also *Loadstar International Shipping, Inc. v. Yamson, et al.*, 830 Phil. 731, 746 (2018).

[35] *Auza, Jr., et al. v. MOL Phils., Inc., et al.*, 699 Phil. 62, 67 (2012), citing *Sime Darby Pilipinas, Inc. v. National Labor Relations Commission (2nd Div.)*, 351 Phil. 1013, 1020 (1998).

In a number of cases, this Court granted financial assistance to separated employees for humanitarian reason and compassionate justice.[36] Taking into consideration the factual circumstances obtaining in this case, and the fact that Lloyd, in his own little way, has devoted his efforts to further Maryville Manila and Maryville Maritime's endeavors, we deem it proper to grant ₱100,000.00 as financial assistance.

FOR THESE REASONS, the petition is **GRANTED.** The Court of Appeal's Decision dated September 1, 2016 in CA-G.R. SP No. 138222 is **REVERSED** and **SET ASIDE**. The Decision dated August 29, 2014 of the National Labor Relations Commission is **REINSTATED** with **MODIFICATION** in that Maryville Manila, Inc. is ordered to pay Lloyd Espinosa the amount of ₱100,000.00 as financial assistance.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Caguioa, Reyes, Jr.*, and *Lazaro-Javier, JJ.*, concur.

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[36] *In Panganiban v. TARA Trading Shipmanagement, Inc., et al.*, 647 Phil. 675 (2010), this Court affirmed the award of ₱50,000.00 financial assistance. In *Villaruel v. Yeo Han Guan*, 665 Phil. 212, 221 (2011), this Court granted financial assistance of ₱50,000.00. In *Loadstar International Shipping, Inc. v. Yamson, et al.*, *supra* note 34, this Court awarded ₱75,000.00 financial assistance. In *Eastern Shipping Lines, Inc. v. Antonio*, 618 Phil. 601, 614-615 (2009), this Court gave financial assistance of ₱100,000.00.

FIRST DIVISION

[G.R. No. 230103. August 27, 2020]

MARTIN ROBERTO G. TIROL, *Petitioner*, *v.* **SOL NOLASCO,** *Respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; INTERVENTION; A REMEDY BY WHICH A THIRD PARTY, NOT ORIGINALLY IMPLEADED IN THE PROCEEDINGS, BECOMES A LITIGANT THEREIN FOR A CERTAIN PURPOSE; TO ENABLE THE THIRD PARTY TO PROTECT OR PRESERVE A RIGHT OR INTEREST THAT MAY BE AFFECTED BY THOSE PROCEEDINGS; TWO REQUISITES. — The Court in *Ongco v. Dalisay* described intervention as a remedy, as follows: Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein for a certain purpose: to enable the third party to protect or preserve a right or interest that may be affected by those proceedings. This remedy, however, is not a right. The rules on intervention are set forth clearly in Rule 19 of the Rules of Court xxx. x x x It can be readily seen that intervention is not a matter of right, but is left to the trial court's sound discretion. The trial court must not only determine if the requisite legal interest is present, but also take into consideration the delay and the consequent prejudice to the original parties that the intervention will cause. Both requirements must concur, as the first requirement on legal interest is not more important than the second requirement that no delay and prejudice should result. To help ensure that delay does not result from the granting of a motion to intervene, the Rules also explicitly say that intervention may be allowed only before rendition of judgment by the trial court.

2. ID.; SPECIAL PROCEEDINGS; SETTLEMENT OF ESTATE OF DECEASED PERSONS; THE COURT FIRST TAKING COGNIZANCE OF THE SETTLEMENT OF THE ESTATE OF A DECEDENT HAS THE EXCLUSIVE JURISDICTION OVER THE SAME; CASE AT BAR. — In the settlement of a deceased's estate, Section 1, Rule 73 of the Rules of Court provides: "The court first taking cognizance of the settlement

of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts." Given the exclusivity of jurisdiction granted to the court first taking cognizance of the settlement of a decedent's estate, RTC-101 has the exclusive jurisdiction over the intestate estate of Roberto Jr. while RTC-218 has exclusive jurisdiction over the testate estates of Gloria and Roberto Sr. Thus, only RTC-101, the court where the settlement of Roberto Jr.'s estate proceeding is pending, has jurisdiction to determine who the heirs of Roberto Jr. are. x x x The court which has jurisdiction to hear and decide any controversy as to who are the lawful heirs of Roberto Jr. or as to the distributive shares to which each is entitled under the law is undoubtedly RTC-101 because it is the court which has first taken cognizance of the settlement of the intestate estate of Roberto Jr.

3. ID.; ID.; ID.; ACTIONS BY AND AGAINST EXECUTORS AND ADMINISTRATORS; TO PROTECT OR RECOVER THE PROPERTY OR RIGHTS OF THE DECEASED, AN EXECUTOR OR ADMINISTRATOR MAY BRING OR DEFEND, IN THE RIGHT OF THE DECEDENT, ACTIONS FOR CAUSES WHICH SURVIVE; CASE AT BAR. — As to protection and preservation of the share of Roberto Jr.'s share in the testate estates of Gloria and Roberto Sr., the same is now the look out of the administrator of his estate and it appears, as noted above, that Zharina has been designated as the Administratrix of Roberto Jr.'s estate by RTC-101. Section 2, Rule 87 of the Rules of Court provides: "For the recovery or protection of the property or rights of the deceased, an executor or administrator may bring or defend, in the right of the deceased, actions for causes which survive." Thus, the intervention of respondent Sol in the probate proceeding will be superfluous because she has an available remedy in the settlement of Roberto Jr.'s estate proceeding to question any action of the administrator therein which is detrimental to the said estate.

4. ID.; CIVIL PROCEDURE; INTERVENTION; WHEN NOT PROPER; CASE AT BAR. — Since intervention is not a matter of right but depends on the sound discretion of the court, respondent Sol's intervention in the probate proceeding is unnecessary because her right or interest in the estate of Roberto Jr. can be fully protected in a separate proceeding — namely, the settlement of Roberto Jr.'s estate proceeding pending before RTC-101. The second parameter to be considered in granting of intervention under Section 1, Rule 19 — whether the

> intervenor's right may not be fully protected in a separate proceeding — is wanting in the instant case. Another reason in disallowing the intervention of respondent Sol in the probate proceeding is the legal precept that an independent controversy cannot be injected into a suit by intervention, *viz.*: x x x In general, an independent controversy cannot be injected into a suit by intervention, hence, such intervention will not be allowed where it would enlarge the issues in the action and expand the scope of the remedies. It is not proper where there are certain facts giving the intervenor's case an aspect peculiar to himself and differentiating it clearly from that of the original parties; the proper course is for the would-be intervenor to litigate his claim in a separate suit. Intervention is not intended to change the nature and character of the action itself, or to stop or delay the placid operation of the machinery of the trial. The remedy of intervention is not proper where it will have the effect of retarding the principal suit or delaying the trial of the action. The issue as to whether respondent Sol is a lawful heir of Roberto Jr. will definitely enlarge the issues in the probate proceeding and involve determination of facts peculiar only to her, which have nothing to do with the original parties. x x x With this extraneous issue being injected into the probate proceeding, the first parameter that has to be considered whether to allow an intervention under Section 1, Rule 19 — no undue delay or prejudice in the adjudication of the rights of the original parties — is not met. Thus, the intervention of respondent Sol in the probate proceeding should be denied.

APPEARANCES OF COUNSEL

J. Calida & Associates Law Firm for petitioner.
Felix Jasper D.C. Tumaneng for respondent.

D E C I S I O N

CAGUIOA, *J.*:

Before the Court is a Petition for Review on Certiorari[1] (Petition) under Rule 45 of the Rules of Court filed by petitioner

[1] *Rollo*, pp. 25-46, excluding Annexes.

Martin Roberto G. Tirol (petitioner Martin) assailing the Decision[2] dated April 27, 2016 and Resolution[3] dated February 23, 2017 of the Court of Appeals[4] (CA) in CA-G.R. SP No. 133784. The CA Decision granted the petition for *certiorari* filed by respondent Sol Nolasco (respondent Sol), annulled as well as set aside the Omnibus Resolution[5] dated June 27, 2013 and Order[6] dated October 27, 2013 issued by the Regional Trial Court of Quezon City, Branch 218 (RTC-218), in Sp. Proc. No. Q-02-46559, and granted respondent Sol's Motion for Intervention and to admit Claim-in-Intervention (Motion for Intervention). The CA Resolution denied petitioner Martin's motion for reconsideration.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

> On October 10, 1991, Gloria Tirol [(Gloria) died testate]. She was survived by her husband Roberto Tirol, Sr. [(Roberto Sr.)] and their six children namely: Ruth Tirol-Jarantilla [(Ruth)], Cecilia Tirol-Javelosa [(Cecilia)], [Ma. Lourdes] Tirol [(Marilou)], Ciriaco Tirol [(Ciriaco)], Anna Maria Tirol [(Anna)] and Roberto Tirol, Jr. [(Roberto Jr.)]. On April 16, 1995, Roberto Jr. died intestate, and was survived by his four children from his marriage with Cecilia Geronimo, namely [petitioner] Martin, Zharina,[7] Francis and Daniel. At the time of his death, Roberto Jr.'s marriage with his wife had been annulled.
>
> On January 8, 2002, Roberto Sr. died testate and was survived by his remaining children Ruth, Cecilia, Marilou, Ciriaco and Anna and his four grandchildren from Roberto Jr.

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[2] *Id.* at 49-56. Penned by Associate Justice Romeo F. Barza, with Associate Justices Danton Q. Bueser and Agnes Reyes-Carpio concurring.

[3] *Id.* at 58-64. Penned by Associate Justice Romeo F. Barza, with Associate Justices Marlene Gonzales-Sison and Danton Q. Bueser concurring.

[4] Special First Division and Special Former Special First Division.

[5] *Rollo*, pp. 103-117. Penned by Judge Luis Zenon Q. Maceren.

[6] Also referred to by the CA Decision as a Resolution. No copy of this Order is attached to the Petition.

[7] Ma. Zharina Rita Geronimo Tirol in some parts of the *rollo*.

On April 2, 2002, [petitioner] Martin, Cecilia and Ciriaco x x x filed before x x x [RTC-218] a petition to probate the wills of Gloria and Roberto Sr. x x x Ruth and [Marilou] later joined as intervenors. x x x [RTC-218] admitted to probate the respective wills of Gloria and Roberto Sr. and designated [petitioner] Martin as the Administrator of their estate[s].

On February 25, 2011, [respondent Sol] filed a [Motion for Intervention] stating that she has a legal interest in the estate of Gloria and Roberto Sr. because she is the surviving spouse of Roberto Jr. having married him on July 15, 1994. [Respondent Sol] alleged that the late Roberto Jr., being one of the children of Gloria and Roberto Sr., is entitled to at least 1/7 of the estate of his late mother and as the surviving spouse, she is entitled to that portion belonging to Roberto Jr. which is equivalent to the legitime of the legitimate children of the decedent. According to [her], she is considered a compulsory heir pursuant to Article 887 of the Civil Code and has an interest or claim in the estate of her late husband.

[Petitioner] Martin, the son of the late Roberto Jr., who was appointed as the Administrator, opposed [respondent Sol's] motion for intervention and so did [Anna, Marilou, Ruth and Cecilia]. [The oppositors] mainly argued that [respondent Sol] has no legal interest in the probate of the wills of Gloria and Roberto Sr. and could not represent Roberto Jr., not being a blood relative. [The oppositors] also refused to recognize [respondent Sol] as the legal wife of Roberto Jr.

[On March 15, 2011, respondent Sol filed a motion for intervention[8] in the intestate settlement of Roberto Jr.'s estate proceedings ("In the Matter of the Intestate Estate of Roberto Lorca Tirol, Ma. Zharina Rita Geronimo Tirol, petitioner" docketed as Spec. Proc. No. Q-95-25497) pending before the Regional Trial Court of Quezon City, Branch 101 (RTC-101). x x x RTC-101 granted the motion to intervene filed by respondent Sol in its Order[9] dated May 8, 2012. Apparently, Zharina has been appointed as Administratrix in the intestate estate of Roberto Jr.][10]

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[8] *Rollo*, pp. 118-123.

[9] Id. at 134. Penned by Presiding Judge Evangeline C. Castillo-Marigomen.

[10] See Motion for Intervention and Opposition-in-Intervention of respondent Sol in Spec. Proc. No. Q-95-25497, id. at 118-123 and 124-132.

On June 27, 2013, x x x [RTC-218] issued the x x x Omnibus [Resolution] denying, among others, the motion to intervene filed by [respondent Sol]. x x x [RTC-218] stated that [respondent Sol] has no legal interest in the case. [The pertinent dispositive portion of the said Omnibus Resolution states:

WHEREFORE, the court hereby resolves to:

x x x x x x x x x

7) **DENY** the Motion for Intervention and to Admit Attached Claim-in-Intervention;

x x x x x x x x x

SO ORDERED.[11]

[Respondent Sol] filed a Motion for Reconsideration but was denied in the other x x x Order dated October 27, 2013.[12]

Respondent Sol filed with the CA a petition for *certiorari* questioning the Omnibus Resolution dated June 27, 2013 of RTC-218, which denied her motion for intervention, and the Order dated October 27, 2013, which denied her motion for reconsideration. Petitioner Martin filed an opposition.

Ruling of the CA

The CA, in its Decision dated April 27, 2016, found respondent Sol's *certiorari* petition to be meritorious.[13] The CA stated that respondent Sol should be allowed to intervene because she is the widow of Roberto Jr. and has an interest or claim in her husband's estate, which consists, in part, of the latter's share in the estate of his deceased mother Gloria, and the extent or value of the share of Roberto Jr. has not yet been determined.[14] The CA clarified that respondent Sol does not anchor her motion for intervention on her status as daughter-

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[11] *Rollo*, pp. 116-117.

[12] Id. at 50-51.

[13] Id. at 53.

[14] Id. at 54.

in-law but rather as an heir of Roberto Jr.[15] The dispositive portion of the CA Decision states:

> **WHEREFORE**, the petition is **GRANTED**. The assailed Resolutions dated June 27, 2013 and October 27, 2013, issued by Branch 218 of the Regional Trial Court of Quezon City, are hereby **ANNULLED** and **SET ASIDE**. Said Court is **ORDERED** to **GRANT** Petitioner's [(respondent Sol's)] Motion for Intervention and to Admit Claim-in-Intervention.
>
> **SO ORDERED.**[16]

Petitioner Martin filed a motion for reconsideration wherein he argued, among others, that the intervention sought by respondent Sol should not be granted because any interest she may allegedly have in the estate of her alleged husband, Roberto Jr., can be fully ventilated in Spec. Proc. No. Q-95-25497, which involves the judicial settlement of Roberto Jr.'s estate, and her motion for intervention therein has been granted by RTC-101.[17] The CA denied petitioner Martin's motion for reconsideration in its Resolution dated February 23, 2017. The CA, however, did not traverse the said argument of petitioner Martin.

Hence the present Petition. Respondent Sol filed her Comment/Opposition[18] dated June 28, 2018.

The Issues

The Petition states the following issues[19] to be resolved:

1. Whether the CA erred in finding merit to respondent Sol's argument that, as widow of Roberto Jr., she is a compulsory heir of Gloria and Roberto Sr. under Article 887 of the Civil Code.

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[15] Id. at 55.

[16] Id.

[17] Id. at 59.

[18] Id. at 180-192.

[19] *Rollo*, pp. 30-31.

2. Whether the CA erred in failing to consider whether respondent Sol's alleged rights and interests over the estate of Roberto Jr. may be fully protected in Spec. Proc. No. Q-95-25497, which directly involves said estate.

3. Whether the CA erred in not giving due consideration that respondent Sol's intervention in Spec. Proc. No. Q-02-46559 will undo 14 years' worth of resolved incidents in said case and further delay the proceedings therein.

4. Whether the CA erred in applying *Alfelor v. Halasan*[20] and *Uy v. Court of Appeals*.[21]

The Court's Ruling

The Petition is meritorious.

The Court will resolve the second issue ahead of the others. A resolution by the Court that respondent Sol's right or interest, if any, in the estate of Roberto Jr. is fully protected in Spec. Proc. No. Q-95-25497 will render the resolution of the other issues irrelevant.

Petitioner Martin argues that respondent Sol's rights and interests, if any, can be fully protected in Spec. Proc. No. Q-95-25497 pending before RTC-101 (settlement of Roberto Jr.'s estate proceeding), which directly involves the settlement of Roberto Jr.'s intestate estate, and it is in that proceeding where she can directly litigate her claims as the alleged heir of Roberto Jr.[22] Thus, her intervention in Sp. Proc. No. Q-02-46559 pending before RTC-218 (probate proceeding), which involves the wills of Gloria and Roberto Sr., is completely unnecessary and superfluous.[23]

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[20] G.R. No. 165987, March 31, 2006, 486 SCRA 451.

[21] G.R. No. 102726, May 27, 1994, 232 SCRA 579.

[22] Id. at 36.

[23] See id.

It appears that petitioner Martin has been appointed as Administrator of the testate estates of Gloria and Roberto Sr. in the probate proceeding[24] and Zharina has been designated as Administratrix of the intestate estate of Roberto Jr.[25]

The CA allowed respondent Sol's intervention in the probate proceeding "because she is the widow of Roberto Jr. and, therefore, has an interest or claim in the estate of her husband[, which,] consists, in part, of the latter's share in the estate of his deceased mother, Gloria, and since the extent or value of the share of Roberto Jr. has not yet been determined, [respondent Sol] should be allowed to participate in the proceedings."[26]

It will be recalled that Roberto Jr. died on April 16, 1995, or after his mother's death on October 10, 1991, but before his father's death on January 8, 2002.[27] When Gloria died, Roberto Jr. would have inherited from her as a compulsory heir by virtue of Article 887 (1) of the Civil Code, which states:

ART. 887. The following are compulsory heirs:

(1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;

(2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;

(3) The widow or widower;

(4) Acknowledged natural children, and natural children by legal fiction;

(5) Other illegitimate children referred to in Article 287.

x x x (807a).

As far as respondent Sol is concerned, she would inherit from Roberto Jr. pursuant to Article 887 (3) and part of his

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[24] See Opposition to the Motion for Intervention and to Admit Attached Claim-in-Intervention, id. at 95-102.

[25] Supra note 10.

[26] Id. at 54.

[27] Id. at 50.

estate would be his share in the estate of her mother, Gloria. Respondent Sol could not inherit from the estate of Roberto Sr. because Roberto Jr. predeceased Roberto Sr., his father, and the children of Roberto Jr. would succeed by right of representation from their grandfather pursuant to Article 972 of the Civil Code, which provides, in part: "The right of representation takes place in the direct descending line, but never in the ascending [line]." Moreover, respondent Sol is not related by blood, but only by affinity, to Roberto Sr.

It should also be noted that the claim of respondent Sol as surviving spouse of Roberto Jr. is disputed. The validity of respondent Sol's marriage to Roberto Jr. is in issue. In her Claim-in-Intervention, respondent Sol attached a Certificate of Marriage[28] between her and Roberto Jr. which was celebrated in La Castellana, Negros Occidental on July 15, 1994. On the other hand, petitioner Martin, in his Opposition to respondent Sol's Motion for Intervention, questioned the validity of the marriage of respondent Sol to his father, Roberto Jr., on the ground that it is bigamous because of respondent Sol's pre-existing marriage to another man, which had not been nullified before her marriage to Roberto Jr. on July 15, 1994, and as proof thereof, petitioner Martin attached a Marriage Certificate showing that on May 15, 1985 respondent Sol married a certain Raul I. Cimagla at a civil wedding in Branch 3, Municipal Trial Court of Davao City.[29]

Given the pendency of these two special proceedings and the presence of an issue on the validity of her claim as an heir of Roberto Jr., is the intervention of respondent Sol in the probate proceeding proper?

Section 1, Rule 19 of the Amended Rules of Civil Procedure[30] provides:

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[28] Id. at 91.

[29] Id. at 100.

[30] A.M. No. 19-10-20-SC, 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, which is referred to as the Amended Rules of Civil Procedure, effective May 1, 2020.

Section 1. *Who may intervene*. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (1)

The Court in *Ongco v. Dalisay*[31] described intervention as a remedy, as follows:

> Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein for a certain purpose: to enable the third party to protect or preserve a right or interest that may be affected by those proceedings. This remedy, however, is not a right. The rules on intervention are set forth clearly in Rule 19 of the Rules of Court x x x.
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> x x x x x x x x x
>
> It can be readily seen that intervention is not a matter of right, but is left to the trial court's sound discretion. The trial court must not only determine if the requisite legal interest is present, but also take into consideration the delay and the consequent prejudice to the original parties that the intervention will cause. Both requirements must concur, as the first requirement on legal interest is not more important than the second requirement that no delay and prejudice should result. To help ensure that delay does not result from the granting of a motion to intervene, the Rules also explicitly say that intervention may be allowed only before rendition of judgment by the trial court.[32]

Given the existence of the settlement of Roberto Jr.'s estate proceeding, the question has to be resolved in the negative.

In the settlement of a deceased's estate, Section 1, Rule 73 of the Rules of Court provides: "The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts."

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[31] G.R. No. 190810, July 18, 2012, 677 SCRA 232.

[32] Id. at 238-239. Emphasis and citations omitted.

Given the exclusivity of jurisdiction granted to the court first taking cognizance of the settlement of a decedent's estate, RTC-101 has the exclusive jurisdiction over the intestate estate of Roberto Jr. while RTC-218 has exclusive jurisdiction over the testate estates of Gloria and Roberto Sr. Thus, only RTC-101, the court where the settlement of Roberto Jr.'s estate proceeding is pending, has jurisdiction to determine who the heirs of Roberto Jr. are.

Section 1, Rule 90 of the Rules of Court provides when and to whom the residue of the decedent's estate is distributed, and how a controversy as to who are the lawful heirs of the decedent is resolved, to wit:

> Section 1. *When order for distribution of residue made*. — When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.
>
> No distribution shall be allowed until the payment of the obligations above-mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.

The court which has jurisdiction to hear and decide any controversy as to who are the lawful heirs of Roberto Jr. or as to the distributive shares to which each is entitled under the law is undoubtedly RTC-101 because it is the court which has first taken cognizance of the settlement of the intestate estate of Roberto Jr.

RTC-218, where the probate proceeding is pending, cannot rule on the issue of who are the heirs of Roberto Jr. even if the share of Roberto Jr. in the estates of Gloria and Roberto Sr. is to be determined therein. The probate court must yield to the determination by the Roberto Jr.'s estate settlement court of the latter's heirs. This is to avoid confusing and conflicting dispositions of a decedent's estate by co-equal courts.[33]

As to protection and preservation of the share of Roberto Jr.'s share in the testate estates of Gloria and Roberto Sr., the same is now the look out of the administrator of his estate and it appears, as noted above, that Zharina has been designated as the Administratrix of Roberto Jr.'s estate by RTC-101. Section 2, Rule 87 of the Rules of Court provides: "For the recovery or protection of the property or rights of the deceased, an executor or administrator may bring or defend, in the right of the deceased, actions for causes which survive." Thus, the intervention of respondent Sol in the probate proceeding will be superfluous because she has an available remedy in the settlement of Roberto Jr.'s estate proceeding to question any action of the administrator therein which is detrimental to the said estate.

Since intervention is not a matter of right but depends on the sound discretion of the court, respondent Sol's intervention in the probate proceeding is unnecessary because her right or interest in the estate of Roberto Jr. can be fully protected in a separate proceeding — namely, the settlement of Roberto Jr.'s estate proceeding pending before RTC-101. The second parameter to be considered in granting of intervention under Section 1, Rule 19 — whether the intervenor's right may not be fully protected in a separate proceeding — is wanting in the instant case.

Another reason in disallowing the intervention of respondent Sol in the probate proceeding is the legal precept that an independent controversy cannot be injected into a suit by intervention, *viz.*:

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[33] See *Solivio v. Court of Appeals*, G.R. No. 83484, February 12, 1990, 182 SCRA 119, 127.

x x x In general, an independent controversy cannot be injected into a suit by intervention, hence, such intervention will not be allowed where it would enlarge the issues in the action and expand the scope of the remedies. It is not proper where there are certain facts giving the intervenor's case an aspect peculiar to himself and differentiating it clearly from that of the original parties; the proper course is for the would-be intervenor to litigate his claim in a separate suit. Intervention is not intended to change the nature and character of the action itself, or to stop or delay the placid operation of the machinery of the trial. The remedy of intervention is not proper where it will have the effect of retarding the principal suit or delaying the trial of the action.[34]

The issue as to whether respondent Sol is a lawful heir of Roberto Jr. will definitely enlarge the issues in the probate proceeding and involve determination of facts peculiar only to her, which have nothing to do with the original parties. The other heirs of Gloria and Roberto Sr. are not interested in who are the lawful heirs of Roberto Jr. The respective shares of such other heirs in the estates of Gloria and Roberto Sr. will in no way be affected by who are declared as the lawful heirs of Roberto Jr. in the proceeding for the settlement of his estate.

With this extraneous issue being injected into the probate proceeding, the first parameter that has to be considered whether to allow an intervention under Section 1, Rule 19 — no undue delay or prejudice in the adjudication of the rights of the original parties — is not met. Thus, the intervention of respondent Sol in the probate proceeding should be denied.

Given the foregoing, the resolution of the other issues becomes surplusage.

WHEREFORE, the Petition is hereby **GRANTED**. Accordingly, the Decision dated April 27, 2016 and Resolution dated February 23, 2017 of the Court of Appeals in CA-G.R. SP No. 133784 are **REVERSED** and **SET ASIDE**. The

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[34] *Mactan-Cebu International Airport Authority v. Heirs of Estanislao Miñoza*, G.R. No. 186045, February 2, 2011, 641 SCRA 520, 531-532. Citations omitted.

Motion for Intervention and Claim-in-Intervention of respondent Sol Nolasco in Sp. Proc. No. Q-02-46559 pending before the Regional Trial Court of Quezon City, Branch 218 are **DENIED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Reyes, Jr.*, *Lazaro-Javier,* and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. Nos. 230609-10. August 27, 2020]

MONSANTO PHILIPPINES, INC., *Petitioner, v.* **NATIONAL LABOR RELATIONS COMMISSION, MARTIN B. GENEROSO JR., ORVILLE P. PAGONZAGA, ROEL M. MORANO, ROEL T. MALINAO, FELMER Y. ESTAÑO, SHERWIN T. TABANAG, PONCIANO O. LARANIO, ARIEL F. BALILI, JERIH M. JUNTADO, JR., and ANTONIO S. SISO,** *Respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; AS A RULE, ONLY QUESTIONS OF LAW SHALL BE RAISED; ONE EXCEPTION IS WHEN THE COURT OF APPEALS' FINDINGS ARE CONTRARY TO THOSE OF THE TRIAL COURT (LABOR ARBITER). — The general rule in a petition for review on *certiorari* under Rule 45 of the Rules of Court is that only questions of law shall be raised. In *Republic v. Heirs of Santiago*, the Court enumerated that one of the exceptions to the general rule is when the CA's findings are contrary to those of the trial court. Here, the Labor Arbiter is likened to a trial court in that he/she is the first adjudicator of truth and justice. The Labor Arbiter has the first opportunity to evaluate the pieces of evidence of the complainant, the respondent, and their respective witnesses during the preliminary conference. Considering the different findings of fact and conclusions of law of the LA and NLRC on one hand, and the CA on the other, the Court shall entertain this petition, which involves a re-assessment of the evidence presented.

2. ID.; EVIDENCE; CREDIBILITY; FACTUAL FINDINGS OF QUASI-JUDICIAL AGENCIES SUCH AS THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) ARE GENERALLY ACCORDED NOT ONLY RESPECT BUT ALSO FINALITY BECAUSE OF THEIR SPECIAL KNOWLEDGE AND EXPERTISE. — As a rule, factual findings of quasi-judicial agencies such as the NLRC are

generally accorded not only respect but also finality because of the special knowledge and expertise gained by these agencies from handling matters under their specialized jurisdiction.

3. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; EMPLOYER-EMPLOYEE RELATIONSHIP; POWER OF CONTROL; CONSIDERED THE MOST SIGNIFICANT DETERMINANT OF THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP; TEST IS PREMISED ON WHETHER THE PERSON FOR WHOM THE SERVICES ARE PERFORMED RESERVES THE RIGHT TO CONTROL BOTH THE END ACHIEVED AND THE MANNER AND MEANS USED TO ACHIEVE THAT END; CASE AT BAR. — Despite the service agreement, the factual findings of the NLRC indicate that Monsanto has direct control and supervision over the private respondents' work and activities. In labor law, one who exercises the power of control over the means, methods, and manner of performing an employee's work is considered as the employer. The power of the employer to control the work of the employee is considered the most significant determinant of the existence of an employer-employee relationship. This test is premised on whether the person for whom the services are performed reserves the right to control both the end achieved and the manner and means used to achieve that end.

4. ID.; ID.; ID.; LABOR-ONLY CONTRACTING; DEFINED; PROHIBITED BY LAW; CASE AT BAR. — If indeed East Star is the real employer of private respondents, it should be exercising the power of control over them and not Monsanto. The evidence points to the conclusion that East Star is not a legitimate job contractor, but a labor-only contractor. East Star is not the employer of private respondents. Section 5 of DOLE Order No. 18-02 prohibits labor-only contracting and defines it as an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and any of the following elements are present: 1) The contractor or subcontractor does not have substantial capital or investment which relates to the job, work or service to be performed and the employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; or 2) the contractor does not exercise the right to

control over the performance of the work of the contractual employee. The provision further defines substantial capital or investment as capital stocks and subscribed capitalization in the case of corporations, tools, equipment, implements, machineries and work premises, actually and directly used by the contractor or subcontractor in the performance or completion of the job, work or service contracted out. Here, the NLRC determined that although East Star has a subscribed capital of ₱10,000,000.00 as stated in its Articles of Incorporation, it does not have substantial capital or investment in the form of tools, equipment, implements and machines to use in the performance of the private respondents' work. Clearly, one of the elements of labor-only contracting is present. To reiterate, the factual findings of the Labor Arbiter as affirmed by the NLRC, established that East Star did not exercise the right to control the performance of private respondents' work. Hence, another element of labor-only contracting exists.

5. ID.; ID.; TERMINATION OF EMPLOYMENT; ILLEGAL DISMISSAL; EMPLOYER IS DIRECTLY LIABLE FOR THE CONSEQUENCES THEREOF, INCLUDING THE MONEY CLAIMS; CASE AT BAR. — The issue of Monsanto's solidary liability with East Star under the service agreement is of no moment considering that the Court already pronounced that Monsanto is the employer of private respondents. As such, Monsanto is directly liable for the consequences of illegal dismissal, including the money claims.

6. ID.; ID.; ID.; ID.; ESTABLISHED WHEN THE DISMISSAL WAS WITHOUT JUST OR AUTHORIZED CAUSE AND DUE PROCESS WAS NOT OBSERVED; CASE AT BAR. — The Court agrees with the CA. Private respondents were dismissed from the service after Monsanto reorganized its company to streamline operations. Monsanto claimed that their positions and functions were redundant. However, there is neither allegation nor evidence that Monsanto suffered losses or would suffer losses that justifies the reduction of workforce. Without evidence to substantiate redundancy, the dismissal cannot be characterized as just or authorized. The LA held that due process in the dismissal was not observed, which the NLRC affirmed and to which the CA did not object. With the unanimous finding of lack of due process in the dismissal of the private respondents, the Court sustains the same. But the Court also sustains the

CA's finding that redundancy was not sufficiently established. Therefore, the absence of just or authorized cause and due process in the dismissal renders it illegal.

7. ID.; ID.; ID.; ID.; AN ILLEGALLY DISMISSED EMPLOYEE IS ENTITLED TO BACKWAGES FROM THE TIME COMPENSATION WAS WITHHELD. — Law and jurisprudence laid down the monetary awards that an illegally dismissed employee is entitled to. First, the renumbered Article 294 of the Labor Code, formerly Article 279, states that an illegally dismissed employee is entitled to backwages from the time compensation was withheld.

8. ID.; ID.; ID.; SEPARATION PAY; WARRANTED WHEN THE CAUSE FOR TERMINATION IS NOT ATTRIBUTABLE TO THE EMPLOYEE'S FAULT AS WELL AS IN CASES OF ILLEGAL DISMISSAL WHERE REINSTATEMENT IS NO LONGER FEASIBLE. — [S]eparation pay is warranted when the cause for termination is not attributable to the employee's fault, such as those provided in Articles 298 to 299 of the renumbered Labor Code, as well as in cases of illegal dismissal where reinstatement is no longer feasible. While the general rule is that an illegally dismissed employee is entitled to reinstatement, and separation pay is awarded only in exceptional circumstances, we find that the exception applies in this case. Reinstatement is not likely to be feasible as 13 years had passed since their dismissal from the service on May 16, 2007. It is unlikely that the positions they once held were still available for them to occupy again. Moreover, an employee's prayer for separation pay is an indication of the strained relations between the parties. Under the doctrine of strained relations, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable.

9. ID.; ID.; ID.; GUIDELINES IN COMPUTING BACKWAGES AND SEPARATION PAY. — In computing for backwages and separation pay, we follow *Genuino Agro-Industrial Development Corp. v. Romano*. Under Article 279 (now Article 294) of the Labor Code, backwages is computed from the time of dismissal until the employee's reinstatement. However, when separation pay is ordered in lieu of reinstatement, backwages is computed from the time of dismissal until the finality of the

decision ordering separation pay. Anent the computation of separation pay, the same shall be equivalent to one month salary for every year of service and should not go beyond the date an employee was deemed to have been actually separated from employment, or beyond the date when reinstatement was rendered impossible. In the present case, in allowing separation pay, the final decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point.

10. ID.; ID.; ID.; MORAL DAMAGES AND EXEMPLARY DAMAGES; WHEN MAY BE RECOVERED. — [M]oral damages are recoverable when the dismissal of an employee is attended by bad faith or fraud or constitutes an act oppressive to labor, or is done in a manner contrary to good morals, good customs or public policy. Exemplary damages, on the other hand, are recoverable when the dismissal was done in a wanton, oppressive, or malevolent manner.

11. ID.; ID.; ID.; ATTORNEY'S FEES EQUIVALENT TO 10% OF THE AMOUNT OF WAGES RECOVERED MAY BE ASSESSED ON THE CULPABLE PARTY. — Article 111 of the Labor Code states that attorney's fees equivalent to 10% of the amount of wages recovered may be assessed on the culpable party. This was affirmed in *National Power Corp. v. Cabanag*.

12. ID.; ID.; ID.; ENTITLEMENT TO BENEFITS MUST BE SUBSTANTIATED BY THE EMPLOYEES AS A LONG ESTABLISHED TRADITION OR REGULAR PRACTICE ON THE PART OF THE EMPLOYER, OTHERWISE, THEY CANNOT BE AWARDED. — [N]either Generoso nor the rest of the private respondents proved that 14th month pay, annual wage increase, dependents' medical insurance coverage, and stock option benefits were given to Monsanto's regular employees as a matter of practice. In fact the NLRC reversed its ruling on this matter and deleted these awards because "complainants failed to prove that the grant of the said benefits is a long established tradition or regular practice on the part of respondent Monsanto. Complainants did not state or discuss with particularity the bases or reasons for claiming the aforesaid benefits. The CA mentioned a similar discussion when it denied the benefits to the private respondents including Generoso.

> The CA stated the ACTs [agricultural crop technicians] failed to substantiate that they are entitled to these benefits. The burden of proving entitlement x x x rests on the ACTs because they were not incurred in the normal course of business. x x x they failed to show that regular employees were receiving these benefits as a matter of practice by Monsanto. With the consistent findings of fact of the two labor tribunals and the appellate court, the Court sees no reason to overturn the same. Accordingly, all of the private respondents are not entitled to 14th month pay, annual wage increase, dependents' medical insurance coverage, and stock option benefits.

APPEARANCES OF COUNSEL

Castillo Laman Tan Pantaleon & San Jose for petitioner.
Libra Law Office for private respondents.

D E C I S I O N

REYES, J. JR., *J.*:

This is an illegal dismissal case between an independent job contractor, its principal, and the contractor's employees.

The Case

This petition seeks a partial review of the October 3, 2016 Court of Appeals (CA) Decision[1] and March 8, 2017 Resolution[2] in CA-G.R. SP No. 06830-MIN and CA-G.R. SP No. 04728-MIN, which held, among others, that (1) private respondents are not regular employees of petitioner Monsanto Philippines, Inc. (Monsanto) but of East Star Agricultural Development Corporation (East Star); and (2) Monsanto is solidarily liable with East Star for any violation of the Labor Code under their service agreement.[3]

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[1] Penned by Associate Justice Reynaldo G. Roxas, with Associate Justices Romulo V. Borja and Edgardo T. Lloren, concurring; *rollo*, p. 76.

[2] Id. at 77-81.

[3] Id. at 75-76.

The Facts

Monsanto is a domestic corporation engaged in agricultural business, such as the manufacture, processing, refinement, importation, and marketing of seeds, agricultural products, chemicals and related products. Its main clientele are Filipino farmers who grow rice and corn. To promote its products, it entered into a service agreement with East Star on April 25, 2005.[4]

East Star is a domestic corporation engaged in providing services with agricultural production, processing, packaging, warehousing, and distribution. It is an accredited job contractor with the Department of Labor and Employment (DOLE).[5]

Private respondents Martin B. Generoso Jr., Orville P. Pagonzaga, Roel M. Morano, Roel T. Malinao, Felmer Y. Estaño, Sherwin T. Tabanag, Ponciano O. Laranio, Ariel F. Balili, Jerih M. Juntado, Jr., and Antonio S. Siso were agricultural crop technicians of East Star and were tasked to promote Monsanto's products. Sometime in April 2007, private respondents were told that their position and function were redundant. On May 16, 2007, East Star formally terminated their employment, prompting private respondents to file a complaint against Monsanto, East Star, and its corporate officers, Arnold Estrada, Gemma Lustre, and Teodorico Dereje, Jr. for illegal dismissal with claim for backwages, separation pay, incentives/commission, and tax refund.[6]

The Labor Arbiter's Decision

On February 23, 2010, the Executive Labor Arbiter (LA) issued a Decision in private respondents' favor.[7] The LA ruled that East Star acted as a labor-only contractor, because there is no showing that it hired private respondents and that it has

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[4] Id. at 62.

[5] Id.

[6] Id. at 62-63.

[7] Id. 181-189.

no control over their work. On the other hand, Monsanto exercised control over the private respondents' work, making them its regular employees.[8]

The LA held that private respondents were dismissed for an authorized cause, that is, the reorganization of personnel to streamline Monsanto's operations.[9] However, due process was not observed. Thus, the LA ordered Monsanto to pay separation pay, nominal damages of ₱50,000.00 for each private respondent, 14th month pay, and attorney's fees. Additionally, Monsanto was directed to pay annual wage increase, dependents' medical insurance coverage, stock option benefit, and 5% attorney's fees on said awards for a three-year period counted from the filing of the complaints and to be computed in post judgment proceedings. All other complaints were dismissed for lack of merit.[10] Aggrieved, Monsanto appealed to the National Labor Relations Commission (NLRC).[11]

The NLRC Decision

On April 19, 2011, the NLRC rendered a Decision dismissing the appeal for lack of merit and affirming the LA's Decision. The NLRC held that Monsanto did not dispute private respondents' allegation that Monsanto hired them through its officers on different dates before the execution of the service agreement. There was admission by silence on Monsanto's part. The NLRC also ruled that Monsanto transferred them to East Star as their new employer, but Monsanto remained as their employer.[12]

Monsanto moved for reconsideration, which was partially granted in the October 28, 2011 Resolution.[13] The NLRC

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[8] Id. at 186-187.

[9] Id.

[10] Id. at 187-189.

[11] Id. at 65.

[12] Id. at 240-241.

[13] Id. at 277-281.

modified its Decision as follows: (1) the amount that East Star previously paid to private respondents representing separation pay based on an approved compromise agreement by the DOLE Regional Office should be deducted from the separation pay in this case; (2) the awards of 14th month pay, annual wage increase, dependents' medical insurance coverage, and stock option benefit are deleted for lack of factual and legal basis, and it was not proven that it was given as a company practice; and (3) the attorney's fees equivalent to 5% of the total monetary award shall be based on the modified amount. The rest of the awards were affirmed.[14] Both parties filed their respective petitions for *certiorari* before the CA.[15]

The Court of Appeals' Decision

On October 3, 2016, the CA rendered a consolidated Decision partially granting both petitions.[16]

First, the CA ruled that the NLRC erred in affirming the LA's Decision that private respondents were Monsanto's employees. The records reveal that private respondents did not present any evidence, such as an employment contract showing that Monsanto employed them prior to April 25, 2005, the date when the service agreement was signed. On the other hand, the service agreement is *prima facie* evidence that they are employees of East Star. There is no employer-employee relationship between Monsanto, the principal, and private respondents. That relationship is present between East Star, the contractor, and private respondents, because the former has the power to hire and fire, to pay wages and other benefits, and to control the method of work of the private respondents. The private respondents are regular employees of East Star as they have been performing work that is usually necessary and desirable in the usual trade and business of the latter for more than a year prior to dismissal.[17] East Star is a legitimate

[14] Id. at 280.

[15] Id. at 66.

[16] Id. at 60-76.

[17] Id. at 67-70.

job contractor as the DOLE issued a certificate of registration in its favor.[18]

As regular employees, private respondents are entitled to security of tenure and they may only be dismissed for just or authorized causes under Articles 282 and 283 of the Labor Code. Here, the principal no longer needed the services of the private respondents and so the contractor dismissed them from employment. This is not a just or authorized cause for dismissal under the Labor Code. Thus, East Star is liable for illegal dismissal. Still, under the service agreement, Monsanto agreed to be solidarily liable with East Star in case of any violation of any provision of the Labor Code.[19]

> 5. The CONTRACTOR shall be considered the employer of the contractual employees for the purpose of enforcing the provisions of the Labor Code and other social legislation. The PRINCIPAL, however, shall be solidarily liable with the CONTRACTOR in the event of any violation of any provision of the Labor Code, including, the failure to pay wages and other monetary claims.

The CA awarded private respondents backwages from the time they were withheld until finality of the decision, separation pay equivalent to one month pay for every year of service,[20] and moral damages as the dismissal was done in a manner contrary to public policy.[21] The NLRC's reduction of attorney's fees from 10% to 5% was without legal basis and thus, tainted with grave abuse of discretion. However, the CA did not include attorney's fees in the dispositive portion of the decision.[22] The CA removed the award of nominal damages as it presupposes that substantive due process (just or authorized cause) was observed. Since just or authorized cause was absent, the award

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[18] Id. at 69.

[19] Id. at 70-72.

[20] The records reveal that private respondents were in the service of East Star from April 15, 2005 to May 16, 2007; id. at 72.

[21] Id. at 72-73.

[22] Id. at 74-76.

of nominal damages was baseless.[23] The CA awarded a proportionate 13th month to private respondents in the dispositive portion, but it was not discussed in the body of the decision.[24] The CA remanded the case to the LA for the computation of the amounts due to the private respondents.[25]

Second, as for respondent Martin B. Generoso, Jr. (Generoso), he proved that Monsanto engaged his services before the execution of the service agreement. He showed the letters sent to several municipal mayors informing them of the setting up of promotional materials in their respective localities. The letters were all dated December 3, 2004. This means that Monsanto directly hired him and there was an employer-employee relationship between them before the execution of the service agreement. Later, he was transferred to East Star. The CA determined that despite the transfer, the relationship between Monsanto and Generoso remained, and East Star acted as a labor-only contractor in his case.[26] Still the CA did not award 14th month pay, annual wage increase, dependent's medical insurance coverage, and stock option benefit to him.[27]

Third, since it was established that private respondents, except for Generoso, are not Monsanto's employees, they are not entitled to the benefits of Monsanto's employees, such as 14th month pay, annual wage increase, dependent's medical insurance coverage, and stock option benefit. Assuming they were Monsanto's employees, they failed to prove that these benefits were given as a matter of practice. Thus, the NLRC was correct in deleting them.[28]

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[23] Id. at 72-73.

[24] Id. at 75.

[25] Id. at 76.

[26] Id. at 73.

[27] Id. at 76.

[28] Id. at 74.

Monsanto moved for reconsideration, which the CA denied in its Resolution dated March 8, 2017.[29] Unsuccessful, Monsanto filed a petition for partial review under Rule 45 before the Court.

The Issues Presented

1. Whether or not the CA erred in ruling that East Star is a legitimate job contractor and is the employer of private respondents;
2. Whether or not Monsanto is solidarily liable with East Star;
3. Whether or not the CA erred in ruling that private respondents were illegally dismissed for lack of just or authorized cause;
4. Whether or not the CA erred in awarding backwages, separation pay, damages, and attorney's fees to private respondents; and
5. Whether or not the CA erred in ruling that Generoso is an employee of Monsanto.

The Court's Ruling

The petition lacks merit.

The general rule in a petition for review on *certiorari* under Rule 45 of the Rules of Court is that only questions of law shall be raised. In *Republic v. Heirs of Santiago*,[30] the Court enumerated that one of the exceptions to the general rule is when the CA's findings are contrary to those of the trial court.

Here, the Labor Arbiter is likened to a trial court in that he/she is the first adjudicator of truth and justice. The Labor Arbiter has the first opportunity to evaluate the pieces of evidence of the complainant, the respondent, and their respective witnesses during the preliminary conference. Considering the different findings of fact and conclusions of law of the LA and NLRC on one hand, and the CA on the other, the Court shall entertain this petition, which involves a re-assessment of the evidence presented.

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[29] Id. at 77-81.

[30] G.R. No. 193828, March 27, 2017, 808 SCRA 1.

I. East Star is not a legitimate job contractor, and is not the employer of private respondents.

The CA held that the NLRC erred in affirming the LA's factual finding that the private respondents were employees of Monsanto even before the service agreement was signed. There was no evidence to support this finding as the private respondents did not present any proof showing that Monsanto employed them before executing a service agreement with East Star.[31]

On the other hand, the LA ruled that East Star acted as a labor-only contractor, because there is no showing that it hired private respondents and that it has no control over their work. It was Monsanto which exercised control over the private respondents' work, making them its regular employees.[32]

In affirming the LA's Decision, the NLRC established that Monsanto did not dispute the private respondents' allegation that Monsanto hired them through its officers on different dates before the execution of the service agreement. There was admission by silence on Monsanto's part. The NLRC also resolved that Monsanto transferred them to East Star as their new employer, but Monsanto remained as their employer.[33]

As a rule, factual findings of quasi-judicial agencies such as the NLRC are generally accorded not only respect but also finality because of the special knowledge and expertise gained by these agencies from handling matters under their specialized jurisdiction.[34]

Here, the NLRC, in affirming the LA's Decision, established that Monsanto hired the private respondents on different dates between 1996 to 2001. Monsanto has direct control and supervision over their activities through its Marketing Executives and Territory Leads. In promoting and selling Monsanto's

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[31] *Rollo*, p. 67.

[32] *Id.* at 186.

[33] *Id.* at 240-241.

[34] *Interadent Zahntechnik Philippines, Inc. v. Simbillo*, 800 Phil. 769, 781 (2016).

agricultural products and services, they were engaged in activities such as: conducting farmers' meeting, harvest festivals, big landowners/financiers' meeting, and product inventories. Monsanto provided them with vehicles, gasoline supply, and promotional materials necessary for their work. Monsanto also conducted a defensive driving seminar and actual test driving, which included private respondents.[35]

The private respondents represented Monsanto in executing Marketing Incentives Program Agreements with dealers, financiers, and big landowners. At the start of their employment, they were required to open automated teller machine bank accounts through which Monsanto paid their salaries. After Monsanto signed the service agreement with East Star, the latter took over the payment of their salaries, although it did not exercise control and supervision over their work.[36]

Despite the service agreement, the factual findings of the NLRC indicate that Monsanto has direct control and supervision over the private respondents' work and activities. In labor law, one who exercises the power of control over the means, methods, and manner of performing an employee's work is considered as the employer.

The power of the employer to control the work of the employee is considered the most significant determinant of the existence of an employer-employee relationship. This test is premised on whether the person for whom the services are performed reserves the right to control both the end achieved and the manner and means used to achieve that end.[37]

If indeed East Star is the real employer of private respondents, it should be exercising the power of control over them and not Monsanto. The evidence points to the conclusion that East Star is not a legitimate job contractor, but a labor-only contractor. East Star is not the employer of private respondents.

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[35] *Rollo*, p. 238.

[36] Id. at 238-239.

[37] *Reyes v. Glaucoma Research Foundation, Inc.*, 760 Phil. 779, 794 (2015).

Section 5 of DOLE Order No. 18-02 prohibits labor-only contracting and defines it as an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and any of the following elements are present:

1) The contractor or subcontractor does not have substantial capital or investment which relates to the job, work or service to be performed and the employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; or

2) the contractor does not exercise the right to control over the performance of the work of the contractual employee.

The provision further defines substantial capital or investment as capital stocks and subscribed capitalization in the case of corporations, tools, equipment, implements, machineries and work premises, actually and directly used by the contractor or subcontractor in the performance or completion of the job, work or service contracted out.

Here, the NLRC determined that although East Star has a subscribed capital of ₱10,000,000.00 as stated in its Articles of Incorporation, it does not have substantial capital or investment in the form of tools, equipment, implements and machines to use in the performance of the private respondents' work.[38] Clearly, one of the elements of labor-only contracting is present.

To reiterate, the factual findings of the Labor Arbiter as affirmed by the NLRC, established that East Star did not exercise the right to control the performance of private respondents' work. Hence, another element of labor-only contracting exists.

The Court weighs in the NLRC's doubt in the authenticity and truthfulness of the service agreement, which took effect on January 1, 2005 or before East Star was registered with the DOLE on July 14, 2005.[39] We share the same doubt, because

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[38] *Rollo*, p. 240.

[39] Id. at 240-241.

how can the parties execute a service agreement on April 25, 2005 if East Star was only registered with the DOLE on July 14, 2005? Even assuming that the service agreement is valid, East Star was a labor-only contractor when the document was executed because East Star was not yet a DOLE-registered job contractor.

The Court also notes the LA's observation that East Star did not file its Position Paper and supporting documents in this case. Neither did it participate in the proceedings before the CA as its Decision was silent on whether it filed a pleading. Presently, it was only Monsanto who filed a Petition before the Court. Again, East Star did not participate in the proceedings. This is odd considering that East Star was the losing party in the CA's Decision. It is logical to expect that the losing party would be the primary petitioner before the Court. However, it appears that Monsanto had been taking the cudgels for East Star.

The factual circumstances and evidence presented point to the conclusion that Monsanto is the employer of the private respondents. It hired private respondents way before it entered into a service agreement with East Star. After reorganizing, Monsanto transferred private respondents to East Star in violation of their right to security of tenure. As the real employer of private respondents, it is liable for violation of labor laws.

II. Is Monsanto solidarily liable with East Star under the service agreement?

The issue of Monsanto's solidary liability with East Star under the service agreement is of no moment considering that the Court already pronounced that Monsanto is the employer of private respondents. As such, Monsanto is directly liable for the consequences of illegal dismissal, including the money claims.

III. The private respondents were illegally dismissed.

The LA ruled and the NLRC affirmed that private respondents were dismissed for an authorized cause, that is, the reorganization of personnel to streamline Monsanto's operations. However,

since due process was not observed, the private respondents were awarded nominal damages of ₱50,000 each.[40]

The CA differed and held that the dismissal was not based on just or authorized causes under Articles 282 and 283 of the Labor Code, now renumbered as Articles 297 and 298.

ARTICLE 297. [282] *Termination by Employer*. — An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

(b) Gross and habitual neglect by the employee of his duties;

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and

(e) Other causes analogous to the foregoing.

ARTICLE 298. [283] *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 is for the purpose of circumventing the provisions of this Title x x x.[41]

The Court agrees with the CA. Private respondents were dismissed from the service after Monsanto reorganized its company to streamline operations. Monsanto claimed that their positions and functions were redundant. However, there is neither allegation nor evidence that Monsanto suffered losses or would suffer losses that justifies the reduction of workforce. Without evidence to substantiate redundancy, the dismissal cannot be characterized as just or authorized.

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[40] Id. at 187-189, 241, 280.

[41] LABOR CODE OF THE PHILIPPINES, Presidential Decree No. 442 Amended & Renumbered, July 21, 2015.

The LA held that due process in the dismissal was not observed, which the NLRC affirmed and to which the CA did not object. With the unanimous finding of lack of due process in the dismissal of the private respondents, the Court sustains the same. But the Court also sustains the CA's finding that redundancy was not sufficiently established. Therefore, the absence of just or authorized cause and due process in the dismissal renders it illegal.

IV. The private respondents are entitled to backwages, separation pay, damages, and attorney's fees under the law.

Law and jurisprudence laid down the monetary awards that an illegally dismissed employee is entitled to. First, the renumbered Article 294[42] of the Labor Code, formerly Article 279, states that an illegally dismissed employee is entitled to backwages from the time compensation was withheld.

Second, separation pay is warranted when the cause for termination is not attributable to the employee's fault, such as those provided in Articles 298 to 299 of the renumbered Labor Code, as well as in cases of illegal dismissal where reinstatement is no longer feasible.[43]

While the general rule is that an illegally dismissed employee is entitled to reinstatement, and separation pay is awarded only in exceptional circumstances,[44] we find that the exception applies in this case. Reinstatement is not likely to be feasible as 13 years had passed since their dismissal from the service

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[42] ART. 294. [279] *Security of Tenure*. — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

[43] *Symex Security Services, Inc. v. Rivera, Jr.*, G.R. No. 202613, November 8, 2017, 844 SCRA 416, 436-437.

[44] *Emeritus Security & Maintenance Systems, Inc. v. Dailig*, 731 Phil. 319, 325 (2014).

on May 16, 2007. It is unlikely that the positions they once held were still available for them to occupy again.

Moreover, an employee's prayer for separation pay is an indication of the strained relations between the parties. Under the doctrine of strained relations, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable.[45]

Here, private respondents prayed for separation pay and not reinstatement, which signifies that they do not wish to work again with their employer due to strained relations. In fact, the NLRC considered the approved compromise agreement between East Star and the private respondents before the DOLE Regional Office. Monsanto presented a receipt that private respondents received their separation pay. Consequently, the NLRC ruled that whatever amount they previously received should be deducted from the separation pay ordered herein. We sustain the NLRC's ruling considering the Court's finding that East Star is a labor-only contractor. Here, East Star and Monsanto are solidarily liable to pay all the private respondents' money claims.

The compromise agreement is proof that the private respondents had cut their ties with their employer. Otherwise, they would have prayed and fought for reinstatement.

In computing for backwages and separation pay, we follow *Genuino Agro-Industrial Development Corp. v. Romano*.[46]

> Under Article 279 (now Article 294) of the Labor Code, backwages is computed from the time of dismissal until the employee's reinstatement. However, when separation pay is ordered in lieu of reinstatement, backwages is computed from the time of dismissal until the finality of the decision ordering separation pay. Anent the computation of separation pay, the same shall be equivalent to one month salary for every year of service and should not go beyond the

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[45] *Cabañas v. Abelardo G. Luzano Law Office*, G.R. No. 225803, July 2, 2018.

[46] G.R. No. 204782, September 18, 2019.

date an employee was deemed to have been actually separated from employment, or beyond the date when reinstatement was rendered impossible. In the present case, in allowing separation pay, the final decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point.

Third, moral damages are recoverable when the dismissal of an employee is attended by bad faith or fraud or constitutes an act oppressive to labor, or is done in a manner contrary to good morals, good customs or public policy. Exemplary damages, on the other hand, are recoverable when the dismissal was done in a wanton, oppressive, or malevolent manner.[47]

Here, the CA awarded an unspecified amount of moral damages because the dismissal was done in a manner contrary to public policy. The CA determined that East Star treated private respondents as contractual employees in dismissing them from employment. East Star violated the State's policy against contractualization to keep its employees from attaining regular status.[48]

The Court agrees with the award of ₱15,000.00 as moral damages and ₱15,000 as exemplary damages to each of the private respondents, but for a different reason. Private respondents were unceremoniously transferred to East Star to end their regular status in Monsanto. Their years of service in Monsanto were unrecognized and they were deprived of their hard-earned benefits. This is oppression to labor, and violates the principles of good morals, good customs, public policy.

Fourth, Article 111 of the Labor Code states that attorney's fees equivalent to 10% of the amount of wages recovered may be assessed on the culpable party. This was affirmed in *National Power Corp. v. Cabanag*.[49]

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[47] Supra note 43, at 439-440.

[48] *Rollo*, pp. 71-72.

[49] G.R. No. 194529, August 6, 2019.

Lastly, pursuant to *Nacar v. Gallery Frames*,[50] the monetary awards are subject to 6% interest per annum from the finality of this decision until fully paid.

V. Private respondent Generoso is an employee of Monsanto, but he and the rest of the respondents are not entitled to 14th month pay, annual wage increase, dependents' medical insurance coverage, and stock option benefits.

Monsanto argues that the CA erred in holding that private respondent Generoso was its employee. We find no reason to reverse the CA findings on the matter considering that the Court already declared that East Star is a labor-only contractor. Consequently, all the private respondents including Generoso are direct employees of Monsanto. The CA sustained the LA's finding, as affirmed by the NLRC, that Generoso proved that he was a regular employee of Monsanto. He presented communications, all dated December 3, 2004, to several mayors informing them of setting up promotional materials in their respective municipalities. This proved that Monsanto hired him prior to the service agreement, which was signed on April 25, 2005.

However, neither Generoso nor the rest of the private respondents proved that 14th month pay, annual wage increase, dependents' medical insurance coverage, and stock option benefits were given to Monsanto's regular employees as a matter of practice. In fact the NLRC reversed its ruling on this matter and deleted these awards because "complainants failed to prove that the grant of the said benefits is a long established tradition or regular practice on the part of respondent Monsanto. Complainants did not state or discuss with particularity the bases or reasons for claiming the aforesaid benefits.[51]

The CA mentioned a similar discussion when it denied the benefits to the private respondents including Generoso. The CA stated the ACTs [agricultural crop technicians] failed to

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[50] 716 Phil. 267 (2013).

[51] *Rollo*, pp. 279-280.

substantiate that they are entitled to these benefits. The burden of proving entitlement x x x rests on the ACTs because they were not incurred in the normal course of business, x x x they failed to show that regular employees were receiving these benefits as a matter of practice by Monsanto.[52]

With the consistent findings of fact of the two labor tribunals and the appellate court, the Court sees no reason to overturn the same. Accordingly, all of the private respondents are not entitled to 14th month pay, annual wage increase, dependents' medical insurance coverage, and stock option benefits.

WHEREFORE, the petition is **DENIED**. The Court of Appeals Decision dated October 3, 2016 and Resolution dated March 8, 2017 in CA-G.R. SP No. 06830-MIN and CA-G.R. SP No. 04728-MIN are **AFFIRMED WITH MODIFICATION**:

1. The Court finds that East Star is engaged in labor-only contracting. Thus, private respondents are direct employees of Monsanto.
2. Consequently, the Court awards:
    a. Backwages computed from the time the compensation was withheld until the finality of this decision,
    b. Separation pay equivalent to one month salary for every year of service computed from the time of employment until the finality of this decision. However, the same shall be adjusted by deducting whatever amount of separation pay the private respondents previously received from East Star,
    c. ₱15,000.00 as moral damages to each of the private respondents,
    d. ₱15,000.00 as exemplary damages to each of the private respondents, and
    e. Attorney's fees at 10% of the total award.

[52] Id. at 74.

3. The monetary awards are subject to 6% interest per annum following the Court's ruling in *Nacar v. Gallery Frames*.

4. The Labor Arbiter is **ORDERED** to make a recomputation of the total monetary benefits awarded in accordance with this Decision.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Caguioa, Lazaro-Javier,* and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 231290. August 27, 2020]

PERFECTO VELASQUEZ, JR., *Petitioner, v.* **LISONDRA LAND INCORPORATED, represented by EDWIN L. LISONDRA,** *Respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JURISDICTION; IN ORDER FOR THE COURT OR AN ADJUDICATIVE BODY TO HAVE AUTHORITY TO DISPOSE OF THE CASE ON THE MERITS, IT MUST ACQUIRE JURISDICTION OVER THE SUBJECT MATTER, AND JURISDICTION OVER THE SUBJECT MATTER IS CONFERRED BY LAW. — Jurisdiction is defined as the power and authority to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to dismiss the action.

2. CIVIL LAW; PRESIDENTIAL DECREE NO. 1344 (EMPOWERING THE NATIONAL HOUSING AUTHORITY TO ISSUE WRIT OF EXECUTION IN THE ENFORCEMENT OF ITS DECISION UNDER PRESIDENTIAL DECREE NO. 957); HOUSING AND LAND USE REGULATORY BOARD (HLURB); THE CASES BEFORE THE HLURB MUST INVOLVE A SUBDIVISION PROJECT, SUBDIVISION LOT, CONDOMINIUM PROJECT OR CONDOMINIUM UNIT, AND ITS JURISDICTION IS LIMITED TO THOSE CASES FILED BY THE BUYER OR OWNER OF A SUBDIVISION OR CONDOMINIUM BASED ON ANY OF THE CAUSES ENUMERATED UNDER THE LAW. — The scope and limitation of the HLURB's jurisdiction is well-defined. Its precursor, the National Housing Authority (NHA), was vested under PD No. 957 with exclusive jurisdiction to regulate the real estate trade and business. Thereafter, the NHA's jurisdiction

was expanded under Section 1 of PD No. 1344 to include adjudication of the following cases: **(a) unsound real estate business practices;** (b) claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and (c) cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, broker or salesman. In 1981, Executive Order (EO) No. 648 transferred the regulatory and quasi-judicial functions of the NHA to Human Settlements Regulatory Commission. In 1986, EO No. 90 changed the name of the Commission to HLURB. Notably, the cases before the HLURB must involve a subdivision project, subdivision lot, condominium project or condominium unit. Otherwise, the HLURB has no jurisdiction over the subject matter. Similarly, the HLURB's jurisdiction is limited to those cases filed by the buyer or owner of a subdivision or condominium and based on any of the causes of action enumerated under Section 1 of PD No. 1344.

3. REMEDIAL LAW; CIVIL PROCEDURE; JURISDICTION; JURISDICTION BY ESTOPPEL; THE DEFENSE OF LACK OF JURISDICTION MAY BE WAIVED BY ESTOPPEL, BUT CONSIDERING THAT THE LAW APPORTIONED THE JURISDICTION OF COURTS AND TRIBUNALS FOR THE ORDERLY ADMINISTRATION OF JUSTICE, THE DOCTRINE OF ESTOPPEL MUST BE APPLIED WITH GREAT CARE AND ONLY WHEN STRONG EQUITABLE CONSIDERATIONS ARE PRESENT. — The notion that the defense of lack of jurisdiction may be waived by estoppel on the party invoking it most prominently emerged in *Tijam v. Sibonghanoy* where the Supreme Court held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction x x x. Thereafter, there are divergent jurisprudential doctrines touching the issue of jurisdiction by estoppel. The cases of *Spouses Martinez v. De la Merced, Marquez v. Secretary of Labor, Ducat v. Court of Appeals, Bayoca v. Nogales, Spouses Jimenez v. Patricia Inc.,* and *Centeno v. Centeno* all adhered to the doctrine that a party's active participation in the actual proceedings before a court without jurisdiction will bar him

from assailing such lack of jurisdiction. x x x On the other hand, the cases of *Dy v. National Labor Relations Commission, De Rossi v. National Labor Relations Commission* and *Union Motors Corp. v. National Labor Relations Commission* buttressed the rule that jurisdiction is conferred by law and lack of jurisdiction may be questioned at any time even on appeal. x x x However, prior to *Tijam,* this Court already came up with an edifying rule in *People v. Casiano* on when jurisdiction by estoppel applies and when it does not: The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. **If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction**, for the same "must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel" (5 C.J.S., 861-863). **However, if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position — that the lower court had jurisdiction. Here, the principle of estoppel applies.** The rule that jurisdiction is conferred by law, and does not depend upon the will of the parties, has no bearing thereon. The rule was cited and applied in several cases such as *La Naval Drug Corp. v. Court of Appeals, Lozon v. National Labor Relations Commission, Metromedia Times Corp. v. Pastorin, Spouses Vargas v. Spouses Caminas, Figueroa y Cervantes v. People, Atwel v. Concepcion Progressive Association, Inc., Machado v. Gatdula, Cudiamat v. Batangas Savings and Loan Bank, Inc., Calibre Traders, Inc. v. Bayer Philippines, Inc.*, and *Magno v. People.* x x x Considering the above doctrines, we rule that the present case is exceptional and calls for the application of jurisdiction by estoppel. Here, Perfecto originally filed his complaint against Lisondra Land before the RTC which x x x has jurisdiction over the controversy between the parties. However, Lisondra Land claimed that the case is within the HLURB's exclusive authority. It maintained this theory before the CA which eventually ordered the dismissal of the complaint. Thereafter, Perfecto relied on the final and executory decision of the appellate court and refiled the action against Lisondra Land with the HLURB. Lisondra Land actively participated in

the proceedings before the HLURB. After receiving an adverse decision, Lisondra Land questioned the jurisdiction of the HLURB and claimed that the RTC has the authority to hear the case. This is where estoppel operates and bars Lisondra Land from assailing the HLURB's jurisdiction. Lisondra Land cannot now abandon the theory behind its arguments before Civil Case No. 18146, CA-G.R. SP No. 72463 and the HLURB. The Court cannot countenance Lisondra Land's act of adopting inconsistent postures – *first, by attacking the jurisdiction of the trial court and, subsequently, the authority of the HLURB*. Otherwise, the consequence is revolting as Lisondra Land would be allowed to make a complete mockery of the judicial system. In fact, Lisondra Land's conduct had resulted in two conflicting appellate court decisions in CA-G.R. SP No. 72463 and CA-G.R. SP No. 131359 eroding the stability of our legal system and jurisprudence. Also, we are mindful that *Tijam* presented an extraordinary case because the party invoking lack of jurisdiction did so only after 15 years and at a stage when the proceedings had already been elevated to the appellate court. This case is likewise exceptional since many years had lapsed from 2001 when Perfecto filed his complaint in the RTC until 2016 when the Court of Appeals dismissed the complaint before the HLURB. Like in *Tijam*, it is now too late for Lisondra Land to raise the issue of lack of jurisdiction. x x x To conclude, the law apportioned the jurisdiction of courts and tribunals for the orderly administration of justice. Thus, the doctrine of estoppel must be applied with great care and only when strong equitable considerations are present. Here, the unfairness is not only patent but revolting. Lisondra Land should not be allowed to declare as useless all the proceedings had between the parties and compel Perfecto to go up to his Calvary once more.

4. CIVIL LAW; PRESIDENTIAL DECREE NO. 1344 (EMPOWERING THE NATIONAL HOUSING AUTHORITY TO ISSUE A WRIT OF EXECUTION IN THE ENFORCEMENT OF ITS DECISION UNDER PRESIDENTIAL DECREE NO. 957); UNSOUND REAL ESTATE BUSINESS PRACTICES; THE POLICY OF THE LAW IS TO CURB THE UNSCRUPULOUS PRACTICES OF THE SUBDIVISION OWNER AND DEVELOPER IN REAL ESTATE TRADE AND BUSINESS THAT WILL PREJUDICE THE BUYERS, AND ONE WHO IS FOUND GUILTY OF UNSOUND REAL ESTATE BUSINESS PRACTICES IS LIABLE TO PAY

FINES AND DAMAGES. — The policy of PD No. 1344 is to curb the unscrupulous practices of the subdivision owner and developer in real estate trade and business that will prejudice the buyers. Here, substantial evidence exists that Lisondra Land sold memorial lots which are considered open spaces in the approved project plan. The location of a 4-unit mausoleum was found out to be the parking area of the memorial park. Notably, the sale of open spaces is contrary to PD No. 957 which prohibits the unauthorized alteration of plan x x x. Also, some areas of the memorial park did not comply with the required thickness of road networks and portions of the road are sinking and deteriorated. Worse, Lisondra Land sold lots outside the authorized project site. It developed the adjoining land without consent of the owner and misrepresented to the public that it was the second phase of the project. Taken together, these violations are prejudicial to the buyers and constitute unsound real estate business practices which merit the imposition of fines. We quote with approval the pertinent findings of the HLURB and the Office of the President x x x. Perfecto is entitled to damages and attorney's fees. As the HLURB aptly observed, Perfecto incurred administrative expenses and fines because of Lisondra Land's bad faith. Moreover, Perfecto was forced to litigate in order to protect his property rights. Applying *Nacar v. Gallery Frames*, the award of moral and exemplary damages shall earn interest at the rate of 6% per annum from the date of the HLURB Arbiter's Decision on July 20, 2007 until full payment.

APPEARANCES OF COUNSEL

Gonzales Datario Pausanos & Cham Law Offices for petitioner.
Rolando R. Torres, Jr. for respondent.

D E C I S I O N

LOPEZ, *J.*:

The jurisdiction of a quasi-judicial agency and the operation of the principle of estoppel are the core issues in this petition for review on certiorari under Rule 45 of the Rules of Court

assailing the Court of Appeals' (CA) Decision[1] dated December 28, 2016 in CA-G.R. SP No. 131359, which set aside the Office of the President's Decision dated August 1, 2013.

ANTECEDENTS

In 1998, Perfecto Velasquez, Jr. and Lisondra Land Incorporated entered into a joint venture agreement to develop a 7,200-square meter parcel of land into a memorial park.[2] However, Lisondra Land did not secure the required permit from the Housing and Land Use Regulatory Board (HLURB) within a reasonable time which delayed the project construction. Moreover, Lisondra Land failed to provide the memorial park with the necessary insurance coverage and to pay its share in the realty taxes. Worse, Perfecto learned that Lisondra Land collected kickbacks from agents and gave away lots in exchange for the services of the engineers, architects, construction managers and suppliers, contrary to the commitment to finance the project using its own funds. Thus, Perfecto filed against Lisondra Land a complaint for breach of contract before the Regional Trial Court (RTC) docketed as Civil Case No. 18146.[3]

Lisondra Land sought to dismiss the complaint for lack of jurisdiction. It claimed that the supposed violations involved real estate trade and business practices which are within the HLURB's exclusive authority.[4] Yet, the RTC ruled that it is competent to decide the case.[5] Dissatisfied, Lisondra Land elevated the matter to the CA through a special civil action for *certiorari* under Rule 65 docketed as CA-G.R. SP No. 72463.

In its Decision dated November 25, 2003, the CA granted the petition and ordered to dismiss Civil Case No. 18146. It

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[1] *Rollo*, pp. 31-42. Penned by the Associate Justice Nina G. Antonio-Valenzuela, with the concurrence of Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion.

[2] *Id.* at 83-86.

[3] *Id.* at 75-80.

[4] *Id.* at 87-100.

[5] *Id.* at 101-102.

held that the RTC committed grave abuse of discretion in taking cognizance of the complaint and explained that Lisondra Land's alleged acts constitute unsound real estate business practices falling under the HLURB's jurisdiction as provided in Section 1 of Presidential Decree (PD) No. 1344.[6] Further, the RTC's theory that it can hear and decide the case simply because the action is not between buyers and developers of land would limit the application of the law.[7] The CA's ruling lapsed into finality.[8]

Thereafter, Perfecto instituted a complaint before the HLURB claiming that Lisondra Land committed unsound real estate business practices. Allegedly, Lisondra Land expanded the business transactions outside the authorized project site and sold memorial lots without the required permit and license. Also, Lisondra Land failed to develop the project following the approved plan and mandated period.[9] On July 20, 2007, the HLURB Arbiter ruled in favor of Perfecto and found that Lisondra Land violated the joint venture agreement. Thus, it rescinded the contract between the parties, transferred the project management to Perfecto, and ordered Lisondra Land to pay fines, damages and attorney's fees:[10]

WHEREFORE, premises considered, judgment is hereby rendered:

1) Declaring the JVA or the parties as rescinded with the parties to render an accounting of all their expenses and incomes, with the proper restitution if warranted.

2) Ordering the respondent to transfer the management of the subject memorial park covering Lot 1680-A, including Lot 1680-B to the complainant;

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[6] Empowering the National Housing Authority to Issue Writ of Execution in the Enforcement of its Decision under Presidential Decree No. 957.

[7] *Id.* at 103-118. Penned by Associate Justice Renato C. Dacudao, with the concurrence of Associate Justices Cancio C. Garcia and Danilo B. Pine.

[8] *Id.* at 119.

[9] *Id.* at 121-126.

[10] *Id.* at 127-135.

3) Ordering the respondent to pay [complainant] ₱100,000.00 as attorney['s] fee, ₱200,000.00 as moral damages, ₱200,000.00 as exemplary damages, and to pay complainant the cost of suit; and

4) Ordering the respondent to pay a fine of ₱10,000.00 for its unauthorized land development and ₱10,000.00 for every individual sale it executed without the requisite license to sell.

IT IS SO ORDERED.[11]

Lisondra Land appealed to the HLURB Board of Commissioners.[12] In its Decision dated January 15, 2009, the HLURB Board dismissed the case for lack of jurisdiction. It ratiocinated that the RTC have the exclusive authority to decide the case because the dispute is between joint venture partners and is an intra-corporate controversy.[13] Perfecto moved for reconsideration.

On January 21, 2010, the HLURB Board granted the motion and reversed its earlier decision. It denied Lisondra Land's appeal and affirmed the findings of the HLURB Arbiter with modifications as to the amount of damages and attorney's fees.[14]

WHEREFORE, premises considered, the appeal is DENIED and the decision of the Legal Services Group is AFFIRMED, except that the award or moral damages is reduced to ₱50,000.00; exemplary damages to ₱50,000.00; and attorney's fees to [₱]30,000.00.

In all other respects, the decision is AFFIRMED.

SO ORDERED.[15]

Dissatisfied, Lisondra Land brought the case to the Office of the President (OP). In its Decision dated August 1, 2013, the OP denied the appeal and affirmed the HLURB Board's resolution.[16] Aggrieved, Lisondra Land filed a petition for review

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[11] *Id.* at 134-135.

[12] *Id.* at 136-147.

[13] *Id.* at 155-158.

[14] *Id.* at 160-164.

[15] *Id.* at 164.

[16] *Id.* at 165-170.

to the CA docketed as CA-G.R. SP No. 131359 on the ground that the HLURB has no jurisdiction over the subject matter of the case.

On December 28, 2016, the CA found merit in the petition and set aside the OP's decision. It dismissed Perfecto's complaint clarifying that the HLURB's authority is limited only to cases filed by the buyers or owners of subdivision lots and condominium units.[17] Perfecto sought reconsideration[18] but was denied.[19] Hence, this petition.

Perfecto argued that Lisondra Land is now estopped from assailing the HLURB's jurisdiction. It is not allowed to make a complete mockery of the judicial system resulting in two conflicting appellate court Decisions.[20] Meantime, Perfecto informed this Court that Lisondra Land had surrendered the property and he is now in full control of developing the project. Yet, he submits the case for resolution in view of the novel issue raised in his petition.[21] On the other hand, Lisondra Land maintained that Perfecto is not a real estate buyer and his action must be filed before a court of general jurisdiction.[22]

RULING

The petition is meritorious.

Jurisdiction is defined as the power and authority to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the

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[17] *Supra* note 1.

[18] *Id.* at 43-47.

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

[20] *Id.* at 12-30.

[21] *Id.* at 193-194.

[22] *Rollo*, pp. 176-185.

parties or by erroneous belief of the court that it exists. Thus, when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[23] Here, we find it necessary to discuss first the HLURB's jurisdiction.

The jurisdiction of the HLURB to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved and the parties.

The scope and limitation of the HLURB's jurisdiction is well-defined. Its precursor, the National Housing Authority (NHA), was vested under PD No. 957 with exclusive jurisdiction to regulate the real estate trade and business.[24] Thereafter, the NHA's jurisdiction was expanded under Section 1 of PD No. 1344 to include adjudication of the following cases: **(a) unsound real estate business practices**; (b) claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and (c) cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, broker or salesman.[25] In 1981, Executive Order (EO) No. 648 transferred the regulatory and quasi-judicial functions of the NHA to Human Settlements Regulatory

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[23] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, 760 Phil. 954 (2015), citing *Philippine Coconut Producers Federation, Inc. v. Republic*, 679 Phil. 508 (2012); *Spouses Genato v. Viola*, 625 Phil. 514 (2010); *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corp.*, 556 Phil. 822 (2007); *Allied Domecq Philippines, Inc. v. Villon*, 482 Phil. 894 (2004); *Katon v. Palanca, Jr.*, 481 Phil. 168 (2004); and *Zamora v. CA*, 262 Phil. 298 (1990).

[24] Subdivision and Condominium Buyer's Protective Decree effective July 12, 1976. The NHA's jurisdiction includes the registration of subdivision or condominium projects and dealers, brokers and salesmen of subdivision lots or condominium units; the issuance and suspension of license to sell; and the revocation of registration certificate and license to sell.

[25] *Supra* note 6.

Commission.[26] In 1986, EO No. 90 changed the name of the Commission to HLURB.[27]

Notably, the cases before the HLURB must involve a subdivision project,[28] subdivision lot,[29] condominium project[30] or condominium unit.[31] Otherwise, the HLURB has no jurisdiction over the subject matter.[32] Similarly, the HLURB's jurisdiction is limited to those cases filed by the buyer or owner of a subdivision or condominium and based on any of the causes

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[26] Reorganizing the Human Settlements Regulatory Commission effective February 7, 1981.

[27] Identifying the Government Agencies Essential for the National Shelter Program and Defining their Mandates, Creating the Housing and Urban Development Coordinating Council, Rationalizing Funding Sources and Lending Mechanisms for Home Mortgages and for Other Purposes effective December 17, 1986.

[28] Subdivision project shall mean a tract or a parcel of land registered under Act No. 496 which is partitioned primarily for residential purposes into individual lots with or without improvements thereon, and offered to the public for sale, in cash or in installment terms. It shall include all residential, commercial, industrial and recreational areas as well as open spaces and other community and public areas in the project. See Section 2(d) of PD No. 957.

[29] Subdivision lot shall mean any of the lots, whether residential, commercial, industrial, or recreational in a subdivision project. See Section 2(e) or PD No. 957.

[30] Condominium project shall mean the entire parcel or real property divided or to be divided primarily for residential purposes into condominium units, including all structures thereon. See Section 2(g) of PD No. 957.

[31] Condominium unit shall mean a part of the condominium project intended for any type of independent use or ownership, including one or more rooms or spaces located in one or more floors (or part of parts of floors) in a building or buildings and such accessories as may be appended thereto. See Section 2(h) of PD No. 957.

[32] In quite a number or cases, the Court declared the HLURB without jurisdiction where the complaint filed did not allege that the property involved is a subdivision or condominium project or a subdivision lot or condominium unit. See *Lacson Hermanas, Inc. v. Heirs of Cenon Ignacio*, 500 Phil. 673 (2005); and *Spouses Javellana v. Presiding Judge*, 486 Phil. 98 (2004).

of action enumerated under Section 1 of PD No. 1344.[33] The following cases are instructive.

In *Solid Homes, Inc. v. Teresita Payawal*,[34] the private respondent filed a complaint against the petitioner before the RTC for failure to deliver the corresponding certificate of title over a subdivision lot despite payment of the purchase price and for mortgaging the property in bad faith to a financing company. After trial, the RTC ruled in favor of the private respondent. However, the Supreme Court nullified the RTC's decision and held that the NHA is vested with the "exclusive jurisdiction" over an action between a subdivision developer and its buyer. Moreover, it added that a decision rendered without jurisdiction may be assailed any time unless the party raising it is already barred by estoppel, thus:

> The applicable law is PD No. 957, as amended by PD No. 1344, entitled "Empowering the National Housing Authority to Issue Writs of Execution in the Enforcement of Its Decisions Under Presidential Decree No. 957." Section 1 of the latter decree provides as follows:
>
> SECTION 1. In the exercise of its function to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have *exclusive jurisdiction* to hear and decide cases of the following nature:
>
> *A. Unsound real estate business practices*;
>
> B. Claims *involving refund and any other claims* filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and
>
> C. Cases *involving specific performance of contractual statutory obligations* filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman.
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> **The language of this section, especially the italicized portions, leaves no room for doubt that "exclusive jurisdiction" over the case between the petitioner and the private respondent is vested**

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[33] *Delos Santos v. Spouses Sarmiento*, 548 Phil. 1 (2007).

[34] 257 Phil. 914 (1989).

not in the Regional Trial Court but in the National Housing Authority.

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It is settled that any decision rendered without jurisdiction is a total nullity and may be struck down at any time, even on appeal before this Court. The only exception is where the party raising the issue is barred by estoppel, which does not appear in the case before us. On the contrary, the issue was raised as early as in the motion to dismiss filed in the trial court by the petitioner, which continued to plead it in its answer and, later, on appeal to the respondent court. We have no choice, therefore, notwithstanding the delay this decision will entail, to nullify the proceedings in the trial court for lack of jurisdiction. (Emphases Supplied.)

Similarly, *Peña v. Government Service Insurance System*,[35] declared that HLURB has jurisdiction over a complaint filed by a buyer against a subdivision developer and its mortgagee although the action involved title or possession in the real estate, *viz.*:

When an administrative agency or body is conferred quasi-judicial functions, all controversies relating to the subject matter pertaining to its specialization are deemed to be included within the jurisdiction of said administrative agency or body. Split jurisdiction is not favored. **Therefore, the Complaint for Specific Performance, Annulment of Mortgage, and Damages filed by petitioner against respondent, though involving title to, possession of, or interest in real estate, was well within the jurisdiction of the HLURB for it involves a claim against the subdivision developer, Queen's Row Subdivision, Inc., as well as respondent.**

Later, *Ortigas & Co., Ltd. Partnership v. Court of Appeals*[36] interpreted Section 1 of P.D. No. 1344 with respect to the HLURB's power to hear and decide complaints for unsound real estate business practices against land developers. We ruled that the offended party in such kind of action are buyers of lands involved in development. Otherwise, the complaint must be filed before a court of general jurisdiction, to wit:

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[35] 533 Phil. 670 (2006).

[36] 688 Phil. 367 (2012).

Section 1 of P.D. 1344 vests in the HLURB the exclusive jurisdiction to hear and decide the following cases:

(a) unsound real estate business practices;

(b) claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker, or salesman; and

(c) cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lots or condominium units against the owner, developer, dealer, broker or salesman.

Unlike paragraphs (b) and (c) above, paragraph (a) does not state which party can file a claim against an unsound real estate business practice. **But, in the context of the evident objective of Section 1, it is implicit that the "unsound real estate business practice" would, like the offended party in paragraphs (b) and (c), be the buyers of lands involved in development.** The policy of the law is to curb unscrupulous practices in real estate trade and business that prejudice buyers.

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Obviously, the City had not bought a lot in the subject area from Ortigas which would give it a right to seek HLURB intervention in enforcing a local ordinance that regulates the use of private land within its jurisdiction in the interest of the general welfare. **It has the right to bring such kind of action but only before a court of general jurisdiction such as the RTC.** (Emphases Ours.)

Here, it is undisputed that Perfecto is a business partner of Lisondra Land and is not a buyer of land involved in development. Applying the above case doctrines, Perfecto has no personality to sue Lisondra Land for unsound real estate business practices before the HLURB. The regular courts have authority to decide their dispute. Nonetheless, we hold that Lisondra Land is already estopped from questioning the HLURB's jurisdiction.

Lisondra Land cannot assume a theory different from its position in Civil Case No. 18146, CA-G.R. SP No. 72463 and the HLURB.

The notion that the defense of lack of jurisdiction may be waived by estoppel on the party invoking it most prominently emerged in *Tijam v. Sibonghanoy*[37] where the Supreme Court held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction, to wit:

> The facts of this case show that from the time the Surety became a quasi-party on July 31, 1948, it could have raised the question of the lack of jurisdiction of the Court of First Instance or Cebu to take cognizance of the present action by reason of the sum of money involved which, according to the law then in force, was within the original exclusive jurisdiction of inferior courts. It failed to do so. Instead, at several stages of the proceedings in the court *a quo* as well as in the Court of Appeals, **it invoked the jurisdiction of said courts to obtain affirmative relief and submitted its case for a final adjudication on the merits. It was only after an adverse decision was rendered by the Court of Appeals that it finally woke up to raise the question of jurisdiction**. Were we to sanction such conduct on its part. We would in effect be declaring as useless all the proceedings had in the present case since it was commenced on July 19, 1948 and compel the judgment creditors to go up their alvary once more. **The inequity and unfairness of this is not only patent but revolting.**

Thereafter, there are divergent jurisprudential doctrines touching the issue of jurisdiction by estoppel. The cases of *Spouses Martinez v. De la Merced*,[38] *Marquez v. Secretary of Labor*,[39] *Ducat v. Court of Appeals*,[40] *Bayoca v. Nogales*,[41] *Spouses Jimenez v. Patricia Inc.*,[42] and *Centeno v. Centeno*[43]

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[37] 131 Phil. 556 (1968).

[38] 255 Phil. 871 (1989).

[39] 253 Phil. 329 (1989).

[40] 379 Phil. 753 (2000).

[41] 394 Phil. 465 (2000).

[42] 394 Phil. 877 (2000).

[43] 397 Phil. 170 (2000).

all adhered to the doctrine that a party's active participation in the actual proceedings before a court without jurisdiction will bar him from assailing such lack of jurisdiction.

In *Martinez*, the private respondents had several opportunities to raise the question of lack of preliminary conference but they did not raise or even hint this issue amounting to a waiver of the irregularity of the proceedings. We ruled that while lack of jurisdiction may be assailed at any stage, a party's active participation in the proceedings before a court without jurisdiction will estop such party from assailing such lack of jurisdiction.[44] In *Marquez*, the petitioner impugned the jurisdiction of the Secretary of Labor and the Regional Director contending that all money claims of workers arising from an employer-employee relationship are within the exclusive jurisdiction of the Labor Arbiter. We reiterated that the active participation of the party against whom the action was brought, coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.[45]

Similarly in *Ducat*, we declared that if the parties acquiesced in submitting an issue for determination by the trial court, they

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[44] In this case, the private respondents had at least three opportunities to raise the question of lack of preliminary conference first, when private respondents filed a motion for extension of time to file their position paper; second, at the time when they actually filed their position paper in which they sought native relief from the Metropolitan Trial Court; and third, when they filed a motion for reconsideration of the order of the Metropolitan Trial Court expunging from the records the position paper of private respondents, in which motion private respondents even urged the court to sustain their position paper.

[45] In this case, the complaint was pending before the Regional Director, petitioner did not raise the issue of jurisdiction but instead actively participated in the hearings. After the adverse decision of the Regional Director and upon the elevation of the case on appeal to the Secretary of Labor, still no jurisdictional challenge was made. Even in the two motions for reconsideration of the DOLE decision of affirmance, petitioner did not assail the jurisdiction of the Secretary of Labor or the Regional Director.

are estopped from questioning the jurisdiction of the same court to pass upon the issue.[46] In *Bayoca*, the petitioners claimed that the property is a public agricultural land over which the trial court has no jurisdiction. We ruled that petitioners raised this issue only before the Supreme Court and are now estopped considering that they have actively participated in the proceedings before the lower and appellate courts with their principal defense consisting of the certificates of titles in their names. In *Jimenez*, the petitioners assailed the MeTC's jurisdiction contending that the failure of the complaint to allege the character of the sublease or entry into the property, whether legal or illegal, automatically classified it into an *accion publiciana or reivindicatoria* cognizable by the RTC. We held that petitioners cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily.[47]

In *Centeno*, the petitioners alleged that the DARAB does not have jurisdiction over the complaint since the dispute is not agrarian in character. They averred that the case is clearly one for recovery of possession which falls under the jurisdiction of the regular courts. We ruled that petitioners are estopped from raising the issue of jurisdiction of the DARAB and that

[46] In this case, the petitioner's filing of a Manifestation and Urgent Motion to Set Parameters of Computation is indicative of its conformity with the questioned order of the trial court referring the matter of computation of the excess to SGV and simultaneously thereafter, the issuance of a writ of possession. The Supreme Court noted that if petitioner thought that subject order was wrong, it could have taken recourse to the Court of Appeals but petitioner did not. Instead he manifested his acquiescence in the said order by seeking parameters before the trial court. It is now too late for petitioner to question subject order of the trial court.

[47] In this case, the petitioners raised the jurisdictional issue for the first time only in the Petition for Review. However, it should be noted that they did so only after an adverse decision was rendered by the Court of Appeals. Despite several opportunities in the RTC, which ruled in their favor, and in the Court of Appeals, petitioners never advanced the question of jurisdiction of the MeTC. Additionally, petitioners participated actively in the proceedings before the MeTC and invoked its jurisdiction with the filing of their answer, in seeking affirmative relief from it, in subsequently filing a notice of appeal before the RTC, and later, a Petition for Review with the Court of Appeals.

participation by certain parties in the administrative proceedings without raising any objection thereto, bars them from any jurisdictional infirmity after an adverse decision is rendered against them.[48]

On the other hand, the cases of *Dy v. National Labor Relations Commission*,[49] *De Rossi v. National Labor Relations Commission*[50] and *Union Motors Corp. v. National Labor Relations Commission*[51] buttressed the rule that jurisdiction is conferred by law and lack of jurisdiction may be questioned at any time even on appeal.

In *Dy*, the private respondent, who is holding an elective corporate office, filed a complaint for illegal dismissal before the NLRC and not with the SEC. The respondent invoked estoppel as against petitioners with respect to the issue of jurisdiction. We declared that estoppel cannot be invoked to prevent this Court from taking up the question of jurisdiction, which has been apparent on the face of the pleadings since the start of litigation. The decision of a tribunal not vested with appropriate jurisdiction is null and void. In *De Rossi*, which also involved the removal of a corporate officer, the petitioners argued that the private respondents never questioned the jurisdiction of the NLRC until after the case had been brought on appeal. We reiterated that jurisdiction of a tribunal, agency, or office, is conferred by law, and its lack of jurisdiction may be questioned at any time even on appeal.

In *Union Motors*, the private respondent contended that the petitioners actively participated in the proceedings before the Labor Arbiter and the NLRC and are estopped from assailing their jurisdiction. We maintained the rule that jurisdiction over a subject matter is conferred by law. Estoppel does not apply

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[48] In this case, a perusal of the records will show that petitioners participated in all stages of the instant case, selling up a counterclaim and asking for affirmative relief in their answer.

[49] 229 Phil. 234 (1986).

[50] 373 Phil. 17 (1999).

[51] 373 Phil. 310 (1999).

to confer jurisdiction to a tribunal that has none over a cause of action. The principle of estoppel cannot be invoked to prevent this Court from taking up the question of jurisdiction.

However, prior to *Tijam*, this Court already came up with an edifying rule in *People v. Casiano*[52] on when jurisdiction by estoppel applies and when it does not:

> The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. **If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction**, for the same "must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel" (5 C.J.S., 861-863). **However, if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position — that the lower court had jurisdiction. Here, the principle of estoppel applies.** The rule that jurisdiction is conferred by law, and does not depend upon the will of the duties, has no bearing thereon. (Emphases Ours.)

The rule was cited and applied in several cases such as *La Naval Drug Corp. v. Court of Appeals*,[53] *Lozon v. National Labor Relations Commission*,[54] *Metromedia Times Corp. v. Pastorin*,[55] *Spouses Vargas v. Spouses Caminas*,[56] *Figueroa y Cervantes v. People*,[57] *Atwel v. Concepcion Progressive Association, Inc.*,[58] *Machado v. Gatdula*,[59] *Cudiamat v. Batangas*

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[52] 111 Phil. 73 (1961).

[53] 306 Phil. 84 (1994).

[54] 310 Phil. 1 (1995).

[55] 503 Phil. 288 (2005).

[56] 577 Phil. 185 (2008).

[57] 580 Phil. 58 (2008).

[58] 574 Phil. 430 (2008).

[59] 626 Phil. 457 (2010).

Savings and Loan Bank, Inc.,[60] *Calibre Traders, Inc. v. Bayer Philippines, Inc.*,[61] and *Magno v. People*.[62]

In *La Naval*, we said that whenever it appears that the court has no jurisdiction over the subject matter, the actions shall be dismissed. This defense may be interposed at any time, during appeal or even after final judgment. Neither the courts nor the parties can confer jurisdiction which is legislative in character.[63] In *Metromedia Times*, the petitioner is not estopped from assailing the jurisdiction of the labor arbiter before the NLRC on appeal in line with the general rule that estoppel does not confer jurisdiction. We made similar pronouncements in the cases of *Lozon*,[64] *Spouses Vargas*,[65] *Figueroa*,[66] *Atwel, et al.*,[67]

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[60] 628 Phil. 641 (2010).

[61] 647 Phil. 350 (2010).

[62] 662 Phil. 726 (2011).

[63] In this case, the want of jurisdiction by the court is indisputable given the nature of the controversy. The arbitration law explicitly confines the court's authority only to pass upon the issue of whether there is or there is no agreement in writing providing for arbitration. In the affirmative, the statute ordains that the court shall issue an order "summarily directing the parties to proceed with the arbitration in accordance with the terms thereof." If the court, upon the other hand, finds that no such agreement exists, "the proceeding shall be dismissed." The proceedings are summary in nature.

[64] In this case, the Supreme Court sustained the NLRC's dismissal of the illegal dismissal case filed before the Labor Arbiter on the ground that the action is within the SEC's jurisdiction.

[65] In this case, the HLURB and not the trial court which has jurisdiction over the controversy. Moreover, the petitioners raised the issue of jurisdiction before the trial court rendered its decision. They continued to raise the issue on appeal before the Court of Appeals and Supreme Court. Hence, laches has not set in.

[66] In this case, the petitioner is in no way estopped by laches in assailing the jurisdiction of the RTC, considering that he raised the lack thereof in his appeal before the appellate court. At that time, no considerable period had yet elapsed for laches to attach.

[67] In this case, the conflict among the parties was outside the jurisdiction of the special commercial court. The doctrine of jurisdiction by estoppel is not available absent exceptional circumstance. The respondent cannot be permitted to wrest from petitioners the administration of the disputed property

Machado[68] and *Magno*[69] that estoppel shall not apply when the court or tribunal has no jurisdiction over the subject matter.

On the other hand, estoppel was applied in *Calibre Traders* since the trial court had jurisdiction over the respondent's counterclaim even if it incorrectly dismissed the case for non-payment of docket fees, to wit:

> In accordance with the aforementioned rules on payment of docket fees, the trial court upon a determination that Bayerphil's counterclaim was permissive, should have instead ordered Bayerphil to pay the required docket fees for the permissive counterclaim, giving it reasonable time but in no case beyond the reglementary period. At the time Bayerphil filed its counter-claim against Calibre and the spouses Sebastian without having paid the docket fees up to the time the trial court rendered its Decision on December 6, 1993. Bayerphil could still be ordered to pay the docket fees since no prescription has yet set in. Besides, Bayerphil should not suffer from the dismissal or its case due to the mistake of the trial court.
>
> **Considering the foregoing discussion, we find no need to remand the case to the trial court for the resolution of Bayerphil's counterclaim. In Metromedia Times Corporation v. Pastorin, we discussed the rule as to when jurisdiction by estoppel applies and when it does not** x x x.
>
> x x x x x x x x x
>
> **In this case, the trial court had jurisdiction over the counterclaim although it erroneously ordered its automatic**

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until after the parties' rights are clearly adjudicated in the proper courts. It is neither fair nor legal to bind a party to the result of a suit or proceeding in a court with no jurisdiction.

[68] In this case, the Commission on Settlement of Land Problems did not have jurisdiction over the subject matter of the complaint. Yet, it proceeded to assume jurisdiction over the case and even issued writs of execution and demolition against the petitioners. The lack of jurisdiction cannot be cured by the parties' participation in the proceedings. As such, the petitioners can rightfully question its jurisdiction at any time, even during appeal or after final judgment.

[69] In this case, the Sandiganbayan, not the CA, has appellate jurisdiction over the RTC's decision. The principle of estoppel cannot cure the jurisdictional defect of the Ombudsman's petition before the CA.

dismissal. As already discussed, the trial court should have instead directed Bayerphil to pay the required docket fees within a reasonable time. Even then, records show that the trial court heard the counterclaim although it again erroneously found the same to be unmeritorious. **Besides, it must also be mentioned that Bayerphil was lulled into believing that its counterclaim was indeed compulsory and thus there was no need to pay docket fees** by virtue of Judge Claravall's October 24, 1990 Resolution. Petitioners also actively participated in the adjudication of the counterclaim which the trial court adjudge to be unmeritorious. (Emphases Ours.)

Yet, *Cudiamat* refused to apply the general rule that estoppel does not confer authority upon a court or tribunal and that lack of jurisdiction over the subject matter can be raised at any time. It established an exception when to compel the aggrieved party to refile the case would be an exercise in futility or superfluous, *viz.*:

In the present case, the Balayan RTC, sitting as a court of general jurisdiction, had jurisdiction over the complaint for quieting of title filed by petitioners on August 9, 1999. The Nasugbu RTC, as a liquidation court, assumed jurisdiction over the claims against the bank only on May 25, 2000, when PDIC's petition for assistance in the liquidation was raffled thereat and given due course.

While it is well-settled that lack of jurisdiction on the subject matter can be raised at any time and is not lost by estoppel by laches, the present case is an exception. To compel petitioners to re-file and relitigate their claims before the Nasugbu RTC when the parties had already been given the opportunity to present their respective evidence in a full-blown trial before the Balayan RTC which had, in fact, decided petitioners' complaint (about two years before the appellate court rendered the assailed decision) would be an exercise in futility and would unjustly burden petitioners.

The Court, in *Valenzuela v. Court of Appeals*, held that as a general rule, if there is a judicial liquidation of an insolvent bank, all claims against the bank should be filed in the liquidation proceeding. The Court in *Valenzuela*, however, after considering the circumstances attendant to the case, held that the general rule should not be applied if to order the aggrieved party to refile or relitigate its case before the litigation court would be "an exercise in futility." Among the

circumstances the Court considered in that case is the fact that the claimants were poor and the disputed parcel of land was their only property, and the parties' claims and defenses were properly ventilated in and considered by the judicial court.

In the present case, the Court finds that analogous considerations exist to warrant the application of *Valenzuela*. Petitioner Restituto was 78 years old at the time the petition was filed in this Court, and his co-petitioner-wife Erlinda died during the pendency of the case. And, except for co-petitioner Corazon, Restitute is a resident of Ozamis City. **To compel him to appear and relitigate the case in the liquidation court-Nasugbu RTC when the issues to be raised before it are the same as those already exhaustively passed upon and decided by the Balayan RTC will be superfluous.** (Emphases Ours.)

Considering the above doctrines, we rule that the present case is exceptional and calls for the application of jurisdiction by estoppel.

Here, Perfecto originally filed his complaint against Lisondra Land before the RTC which, as discussed earlier, has jurisdiction over the controversy between the parties. However, Lisondra Land claimed that the case is within the HLURB's exclusive authority. It maintained this theory before the CA which eventually ordered the dismissal of the complaint. Thereafter, Perfecto relied on the final and executory decision of the appellate court and refiled the action against Lisondra Land with the HLURB. Lisondra Land actively participated in the proceedings before the HLURB. After receiving an adverse decision, Lisondra Land questioned the jurisdiction of the HLURB and claimed that the RTC has the authority to hear the case. This is where estoppel operates and bars Lisondra Land from assailing the HLURB's jurisdiction. Lisondra Land cannot now abandon the theory behind its arguments before Civil Case No. 18146, CA-G.R. SP No. 72463 and the HLURB. The Court cannot countenance Lisondra Land's act of adopting inconsistent postures — *first, by attacking the jurisdiction of the trial court and, subsequently, the authority of the HLURB*. Otherwise, the consequence is revolting as Lisondra Land would be allowed to make a complete mockery of the judicial system. In fact, Lisondra Land's conduct had resulted in two conflicting appellate

court decisions in CA-G.R. SP No. 72463 and CA-G.R. SP No. 131359 eroding the stability of our legal system and jurisprudence.

Also, we are mindful that *Tijam* presented an extraordinary case because the party invoking lack of jurisdiction did so only after 15 years and at a stage when the proceedings had already been elevated to the appellate court. This case is likewise exceptional since many years had lapsed from 2001 when Perfecto filed his complaint in the RTC until 2016 when the Court of Appeals dismissed the complaint before the HLURB. Like in *Tijam*, it is now too late for Lisondra Land to raise the issue of lack of jurisdiction.

Ordinarily, the Court remands the case to the CA for proper disposition on the merits. Nevertheless, to avoid further delay, we deem it more appropriate and practical to resolve the question of whether Lisondra Land is guilty of unsound real estate business practice.

Lisondra Land is guilty of unsound real estate business practices.

As pointed earlier, Lisondra Land had surrendered the property and Perfecto is now in full control of developing the project. However, this did not render the case academic. There remains an actual controversy between the parties. The principal issues on whether Lisondra Land is guilty of unsound real estate business practices and is liable to pay fines and damages are still unresolved. At most, the surrender of property only mooted Perfecto's prayer for the rescission of the joint venture agreement. The Court's declaration on the other questions would certainly be of practical value to the parties.[70] Hence, we shall not refrain from rendering a decision on the merits of this case.

The policy of PD No. 1344 is to curb the unscrupulous practices of the subdivision owner and developer in real estate

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[70] *Carpio v. Court of Appeals*, 705 Phil. 153 (2013). See also *Ticzon v. Video Post Manila, Inc.*, 389 Phil. 20 (2000); and *Tecnogas Philippines Manufacturing Corp. v. Philippine National Bank*, 574 Phil. 340 (2008), citing *Philippine National Bank v. Court of Appeals*, 353 Phil. 473 (1998).

trade and business that will prejudice the buyers. Here, substantial evidence exists that Lisondra Land sold memorial lots which are considered open spaces in the approved project plan. The location of a 4-unit mausoleum was found out to be the parking area of the memorial park.[71] Notably, the sale of open spaces is contrary to PD No. 957 which prohibits the unauthorized alteration of plan, thus:

> Section 22. *Alteration of Plans*. No owner or developer shall change or alter the roads, open spaces, infrastructures, facilities for public use and/or other form of subdivision development as contained in the approved subdivision plan and/or represented in its advertisements, without the permission of the Authority and the written conformity or consent of the duly organized homeowners association, or in the absence or the latter, by the majority of the lot buyers in the subdivision.

Also, some areas of the memorial park did not comply with the required thickness of road networks and portions of the road are sinking and deteriorated.[72] Worse, Lisondra Land sold lots outside the authorized project site. It developed the adjoining land without consent of the owner and misrepresented to the public that it was the second phase of the project.[73] Taken together, these violations are prejudicial to the buyers and constitute unsound real estate business practices which merit the imposition of fines. We quote with approval the pertinent findings of the HLURB and the Office of the President, thus:

> [HLURB's Resolution dated January 21, 2010]
>
> There is no clear cut definition of what is unsound real estate business practice. However, based on the context of PD 1344, it is inferable that an act by the real estate owner/developer that would cause prejudice upon its buyers may be classified as such.
>
> In the present case, the monitoring issuances of the Regional Office attest to the violations of PD 957 found to have been committed by respondent. The Notice of Violation dated July 21, 2006 found that

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[71] *Rollo*, pp. 132-133.

[72] *Id.* at 130.

[73] *Id.* at 134.

respondent failed to complete the project development within the prescribed period and failed to secure an Extension of Time to Develop for said project. As a consequence, the project's license was suspended. There are also findings of introduction of alterations on the approved development plan without proper permit. The Legal Services Group also found that respondent went beyond the scope of the JVA when it introduced developments and sold lots in Lot 1680-B without authority of complainant and failed to adduce any evidence to support its claim that the development activities were with complainant's consent. The Regional Office also found that respondent sold lots that formed part of the open space or the project. **All these violations may result in unauthorized sales and incomplete development of the project to the prejudice ultimately of the buyers.**[74]

[Office of the President's Decision dated August 1, 2013]

Lot 1680-A is the subject of the JVA (Phase I) and not Lot 1680-B (Phase II). Nevertheless, LLI expanded its business development transactions and activities to Lot 1680-B without completing the development of Lot 1680-A in accordance with the approved plan and within the period of twelve (12) months. The license to sell issued for Lot 1680-A project mandates that the project shall be completed not later than 24 February 1998. However, as discovered by the HLURB Regional Field Office No. 1, as of 13 September 2005, the project is still not fully developed. In the same findings, the HLURB suspended the license to sell of LLI as to blocks 1, 2, 3 and road lot of 5 of the approved development plan for the reasons that the road networks [are] only about 3-4 inches thick which is less than the required thickness of 6 inches; portions of the road appears to have sunk and deteriorated; and there had been alterations in the approved development plans granted and issued by the LGU, specifically on block[s] 1, 2 and 3, and block 20 and road lot 5.

LLI's violations of the JVA is further evidenced by the letter dated 21 July 2006 issued by the HLURB Regional Office No. 1 suspending temporarily its license to sell for failure to develop the project site in accordance with the development plans approved by the Municipal Government of Mangatarem. Lastly, LLI did not secure an approval for extension of time to develop the subject property despite the period given by the HLURB to comply with the existing laws.[75]

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[74] *Rollo*, pp. 163 and 164.

[75] *Id.* at 168.

Lastly, Perfecto is entitled to damages and attorney's fees. As the HLURB aptly observed, Perfecto incurred administrative expenses and fines because of Lisondra Land's bad faith. Moreover, Perfecto was forced to litigate in order to protect his property rights. Applying *Nacar v. Gallery Frames*,[76] the award of moral and exemplary damages shall earn interest at the rate of 6% per annum from the date of the HLURB Arbiter's Decision on July 20, 2007 until full payment.

To conclude, the law apportioned the jurisdiction of courts and tribunals for the orderly administration of justice. Thus, the doctrine of estoppel must be applied with great care and only when strong equitable considerations are present.[77] Here, the unfairness is not only patent but revolting. Lisondra Land should not be allowed to declare as useless all the proceedings had between the parties and compel Perfecto to go up to his Calvary once more.

FOR THESE REASONS, the petition is **GRANTED** and the assailed Court of Appeals' Decision dated December 28, 2016 in CA-G.R. SP No. 131359 is **REVERSED**. The Office of the President's Decision dated August 1, 2013 is **REINSTATED** and **AFFIRMED** with **MODIFICATION** in that the award of moral and exemplary damages shall earn interest at the rate of 6% *per annum* from the date of the Housing and Land Use Regulatory Board Arbiter's Decision on July 20, 2007 until full payment.

SO ORDERED.

Caguioa (*Acting Chairperson*), *Reyes, Jr., Hernando,*[*] and *Lazaro-Javier, JJ.*, concur.

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[76] 716 Phil. 267 (2013).

[77] *C & S Fishfarm Corp. v. Court of Appeals*, 442 Phil. 279 (2002).

[*] Designated additional Member per Raffle dated August 19, 2020.

FIRST DIVISION

[G.R. No. 232044. August 27, 2020]

METROPOLITAN BANK & TRUST CO., *Petitioner*, *v.* **JUNNEL'S MARKETING CORPORATION, *ET AL.*,** *Respondents*.

[G.R. No. 232057. August 27, 2020]

ASIA UNITED BANK CORPORATION, *Petitioner*, *v.* **JUNNEL'S MARKETING CORPORATION, METROBANK & TRUST CO., PURIFICATION C. DELIZO, & ZENAIDA CASQUERO,** *Respondents*.

SYLLABUS

1. MERCANTILE LAW; NEGOTIABLE INSTRUMENTS LAW (NIL); CROSSED CHECK, DEFINED; EFFECTS OF CROSSING A CHECK. — A crossed check is one where two parallel lines are drawn across its face or across its corner, and carries with it the following effects: (a) the check may not be encashed but only deposited in the bank; (b) the check may be negotiated only once to the one who has an account with the bank; and (c) the act of crossing the check serves as a warning to the holder that the check has been issued for a definite purpose and he must inquire if he received the check pursuant to this purpose; otherwise, he is not a holder in due course. The crossing of a check, thus, means that the check should be deposited only in the account of the payee.

2. ID.; ID.; LIABILITY OF THE DRAWEE BANK AND THE COLLECTING BANK IN UNAUTHORIZED PAYMENT OF CHECKS; WHERE THE DRAWEE BANK PAYS A PERSON OTHER THAN THE NAMED PAYEE IN THE CHECK, IT VIOLATES ITS CONTRACTUAL OBLIGATION TO ITS CLIENT-DRAWER AND THEREFORE LIABLE FOR THE AMOUNT CHARGED TO THE LATTER'S ACCOUNT EVEN IF IT MERELY ACTED UPON THE GUARANTEE OF THE COLLECTING BANK; PRINCIPLE, APPLIED. — The drawee bank, or the bank on which a check

is drawn, is bound by its contractual obligation to its client, the drawer, to pay the check only to the payee or to the payee's order. The drawee bank is duty-bound to follow strictly the instructions of its client, which is reflected on the face of, and by the terms of, the check. When the drawee bank pays a person other than the named payee on the check, the drawee bank violates its contractual obligation to its client. Thus, it shall be held liable for the amount charged to the drawer's account. When an unauthorized payment on the checks is made, the liability of Metrobank to JMC attaches even if it merely acted upon the guarantee of the collecting bank. x x x It is undisputed that the checks with numbers 3010048880 and 3010049229 are crossed checks. As such, the drawer's instruction is that they should be deposited only to the account of the payees named therein. By paying the checks to the person who is not the named payee thereof, Metrobank violated the instructions of JMC, and is, therefore liable for the amount charged to JMC's account. As regards the checks payable to the order of specific persons, Metrobank is also under strict liability to pay the checks to the named payee therein. JMC's instruction to pay these checks to the named payee is clearly written on the checks. Metrobank violated this instruction when it paid the amount of the checks deposited to Casquero's account. Hence, Metrobank should suffer the consequence of this wrongful encashment.

3. ID.; ID.; ID.; THE DRAWEE BANK, WHICH MERELY RELIED UPON THE GUARANTEE OF THE COLLECTING BANK, MAY SEEK REIMBURSEMENT FROM THE LATTER; A COLLECTING BANK IS AN ENDORSER THAT ASSUMES ALL THE WARRANTIES UNDER SECTION 66 OF THE NEGOTIABLE INTRUMENTS LAW; THE COLLECTING BANK, BEING THE LAST ENDORSER, IS LIABLE EVEN IF THE PREVIOUS ENDORSEMENTS WERE FORGED. — The liability, however, does not fall entirely upon Metrobank. Metrobank which merely relied upon the guaranty of the collecting bank, AUB, may seek reimbursement from the latter. A collecting bank where a check is deposited, and which endorses the check upon presentment with the drawee bank, is an endorser. Under Section 66 of the Negotiable Instruments Law, an endorser warrants: (1) that the instrument is genuine and in all respects what it purports to be; (2) that the endorser has good title to it; (3) that all prior parties had capacity to contract; and (4) that the instrument is,

at the time of the indorsement, valid and subsisting. When a collecting bank presents a check to the drawee bank for payment, the former thereby assumes the same warranties assumed by an endorser of a negotiable instrument and if any of these warranties turn out to be false, the collecting bank becomes liable to the drawee bank for the payments made under these false warranties. When AUB presented the subject checks to Metrobank for payment, it guaranteed that the checks were genuine and in all respect what it purports to be and deposited to an account that has a good title to these checks. These guaranties, however, turned out to be false as Delizo admitted that she stole the subject checks and that they were not delivered to the named payee therein. These checks were instead deposited to Casquero's account, who was not the named payee thereof. Since these checks were paid under these false guaranties, AUB is liable to reimburse Metrobank with the value of the checks. AUB cannot absolve itself from liability by arguing that it credited the amount of the checks to Casquero's account only after Metrobank cleared them for payment. Since the subject checks were deposited in Casquero's account in AUB, AUB also has the opportunity to determine whether the checks will be paid to the rightful payee. The fact that two of the checks were crossed should have alerted AUB that these checks are meant to be deposited only to the payee's account. As regards the checks payable to order, AUB, as the last indorser, is liable for the payment of the checks even if the previous indorsements were forged. This Court has ruled in a long line of cases that "a collecting bank which indorses a check bearing a forged indorsement and presents it to the drawee bank guarantees all prior indorsements, including the forged indorsement itself, and ultimately should be held liable therefor." Thus, AUB should be liable to reimburse Metrobank for the amount of the seven checks.

4. ID.; ID.; ID.; THE COLLECTING BANK MAY SEEK REIMBURSEMENT FROM THE PERSONS WHO CAUSED THE CHECKS TO BE DEPOSITED AND RECEIVED THE UNAUTHORIZED PAYMENTS. — It is settled that the collecting bank which reimbursed the drawee bank may in turn seek reimbursement from the persons who caused the checks to be deposited and received the unauthorized payments. The CA affirmed the RTC's findings that Delizo's participation was established by her own written confession

and that Casquero received the proceeds of the checks as they were deposited in her account. Thus, the CA correctly ruled that Casquero and Delizo should reimburse AUB of the amount it paid to Metrobank.

5. CIVIL LAW; INTEREST; AS THE OBLIGATION IN THIS CASE DOES NOT CONSTITUTE A LOAN OR FORBEARANCE OF MONEY, 6% INTEREST PER ANNUM FROM THE TIME OF DEMAND SHALL BE IMPOSED. — Metrobank asserts that the CA erred in imposing upon the monetary award the interest rate of 12% from April 30, 2002, and 6% from July 1, 2013 up to the finality of the decision. According to Metrobank, an obligation not constituting a loan or forbearance of money is breached, the imposable interest rate should be 6% per annum, as clearly explained in the case of *Nacar v. Gallery Frames*. We agree. x x x Metrobank's obligation here is to return to JMC the amount wrongfully charged to the latter's current account, while AUB's obligation consists in reimbursing Metrobank of this amount. Applying the guidelines in Nacar, Metrobank's and AUB's obligations are subject to the legal interest rate of 6%, per annum from the time of extra-judicial or judicial demand. The legal interest rate then against Metrobank's liability shall start to run from the time JMC instituted the civil case in the RTC on April 30, 2002. The interest rate imposed upon AUB's obligation, on the other hand, shall start to run on March 13, 2003, the date when Metrobank filed its Answer with crossclaim against AUB.

APPEARANCES OF COUNSEL

Sedigo & Associates for Metrobank.

Zambrano Gruba Caganda & Advincula Law Offices for Asia United Bank Corp.

Enrile L. Teodoro for respondent Z. Casquero.

Suzette A. Ner for respondent Junnel's Marketing.

Ricardo J.M. Rivera Law Office for respondent P. Delizo.

D E C I S I O N

REYES, J. JR., *J.*:

This resolves the consolidated Petitions for Review[1] under Rule 45 of the Revised Rules of Court, seeking the reversal of the Decision[2] dated September 20, 2016 and Resolution[3] dated May 31, 2017, issued by the Court of Appeals in CA G.R. CV No. 102964.

The Facts

Junnel's Marketing Corporation (JMC) is a depositor of Metropolitan Bank & Trust Co. (Metrobank) F.B. Harrison branch, under Current Account no. 00730-150091-9, against which it draws company checks. In 1998 to 1999, JMC wrote the following checks payable to the following payees, as follows:

DATE	CHECK NUMBER	PAYEE	AMOUNT
01/12/98	3010049202	Brown Forman	Php 64,284.00
10/12/98	3010048904	Charlie Choy	48,330.00
10/27/98	3010048880	Ramon Victor Rance	46,260.00
11/08/98	3010048994	Brown Forman	96,426.00
11/11/98	3010048995	Brown Forman	96,426.00
11/24/98	3010048931	Emmie Malana	70,200.00
12/10/98	3010049229	Nina Valdez	163,600.00
01/08/99	3010049203	Brown Forman	64,284.00
		TOTAL	Php 649,810.00

[1] *Rollo*, pp. 9-35.

[2] Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Normandie B. Pizzaro and Samuel H. Gaerlan (now a Member of the Court), concurring, id. at 38-53.

[3] Id. at 56-60.

In an audit conducted by JMC, the above checks were found to be stolen and encashed. These checks found their way to the Pasay City branch of Asiatrust Bank, now Asia United Bank Corporation (AUB), where they were deposited to account no. 1-506-22208-0, in the name of Zenaida Casquero (Casquero).

Casquero allegedly received the checks from a certain Virginia Rosales as payment for the use of her credit line. The checks, according to AUB, contain the indorsement at the back by the payees. AUB then required Casquero to sign a Deed of Undertaking, where she assumed full responsibility for the correctness, genuineness and validity of all the checks and of the indorsement appearing thereon. Thereafter, the checks were presented to Metrobank, which cleared and authorized the payment thereof.

On April 30, 2000, Purificacion Delizo (Delizo) confessed that while she was employed as an Accountant at JMC, she stole several company checks drawn against JMC's Metrobank current account. The stolen checks were not delivered to the named payee therein, but were instead given to a certain Lita Bituin and an unidentified bank manager with whom Delizo colluded and connived in encashing said checks, and shared in the proceeds thereof.

Ruling of the RTC

The RTC, in its Decision dated January 14, 2014, ruled that the defendants are jointly and severally liable to JMC. According to the RTC, JMC was able to establish that it lost an amount of ₱649,810.00, representing the total value of the checks subject of litigation. The RTC also found that AUB allowed Casquero to deposit in her checking account the eight checks despite the fact that she is not the named payee therein. Also, the checks, being crossed checks, are meant for payees account only. Moreover, the RTC found that Metrobank cleared the said checks; thereby, allowing AUB to convert the said checks and credit their value to Casquero's account. The dispositive portion of this Decision reads:

WHEREFORE foregoing considered *(sic)* the defendant *(sic)* are hereby held jointly and severally liable to pay plaintiff the total amount of Six Hundred Forty Nine Thousand Eight Hundred Ten (Php649,810.00) Pesos plus legal interest computed at the prevailing legal rate of twelve percent (12%), attorney's fees in the amount of Php100,000.00 and the cost of suit. The counterclaims, crossclaim filed by the parties/defendants herein are hereby dismissed for lack of merit.

SO ORDERED.[4]

Ruling of the Court of Appeals

Aggrieved, Delizo, Casquero, AUB and Metrobank appealed before the CA. The CA, however, found no merit in the appeal. It ruled that the fiduciary nature of banking requires the banks to observe the highest standard of integrity and diligence in the exercise of their function. Both Metrobank and AUB, in handling the subject checks, acted inconsistently with the standard required of them.

The CA pointed out that the checks with numbers 3010048880 and 301004229 are crossed-checks, and as such, they serve as a warning to the holder that the checks have been issued for a definite purpose such that the holder must inquire if the checks have been received pursuant to that purpose. The crossing of a check gives some measure of protection to the drawer and drawee bank inasmuch as it ensures that the check will be encashed by the rightful payee. The subject crossed checks, however, were deposited to the account of Casquero in AUB, and not to the account of the named payees. Metrobank, as the drawee bank is under strict liability to pay the check only to the payee named therein; otherwise, it would be violating the instructions of the drawer. By paying the value of the crossed checks and charging JMC's account therefore, Metrobank violated the latter's instructions. Thus, it should be held liable for the amount charged to JMC's account. On the other hand, the CA ruled that AUB, the collecting bank, is an indorser, and as such, it has the duty to ascertain the genuineness of all prior indorsements. When AUB allowed its client to collect on

[4] Id. at 92.

crossed checks issued in the name of another, it committed negligence. Thus, the CA ruled that AUB is liable to JMC for the amount of these checks.

With regard to the checks with numbers 3010049202, 3010048904, 3010048994, 3010048995, and 3010049203, the CA ruled that as these checks are payable to order, AUB, the collecting bank which indorsed the check upon presentment with the drawee bank, is bound by its warranties as indorser. Metrobank, on the other hand, is under strict liability to follow the instructions of the drawer as reflected on the face of the checks, that is, to pay the checks to the order of the payee named therein. By allowing the checks to be encashed in favor of Casquero, Metrobank failed to follow JMC's instructions; hence, it must suffer the consequence thereof.

As regards check number 3010048931, the CA ruled that since this is payable to bearer, Casquero acquired title to said instrument and is authorized to encash the same.

The CA also ruled that Delizo, whose action made it possible for the subject checks to end up in the hands of Casquero, and Casquero, who received the proceeds of the checks, are liable to AUB for the payment of the amount reimbursed by the latter to Metrobank.

The dispositive portion of the Decision dated September 20, 2016 states:

WHEREFORE, We **DENY** the appeal. The January 14, 2014 Decision of the RTC, Branch 108, Pasay City in Civil Case No. 02-0194 is hereby **AFFIRMED with MODIFICATION** that Metropolitan Bank and Trust Co. is ordered to pay Junnel's Marketing Corporation the sum of Five Hundred Seventy-Nine Thousand Six Hundred and Ten Pesos (Php579,610.00) plus an interest of six percent (6%) per annum. Asia United Bank is ordered to reimburse Metrobank the above-mentioned amount. Purificacion C. Delizo and Zenaida Casquero are also ordered to pay Asiatrust the above-mentioned amount. All defendants-appellants are ordered to pay jointly and severally, plaintiff-appellee attorney's fees in the amount of Php100,000.00 and the cost of suit. In all other respects, the said decision is **AFFIRMED**.

SO ORDERED.[5]

JMC filed a Motion for Partial Reconsideration of the above Decision, arguing that the prevailing interest rate of 6% shall not apply to the instant case, and instead submitted that it is entitled to 12% interest from April 30, 2002, and 6% from July 1, 2013 up to the finality of the decision. Delizo, Metrobank and AUB also filed their motions for reconsideration of the CA Decision.

The CA, however, in its Resolution dated May 31, 2017, denied the motions of Delizo, Metrobank and AUB, but granted JMC's Motion for Partial Reconsideration. The decretal portion of said Resolution reads:

WHEREFORE, premises considered we:

a. DENY Purificacion Delizo's motion for reconsideration;
b. DENY Metrobank's motion for partial reconsideration;
c. DENY AUB's motion for reconsideration; and
d. GRANT Junnel's Marketing Corporation's motion for partial reconsideration. The Court hereby orders Metrobank to pay Junnel's Marketing Corporation the sum of Five Hundred Seventy-Nine Thousand Six Hundred and Ten Pesos Php579,610.00) (sic) plus an interest from April 30, 2002 of 12% per annum and 6% per annum from July 1, 2013 until full payment. In all other respects, the September 20, 2016 Decision of this Court is AFFIRMED.

SO ORDERED.[6]

Hence, Metrobank and AUB appealed before this Court through a Petition for Review under Rule 45.

In G.R. No. 232044, Metrobank raised the following grounds:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT ORDERED THE DRAWEE BANK, METROBANK HEREIN, TO PAY RESPONDENT JUNNEL'S

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[5] Id. at 52-53.

[6] Id. at 59-60.

MARKETING CORP. THE AMOUNT OF FIVE HUNDRED SEVENTY-NINE THOUSAND SIX HUNDRED AND TEN PESOS (Php579,610.00) DESPITE EXISTING JURISPRUDENCE WHICH STATES THAT IN CHECK TRANSACTIONS, THE COLLECTING BANK OR LAST ENDORSER, GENERALLY SUFFERS THE LOSS BECAUSE IT HAS THE DUTY TO ASCERTAIN THE GENUINENESS OF ALL PRIOR ENDORSEMENTS.

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN AWARDING A TWELVE PERCENT (12%) PER ANNUM ON THE JUDGMENT AWARD FROM APRIL 30, 2002 AND SIX PERCENT (6%) PER ANNUM FROM JULY 1, 2013 UNTIL FULL PAYMENT.

Metrobank argues that as the drawee bank, it is only obliged to confirm the due execution of the checks and to verify the signature on the checks *vis-à-vis* the signature on the signature cards of the account holder. It insists that it had no way of knowing that the checks were not deposited to the intended payee's account, precisely because the checks were not presented to it for deposit, but to the presenting bank, AUB. Metrobank also maintained that JMC's own negligence is the proximate cause of its loss. According to Metrobank, had JMC formulated an efficient accounting system, it would have discovered right away that the subject checks were missing. Thus, Metrobank argues that JMC is liable for its own loss.

Metrobank also maintained that AUB was negligent by allowing the deposit of eight checks in the account of a person who was not the named payee thereof. According to Metrobank, AUB, as the collecting bank, has the responsibility of ensuring that the crossed checks were deposited to the account of the rightful payee considering that it holds the account of the depositor and is in the position to identify the latter's identity. Metrobank likewise posits that a collecting bank which indorses the check upon presentment with the drawee bank is an indorser. As such, under Section 66 of the Negotiable Instruments Law (NIL), AUB warrants that the instrument is genuine and in all respect what it purports to be; that it has a good title to it and all prior parties had the capacity to contract; and the instrument

is, at the time of the indorsement, valid and subsisting. Metrobank, thus, argues that AUB, in presenting the checks for clearing and payment, made an express guaranty on the validity of all prior indorsements.

Finally, Metrobank questions the interest rate imposed on the judgment award. It argues that when an obligation not constituting a loan or forbearance of money is breached, the imposable interest rate should be 6% per annum, as clearly explained in the case of *Nacar v. Gallery Frames*.[7]

In G.R. No. 232057, AUB raised the following issues:

I.

WHETHER OR NOT JUNNEL'S IS ENTITLED TO RELY ON THE INDORSEMENT OF AUB ON THE CHECK.

II.

WHETHER OR NOT NEGOTIABILITY IS DESTROYED EVEN IF THE SUBJECT INSTRUMENT IS A CROSSED CHECK.

III.

WHETHER OR NOT AUB IS THE RIGHT PARTY TO BE HELD LIABLE FOR THE IRREGULARITIES AND LOSSES RESULTING FROM THE CLEARANCE OF THE SEVEN (7) CHECKS.

IV.

WHETHER OR NOT JUNNEL'S, BEING THE PROXIMATE CAUSE OF THE LOSS, IS SOLELY RESPONSIBLE AND SHOULD SUFFER THE LOSSES IT INCURRED.

V.

WHETHER OR NOT JUNNEL'S IS LIABLE TO PETITIONER FOR ATTORNEY'S FEES.

AUB argues that JMC is not entitled to rely on its indorsement. The warranty of an endorser under Article 66 of the NIL benefits all subsequent holders in due course, or the holders of the check to whom it is thereafter presented. JMC, according to AUB, is

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[7] *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

a drawer, not a holder in due course nor the entity to whom the subject checks were presented after the alleged indorsement by AUB. Thus, AUB argues that JMC cannot hinge its claim on Section 66 of the NIL.

AUB also reasons that negotiability is not destroyed by the fact that the check was crossed. It argues that crossed checks may be negotiated only once to one who has an account with a bank. In this case, the checks were negotiated once to Casquero, an account holder in AUB. Thus, the deposit of the checks to her account is allowed.

AUB maintains that it exercised the proper diligence and caution when it allowed the deposit of the checks to Casquero's account. It followed the normal banking protocol of confirming the deposit with Metrobank, which gave clearance for the funding. It also required Casquero to sign a Deed of Undertaking where she assumed full responsibility for the endorsed checks.

AUB also argues that Metrobank should be held liable for the irregularities and losses resulting from the clearance of the seven other checks. AUB alleged that as the collecting bank, it credited the amount of the checks to Casquero's account only after Metrobank cleared the checks for deposit. Thus, AUB claims that Metrobank, as the drawee bank, is responsible for the lapses in verification and liable for the amount charged to the drawer's account.

AUB also urges this Court to enforce the Deed of Undertaking executed by Casquero, where she assumed full responsibility over the indorsed checks; thereby, absolving AUB from liability arising from the transaction and holding Casquero as the party ultimately liable for the final amount to the Court. According to AUB, contracts such as this Deed should be upheld, unless it clearly contravenes public right or welfare.

AUB likewise maintains that JMC's failure to prevent the fraud and its subsequent act of allowing the clearance of the checks are the proximate causes of its own loss. It also argued that the doctrine of contributory negligence, pursuant to the

case of *Associated Bank v. Court of Appeals*,[8] applies in the instant case. JMC's failure to exercise due care contributed to a significant degree to the loss it suffered. Hence, AUB claims that JMC is not entitled to relief and must bear the consequence of its own negligence.

The Ruling of the Court

We deny the consolidated Petitions. The CA correctly ruled that Metrobank and AUB are sequentially liable for the entire amount of the seven checks.

Sequence of Recovery in Unauthorized Payment of Checks

We agree with the appellate court that in cases of unauthorized payment of checks to persons other than the named payee therein or his order, the drawee bank is liable to the drawer for the amount of the checks. In turn, the drawee bank may seek reimbursement from the collecting bank. This rule is already embedded in our jurisprudence.[9]

In *BDO Unibank v. Lao*,[10] this Court explained:

> The liability of the drawee bank is based on its contract with the drawer and its duty to charge to the latter's accounts only those payables authorized by him. A drawee bank is under strict liability to pay the check only to the payee or to the payee's order. When the drawee bank pays a person other than the payee named in the check, it does not comply with the terms of the check and violates its duty to charge the drawer's account only for properly payable items.
>
> On the other hand, the liability of the collecting bank is anchored on its guarantees as the last endorser of the check. Under Section 66 of the Negotiable Instruments Law, an endorser warrants "that the instrument is genuine and in all respects what it purports to be; that he has good title to it; that all prior parties had capacity to contract;

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[8] 322 Phil. 677 (1996).

[9] *BDO Unibank, Inc. v. Lao*, 811 Phil. 280 (2017), *Bank of America, NT & SA v. Associated Citizens Bank*, 606 Phil. 35, 42-48 (2009); *Traders Royal Bank v. Radio Philippines Network, Inc.*, 439 Phil. 475, 482-484 (2002).

[10] Id.

and that the instrument is at the time of his endorsement valid and subsisting." (Citations omitted)

Metrobank is Liable to JMC

The drawee bank, or the bank on which a check is drawn, is bound by its contractual obligation to its client, the drawer, to pay the check only to the payee or to the payee's order. The drawee bank is duty-bound to follow strictly the instructions of its client, which is reflected on the face of, and by the terms of, the check. When the drawee bank pays a person other than the named payee on the check, the drawee bank violates its contractual obligation to its client. Thus, it shall be held liable for the amount charged to the drawer's account.[11] When an unauthorized payment on the checks is made, the liability of Metrobank to JMC attaches even if it merely acted upon the guarantee of the collecting bank.[12]

Metrobank, in this case, allowed the payment of eight checks to Casquero. Two of these checks were crossed and were payable to Ramon Victor Rance and Nila Valdes. Five checks were payable to the orders of specified persons, while one check was payable to bearer. With regard to the check payable to bearer, the CA correctly ruled that Casquero acquired title to the said instrument and was authorized to encash the same.

Metrobank, however, denies liability over the payment of the seven other checks. It argues that it has no way of knowing whether or not these checks were deposited to the named payee therein as these checks were not presented to it for deposit.

We are not convinced.

A crossed check is one where two parallel lines are drawn across its face or across its corner, and carries with it the following effects: (a) the check may not be encashed but only deposited in the bank; (b) the check may be negotiated only once to the one who has an account with the bank; and (c) the act of crossing the check serves as a warning to the holder that the check has

[11] Id.

[12] Supra note 6.

been issued for a definite purpose and he must inquire if he received the check pursuant to this purpose; otherwise, he is not a holder in due course.[13] The crossing of a check, thus, means that the check should be deposited only in the account of the payee.[14]

It is undisputed that the checks with numbers 3010048880 and 3010049229 are crossed checks. As such, the drawer's instruction is that they should be deposited only to the account of the payees named therein. By paying the checks to the person who is not the named payee thereof, Metrobank violated the instructions of JMC, and is, therefore liable for the amount charged to JMC's account.

As regards the checks payable to the order of specific persons, Metrobank is also under strict liability to pay the checks to the named payee therein. JMC's instruction to pay these checks to the named payee is clearly written on the checks. Metrobank violated this instruction when it paid the amount of the checks deposited to Casquero's account. Hence, Metrobank should suffer the consequence of this wrongful encashment.

AUB is liable to Metrobank

The liability, however, does not fall entirely upon Metrobank. Metrobank which merely relied upon the guaranty of the collecting bank, AUB, may seek reimbursement from the latter.

A collecting bank where a check is deposited, and which endorses the check upon presentment with the drawee bank, is an endorser.[15] Under Section 66 of the Negotiable Instruments Law, an endorser warrants: (1) that the instrument is genuine and in all respects what it purports to be; (2) that the endorser has good title to it; (3) that all prior parties had capacity to contract; and (4) that the instrument is, at the time of the indorsement, valid and subsisting. When a collecting bank presents a check to the drawee bank for payment, the former

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[13] *Philippine Deposit Insurance Corp. v. Gidwani*, 606 Phil. 35, 43 (2018).

[14] Id.

[15] Supra note 10.

thereby assumes the same warranties assumed by an endorser of a negotiable instrument and if any of these warranties turn out to be false, the collecting bank becomes liable to the drawee bank for the payments made under these false warranties.[16]

When AUB presented the subject checks to Metrobank for payment, it guaranteed that the checks were genuine and in all respect what it purports to be and deposited to an account that has a good title to these checks. These guaranties, however, turned out to be false as Delizo admitted that she stole the subject checks and that they were not delivered to the named payee therein. These checks were instead deposited to Casquero's account, who was not the named payee thereof. Since these checks were paid under these false guaranties, AUB is liable to reimburse Metrobank with the value of the checks.

AUB cannot absolve itself from liability by arguing that it credited the amount of the checks to Casquero's account only after Metrobank cleared them for payment. Since the subject checks were deposited in Casquero's account in AUB, AUB also has the opportunity to determine whether the checks will be paid to the rightful payee. The fact that two of the checks were crossed should have alerted AUB that these checks are meant to be deposited only to the payee's account.

As regards the checks payable to order, AUB, as the last indorser, is liable for the payment of the checks even if the previous indorsements were forged. This Court has ruled in a long line of cases[17] that "a collecting bank which indorses a check bearing a forged indorsement and presents it to the drawee bank guarantees all prior indorsements, including the forged indorsement itself, and ultimately should be held liable therefor."

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[16] *Metropolitan Bank and Trust Co. v. Junnel's Marketing Corp.*, G.R. Nos. 235511 & 235565, June 20, 2018.

[17] *Allied Banking Corp. v. Lim Sio Wan*, 573 Phil. 89, 108 (2008), *Traders Royal Bank v. Radio Philippines Network, Inc.*, 439 Phil. 475, 485 (2002), *Associated Bank v. Court of Appeals,* supra note 8, *Bank of the Philippine Islands v. Court of Appeals*, 290 Phil. 452-487 (1992), *Banco De Oro v. Equitable Banking Corp.*, 241 Phil. 188-202 (1988).

Thus, AUB should be liable to reimburse Metrobank for the amount of the seven checks.

Time and again, this Court has emphasized that the banking business is imbued with public interest.[18] The stability of banks largely depends on the confidence of the people in the honesty and efficiency of banks.[19] Hence, banks are required to exercise the highest standard of diligence, as well as high standards of integrity and performance in all its transactions.[20]

This said, Metrobank cannot pass the blame upon its depositor, JMC. Owing to the fiduciary nature of their relationship, Metrobank is under obligation to treat the account of JMC with utmost fidelity and meticulous care.[21] It is Metrobank's failure to uphold this obligation which caused the unauthorized payment of the checks, to the prejudice of JMC.

Neither can AUB impute liability upon JMC by invoking the doctrine of contributory negligence, as pronounced in the case of *Associated Bank v. Court of Appeals*.[22] *Associated Bank* is not on all fours with this case. In *Associated Bank*, the alleged contributory negligence was sufficiently established. The drawer, Province of Tarlac, allowed a retired cashier of the payee to collect the check, and had been releasing the checks to him for nearly three years, despite the fact that the new cashier of the payee was also collecting the check. This Court ruled that the fact that there are two people collecting the check should have alerted the employees in the Treasurer's Office of the fraud being committed. Evidence in *Associated Bank*, however, suggests that the provincial employees were aware of the

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[18] *Citystate Savings Bank v. Tobias*, G.R. No. 227990, March 7, 2018. See also *BDO Unibank, Inc. v. Cruz*, G.R. No. 229465 (Minute Resolution), March 22, 2017.

[19] *Philippine Banking Corporation v. Court of Appeals*, 464 Phil. 614, 641 (2004).

[20] Section 2 of Republic Act No. 8791, or The General Banking Law of 2000. See also *Citystate Savings Bank v. Tobias,* supra note 18.

[21] *Philippine Banking Corp. v. Court of Appeals,* supra note 19.

[22] 322 Phil. 623 (1996).

retirement of the cashier and his consequent dissociation from the payee hospital, but nevertheless allowed him to collect the checks.

Here, the alleged contributory negligence was not established. AUB's mere allegation cannot overcome the fact that AUB, as collecting bank, is remiss in its obligations.

The law imposes a duty of diligence on the collecting bank to scrutinize checks deposited with it for the purpose of determining their genuineness and regularity. The collecting bank being primarily engaged in banking holds itself out to the public as the expert and the law holds it to a high standard of conduct.[23] AUB's negligence and false guaranty, however, violate this duty.

Thus, Metrobank is liable to JMC for the unauthorized encashment of the seven checks. AUB, in turn, is liable to Metrobank for the amount it paid to JMC.

Liability of Casquero and Delizo

It is settled that the collecting bank which reimbursed the drawee bank may in turn seek reimbursement from the persons who caused the checks to be deposited and received the unauthorized payments.[24] The CA affirmed the RTC's findings that Delizo's participation was established by her own written confession and that Casquero received the proceeds of the checks as they were deposited in her account. Thus, the CA correctly ruled that Casquero and Delizo should reimburse AUB of the amount it paid to Metrobank.

Interest

Metrobank asserts that the CA erred in imposing upon the monetary award the interest rate of 12% from April 30, 2002, and 6% from July 1, 2013 up to the finality of the decision. According to Metrobank, an obligation not constituting a loan or forbearance of money is breached, the imposable interest

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[23] Id.

[24] *Bank of America v. Associated Citizens Bank*, 606 Phil. 35 (2009).

rate should be 6% per annum, as clearly explained in the case of *Nacar v. Gallery Frames*.

We agree. Thus, this Court modifies the interest imposed upon the liability of Metrobank and AUB.

The case of *Nacar v. Gallery Frames*,[25] states:

x x x x x x x x x

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

x x x x x x x x x

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages, except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code), but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

x x x x x x x x x

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 6% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

And, in addition to the above, judgments that have become final and executory prior to July 1, 2013, shall not be disturbed and shall continue to be implemented applying the rate of interest fixed therein.

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[25] Supra note 7.

Metrobank's obligation here is to return to JMC the amount wrongfully charged to the latter's current account, while AUB's obligation consists in reimbursing Metrobank of this amount. Applying the guidelines in Nacar, Metrobank's and AUB's obligations are subject to the legal interest rate of 6%, per annum from the time of extra-judicial or judicial demand. The legal interest rate then against Metrobank's liability shall start to run from the time JMC instituted the civil case in the RTC on April 30, 2002. The interest rate imposed upon AUB's obligation, on the other hand, shall start to run on March 13, 2003, the date when Metrobank filed its Answer with crossclaim against AUB.

Thus, the CA's imposition of interest rate is modified as follows:

1. Metrobank's liability to JMC in the amount of Five Hundred Seventy-Nine Thousand Six Hundred and Ten Pesos (Php579,610.00) is subject to a legal interest at the rate of 6% per annum from April 30, 2002 until full satisfaction.

2. AUB's liability to Metrobank in the amount of Php579,610.00, is also subject to a legal interest at the rate of 6% per annum from March 13, 2003 until full payment.

Attorney's Fees

We deny AUB's prayer for attorney's fees against JMC for lack of merit. As there is nothing on record which supports AUB's claim, we find no basis for the grant thereof.

WHEREFORE, the consolidated Petitions are **PARTIALLY GRANTED**. The Decision dated September 20, 2016 and the Resolution dated May 31, 2017 are hereby **AFFIRMED** with the following **MODIFICATIONS**:

1. Metropolitan Bank & Trust Co. is **ORDERED** to **PAY** Junnel's Marketing Corporation the amount of Five Hundred Seventy-Nine Thousand Six Hundred and Ten Pesos (₱579,610.00), subject to a legal interest at the

rate of 6% per annum from April 30, 2002 until satisfaction.

2. Asia United Bank Corporation is **ORDERED** to **REIMBURSE** Metropolitan Bank & Trust Co. the amount of Five Hundred Seventy-Nine Thousand Six Hundred and Ten Pesos (₱579,610.00), plus legal interest at the rate of 6% per annum from March 13, 2003 until satisfaction.

All other aspects of the Decision dated September 20, 2016 and Resolution dated May 31, 2017 that are not in conflict with this Decision are **AFFIRMED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*)*, Caguioa, Lazaro-Javier,* and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 233767. August 27, 2020]

HEIRS OF EUTIQUIO ELLIOT, represented by MERIQUITA ELLIOT, JOHUL ELLIOT, RENE ELLIOT, and PERFECTO ELLIOT, *Petitioners*, *v.* **DANILO CORCUERA,** *Respondent*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; *RES JUDICATA*; TWO CONCEPTS; *RES JUDICATA* BY BAR BY PRIOR JUDGMENT AND *RES JUDICATA* BY CONCLUSIVENESS OF JUDGMENT. — There are two concepts of *res judicata*: 1) *res judicata* by bar by prior judgment; and 2) *res judicata* by collusiveness of judgment. *Res judicata* by bar by prior judgment precludes the filing of a second case when it has the same parties, same subject, and same cause of action, or otherwise prays for the same relief as the first case. On the other hand, *res judicata* by conclusiveness of judgment precludes the questioning of a fact or issue in a second case if the fact or issue has already been judicially determined in the first case between the same parties.

2. ID.; ID.; ID.; ID.; *RES JUDICATA* BY CONCLUSIVENESS OF JUDGMENT; ELEMENTS. — *Res judicata* by conclusiveness of judgment is applicable to this case. x x x [U]nlike *res judicata* by prior judgment, where there is identity of parties, subject matter, and causes of action, there is only identity of parties and subject matter in *res judicata* by conclusiveness of judgment. Since there is no identity of cause of action, the judgment in the first case is conclusive only as to those matters actually and directly controverted and determined. Thus, there is *res judicata* by conclusiveness of judgment when all the following elements are present: (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, but not identity of causes of action.

3. ID.; ID.; ACTIONS; *ACCION PUBLICIANA*; AN ORDINARY CIVIL PROCEEDING TO DETERMINE THE BETTER RIGHT OF POSSESSION OF REALTY INDEPENDENTLY OF TITLE. — *Accion publiciana* is an ordinary civil proceeding to determine the better right of possession of realty independent of title. It refers to an **ejectment suit** filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title.

4. CIVIL LAW; PRESCRIPTION; PRESCRIPTION OF OWNERSHIP AND OTHER REAL RIGHTS; ACQUISITIVE PRESCRIPTION; OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION OF THE SUBJECT LOT FOR MORE THAN THIRTY YEARS; CASE AT BAR. — The Court of Appeals' Decision dated December 15, 2016, as sustained in G.R. No. 231304, found that petitioners acquired ownership over subject lot through acquisitive prescription, thus: **We agree with the much simpler solution arrived at by the trial court. Plaintiffs-appellees are to be considered owners/ possessors who have been in open, continuous, exclusive and notorious possession of the 14,093 square meters of land that they presently occupy and have occupied and cultivated for more than 30 years**, whose rights have been invaded by the fraudulent inclusion of their property in the defendant-appellant's free patent application that resulted in OCT No. P-7061. Indeed, as found by the Court of Appeals, petitioners have been in open, continuous, exclusive and notorious possession of the 14,093 square-meter portion of Lot 11122 for more than thirty (30) years. In short, they had been in actual possession of said portion way before respondent laid claim on the whole of Lot 11122. Verily, since respondent failed to prove his claim of *de facto* possession over the disputed 14,093 square-meter portion of Lot 11122, his complaint for recovery of possession must fail.

APPEARANCES OF COUNSEL

Karaan & Karaan Law Office for petitioners.
CESA Law Offices for respondent.

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This Petition for Review on *Certiorari* assails the following issuances of the Court of Appeals in CA-G.R. CV No. 105502 entitled "*Danilo Corcuera v. Heirs of Eutiquio Elliot, et al.:*"

1) Decision[1] dated March 20, 2017, reversing the trial court and declaring respondent Danilo Corcuera to have a better right of possession over a parcel of land covered by OCT No. P-7061; and

2) Resolution[2] dated August 16, 2017, denying petitioners' motion for reconsideration.

Antecedents of the Present Case (G.R. No. 233767)

In his action below for Recovery of Possession and Damages[3] dated July 12, 2006, respondent Danilo Corcuera, represented by his attorney-in-fact Charles Burns, Jr., basically alleged: he was the registered owner of a parcel of land situated in Calapacuan, Subic, Zambales, covered by Original Certificate of Title (OCT) No. P-7061.[4] The land was described as follows:

"Lot 11122, Cad. 547-D

"Beginning at a point marked "1" of Lot 11122, Cad. 547-D, being x x x

"Containing an area of THIRTY FOUR THOUSAND TWO HUNDRED SIXTY FOUR (34,264) SQUARE METERS

All points are marked on the ground by Old P.S. Cyl. Conc. Mons

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[1] Penned by Associate Justice Henri Jean Paul B. Inting (now a member of this Court) and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba, all members of the Fourteenth Division, *rollo*, pp. 148-159.

[2] *Id.* at 171.

[3] *Id.* at 32-36.

[4] *Id.* at 33.

"Bounded on W., x x x" (Full technical description appears in O.C.T. P-7061). A copy of O.C.T. No. P-7061 is appended. Attachment A.[5]

He declared the lot under Tax Declaration Nos. 006-1748 and 006-1341A, under in his name. He entered therein an aggregate market value of ₱140,850.00 and an aggregate assessed value of ₱56,340.00.[6]

Sometime in the middle of 1994, petitioners Heirs of Eutiquio Elliot entered the land without his consent, planted their trees thereon, and started claiming they owned the lot. Petitioners were served with demands to vacate the lot but they refused. He was, thus, compelled to file the complaint below.[7]

In their Answer dated May 29, 2007, petitioners essentially countered: they had filed a "*Protest with Petition to Annul/ Cancel Free Patent No. (111-4) 005010 (Original Certificate of Title No. P-7061)*" before the Department of Environment and Natural Resources (DENR). Since this administrative protest affected respondent's claim over the land, there existed a prejudicial question which rendered the complaint premature and dismissible. Respondent also failed to comply with the required proceedings before the Katarungang Pambarangay.[8] In any event, based on the annotation on OCT No. P-7061, respondent does not own the whole of the 34,264 square-meter lot. Respondent in fact had ceded a portion of the lot to a certain Juanita Filipinas. As proof of her ownership thereof, Juanita Filipinas even filed a complaint for forcible entry against Albert Elliot and Nery Elliot before the Municipal Trial Court (MTC) of Subic, Zambales, docketed as Civil Case No. 002-06. That complaint involved the portion belonging to her. She also presented her own certificate of title in the case. Even then, their right over the property is superior to that of respondent or that of Filipinas.[9]

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[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.* at 43-44.

[9] *Id.* at 45.

Trial ensued.

Ruling of the Trial Court

After due proceedings, the Regional Trial Court (RTC), Branch 72, Olongapo City, in Civil Case No. 279-0-2006, dismissed respondent's complaint for lack of merit under Decision[10] dated March 4, 2015. The trial court noted that respondent was not even in possession of subject lot. Per the DENR-Region III Certificate of Finality, which resolved petitioners' protest, the issuance of the OCT in respondent's favor was highly irregular and tainted with fraud and malice.[11]

Further taking into account petitioners' documentary and testimonial evidence, the trial court found that petitioners had acquired ownership over the lot *via* prescription for they had proven their open, continuous, and adverse possession of the lot since 1965. The lot had been declared alienable and disposable on January 31, 1961. Although respondent held a certificate of title registered in his name, the same did not automatically give him the right to recover possession of the lot since he obtained the same through fraud. Respondent also did not present evidence that he indeed was in possession of the lot at the time petitioners allegedly entered the lot and took possession thereof.[12] Thus:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered in favor of the defendants and against the plaintiff. The complaint is hereby **DISMISSED** for utter lack of merit.

SO ORDERED.

Proceedings before the Court of Appeals

On appeal, respondent argued in the main: 1) the trial court did not address the fact that petitioners failed to formally offer their evidence; 2) the trial court erred in declaring that petitioners were able to sufficiently prove that they had the better right to possess the lot; 3) petitioners did not acquire ownership over

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[10] Penned by Presiding Judge Richard A. Paradeza, *id.* at 73-102.

[11] *Id.* at 99-100.

[12] *Id.* at 101.

the lot through acquisitive prescription for they merely intruded into it while he was lawfully possessing it; and 4) OCT No. P-7061 was lawfully and regularly issued in his name.[13]

On the other hand, petitioners riposted: a) the trial court did not err in considering their documentary evidence because the same were identified by their witnesses and these were also part of the record; b) the evidence on record duly established that they had been in possession of the lot since 1965 and had thus acquired ownership thereof *via* acquisitive prescription; c) the trial court's factual findings are accorded great respect and finality; and d) respondent cannot heavily rely on OCT No. P-7061 because registration is not a mode of acquiring ownership over subject land.[14]

Ruling of the Court of Appeals

By its assailed Decision[15] dated March 20, 2017, the Court of Appeals reversed. It ruled that the trial court erred in taking cognizance of petitioners' documentary evidence since the same were not even identified by petitioners' supposed witnesses. Nonetheless, respondent had the right to recover possession of the lot on the strength of OCT No. P-7061 for a titleholder is entitled to all attributes of ownership over the property, including possession. OCT No. P-7061 is still presumed to have been regularly issued in respondent's name. The DENR-Region III Certificate of Finality, which held that respondent fraudulently acquired title to the land, cannot be used as basis by the trial court to deny respondent his right of possession over the lot. The validity of OCT No. P-7061 cannot be collaterally attacked.[16]

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[13] *Id.* at 123-145.

[14] *Id.* at 106-122.

[15] *Id.* at 148-159.

[16] "WHEREFORE, the Decision rendered by Branch 72 of the Regional Trial Court of Olongapo City dated March 4, 2015 in Civil Case No. 279-0-2996 is hereby REVERSED and SET ASIDE.

Accordingly, a new judgment is rendered ORDERING defendants-appellees to vacate and peacefully turn over to the plaintiff-appellant the subject property.

SO ORDERED." *id.* at 158.

Petitioners' motion for reconsideration[17] was denied by the Court of Appeals under Resolution[18] dated August 16, 2017.

Parallel Proceedings in G.R. No. 231304

While respondent Danilo Corcuera's action for recovery of possession and damages was being heard, petitioners Heirs of Eutiquio Elliot, sometime in 2009, filed a complaint for nullification of Free Patent No. (111-4) 00510 and its derivative title OCT No. P-7061. They claimed that respondent acted in bad faith when he failed to disclose in his application for free patent that they were the ones actually occupying a portion of Lot No. 11122. Thus, he obtained title thereon through fraud. They highlighted anew that the DENR Order dated May 28, 2008, which cancelled respondent's free patent, had already become final and executory.[19]

By Decision dated March 4, 2015, in Civil Case No. 49-0-2009, the Regional Trial Court, Branch 72, Olongapo City, ruled in petitioners' favor, thus:

> WHEREFORE, in the light of the foregoing, judgment is hereby rendered ordering defendant Danilo Corcuera to reconvey to the plaintiffs the parcel of land located in Calapacuan, Subic, Zambales consisting of fourteen thousand nine hundred three (14,903) square meters, which was wrongfully registered in the name of the defendant under OCT No. P-7061 consisting of thirty four thousand two hundred sixty four (34,264) square meters.
>
> SO ORDERED.[20]

On respondent's appeal, the Court of Appeals affirmed through its Decision[21] dated December 15, 2016 in CA-G.R.

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[17] *Id.* at 160-166.

[18] *Id.* at 171.

[19] *Id.* at 182-184.

[20] *Id.* at 181.

[21] Penned by Associate Justice Apolinario D. Bruselas, Jr. with the concurrence of Associate Justices Danton Q. Bueser and Renato C. Francisco, all members of the Fourteenth Division, *id.* at 181-198.

CV No. 105500. Respondent's motion for reconsideration was subsequently denied through Resolution dated March 22, 2017.

Respondent sought affirmative relief from this Court *via* a petition for review on *certiorari* in G.R. No. 231304. By Resolution[22] dated July 12, 2017, this Court denied respondent's petition. Said resolution had attained finality.

The Present Petition

Petitioners now seek affirmative relief from this Court *via* Rule 45 of the Rules of Court. They essentially argue that the documentary evidence were duly identified by their witnesses and were made part of the records. Also, the act of registration is not a mode of acquiring ownership over real property.[23]

For his part, respondent essentially reiterates his argument that the Court of Appeals correctly ruled that evidence not formally offered cannot be admitted and considered.[24]

In their reply, petitioners assert that the documentary evidence, through the testimonies of their witnesses, had been made part of the record and, thus, can be admitted and considered by the court.[25]

Ruling

The ruling in G.R. No. 231304 is conclusive upon this case

There are two concepts of *res judicata*: 1) *res judicata* by bar by prior judgment; and 2) *res judicata* by conclusiveness of judgment. *Res judicata* by bar by prior judgment precludes the filing of a second case when it has the same parties, same subject, and same cause of action, or otherwise prays for the same relief as the first case. On the other hand, *res judicata* by

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[22] *Id.* at 204-205.

[23] *Id.* at 8-24.

[24] *Id.* at 211-216.

[25] *Id.* at 218-223.

conclusiveness of judgment precludes the questioning of a fact or issue in a second case if the fact or issue has already been judicially determined in the first case between the same parties.[26]

Res judicata by conclusiveness of judgment is applicable to this case. ***Tala Realty Services Corp., Inc., et al. v. Banco Filipino Savings & Mortgage Bank***[27] expounds on this principle, thus:

> Conclusiveness of judgment is a species of *res judicata* and it applies where there is identity of parties in the first and second cases, but there is no identity of causes of action. 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. Thus, if a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit. Identity of cause of action is not required but merely identity of issue.

Verily, unlike *res judicata* by prior judgment, where there is identity of parties, subject matter, and causes of action, there is only identity of parties and subject matter in *res judicata* by conclusiveness of judgment. Since there is no identity of cause of action, the judgment in the first case is conclusive only as to those matters actually and directly controverted and determined. Thus, there is *res judicata* by conclusiveness of judgment when all the following elements are present: (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

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[26] *Presidential Decree No. 1271 Committee, et al. v. De Guzman*, 801 Phil. 731, 765 (2016).

[27] 788 Phil. 19, 28-29 (2016).

be as between the first and second action, identity of parties, but not identity of causes of action.[28]

These elements are all present here. ***First***, Resolution dated July 12, 2017 in G.R. No. 231304 had long attained finality. ***Second***, the Resolution was rendered by this Court in the exercise of its appellate jurisdiction. ***Third***, the Resolution dismissed with finality Danilo Corcuera's challenge against the Court of Appeals' Decision dated December 15, 2016 upholding petitioners' ownership over the same disputed portion of Lot 11122 as here. ***Fourth***, The parties in G.R. No. 231304 and here are the same, namely, Danilo Corcuera and Heirs of Eutiquio Elliot.

Consequently, the conclusion in G.R. No. 231304 that the Heirs of Eutiquio Elliot are the true owners of the disputed portion of Lot 11122, covered by OCT No. P-7061, is conclusive upon this case. Verily, in determining who has the better right of possession over Lot 11122, the status of petitioners Heirs of Eutiquio Elliot, as lawful owners of the lot is a material if not a decisive factor.

Petitioners have a better right of possession over Lot 11122

Accion publiciana is an ordinary civil proceeding to determine the better right of possession of realty independent of title. It refers to an **ejectment suit** filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[29] It is an ordinary civil proceeding to determine the better right of possession of realty independently of title.[30]

The Court of Appeals' Decision dated December 15, 2016, as sustained in G.R. No. 231304, found that petitioners acquired ownership over subject lot through acquisitive prescription, thus:

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[28] *Sps. Rosario v. Alvar*, 817 Phil. 994, 1005 (2017).

[29] *Supapo, et al. v. Sps. De Jesus, et al.*, 758 Phil. 444, 456 (2015).

[30] *Peralta-Labrador v. Bugarin*, 505 Phil. 409, 414 (2005).

The factual milieu that has been established, however, is such that the Director of Lands has been shown to have lacked the power to award that portion of land (14,093 sq.m.) which had been invested with a private character by the open, continuous, exclusive, public occupation by the herein plaintiffs-appellees for more than 30 years.

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We agree with the much simpler solution arrived at by the trial court. Plaintiffs-appellees are to be considered owners/ possessors who have been in open, continuous, exclusive and notorious possession of the 14,093 square meters of land that they presently occupy and have occupied and cultivated for more than 30 years, whose rights have been invaded by the fraudulent inclusion of their property in the defendant-appellant's free patent application that resulted in OCT No. P-7061.[31] (Emphasis supplied)

Indeed, as found by the Court of Appeals, petitioners have been in open, continuous, exclusive and notorious possession of the 14,093 square-meter portion of Lot 11122 for more than thirty (30) years. In short, they had been in actual possession of said portion way before respondent laid claim on the whole of Lot 11122. Verily, since respondent failed to prove his claim of *de facto* possession over the disputed 14,093 square-meter portion of Lot 11122, his complaint for recovery of possession must fail.

ACCORDINGLY, the petition is **GRANTED**. The assailed Decision dated March 20, 2017 and Resolution dated August 16, 2017 of the Court of Appeals in CA-G.R. CV No. 105502 are **REVERSED** and **SET ASIDE**. The Decision dated March 4, 2015 of the Regional Trial Court, Branch 72, Olongapo City, in Civil Case No. 279-0-2006 is **REINSTATED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Caguioa, Reyes, J. Jr.,* and *Lopez, JJ.*, concur.

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[31] *Rollo*, pp. 197-198.

FIRST DIVISION

[G.R. No. 235260. August 27, 2020]

THE COMMONER LENDING CORPORATION, represented by MA. NORY ALCALA, *Petitioner*, *v.* **SPOUSES VOLTAIRE AND ELLA VILLANUEVA,** *Respondents*.

SYLLABUS

1. CIVIL LAW; CONTRACTS; INTERPRETATION; THE LITERAL MEANING SHALL GOVERN WHEN THE TERMS OF A CONTRACT ARE CLEAR AND LEAVE NO DOUBT AS TO THE INTENTION OF THE PARTIES; THE COURTS HAVE NO AUTHORITY TO ALTER THE AGREEMENT OR TO MAKE A NEW CONTRACT FOR THE PARTIES, AS THEIR DUTY IS CONFINED TO THE INTERPRETATION OF THE TERMS AND CONDITIONS WHICH THE PARTIES HAVE MADE FOR THEMSELVES WITHOUT REGARD TO THEIR WISDOM OR FOLLY. — It is settled that the literal meaning shall govern when the terms of a contract are clear and leave no doubt as to the intention of the parties. The courts have no authority to alter the agreement or to make a new contract for the parties. Their duty is confined to the interpretation of the terms and conditions which the parties have made for themselves without regard to their wisdom or folly. The courts cannot supply material stipulations or read into the contract words which it does not contain. It is only when the contract is vague and ambiguous that the courts are permitted to interpret the agreement and determine the intention of the parties. Here, the real estate mortgage contract is complete and leave no doubt as to the authority of TCLC to sell the mortgaged property.

2. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; FORECLOSURE OF REAL ESTATE MORTGAGE; IN EXTRAJUDICIAL FORECLOSURE OF REAL ESTATE MORTGAGE, THERE MUST BE A SPECIAL POWER OF ATTORNEY TO SELL FROM THE MORTGAGORS-OWNERS IN FAVOR OF THE MORTGAGEES, WHICH MUST BE EITHER INSERTED IN OR ATTACHED TO THE DEED

OF MORTGAGE; OTHERWISE, THE SALE IS VOID. — [I]n extrajudicial foreclosure of real estate mortgage, a special power to sell the property is required which must be either inserted in or attached to the deed of mortgage. Apropos is Section 1 of Act No. 3135, as amended by Act No. 4118, thus: Section 1. When a sale is made under **a special power inserted in or attached to any real estate mortgage** hereafter made as security for the payment of money or the fulfillment of any other obligation, the provisions of the following section shall govern as to the manner in which the sale and redemption shall be effected, whether or not provision for the same is made in the power. The special power or authority to sell finds support in civil law. Foremost, in extrajudicial foreclosure, the sale is made through the sheriff by the mortgagees acting as the agents of mortgagors-owners. Hence, there must be a written authority from the mortgagor-owners in favor of the mortgagees. Otherwise, the sale would be void. Moreover, a special power of attorney is necessary before entering "*into any contract by which the ownership of an immovable is transmitted or acquired either gratuitously or for a valuable consideration*." Thus, the written authority must be a special power of attorney to sell. The CA construed the provision as a mere grant of authority to foreclose but not to sell the property. On this point, we find reversible error on the part of the appellate court.

3. ID.; ID.; ID.; ID.; WHILE A POWER OF SALE WILL NOT BE RECOGNIZED AS CONTAINED IN MORTGAGE UNLESS IT IS GIVEN BY EXPRESS GRANT AND IN CLEAR AND EXPLICIT TERMS, AND THAT THERE CAN BE NO IMPLIED POWER OF SALE WHERE A MORTGAGE HOLDS BY A DEED ABSOLUTE IN FORM, IT IS GENERALLY HELD THAT NO PARTICULAR FORMALITY IS REQUIRED IN THE CREATION OF THE POWER OF SALE, AS ANY WORDS ARE SUFFICIENT WHICH EVINCE AN INTENTION THAT THE SALE MAY BE MADE UPON DEFAULT OR OTHER CONTINGENCY; SPECIAL POWER OF ATTORNEY TO SELL, GRANTED TO PETITIONER BY THE RESPONDENTS. — Here, it is undisputed that no special power to sell was attached to the real estate mortgage. TCLC relied on the express provision of paragraph 3 of the agreement allowing it "*to take any legal action as may be necessary to satisfy the mortgage debt*." Yet,

the CA construed the provision as a mere grant of authority to foreclose but not to sell the property. On this point, we find reversible error on the part of the appellate court. Indeed, while it has been held that a power of sale will not be recognized as contained in mortgage unless it is given by express grant and in clear and explicit terms, and that there can be no implied power of sale where a mortgage holds by a deed absolute in form, it is generally held that no particular formality is required in the creation of the power of sale. Any words are sufficient which evince an intention that the sale may be made upon default or other contingency. In this case, paragraph 3 of the real estate mortgage sufficiently incorporated the required special power of attorney to sell. It expressly provides that the mortgaged property shall be foreclosed, judicially or extra judicially, upon failure to satisfy the debt, and that TCLC, the mortgagee, is appointed as attorney-in-fact of Spouses Villanueva, the mortgagors, to do *any legal action as may be necessary to satisfy the mortgage debt*, x x x. The provision is pellucid and the CA cannot limit the authority granted to TCLC.

4. CIVIL LAW; CONTRACTS; OBLIGATIONS ARISING FROM CONTRACTS HAVE THE FORCE OF LAW BETWEEN THE PARTIES AND SHOULD BE COMPLIED WITH IN GOOD FAITH; RESPONDENTS WHO FREELY SIGNED THE REAL ESTATE MORTGAGE CONTRACT CANNOT BE ALLOWED TO RENEGE ON THEIR OBLIGATION, AS THE VALIDITY OR COMPLIANCE OF A CONTRACT CANNOT BE LEFT TO THE WILL OF ONE OF THE PARTIES. — [S]pouses Villanueva cannot claim, contrary to their plain agreement, that they granted TCLC merely the power to possess but not to sell the mortgaged property. Clearly stipulated in the real estate mortgage was the appointment of TCLC as attorney-in-fact, with authority to sell or otherwise dispose of the subject property, and to apply the proceeds to the payment of the loan. This provision is customary in mortgage contracts, and is in conformity with the principle that when the principal obligation becomes due, the things in which the mortgage consists may be alienated for the payment to the creditor. It is basic that obligations arising from contracts have the force of law between the parties and should be complied with in good faith. The stipulations are binding between the contracting parties unless they are contrary to law, morals, good

customs, public order or public policy. Corollarily, Spouses Villanueva, who freely signed the real estate mortgage contract, cannot now be allowed to renege on their obligation. The validity or compliance of a contract cannot be left to the will of one of the parties.

5. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; RULE 45 PETITION; FACTUAL ISSUES ARE BEYOND THE AMBIT OF THE COURT'S JURISDICTION IN A PETITION FOR REVIEW ON *CERTIORARI*, AS IT IS NOT THE COURT'S TASK TO GO OVER THE PROOFS PRESENTED BELOW TO ASCERTAIN IF THEY WERE APPRECIATED AND WEIGHED CORRECTLY, MOST ESPECIALLY WHEN THE TRIAL COURT AND THE APPELLATE COURT SPEAK AS ONE IN THEIR FINDINGS AND CONCLUSIONS. — [T]he sheriff complied with the procedures under Act No. 3135 for the extrajudicial foreclosure of the mortgaged property. The RTC and CA both held that Spouses Villanueva were notified of the auction sale and that the posting and publication requirements were duly complied with. Verily, these involve factual issues and are beyond the ambit of this Court's jurisdiction in a petition for review on *certiorari*. It is not this Court's task to go over the proofs presented below to ascertain if they were appreciated and weighed correctly, most especially when the trial court and the appellate court speak as one in their findings and conclusions.

APPEARANCES OF COUNSEL

Jehiel C. Cusa for petitioner.

Leonida Ibardolaza and Barrios Law & Notarial Office for respondents.

R E S O L U T I O N

LOPEZ, *J.*:

The interpretation of the real estate mortgage contract is the main issue in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeals'

(CA) Decision[1] dated March 27, 2017 in CA-G.R. CEB-CV No. 04387, which declared void the extrajudicial foreclosure sale.

ANTECEDENTS

On August 13, 2002, Spouses Voltaire and Ella Villanueva borrowed ₱100,000.00 from The Commoner Lending Corporation (TCLC) payable within one year and with 24% interest *per annum*.[2] As security, Spouses Villanueva executed a real estate mortgage over Lot No. 380-D.[3] Thereafter, Spouses Villanueva paid TCLC a total of ₱82,680.00 but were unable to settle the balance of ₱41,340.00. Thus, TCLC sent a final demand letter. Yet, Spouses Villanueva failed to comply.[4]

Accordingly, TCLC applied with the Office of the Provincial Sheriff to foreclose the real estate mortgage.[5] After notice and publication, an auction sale[6] on December 7, 2004 was held and the mortgaged properly was sold to TCLC as the sole bidder. On December 14, 2004, TCLC was issued a certificate of sale[7] which it recorded with the register of deeds.[8] On January 31, 2006, a final deed of sale was executed in favor of TCLC.[9]

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[1] *Rollo*, pp. 14-26; penned by Associate Justice Gabriel T. Robeniol, with the concurrence of Associate Justices Pamela Ann Abella Maxino and Pablito A. Perez.

[2] *Id.* at 121, 137.

[3] *Id.* at 138-139, 156-157, Lot No. 380-D is a 107-square meter land situated at Manoc-Manoc, Malay, Aklan, and covered by Tax Declaration No. 2313 in the name of Voltaire Villanueva.

[4] *Id.* at 118-120, 135-136. On August 20, 2003, Spouses Villanueva, through their representative Jeverlyn C. Villanueva, received a Final Demand dated July 30, 2002 from TCLC demanding the payment of their amortizations in arrears. The spouses failed to heed the demand.

[5] *Id.* at 140-141. Application dated July 27, 2004.

[6] *Id.* at 142. Auction sale was held on December 7, 2004.

[7] *Id.* at 143-144.

[8] *Id.* at 144. The Certificate of Sale was registered on January 27, 2005.

[9] *Id.* at 145-146. The Final Deed of Sale was executed on January 31, 2006.

Aggrieved, Spouses Villanueva filed an action against TCLC to annul the extrajudicial foreclosure sale, certificate of sale and final deed of sale before the Regional Trial Court (RTC) docketed as Civil Case No. 7823.[10] Spouses Villanueva alleged that TCLC had no right to foreclose the mortgaged property because paragraph 3 of the real estate mortgage did not expressly grant it the power to sell. Moreover, the mortgage transaction between the parties is void because it gave TCLC the power to possess the property without judicial order amounting to a *pactum commissorium* that is prohibited under the law. Lastly, Spouses Villanueva claimed that they learned the foreclosure only in January 2005. They denied receiving any notice of foreclosure and its publication.

On March 29, 2012, the RTC dismissed the complaint and upheld the validity of the extrajudicial foreclosure sale. Also, it ruled that the agreement between the parties is not a *pactum commissorium* absent stipulation on automatic appropriation of the mortgaged property,[11] thus:

> WHEREFORE, in view of foregoing, the instant case is ordered DISMISSED. The counterclaim for damages is likewise dismissed for lack of proof.
>
> No cost.
>
> SO ORDERED.[12]

Dissatisfied, Spouses Villanueva elevated the case to the CA docketed as CA-G.R. CEB-CV No. 04387. On March 27, 2017, the CA reversed the RTC's findings and declared void the extrajudicial foreclosure sale, certificate of sale and final deed of sale. It ruled that TCLC has no authority to foreclose the mortgage and that paragraph 3 of the real estate mortgage is merely an expression of Spouses Villanueva's amenability to an extrajudicial foreclosure sale. The contract did not a grant

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[10] *Id.* at 45-51.

[11] *Id.* at 79-91; penned by Presiding Judge Jemena L. Abellar Arbis.

[12] *Id.* at 91.

TCLC the special power to sell the mortgaged property in a public auction,[13] to wit:

> **WHEREFORE**, the appeal is GRANTED. The *Decision* dated March 29, 2012 of the RTC, 6th Judicial Region, Branch 6, Kalibo, Aklan in Civil Case No. 7823 is REVERSED and SET ASIDE. The extrajudicial foreclosure, *Certificate of Sale* and *Final Deed of Sale* issued thereunder are hereby declared NULL and VOID for lack of the special power or authority to sell the mortgaged property.
>
> **SO ORDERED**.[14]

TCLC sought reconsideration but was denied.[15] Hence, this petition, TCLC maintains that paragraph 3 of the real estate mortgage provided the authority to foreclose the mortgage and sell the property to satisfy Spouses Villanueva's debt. Furthermore, Spouses Villanueva are already barred from questioning the extrajudicial proceedings because they failed to redeem the property within one year from the issuance of the certificate of sale. On the other hand, Spouses Villanueva insisted that TCLC was only granted the power to possess the property but not to foreclose the mortgage in case of non-payment of the loan.[16]

RULING

It is settled that the literal meaning shall govern when the terms of a contract are clear and leave no doubt as to the intention of the parties.[17] The courts have no authority to alter the agreement or to make a new contract for the parties. Their duty is confined to the interpretation of the terms and conditions which the parties have made for themselves without regard to their wisdom or folly. The courts cannot supply material stipulations or read into the contract words which it does not

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[13] *Supra* note 1.

[14] *Rollo*, p. 26.

[15] *Id.* at 41-43.

[16] *Id.* at 213-216.

[17] CIVIL CODE, Art. 1370.

contain. It is only when the contract is vague and ambiguous that the courts are permitted to interpret the agreement and determine the intention of the parties.[18] Here, the real estate mortgage contract is complete and leave no doubt as to the authority of TCLC to sell the mortgaged property.

Specifically, in extrajudicial foreclosure of real estate mortgage, a special power to sell the property is required which must be either inserted in or attached to the deed of mortgage. Apropos is Section 1 of Act No. 3135,[19] as amended by Act No. 4118,[20] thus:

> Section 1. When a sale is made under **a special power inserted in or attached to any real estate mortgage** hereafter made as security for the payment of money or the fulfillment of any other obligation, the provisions of the following section shall govern as to the manner in which the sale and redemption shall be effected, whether or not provision for the same is made in the power. (Emphasis supplied.)

The special power or authority to sell finds support in civil law. Foremost, in extrajudicial foreclosure, the sale is made through the sheriff by the mortgagees acting as the agents of mortgagors-owners. Hence, there must be a written authority from the mortgagor-owners in favor of the mortgagees. Otherwise, the sale would be void.[21] Moreover, a special power of attorney is necessary before entering "*into any contract by which the ownership of an immovable is transmitted or acquired either gratuitously or for a valuable consideration*."[22] Thus,

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[18] *Pan Pacific Service Contractors, Inc. v. Equitable PCI Bank*, 630 Phil. 94 (2010).

[19] An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages, Act No. 3135, March 6, 1924.

[20] Approved on December 7, 1933.

[21] See Article 1874, Civil Code. When a sale of a piece of land or any interest therein is through an agent, the authority of the latter shall be in writing; otherwise, the sale shall be void.

[22] See Article 1878, paragraph 5, Civil Code. Special powers of attorney are necessary in the following cases:

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the written authority must be a special power of attorney to sell.[23]

Here, it is undisputed that no special power to sell was attached to the real estate mortgage. TCLC relied on the express provision of paragraph 3 of the agreement allowing it "*to take any legal action as may be necessary to satisfy the mortgage debt*." Yet, the CA construed the provision as a mere grant of authority to foreclose but not to sell the property. On this point, we find reversible error on the part of the appellate court.

Indeed, while it has been held that a power of sale will not be recognized as contained in mortgage unless it is given by express grant and in clear and explicit terms, and that there can be no implied power of sale where a mortgage holds by a deed absolute in form, it is generally held that no particular formality is required in the creation of the power of sale. Any words are sufficient which evince an intention that the sale may be made upon default or other contingency.[24] In this case, paragraph 3 of the real estate mortgage sufficiently incorporated the required special power of attorney to sell. It expressly provides that the mortgaged property shall be foreclosed, judicially or extra judicially, upon failure to satisfy the debt, and that TCLC, the mortgagee, is appointed as attorney-in-fact of Spouses Villanueva, the mortgagors, to do *any legal action as may be necessary to satisfy the mortgage debt*,[25] thus:

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(5) To enter into any contract by which the ownership of an immovable is transmitted or acquired either gratuitously or for a valuable consideration;

x x x x x x x x x

[23] *Sps. Baysa v. Sps. Plantilla, et al.*, 763 Phil. 562, 570 (2015).

[24] *Tan Chat v. C.N. Hodges, et al.*, 98 Phil. 928, 930-931 (1956), citing 41 Corpus Juris, p. 926.

[25] cf. *Spouses Baysa v. Spouses Plantilla, supra* at 566. In that case, paragraph 13 of the REM reads: "In the event of non-payment of the entire principal and accrued interest due under the conditions described in this paragraph, the mortgagors expressly and specifically agree to the extra-judicial foreclosure of the mortgaged property." We ruled that based on the text of paragraph 13, the petitioners agreed only to the holding of the extrajudicial foreclosure should they default in their obligations. Their agreement was a mere expression of their amenability to extrajudicial

3. That in case of non-payment or violation of the terms of the mortgage or any of the provision of the Republic Act No. 728 as amended **this mortgage shall immediately be foreclosed judicially or extra-judicially as provided by law and the mortgagee is hereby appointed attorney-in-fact of the mortgagor(s) with full power and authority to take possession of the mortgaged properties** without the necessity of any judicial order or any other permission of power, and **to take any legal action as may be necessary to satisfy the mortgage debt**, but if the mortgagor(s) shall well and truly fulfill the obligation above stated according to the terms thereof then this mortgage shall become null and void. (Emphases supplied.)

The provision is pellucid and the CA cannot limit the authority granted to TCLC. Also, Spouses Villanueva cannot claim, contrary to their plain agreement, that they granted TCLC merely the power to possess but not to sell the mortgaged property. Clearly stipulated in the real estate mortgage was the appointment of TCLC as attorney-in-fact, with authority to sell or otherwise dispose of the subject property, and to apply the proceeds to the payment of the loan. This provision is customary in mortgage contracts, and is in conformity with the principle that when the principal obligation becomes due, the things in which the mortgage consists may be alienated for the payment to the creditor.[26]

It is basic that obligations arising from contracts have the force of law between the parties and should be complied with in good faith.[27] The stipulations are binding between the contracting parties unless they are contrary to law, morals, good customs, public order or public policy.[28] Corollarily, Spouses Villanueva, who freely signed the real estate mortgage contract, cannot now be allowed to renege on their obligation. The validity

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foreclosure as the means of foreclosing the mortgage, and did not constitute the special power or authority to sell the mortgaged property to enable the mortgagees to recover the unpaid obligations. We declared that what was necessary was the special power or authority to sell — whether inserted in the REM itself, or annexed thereto — that authorized the respondent spouses to sell in the public auction their mortgaged property.

[26] CIVIL CODE, Art. 2087.

[27] *Id.*, Art. 1159.

[28] *Id.*, Art. 1306.

or compliance of a contract cannot be left to the will of one of the parties.[29]

Finally, the sheriff complied with the procedures under Act No. 3135[30] for the extrajudicial foreclosure of the mortgaged property. The RTC and CA both held that Spouses Villanueva were notified of the auction sale and that the posting and publication requirements were duly complied with.[31] Verily, these involve factual issues and are beyond the ambit of this Court's jurisdiction in a petition for review on *certiorari*. It is not this Court's task to go over the proofs presented below to ascertain if they were appreciated and weighed correctly, most especially when the trial court and the appellate court speak as one in their findings and conclusions.[32]

FOR THESE REASONS, the petition is **GRANTED**. The Court of Appeals' Decision dated March 27, 2017 in CA-G.R. CEB-CV No. 04387 is **REVERSED** and **SET ASIDE**. The Regional Trial Court's Decision dated March 29, 2012 in Civil Case No. 7823 dismissing the complaint is **REINSTATED**.

SO ORDERED.

Peralta, C.J., Caguioa, Reyes, Jr., and *Lazaro-Javier, JJ.*, concur.

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[29] *Id.*, Art. 1308.

[30] Sections 3 and 4, Act No. 3135, as amended, provide:

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 properly 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.

Sec. 4. The sale shall be made at public auction, between the hours or nine in the morning and four in the afternoon; and shall be under the direction of the sheriff or the province, the justice or auxiliary justice of the peace of the municipality in which such sale has to be made, or a notary public of said municipality, who shall be entitled to collect a fee of five pesos each day of actual work performed, in addition to his expenses.

[31] *Rollo*, pp. 25 and 87-89.

[32] *Gatan v. Vinarao*, G.R. No. 205912, October 18, 2017, 842 SCRA 602; *Heirs of Teresita Villanueva, et al. v. Heirs of Petronila Suquia Mendoza, et al.*, 810 Phil. 172 (2017); and *Bacsasar v. Civil Service Commission*, 596 Phil. 858 (2009).

FIRST DIVISION

[G.R. No. 236381. August 27, 2020]

REPUBLIC OF THE PHILIPPINES, *Petitioner*, *v.* **SIXTO SUNDIAM, L & F MARKETING, INC., JOSE MA. LOPEZ, ROSENDO D. BONDOC, AUGUSTO F. DEL ROSARIO, and LIBERTY ENGINEERING CORPORATION,** *Respondents*.

SYLLABUS

1. CIVIL LAW; LAND TITLES AND DEEDS; COMMONWEALTH ACT NO. 141, AS AMENDED (PUBLIC LAND ACT); THE REPUBLIC'S INTEREST IN REVERSION CASES OF LANDS OF THE PUBLIC DOMAIN IS STATUTORILY RECOGNIZED THEREIN; REVERSION CASES TO BE FILED BY THE SOLICITOR GENERAL. — The Republic's interest in reversion cases is statutorily recognized. Section 101 of Commonwealth Act No. 141, as amended, or the *Public Land Act provides*: "All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor-General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth of the Philippines." Since this reversion case was filed in 1979, the Complaint was verified by the then Director of Lands, Ramon N. Casanova. The Court takes judicial notice that the Clark Air Base was transferred in 1993 to the Bases Conversion and Development Authority by virtue of Proclamation No. 163, series of 1993.

2. ID.; OBLIGATIONS AND CONTRACTS; ESTOPPEL; CLASSIFICATION. — Pursuant to Article 1431 of the Civil Code, "[t]hrough estoppel an admission or representation is rendered conclusive upon the party making it, and cannot be denied or disproved as against the person relying thereon." Article 1433, in turn, classifies estoppel as either *in pais* (by conduct) or by deed. The classification is based on the common classification of estoppels into equitable and technical estoppel. In addition to estoppel *in pais* and by deed or record, estoppel may be by laches. Thus, laches is but a form of estoppel. It is

in the concept of laches that estoppel is to be understood in this ruling of the Court.

3. ID.; ID.; ID.; ID.; LACHES; DEFINED; ELEMENTS. — In a general sense, laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier. Stated differently, it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. The doctrine of laches or of "stale demands" is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims, and is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted. The four elements of the equitable defense of laches as held by the Court in *Go Chi Gun v. Co Cho* are: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.

4. ID.; ID.; ID.; ID.; ID.; LACHES MAY NOT BE RAISED AGAINST THE GOVERNMENT WHEN IT IS INSTITUTING A REVERSION CASE; HOWEVER, WHEN THE LAND SUBJECT OF REVERSION IS ALREADY ALIENATED TO INNOCENT PURCHASERS FOR VALUE, IT IS ONLY FAIR AND REASONABLE TO APPLY THE EQUITABLE PRINCIPLE OF ESTOPPEL BY LACHES AGAINST THE GOVERNMENT TO AVOID INJUSTICE. — [J]urisprudence on whether laches may bar the government from instituting a reversion case has been consistent. In the 1926 case of *Government of the United States of America v. The Judge of the Court of First Instance of Pampanga*, it was ruled that: The contention that the petitioner was guilty of laches in not taking timely advantage of the various other remedies available may be best answered by quoting the language

of the Supreme Court of the United States in the case of United States vs. Des Moines Navigation & Railroad Company, 142 U. S., 510 (citing U. S. *vs.* Nashville, Chattanoga and St. Louis Railway Company, 118 U. S., 120; U. S. *vs.* Insley, 130 U. S., 263): "When the government is the real party in interest, and is proceeding simply to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation." x x x This doctrine is the general rule and has been reiterated in, among others, *Land Bank of the Philippines v. Republic*, *Reyes v. Court of Appeals* and *Republic v. Court of Appeals*. However, in the case of *Estate of the Late Jesus S. Yujuico v. Republic*, the Court cited the following instance when estoppel by laches may be raised as a defense against the State or its agents: x x x Equitable estoppel may be invoked against public authorities when as in this case, the lot was already alienated to innocent buyers for value and the government did not undertake any act to contest the title for an unreasonable length of time. In *Republic v. Court of Appeals*, where the title of an innocent purchaser for value who relied on the clean certificates of the title was sought to be cancelled and the excess land to be reverted to the Government, we ruled that "[i]t is only **fair and reasonable to apply the equitable principle of estoppel by laches against the government to avoid an injustice to innocent purchasers for value** (emphasis supplied)." x x x From the foregoing, it thus is clear that only innocent purchasers for value (IPV) are afforded the right to raise the equitable principle of estoppel by laches in their defense against the government to avoid injustice to them.

5. ID.; LAND TITLES AND DEEDS; LAND REGISTRATION; TORRENS SYSTEM; A PARTY WHO SEEKS THE PROTECTION OF THE TORRENS SYSTEM HAS THE OBLIGATION TO PROVE HIS GOOD FAITH AS A PURCHASER FOR VALUE. — However, it should be noted that the party who claims the status of an IPV has the burden of proving such assertion, and the invocation of the ordinary presumption of good faith, *i.e.*, that everyone is presumed to act in good faith, is not enough. To be sure, proof of good faith is, as it should be, required of the party asserting it. Stated differently, the party who seeks the protection of the Torrens system has the obligation to prove his good faith as a purchaser for value. This requirement should be applied without exception because only the IPV is insulated from any fraud perpetrated

upon the registered owner which results in the latter being divested of his title (*i.e.*, he loses ownership) to the contested property and recognizing the same in the name of the IPV.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Feria Tantoco Daos Law Offices for respondents Liberty Engineering Corp. & Jose Ma. Lopez.

D E C I S I O N

CAGUIOA, *J.*:

Before the Court is the Petition[1] under Rule 45 of the Rules of Court filed by petitioner Republic of the Philippines (Republic), represented by the Office of the Solicitor General (OSG), assailing the Decision[2] dated December 19, 2017 of the Court of Appeals[3] in CA-G.R. CV No. 107773 affirming the Order[4] dated October 7, 2015 of the Regional Trial Court of Angeles City, Branch 56 (RTC) in Civil Case No. 79-3209, dismissing the reversion complaint filed by the Republic on the ground of equitable estoppel.

The Facts and Antecedent Proceedings

The CA Decision narrates the facts of the case as follows:

In a Complaint dated [October 16, 1979] filed before then Court of First Instance of Pampanga [(CFI)], the Republic, through the [OSG], alleged that a portion of the Fort Stotstenberg Military Reservation in Pampanga, now Clark Air Force Base, was surveyed, segregated and designated as Lot 727, Psd-528, Angeles Cadastre,

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[1] *Rollo*, pp. 10-38, excluding Annexes.

[2] Id. at 39-49. Penned by Associate Justice Rodil V. Zalameda (now a Member of the Court), with Associate Justices Japar B. Dimaampao and Renato C. Francisco concurring.

[3] Seventh Division.

[4] *Rollo*, pp. 94-97. Penned by Judge Irin Zenaida S. Buan.

in favor of one Jose P. Henzon. It was further subdivided into seven (7) lots, including Lot 727-G, allegedly without the approval or signature of the Director of Lands.

On [October 27, 1967], Lot No. 727-G was further subdivided into 63 lots, known as Csd-11198 and approved by the Director of Lands. One of the registered owners thereof, Sixto Sundiam [(Sundiam)], [respondent] herein, caused the registration of Lot No. 986 and thus, [Original Certificate of Title (OCT)] No. 80 was issued. Later on, Sundiam sold the said property to [respondent] L & F Marketing, Inc. [(L & F, Inc.)], which in turn sold the same, until the property passed on to [respondent] Liberty Engineering Corporation [(Liberty Corp.)], now under [Transfer Certificate of Title (TCT)] No. 34959. However, it was later on discovered that the said lot is within the Clark Air Force Base, a military reservation, prompting the Republic to file a reversion case to declare the titles on the said property null and void.

After the CFI issued summons, [respondents] Jose Ma. Lopez, Rosendo D. Bondoc, Augusto F. del Rosario and Liberty [Corp.], as transferees of the property, filed an Urgent Motion praying that the court direct the Republic to furnish them a copy of the sketch plan showing the disputed lot being within the Clark Air Force Base. The CFI granted the same through an Order dated [March 10, 1980], suspending the filing of the Answer until the said sketch plan had been furnished [respondents].

The Republic, however, failed to comply, hence, the CFI ordered the case be sent to the archives via an Order dated [April 30, 1982]. A year thereafter, the Republic filed a Motion to Declare Defendants in Default but the CFI issued an Order on [February 17, 1983] holding in abeyance action thereon pending motion from the Republic for the revival of the case.

Now, after twenty-four (24) years, the Republic, through the OSG, filed a Manifestation and Motion before the [RTC] praying for the revival of the case and the service of summons through publication on [respondents] Sundiam and L & F, Inc.

[Respondent] Liberty [Corp.] filed a Motion to Dismiss, arguing that the Republic's cause of action was already barred by prescription and laches. Moreover, the disputed property had already passed on to innocent purchasers for value, including Liberty [Corp.] The Republic opposed the same and maintained that neither prescription nor laches would bar its claims.

On [October 7, 2015], the [RTC] rendered the assailed Order dismissing the Complaint of the Republic, the dispositive portion of which states:

x x x x x x x x x

WHEREFORE, in view of the above considerations, the motion to dismiss is hereby granted. The complaint is DISMISSED.

x x x x x x x x x

SO ORDERED.

x x x x x x x x x

The Republic sought a reconsideration, but the same was denied in an Order dated [March 15, 2016.]

x x x x x x x x x

The Republic filed its Notice of Appeal which was given due course by the [RTC]. Hence, the x x x Appeal [to the CA.][5]

[Petitioner, then, filed an appeal to the CA, raising the sole issue that the RTC erred in applying the doctrine of equitable estoppel against the Government to bar it from recovering land covered by a military reservation.][6]

Ruling of the CA

In its Decision dated December 19, 2017, the CA denied the Republic's appeal. The CA agreed with the RTC's disquisition that the Republic is guilty of laches.[7]

The CA admitted that:

x x x [It] is aware that prescription does not run against the government. When the government is the real party in interest, and is proceeding mainly to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation. And, [j]urisprudence also recognizes the State's immunity from estoppel as a result of the mistakes or errors of its officials and agents.[8]

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[5] *Rollo*, pp. 40-43.

[6] Id. at 43.

[7] Id. at 45.

[8] Id. at 44. Citations omitted.

However, the CA pointed out that the disputed property, which the Republic has alleged to be within the Clark Air Base,[9] a military reservation, had already passed on to several third persons.[10] The CA stated that it is only fair and reasonable to apply the equitable principle of estoppel by laches against the government to avoid an injustice to innocent purchasers for value.[11] Further, the CA expressed that it adheres to the Court's ruling in *Republic v. Umali*,[12] that the government cannot institute reversion proceedings against transferees in good faith and for value, upholding the indefeasibility of a Torrens title.[13]

The dispositive portion of the CA Decision states:

> **WHEREFORE**, premises considered, the instant Appeal is hereby **DENIED**. Accordingly, the assailed Order dated [October 7, 2015] issued by Branch 56, Regional Trial Court of Angeles City is **AFFIRMED *in toto***.
>
> **SO ORDERED.**[14]

Hence, the instant Petition, without the Republic seeking reconsideration of the CA Decision. Respondent Liberty Engineering Corporation filed a Comment/Opposition[15] dated July 20, 2018.

The Issue

The Petition raises the sole issue: whether the CA erred in a question of law in ruling that the Republic is guilty of estoppel by laches.[16]

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[9] Clark Air Force Base in some parts of the *rollo*.

[10] See *rollo*, pp. 46, 47.

[11] Id. at 47. Citations omitted.

[12] G.R. No. 80687, April 10, 1989, 171 SCRA 647.

[13] *Rollo*, pp. 47-48.

[14] Id. at 48.

[15] Id. at 159-179.

[16] Id. at 17.

The Court's Ruling

The Petition is impressed with merit.

The Republic's interest in reversion cases is statutorily recognized. Section 101 of Commonwealth Act No. 141,[17] as amended, or the *Public Land Act* provides: "All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor-General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth of the Philippines." Since this reversion case was filed in 1979, the Complaint was verified by the then Director of Lands, Ramon N. Casanova.[18] The Court takes judicial notice that the Clark Air Base was transferred in 1993 to the Bases Conversion and Development Authority by virtue of Proclamation No. 163,[19] series of 1993.

Pursuant to Article 1431 of the Civil Code, "[t]hrough estoppel an admission or representation is rendered conclusive upon the party making it, and cannot be denied or disproved as against the person relying thereon." Article 1433, in turn, classifies estoppel as either *in pais* (by conduct) or by deed. The classification is based on the common classification of estoppels into equitable and technical estoppel.[20] In addition to estoppel *in pais* and by deed or record, estoppel may be by laches.[21] Thus, laches is but a form of estoppel. It is in the concept of

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[17] AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN, November 7, 1936.

[18] *Rollo*, p. 81.

[19] CREATING AND DESIGNATING THE AREA COVERED BY THE CLARK SPECIAL ECONOMIC ZONE AND TRANSFERRING THESE LANDS TO THE BASES CONVERSION AND DEVELOPMENT AUTHORITY PURSUANT TO REPUBLIC ACT NO. 7227, April 3, 1993.

[20] Desiderio P. Jurado, COMMENTS AND JURISPRUDENCE ON OBLIGATIONS AND CONTRACTS (1987 Ninth Rev. Ed.), p. 621.

[21] "A party may be estopped or barred from raising a question in different ways and for different reasons. Thus we speak of estoppel *in pais*, or estoppel by deed or by record, and of estoppel by *laches*." *Tijam v. Sibonghanoy*, No. L-21450, April 15, 1968, 23 SCRA 29, 35.

laches that estoppel is to be understood in this ruling of the Court.

In a general sense, laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier. Stated differently, it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[22] The doctrine of laches or of "stale demands" is based upon grounds of public policy which requires, for the peace of society, the discouragement of stale claims, and is not a mere question of time but is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.[23]

The four elements of the equitable defense of laches as held by the Court in *Go Chi Gun v. Co Cho*[24] are: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.[25]

The scope of the application of estoppel is, however, limited by Article 1432 of the Civil Code, which provides:

> ART. 1432. The principles of estoppel are hereby adopted insofar as they are not in conflict with the provisions of this Code, the Code of Commerce, the Rules of Court and special laws.

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[22] *Tijam v. Sibonghanoy,* id. at 35.

[23] Id.

[24] 96 Phil. 622 (1955).

[25] Id. at 637.

As well, jurisprudence on whether laches may bar the government from instituting a reversion case has been consistent. In the 1926 case of *Government of the United States of America v. The Judge of the Court of First Instance of Pampanga*,[26] it was ruled that:

> The contention that the petitioner was guilty of laches in not taking timely advantage of the various other remedies available may be best answered by quoting the language of the Supreme Court of the United States in the case of United States *vs.* Des Moines Navigation & Railroad Company, 142 U.S., 510 (citing U.S. *vs.* Nashville, Chattanoga and St. Louis Railway Company, 118 U.S., 120; U.S. *vs.* Insley, 130 U.S., 263): "When the government is the real party in interest, and is proceeding simply to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation." x x x[27]

This doctrine is the general rule and has been reiterated in, among others, *Land Bank of the Philippines v. Republic*,[28] *Reyes v. Court of Appeals*[29] and *Republic v. Court of Appeals*.[30]

However, in the case of *Estate of the Late Jesus S. Yujuico v. Republic*,[31] the Court cited the following instance when estoppel by laches may be raised as a defense against the State or its agents:

> Assuming that the Parañaque RTC has jurisdiction over the reversion case, still the lapse of almost three decades in filing the instant case, the inexplicable lack of action of the Republic and the inquiry this would cause constrain us to rule for petitioners. While it may be true that estoppel does not operate against the state or its agents,[32]

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[26] 49 Phil. 495 (1926).

[27] Id. at 500.

[28] G.R. No. 150824, February 4, 2008, 543 SCRA 453, 468.

[29] G.R. No. 94524, September 10, 1998, 295 SCRA 296, 313.

[30] G.R. No. 79582, April 10, 1989, 171 SCRA 721, 734.

[31] G.R. No. 168661, October 26, 2007, 537 SCRA 513.

[32] Citing *Manila Lodge No. 761 v. Court of Appeals*, Nos. L-41001 & L-41012, September 30, 1976, 73 SCRA 162, 186.

deviations have been allowed. In *Manila Lodge No. 761 v. Court of Appeals*, we said:

> "Estoppels against the public are little favored. They should not be invoked except in rare and unusual circumstances, and may not be invoked where they would operate to defeat the effective operation of a policy adopted to protect the public. They must be applied with circumspection and should be applied only in those special cases where the interests of justice clearly require it. **Nevertheless, the government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing; and subject to limitations** x x x**, the doctrine of equitable estoppel may be invoked against public authorities as well as against private individuals.**"[33] (Emphasis supplied.)

Equitable estoppel may be invoked against public authorities when as in this case, the lot was already alienated to innocent buyers for value and the government did not undertake any act to contest the title for an unreasonable length of time.

In *Republic v. Court of Appeals*, where the title of an innocent purchaser for value who relied on the clean certificates of the title was sought to be cancelled and the excess land to be reverted to the Government, we ruled that "[i]t is only **fair and reasonable to apply the equitable principle of estoppel by laches against the government to avoid an injustice to innocent purchasers for value** (emphasis supplied)."[34] x x x

x x x x x x x x x

Republic v. Court of Appeals is reinforced by our ruling in *Republic v. Umali*,[35] where, in a reversion case, we held that even if the original grantee of a patent and title has obtained the same through fraud, reversion will no longer prosper as the land had become private land and the fraudulent acquisition cannot affect the titles of innocent purchasers for value.[36]

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[33] Citing 31 CJS 675-676, cited in *Republic v. Court of Appeals*, G.R. No. 116111, January 21, 1999, 301 SCRA 366, 377.

[34] Citing *Republic v. Court of Appeals,* id. at 379.

[35] *Supra* note 12, at 653.

[36] *Estate of the Late Jesus S. Yujuico v. Republic,* supra note 31, at 529-532.

From the foregoing, it thus is clear that only innocent purchasers for value (IPV) are afforded the right to raise the equitable principle of estoppel by laches in their defense against the government to avoid injustice to them.

However, it should be noted that the party who claims the status of an IPV has the burden of proving such assertion, and the invocation of the ordinary presumption of good faith, *i.e.*, that everyone is presumed to act in good faith,[37] is not enough.[38] To be sure, proof of good faith is, as it should be, required of the party asserting it. Stated differently, the party who seeks the protection of the Torrens system has the obligation to prove his good faith as a purchaser for value. This requirement should be applied without exception because only the IPV is insulated from any fraud perpetrated upon the registered owner which results in the latter being divested of his title (*i.e.*, he loses ownership) to the contested property and recognizing the same in the name of the IPV.

The determination of whether respondents are indeed IPVs can only proceed from a factual inquiry to be conducted by the RTC. As the instant proceedings stand, no evidence has been adduced by the parties on this factual issue because the Republic's complaint for reversion was dismissed without reception of evidence. Without evidence proving that respondents are indeed IPVs, laches cannot be applied to bar the Republic from pursuing the present reversion case against them. A remand to the RTC for reception of evidence is thus in order.

WHEREFORE, the Petition is hereby **GRANTED**. Accordingly, the Decision dated December 19, 2017 of the

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[37] Article 527 of the Civil Code states: "Good faith is always presumed, and upon him who alleges bad faith on the part of a possessor rests the burden of proof."

[38] See *Nobleza v. Nuega*, G.R. No. 193038, March 11, 2015, 752 SCRA 602, 611, citing *Raymundo v. Bandong*, G.R. No. 171250, July 4, 2007, 526 SCRA 514, 529 further citing *Potenciano v. Reynoso*, G.R. No. 140707, April 22, 2003, 401 SCRA 391, 401. See also *Baltazar v. Court of Appeals*, No. 78728, December 8, 1988, 168 SCRA 354, 367 and *Santos v. Court of Appeals*, G.R. No. 90380, September 13, 1990, 189 SCRA 550, 559.

Court of Appeals in CA-G.R. CV No. 107773 is **REVERSED** and **SET ASIDE**. The Complaint for reversion and cancellation of title filed by the Republic of the Philippines in Civil Case No. 79-3209 with the Regional Trial Court of Angeles City, Branch 56 is **REINSTATED** and the said Regional Trial Court is directed to hear and resolve the case with immediate dispatch.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Reyes, Jr.*, *Lazaro-Javier,* and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 236618. August 27, 2020]

JCLV REALTY & DEVELOPMENT CORPORATION, *Petitioner*, *v.* **PHIL GALICIA MANGALI,** *Respondent*.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; 1987 ADMINISTRATIVE CODE; IN ANY CRIMINAL PROCEEDINGS, ONLY THE OFFICE OF THE SOLICITOR GENERAL (OSG) MAY BRING OR DEFEND ACTIONS ON BEHALF OF THE REPUBLIC OF THE PHILIPPINES, OR REPRESENT THE PEOPLE OR STATE BEFORE THE SUPREME COURT AND THE COURT OF APPEALS; RATIONALE. — In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the Supreme Court and the CA. This is explicitly provided under Section 35(1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines, thus: x x x (1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings**; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. x x x The rationale behind this rule is that in a criminal case, the party affected by the dismissal of the criminal action is the State and not the private complainant. The interest of the private offended party is restricted only to the civil liability. In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case. Differently stated, the private offended party may file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the complainant may file a special civil action for *certiorari* even without the intervention

of the OSG, but only to the end of preserving his interest in the civil aspect of the case.

2. REMEDIAL LAW; CRIMINAL PROCEDURE; DEMURRER TO EVIDENCE; A PRIVATE COMPLAINANT CANNOT QUESTION THE ORDER GRANTING THE DEMURRER TO EVIDENCE IN A CRIMINAL CASE ABSENT GRAVE ABUSE OF DISCRETION OR DENIAL OF DUE PROCESS; THE INTEREST OF THE OFFENDED PARTY IS LIMITED ONLY TO THE CIVIL ASPECT OF THE CASE. — [W]e find that JCLV Realty was not deprived of due process. Notably, JCLV Realty participated in the proceedings and presented evidence until the prosecution rested its case. The prosecution likewise opposed the demurrer. On this point, there is no denial of due process especially when the parties are granted an opportunity to be heard, either through verbal arguments or pleadings. Also, the RTC did not commit grave abuse of discretion when it dismissed the case on a ground not raised in the demurrer to evidence, *i.e*. the prosecution failed to positively identify the accused. It is settled that the identity of the offender is indispensably entwined to the commission of the crime. The first duty of the prosecution is not to prove the crime but to establish the identity of the criminal, for even if the commission of the crime can be proven, there can be no conviction without proof of identity of the criminal. On the other hand, a demurrer to evidence is defined as an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. In granting the demurrer, the RTC considered the entirety of the prosecution evidence but found them insufficient to establish the identity of the accused.

3. ID.; ID.; DOUBLE JEOPARDY HAS SET IN; ELEMENTS THAT MUST CONCUR FOR DOUBLE JEOPARDY TO ATTACH, PRESENT IN THIS CASE. — [D]ouble jeopardy has set in. It attaches when the following elements concur: (1) the accused is charged under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) the accused is convicted or acquitted, or the case is dismissed without his/her consent. Here, all the elements

are present. A valid Information for the crime of robbery was filed against Mangali before the RTC. Also, Mangali had pleaded not guilty to the charge, and after the prosecution rested, the criminal case was dismissed upon a demurrer to evidence. Absent grave abuse of discretion or denial of due process, the grant of demurrer to evidence is a judgment of acquittal which is final and executory.

CAGUIOA, *J.*, *concurring opinion:*

1. REMEDIAL LAW; CRIMINAL PROCEDURE; PRIVATE COMPLAINANT HAS NO LEGAL PERSONALITY TO QUESTION THE ACQUITTAL OF AN ACCUSED OR THE DISMISSAL OF THE CASE AGAINST HIM AS SUCH AUTHORITY BELONGS ONLY TO THE OFFICE OF THE SOLICITOR GENERAL (OSG); THE PRIVATE COMPLAINANT MAY QUESTION SUCH ACQUITTAL OR DISMISSAL ONLY INSOFAR AS THE CIVIL LIABILITY OF THE ACCUSED IS CONCERNED. — [O]nly the OSG, in behalf of the State, and not the private offended party, has the authority to question the acquittal of an accused in a criminal case. Therefore, JCLV Realty had no legal personality to file the petition for *certiorari* with the CA. In criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned. x x x The rationale behind this rule is that in criminal cases, it is the State that is the offended party. It is the party affected by the dismissal of the criminal action, and not the private complainant. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. Since the petition filed by JCLV Realty before the CA essentially assailed the criminal aspect of the case, it should have been filed by the State through the OSG. Thus, the CA was correct when it dismissed the petition filed by JCLV Realty for lack of legal personality.

2. POLITICAL LAW; CONSTITUTIONAL LAW; 1987 CONSTITUTION; BILL OF RIGHTS; RIGHT AGAINST DOUBLE JEOPARDY; PURPOSES, EXPLAINED. — The

right against double jeopardy is a constitutional right deeply rooted in jurisprudence. The doctrine has several avowed purposes. Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty. Double jeopardy, therefore, provides three related protections: (1) against a second prosecution for the same offense after acquittal, (2) against a second prosecution for the same offense after conviction, and (3) against multiple punishments for the same offense. The constitutional mandate is a rule of finality. A single prosecution for any offense is all the law allows. It protects an accused from harassment, enables him to treat what had transpired as a closed chapter in his life, either to exult in his freedom or to be resigned to whatever penalty is imposed, and is a bar to unnecessary litigation, in itself time-consuming and expense-producing for the State as well. The ordeal of a criminal prosecution is inflicted only once, not whenever it pleases the state to do so.

3. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; THE REMEDY OF PETITION FOR *CERTIORARI* AGAINST THE ACQUITTAL OF AN ACCUSED IS A VERY LIMITED EXCEPTION TO THE FINALITY OF ACQUITTAL RULE; NO AMOUNT OF ERROR OF JUDGMENT WILL RIPEN INTO AN ERROR OF JURISDICTION SUCH THAT THE ACQUITTAL WOULD BE REVIEWABLE BY THIS COURT THROUGH A PETITION FOR *CERTIORARI*. — [N]ot every error in the trial or evaluation of the evidence by the court in question that led to the acquittal of the accused would be reviewable by *certiorari*. The writ of *certiorari* — being a remedy narrow in scope and inflexible in character, whose purpose is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts (*i.e.*, acts that courts have no power or authority in law to perform) — is not a general utility tool in the legal workshop, and cannot be issued to correct every error committed by a lower court.

Certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court. As long as a court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than errors of judgment which fall outside the scope of a writ of *certiorari*. In the case at bar, although JCLV Realty filed a petition for review on *certiorari* under Rule 45 of the Rules of Court before this Court, the *ponencia* nonetheless made a finding that the trial court did not commit grave abuse of discretion when it granted the demurrer to evidence on a ground not raised therein — that of the failure of the prosecution to positively identify Mangali. As discussed, it is immaterial whether the trial court was correct in acquitting Mangali. The fact remains that Mangali's right against double jeopardy already attached when the trial court granted his demurrer to evidence and ordered his acquittal. **No amount of error of judgment will ripen into an error of jurisdiction such that the acquittal would be reviewable by this Court through a petition for *certiorari*.** Absent any manifest denial of due process tantamount to making the proceedings before the court *a quo* a sham trial, there is no basis whatsoever to reinstate the criminal case against Mangali and place him twice in jeopardy.

APPEARANCES OF COUNSEL

Joselito A. Oliveros for petitioner.
Public Attorney's Office for respondent.

D E C I S I O N

LOPEZ, *J.*:

A private complainant cannot question the Order granting the demurrer to evidence in a criminal case absent grave abuse of discretion or denial of due process. The interest of the offended party is limited only to the civil aspect of the case. We apply this dictum in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of

Appeals' (CA) Resolution[1] dated September 22, 2017 in CA-G.R. SP No. 152450.

ANTECEDENTS

Phil Mangali (Mangali) and Jerry Alba (Alba) were charged with robbery committed against JCLV Realty & Development Corporation (JCLV Realty) before the Regional Trial Court (RTC) docketed as Criminal Case No. Q-11-169004.[2] Allegedly, Mangali and Alba removed JCLV Realty's electric facilities with intent to gain and intimidation against persons. After the prosecution rested its case, Mangali filed a demurrer to evidence claiming that the prosecution failed to establish intent to gain and that the metering instruments belonged to JCLV Realty.[3] The prosecution opposed the demurrer.

On March 30, 2017, the RTC granted the demurrer and dismissed the criminal case for lack of evidence that Mangali perpetrated the robbery,[4] thus:

> **WHEREFORE**, the Demurrer to Evidence is **GRANTED**. The prosecution's evidence is not sufficient to convict the accused, accused *(sic)* **Phil Mangali y Galicia**'s case is hereby **DISMISSED**.
>
> No pronouncement as to the civil aspect of the case.
>
> As regards accused Jerry P. Alba, his case is **ORDERED ARCHIVED** and may be revived only upon his apprehension and/or surrender.
>
> **SO ORDERED**.[5]

Unsuccessful at a reconsideration,[6] JCLV Realty elevated the case to the CA through a special civil action for *certiorari*

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[1] *Rollo*, pp. 32-38; penned by Associate Justice Rafael Antonio M. Santos, with the concurrence of Associate Justices Marlene Gonzales-Sison and Socorro B. Inting.

[2] *Id.* at 79-80.

[3] *Id.* at 172-179.

[4] *Id.* at 68-71; penned by Presiding Judge Eleuterio Larisma Bathan.

[5] *Id.* at 71.

[6] *Id.* at 78.

docketed as CA-G.R. SP No. 152450. JCLV Realty argued that the RTC erred in granting the demurrer because Mangali had admitted the taking of meter facilities. Moreover, the pre-trial order which contained admission on the identity of the perpetrator is valid even if not signed by the parties. Lastly, JCLV Realty claimed denial of due process and grave abuse of discretion on the part of RTC when it dismissed the criminal case on a ground not invoked by the accused.[7]

On September 22, 2017, the CA dismissed the petition and ruled that JCLV Realty has no personality to question the dismissal of the criminal case. The authority to represent the State in criminal proceedings is vested solely on the Office of the Solicitor General (OSG) and not the private complainant who may appeal only the civil aspect of the case,[8] *viz.*:

> **WHEREFORE**, the Petition for *Certiorari* is **DISMISSED** for lack of personality or authority of the petitioner to file the Petition with respect to the criminal aspect of the case and for being the wrong judicial remedy with respect to the civil aspect of the case.
>
> SO ORDERED.[9]

JCLV Realty sought reconsideration[10] but was denied.[11] Hence, this recourse.[12] JCLV Realty contends that the authority of the OSG applies only in ordinary appeals. The private complainant can file a special civil action for *certiorari* to question the criminal and civil aspect of the case. Yet, the CA mistook its petition as an ordinary appeal. On the other hand, Mangali maintains that JCLV Realty has no legal standing to file *certiorari* proceedings because the reliefs sought directly affects the criminal aspect of the case. Hence, the OSG's consent is necessary.

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[7] *Id.* at 57-64.

[8] *Id.* at 32-38.

[9] *Id.* at 38.

[10] *Id.* at 39-48.

[11] *Id.* at 56.

[12] *Id.* at 12-27.

RULING

In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the Supreme Court and the CA. This is explicitly provided under Section 35 (1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines,[13] thus:

> Section 35. *Power and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the service of a lawyer. It shall have the following specific power, and functions:
>
> (1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings**; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphasis supplied.)

The rationale behind this rule is that in a criminal case, the party affected by the dismissal of the criminal action is the State and not the private complainant. The interest of the private offended party is restricted only to the civil liability. In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case.[14] Differently stated, the private offended party may

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[13] See *Cu v. Ventura*, G.R. No. 224567, September 26, 2018, 881 SCRA 118.

[14] *Chiok v. People, et al.*, 774 Phil. 230, 264 (2015).

file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the complainant may file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his interest in the civil aspect of the case.[15]

Corollarily, we dismissed petitions filed by the private offended party questioning the acquittal of the accused or dismissal of the criminal case without the consent of the OSG. In *Bangayan, Jr. v. Bangayan*,[16] the respondent lacks personality to file a petition for *certiorari* before the CA because she prayed for the reversal of the trial court's order granting the petitioners' demurrer to evidence and the conduct of a full blown trial. The respondent did not even briefly discuss the civil liability of the petitioners, to wit:

> A perusal of the petition for *certiorari* filed by Sally Go before the CA discloses that **she sought reconsideration of the criminal aspect of the case. Specifically, she prayed for the reversal of the trial court's order granting petitioners' demurrer to evidence and the conduct of a full blown trial of the criminal case. Nowhere in her petition did she even briefly discuss the civil liability of petitioners. It is apparent that her only desire was to appeal the dismissal of the criminal case against the petitioners. Because bigamy is a criminal offense, only the OSG is authorized to prosecute the case on appeal. Thus, Sally Go did not have the requisite legal standing to appeal the acquittal of the petitioners**.
>
> Sally Go was mistaken in her reading of the ruling in *Merciales*. *First*, in the said case, the OSG joined the cause of the petitioner, thereby meeting the requirement that criminal actions be prosecuted under the direction and control of the public prosecutor. *Second*, the acquittal of the accused was done without due process and was declared null and void because of the nonfeasance on the part of the public prosecutor and the trial court. There being no valid acquittal, the accused therein could not invoke the protection of double jeopardy.

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[15] *Cu v. Ventura, supra* note 13, citing *Villareal v. Aliga*, 724 Phil. 47, 57 (2014) and *Ong v. Genio*, 623 Phil. 835 (2009).

[16] 675 Phil. 656 (2011).

In this case, however, neither the Solicitor General nor the City Prosecutor of Caloocan City joined the cause of Sally Go, much less consented to the filing of a petition for *certiorari* with the appellate court. Furthermore, she cannot claim to have been denied due process because the records show that the trial court heard all the evidence against the accused and that the prosecution had formally offered the evidence before the court granted the demurrer to evidence. Thus, the petitioners' acquittal was valid, entitling them to invoke their right against double jeopardy.[17] (Emphasis supplied; citation omitted.)

Likewise, in *Jimenez v. Sorongon*[18] the petitioner has no standing to question the dismissal of the criminal case since his main argument is about the existence of probable cause. This dispute involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. A similar ruling was applied in *Anlud Metal Recycling Corp. v. Ang*,[19] to wit:

The real party in interest in a criminal case is the People of the Philippines. Hence, if the criminal case is dismissed by the trial court, the criminal aspect of the case must be instituted by the Solicitor General on behalf of the State.

As a qualification, however, this Court recognizes that the private offended party has an interest in the civil aspect of the case. Logically, **the capability of the private complainant to question the dismissal of the criminal proceedings is limited only to questions relating to the civil aspect of the case. It should ideally be along this thin framework that we may entertain questions regarding the dismissals of criminal cases instituted by private offended parties.** Enlarging this scope may result in wanton disregard of the OSG's personality, as well as the clogging of our dockets, which this Court is keen to avoid.

Therefore, **the litmus test in ascertaining the personality of herein petitioner lies in whether or not the substance of the *certiorari* action it instituted in the CA referred to the civil aspect of the case**.

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[17] *Id.* at 665.

[18] 700 Phil. 316 (2012).

[19] 766 Phil. 676 (2015).

Here in this Rule 45 petition, petitioner argues that the RTC erred when it concluded that "there is no evidence of conspiracy against private respondent Ang." Petitioner goes on to enumerate circumstances that collectively amount to a finding that based on probable cause, respondent conspired with the accused in defrauding Anlud Metal Recycling Corporation.

Clearly, petitioner mainly disputes the RTC's finding of want of probable cause to indict Ang as an accused for *estafa*. This dispute refers, though, to the criminal, and not the civil, aspect of the case. In *Jimenez v. Sorongon*, we similarly ruled:

> In this case, the petitioner has no legal personality to assail the dismissal of the criminal case **since the main issue raised by the petitioner involved the criminal aspect of the case, *i.e.*, the existence of probable cause**. The petitioner did not appeal to protect his alleged **pecuniary interest as an offended party of the crime**, but to cause the reinstatement of the criminal action against the respondents. This involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. (Emphasis supplied.)

Given that nowhere in the pleadings did petitioner even briefly discuss the civil liability of respondent, this Court holds that Anlud Metal Recycling Corporation lacks the requisite legal standing to appeal the discharge of respondent Ang from the Information for *estafa*. On this ground alone, the petition already fails.[20] (Emphasis supplied; citations omitted.)

In *Yokohama Tire Philippines, Inc. v. Reyes*,[21] the petitioner filed a special civil action for *certiorari* before the RTC seeking to annul the MTC's decision acquitting the respondents. In that case, the petitioner has no authority in filing the petition because it assails the admissibility of evidence which only the State may question, *viz.*:

> x x x [T]he Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court

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[20] *Id.* at 686-688.

[21] G.R. No. 236686, February 5, 2020.

or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the Solicitor General. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.

In its petition for *certiorari* filed with the RTC, petitioner seeks the annulment of the MTC decision acquitting herein respondents. In so doing, petitioner raises issues on the admissibility of evidence which it submitted to prove the guilt of the accused. These issues necessarily require a review of the criminal aspect of the case and, as such, is prohibited. As discussed above, only the State, and not herein petitioner, who is the private offended party, may question the criminal aspect of the case.

The above cases raised issues that necessarily require a review of the criminal aspect of the proceedings. In the same manner, JCLV Realty are praying for reliefs which pertain to the criminal aspect of the case. Foremost, the arguments in the petition for *certiorari* are centered on Mangali's identification as the perpetrator of the crime. Secondly, JCLV Realty prayed that the March 30, 2017 Order be "*annulled, reversed and set aside and that a new one [will] be rendered denying the [accused'] Demurrer to Evidence*." Lastly, nowhere in the petition did JCLV Realty discuss Mangali's civil liability. In contrast, it is ultimately seeking the reinstatement of the criminal case against Mangali.

Notably, this Court has already acknowledged that the acquittal of the accused or dismissal of the criminal case may be assailed through a Petition for *Certiorari* under Rule 65 of the Rules of Court on the grounds of grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process rendering the judgment void.[22] In *People v. Judge Santiago*,[23] the private offended party filed a special civil action for *certiorari* on the ground that trial court acquitted the accused without trial on the merits despite the conflicting positions of the parties. This Court ruled that the acquittal is a nullity for want of due

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[22] *People v. Go, et al.*, 740 Phil. 583, 603 (2014).

[23] 255 Phil. 851 (1989).

process because the trial court deprived the prosecution an opportunity to present evidence. Also, we declared that the victim can avail *certiorari* to question the validity of acquittal.

In *Dela Rosa v. CA*,[24] we sustained the private offended party's right to file a special civil action for *certiorari* in assailing the dismissal of a criminal case and ruled that the OSG's intervention is not necessary. In that case, the trial court's dismissal of the case on the ground that the accused is entitled to a speedy trial is capricious and unwarranted. In *People v. Court of Appeals*,[25] the victim filed a petition for *certiorari* to assail the decision of the appellate court acquitting the accused from the crime of rape. This Court reversed the judgment of acquittal because the appellate court merely relied on the evidence of the defense and utterly disregarded that of the prosecution. We likewise held that the victim has legal standing to bring a special civil action for *certiorari*. In any event, the OSG joined the victim's cause in its comment thereby fulfilling the requirement that all criminal actions shall be prosecuted under the direction and control of the public prosecutor.

In *Perez v. Hagonoy Rural Bank, Inc.*,[26] the trial court dismissed the criminal charge for estafa thru falsification of commercial documents against the petitioner on the basis solely of the recommendation of the Secretary of Justice. We ruled that the trial court acted with grave abuse of discretion because it did not make an independent evaluation of the merits of the case. Hence, the private respondent properly filed a petition for *certiorari* before the appellate court to question the dismissal of the criminal case. In *David v. Marquez*,[27] the private offended party brought a special civil action for *certiorari* to the CA and questioned the patently erroneous order of the trial court quashing the informations on the supposed ground of improper

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[24] 323 Phil. 596 (1996).

[25] 755 Phil. 80 (2015).

[26] 384 Phil. 322 (2000).

[27] 810 Phil. 187 (2017).

venue. We held that the victim has the legal personality to file a petition for *certiorari* on her own and not through the OSG.

In this case, we find that JCLV Realty was not deprived of due process. Notably, JCLV Realty participated in the proceedings and presented evidence until the prosecution rested its case. The prosecution likewise opposed the demurrer. On this point, there is no denial of due process especially when the parties are granted an opportunity to be heard, either through verbal arguments or pleadings.[28] Also, the RTC did not commit grave abuse of discretion when it dismissed the case on a ground not raised in the demurrer to evidence, *i.e.*, the prosecution failed to positively identify the accused. It is settled that the identity of the offender is indispensably entwined to the commission of the crime.[29] The first duty of the prosecution is not to prove the crime but to establish the identity of the criminal, for even if the commission of the crime can be proven, there can be no conviction without proof of identity of the criminal.[30] On the other hand, a demurrer to evidence is defined as an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue.[31] The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.[32] In granting the demurrer, the RTC considered the entirety of the prosecution evidence but found them insufficient to establish the identity of the accused.

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[28] *People v. Atienza, et al.*, 688 Phil. 122, 134 (2012).

[29] *People v. Amarela*, G.R. Nos. 225642-43, January 17, 2018, 852 SCRA 54; *People v. Wagas*, 717 Phil. 224 (2013); *People v. Espera*, 718 Phil. 680, 694 (2013).

[30] *People v. Caliso*, 675 Phil. 742, 752 (2011), citing *People v. Pineda*, 473 Phil. 517 (2004); *People v. Esmale*, 313 Phil. 471 (1995); *Tuason v. Court of Appeals*, 311 Phil. 813 (1995).

[31] *Gutib v. Court of Appeals*, 371 Phil. 293, 300 (1999).

[32] *Zaldivar v. People, et al.*, 782 Phil. 113, 120 (2016), citing *People v. Go*, 740 Phil. 583 (2014).

Finally, double jeopardy has set in. It attaches when the following elements concur: (1) the accused is charged under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) the accused is convicted or acquitted, or the case is dismissed without his/her consent.[33] Here, all the elements are present. A valid Information for the crime of robbery was filed against Mangali before the RTC. Also, Mangali had pleaded not guilty to the charge, and after the prosecution rested, the criminal case was dismissed upon a demurrer to evidence. Absent grave abuse of discretion or denial of due process, the grant of demurrer to evidence is a judgment of acquittal which is final and executory.[34]

FOR THESE REASONS, the petition is **DENIED**. The Court of Appeals' Decision dated September 22, 2017 in CA-G.R. SP No. 152450 is **AFFIRMED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Reyes, Jr.,* and *Lazaro-Javier, JJ.*, concur.

Caguioa, J., see concurring opinion.

CONCURRING OPINION

CAGUIOA, ***J.*:**

The respondent, Phil Mangali (Mangali), and Jerry Alba (Alba), were charged with robbery committed against petitioner, JCLV Realty & Development Corporation (JCLV Realty). Mangali and Alba allegedly removed JCLV Realty's electric facilities with intent to gain and intimidation against persons. After the prosecution rested its case, Mangali filed a demurrer to evidence. The trial court granted the demurrer and dismissed the criminal case against Mangali on the ground of lack of evidence.

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[33] *Merciales v. Court of Appeals*, 429 Phil. 70, 81 (2002).

[34] *People v. Go, supra* note 32 at 602, citing *People v. Hon. Sandiganbayan (Third Division), et al.*, 661 Phil. 350 (2011).

JCLV Realty elevated the case to the Court of Appeals (CA) through a special civil action for *certiorari*, challenging the grant of the demurrer by the trial court. The CA dismissed the petition, ruling that JCLV Realty has no personality to challenge the criminal aspect of the case because the authority to represent the State in criminal proceedings lies solely in the Office of the Solicitor General (OSG), and that it availed the wrong judicial remedy to question the civil aspect of the case. JCLV Realty sought reconsideration but was denied.

JCLV Realty is now before this Court via a petition for review on *certiorari* under Rule 45 of the Rules of Court, questioning the CA's outright dismissal of its petition.

The *ponencia* affirms the ruling of the CA. The Rule 65 petition filed by JCLV Realty before the CA prays for reliefs that pertain to the criminal aspect of the case, ultimately seeking the reinstatement of the criminal case against Mangali. JCLV Realty does not have the requisite legal standing to do so as only the OSG may bring or defend actions on behalf of the State before the CA and the Supreme Court. The *ponencia* adds that the acquittal of an accused or the dismissal of a criminal case can be done through a Rule 65 petition on the grounds of abuse of discretion amounting to lack or excess of jurisdiction, or a denial of due process rendering the judgment void. In this case, the *ponencia* finds that JCLV Realty was not denied due process since it was able to participate in the proceedings and present evidence. Finally, double jeopardy had set in as all the elements of double jeopardy are present in this case. Thus, there is no reason for the Court to reinstate the criminal case against Mangali.[1]

I concur with the *ponencia* that the petition should be denied. The acquittal by the trial court of Mangali for the crime charged may not be assailed without violating his constitutional right against double jeopardy. I submit this separate concurring opinion only to emphasize (1) that JCLV Realty had no legal personality to question Mangali's acquittal before the CA, and 2) that the

[1] See *ponencia*, pp. 6-9.

remedy of *certiorari* under Rule 65 of the Rules of Court in judgments of acquittal is a very narrow exception which does not arise in the present case.

First, only the OSG, in behalf of the State, and not the private offended party, has the authority to question the acquittal of an accused in a criminal case. Therefore, JCLV Realty had no legal personality to file the petition for *certiorari* with the CA.

In criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned.[2] The Court explained this in *Bautista v. Cuneta-Pangilinan*:[3]

> **The authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the Office of the Solicitor General (OSG)**. Section 35 (I), Chapter 12, Title III, Book IV of the 1987 Administrative Code explicitly provides that the OSG shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. It shall have specific powers and functions to represent the Government and its officers in the Supreme Court and the CA, and all other courts or tribunals in all civil actions and special proceedings in which the government or any officer thereof in his official capacity is a party. The OSG is the law office of the Government.
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> **Thus, the Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever feasible, only by the State through the Solicitor General. As a rule, only the Solicitor General**

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[2] *Bautista v. Cuneta-Pangilinan*, G.R. No. 189754, October 24, 2012, 684 SCRA 521, 535.

[3] Id.

may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.[4]

The rationale behind this rule is that in criminal cases, it is the State that is the offended party.[5] It is the party affected by the dismissal of the criminal action, and not the private complainant.[6] Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution.[7]

Since the petition filed by JCLV Realty before the CA essentially assailed the criminal aspect of the case, it should have been filed by the State through the OSG. Thus, the CA was correct when it dismissed the petition filed by JCLV Realty for lack of legal personality.

Second, the remedy of a petition for *certiorari* under Rule 65 against the acquittal of an accused is a very limited exception to the finality-of-acquittal rule, and one which does not arise in the present case.

As early as 1915, the Court already recognized that a dismissal of a criminal case for lack of evidence is equivalent to an acquittal. In *United States v. Kilayko*,[8] the accused was charged with a violation of the penal provisions of the Chattel Mortgage Law. After stipulating on the facts of the case, counsel for the accused filed a demurrer to the information — which was granted by the trial court. The provincial fiscal appealed the case to the Supreme Court. The Court upheld the acquittal of the accused, despite the fact that the decision of the trial court was based on an erroneous interpretation of the law, thus:

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[4] Id. at 534-537.

[5] *Cu v. Ventura*, G.R. No. 224567, September 26, 2018, 881 SCRA 118, 128.

[6] *Chiok v. People*, G.R. No. 179814, December 7, 2015, 776 SCRA 120, 135.

[7] *People v. Santiago*, 255 Phil. 851, 861-862 (1989).

[8] 32 Phil. 619 (1915).

In dismissing the complaint the trial judge refers to the motion of counsel for the accused as a "so-called demurrer;" but it does not clearly appear whether he regarded the entry of his order dismissing the complaint as a decision of the case on the merits, or a ruling sustaining a demurrer.

We are of opinion, however, that the ruling of the trial judge on the motion of counsel for the accused was in truth and in effect a final judgment on the merits from which no appeal lay on behalf of the Government. The accused had been arraigned and pleaded "not guilty," and the judgment of the court was entered upon an agreed statement of facts. The agreed statement of facts disclosed everything which the prosecution and the accused were prepared to prove by the testimony of their respective witnesses. After the submission of the agreed statement of facts, the trial was regularly terminated, and it only remained for the trial judge to enter his judgment convicting and sentencing the accused, or acquitting him and dismissing the information upon which the proceedings had been instituted. Manifestly, the accused was in jeopardy of conviction from the moment the case was submitted on the agreed statement of facts until judgment was entered dismissing the information. Indeed, there can be no doubt that but for the erroneous view of the trial judge as to the nature and effect of the penal provision of section 12 of the Chattel Mortgage Law, a judgment of conviction would have been lawfully entered upon the agreed statement of facts, followed by the imposition of the prescribed penalty.

The judgment entered in the court below was not a mere order sustaining a demurrer, but a final judgment disposing of the case on the merits; so that were we to reverse the judgment and direct the court below to proceed with the trial, the accused would be entitled to have the information dismissed on the plea of double jeopardy.[9]

The right against double jeopardy is a constitutional right deeply rooted in jurisprudence. The doctrine has several avowed purposes. Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an

[9] *Id.* at 622-623. Emphasis and underscoring supplied.

acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty. Double jeopardy, therefore, provides three related protections: (1) against a second prosecution for the same offense after acquittal, (2) against a second prosecution for the same offense after conviction, and (3) against multiple punishments for the same offense.[10]

The constitutional mandate is a rule of finality. A single prosecution for any offense is all the law allows. It protects an accused from harassment, enables him to treat what had transpired as a closed chapter in his life, either to exult in his freedom or to be resigned to whatever penalty is imposed, and is a bar to unnecessary litigation, in itself time-consuming and expense-producing for the State as well. The ordeal of a criminal prosecution is inflicted only once, not whenever it pleases the state to do so.[11]

The inviolability of the right of the accused against double jeopardy is reflected in the skeptical attitude taken by the Supreme Court towards petitions for *certiorari* disputing decisions acquitting an accused. In *People v. Velasco*,[12] the Court traced the development of the said right in common law until it was introduced in the Philippines and took on a life of its own in the context of our own legal tradition and historical experience. In *Velasco*, the Supreme Court discussed the strictly limited situation when double jeopardy does not apply:

In general, the rule is that a remand to a trial court of a judgment of acquittal brought before the Supreme Court on certiorari cannot be had unless there is a finding of mistrial, as in *Galman v. Sandiganbayan*. Condemning the trial before the Sandiganbayan of the murder of former Senator Benigno "Ninoy" Aquino, which resulted

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[10] *People v. Dela Torre*, G.R. Nos. 137953-58, April 11, 2002, 380 SCRA 596, 605-606.

[11] *Tan v. Barrios*, G.R. Nos. 85481-82, October 18, 1990, 190 SCRA 686, 702-703.

[12] G.R. No. 127444, September 13, 2000, 340 SCRA 207.

in the acquittal of all the accused, as a sham, this Court minced no words in declaring that **'[i]t is settled doctrine that double jeopardy cannot be invoked against this Court's setting aside of the trial court's judgment of acquittal where the prosecution which represents the sovereign people in criminal cases is denied due process x x x. [T]he sham trial was but a mock trial where the authoritarian president ordered respondents Sandiganbayan and Tanodbayan to rig the trial, and closely monitored the entire proceedings to assure the predetermined final outcome of acquittal and absolution as innocent of all the respondent-accused. x x x Manifestly, the prosecution and the sovereign people were denied due process of law with a partial court and biased Tanodbayan under the constant and pervasive monitoring and pressure exerted by the authoritarian president to assure the carrying out of his instructions. A dictated, coerced and scripted verdict of acquittal, such as that in the case at bar, is a void judgment. In legal contemplation, it is no judgment at all. It neither binds nor bars anyone. Such a judgment is 'a lawless thing which can be treated as an outlaw.'** It is a terrible and unspeakable affront to the society and the people. 'To paraphrase Brandeis: If the authoritarian head of government becomes the lawbreaker, he breeds contempt for the law; he invites every man to become a law unto himself; he invites anarchy.' The contention of respondent-accused that the Sandiganbayan judgment of acquittal ended the case and could not be appealed or reopened without being put in double jeopardy was forcefully disposed of by the Court in *People v. Court of Appeals*:

> x x x That is the general rule and presupposes a valid judgment. As earlier pointed out, however, respondent Court's Resolution of acquittal was a void judgment for having been issued without jurisdiction. No double jeopardy attaches, therefore. **A void judgment is, in legal effect, no judgment at all. By it no rights are divested. Through it, no rights can be attained. Being worthless, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void**.
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> Private respondents invoke 'justice for the innocent.' For justice to prevail the scales must balance. It is not to be dispensed for the accused alone. The interests of the society which they have wronged, must also be equally considered. A judgment of conviction is not necessarily a denial of justice. A verdict

> of acquittal neither necessarily spells a triumph of justice. To the party wronged, to the society offended, it could also mean injustice. This is where the Courts play a vital role. They render justice where justice is due.
>
> **Thus, the doctrine that 'double jeopardy may not be invoked after trial' may apply only when the Court finds that the 'criminal trial was a sham' because the prosecution representing the sovereign people in the criminal case was denied due process** x x x.
>
> x x x **The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State."**[13]

The case of *Galman v. Sandiganbayan*[14] presents the very limited and extremely narrow exception to the application of the right against double jeopardy. The unique facts surrounding *Galman* — and other similar scenarios where the denial of due process on the part of the prosecution was so gross and palpable — is the very limited area where an acquittal may be revisited through a petition for *certiorari*.

Thus, in *People v. Tria-Tirona*,[15] the Court held:

> x x x **In general, the rule is that a remand to a trial court of a judgment of acquittal brought before the Supreme Court on *certiorari* cannot be had unless there is a finding of mistrial, as in *Galman v. Sandiganbayan***. Only when there is a finding of a sham trial can the doctrine of double jeopardy be not invoked because the people, as represented by the prosecution, were denied due process.

From the foregoing pronouncements, it is clear in this jurisdiction that after trial on the merits, **an acquittal is immediately final and cannot be appealed on the ground of double jeopardy. The only exception where double jeopardy cannot be invoked is where there is a finding of mistrial resulting in a denial of due process**.[16]

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[13] Id. at 238-240. Emphasis and underscoring supplied. Citations omitted.

[14] G.R. No. 72670, September 12, 1986, 144 SCRA 43.

[15] G.R. No. 130106, July 15, 2005, 463 SCRA 462.

[16] Id. at 469. Emphasis supplied.

Further, in *People v. Court of Appeals, Fourth Division*,[17] the Court explained that:

> x x x [F]or an acquittal to be considered tainted with grave abuse of discretion, **there must be a showing that the prosecution's right to due process was violated or that the trial conducted was a sham**.
>
> Although the dismissal order is not subject to appeal, it is still reviewable but only through certiorari under Rule 65 of the Rules of Court. For the writ to issue, the trial court must be shown to have acted with grave abuse of discretion amounting to lack or excess of jurisdiction such as where the prosecution was denied the opportunity to present its case or where the trial was a sham thus rendering the assailed judgment void. The burden is on the petitioner to clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice. (Citations omitted)
>
> The petition is bereft of any allegation, much less, evidence that the prosecution's right to due process was violated **or the proceedings before the CA were a mockery such that Ando's acquittal was a foregone conclusion**. **Accordingly, notwithstanding the alleged errors in the** interpretation of the applicable law or **appreciation of evidence that the CA may have committed in ordering Ando's acquittal, absent any showing that the CA acted with caprice or without regard to the rudiments of due process, the CA's findings can no longer be reversed, disturbed and set aside without violating the rule against double jeopardy**.[18]

Hence, not every error in the trial or evaluation of the evidence by the court in question that led to the acquittal of the accused would be reviewable by *certiorari*. The writ of *certiorari* — being a remedy narrow in scope and inflexible in character, whose purpose is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts (*i.e.*, acts that courts have no power or authority in law to perform) — is not a general utility tool in the legal workshop, and cannot

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[17] G.R. No. 198589, July 25, 2012, 677 SCRA 575.

[18] Id. at 579-580. Emphasis and underscoring supplied.

be issued to correct every error committed by a lower court.[19] *Certiorari* will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court. As long as a court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than errors of judgment which fall outside the scope of a writ of *certiorari*.

In the case at bar, although JCLV Realty filed a petition for review on *certiorari* under Rule 45 of the Rules of Court before this Court, the *ponencia* nonetheless made a finding that the trial court did not commit grave abuse of discretion when it granted the demurrer to evidence on a ground not raised therein — that of the failure of the prosecution to positively identify Mangali. As discussed, it is immaterial whether the trial court was correct in acquitting Mangali. The fact remains that Mangali's right against double jeopardy already attached when the trial court granted his demurrer to evidence and ordered his acquittal. **No amount of error of judgment will ripen into an error of jurisdiction such that the acquittal would be reviewable by this Court through a petition for *certiorari***. Absent any manifest denial of due process tantamount to making the proceedings before the court *a quo* a sham trial, there is no basis whatsoever to reinstate the criminal case against Mangali and place him twice in jeopardy.

In light of the foregoing considerations, I vote to **DENY** the petition.

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[19] *Delos Santos v. Metropolitan Bank and Trust Company*, G.R. No. 153852, October 24, 2012, 684 SCRA 410, 420.

FIRST DIVISION

[G.R. No. 237489. August 27, 2020]

PEOPLE OF THE PHILIPPINES, *Petitioner*, *v.* **DOMINGO ARCEGA *y* SIGUENZA,** *Respondent*.

SYLLABUS

1. REMEDIAL LAW; CRIMINAL PROCEDURE; JUDGMENT OF ACQUITTAL; FINALITY-OF-ACQUITTAL RULE; RATIONALE THEREOF; RIGHT OF REPOSE. — A judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation. The case of *People v. Hon. Velasco* provides the reason for such rule, to wit:

> The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State. x x x." Thus, Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."
>
> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent,

even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.

2. ID.; ID.; ID.; SPECIAL CIVIL ACTIONS; *CERTIORARI*; INSTANCES WHEN *CERTIORARI* MAY LIE AGAINST A JUDGMENT OF ACQUITTAL WITHOUT PLACING THE ACCUSED IN DOUBLE JEOPARDY. — With the CA's modification of respondent's conviction from attempted rape to acts of lasciviousness, it has already acquitted respondent of attempted rape, which is already final and unappealable. Thus, double jeopardy has already set in and petitioner is already barred from filing the present petition for review on *certiorari* assailing respondent's acquittal of attempted rape on such ground.

While a judgment of acquittal may be assailed by the People through a petition for *certiorari* under Rule 65 without placing the accused in double jeopardy, however, it must be established that the court *a quo* acted without jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. The People must show that the prosecution was denied the opportunity to present its case or where the trial was a sham, thus, rendering the assailed judgment void. It is their burden to clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.

3. ID.; ID.; ID.; ID.; ID.; *CERTIORARI* WILL NOT LIE WHEN THE PETITIONER WAS GIVEN AMPLE OPPORTUNITY TO PRESENT EVIDENCE; CASE AT BAR. —In this case, petitioner has not claimed that there was a denial of due process nor a mistrial. He, likewise, never argued that the CA gravely abused its discretion amounting to lack of jurisdiction in rendering its decision. In fact, these circumstances are not present in this case, thus, petition for *certiorari* will not also lie. Notably, as the records show, petitioner was given ample opportunities to present their evidence and argue its case before the lower courts, and that the CA decision was arrived at after a meticulous consideration of the evidence on record.

CAGUIOA, *J., concurring opinion*:

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; NO AMOUNT OF ERROR OF JUDGMENT WILL RIPEN INTO AN ERROR OF JURISDICTION SUCH THAT THE ACQUITTAL WOULD BE REVIEWABLE BY THE COURT

THROUGH A PETITION FOR *CERTIORARI* IS ONLY PROPER WHERE THE DENIAL OF DUE PROCESS ON THE PART OF THE PROSECUTION WAS SO GROSS AND PALPABLE; CASE AT BAR. — The *ponencia* denies the petition ruling that a petition for review on *certiorari* is not the proper procedure to assail the CA's Decision. The *ponencia* stressed that with the CA's modification of respondent's conviction from attempted rape to acts of lasciviousness, respondent had already been acquitted of attempted rape. Hence, the OSG may assail such acquittal only by a petition for *certiorari* under Rule 65 of the Rules of Court and not herein petition for review on *certiorari* under Rule 45. I concur with the denial of the petition. The acquittal of respondent for the crime of attempted rape generally may not be assailed without violating his right against double jeopardy. I submit this Concurring Opinion to stress that the remedy of *certiorari* under Rule 65, as discussed by the *ponencia*, is a very narrow exception, as held by existing jurisprudence, which does not arise in this case. x x x **The facts of *Galman* constitute the very narrow exception to the application of the right against double jeopardy.** The unique fact surrounding *Galman* — and other similar scenarios where the denial of due process on the part of the prosecution was so gross and palpable — is the limited area where an acquittal may be revisited through a petition for *certiorari*. [N]ot every error in the trial or evaluation of the evidence by the court in question that led to the acquittal of the accused would be reviewable by *certiorari*. As the Court ruled in *Republic v. Ang Cho Kio*, "[n]o error, **however, flagrant**, committed by the court against the state, can be reserved by it for decision by the supreme court when the defendant has once been placed in jeopardy and discharged, even though the discharge was the result of the error committed."

2. ID.; CRIMINAL PROCEDURE; JUDGMENT; FINALITY OF ACQUITTAL RULE; A JUDGMENT OF ACQUITTAL, WHETHER ORDERED BY THE TRIAL OR THE APPELLATE COURT, IS FINAL, UNAPPEALABLE, AND IMMEDIATELY EXECUTORY UPON ITS PROMULGATION; EXCEPTION. — In criminal cases, no rule is more settled than that "a judgment of acquittal, whether ordered by the trial or the appellate court, is final unappealable, and immediately executory upon its promulgation." This is referred to as the finality-of-acquittal rule. **Such rule proceeds from the**

> **constitutionally guaranteed right of the accused against double jeopardy**, which safeguards that accused from government oppression of being prosecuted twice for the same offense. In *People v. Velasco*, the Court explained the rationale for the rule: It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. **The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction."** (sic) The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding. x x x This iron clad rule has, as its only exception, the grave abuse of discretion that is ***strictly limited*** to the case where there is a violation of the prosecution's right to due process when it is denied the opportunity to present evidence or where the trial is a sham, thus rendering the assailed judgment void.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Public Attorney's Office for respondent.

D E C I S I O N

PERALTA, *C.J.*:

Before us is a petition for review on *certiorari* filed by the People of the Philippines, through the Office of the Solicitor General, which seeks to reverse and set aside the Decision[1] dated August 7, 2017 of the Court of Appeals (*CA*) in CA-G.R. CR No. 38800, which modified respondent's conviction

[1] Penned by Associate Justice Romeo F. Barza (Chairperson), with Associate Justices Myra V. Garcia-Fernandez and Pablito A. Perez concurring; *rollo*, pp. 39-51.

for attempted rape to acts of lasciviousness. Also assailed is the CA Resolution[2] dated February 12, 2018 which denied petitioner's motion for reconsideration.

In an Information[3] dated June 29, 2010, respondent Domingo Arcega y Siguenza was charged in the Regional Trial Court (*RTC*) of Iriga City with attempted rape, the accusatory portion of which reads:

That at about 8:00 o'clock in the evening of April 25, 2010, at Brgy. [redacted], Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully, and feloniously, with lewd design, through force or intimidation, against her will and without her consent, did then and there willfully, unlawfully and knowingly waited for her to pass by after she took a bath at their neighbor's deep well, while accused was already naked, waylaying the complainant [AAA],[4] 19 years old, on the grassy portion on her way to their house, by delivering a fistic blow on her nape, covering her mouth, giving her a fistic blow on her right eye causing her to fall to the ground and while she was lying on the ground, accused placed himself on top of her already naked, which complainant tried to resist by kicking him on his private part thereby managing to displace him from his position and giving her the opportunity to run away, thus accused commenced the commission of the crime of RAPE by overt acts, but nevertheless did not produce it because of some cause or accident other than his

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[2] *Id.* at 53-59.

[3] *Id.* at 77.

[4] The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, "*An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes*"; Republic Act No. 9262, "*An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor and for Other Purposes*"; Section 40 of A.M. No. 04-10-11-SC, known as the "*Rule on Violence Against Women and Their Children*," effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

own spontaneous desistance, that is, her tenacious resistance and the timely intervention of her aunt [BBB] who heard her shouts for help which caused accused to flee in a hurry, to the damage and prejudice of the herein offended party.[5]

On August 23, 2010, respondent, duly assisted by counsel, was arraigned and pleaded not guilty to the charge.[6] Pre-trial and trial thereafter ensued.

The antecedent facts are as follows:

At 8 o'clock in the evening of April 25, 2010, AAA, a resident of [redacted], Camarines Sur, asked permission from her aunt, BBB, to take a bath in the house of their neighbor, Inocencia Arcega, the mother of respondent.[7] The bathroom of Inocencia was located at the back of her house, *i.e.*, separate from the main house. It has a manual pump but had no electricity and roof with only the moon illuminating the night.[8]

After taking her bath for 15 minutes, AAA put on her shorts and T-shirt with no brassiere and went home. While walking, he smelled liquor, but did not see anyone.[9] Suddenly, someone boxed her nape which caused her pain.[10] Respondent then covered AAA's mouth with his hands, but the latter struggled and was able to remove his hands to shout for help.[11] AAA recognized respondent, who was totally naked, when she was able to remove the towel covering his face. Respondent punched her on her left eye which caused her to fall down.[12] Respondent then went on top of AAA, who was still wearing her t-shirt and shorts,

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[5] *Rollo*, p. 77.

[6] *Id.* at 78.

[7] TSN, March 14, 2012, p. 3.

[8] TSN, April 24, 2012, pp. 4-5.

[9] *Id.* at 6.

[10] *Id.*

[11] *Id.* at 6-7.

[12] *Id.* at 7.

and did "*kayos-kayos*" (*push-and-pull motion*).[13] Respondent was not able to remove her garments as she managed to roll over and kicked his testicles. Respondent, who was in pain, walked in a "*duck-like manner*"; and AAA took the chance and ran through a grassy portion towards their house.[14]

BBB, AAA's aunt, heard screams and saw AAA arrived trembling, shock, pale, crying and her hair disheveled. AAA informed her that respondent attempted to rape her, but she resisted and was able to run away. BBB immediately took a bolo and went to the place of the incident where she saw respondent, completely naked, limping while holding his groin. As fear struck her, BBB proceeded to the house of her sister CCC, AAA's mother,[15] and informed her of the incident. DDD, AAA's father, later learned about the incident, and looked for respondent who was nowhere to be found. AAA's parents submitted her to a medical examination and reported the incident to the police.[16]

On the other hand, respondent denied the accusation claiming that during the date and time of the alleged incident, he was with his wife at San Isidro, Magarao, Camarines Sur, a place four hours away from [redacted], taking care of his child who was then suffering from asthma attacks.[17] It was only on April 30, 2010 that he came back to [redacted], Camarines Sur.[18] He admitted that he and AAA's family are neighbors and there was no dispute between them. Mary Jane Arcega, respondent's wife, corroborated his alibi.

On May 26, 2016, the RTC of Iriga City, Branch 60, rendered a Judgment,[19] the dispositive portion of which reads:

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[13] TSN, December 4, 2012, p. 2.

[14] TSN, May 16, 2012, pp. 9-11.

[15] TSN, December 6, 2011, pp. 2-6.

[16] TSN, May 16, 2012, p. 14.

[17] TSN, November 4, 2014, p. 2.

[18] *Id.* at 3.

[19] *Id.* at 81-90; Per Judge Timoteo A. Panga, Jr.

WHEREFORE, the foregoing premises considered and finding the accused Domingo Arcega GUILTY beyond reasonable doubt of the crime of attempted rape, he is hereby sentenced to an indeterminate sentence of two (2) years, four (4) months, and one (1) day of *prision correccional* medium, as minimum, to ten (10) years of *prision mayor* medium, as its maximum. He is further adjudged liable to pay [AAA] ₱30,000.00 in moral damages, civil indemnity of ₱20,000.00, and exemplary damages of ₱20,000.00, all of which shall earn the interest of 6% *per annum* from the finality of this judgment until full payment.

SO ORDERED.[20]

The RTC found the testimony of AAA to be trustworthy and credible and rejected respondent's denial and alibi. In convicting respondent of attempted rape, the RTC ruled:

Here in the instant case, the accused gave the private complainant fistic blows twice. First at the back of the nape and when she shouted, the accused boxed her one eye. The accused did not stop there. He was already completely naked when he climbed on top of the private complainant. Although the victim still had her shorts and t-shirt on, the accused, after climbing on top of the private complainant did "*kayos-kayos*" (push and pull motion with his hips). When she freed herself from his clutches by rolling over and kicking the accused on the groin, she effectively ended his lewd designs on her. The inference therefore from such circumstances that rape as his intended felony is most logical and highly warranted, lust for and lewd designs towards the private complainant being fully manifest. When the accused boxed the private complainant twice, the clear intention was to render her unconscious or at least to stave off resistance. The violent acts preparatory to sexual intercourse are directly connected to rape as the intended crime and the acts taken together are unequivocal. Without the private complainant's most appropriate manner of resistance, *i.e.*, by kicking her attacker's groin, rape is the only and inevitable conclusion. Virgin at age 19, her having been able to summon every ounce of her strength and courage to thwart any attempt to besmirch her honor and blemish her purity is commendable. What is most reprehensible is the attempt of the accused to commit bestiality on her on a road.[21]

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[20] *Id.* at 90.

[21] *Id.* at 88-89.

Dissatisfied, respondent appealed the RTC Judgment to the CA. After the parties submitted their respective pleadings, the case was submitted for decision.

On August 7, 2017, the CA rendered its assailed Decision, the decretal portion of which reads:

> WHEREFORE, the Judgment dated 26 May 2016 of the Regional Trial Court, Branch 60, Iriga City, in Criminal Case No. IR-9344 is AFFIRMED with MODIFICATIONS. Accused-appellant Domingo Arcega y Siguenza is adjudged GUILTY beyond reasonable doubt of Acts of Lasciviousness under Art. 336 of the Revised Penal Code, and sentenced to suffer the indeterminate penalty of six (6) months of *arresto mayor*, as minimum[,] to four (4) years and two (2) months of *prision correccional*, as maximum. He is also ordered to pay AAA the amount of Php30,000.00 in moral damages, civil indemnity of Php20,000.00, and exemplary damages of Php20,000.00, all with 6% interest per annum upon the finality of this decision up to its full payment.
>
> SO ORDERED.[22]

In finding respondent guilty of acts of lasciviousness only, the CA found:

> A careful examination of the testimony of AAA will belie the accusation that the accused-appellant attempted to rape her. Her testimony will reveal the following:
>
> x x x x x x x x x
>
> THE COURT
> Q. Why, what was the appearance of the accused or the attire of the accused when you first saw him?
>
> THE WITNESS
> A. He was totally naked.
>
> Q. He was totally naked. After you succeeded in removing the towel which was covering his face and thereby saw him to be fully naked, did you recognize and having seen his face? *(sic)* Did you recognize if *(sic)* who he was?
>
> x x x x x x x x x
>
> A. Domingo Arcega y S[i]guenza.

[22] *Id.* at 50.

x x x x x x x x x

PROS. RAMOS:

Q. Afterwards, after you recognized the accused as a person responsible for punching your nape and covering your mouth, what[,] if any, did he do?

A. He boxed me again hitting me on my left eye. Then, I fell down and that was the time when the accused went on top of me.

Q. You mean on top naked?

A. Yes, sir.

Q. How about you, how were your attire *(sic)*?

A. T-shirts and shorts.

Q. When the accused was already on top of you, what did you do to him, if any?

A. I resisted and I fought him.

x x x x x x x x x

Q. Why did you say earlier that in reporting to your aunt that Arcega was attempting to rape you or to forcibly sexual attribute *(sic)*? Why did you say that that *(sic)* he wants to have sex with you?

THE WITNESS

A. Because he had a plan and "*inabangan ako*"

Q. Why do you now say that "*inabangan ako*" or he planned of what happened?

A. Because of what he did to me, he was totally naked. He placed his hand on my mouth and covered his face with towel.

x x x x x x x x x

THE COURT

Clarification.

Q. When you said the accused attempted to rape you, was there any moment when he was able to remove your shorts?

A. No, sir.

Q. What about your shirt, was it ever removed?

A. No, sir.

x x x x x x x x x

THE COURT

Q50: Is it correct for this Court to say that on the basis of the complaint/information, the act of the accused in attempting to rape you was to place himself on top of you while he was totally naked, is that correct?

A50: Yes, your Honor.

Q51: What about you were you also totally naked?

A51: No, your Honor.

Q52: You have your dress covering yourself.

A52: Yes, your Honor.

x x x x x x x x x

Q56: Did he remove these clothes?

A56: No, your Honor.

As can be easily gleaned, AAA's testimony is bereft of proof that the accused-appellant attempted to introduce his organ (penis) to her vagina. Neither was there any testimony that the accused-appellant's penis touched any part of AAA's body. It must be emphasized that AAA is consistent in saying that she was wearing her shorts and t-shirt during the incident. In fact, the accused-appellant never attempted to remove AAA's clothes. All that was testified to by AAA was that the accused-appellant mounted her or went on top of her, covered her mouth, and did the "*kayos-kayos*" which act, again, did not clearly demonstrate the intent of the accused-appellant to lie with her nor introduce his penis into her vagina. Interestingly, the attempt to rape was further belied by AAA when she stated that:

CONTINUATION OF DIRECT EXAMINATION BY PROS. RAMOS:

Q. AAA, what action, if any, of accused Domingo Arcega when he was naked and on top of you while you have just gone from the improvised bathroom? Tell the honorable court, what action, if any?

A. He was materbating *(sic)* "*kayos-kayos*." And while he was making "*kayos-kayos*" he was standing on top and holding his penis.

Q. Towards which portion of his organ was it directed in reference to your body?

A. In my vagina.[23]

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[23] *Id.* at 46-48.

x x x x x x x x x

For an accused to be convicted of acts of lasciviousness under the foregoing provision, the prosecution is burdened to prove the confluence of the following essential elements: (1) that the offender commits any act of lasciviousness or lewdness; (2) that it is done under any of the following circumstances: (a) by using force or intimidation; (b) when the offended woman is deprived of reason or otherwise unconscious; or (c) when the offended party is under 12 years of age.

All the above elements have been proven in this case. The act of the totally naked accused-appellant of mounting AAA, masturbating and performing "*kayos-kayos*," while his penis is directed towards the direction of AAA's vagina is a lewd act. "Lewd is defined as obscene, lustful, indecent or lecherous. It signifies that form of immorality related to moral impurity, or that which is carried on a wanton manner. Furthermore, in accomplishing the said act, the accused-appellant also employed force on AAA by hitting her on the back, and once down on the ground, covered her mouth and boxed her left eye.[24]

Petitioner filed a motion for reconsideration which was denied by the CA in a Resolution dated February 12, 2018. The CA reiterated its findings in the assailed decision, and also added that the absence of intent to have sexual intercourse was evident from the Information charging respondent as follows: "while she was lying on the ground, accused placed himself on top of her already naked which complainant tried to resist by kicking him on his private part thereby managing to displace him from his position and giving her the opportunity to run away." The CA also ruled that since respondent had already been acquitted of the crime of attempted rape, petitioner can no longer move for reconsideration and push for his conviction for the same offense as it would violate respondent's right against double jeopardy.

Respondent had filed an application for probation with the RTC of Iriga City which the latter granted by issuing a Probation Order dated January 10, 2018. The RTC ordered the suspension

[24] *Id.* at 49.

of respondent's sentence and fixed the period of probation for two (2) years to be counted from Probationer's initial report for supervision and compliance with requirements provided in the Order.

The People of the Philippines, through the Solicitor General, filed the instant petition for review on *certiorari* on the ground that:

THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW WHEN IT MODIFIED RESPONDENT'S CONVICTION FOR ATTEMPTED RAPE, AND INSTEAD FOUND HIM GUILTY OF ACTS OF LASCIVIOUSNESS, CONSIDERING THAT THE CRIMINAL INTENT TO RAPE ON THE PART OF RESPONDENT HAS BEEN ESTABLISHED BY THE PROSECUTION BEYOND REASONABLE DOUBT.[25]

The Solicitor General argues that respondent's criminal intent to penetrate his erectile penis into the victim's vagina is clearly established in this case by the overt acts he committed. He claims that after punching and pinning down AAA, respondent mounted her and made "*kayos-kayos*" motions which clearly show his criminal intent to penetrate AAA's vagina, which is rape; that the crime of rape was not consummated not because of respondent's own spontaneous desistance but due to AAA's tenacious and vigorous resistance against the assault. The CA's reliance in *Cruz v. People*,[26] where we found the accused therein to be guilty only of acts of lasciviousness instead of attempted rape, was misplaced since the factual circumstances are not the same.

The Solicitor General contends that the CA's citation of *People v. Balunsat*[27] in denying its motion for reconsideration on the ground of violation of respondent's right against double jeopardy is also not applicable. The instant petition will not unjustly prejudice respondent's right against double jeopardy since what such right only proscribes is an appeal from the judgment of

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[25] *Id.* at 20.

[26] 745 Phil. 54 (2014).

[27] 640 Phil. 139 (2010).

acquittal or for the purpose of increasing the penalty imposed upon the accused. Here, the CA decision merely modified the RTC's judgment from attempted rape to acts of lasciviousness based on the wrong appreciation of facts which resulted in the erroneous conclusion and wrong application of the law.

In his Comment, respondent claims, among others, that since the CA modified his conviction from attempted rape to acts of lasciviousness, the CA, in effect had already acquitted him of attempted rape; that such judgment of acquittal can only be assailed through a petition for *certiorari* under Rule 65 of the Rules of Court and not in a petition for review on *certiorari* under Rule 45, otherwise, respondent's right against double jeopardy would be violated.

The threshold issue to be resolved is whether petitioner may assail in this petition for review on *certiorari* the CA Decision which modified the RTC Judgment convicting respondent of attempted rape to acts of lasciviousness.

We answer in the negative.

In *People v. Balunsat*,[28] where the CA modified the accused-appellant's conviction from attempted rape to acts of lasciviousness, we held that since the CA had already acquitted the accused of attempted rape, a review of the downgrading of the crime will violate the respondent's right against double jeopardy. We stated as follows:

> Concerning Criminal Case No. 781-T, the Court of Appeals modified the guilty verdict of the RTC against Nelson from attempted rape to acts of lasciviousness. We can no longer review the "downgrading" of the crime by the appellate court without violating the right against double jeopardy, which proscribes an appeal from a judgment of acquittal or for the purpose of increasing the penalty imposed upon the accused. In effect, the Court of Appeals already acquitted Nelson of the charge of attempted rape, convicting him only for acts of lasciviousness, a crime with a less severe penalty. x x x.[29]

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[28] *Supra* note 26.

[29] *Id.* at 159-160.

A judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.[30] The case of *People v. Hon. Velasco*[31] provides the reason for such rule, to wit:

> The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State. x x x." Thus, Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."
>
> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.
>
> Related to his right of repose is the defendant's interest in his right to have his trial completed by a particular tribunal. This interest encompasses his right to have his guilt or innocence determined in a single proceeding by the initial jury empanelled to try him, for society's awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the

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[30] *Villareal v. Aliga*, 724 Phil. 47, 62 (2014); *People v. Alejandro*, G.R. No. 223099, January 11, 2018, 851 SCRA 120, 127, citing *People v. Hon. Asis, et al.*, 643 Phil. 462, 469 (2010).

[31] 394 Phil. 517 (2000).

willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. The ultimate goal is prevention of government oppression; the goal finds its voice in the finality of the initial proceeding. As observed in *Lockhart v. Nelson*, "(t)he fundamental tenet animating the Double Jeopardy Clause is that the State should not be able to oppress individuals through the abuse of the criminal process." Because the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair.[32]

With the CA's modification of respondent's conviction from attempted rape to acts of lasciviousness, it has already acquitted respondent of attempted rape, which is already final and unappealable. Thus, double jeopardy has already set in and petitioner is already barred from filing the present petition for review on *certiorari* assailing respondent's acquittal of attempted rape on such ground.

While a judgment of acquittal may be assailed by the People through a petition for *certiorari* under Rule 65 without placing the accused in double jeopardy, however, it must be established that the court *a quo* acted without jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. The People must show that the prosecution was denied the opportunity to present its case or where the trial was a sham, thus, rendering the assailed judgment void. It is their burden to clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.[33]

In *Villareal v. Aliga*,[34] we held that:

x x x The People may assail a judgment of acquittal only via petition for *certiorari* under Rule 65 of the *Rules*. If the petition, regardless of its nomenclature, merely calls for an ordinary review of the findings

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[32] *Id.* at 555-557. (Citations omitted)

[33] *People v. Atienza, et al.*, 688 Phil. 122, 135 (2012), citing *People v. Sandiganbayan (Third Division), et al.*, 661 Phil. 350, 355 (2011).

[34] *Supra* note 30.

of the court *a quo*, the constitutional right of the accused against double jeopardy would be violated. The Court made this clear in *People v. Sandiganbayan (First Div.)*, thus:

x x x A petition for review on *certiorari* under Rule 45 of the Rules of Court and a petition for *certiorari* under Rule 65 of the Rules of Court are two and separate remedies. A petition under Rule 45 brings up for review errors of judgment, while a petition for *certiorari* under Rule 65 covers errors of jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse of discretion is not an allowable ground under Rule 45. A petition for review under Rule 45 of the Rules of Court is a mode of appeal. Under Section 1 of the said Rule, a party aggrieved by the decision or final order of the Sandiganbayan may file a petition for review on *certiorari* with this Court:

> Section 1. *Filing of petition with Supreme Court*. — A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court, or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

However, the provision must be read in relation to Section 1, Rule 122 of the Revised Rules of Court, which provides that any party may appeal from a judgment or final order "unless the accused will thereby be placed in double jeopardy." The judgment that may be appealed by the aggrieved party envisaged in the Rule is a *judgment convicting the accused, and not a judgment of acquittal*. The State is barred from appealing such judgment of acquittal by a petition for review.

Section 21, Article III of the Constitution provides that "no person shall be twice put in jeopardy of punishment for the same offense." The rule is that a judgment acquitting the accused is final and immediately executory upon its promulgation, and that accordingly, the State may not seek its review without placing the accused in double jeopardy. Such acquittal is final and unappealable on the ground of double jeopardy whether it happens at the trial court or on appeal at the CA. Thus, the State is proscribed from appealing the judgment of acquittal of the accused to this Court under Rule 45 of the Rules of Court.

x x x x x x x x x

A judgment of acquittal may be assailed by the People in a petition for *certiorari* under Rule 65 of the Rules of Court without placing the accused in double jeopardy. However, in such case, the People is burdened to establish that the court *a quo*, in this case, the Sandiganbayan, acted without jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse of discretion generally refers to capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or virtual refusal to perform a duty imposed by law, or to act in contemplation of law or where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. No grave abuse of discretion may be attributed to a court simply because of its alleged misapplication of facts and evidence, and erroneous conclusions based on said evidence. *Certiorari* will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court.

The nature of *certiorari* action was expounded in *People v. Court of Appeals (Fifteenth Div.)*:

> x x x *Certiorari* alleging grave abuse of discretion is an extraordinary remedy. Its use is confined to extraordinary cases wherein the action of the inferior court is wholly void. Its aim is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. No grave abuse of discretion may be attributed to the court simply because of its alleged misappreciation of facts and evidence. While *certiorari* may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.

and further in *First Corporation v. Former Sixth Division of the Court of Appeals*:

> It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of *certiorari*, which is *extra ordinem* — beyond the ambit of appeal. In *certiorari* proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and

> to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. x x x It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses or substitute the findings of fact of the court *a quo*.[35]
>
> x x x x x x x x x

However, the rule against double jeopardy is not without exceptions, which are: (1) Where there has been deprivation of due process and where there is a finding of a mistrial, or (2) Where there has been a grave abuse of discretion under exceptional circumstances. x x x.[36]

In this case, petitioner has not claimed that there was a denial of due process nor a mistrial. He, likewise, never argued that the CA gravely abused its discretion amounting to lack of jurisdiction in rendering its decision. In fact, these circumstances are not present in this case, thus, a petition for *certiorari* will not also lie. Notably, as the records show, petitioner was given ample opportunities to present their evidence and argue its case before the lower courts, and that the CA decision was arrived at after a meticulous consideration of the evidence on record.

WHEREFORE, based on the foregoing, the petition for review on *certiorari* is **DENIED**. The Decision dated August 7, 2017 and the Resolution dated February 12, 2018 of the Court of Appeals in CA-G.R. CR No. 38800 are hereby **AFFIRMED**.

SO ORDERED.

Reyes, Jr., Lazaro-Javier, and *Lopez, JJ.*, concur.

Caguioa, J., see concurring opinion.

CONCURRING OPINION

CAGUIOA, *J.*:

Respondent was charged and convicted by the trial court with the crime of attempted rape. On appeal, the Court of Appeals

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[35] *Id.* at 59-62. (Citations omitted)

[36] *Id.* at 64.

(CA) modified respondent's conviction to acts of lasciviousness. Petitioner People of the Philippines, through the Office of the Solicitor General (OSG), filed the instant petition for review on *certiorari* assailing respondent's acquittal for the crime of attempted rape.

The *ponencia* denies the petition ruling that a petition for review on *certiorari* is not the proper procedure to assail the CA's Decision. The *ponencia* stressed that with the CA's modification of respondent's conviction from attempted rape to acts of lasciviousness, respondent had already been acquitted of attempted rape. Hence, the OSG may assail such acquittal only by a petition for *certiorari* under Rule 65 of the Rules of Court and not herein petition for review on *certiorari* under Rule 45.[1]

I concur with the denial of the petition. The acquittal of respondent for the crime of attempted rape generally may not be assailed without violating his right against double jeopardy. I submit this Concurring Opinion to stress that the remedy of *certiorari* under Rule 65, as discussed by the *ponencia*, is a very narrow exception, as held by existing jurisprudence, which does not arise in this case.

In criminal cases, no rule is more settled than that "a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation."[2] This is referred to as the finality-of-acquittal rule.[3] **Such rule proceeds from the constitutionally guaranteed right of the accused against double jeopardy**,[4] which safeguards that accused from government oppression of being

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[1] *Ponencia*, pp. 10-11.

[2] *Chiok v. People*, G.R. Nos. 179814 & 180021, December 7, 2015, 776 SCRA 120, 137.

[3] *Id.*

[4] *Mandagan v. Jose M. Valero Corp.*, G.R. No. 215118, June 19, 2019, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65314>.

prosecuted twice for the same offense. In *People v. Velasco*,[5] the Court explained the rationale for the rule:

> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. **The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction."** (sic) The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.
>
> Related to his right of repose is the defendant's interest in his right to have his trial completed by a particular tribunal. **This interest encompasses his right to have his guilt or innocence determined in a single proceeding by the initial jury empanelled to try him, for society's awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. <u>The ultimate goal is prevention of government oppression</u>; the goal finds its voice in the finality of the initial pro-ceeding.** (sic) As observed in *Lockhart v. Nelson*, **"<u>(t)he fundamental tenet animating the Double Jeopardy Clause is that the State should not be able to oppress individuals through the abuse of the criminal process</u>."** Because the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair.[6] (Emphasis and underscoring supplied)

This iron clad rule has, as its only exception, the grave abuse of discretion that is ***<u>strictly limited</u>*** to the case where there is a violation of the prosecution's right to due process when it is

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[5] G.R. No. 127444, September 13, 2000, 340 SCRA 207.

[6] *Id.* at 240-241.

denied the opportunity to present evidence or where the trial is a sham, thus rendering the assailed judgment void.[7]

The case of *Galman v. Sandiganbayan*[8] (*Galman*) presents the foremost example of the exception to the rule on double jeopardy. In *Galman*, the judgment of acquittal ways remanded to the trial court after the Court found that the trial conducted was a mockery — **a sham**. The Court found that the then President had stage-managed in and from Malacañang Palace a scripted and predetermined manner of handling and disposing of the case, and that the prosecution and the Justices who tried and decided the same acted under the compulsion of some pressure which proved to be beyond their capacity to resist, and which not only prevented the prosecution to fully ventilate its position and to offer all the evidences which it could have otherwise presented, but also predetermined the final outcome of the case of total absolution of all the accused of all criminal and civil liability.[9]

Due to the influence that the Executive exerted over the independence of the court trying the case, the Court ruled that the decision acquitting the accused issued in that case was issued in violation of the prosecution's due process. The factors the Court considered in making this exception were (1) suppression of evidence, (2) harassment of witnesses, (3) deviation from the regular raffle procedure in the assignment of the case, (4) close monitoring and supervision of the Executive and its officials over the case, and (5) secret meetings held between and among the President, the Presiding Justice of the Sandiganbayan, and the Tanodbayan. From the foregoing, the Court saw the trial as a sham.

Thus, the Court ruled in *Galman* that the right against double jeopardy, absolute as it may appear, may be invoked only when

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[7] *Philippine Savings Bank v. Bermoy*, G.R. No. 151912, September 26, 2005, 471 SCRA 94, 109, citing *People v. Sandiganbayan*, G.R. No. 140633, February 4, 2002, 376 SCRA 74, 78-79.

[8] G.R. No. 72670, September 12, 1986, 144 SCRA 43.

[9] Id. at 87.

there was a valid judgment terminating the first jeopardy. The Court explained that no right attaches from a void judgment, and hence the right against double jeopardy may not be invoked when the decision that "terminated" the first jeopardy was invalid and issued without jurisdiction.[10]

The facts of *Galman* constitute the very narrow exception to the application of the right against double jeopardy. The unique facts surrounding *Galman* — and other similar scenarios where the denial of due process on the part of the prosecution was so gross and palpable — is the limited area where an acquittal may be revisited through a petition for *certiorari*.

Thus, in *People v. Tria-Tirona*,[11] the Court held:

> x x x **In general, the rule is that a remand to a trial court of a judgment of acquittal brought before the Supreme Court on *certiorari* cannot be had unless there is a finding of mistrial, as in *Galman v. Sandiganbayan***. Only when there is a finding of a sham trial can the doctrine of double jeopardy be not invoked because the people, as represented by the prosecution, were denied due process.
>
> From the foregoing pronouncements, it is clear in this jurisdiction that after trial on the merits, **an acquittal is immediately final and cannot be appealed on the ground of double jeopardy. The only exception where double jeopardy cannot be invoked is where there is a finding of mistrial resulting in a denial of due process**.[12] (Emphasis supplied)

Further, in *People v. Court of Appeals, Fourth Division*,[13] the Court explained that:

> x x x [F]or an acquittal to be considered tainted with grave abuse of discretion, **there must be a showing that the prosecution's right to due process was violated or that the trial conducted was a sham**.

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[10] Id.

[11] G.R. No. 130106, July 15, 2005, 463 SCRA 462.

[12] Id. at 469.

[13] G.R. No. 198589, July 25, 2012, 677 SCRA 575.

> "Although the dismissal order is not subject to appeal, it is still reviewable but only through *certiorari* under Rule 65 of the Rules of Court. For the writ to issue, the trial court must be shown to have acted with grave abuse of discretion amounting to lack or excess of jurisdiction such as where the prosecution was denied the opportunity to present its case or where the trial was a sham thus rendering the assailed judgment void. **The burden is on the petitioner to clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice**." (Citations omitted)

The petition is bereft of any allegation, much less, evidence that the prosecution's right to due process was violated **or the proceedings before the CA were a mockery such that Ando's acquittal was a foregone conclusion. Accordingly, notwithstanding the alleged errors in the** interpretation of the applicable law or **appreciation of evidence that the CA may have committed in ordering Ando's acquittal, absent any showing that the CA acted with caprice or without regard to the rudiments of due process, the CA's findings can no longer be reversed, disturbed and set aside without violating the rule against double jeopardy**. x x x[14] (Emphasis and underscoring supplied)

Verily, this means that not every error in the trial or evaluation of the evidence by the court in question that led to the acquittal of the accused would be reviewable by *certiorari*. As the Court ruled in *Republic v. Ang Cho Kio*,[15] "[n]o error, **however, flagrant**, committed by the court against the state, can be reserved by it for decision by the supreme court when the defendant has once been placed in jeopardy and discharged, even though the discharge was the result of the error committed."[16]

As applied in this case, it is immaterial whether the trial court was correct in convicting respondent for attempted rape or whether the CA committed error, no matter how flagrant or grave, in its appreciation of the evidence presented by the

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[14] Id. at 579-580.

[15] G.R. Nos. L-6687 y L-6688, July 29, 1954, 95 Phil. 475.

[16] Id. at 480; emphasis and undo scoring supplied.

prosecution for the court to modify respondent's conviction for a lesser offense. **The fact remains that respondent's right against double jeopardy had already attached when the CA acquitted respondent for the crime of attempted rape**. Hence, no amount of error of judgment will ripen into an error of jurisdiction such that the acquittal would be reviewable by this Court through a petition for *certiorari*. It is only when the case falls within the narrow confines of jurisprudential exception — like in *Galman* where the State was deprived of its day in court — that a decision acquitting the accused may be revisited. This is clearly not obtaining in this case.

Thus, in light of the foregoing considerations, I vote to **DENY** the petition.

FIRST DIVISION

[G.R. No. 240549. August 27, 2020]

SALVADOR AWA INOCENTES, JR., AGAPITO AWA INOCENTES, KING MARVIN INOCENTES and DENNIS C. CATANGUI, *Petitioners, v.* **R. SYJUCO CONSTRUCTION, INC. (RSCI) and ARCH. RYAN I. SYJUCO,** *Respondents*.

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; 1987 CONSTITUTION; JUDICIAL DEPARTMENT; SUPREME COURT; A.M. 00-2-14-SC (RE: COMPUTATION OF TIME WHEN THE LAST DAY FALLS ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY AND A MOTION FOR EXTENSION FILED ON NEXT WORKING DAY IS GRANTED); WHEN THE LAST DAY OF THE FILING PERIOD FALLS ON A SATURDAY, A SUNDAY, OR A LEGAL HOLIDAY IN THE PLACE WHERE THE COURT SITS, THE TIME SHALL NOT RUN UNTIL THE NEXT WORKING DAY; CASE AT BAR. — A.M. 00-2-14-SC *Re: Computation of Time When the Last Day Falls on a Saturday, Sunday or Legal Holiday and a Motion for Extension Filed on Next Working Day is Granted* ordains that when the last day of the filing period falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. Here, the Court granted petitioners an extension of thirty (30) days from receipt of the assailed Resolution or until August 26, 2018 within which to file the present petition. Since August 26, 2018, last day of the extended due date, fell on a Sunday, and the next day, August 27, was declared a regular holiday, the petition was timely filed on the next working day, August 28, 2018. So must it be.

2. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; REGULAR EMPLOYMENT; EMPLOYEES WHO PERFORM TASKS THAT ARE DESIRABLE AND NECESSARY TO THE BUSINESS OF THE EMPLOYER ARE REGULAR EMPLOYEES; CASE AT BAR. — ***Inocentes*** is on all fours with the present case. Petitioners here and those in ***Inocentes***

were all RSCI's construction workers. As such, they had been repeatedly and continuously employed for many years. They performed tasks that were desirable and necessary to RSCI's construction business. Thus, they were regular employees, not project employees. For sure, mere termination or completion of each project for which they were engaged is not a valid or just cause for termination of employment under Art. 279 of the Labor Code. While the Court is aware that ***Inocentes*** is under reconsideration, our Decision in that case stands until otherwise vacated or reversed. Undoubtedly, the issues, subject matters and causes of action in ***Inocentes*** and in the present case are identical. The workers were categorized as project employees but they were not properly informed of the nature of their employment as such. They were all continuously engaged by RSCI to render construction services for its short-term projects. Too, RSCI did not file any termination report to the DOLE due to alleged project completion nor did it pay the workers any completion bonus supposedly due to project employees following completion of each project. RSCI asserted that the completion of the workers' assigned projects was a valid ground for their termination despite the workers' claim that they were regular employees and that their dismissal due to contract expiration was not a just or authorized cause for termination under Art. 279 of the Labor Code. In other words, except for the specific workers involved, the two (2) cases are closely identical and ought to be uniformly resolved on the merits. We, therefore, apply in full ***Inocentes*** to the present case.

3. ID.; ID.; TERMINATION OF EMPLOYMENT; ILLEGAL DISMISSAL; AWARD OF BACKWAGES AND SEPARATION PAY, WARRANTED IN CASE AT BAR. — The Court sustains the NLRC's award of backwages and separation pay to the illegally terminated employees which shall be computed from the date of their illegal dismissal until finality of this Decision. Likewise, as found in ***Inocentes***, the Court awards service incentive leave pay to herein petitioners which benefit was not given them by RSCI.

4. CIVIL LAW; DAMAGES; ATTORNEY'S FEES; AWARD OF TEN PERCENT (10%) ATTORNEY'S FEES, PROPER IN ACTION INVOLVING WAGES OF HOUSEHOLD HELPERS, LABORERS, AND SKILLED WORKERS. — As for the award often percent (10%) attorney's fees, the same

is justified under Article 2208(7) of the Civil Code which allows it in actions involving wages of household helpers, laborers, and skilled workers.

APPEARANCES OF COUNSEL

Sisenando R. Villaluz Jr. for petitioners.
Molo Sia Dy Tuazon Ty & Coloma Law Offices for respondents.

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This petition for review on *certiorari* assails the following dispositions of the Court of Appeals (Former Special Eleventh and Special Former Special Eleventh Divisions) in CA-G.R. SP No. 152013 entitled R. *Syjuco Construction, Inc. (RSCI)/Arch. Ryan I. Syjuco v. National Labor Relations Commission, Salvador Awa Inocentes, Jr., Agapito Awa Inocentes, King Marvin Inocentes and Dennis C. Catangui, viz.:*

1. Amended Decision[1] dated February 2, 2018 reversing its earlier ruling that respondents were regular, not project employees; and
2. Resolution[2] dated July 5, 2018 denying petitioners' motion for reconsideration.

Antecedents

Respondent R. Syjuco Construction, Inc. (RSCI) is a construction company engaged in short-term projects such as renovation or construction of bank branches, stores in malls and similar projects with short duration. For its projects, RSCI hired construction workers like masons, carpenters, whose

[1] Penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Danton Q. Bueser and Pablito A. Perez, *rollo*, pp. 9-15.

[2] Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Pablito A. Perez and Ronaldo Roberto B. Martin, *id*. at 7-8.

contracts of engagement were indicated to be co-terminous with the projects to which they were assigned.[3]

Sometime in 2005, RSCI hired petitioners Salvador Inocentes Jr. and Agapito Inocentes as carpenter and mason, respectively. Thereafter, RSCI engaged as carpenters King Marvin Inocentes in 2007 and Dennis Catangui, in 2008. The durations of their respective engagements depended on the scope and period of the projects. Between 2013 and 2015, petitioners were assigned to the following projects:[4]

1. Salvador Inocentes Jr.

Project	Duration
BDO BGC J.Y Campus	02 May-15 May 2013
Edward Hernandez Residence	29 August - 11 September 2013
BDO UN Avenue	09 January - 29 January 2014
Edward Hernandez Residence	10 April-02 July 2014
BDO City of Dreams	16 August -19 November 2014
Hernandez Condo	15 December - 18 December 2014
Tierra Pura	22 December - 26 December 2014
Hernandez Condo	28 January - 03 March 2015
Pinky Lim	20 May - 01 August 2015
BDO Solaire	22 October - 23 November 2015

2. Agapito Inocentes

Project	Duration
Loreta Arcadia Ave.	25 April-30 April 2013
BDO BGC	09 May-07 June 2013
PIKO Empire Studio	07 October - 09 October 2013
Edward Hernandez Residence	08 November - 11 December 2013
Edward Hernandez Residence	10 January - 02 March 2014
Victory Liner Cubao	23 May-22 July 2014
Victory Liner Pasay	04 September - 08 October 2014

[3] *Id*. at 129.

[4] *Id*. at 129, 171-173.

PIKO Warehouse	11 December - 24 December 2014
Hernandez Condo	22 January - 18 March 2015
Avalon Condo	13 May - 25 July 2015
PIKO BDO Solaire	08 August - 22 September 2015

3. King Marvin Inocentes

Project	**Duration**
PIKO Push	20 February - 26 April 2013
Loreta Tua	08 May - 29 May 2013
PIKO Vantage	29 August - 16 October 2013
PIKO Giordano Concept	26 November - 06 December 2013
PIKO BDO Tektite	01 January - 12 January 2014
PIKO BDO UN times & PIKO BDO Elcano	16 January - 28 January 2014
PIKO Office	06 February - 12 February 2014
PIKO BDO MOB	06 March - 19 March 2014
Victory Liner Pasay	02 October - 08 October 2014
PIKO Fitness First Mall of Asia	23 October - 29 October 2014
Arlo Valero	25 February - 10 March 2015
PIKO BDO Kalentong	15 April - 28 April 2015
Office	14 May - 31 May 2015
Avalon Condo	02 July - 04 August 2015
PIKO Victory liner Sampaloc	12 August - 22 September 2015
PIKO BDO Bacoor	30 September - 13 October 2015

4. Dennis Catangui

Project	**Duration**
BDO BGC	09 May - 15 May 2013
Fitness First SM Aurora	30 May - 14 June 2013
BDO Tektite	05 December - 11 December 2013
BDO UN Avenue	11 March - 9 May 2014
BDO City of Dreams	16 August - 5 November 2014
Fitness First Mall of Asia	16 November - 17 December 2014

Hernandez Condo	8 January - 9 March 2015
Ayala Heights - Pinky Lim	12 March - 16 June 2015
Victory Liner Pasay	10 December - 12 December 2015

Sometime in February and May 2016, the RSCI's foreman twice directed petitioners to report for work for another short-term project, but the latter failed to do so.[5]

On June 9, 2016, petitioners filed a request for assistance and complaint under the single entry approach (SEnA) entitled *Salvador A. Inocentes, Jr., Agapito A. Inocentes, King Marvin Inocentes and Dennis C. Catangui v. R. Syjuco Construction, Inc. RSCI/Arch. Ryan I. Syjuco*. They sued for illegal dismissal, underpayment of wages, overtime pay, and non-payment of 13th month pay, holiday pay, holiday premium, rest day premium, service incentive leave and night shift differential. They also demanded for moral and exemplary damages and attorney's fees.[6]

RSCI denied that petitioners were illegally dismissed. As they were project employees, their employment was validly terminated after end of each construction project. It also denied petitioners' entitlement to holiday pay since they did not work during holidays. Too, they were not entitled to nightshift differential as their work did not go beyond 12 midnight. As to non-receipt of 13th month pay, their signed quitclaims were proof of receipt of such benefit.

Petitioners asserted that they were regular employees and that the signed quitclaims supported their claim of termination from employment.

The Labor Arbiter's Ruling

By Decision[7] dated November 29, 2016, Labor Arbiter Ma. Claradel C. Javier-Rotor dismissed the complaint for lack of

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[5] *Id.* at 130.

[6] *Id.* at 131.

[7] *Id.* at 64-70.

merit. She ruled that petitioners were project employees who belonged to RSCI's work pool. Their engagements were intermittent, depending on the availability of projects. Since they were not receiving any salary during their temporary break, they were free to find employment elsewhere.

As for petitioners' claim that they were misled into signing the purported quitclaims, the labor arbiter held that the same were required of all RSCI workers as proof of receipt of their 13th month pay and other benefits. Signing these quitclaims did not mean they were being terminated from work. They were merely on a temporary stoppage of work while waiting for their next project. She then directed petitioners to report to RSCI for their next project assignment.

The labor arbiter also denied the claim for holiday premium pay and night-shift differential for lack of proof that they were entitled to them.

The NRLC's Ruling

On appeal, the Fourth Division of the National Labor Relations Commission (NLRC) partly reversed,[8] thus:

WHEREFORE, complainants' appeal is **PARTLY GRANTED**. The appealed Decision is hereby **MODIFIED** in that respondent R[.] Syjuco Construction[,] Inc. is directed to pay:

1. Complainant Salvador Awa Inocentes, Jr. [,] his **Backwages**, to be computed from 27 November 2015 (the date [of] termination took effect) until the finality of this Decision;

2. Complainant Agapito Awa Inocentes [,] his **Backwages**, to be computed from 30 November 2015 (the date [of] termination took effect) until the finality of this Decision;

3. Complainant King Marvin Inocentes[,] his **Backwages**, to be computed from 15 November 2015 (the date [of] termination took effect) until the finality of this Decision;

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[8] Penned by Presiding Commissioner Grace M. Venus and concurred in by Commissioners Bernardino B. Julve and Leonard Vinz O. Ignacio, *id*. at 77-87.

4. Complainant Dennis G. Catangui[,] his **Backwages**, to be computed from 20 December 2015 (the date [of] termination took effect) until the finality of this Decision;

5. **Separation Pay,** in lieu of reinstatement, in the amount of one (1) month's salary for every year of service, that is, from date of employment until the finality of this Decision;

6. **Moral damages** in the amount of Php 10,000.00 each;

7. **Exemplary damages** in the amount of [Php] 10,000.00 each;

8. [P]lus **Attorney's Fees** in an amount equivalent to 10% of the total monetary award.

Attached is the detailed computation which forms part of this Decision.

All other claims are **DISMISSED** for lack of basis.

SO ORDERED.[9]

The NLRC ruled that petitioners were regular employees. Their co-terminous status ceased when they were repeatedly hired for more than five (5) years as carpenters and masons since their services were necessary and desirable to RSCI's construction business. Notably, RSCI itself failed to submit the reportorial requirement under DOLE Department Order No. 19, series of 1993 every time petitioners' assigned projects got terminated. And because they were regular employees, their dismissal due to contract expiration was invalid, the same not being a just or authorized cause for termination under Art. 279 of the Labor Code.

RSCI's motion for reconsideration was denied per Resolution[10] dated June 30, 2017.

The Court of Appeals' Ruling

On RSCI's petition for *certiorari*, the Court of Appeals (Special Eleventh Division), by Decision dated December 7, 2017, affirmed in the main, albeit it deleted the award of moral

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[9] *Id.* at 86-87.

[10] *Id.* at 91-95.

and exemplary damages and imposed six percent (6%) interest per annum on the money award from finality of the decision until fully paid.

On RSCI's motion for reconsideration, however, the Court of Appeals (Former Special Eleventh Division) reversed per Amended Decision dated February 2, 2018, *viz.*:

> **WHEREFORE**, the motion for reconsideration is **GRANTED**. Our Decision dated December 7, 2017 is **REVERSED** and **SET ASIDE**. The petition for certiorari is **GRANTED**. The assailed NLRC dispositions dated February 24, 2017 and June 30, 2017 are **ANNULLED** and **SET ASIDE**. The decision of the Labor Arbiter dated November 29, 2016 in NLRC Case No. 07-08384-16 is **REINSTATED**. No costs.
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> **SO ORDERED.**[11]

The Court of Appeals (Former Special Eleventh Division) took judicial notice of the Decision dated December 28, 2017[12] of the Former Special Third Division in CA-G.R. SP No. 150606 entitled *R. Syjuco Construction, Inc. (RSCI)/Arch. Ryan I. Syjuco v. NLRC, Dominic Inocentes, Jeffrey Inocentes, Joseph Cornelio and Reymark Catangui* involving as well the employment status of similarly situated construction workers of RSCI.[13]

In that case, the Former Special Third Division found that the concerned construction workers were informed of their termination when they were denied entry to the job site. They thereafter filed a complaint for constructive dismissal and money claims against RSCI. The Labor Arbiter dismissed the complaint and ruled that they were project employees. On appeal, the NLRC reversed and ruled that the workers were regular employee.[14] On further petition for *certiorari* via CA-G.R. SP

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[11] *Id*. at 14.

[12] Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by now Supreme Court Associate Justice Jose C. Reyes, Jr. and Associate Justice Renato C. Francisco.

[13] *Id*. at 10.

[14] *Id*. at 179.

No. 150606, the Former Special Third Division, as stated, held that the workers were project-based employees since they failed to prove that their work as such was continuous and uninterrupted. In concluding that these workers, at the time of their engagement, were in fact informed of the nature and durations of their work, the Former Special Third Division gave weight to RSCI's summary of project assignments for the years 2013 to 2015.[15]

In CA-G.R. SP No. 150606, the Former Special Eleventh Division justified its adoption of the aforesaid ruling, stating that since the construction workers in the two (2) cases were similarly situated, there should only be one (1) uniform ruling regarding their employment status, *i.e.*, they were project employees, and not regular employees.

The Special Former Special Eleventh Division denied petitioners' subsequent motion for reconsideration under Resolution dated July 5, 2018.

The Present Petition

Petitioners now seek affirmative relief from the Court to reverse and set aside the assailed dispositions of the Court of Appeals. They assert anew that they were regular employees because (1) they were repeatedly hired for more than ten (10) years without any interruption, (2) RSCI did not submit the reportorial requirement after every termination of its construction project per DOLE Department Order No. 19, series of 1993,[16] (3) they were not aware of their project-based employment since they were not issued any employment contract at all, and (4) they were not even paid any completion bonus supposedly due to project employees following completion of each project.

On the other hand, RSCI argues that the petition should be dismissed for its late filing on August 28, 2018. The petition should have been allegedly filed on August 26, 2018, the last day of the thirty (30) day extended period. In any event, its

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[15] *Id.* at 180-181.

[16] Guidelines Governing the Employment of Workers in Construction Industry.

failure to comply with the required report of termination following completion of each project is not fatal because it has sufficiently complied with all the other requirements under DOLE Department Order No. 19. More, petitioners' own acknowledgement before the Labor Arbiter that they were laid off due to project completion is already sufficient proof that RSCI did inform petitioners of their project-based employment status. Project completion is a valid cause for terminating employment. Finally, the Court of Appeals correctly applied the decision in CA-G.R. SP No. 150606 to the present case.

ISSUES

I

Was the petition filed out of time?

II

Are petitioners project-based employees?

Ruling

The petition was timely filed.

On the procedural aspect, RSCI points out that the petition was belatedly filed on August 28, 2018 or two (2) days beyond the thirty (30) day extension sought which expired on August 26, 2018.

A.M. 00-2-14-SC *Re: Computation of Time When the Last Day Falls on a Saturday, Sunday or Legal Holiday and a Motion for Extension Filed on Next Working Day is Granted* ordains that when the last day of the filing period falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

Here, the Court[17] granted petitioners an extension of thirty (30) days from receipt of the assailed Resolution or until August 26, 2018 within which to file the present petition. Since August 26, 2018, last day of the extended due date, fell on a Sunday, and the next day, August 27, was declared a regular holiday,

[17] Second Division Resolution dated August 6, 2018.

the petition was timely filed on the next working day, August 28, 2018. So must it be.

As ordained in G.R. No. 237020, RSCI's construction workers were regular employees, and not project employees.

In its Amended Decision dated February 2, 2018, the Court of Appeals Former Special Eleventh Division reversed its previous ruling that petitioners were regular employees and pronounced, instead, that they were project employees, thus:

> After taking a second hard look at the facts of this case *vis-a-vis* the facts in CA-G.R. SP No. 150606, We find that the Private Respondents herein are similarly situated with the Private Respondents in CA-G.R. SP No. 150606. Thus, the issues raised by the Private Respondents herein are not different from the issues raised by the Private Respondents in the earlier case.
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> **In view thereof and in order to avoid conflicting dispositions, We are constrained to rule differently and to agree with the Petitioner's contention that the Private Respondents are project employees.**
>
> It is **undisputed** that the Petitioner is a construction company engage in short-term projects, such as renovation or construction of branches of banks, stores in malls, and other similar projects that can easily be accomplished in a few months. At the time of each engagement, the Private Respondents were advised as to the nature of the work and the duration of the project they were involved in. This is evidenced by the submissions of the Petitioner showing the project assignments and duration thereof. Upon completion of the project or particular phase thereof where they were engaged to work, the Private Respondents' employment necessarily ended. The Private Respondents' re-hiring thus was conditioned on the availability of construction projects of the Petitioner. During the time that there is no project assignment, the Private Respondents are not paid and are free to seek other employment. Therefore, **the Private Respondents are indeed project employees, whose employment was coterminous with the projects they were assigned.**

The Amended Decision cited as basis for its turn around a similar case under CA-GR SP No. 150606 where the Former

Special Third Division, through its Decision dated October 5, 2017, held that RSCI's construction workers, like herein petitioners, were project employees, and not regular employees.

Notably though, the aforesaid Decision dated October 5, 2017 subsequently became the subject of a petition for review on *certiorari* under G.R. No. 237020 entitled *Dominic Inocentes, Jeffrey Inocentes, Joseph Cornelio and Reymark Catangui v. R. Syjuco Construction, Inc. (RSCI)/Arch. Ryan I. Syjuco,* specifically on the employment status of RSCI's construction workers.

By Decision dated July 29, 2019, we pronounced, in no uncertain terms, that RSCI's construction workers were regular employees as the services they rendered were necessary and desirable to RSCI's construction business. As such, they may not be dismissed upon the mere expiration or completion of each project for which they were engaged. Thus:

> In *Dacuital vs. L.M. Camus Engineering Corp.*, the Court stressed that a project employee is assigned to a project that starts and ends at a determined or determinable time. **The Court elucidated therein that the principal test to determine if an employee is a project employee is -whether he or she is assigned to carry out a particular project or undertaking, which duration or scope was specified at the time of engagement.**
>
> **In this case, to ascertain whether petitioners were project employees, as claimed by respondents, it is primordial to determine whether notice was given them that they were being engaged just for a specific project, which notice must be made at the time of hiring. However, no such prior notice was given by respondents.**
>
> The Court notes that the summary of project assignments relied by the CA cannot be considered as the needed notice because it only listed down the projects from where petitioners were previously assigned but nowhere did it indicate that petitioners were informed or were aware that they were hired for a project or undertaking only.
>
> Stated differently, **the summary only listed the projects after petitioners were assigned to them but it did not reflect that petitioners were informed at the time of engagement that their work was only for the duration of a project.** Notably, it was only

in their Rejoinder (filed with the LA) that respondents stated that at the time of their engagement, petitioners were briefed as to the nature of their work but respondents did not fully substantiate this claim.

Moreover, **the summary of project assignments even worked against respondents as it established the necessity and desirability of petitioners' tasks on the usual business of respondents**. It is worth noting that respondents themselves admitted to such essentiality of the work because in their Reply (also submitted with the LA), respondents confirmed that days or a few months after a repair or renovation project, they would inform petitioners that they would be called upon when a new project commences. This matter only shows that petitioners' work for respondents did not end by the supposed completion of a project because respondents coordinated with and notified them that their services would still be necessary for respondents.

Also, **the fact that respondents did not submit a report with the DOLE (anent the termination of petitioners' employment due to alleged project completion) further bolsters that petitioners were not project employees**. In Freyssinet Filipinas Corp. vs. Lapuz, the Court explained that the failure on the part of the employer to file with the DOLE a termination report every time a project or its phase is completed is an indication that the workers are not project employees but regular ones.

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However, as already discussed, **respondents did not prove that they informed petitioners, at the time of engagement, that they were being engaged as project employees. The duration and scope of their work was without prior notice to petitioners**. While the lack of a written contract does not necessarily make one a regular employee, a written contract serves as proof that employees were informed of the duration and scope of their work and their status as project employee at the commencement of their engagement. There being none that was adduced here, the presumption that the employees are regular employees prevails.

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Notably, considering that respondents failed to discharge their burden to prove that petitioners were project employees, the NLRC properly found them to be regular employees. **It thus follows that as regular employees, petitioners may only be dismissed for a**

just or authorized cause and upon observance of due process of law. As these requirements were not observed, the Court also sustains the finding of the NLRC that petitioners were illegally dismissed.

Let it be underscored too that even if we rely on the averment of respondents that petitioners ceased to work at the end of their purported project contract, this assertion will not hold water since it is not a valid cause to terminate regular employees. This is in addition to the fact that there was no showing that petitioners were given notice of their termination, an evident violation of their right to due process. (Emphasis supplied)

Inocentes is on all fours with the present case. Petitioners here and those in ***Inocentes*** were all RSCI's construction workers. As such, they had been repeatedly and continuously employed for many years. They performed tasks that were desirable and necessary to RSCI's construction business. Thus, they were regular employees, not project employees. For sure, mere termination or completion of each project for which they were engaged is not a valid or just cause for termination of employment under Art. 279 of the Labor Code.

While the Court is aware that ***Inocentes*** is under reconsideration, our Decision in that case stands until otherwise vacated or reversed. Undoubtedly, the issues, subject matters and causes of action in ***Inocentes*** and in the present case are identical. The workers were categorized as project employees but they were not properly informed of the nature of their employment as such.

They were all continuously engaged by RSCI to render construction services for its short-term projects. Too, RSCI did not file any termination report to the DOLE due to alleged project completion nor did it pay the workers any completion bonus supposedly due to project employees following completion of each project. RSCI asserted that the completion of the workers' assigned projects was a valid ground for their termination despite the workers' claim that they were regular employees and that their dismissal due to contract expiration was not a just or authorized cause for termination under Art. 279 of the Labor Code. In other words, except for the specific workers involved,

the two (2) cases are closely identical and ought to be uniformly resolved on the merits. We, therefore, apply in full ***Inocentes*** to the present case.

Award of money claims is warranted.

The Court sustains the NLRC's award of backwages and separation pay to the illegally terminated employees which shall be computed from the date of their illegal dismissal until finality of this Decision. Likewise, as found in ***Inocentes***, the Court awards service incentive leave pay to herein petitioners which benefit was not given them by RSCI.

As for the award often percent (10%) attorney's fees, the same is justified under Article 2208(7) of the Civil Code which allows it in actions involving wages of household helpers, laborers, and skilled workers.

The legal rate of six percent (6%) per annum is imposed on the total money award to be reckoned from finality of this Decision until fully paid consistent with ***Nacar v. Gallery Frames***.[18]

ACCORDINGLY, the petition is **GRANTED**. The Amended Decision dated February 2, 2018 and Resolution dated July 5, 2018 of the Court of Appeals in CA-G.R. SP No. 152013 are **REVERSED** and **SET ASIDE**. The Decision dated December 7, 2017 of the Court of Appeals is **REINSTATED with MODIFICATION** in that service incentive leave pay is likewise awarded.

SO ORDERED.

Peralta, C.J. (*Chairperson*)*, Caguioa, Reyes, Jr.,* and *Lopez, JJ.*, concur.

[18] 716 Phil. 267 (2013).

FIRST DIVISION

[G.R. No. 243988. August 27, 2020]

THE PEOPLE OF THE PHILIPPINES, *Plaintiff-appellee, v.* **XXX,**[1] *Accused-appellant.*

SYLLABUS

1. CRIMINAL LAW; STATUTORY RAPE; ELEMENTS; THE CRIME IS STATUTORY RAPE WHEN THE VICTIM HAS A MENTAL AGE OF A PERSON BELOW 12 YEARS OLD. — The crime of statutory Rape is defined under Article 266-A, paragraph l(d) of the RPC; as amended by RA No. 8353, and has the following elements: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim. It is committed regardless of whether there was force, threat, or intimidation; fraud or grave abuse of authority; and whether the victim was deprived of reason or consciousness. It is enough that the age of the victim is proven and that there was sexual intercourse. In the recent case of *People v. Castillo,* the Court *En Banc* settled that the crime is statutory Rape when the victim has a mental age of a person below 12 years old[.]

2. ID.; RAPE; SWEETHEART THEORY AS DEFENSE MUST BE SUPPORTED BY CONVINCING EVIDENCE. — [T]he prosecution established that the accused had carnal knowledge of the victim. XXX admitted having sexual intercourse with AAA sometime in November 2008 but argued that they were lovers and that the act was free and voluntary on their part. As an affirmative defense, the "sweetheart" theory must be supported by convincing evidence, such as mementos, love letters, notes, and photographs. However, XXX's theory of consensual sex is barren of probative weight. He failed to substantiate his claim

[1] At the victim's instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the Decision, Resolution, or Order if the name and personal circumstances of the accused may tend to establish or compromise the victims' identities, in accordance with Amended Administrative Circular No. 83-2015 (III[I][c]) dated September 5, 2017.

and offered only self-serving assertions. Further, the testimony of the accused's close relative is necessarily suspect and cannot prevail over AAA's unequivocal declaration that XXX *"did not court [her]"* and *"was not even [her] boyfriend."* Even assuming that they have a relationship, XXX cannot force AAA to have sex against her will. A "love affair" neither justifies Rape nor serves as license for lust. In addition, the filing of criminal charges are not acts of a woman savoring a consensual coitus but that of a maiden seeking retribution for the outrage committed against her.

3. ID.; STATUTORY RAPE; RAPE COMMITTED AGAINST A MENTAL RETARDATE QUALIFIED BY THE OFFENDER'S KNOWLEDGE OF THE VICTIM'S MENTAL DISABILITY AT THE TIME OF RAPE MUST BE SUFFICIENTLY ESTABLISHED. — XXX was charged with Rape committed against a mental retardate qualified by the circumstance under Article 266-B paragraph 10 of the RPC that the offender knew of the victim's mental disability at the time of the commission of the crime. The penalty for Qualified Rape is death penalty. In this case, however, the prosecution failed to prove beyond reasonable doubt that XXX was aware of AAA's mental disability at the time he committed the crime. In *People v. Niebres,* the fact that the accused did not dispute the victim's mental retardation during trial is insufficient to qualify the crime of Rape. This does not necessarily create moral certainty that the accused knew of the victim's disability. Here, XXX consistently denied that AAA is not a mental retardate because she spoke well and can perform basic household chores. The prosecution did not controvert XXX's denial and allegation that AAA functioned like a normal person. Thus, we cannot conclude that XXX had knowledge of AAA's mental disability and took advantage of it at the time he committed the Rape. It is settled that qualifying circumstances must be sufficiently alleged in the information and proved during trial. Otherwise, there can be no conviction of the crime in its qualified form.

4. ID.; ID.; PENALTY; *RECLUSION PERPETUA* WITH THE PHRASE "WITHOUT POSSIBILITY FOR PAROLE"; ELUCIDATED. — XXX is guilty of statutory Rape. Applying Article 266-B of the RPC, the CA and the RTC correctly imposed the penalty of *reclusion perpetua*. However, the phrase *"without possibility for parole"* in the dispositive portion of the RTC's

Decision must be clarified. In A.M No. 15-08-02-SC, this Court set the guidelines for the use of the phrase *"without eligibility for parole"* to remove any confusion, to wit: 1. In cases where the death penalty is not warranted, there is no need to use the phrase *"without eligibility of 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 [Republic Act] (R.A.) [No.] 9346, the qualification of "*without eligibility of 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. Hence, there is a need to qualify that the accused is not "*eligible for parole*" only in cases where the imposable penalty should have been death were it not for the enactment of RA No. 9346 or the Anti-Death Penalty Law. XXX is guilty of statutory Rape penalized with *reclusion perpetua* and there is no need to indicate that he was ineligible for parole. XXX is *ipso facto* ineligible for parole because he was sentenced to suffer an indivisible penalty.

5. ID.; ID.; DAMAGES AWARDED. — As to the award of damages, the CA properly modified the amounts to conform with recent jurisprudence. In *People v. Jugueta,* we held that when the circumstances call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the victim is entitled to ₱75,000.00 civil indemnity, ₱75,000.00 moral damages, and ₱75,000.00 exemplary damages. Lastly, in line with current policy, the CA also correctly imposed interest at the legal rate of six percent (6%) *per annum* on all monetary awards for damages, from date of finality of this decision until fully paid.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

LOPEZ, *J.*:

The conviction of the accused for the crime of Rape committed against a mental retardate is the subject of review in this appeal assailing the Decision[2] dated June 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02447.

ANTECEDENTS

AAA, a 29-year old woman, and XXX were distant relatives and long-time neighbors. Sometime in November 2008, BBB observed that her daughter AAA was constantly feeling sick and vomiting. Thus, BBB asked AAA who confessed her pregnancy and pointed to XXX as the father of the child.[3] Together with AAA's father, BBB confronted XXX before the barangay. Thereat, XXX expressed his willingness to marry AAA. However, with AAA's father seething in anger, the plans for marriage did not push through. Still, XXX promised to support the child. Soon, AAA gave birth to a baby girl.

After more than four years or on April 13, 2013, AAA was pasturing a cow when XXX suddenly dragged her into the shrubs. XXX removed AAA's underwear, covered her mouth with clothes, and went on top of her. Thereafter, XXX inserted his penis into her vagina. AAA resisted and hit XXX with a piece of wood and a stone. Later, AAA disclosed that she had sex

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[2] *Rollo*, pp. 4-11; penned by Associate Justice Edward B. Contreras, with the concurrence of Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Louis P. Acosta.

[3] Any information to establish or compromise the identity of the victim, as well as those of her immediate family or household members, shall be withheld, and fictitious initials are used, pursuant to Republic Act (RA) No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; RA No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; Section 40 of A.M. No. 04-10-11-SC, Rule on Violence Against Women and Their Children; and *People v. Cabalquinto,* 533 Phil. 703 (2006).

with XXX several times but he threatened to kill her if she told her mother.[4]

Thus, XXX was charged with Rape under Article 266-A, paragraph l(d) of the Revised Penal Code (RPC) and sexual abuse under Section 5(b) of Republic Act (RA) No. 7610 before the Regional Trial Court (RTC) docketed as Criminal Case Nos. CBU-101439 and CBU-101440, respectively, *viz.*:

[*Criminal Case No. CBU-101439*]

That on or about the month of November 2008, at around 6:00 o'clock in the morning, more or less, in [CCC], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and **by means of force and intimidation and taking advantage of the mental disability, and of which accused has knowledge of the mental disability of the offended party** at the time of the commission of the offense, did then and there willfully, unlawfully and **feloniously have sexual intercourse** with AAA, a 29[-]year old girl, a mentally retarded [sic] and **with a mental age comparable to a 6-year old child,** without her consent and against her will, resulting in the latter's pregnancy and giving birth to a child, and which act of the accused debases, degrades or demeans the intrinsic worth and dignity of a child as a human which is prejudicial to her welfare, interest and development as a human being.

CONTRARY TO LAW.[5] (Emphasis supplied.)

[*Criminal Case No. CBU-101440*]

That on the 13th of April 2013 at about 3:00 o'clock in the afternoon, more or less, at [CCC,] Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent did then and there willfully, unlawfully, and feloniously with the use of force subject to sexual abuse AAA, a 29-year old girl, a mentally challenged [*sic*] and with a mental age comparable to a 6-year old, by waylaying, grabbing, hugging, holding her both hands tightly and dragging her to the grassy area, which act of the accused constitutes psychological and physical abuse, which is prejudicial to the welfare

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[4] CA *rollo,* pp. 36-39.

[5] *Id*. at 35.

and development of the child and debasing, degrading, and demeaning her intrinsic worth and dignity as a human being.

CONTRARY TO LAW.[6]

At the trial, BBB testified that AAA is already 29 years old but is a mental retardate and an illiterate.[7] The psychologist confirmed that AAA has a mental age comparable to that of a six-year old child. Moreover, she had a very poor intelligence quotient and severe reduction in emotional expressiveness. There is a possibility that AAA cannot determine right from wrong.[8]

In his defense, XXX admitted having sexual intercourse with AAA in November 2008 but alleged that they were lovers. He knew that AAA bore his child since they had sex twice. He financially supported the child and planned to marry AAA but her father and siblings threatened to maul him.[9] XXX's mother corroborated that her son and AAA had a romantic relationship.[10] Yet, XXX denied any sexual encounter with AAA on April 13, 2013 and claimed that he never approached her after BBB confronted him in the barangay. Lastly, XXX argued that AAA was not a mental retardate because she spoke well and can perform basic household chores, such as laundry, gardening and baby-sitting.[11]

On July 4, 2016, the RTC convicted XXX of Rape in Criminal Case No. CBU-101439. It considered XXX's admission and gave credence to testimonies about AAA's mental disability. However, it acquitted XXX of sexual abuse in Criminal Case No. CBU-101440,[12] thus:

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[6] *Id*. at 35-36.

[7] *Id*. at 38-39.

[8] *Id*. at 38.

[9] *Id*. at 39.

[10] *Id*. at 40-41.

[11] *Id*. at 39-40.

[12] *Id*. at 34-45; penned by Presiding Judge Ester M. Veloso.

WHEREFORE, the Court finds accused [XXX] guilty beyond reasonable doubt of the crime of Rape and hereby sentences him to suffer the penalty of *reclusion perpetua,* **without possibility for parole,** in accordance with Republic Act No. 9346. The accused is ordered to pay the offended party AAA civil indemnity of ₱75,000.00, moral damages of ₱50,000.00 and exemplary damages of ₱30,000.00, with interest of 6% *per annum* from the finality of this decision until satisfaction of the award.

The accused is hereby acquitted of the charge of violation of R.A. [No.] 7610 in Criminal Case No. CBU-101440.

SO ORDERED.[13] (Emphasis supplied.)

XXX appealed to the CA docketed as CA-G.R. CR-HC No. 02447. He contended that AAA consented to their sexual intercourse. Also, XXX insisted that AAA is not a mental retardate.[14] In contrast, the Office of the Solicitor General countered that the XXX's sweetheart theory is unsubstantiated. Likewise, the prosecution sufficiently established that AAA suffers from mental retardation, which the psychologist confirmed and the trial court observed in open court.[15] On June 29, 2018, the CA affirmed the RTC's findings that XXX is guilty of Rape but modified the award of damages,[16] to wit:

WHEREFORE, the appeal is DISMISSED. The Decision dated July 4, 2016 finding Accused-Appellant guilty beyond reasonable doubt of the crime of Rape is AFFIRMED with the following MODIFICATIONS:

1. Accused-Appellant [XXX] is ORDERED to PAY AAA the following amounts: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages; and

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[13] *Id*. at 44-45.

[14] *Id*. at 21-33. Appellant assigns the following errors of the trial court: I. The trial court erred in giving full faith and credence to the testimony of the prosecution witnesses; and II. The trial court erred in convicting the accused-appellant of the crime of rape despite the failure of the prosecution to prove and establish his guilt beyond reasonable doubt.

[15] *Id*. at 63-81.

[16] *Id*. at 4-11.

2. Accused-Appellant [XXX] is also ORDERED to PAY interest at the rate of 6% per annum from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, and exemplary damages.

SO ORDERED.[17]

Hence, this recourse on the ground that the prosecution failed to establish XXX's guilt beyond reasonable doubt. He interposes the "sweetheart" theory and claims that their sexual intercourse was a free and voluntary act.[18]

RULING

The appeal has no merit.

The crime of statutory Rape is defined under Article 266-A, paragraph l(d) of the RPC; as amended by RA No. 8353,[19] and has the following elements: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim.[20] It is committed regardless of whether there was force, threat, or intimidation; fraud or grave abuse of authority; and whether the victim was deprived of reason or consciousness.[21] It is enough that the age of the victim is proven and that there was sexual intercourse.[22] In the recent case of *People v. Castillo,*[23] the Court *En Banc* settled that the crime is statutory Rape when the victim has a mental age of a person below 12 years old, thus:

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[17] *Rollo*, pp. 10-11.

[18] *Id*. at 20-21 and 24-25. In their Manifestations, the appellant and the appellee dispensed with the filing of their Supplemental Briefs, and adopted their respective Appellant's and Appellee's Briefs filed before the CA as their Supplemental Briefs.

[19] An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same as a Crime Against Persons, Amending for the Purpose Act No. 3815, As Amended, Otherwise Known as The Revised Penal Code, and For Other Purposes

[20] *People v. Ronquillo,* 818 Phil. 641, 648 (2017).

[21] *People v. Gutierez,* 731 Phil. 353, 357 (2014).

[22] *People v. Manson,* 801 Phil. 130, 137 (2016).

[23] G.R. No. 242276, February 18, 2020.

The term "deprived of reason," is associated with insanity or madness. A person deprived of reason has mental abnormalities that affect his or her reasoning and perception of reality and, therefore, his or her capacity to resist, make decisions, and give consent.

The term "demented," refers to a person who suffers from a mental condition called dementia. Dementia refers to the deterioration or loss of mental functions such as memory, learning, speaking, and social condition, which impairs one's independence in everyday activities.

We are aware that the terms, "mental retardation" or "intellectual disability," had been classified under "deprived of reason." **The terms, "deprived of reason" and "demented," however, should be differentiated from the term, "mentally retarded" or "intellectually disabled." An intellectually disabled person is not necessarily deprived of reason or demented. This court had even ruled that they may be credible witnesses.** However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and peers. Because of such impairment, he or she does not meet the "socio-cultural standards of personal independence and social responsibility."

Thus, a person with a chronological age of 7 years and a normal mental age is as capable of making decisions and giving consent as a person with a chronological age of 35 and a mental age of 7. Both are considered incapable of giving rational consent because both are not yet considered to have reached the level of maturity that gives them the capability to make rational decisions, especially on matters involving sexuality. Decision-making is a function of the mind. Hence, **a person's capacity to decide whether to give consent or to express resistance to an adult activity is determined not by his or her chronological age but by his or her mental age. Therefore, in determining whether a person is "twelve (12) years of age" under Article 266-A (1) (d), the interpretation should be in accordance with either the chronological age of the child if he or she is not suffering from intellectual disability, or the mental age if intellectual disability is established.**[24] (Emphasis in the original.)

Here, all the elements of statutory Rape were proven beyond reasonable doubt. Foremost, it was established that AAA is

[24] *Id.*, citing *People v. Quintos,* 746 Phil. 809, 829-831 (2014).

incapable of giving rational consent and has not reached the level of maturity that would give her the capacity to make prudent decisions, especially on matters involving sexuality.[25] A series of psychological tests revealed that AAA is a mental retardate. The examining psychologist testified in open court that AAA has a chronological age of 29 years old but has a mental age of a six-year old child, to wit:

Q Madam Witness, could you please tell us why did you conduct a psychological evaluation on the client [AAA]?

A She was referred to me for assessment of her current mental functioning.

COURT: (To the witness)

Q Why? What was her behavior that she was brought to you and required for evaluation?

A **She had flat affect.**

Q What do you mean by that?

A **A severe reduction in emotional expressiveness.**

x x x x x x x x x

Q Based on the result of the test that you conducted on [AAA], will you please tell us the outcome of the examination that you conducted?

A **Client was given the TONI-3. Client's intelligence quotient was of very poor category, significantly indicative of mental slowness. Client's mental age is comparable to a 6 years [sic] old child.**

Q Is that findings [*sic*] stated in your psychological report?

A Yes.

x x x x x x x x x

Q And at the time that you conducted the psychological evaluation, what was her actual age at that time?

A **She was 29 years old.**

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[25] *People v. Martinez, et al.,* 827 Phil. 410, 426 (2018).

Q **But according to you her mental age at that time was of 6 years old?**

A Yes.

x x x x x x x x x

Q Now, the alleged incident in this case happened in x x x November 2008. Is it possible that in the year, November 2008, her mental age was even lower than six years old?

A **There is a possibility but it is within the bracket of five to six years old.**

x x x x x x x x x

COURT: (To the witness)

Q **At that mental age of six years old, she could be easily lure [sic] or threaten [*sic*]?**

A **Yes, your Honor.**

Q So, a mere threatening word could be enough to convince her to given in whatever is asked of her?

A Yes, your Honor.

Q Son [*sic*] in this particular case, was she lured, was she threatened or intimidated?

A There is a possibility that she had been lured or threatened.

Q So this could be easily done by anyone on her knowing her mental age?

A Anybody, your Honor.

Q **So even if one does not know her well, could it be easily discern (*sic*) that her mental age is not compatible with her chronological age?**

A **Yes, your Honor.**

Q Immediately upon talking to her, it is very clear that her mental age is not the same with her real age?

A By just looking at her, your Honor.

Q It is easily determined?

A Yes, your Honor.[26] (Emphases supplied.)

Also, the trial judge had the opportunity to actually examine the demeanor of AAA and concluded that she is a mental retardate. As the RTC aptly observed:

> The offended party AAA, although 29 years old at the time of the alleged incidents, had the mental age of a six-year old, as attested to by a psychologist, who observed AAA and conducted tests on her. The psychologist further explained that because of her mental disability, AAA could not sense danger to her person and was easily lured or threatened. Her physical observation of AAA readily showed that the latter had such a disability. This belies the allegations of the accused and his witness that they never Icnew that AAA was mentally retarded, despite the fact that AAA was a relative and a neighbor. **Indeed, even the court could discern from the way AAA spoke and behaved when she testified, that she had the mind of a child. AAA's manner and behavior, even at first impression, indicated her disability and it was impossible for the accused not to have known that.**[27] (Emphasis supplied.)

More importantly, the prosecution established that the accused had carnal knowledge of the victim. XXX admitted having sexual intercourse with AAA sometime in November 2008 but argued that they were lovers and that the act was free and voluntary on their part. As an affirmative defense, the "sweetheart" theory must be supported by convincing evidence, such as mementos, love letters, notes, and photographs.[28] However, XXX's theory of consensual sex is barren of probative weight. He failed to substantiate his claim and offered only self-serving assertions. Further, the testimony of the accused's close relative is necessarily suspect[29] and cannot prevail over AAA's unequivocal declaration that XXX *"did not court [her]"* and *"was not even [her] boyfriend."*[30] Even assuming that they have a relationship,

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[26] CA *rollo*, pp. 69-71.

[27] *Id.* at 41-42.

[28] *People v. Corpuz,* 597 Phil. 459, 466 (2009).

[29] *People v. Opeliña,* 458 Phil. 1001, 1014 (2003).

[30] CA *rollo*, p. 72.

XXX cannot force AAA to have sex against her will. A "love affair" neither justifies Rape nor serves as license, for lust.[31] In addition, the filing of criminal charges are not acts of a woman savoring a consensual coitus but that of a maiden seeking retribution for the outrage committed against her.[32]

Notably, XXX was charged with Rape committed against a mental retardate qualified by the circumstance under Article 266-B paragraph 10 of the RPC that the offender knew of the victim's mental disability at the time of the commission of the crime. The penalty for Qualified Rape is death penalty.[33] In this case, however, the prosecution failed to prove beyond reasonable doubt that XXX was aware of AAA's mental disability at the time he committed the crime. In *People v. Niebres,*[34] the fact that the accused did not dispute the victim's mental retardation during trial is insufficient to qualify the crime of Rape. This does not necessarily create moral certainty that the accused knew of the victim's disability.[35] Here, XXX consistently denied that AAA is not a mental retardate because she spoke

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[31] *People v. Cabanilla,* 649 Phil. 590, 609 (2010); *People v. Loyola,* 404 Phil. 71, 77 (2001); *People v. Garces, Jr.,* 379 Phil. 919, 921 (2000); See *People v. Vallena,* 314 Phil. 679 (1995); *People v. Manahan,* 374 Phil. 77, 84 (1999), citing *People v. Tismo,* 281 Phil. 593, 614 (1991); *People v. Espiritu,* 375 Phil. 1012, 1020 (1999), citing *People v. Tayaban,* 357 Phil. 494, 510 (1998), in turn citing *People v. Domingo,* 297 Phil. 167, 186(1993).

[32] *People v. Tacipit,* 312 Phil. 295, 303 (1995).

[33] Act No. 3815, as amended by RA No. 8353, Article 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

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:

x x x x

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

[34] 822 Phil. 68 (2017).

[35] *Id*. at 77.

well and can perform basic household chores. The prosecution did not controvert XXX's denial and allegation that AAA functioned like a normal person. Thus, we cannot conclude that XXX had knowledge of AAA's mental disability and took advantage of it at the time he committed the Rape. It is settled that qualifying circumstances must be sufficiently alleged in the information and proved during trial.[36] Otherwise, there can be no conviction of the crime in its qualified form.[37]

All told, XXX is guilty of statutory Rape. Applying Article 266-B of the RPC, the CA and the RTC correctly imposed the penalty of *reclusion perpetua*. However, the phrase *"without possibility for parole"* in the dispositive portion of the RTC's Decision must be clarified. In A.M No. 15-08-02-SC,[38] this Court set the guidelines for the use of the phrase *"without eligibility for parole"* to remove any confusion, to wit:

> 1. In cases where the death penalty is not warranted, there is no need to use the phrase *"without eligibility of 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 [Republic Act] (R.A.) [No.] 9346, the qualification of *"without eligibility of 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. (Italics in the original.)

Hence, there is a need to qualify that the accused is not *"eligible for parole"* only in cases where the imposable penalty should have been death were it not for the enactment of RA No. 9346 or the Anti-Death Penalty Law.[39] XXX is guilty of

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[36] *People v. Diunsay-Jalandoni,* 544 Phil. 163, 176 (2007).

[37] *People v. Ramos,* 442 Phil. 710, 732 (2002).

[38] Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties.

[39] Approved on June 24, 2006.

statutory Rape penalized with *reclusion perpetua* and there is no need to indicate that he was ineligible for parole. XXX is *ipso facto* ineligible for parole because he was sentenced to suffer an indivisible penalty.

As to the award of damages, the CA properly modified the amounts to conform with recent jurisprudence. In *People v. Jugueta,*[40] we held that when the circumstances call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the victim is entitled to ₱75,000.00 civil indemnity, ₱75,000.00 moral damages, and ₱75,000.00 exemplary damages. Lastly, in line with current policy, the CA also correctly imposed interest at the legal rate of six percent (6%) *per annum* on all monetary awards for damages, from date of finality of this decision until fully paid.[41]

FOR THESE REASONS, the appeal is **DENIED.** The accused-appellant XXX is GUILTY of statutory Rape and is sentenced to suffer the penalty of *reclusion perpetua.* Appellant is ordered to pay AAA the following amounts: civil indemnity of ₱75,000.00, moral damages of ₱75,000.00, and exemplary damages of ₱75,000.00. All monetary awards for damages shall earn interest at the legal rate of six percent (6%) *per annum* from date of finality of this Decision until fully paid.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Caguioa, Reyes, Jr.,* and *Lazaro-Javier, JJ.,* concur.

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[40] 783 Phil. 806, 839 (2016).

[41] *People v. Ronquillo,* 818 Phil. 641, 654 (2017), citing *People v. Dion,* 668 Phil. 333 (2011).

FIRST DIVISION

[G.R. No. 244405. August 27, 2020]

HEIRS OF ISABELO CUDAL, SR., REPRESENTED BY LIBERTAD CUDAL, and HEIRS OF ANTONIO CUDAL, represented by VICTORIANO CUDAL, *Petitioners*, *v.* **SPOUSES MARCELINO A. SUGUITAN, JR. and MERCEDES J. SUGUITAN**, *Respondents*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; QUESTIONS OF FACT ARE BEYOND THE AMBIT OF THE PETITION; EXCEPTION. — In determining whether respondents are buyers in good faith, it must be pointed out that "the ascertainment of good faith, or lack of it, and the determination of whether due diligence and prudence were exercised or not, are questions of fact" which are beyond the ambit of petitions for review on *certiorari* under Rule 45 of the Rules of Court. However, in *Heirs of Nicolas S. Cabigas v. Limbaco*, the Court, while recognizing that the question of whether a person acted with good faith or bad faith in purchasing and registering real property is a question of fact, also stated that when there is no dispute as to the facts, the question of whether or not the conclusion drawn from these facts is correct is a question of law. At any rate, even if the question be considered as one of fact, this case falls within one of the recognized exceptions to the general rule that this Court is not a trier of facts considering that the findings of the CA are contrary to those of the RTC.

2. CIVIL LAW; SALES; BUYERS IN GOOD FAITH; THE BUYER MUST INVESTIGATE THE RIGHTS OF THE ACTUAL POSSESSOR IN CASES WHERE THE PURCHASED LAND IS IN POSSESSION OF A PERSON OTHER THAN THE SELLER. — To determine whether respondents are buyers in good faith, the Court's pronouncement in *Spouses Bautista v. Silva* is instructive: A holder of registered title may invoke the status of a buyer for value in good faith as a defense against any action questioning his title. Such status, however, is never

presumed but must be proven by the person invoking it. A buyer for value in good faith is one who buys property of another, without notice that some other person has a right to, or interest in, such property and pays full and fair price for the same, at the time of such purchase, or before he has notice of the claim or interest of some other persons in the property. *He buys the property with the well-founded belief that the person from whom he receives the thing had title to the property and capacity to convey it*. x x x Additionally, in *Gabutan v. Nacalaban*, it was stated that the buyer must investigate the rights of the actual possessor in cases where the purchased land is in possession of a person other than the seller. x x x Applied to the present case, what is not disputed is that despite La Vilma Realty being the registered owner, petitioners are in actual possession of Lot 12. Hence x x x respondents cannot merely rely on the face of La Vilma Realty's title but must now exercise a higher degree of diligence and investigate petitioners' claim. On this score, we find that the CA erred in finding that respondents were buyers in good faith. To the Court's mind, that Marcelino verified the title with the Register of Deeds; inspected the property and confirmed that some of the heirs of Isabelo, Sr. and Antonio were in possession of Lot 12; and was able to speak with Libertad from whom he discovered that the petitioners were also claiming ownership on the basis of Angela's Affidavit, and even warned him not to buy the property, do not meet the higher degree of diligence required under the circumstances. Rather, what these circumstances establish is that as a result of such inspection, respondents were already aware of petitioners' possession and adverse claim over Lot 12. This should have prompted them to investigate La Vilma Realty's capacity to convey title to them and consequently lead them to ascertain the veracity of Visitacion's Confirmation of Ownership; however, respondents have not shown that they undertook such steps before finally deciding to purchase Lot 12. As such, the Court cannot sustain the CA's conclusion that respondents were innocent purchasers for value. Not being innocent purchasers for value, respondents cannot have a better right over Lot 12.

3. REMEDIAL LAW; ACTIONS; LACHES; ELEMENTS. — [A]s regards the issue of laches, while it is true that actions to quiet title do not prescribe when the plaintiff is in possession of the subject property, the question of laches is independent of the question of prescription. x x x Nevertheless, we find that

petitioners are not guilty of laches. The elements of laches are as follows: (1) conduct on the part of the defendant, or of one under whom claims, giving rise to the situation of which complaint is made an[d] for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred. It must be noted that the delay to be ascertained in this case for purposes of laches is not the delay on the part of the petitioners in having their claim over Lot 12 registered, as the CA held, but the delay in instituting the action to quiet title. In this case, there was no delay for as found by the RTC, petitioners filed their action before the RTC after learning during a confrontation in the *barangay* that respondents already secured a TCT in their names over Lot 12. Furthermore, respondents were aware of petitioners' claim over Lot 12 by virtue of Angela's Affidavit. Lastly, there is no injury or prejudice on the part of the respondents if petitioners will be accorded relief, for as already ruled, respondents cannot have a better right over Lot 12 for they are not innocent purchasers for value despite holding a TCT in their names.

APPEARANCES OF COUNSEL

Lea T. Malana-Balanon for petitioners.
Catral & Urani Law Offices for respondents.

D E C I S I O N

REYES, J. JR., *J.*:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated

[1] Penned by Associate Justice Rafael Antonio M. Santos, with Associate Justices Apolinario D. Bruselas, Jr. and Germano Francisco D. Legaspi, concurring; *rollo*, pp. 16-55.

July 20, 2018 and the Resolution[2] dated January 11, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 107522.

Factual Antecedents

A certain Juan Salva (who died intestate sometime in 1945) was the registered owner of a 154,344-square meter parcel of land (Lot H-5865) located at Nabaccayan (formerly Calaoagan), Gattaran, Cagayan, per Original Certificate of Title (OCT) No. P-283 issued on June 22, 1925. The said property consisted of several lots including Lot 2006 with an area of 12,092 square meters.

On May 30, 1969, a certain Angela Cudal (Angela), claiming to be Juan Salva's granddaughter and only heir, executed an Affidavit of Adjudication and Sale (Affidavit) adjudicating unto herself the entire estate of Juan Salva extrajudicially, and selling the 7,092 square meters of Lot 2006 to Isabelo Cudal, Sr. (Isabelo, Sr.) and the remaining 5,000 square meters to Antonio Cudal (Antonio).

On July 8, 1975, a certain Visitacion Pancho (Visitacion), also an alleged heir of Juan Salva, executed a Confirmation of Ownership, renouncing all her rights and interests over the 10,214-square meter portion of Lot 2006 in favor of Jose Say (Jose). This portion is denominated as Lot 12 subject of the present controversy.[3] Jose registered the Confirmation of Ownership in the Registry of Deeds of Cagayan. OCT No. P-283 was partially cancelled and Jose also secured the issuance of Transfer Certificate of Title (TCT) No. T-30896 in his name.

Jose conveyed his right over Lot 12 in a Deed of Absolute Sale dated September 29, 1975, in favor of La Vilma Realty Co., Inc. (La Vilma Realty) for ₱2,042.00. La Vilma Realty thereafter registered the Deed of Absolute Sale and caused

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[2] Id. at 57-62.

[3] As confirmed in the Sketch/Special Plan of Lot[s] 11 and 12, x x x in relation to Lot 2006, x x x and Report of Relocation Survey dated February 27, 2003; *see* CA Decision, id. at 19.

the issuance of TCT No. T-31041. On February 3, 2001, La Vilma Realty executed a Deed of Absolute Sale in favor of Marcelino Suguitan, Jr. (Marcelino), and the latter caused the registration of the said Deed with the Registry of Deeds of Cagayan and secured the issuance of TCT No. T-125624 in the name of Marcelino and Mercedes J. Suguitan (respondents).[4] Marcelino also bought a rice mill located on the eastern portion of Lot 12, not from La Vilma Realty, but from a certain Agcaoili.

It appeared that respondents filed a complaint for forcible entry against Libertad Cudal (Libertad) and five other John Does before the Municipal Trial Court (MTC) of Gattaran, Cagayan. Said complaint, however, was dismissed in an Order dated January 15, 2004. Said dismissal was affirmed on appeal to the Regional Trial Court (RTC) of Aparri, Cagayan.[5]

On August 21, 2007, the heirs of Isabelo, Sr. and Antonio (herein petitioners) filed a Complaint for Quieting of Title, Annulment of Instruments and Documents, and Cancellation of Certificate of Titles with Damages against the respondents and La Vilma Realty before the RTC of Aparri, Cagayan. Petitioners alleged that the issuance of TCT No. T-125624 in Marcelino's name clouded their rights and title as owners of Lot 12.

Respondents and La Vilma Realty, in their Answer, raised the defenses of prescription and laches. They also argued that they are purchasers for value in good faith, and that the sale in favor of Isabelo, Sr. and Antonio was not registered in the Registry of Deeds of Cagayan and cannot prejudice third persons and the whole world.

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[4] The RTC Decision states that Marcelino secured the issuance of TCT No. T-125624 in his name, id. at 71. The CA Decision, on the other hand, states that TCT No. T-125624 is in the name of Marcelino A. Suguitan, Jr. and Mercedes J. Suguitan, id. at 18.

[5] *See* CA Decision, id. at 19-20.

RTC Ruling

Ruling in favor of petitioners, the RTC held that Visitacion cannot validly convey to Jose her rights over Lot 12 through the Confirmation of Ownership since at the time of the execution of said Confirmation, Angela already sold Lot 2006 to Isabelo, Sr. and Antonio.[6] Furthermore, petitioners were able to show that Visitacion is not an heir of Juan Salva as she was prosecuted for falsification of a public document in connection with the Confirmation of Ownership, which was never rebutted by respondents.[7] On the other hand, the RTC held that Marcelino's claim that Angela is not an heir of Juan Salva is self-serving and unsupported by independent proof, as it was declared in a judicial proceeding that Angela inherited from Juan.[8]

The RTC also ruled that Marcelino cannot be considered a purchaser for value in good faith in light of the following circumstances: (1) La Vilma Realty was not in possession of Lot 12; (2) there were existing improvements on the land; (3) petitioners were in actual possession of the land; and (4) Libertad had informed Marcelino of the sale to her predecessors-in-interest and even cautioned him not to buy the property.[9] Applying the principle of *prior tempore*, *potior jure*, petitioners were held to have a better right since the sale to Isabelo, Sr. and Antonio was earlier than the transfer by Visitacion to Jose, and petitioners also possessed Lot 12 first in time.[10]

As regards prescription and laches, the RTC held that the action to quiet title in this case does not prescribe and petitioners filed the case after learning during a confrontation before *barangay* authorities that respondents had secured a certificate of title over Lot 12.[11] However, the sale of the rice mill to

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[6] Id. at 73.

[7] Id.

[8] Id.

[9] Id. at 75.

[10] Id. at 75-76.

[11] Id. at 77.

respondents, not being disputed by petitioners, was upheld and the respondents were declared owners of the portion of Lot 12 where it stands.[12] The dispositive portion of the Decision[13] dated February 18, 2016, reads:

WHEREFORE, premises considered, judgment is rendered as follows:

1. Declaring the heirs of Antonio Cudal the lawful owners of a 5,000 square meters portion of the subject lot (Lot 12, covered by TCT No. T-125624);

2. Declaring [respondents] Marcelino A. Suguitan, Jr. and Mercedes J. Suguitan the lawful owners of the rice mill on the subject lot together with the portion thereof on which it stands consisting of 150 square meters;

3. Declaring the heirs of Isabelo Cudal, Sr. the lawful owners of the remaining portion of the subject lot;

4. Nullifying and declaring null and void the following: (a) July 8, 1975 Confirmation of Ownership executed by Visitacion Pancho in favor, among others, of Jose Say; (b) September 29, 1975 Deed of Absolute Sale executed by Jose Say in favor of La Vilma Realty Co., Inc.; (c) February 3, 2001 Deed of Absolute Sale executed by La Vilma Realty Co., Inc. in favor of x x x Marcelino Suguitan; and (d) TCT No. T-30896 in the name of Marcelino Suguitan; and

5. Ordering the Registrar of Deeds of Cagayan to revive and reactivate OCT No. P-283 in its condition prior to the issuance of TCT No. T-30896 in the name of Marcelino Suguitan, and to issue the corresponding titles to the plaintiffs.

No pronouncement as to costs.

SO ORDERED.[14]

Respondents' Motion for Reconsideration (MR) and petitioners' Motion for Partial Reconsideration were denied in

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[12] Id.

[13] Penned by Judge Neljoe A. Cortes; id. at [70]-78.

[14] Id. at 77-78.

an Order dated June 13, 2016.[15] Aggrieved, respondents filed an appeal before the CA under Rule 41 of the Rules of Court.

CA Ruling

In its assailed Decision, the CA granted the appeal and reversed the RTC Decision. It explained that an innocent purchaser for value shall have the attributes of a "man of reasonable caution" and an "ordinarily prudent and cautious man."[16] In this case, considering that petitioners were occupying the lot, Marcelino conducted an investigation as to the nature of their claim over Lot 12 before he purchased the same. Thus, he is deemed to have *"exercise[d] due diligence, conduct[ed] an investigation, and weigh[ed] the surrounding facts and circumstances like what any prudent man in a similar situation would do,"* acts which are consistent with that of an innocent purchaser of value.[17] The CA arrived at this conclusion after examining the testimonies of Marcelino and Libertad and deduced the following: (1) Marcelino inspected the property and learned that some of the Cudal heirs have built their houses thereon; (2) Marcelino talked to Libertad and informed the latter that he was purchasing the lot from La Vilma Realty (the registered owner); (3) Marcelino learned from his conversation with Libertad that the petitioners anchored their claim of ownership over Lot 12 through Angela's Affidavit; and (4) in the process of his investigation, Marcelino consulted with and was assisted by an attorney to ascertain the veracity of petitioners' claim of ownership.[18]

The CA also noted that Angela's Affidavit was not registered in the Register of Deeds.[19] Also, petitioners presented an Order dated June 1, 1974 in Cadastral Case No. 43 which cancelled OCT No. P-283 and ordered the issuance of TCTs in the names

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[15] Id. at 79-86.

[16] Id. at 38, citing *Philippine National Bank v. Heirs of Estanislao and Deogracias Militar*, 526 Phil. 788, 797 (2006).

[17] Id.

[18] Id. at 37.

[19] Id. at 39.

of Isabelo, Sr. and Antonio on the basis of Angela's Affidavit. The CA, however, noted that this Order was also unregistered for no TCT was issued pursuant thereto.[20] The CA also opined that said Order is of doubtful validity since it was purportedly issued in connection with a land registration case ordering the cancellation of OCT No. P-283 beyond the one-year period from the OCT's date of entry.[21] Furthermore, the land registration court overstepped its jurisdiction when it resolved questions of ownership and succession when it upheld Angela's status as Juan Salva's heir.[22]

As between the petitioners' unregistered claims and respondents' registered claims, preponderance of evidence lies in favor of the latter.[23] Thus, petitioners failed to establish the requisites of an action for quieting of title, namely, the existence of Angela's equitable right over Lot 12 and that the respondents' apparently valid claim is false.[24] Finally, the CA held that petitioners are guilty of laches as they failed to assert their rights for an unreasonable length of time by not having their claims over Lot 12 registered.[25] The dispositive portion of the Decision dated July 20, 2018 reads:

> **WHEREFORE**, the Appeal of [respondents] Spouses Marcelino and Mercedes Suguitan and La Vilma Realty Co., Inc. is hereby **GRANTED**. The *Decision* dated 18 February 2016 of the Regional Trial Court, Branch 6, Second Judicial Region, Aparri, Cagayan, in Civil Case No. II-4506 is hereby **REVERSED**. The Complaint filed by [petitioners] is hereby **DISMISSED** for lack of merit.
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> **SO ORDERED.**[26]

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[20] Id. at 42.

[21] Id. at 46-47.

[22] Id. at 48-49.

[23] Id. at 49.

[24] Id.

[25] Id. at 54.

[26] Id. at 54-55.

Petitioners' MR was denied by the CA in a Resolution[27] dated January 11, 2019, hence, the present Petition assigning the following errors:

A. THE [CA] ERRED IN FINDING THAT [RESPONDENTS] ARE BUYERS IN GOOD FAITH.

B. THE [CA] ERRED IN FINDING THAT THE PANCHO CONFIRMATION OF OWNERSHIP PREVAILS OVER THE AFFIDAVIT OF ADJUDICATION AND SALE EXECUTED BY ANGELA CUDAL.

C. THE [CA] ERRED IN FINDING [THAT] LACHES BARRED IN FILING THE COMPLAINT.[28]

Petitioners argue that respondents cannot be considered as buyers in good faith, for although Marcelino claimed that he spoke to Libertad who even warned him not to purchase the lot in dispute as they had claims over the same, Libertad was not even occupying Lot 12 (but Lot 11) and Marcelino did not speak with Antonio's heirs who were actually occupying Lot 12. Applying Article 1544[29] of the Civil Code, petitioners argue that they have a better right being the prior possessor since respondents did not register their title in good faith. Lastly, petitioners argue that they cannot be held guilty of laches.

Respondents argue that the CA correctly found that they are buyers in good faith for they did not merely rely on La Vilma Realty's title since Marcelino conducted an investigation into petitioners' claim over Lot 12 and even sought legal advice before proceeding with the acquisition of the disputed lot.

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[27] Supra note 2.

[28] *Rollo*, pp. 7 and 11.

[29] ART. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.
Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.
Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

Furthermore, Angela's Affidavit, although executed earlier, should not prejudice them as it was not registered with the Register of Deeds, and petitioners' failure for an unreasonable length of time to have the sale in their favor registered makes them guilty of laches.[30]

In their Reply,[31] petitioners reiterated their arguments in the Petition. As regards laches, they argue that the non-registration of Angela's Affidavit, as well as their failure to secure a tax declaration in their name, should not be taken against them considering that they have long been in peaceful possession of the disputed lot, which was only disturbed when the respondents filed an action for forcible entry against them. They also emphasized that their action for quieting of title does not prescribe as they are in possession of the disputed lot.

The Court's Ruling

The ultimate issue before the Court is who between the parties have a better right over Lot 12 subject of this dispute.

Before the Court discusses the issue of whether the respondents are buyers in good faith, we deem it necessary to discuss which between Angela's Affidavit (which is the basis of petitioners' claim of ownership) and Visitacion's Confirmation of Ownership (to which respondents and their predecessors-in-interest ultimately derive their title), should prevail. In this respect, it must be emphasized that petitioners cannot invoke Article 1544 of the Civil Code since the said provision finds no application in the present case. Said provision "contemplates a case of double or multiple sales by a single vendor, x x x where a single vendor sold one and the same immovable property to two or more buyers."[32] In this case, there was no instance where Lot 12 was sold by the same seller to two or more different buyers, as the contending parties traced their claims ultimately to two different

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[30] Comment; *rollo*, pp. 202-21.

[31] Id. at 213-216.

[32] *Consolidated Rural Bank, Inc. v. Court of Appeals*, 489 Phil. 320, 331 (2005), PHILIPPINE LAW ON SALES 100.

persons (Angela and Visitacion) both claiming to be Juan Salva's heirs. Rather than resolving the case from the prism of Article 1544, the question of who among the parties has a better right over Lot 12 must be answered by determining whether respondents acquired Lot 12 in good faith and for value from La Vilma Realty, the registered owner. This is so because respondents are dealing with registered land, and as will be discussed, the capacity of their predecessor-in-interest to convey title is relevant to determine whether they are innocent purchasers for value.

In determining whether respondents are buyers in good faith, it must be pointed out that "the ascertainment of good faith, or lack of it, and the determination of whether due diligence and prudence were exercised or not, are questions of fact"[33] which are beyond the ambit of petitions for review on *certiorari* under Rule 45 of the Rules of Court. However, in *Heirs of Nicolas S. Cabigas v. Limbaco*,[34] the Court, while recognizing that the question of whether a person acted with good faith or bad faith in purchasing and registering real property is a question of fact,[35] also stated that when there is no dispute as to the facts, the question of whether or not the conclusion drawn from these facts is correct is a question of law.[36] At any rate, even if the question be considered as one of fact, this case falls within one of the recognized exceptions to the general rule that this Court is not a trier of facts considering that the findings of the CA are contrary to those of the RTC.[37]

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[33] *Philippine National Bank v. Heirs of Estanislao and Deogracias Militar*, supra note 16 at 799.

[34] 670 Phil. 274 (2011).

[35] Id. at 652, citing *Spouses Bautista v. Silva*, G.R. No. 157434, September 19, 2006, 502 SCRA 334.

[36] Id. at 655, citing *Far East Marble (Philippines), Inc. v. Court of Appeals*, G.R. No. 94093, August 10, 1993, 225 SCRA 249.

[37] The recognized exceptions listed in *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990), are as follows: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where

To determine whether respondents are buyers in good faith, the Court's pronouncement in *Spouses Bautista v. Silva*[38] is instructive:

A holder of registered title may invoke the status of a buyer for value in good faith as a defense against any action questioning his title. Such status, however, is never presumed but must be proven by the person invoking it.

A buyer for value in good faith is one who buys property of another, without notice that some other person has a right to, or interest in, such property and pays full and fair price for the same, at the time of such purchase, or before he has notice of the claim or interest of some other persons in the property. *He buys the property with the well-founded belief that the person from whom he receives the thing had title to the property and capacity to convey it.*

To prove good faith, a buyer of registered and titled land need only show that he relied on the face of the title to the property. He need not prove that he made further inquiry for he is not obliged to explore beyond the four corners of the title. Such degree of proof of good faith, however, is sufficient only when the following conditions concur: *first*, the seller is the registered owner of the land; *second*, the latter is in possession thereof; and *third*, at the time of the sale, the buyer was not aware of any claim or interest of some other person in the property, or of any defect or restriction in the title of the seller or in his capacity to convey title to the property.

Absent one or two of the foregoing conditions, then the law itself puts the buyer on notice and obliges the latter to exercise a higher degree of diligence by scrutinizing the certificate of title and examining

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there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact 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 respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

[38] 533 Phil. 627 (2006).

all factual circumstances in order to determine the seller's title and capacity to transfer any interest in the property. Under such circumstance, it is no longer sufficient for said buyer to merely show that he relied on the face of the title; he must now also show that he exercised reasonable precaution by inquiring beyond the title. Failure to exercise such degree of precaution makes him a buyer in bad faith.[39] (Citations omitted and emphasis in the original)

Additionally, in *Gabutan v. Nacalaban*,[40] it was stated that the buyer must investigate the rights of the actual possessor in cases where the purchased land is in possession of a person other than the seller, to wit:

The "honesty of intention" which constitutes good faith implies a **freedom from knowledge of circumstances which ought to put a person on inquiry**. If the land purchased is in the possession of a person other than the vendor, the purchaser must be wary and must investigate the rights of the actual possessor. Without such inquiry, the purchaser cannot be said to be in good faith and cannot have any right over the property.[41] (Citations omitted; emphases in the original).

Applied to the present case, what is not disputed is that despite La Vilma Realty being the registered owner, petitioners are in actual possession of Lot 12. Hence, following the discussion above, respondents cannot merely rely on the face of La Vilma Realty's title but must now exercise a higher degree of diligence and investigate petitioners' claim. On this score, we find that the CA erred in finding that respondents were buyers in good faith. To the Court's mind, that Marcelino verified the title with the Register of Deeds; inspected the property and confirmed that some of the heirs of Isabelo, Sr. and Antonio were in possession of Lot 12;[42] and was able to speak with Libertad from whom he discovered that the petitioners were also claiming ownership on the basis of Angela's Affidavit, and even warned

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[39] Id. at 638.

[40] 788 Phil. 546 (2016).

[41] Id. at 578.

[42] *See* CA Decision, *rollo*, p. 36.

him not to buy the property,[43] do not meet the higher degree of diligence required under the circumstances. Rather, what these circumstances establish is that as a result of such inspection, respondents were already aware of petitioners' possession and adverse claim over Lot 12. This should have prompted them to investigate La Vilma Realty's capacity to convey title to them and consequently lead them to ascertain the veracity of Visitacion's Confirmation of Ownership; however, respondents have not shown that they undertook such steps before finally deciding to purchase Lot 12. As such, the Court cannot sustain the CA's conclusion that respondents were innocent purchasers for value. Not being innocent purchasers for value, respondents cannot have a better right over Lot 12.

Finally, as regards the issue of laches, while it is true that actions to quiet title do not prescribe when the plaintiff is in possession of the subject property,[44] the question of laches is independent of the question of prescription. As aptly stated in *Nielson & Co., Inc. v. Lepanto Consolidated Mining Co.*:[45]

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[43] Id. at 34-35.

[44] This rule was explained in *Sapto v. Fabiana*, 103 Phil. 683, 687 (1958), cited in *Heirs of Ciriaco Bayog-Ang v. Quinones*, G.R. No. 205680, November 21, 2018, as follows:

> The prevailing rule is that the right of a plaintiff to have his title to land quieted, as against one who is asserting some adverse claim or lien thereon, is not barred while the plaintiff or his grantors remain in actual possession of the land, claiming to be owners thereof, the reason for this rule being that while the owner in fee continues liable to an action, proceeding, or suit upon the adverse claim, he has a continuing right to the aid of a court of equity to ascertain and determine the nature of such claim and its effect on his title, or to assert any superior equity in his favor. He may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. But the rule that the statute of limitations is not available as a defense to an action to remove a cloud from title can only be invoked by a complaint when he is in possession. One who claims property which is in the possession of another must, it seems, invoke his remedy within the statutory period. (Citations omitted)

[45] 125 Phil. 204 (1966).

[T]he defense of laches applies independently of prescription. Laches is different from the statute of limitations. Prescription is concerned with the fact of delay. Whereas laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of inequity of permitting a claim to be enforced, this inequity being founded on some change in the condition of the property or the relation of the parties. Prescription is statutory; laches is not. Laches applies in equity, whereas prescription applies at law. Prescription is based on fixed time, laches is not.[46]

Nevertheless, we find that petitioners are not guilty of laches. The elements of laches are as follows:

(1) conduct on the part of the defendant, or of one under whom claims, giving rise to the situation of which complaint is made an[d] for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.[47]

It must be noted that the delay to be ascertained in this case for purposes of laches is not the delay on the part of the petitioners in having their claim over Lot 12 registered, as the CA held, but the delay in instituting the action to quiet title. In this case, there was no delay for as found by the RTC, petitioners filed their action before the RTC after learning during a confrontation in the *barangay* that respondents already secured a TCT in their names over Lot 12. Furthermore, respondents were aware of petitioners' claim over Lot 12 by virtue of Angela's Affidavit. Lastly, there is no injury or prejudice on the part of the respondents if petitioners will be accorded relief, for as already ruled, respondents cannot have a better right over Lot 12 for they are not innocent purchasers for value despite holding a TCT in their names.

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[46] Id. at 219.

[47] Supra note 44.

WHEREFORE, the petition is **GRANTED**. The assailed Decision dated July 20, 2018 and Resolution dated January 11, 2019 of the Court of Appeals in CA-G.R. CV No. 107522 are hereby **REVERSED AND SET ASIDE**. The Decision dated February 18, 2016 and Order dated June 13, 2016 of the Regional Trial Court of Aparri, Cagayan, Branch 6, in Civil Case No. II-4506 are **REINSTATED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*)*, Caguioa, Lazaro-Javier,* and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 248255. August 27, 2020]

CIVIL SERVICE COMMISSION, *Petitioner*, *v.* **MARILOU T. RODRIGUEZ**, *Respondent*.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICIALS AND EMPLOYEES; FALSIFICATION OF PERSONAL DATA SHEET (PDS) CONSTITUTES SERIOUS DISHONESTY; DISHONESTY, DEFINED; THREE CIRCUMSTANCES THAT MAKE RESPONDENT'S ACT OF DISHONESTY SERIOUS, ENUMERATED. — Dishonesty is defined as "***intentionally making a false statement on any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, appointment, or registration***." It is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue, and integrity. Under Section 3 of the CSC Resolution No. 06-0538, dishonesty is considered serious when attended by any of the following circumstances: xxx xxx **5. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment; 6. The dishonest act was committed several times or in various occasions; 7. The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.** x x x Here, 5, 6, and 7 characterized respondent's act of dishonesty. She employed fraud and/or falsification in declaring under oath in her Personal Data Sheets **not once, but six (6) times** from 1989 to 2000 that she passed the 1988 NLE and was a registered nurse with a supposed valid PRC Identification Card No. 0158713. x x x The Personal Data Sheet is a CSC *official document* which all government employees and officials are required to fill out under oath. It is the repository of all information about any government employee and official regarding his or her personal background, qualification, and eligibility. Misrepresentation of any information in the Personal

Data Sheet impairs a public officer's integrity, reliability, and qualities.

2. ID.; ID.; PHILIPPINE NURSING LAW (RA 877) AS AMENDED BY RA 4704; PRACTICE OF NURSING WITHOUT A VALID CERTIFICATE OF REGISTRATION CONSTITUTES GRAVE MISCONDUCT. — Under Section 16 of RA 877 as amended, any person who practices nursing in the Philippines, unless exempt, must possess a valid certificate of registration. Violation of this provision amounts to illegal practice of the nursing profession[.] x x x Here, respondent cannot hide behind the cloak of ignorance or lack of familiarity with the law governing the nursing profession. Ignorance of the law excuses no one from compliance therewith. It is beyond dispute that during her stint as nurse at the Davao Oriental Provincial Hospital from 1989 to 2002, respondent was practicing the nursing profession not only **without a valid certificate of registration** but also **without a valid PRC nursing license**. Respondent is, thus, guilty of grave misconduct.

3. ID.; ID.; PUBLIC OFFICIALS AND EMPLOYEES; THE ACT OF DISHONESTY NEED NOT BE COMMITTED IN THE COURSE OF THE PERFORMANCE OF DUTY BY THE PERSON CHARGED; THE ADMINISTRATIVE CHARGES OF SERIOUS DISHONESTY AND GRAVE MISCONDUCT AGAINST RESPONDENT DO NOT HINGE ON THE POSITION SHE USED TO HOLD BUT ON HER MORAL FITNESS TO CONTINUE WORKING IN PUBLIC SERVICE. — Regarding respondent's argument that she can no longer be charged with serious dishonesty and grave misconduct for acts she committed between 1989 and 2000 because she already resigned as Nurse II in 2002, ***Remolona v. Civil Service Commission*** is apropos. In that case, the Court decreed that dishonesty need not be committed in the course of the performance of duty by the person charged. The rationale is that if a government officer or employee is *dishonest* or is guilty of oppression *or grave misconduct*, even if said defects of character are not connected with his or her office, they affect his or her right to continue public service. Here, the administrative charges of serious dishonesty and grave misconduct do not hinge on the position respondent used to hold at the Davao Oriental Provincial Hospital but on her moral fitness to continue working in public service. Her repeated false declarations in her Personal

Data Sheets during her employment with the provincial hospital prejudiced other qualified applicants who would have been hired for that position had it not been for her false declarations.

4. ID.; ID.; ID.; ACTS OR OMISSIONS THAT ARE CONSIDERED CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, ENUMERATED; RESPONDENT'S ACTS CONSTITUTE THE SAID OFFENSE. — While there is no concrete definition under civil service laws of conduct prejudicial to the best interest of the service, the following acts or omissions have been treated as such: misappropriation of public funds; abandonment of office; failure to report back to work without prior notice; failure to safekeep public records and property; **making false entries in public documents (*i.e.* PDS)**; falsification of court orders; a judge's act of brandishing a gun, and threatening the complainants during a traffic altercation, among others. Here, we reckon with the following circumstances: (1) respondent misrepresented that she passed the 1988 NLE with a rating of 79.6%; (2) she possessed a fake PRC Identification Card with license no. 0158713 registered under the name of "Ella S. Estopo;" (3) she had no valid certificate of registration as nurse required under RA 877 as amended by RA 4704 from 1989 to 2002; and (4) she falsified her PDS of March 9, 1989, April 19, 1989, April 25, 1991, September 3, 1992, September 16, 1994, and April 24, 2000 to make it appear that she was authorized to practice nursing in the Philippines from 1989 to 2000. Indubitably, these acts constitute conduct prejudicial to the best interest of the service. Respondent's acts tarnished the image and integrity of public service especially the image and integrity of those registered nurses in the government who are sworn to serve the impoverished members of our society. Not being a registered nurse while serving the government from 1989 to 2002, respondent put at risk every patient's life entrusted to her care.

5. ID.; ID.; ID.; ID.; HAVING BEEN FOUND GUILTY OF SERIOUS DISHONESTY, GRAVE MISCONDUCT, AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, PENALTY OF DISMISSAL WITH ACCESSORY PENALTIES, CORRECTLY IMPOSED ON RESPONDENT. — [W]e find respondent guilty of serious dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service. The requisite quantum of substantial evidence here is

satisfied. Substantial evidence is such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. Here, substantial evidence exist to hold respondent liable for the infractions charged. x x x Under Section 50 (A) (1) and (6), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service, serious dishonesty and grave misconduct are grave offenses punishable with dismissal from the service. As for conduct prejudicial to the best interest of the service, the imposable penalty is suspension from the service for six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense. Under Section 55 of the same Rule, if respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances. Here, serious dishonesty is the most serious offense. On the other hand, grave misconduct and conduct prejudicial to the best interest of the service shall be considered as aggravating circumstances. Thus, respondent should suffer the ultimate penalty of dismissal. x x x The CSC, therefore, correctly imposed on respondent the penalty of dismissal with accessory penalties of cancellation of eligibility, forfeiture of retirement benefits except accrued leave credits, perpetual disqualification from holding public office and from taking the civil service examinations.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Retuya Law Office for respondent.

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This Petition for Review on *Certiorari*[1] assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 08948-MIN, *viz.*:

[1] *Rollo*, pp. 28-56.

1) Decision[2] dated January 28, 2019 which reversed the Decision[3] dated February 20, 2018 and Resolution[4] dated July 31, 2018 of the Civil Service Commission (CSC) in Administrative Case No. D-2016-09009 finding respondent Marilou T. Rodriguez guilty of serious dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service.

2) Resolution[5] dated July 4, 2019 which denied petitioner's motion for reconsideration.

Antecedents

On June 7 and 8, 1988, respondent Marilou T. Rodriguez took the Nursing Licensure Examination (NLE) in Manila. Thereafter, she returned to her hometown in Mati, Davao Oriental to take care of her ailing father.[6]

Sometime in October 1988, the results of the 1988 NLE were released and published in a national newspaper of general circulation. Unfortunately, respondent's name was not on the list of successful examinees.[7]

This notwithstanding, however, sometime in 1989 she applied for and was accepted as staff nurse at the Davao Oriental Provincial Hospital. For this purpose, she submitted to the hospital and the CSC her supposed passing rate of 79.6% in the 1988 NLE and her "PRC Identification Card." She got accepted by the hospital and given permanent appointment status. She was later promoted as Nurse II. In 2001, she applied for promotion, for which, the hospital required her to submit an updated copy of her license as a registered nurse.[8]

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[2] Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justice Evalyn M. Arellano-Morales and Associate Justice Florencio M. Mamauag; *id.* at 57-66.

[3] CSC Decision No. 180064 dated February 20, 2018, *id.* at 69-73.

[4] CSC Resolution No. 1800793 dated July 31, 2018, *id.* at 74-79.

[5] *Id.* at 67-68.

[6] Respondent's Answer dated June 15, 2015; *id.* at 94-111.

[7] *Id.*

[8] *Id.*

In her applications and appointments from April 1, 1989 to July 17, 2000, respondent consistently declared in her Personal Data Sheets that she took and passed the 1988 NLE with a rating of 79.6% and she possessed a valid PRC Identification Card.[9]

In any event, she never got to submit to the hospital an updated copy of her license as a registered nurse.[10]

On July 31, 2002, respondent resigned from the hospital.[11] Thereafter, she worked abroad as: (1) staff nurse in Al Hayat Medical Center Doha, Qatar from 2008 to 2009; (2) staff nurse in Appolonia Dental Center, Abu Dhabi, United Arab Emirates from 2010 to 2011; and (3) psychosocial nurse at the International Committee on the Red Cross from 2012 to 2013.[12]

In November 2009, she took the NLE again. This time, the results showed she passed the examination. Thereafter, she worked abroad again.[13]

In 2013, she returned to the country for good. She then applied and got appointed as nurse at the Office of City Health Officer, Mati, Davao Oriental.[14]

On December 16, 2014, she received a Show Cause Order from the CSC Regional Office No. XI why no administrative case should be filed against her in connection with her Personal Data Sheets dated March 9, 1989, April 19, 1989, April 25, 1991, September 3, 1992, September 16, 1994, and April 24, 2000, where she invariably stated that she passed the 1988 NLE with a rating of 79.6% and that she was a registered nurse with

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[9] Formal Charge dated April 24, 2015 of the CSC Regional Office No. XI; *id.* at 125-126.

[10] Respondent's Answer dated June 15, 2015; *id.* at 94-111.

[11] Respondent's Resignation Letter dated July 31, 2002; *id.* at 127.

[12] Respondent's Answer dated June 15, 2015; *id.* at 94-111.

[13] *Id.*

[14] *See* Respondent's Petition for Review to the Court of Appeals dated September 3, 2018, *id.* at 133.

professional license no. 0158713.[15] Per verification with PRC-Davao City, however, Regional Director Josephine C. Villegas-Liamzon certified that the PRC Identification Card with license no. 0158713 actually belonged to a certain "Ella S. Estopo."[16]

Respondent did not comply with the show cause order.[17]

On April 24, 2015, the CSC Regional Office No. XI formally charged respondent with serious dishonesty, grave misconduct, conduct prejudicial to the best interest of the service, and falsification of official documents.[18]

In her answer,[19] respondent admitted that her previous PRC Identification Card was fake, albeit she invoked good faith. She named one "Evelyn Sapon" as the person who made her believe that she was on the "deferred status" list insofar as the 1988 NLE was concerned. Sapon allegedly told her that she only needed to give her the "lacking documents" and pay ₱2,000.00 as processing fee. She trusted that the PRC Identification Card given her by Sapon was authentic. It was only in 2002 when she found out that her supposed PRC Identification Card was fake. Thus, on July 31, 2002, she resigned from the Davao Oriental Provincial Hospital. She had no intention to falsify her Personal Data Sheets. She honestly believed that she passed the 1988 NLE.

Ruling of the CSC Regional Office No. XI

By Decision[20] dated April 8, 2016, the CSC Regional Office No. XI found respondent guilty of serious dishonesty, grave misconduct, conduct prejudicial to the best interest of the service, and falsification of official document. It ordered her dismissal

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[15] *Id.* at 125.

[16] *Id.* at 70.

[17] CSC Decision No. 180064 dated February 20, 2018, *id.* at 70.

[18] Formal Charge dated April 24, 2015 of the CSC Regional Office No. XI; *id.* at 125-126.

[19] Answer dated June 15, 2015, *id.* at 94-111.

[20] *Id.* at 169-174.

from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and from taking the civil service examinations.[21]

According to the CSC Regional Office No. XI, respondent failed to rebut the presumption that she was the material author of the fake PRC Identification Card. Other than her bare allegations, she failed to present evidence to prove that she did not participate in falsifying it. She also failed to give any satisfactory explanation how she procured the fake PRC Identification Card which she used to gain employment at the Davao Oriental Provincial Hospital from 1989 to 2002. Her misrepresentation that she was a registered nurse who scored a passing grade of 79.6% during the 1988 NLE even caused her to get promoted several times at the hospital.[22]

Respondent's motion for reconsideration was denied under Resolution No. 16-00727 dated July 18, 2016.[23]

Ruling of the CSC Proper

By Decision[24] dated February 20, 2018, the CSC Proper affirmed with modification. It found that falsification of official document was already subsumed in the offense of serious dishonesty. Respondent was thus held liable for three (3) offenses only: (1) serious dishonesty; (2) grave misconduct; and (3) conduct prejudicial to the best interest of the service. The CSC Proper further clarified that respondent's accrued leave credits shall not be forfeited, *viz.*:

WHEREFORE, the Petition for Review of Marilou T. Rodriguez, Nurse II, City Health Office, City Government of Mati, Davao Oriental, is hereby **DISMISSED**. Accordingly, Decision No. 2016-13 dated April 8, 2016 issued by the Civil Service Commission Regional Office

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[21] *Id.* at 174.

[22] *Id.* at 172.

[23] *Id.* at 175-178.

[24] *Id.* at 69-73.

(CSC RO) XI, Davao City, which found her guilty of Serious Dishonesty, Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service, and Falsification of Official Documents, and imposing upon her the penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, perpetual disqualification from holding public office, bar from taking civil service examinations and forfeiture of retirement benefits, except terminal/accrued leave benefits and personal contributions to the GSIS, if any, is **AFFIRMED with MODIFICATION** such that the offense of Falsification of Official Document is subsumed in the offense of Serious Dishonesty.

A copy of the Decision shall be furnished the Commission on Audit-City Government of Mati, Davao Oriental, for its reference and appropriate action.[25]

Respondent's partial motion for reconsideration was denied under Resolution No. 1800793 dated July 31, 2018.[26]

Proceedings before the Court of Appeals

In her Petition for Review[27] with the Court of Appeals, respondent argued that the charges against her should have been dismissed on ground of mootness. Prior to the filing of the complaint, she had already resigned fifteen (15) years ago from the position to which she got appointed using her spurious documents. She invoked good faith when she filled out her Personal Data Sheets dated March 9, 1989, April 19, 1989, April 25, 1991, September 3, 1992, September 16, 1994, and April 24, 2000.

The CSC, through the Office of the Solicitor General (OSG), countered that the charges against respondent were not mooted by her resignation as Nurse II in 2002 since administrative offenses do not prescribe. Too, respondent's claim of good faith is devoid of merit. She failed to prove she had no participation in faking her nursing license as she even declared she was a

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[25] *Id.* at 73.

[26] *Id.* at 74-79.

[27] Petition for Review to the Court of Appeals dated September 3, 2018, *id.* at 128-168.

duly registered nurse in her Personal Data Sheets for employment and subsequent promotion at the Davao Oriental Provincial Hospital.[28]

Ruling of the Court of Appeals

In its Decision[29] dated January 28, 2019, the Court of Appeals reversed, thus:

> WHEREFORE, premises considered, the petition is GRANTED. The assailed 20 February 2018 Decision of the Civil Service Commission in Case No. 180064 is REVERSED and SET ASIDE.
>
> Let a new decision be entered DISMISSING the administrative charges filed against petitioner Marilou T. Rodriguez contained in Case No. 180064 of respondent's 20 February 2018 Decision. Furthermore, petitioner Marilou T. Rodriguez is hereby REINSTATED to her post as Nurse II, Office of City Health Officer, City Government of Mati, Davao Oriental.
>
> Let a copy of this decision be furnished the Government Service Insurance System and the Office of the City Health Officer, City Government of Mati, Davao Oriental for their appropriate action.
>
> SO ORDERED.[30]

The Court of Appeals incipiently ruled that the charges against respondent were not mooted. When she re-entered the government in 2013, she placed herself within the jurisdiction of the CSC and the courts for the purpose of determining her fitness to continue in the public service despite her prior resignation from the government service on July 31, 2002.

The Court of Appeals, nonetheless, absolved respondent from any administrative liability. It accorded her the benefit of good faith when she resigned from the provincial hospital and admitted that the PRC Identification Card borne in her Personal Data

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[28] *Id.* at 35.

[29] Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justice Evalyn M. Arellano-Morales and Associate Justice Florencio M. Mamauag; *id.* at 57-66.

[30] *Id.* at 65.

Sheets for the years 1989 to 2000 was fake. It also found that she demonstrated remorse about the entire incident.

The CSC moved for reconsideration but the same was denied per Resolution dated July 4, 2019.[31]

The Present Petition

The CSC now seeks affirmative relief *via* Rule 45 of the Revised Rules of Court. It charges the Court of Appeals with reversible error when it dismissed the administrative case against respondent and ordered her reinstatement as Nurse II at the Office of City Health Officer, Mati, Davao Oriental.[32]

The CSC asserts that respondent's invocation of good faith utterly lacks merit. For aside from her bare allegations, no evidence was adduced to show that her fake PRC Identification Card was wholly authored by a certain Evelyn Sapon. Also, respondent's act of misrepresenting herself to have passed the 1988 NLE in all Personal Data Sheets violates Republic Act No. 877 (RA 877) as amended by Republic Act No. 4704 (RA 4704) or the Philippine Nursing Law negates her claim of good faith.[33]

Lastly, it is not required that her acts of dishonesty and misconduct be done in the course of her current duty as Nurse II at the Office of City Health Officer, Mati, Davao Oriental. Her previous acts of dishonesty and misconduct affect her right to continue in public office.[34]

In her Comment/Opposition,[35] respondent ripostes that the CSC raises the same arguments already passed upon by the appellate court. She claims anew that she acted in good faith when she filled out her Personal Data Sheets for the years 1989

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[31] *Id.* at 67-68.

[32] *Id.* at 28-56.

[33] *Id.*

[34] *Id.*

[35] Opposition dated October 4, 2019; *id.* at 217-229.

to 2000. After learning that her nursing license was fake, she immediately resigned from the Davao Oriental Provincial Hospital. It was only after she passed the 2009 NLE that she rejoined government service in 2013.

Issue

Did the Court of Appeals commit reversible error when it cleared respondent of any liability arising from her submission and use of a spurious NLE rating and PRC Identification Card and from falsely declaring in her various Personal Data Sheets that she was a registered nurse during the relevant years in question?

Ruling

The issue of whether respondent acted in good faith when she submitted spurious documents for the purpose of obtaining employment in the government is a question of fact. As a rule, its determination is beyond the ambit of this Court's power of review under Rule 45 of the Rules of Court, as amended.[36] An exception would be when the findings of the Court of Appeals are contrary to those of the trial court or the administrative tribunal.[37]

Here, the CSC and the Court of Appeals made conflicting findings on whether respondent acted in good faith — a crucial question of fact in the ultimate determination of respondent's culpability or lack of it relative to her submission of the spurious documents in question. We are thus compelled to review the contradictory factual findings of the CSC and the Court of Appeals with the end view of arriving at the correct appreciation of the evidence on record.

In ***Bacsasar v. Civil Service Commission***[38] the Court discussed the concept of good faith in administrative cases, *viz.*:

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[36] *Alfredo v. Borras*, 452 Phil. 178-195 (2003), citing *W. Red Construction and Development Corp. v. Court of Appeals*, 392 Phil. 888-892 (2000).

[37] *Magalang v. Spouses Heretape*, G.R. No. 199558, August 14, 2019.

[38] 596 Phil. 858 (2009).

> Good faith is ordinarily used to describe that state of mind denoting **honesty of intention and freedom from knowledge of circumstances which ought to put the holder upon inquiry**; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious. In short, good faith is actually a question of intention. Although this is something internal, we can ascertain a person's intention not from his own protestation of good faith, which is self-serving, but from evidence of his conduct and outward acts. (emphasis supplied)

A person is considered in good faith not only when he or she has shown an honest intention. A person who acted in good faith must also be free from knowledge of circumstances which ought to put him or her on inquiry.[39]

Here, respondent's claim of good faith must fail.

First. When the results of the 1988 NLE were published, respondent was fully aware that her name was not on the roster of successful examinees. But she claimed to have thereafter transacted with a certain Evelyn Sapon who supposedly informed her that her name was on the "deferred status" list and all she needed to do was pay the "processing fee" and submit her "lacking documents" to remove her name from the so called "deferred status" list.

The governing law during the 1988 NLE was RA 4704 approved on June 18, 1966 and published in the Official Gazette on December 2, 1968.[40] Section 12 thereof states:

> SECTION 12. Section twenty-two of Republic Act Numbered Eight hundred seventy-seven is hereby amended to read as follows:
>
> "Sec. 22. *Ratings in the Examination*. — In order to pass the first examination, a candidate must obtain a **general rating of seventy-five per cent in the written test, with no rating below sixty per**

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[39] *Id.*

[40] Amendments to R.A. No. 877 (Philippine Nursing Law), Republic Act No. 4704, June 18, 1966.

cent in any subject. An applicant who fails in the first examination but obtained seventy-five per cent in each of at least seven of the subjects may be permitted to take a second examination on the subjects in which examinee obtained below seventy-five per cent. In order to pass in the second examination the candidate must obtain at least seventy-five per cent in each of the repeated subjects; *Provided*, **That an applicant who failed again in the set of subjects repeated in the second examination must take re-examination on all subjects**: *Provided, further*, That should he or she still fail in this second re-examination, the applicant shall be required to pursue as refresher course of study prescribed by the board and to show proof of the completion of such course before he or she will be admitted to a fourth examination."

Notably, the law does not provide for a "deferred status." What is clear is that once an examinee fails to meet the general rating of 75% on the written test, he or she is allowed to take a ***second examination***. But in order to pass the second examination, an examinee must obtain at least 75% rating in each of the repeated subjects. Thus, respondent's tale about her so called "deferred status" and what she ought to do to convert it to a "passed status" patently lacks credence.

Clearly, respondent's story about "Evelyn Sapon" is nothing but fiction. Who is "Evelyn Sapon"? How did she step into the picture? What made respondent trust and believe her? Why did respondent not file a criminal charge against her when she discovered that "Evelyn Sapon" misled her and gave her a fake PRC Identification Card and passing grade of 79.6%? Respondent's conspicuous silence and inaction under the circumstances destroy her claim of good faith.

In ***Civil Service Commission v. Cayobit***,[41] the Court decreed that bare testimony alone without proof that the fake certificate of eligibility was received under false impression that it was genuine deserves scant belief.

Second. After receiving the PRC Identification Card allegedly sent her by Sapon, respondent did not even take

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[41] 457 Phil. 452 (2003).

steps to verify its authenticity. During the investigation before the CSC-Regional Office No. XI, it was uncovered that per PRC Masterlist, the PRC Identification Card bearing license no. 0158713 which respondent claimed as hers actually belonged to one "Ella S. Estopo."[42]

In ***Maniebo v. Court of Appeals***,[43] the Court rejected Maniebo's claim of good faith by relying on the spurious Certificate of Eligibility sent her through mail. The Court held that the presumption of good faith did not apply when the employee's Certificate of Eligibility conflicts with the CSC's Masterlist of Eligibles.

Third, Section 16 of RA 877 as amended by RA 4704 states:

> SECTION 16. *Inhibition against practice of nursing.* — **Unless exempt from registration**, no person shall practice or offer to practice nursing in the Philippines as defined in this Act, **without holding a valid certificate of registration as nurse issued by the Board of Examiners for Nurses**.

Before one may be allowed to practice nursing in the Philippines, he or she must possess a **valid certificate of registration** issued by the Board of Examiners for Nurses. This presupposes that the possessor has passed the NLE or is otherwise exempt under RA 877, as amended.[44] Between 1989 and 2009, all respondent had were her spurious 1988 NLE rating of 79.6% and PRC Identification Card. She did not have the prescribed license to practice the nursing profession when she applied with and got admitted as staff nurse at the Davao Oriental Provincial Hospital in 1989 until her resignation as Nurse II on July 31, 2002. She was clearly engaged in illegal practice of the nursing profession for the whole time she was able to work with the Davao Oriental Provincial Hospital.

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[42] See CSC Decision dated February 20, 2018, *rollo*, p. 70.

[43] *Maniebo v. Court of Appeals*, 642 Phil. 25 (2010).

[44] SECTION 19. *Examination required.* — Except as otherwise permitted under the provisions of this Act, all applicants for registration for the practice of nursing shall be required to undergo an examination as provided for in this Act. *(Philippine Nursing Law, Republic Act No. 877, June 19, 1953).*

Finally, respondent used the fake 1988 NLE rating of 79.6% and PRC Identification Card to gain employment at the Davao Oriental Provincial Hospital from 1989 to 2002. She even got promoted several times because of these fake documents.[45] As consistently held by the Court, in the absence of satisfactory explanation, one found in possession of or who used a forged certificate of eligibility is the forger or the one who caused the forgery.[46]

Falsification of PDS Constitutes Serious Dishonesty

Dishonesty is defined as "***intentionally making a false statement on any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, appointment, or registration.***" It is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue, and integrity.[47]

Under Section 3 of the CSC Resolution No. 06-0538,[48] dishonesty is considered serious when attended by any of the following circumstances:

x x x x x x x x x

5. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;

6. The dishonest act was committed several times or in various occasions;

7. The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets;

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[45] *Rollo*, 172.

[46] *Civil Service Commission v. Perocho, Jr.*, A.M. No. P-05-1985 (Formerly OCA I.P.I. No. 05-2126-P) (Resolution), 555 Phil. 156, 166 (2007).

[47] See *Frades v. Gabriel*, 821 Phil. 36, 50 (2017) (citations omitted).

[48] RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006 as amended by CSC Resolution No. 06-1009 dated June 5, 2006.

8. Other analogous circumstances.[49] (emphasis supplied)

Here, 5, 6, and 7 characterized respondent's act of dishonesty. She employed fraud and/or falsification in declaring under oath in her Personal Data Sheets **not once, but six (6) times** from 1989 to 2000 that she passed the 1988 NLE and was a registered nurse with a supposed valid PRC Identification Card No. 0158713.

In ***Civil Service Commission v. Maala***,[50] the Court found Maala guilty of dishonesty committed through falsification of her Personal Data Sheet. Maala misrepresented herself as a registered social worker when she filed an application for promotion as Clerk III with the National Council for the Welfare of Disabled Persons. Her defense of good faith failed because she allowed a fixer to secure her fake PRC documents (*i.e.*, PRC Identification Card and Certificate as Social Worker). Maala was meted the penalty of dismissal from the service with all its accessory penalties, including perpetual disqualification from holding public office and from taking future government examinations.

The Personal Data Sheet is a CSC *official document* which all government employees and officials are required to fill out under oath. It is the repository of all information about any government employee and official regarding his or her personal background, qualification, and eligibility.[51] Misrepresentation of any information in the Personal Data Sheet impairs a public officer's integrity, reliability, and qualities.[52]

Practice of Nursing without a Valid Certificate of Registration under RA 877, as amended constitutes Grave Misconduct

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[49] *Committee on Security and Safety, Court of Appeals v. Dianco*, 760 Phil. 169, 189 (2015).

[50] *Civil Service Commission v. Maala*, 504 Phil. 646 (2005).

[51] *Advincula v. Dicen*, 497 Phil. 979, 990 (2005).

[52] *Id.*

Rural Bank of Talisay (Cebu), Inc. v. Gimeno[53] defines grave misconduct as the intentional wrongdoing or deliberate violation of a rule of law or standard of behavior attended with corruption or a ***clear intent to violate the law, or flagrant disregard of established rule***.

Under Section 16[54] of RA 877 as amended,[55] any person who practices nursing in the Philippines, unless exempt, must possess a valid certificate of registration. Violation of this provision amounts to illegal practice of the nursing profession for which appropriate sanctions will be imposed, thus:

SECTION 30. *Prohibition in the practice of nursing — Penal provisions*. — Any person who shall practice nursing in the Philippines within the meaning of this Act, **without a certificate of registration issued in accordance with the provisions of this Act**, or **without having been declared exempt for examination and registration**, or **any person presenting or using as his or her own the certificate of registration of another**, or **any person giving any false or forged evidence to the Board in order to obtain a certificate or registration**, or any person using a revoked or suspended certificate of registration, or any person assuming, using, or advertising as a registered nurse, or appending to his or her name the letters R.N. or B.S.N. without having been conferred such title or degree in a legally constituted school, college, university, or board of examiners duly authorized to confer the same, or advertising any title or description tending to convey the impression that she is a nurse *e.g.*, using the nurses' uniform and cap without holding a valid certificate of registration from the Board, or any person violating any provision of this Act, **shall be guilty or misdemeanor and shall upon conviction, be sentenced to a fine of not less than one thousand pesos nor more than five**

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[53] *Rural Bank of Talisay (Cebu), Inc. v. Gimeno*, A.M. No. P-19-3911, January 15, 2019.

[54] SECTION 16. *Inhibition against practice of nursing*. — **Unless exempt from registration**, no person shall practice or offer to practice nursing in the Philippines as defined in this Act, **without holding a valid certificate of registration as nurse issued by the Board of Examiners for Nurses**. *(Philippine Nursing Law, Republic Act No. 877, [June 19, 1953])*.

[55] Amended by Republic Act No. 4704, (Philippine Nursing Law), June 18, 1966.

thousand pesos or to suffer imprisonment for a period of not less than one year nor more than five years, or both in the discretion of the court.

Here, respondent cannot hide behind the cloak of ignorance or lack of familiarity with the law governing the nursing profession. Ignorance of the law excuses no one from compliance therewith.[56] It is beyond dispute that during her stint as nurse at the Davao Oriental Provincial Hospital from 1989 to 2002, respondent was practicing the nursing profession not only **without a valid certificate of registration** but also **without a valid PRC nursing license**. Respondent is, thus, guilty of grave misconduct.

Regarding respondent's argument that she can no longer be charged with serious dishonesty and grave misconduct for acts she committed between 1989 and 2000 because she already resigned as Nurse II in 2002, ***Remolona v. Civil Service Commission***[57] is apropos. In that case, the Court decreed that dishonesty need not be committed in the course of the performance of duty by the person charged. The rationale is that if a government officer or employee is *dishonest* or is guilty of oppression *or grave misconduct*, even if said defects of character are not connected with his or her office, they affect his or her right to continue public service.

Here, the administrative charges of serious dishonesty and grave misconduct do not hinge on the position respondent used to hold at the Davao Oriental Provincial Hospital but on her moral fitness to continue working in public service. Her repeated false declarations in her Personal Data Sheets during her employment with the provincial hospital prejudiced other qualified applicants who would have been hired for that position had it not been for her false declarations.[58]

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[56] See Article 3 of the Civil Code of the Philippines.

[57] *Remolona v. Civil Service Commission*, 414 Phil. 590 (2001).

[58] *Retired Employee v. Manubag*, 652 Phil. 491-501 (2010).

Respondent is guilty of conduct prejudicial to the best interest of the service

Respondent is also liable for conduct prejudicial to the best interest of the service. This administrative offense refers to an act or acts of a public officer which **"*tarnished the image and integrity of his or her public office.*"**[59]

While there is no concrete definition under civil service laws of conduct prejudicial to the best interest of the service, the following acts or omissions have been treated as such: misappropriation of public funds; abandonment of office; failure to report back to work without prior notice; failure to safekeep public records and property; **making false entries in public documents (*i.e.*, PDS)**; falsification of court orders; a judge's act of brandishing a gun, and threatening the complainants during a traffic altercation, among others.[60]

Here, we reckon with the following circumstances: (1) respondent misrepresented that she passed the 1988 NLE with a rating of 79.6%; (2) she possessed a fake PRC Identification Card with license no. 0158713 registered under the name of "Ella S. Estopo"; (3) she had no valid certificate of registration as nurse required under RA 877 as amended by RA 4704 from 1989 to 2002; and (4) she falsified her PDS of March 9, 1989, April 19, 1989, April 25, 1991, September 3, 1992, September 16, 1994, and April 24, 2000 to make it appear that she was authorized to practice nursing in the Philippines from 1989 to 2000. Indubitably, these acts constitute conduct prejudicial to the best interest of the service. Respondent's acts tarnished the image and integrity of public service especially the image and integrity of those registered nurses in the government who are sworn to serve the impoverished members of our society. Not being a registered nurse while serving the government from 1989 to 2002, respondent put at risk every patient's life entrusted to her care.

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[59] *Largo v. Court of Appeals*, 563 Phil. 293, 305 (2007).

[60] *Catipon, Jr. v. Japson*, 761 Phil. 205, 222 (2015).

All told, we find respondent guilty of serious dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service. The requisite quantum of substantial evidence here is satisfied.[61] Substantial evidence is such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[62] Here, substantial evidence exist to hold respondent liable for the infractions charged.

Penalty

Under Section 50 (A) (1) and (6), Rule 10[63] of the 2017 Rules on Administrative Cases in the Civil Service, serious dishonesty and grave misconduct are grave offenses punishable with dismissal from the service. As for conduct prejudicial to the best interest of the service, the imposable penalty is suspension from the service for six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.[64]

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[61] *Supra* note 50.

[62] *Travelaire & Tours Corp. v. NLRC*, 355 Phil. 932, 936 (1998).

[63] SECTION 50. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave and light, depending on their gravity or depravity and effects on the government service.

A. The following grave offenses shall be punishable by dismissal from the service:

1. Serious Dishonesty;

x x x x x x x x x

3. Grave Misconduct; (2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), CSC Resolution No. 1701077, [July 3, 2017]).

[64] SECTION 50. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave and light, depending on their gravity or depravity and effects on the government service.

x x x

B. The following grave offenses shall be punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense:

x x x x x x x x x

10. Conduct Prejudicial to the Best Interest of the Service; (2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), CSC Resolution No. 1701077, [July 3, 2017]).

Under Section 55 of the same Rule, if respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances.[65] Here, serious dishonesty is the most serious offense. On the other hand, grave misconduct and conduct prejudicial to the best interest of the service shall be considered as aggravating circumstances. Thus, respondent should suffer the ultimate penalty of dismissal.

Lamsis v. Sales, Sr.,[66] decreed that under Section 52 (a), Rule 10[67] of the 2017 Rules on Administrative Cases in the Civil Service in relation to Section 23, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and other pertinent Civil Service laws, the penalty of dismissal carries with it the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and from taking the civil service examinations.

Respondent's accrued leave credits, however, shall not be forfeited. The Court in ***Office of the Deputy Ombudsman for Luzon v. Dionisio***[68] enunciates that as a matter of fairness and law, government employees should not be deprived of the leave credits they earned prior to their dismissal.

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[65] SECTION 55. Penalty for Multiple Offenses. — If the respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances. (2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), CSC Resolution No. 1701077, [July 3, 2017]).

[66] A.M. No. P-17-3772 EN BANC (Resolution), January 10, 2018.

[67] Section 52 (a), Rule 10 of RRACCS states:

Section 52. Administrative Disabilities Inherent in Certain Penalties. —

a. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

x x x x x x x x x

[68] 813 Phil. 474 (2017).

The CSC, therefore, correctly imposed on respondent the penalty of dismissal with accessory penalties of cancellation of eligibility, forfeiture of retirement benefits except accrued leave credits, perpetual disqualification from holding public office and from taking the civil service examinations.[69]

ACCORDINGLY, the petition is **GRANTED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 08948-MIN are **REVERSED** and **SET ASIDE**, and the Decision dated February 20, 2018 and Resolution dated July 31, 2018 of the Civil Service Commission, **REINSTATED**.

Respondent **MARILOU T. RODRIGUEZ** is **LIABLE** for **Serious Dishonesty, Grave Misconduct**, and **Conduct Prejudicial to the Best Interest of the Service**. She is **DISMISSED** from the service as Nurse II in the Office of City Health Officer, Mati City, Davao Oriental. Her civil service eligibility is **CANCELLED** and her retirement benefits, except accrued leave credits, are **FORFEITED**. She is **PERPETUALLY DISQUALIFIED** from re-employment in any branch or instrumentality of the government, including any government-owned or controlled corporations and from taking the civil service examinations.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Caguioa, Reyes, Jr.,* and *Lopez, JJ.*, concur.

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[69] CSC Decision No. 180064 dated February 20, 2018, *rollo*, pp. 69-73; and Resolution No. 1800793 dated July 31, 2018, *id.* at 74-79.

FIRST DIVISION

[G.R. No. 248372. August 27, 2020]

PEOPLE OF THE PHILIPPINES, *Plaintiff-appellee*, *v.* **AUBREY ENRIQUEZ SORIA**, *Accused-appellant*.

SYLLABUS

1. CRIMINAL LAW; NEW ARSON LAW (PRESIDENTIAL DECREE NO. 1613); ARSON WITH HOMICIDE; ELEMENTS; PROVED. — Section 3 of P.D. No. 1613, otherwise known as the New Arson Law, provides that the penalty of *Reclusion Temporal* to *Reclusion Perpetua* shall be imposed if the property burned is an inhabited house or dwelling. Section 5 of the same law states that if by reason of or on the occasion of the arson death results, the penalty of *Reclusion Perpetua* to death shall be imposed. As such, the elements of the crime are: (a) there is intentional burning; and (b) what is intentionally burned is an inhabited house or dwelling. In *People v. Gil*, appellant therein was convicted of the crime of arson with homicide for willfully setting fire to a residential house by pouring kerosene on a mattress and igniting it with a lighter, directly and immediately causing the death of the person occupying the same. Here, we emphasize the death similarly caused by appellant in deliberately burning the inhabited house of Parcon. Thus, she should likewise be convicted of arson with homicide. According to the trial court, the prosecution positively proved that appellant deliberately set fire on the house owned and occupied by the Parcon family when she burned her employment papers at the home office thereof resulting in the death of the family's house helper. The records reveal that the chain of events before, during, and after the fire established beyond reasonable doubt that the appellant committed the acts alleged in the information.

2. REMEDIAL LAW; EVIDENCE; CIRCUMSTANTIAL EVIDENCE; THE LACK OR ABSENCE OF DIRECT EVIDENCE DOES NOT NECESSARILY MEAN THAT THE GUILT OF THE ACCUSED CANNOT BE PROVED BY EVIDENCE OTHER THAN DIRECT EVIDENCE, AS CIRCUMSTANTIAL EVIDENCE, IF SUFFICIENT, CAN SUPPLANT THE ABSENCE OF DIRECT EVIDENCE. — In the case at bar,

there is no direct evidence to link appellant to the commission of the offense, there being no eyewitness as to how the fire commenced. However, the lack or absence of direct evidence does not necessarily mean that the guilt of the accused cannot be proved by evidence other than direct evidence. Direct evidence is not the sole means of establishing guilt beyond reasonable doubt because circumstantial evidence, if sufficient, can supplant the absence of direct evidence.

3. ID.; ID.; ID.; CONVICTION BASED ON CIRCUMSTANTIAL EVIDENCE, REQUISITES; FOR CIRCUMSTANTIAL EVIDENCE TO BE SUFFICIENT TO SUPPORT A CONVICTION, ALL THE CIRCUMSTANCES PROVED 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 EVERY OTHER RATIONAL HYPOTHESIS EXCEPT THAT OF GUILT; THE CHAIN OF CIRCUMSTANCES IN CASE AT BAR ARE SUFFICIENT TO PROVE THE GUILT OF ACCUSED-APPELLANT OF THE CRIME CHARGED. — Resort to circumstantial evidence is sanctioned by Rule 133, Section 5 of the Revised Rules on Evidence. To sustain a conviction based on circumstantial evidence, three requisites must be established: *first*, there is more than one circumstance; *second*, the facts from which the inferences are derived are proven; and *third*, the combination of all the circumstances is such as to produce conviction beyond reasonable doubt. x x x. However, for circumstantial evidence to be sufficient to support a conviction, all the circumstances proved 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 every other rational hypothesis except that of guilt. Thus, the circumstances proven should constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of others, as the guilty person. Moreover, it must be remembered that the probative value of direct evidence is generally neither greater than nor superior to circumstantial evidence. The Rules of Court do not distinguish between "direct evidence of fact and evidence of circumstances from which the existence of a fact may be inferred." The same quantum of evidence is still required, that

is guilt beyond reasonable doubt. x x x. We find that the CA did not err in finding that the prosecution witnesses realistically described a chain of circumstances which leaves no doubt that appellant perpetrated the arson.

4. ID.; ID.; CREDIBILITY OF WITNESSES; THE TRIAL COURT IS IN THE BEST POSITION TO ASSESS THE CREDIBILITY OF WITNESSES SINCE IT HAS OBSERVED FIRSTHAND THEIR DEMEANOR, CONDUCT AND ATTITUDE UNDER GRILLING EXAMINATION; ABSENT ANY SHOWING OF A FACT OR CIRCUMSTANCE OF WEIGHT AND INFLUENCE WHICH WOULD APPEAR TO HAVE BEEN OVERLOOKED AND, IF CONSIDERED, COULD AFFECT THE OUTCOME OF THE CASE, THE FACTUAL FINDINGS AND ASSESSMENT ON THE CREDIBILITY OF A WITNESS MADE BY THE TRIAL COURT REMAIN BINDING ON AN APPELLATE TRIBUNAL. — [S]ufficient evidence was also presented to prove that appellant was in close proximity to the gutted Parcon house after the incident. Umandak, a neighbor of the Parcons, positively identified appellant as the one he spoke with two hours after the incident. Necessarily, the issue narrows down to credibility of the witnesses. Worthy of reiteration is the doctrine that on matters involving the credibility of witnesses, the trial court is in the best position to assess the credibility of witnesses since it has observed firsthand their demeanor, conduct and attitude under grilling examination. Absent any showing of a fact or circumstance of weight and influence which would appear to have been overlooked and, if considered, could affect the outcome of the case, the factual findings and assessment on the credibility of a witness made by the trial court remain binding on an appellate tribunal.

5. ID.; ID.; EXTRAJUDICIAL CONFESSION; ACCUSED-APPELLANT'S EXTRAJUDICIAL CONFESSION OF GUILT BEFORE A MEMBER OF THE MEDIA WHILE IN A DETENTION CENTER IS ADMISSIBLE IN EVIDENCE AGAINST HER, WHERE THE SAME WAS GIVEN FREE FROM ANY UNDUE INFLUENCE FROM THE POLICE AUTHORITY AND ACCUSED-APPELLANT HAD NOT ONLY AGREED TO BE INTERVIEWED, BUT ALSO VOLUNTARILY SUPPLIED THE DETAILS SURROUNDING THE COMMISSION OF THE OFFENSE. — We likewise reject appellant's contention that her admission

to news reporter Sorote should be struck down for being inadmissible. Appellant posits that the admission was given under intimidating and coercive circumstances since the same was made when she was already detained at the Cebu City Police Office. In this wise, our ruling in *People v. Dacanay* is instructive: The fact that the extrajudicial confession was made by Antonio while inside a detention cell does not by itself render such confession inadmissible, contrary to what Antonio would like this Court to believe. In *People v. Domantay*, where the accused was also interviewed while inside a jail cell, this Court held that such circumstance alone does not taint the extrajudicial confession of the accused, especially since the same was given freely and spontaneously[.] x x x Following this Court's ruling in *People v. Jerez*, the details surrounding the commission of the crime, which could be supplied only by the accused, and the spontaneity and coherence exhibited by him during his interviews, belie any insinuation of duress that would render his confession inadmissible. Here, Sorote interviewed appellant in person after she was arrested by the police investigators. As correctly observed by the CA, appellant had not only agreed to be interviewed; she also provided details on why and how she perpetrated the offense, thus the admission of guilt made before Sorote is admissible in evidence against her. x x x. [A]ppellant's confession to the news reporter was given free from any undue influence from the police authorities. Sorote acted as a member of the media when he interviewed appellant, and there was evidence presented that would show that Sorote was acting under the direction and control of the police. More importantly, appellant voluntarily supplied the details surrounding the commission of the offense.

6. CRIMINAL LAW; NEW ARSON LAW (PRESIDENTIAL DECREE NO. 1613); ARSON WITH HOMICIDE; ACCUSED-APPELLANT FOUND GUILTY THEREOF; PENALTY OF *RECLUSION PERPETUA*, IMPOSED; CIVIL LIABILITY OF ACCUSED-APPELLANT. — P.D. No. 1613 imposes the penalty of *reclusion perpetua* to death if by reason or on the occasion of the arson, death results. The lower courts correctly sentenced appellant with *reclusion perpetua* only considering that there was no aggravating circumstance alleged in the information. Anent the award of damages, the CA included an award of moral damages in favor of the heirs of Cornelia in the amount of Fifty Thousand Pesos (₱50,000.00). In view of

our ruling in *People v. Jugueta*, we increase this award to Seventy-Five Thousand Pesos (₱75,000.00). We are also modifying the award by the trial court of civil indemnity, as compensation for death, and exemplary damages to Cornelia's heirs, by increasing them to Seventy-Five Thousand Pesos (₱75,000.00). Also, the award of exemplary damages in favor of Parcon must also be increased to Seventy-Five Thousand Pesos (₱75,000.00). Finally, these amounts shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

R E S O L U T I O N

PERALTA, *C.J.*:

For consideration of this Court is the appeal of the Decision[1] of the Court of Appeals (*CA*), promulgated on April 30, 2019, which affirmed, with modification, the Decision,[2] dated November 16, 2015, of the Regional Trial Court (*RTC*), Branch 7, Cebu City, in Criminal Case No. CBU-95100 which found appellant Aubrey Enriquez Soria guilty beyond reasonable doubt of Qualified Arson as defined and penalized under Section 1, in relation to Section 5, of Presidential Decree (*P.D.*) No. 1613, otherwise known as the New Arson Law.

In an Information dated February 27, 2012, appellant was charged with Qualified Arson which reads:

That on or about the 22nd day of February, 2012, at about 2:06 o'clock *(sic)* dawn, in the City of Cebu, Philippines and within the

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[1] *Rollo*, pp. 5-18; penned by Associate Justice Gabriel T. Ingles, and concurred in by Associate Justice Edward B. Contreras and Associate Justice Dorothy Montejo-Gonzaga.

[2] CA *rollo*, pp. 30-42; penned by Acting Presiding Judge Macaundas M. Hadjirasul.

jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there set fire to an inhabited house owned and occupied by Mariano Perez Parcon, Jr. and his family located at Holy Family Village, Barangay Banilad this City *[sic]*, causing the said house to be burned including the things inside the said house, and the burning to death of Cornelia O. Tagalog, a house helper of said Mariano Perez Parcon, Jr., as a consequence of the burning of the house.

CONTRARY TO LAW.[3]

During her arraignment, appellant pleaded not guilty to the charge. During pre-trial, appellant stipulated on the fact that she was hired by private complainant Mariano Parcon, Jr. and that the hiring was done through Arizo Manpower Services.[4]

The prosecution presented, as witnesses, Parcon, Eduardo Umandak, Juanito Octe, Erlyn Arizo, SPO4 Rey Cuyos, Guamittos Logrono and Ryan Christopher Sorote who established the following facts:

Parcon testified that on February 22, 2012, at around 2:00 a.m., he was awakened by the smell of smoke. He stood up and got a fire extinguisher, but when he opened the door, he was met by both heat and smoke. He awakened his wife and children, and they escaped the conflagration through the window fire exit. Subsequently, Parcon positioned himself over the room of the house helpers and called Cornelia Tagalog, but he heard no reply. Meanwhile, the occupants of the first floor were alerted by a village security guard and were able to get out. Firemen responded, but the house was totally burned, causing Parcon a damage in the amount of ₱2,649,048.72. The firemen recovered the dead body of Cornelia, a helper in the Parcon household. Later on, they noticed that appellant was missing.[5]

At around 6:00 a.m., Umandak, one of the neighbors of the Parcons, informed the latter that he recovered a travel bag from

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[3] *Id.* at 30.

[4] *Id.* at 30-32.

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

a woman who jumped over the fence, and whom he suspected of having stolen it. The woman was also carrying a shoulder bag.[6]

Thereafter, the police arrested appellant, and was brought before Parcon for identification. At the precinct, Parcon identified the items recovered from appellant which included a gray shoulder bag, a pouch, a wallet, ladies' things and two (2) cellular phones. Parcon recognized the two cellular phones to be his, while the shoulder bag belonged to Cornelia.[7]

Umandak, a resident of Holy Family Village I, testified that at around 4:00 a.m. on the day of the incident, his live-in partner woke him up and told him that there was a girl who was asking for help. When he went out, he saw a girl sitting on a step board of a multi-cab, carrying a black travel bag and a gray shoulder bag. The girl, who was later on identified as appellant, informed Umandak that she came from Day-as, Cebu and that her mother asked her to go to Holy Family Village II. Appellant further informed Umandak that she arrived in the village onboard a taxi but disembarked at Tol Jalikan's place, a spot close to the house of Parcon. Appellant then asked Umandak's son to carry the bag and accompany her to Holy Family Village II. Umandak grew suspicious so he got the bag and told his son to go home. Meanwhile, appellant eventually climbed the stairs. Umandak tried to stop appellant, telling her that security guards might shoot her since she was carrying a bag. Appellant, however, still climbed and jumped over the fence to Holy Family Village II, but left the black travel bag behind.[8]

At around 5:00 a.m., Umandak went over to the burnt house where he learned that one of Parcon's helpers was missing. Umandak then recounted to Parcon his encounter with appellant. When asked to describe the girl, the description matched the description of appellant. Umandak likewise informed Parcon that he recovered a travel bag from the girl which he later on

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[6] *Id.* at 33.

[7] *Id.*

[8] *Id.* at 33-34.

handed to Parcon. The latter then confirmed that the travel bag belonged to appellant. After appellant was arrested, the police showed Umandak a photograph of appellant for identification, who Umandak identified as the girl he spoke with on the day of the incident.[9]

The prosecution also presented the testimony of Octe, the common-law partner of Cornelia. He testified that the gray shoulder bag, as well as the transparent pouch, red wallet, perfume, coin purse with keys, handkerchief and lipstick, belonged to Cornelia.[10]

SPO4 Cuyos testified that during the investigation, Umandak came forward bringing with him a black travel bag which was later on positively identified by one of Parcon's household staff as belonging to appellant. He also testified that the information gathered pointed to appellant as the suspect as she was the only one who managed to pack her belongings and escape the fire. The police investigators proceeded to Dumlog, Talisay City for the arrest of appellant. Appellant was later on found in the house of her uncle in Minglanilla, Cebu. When appellant spotted the police officers, she ran and hid at a nearby house where she was eventually arrested. The police were able to retrieve a gray shoulder bag from appellant which contained a red wallet, a coin purse, a perfume, five cellphones, a lipstick and a match.[11]

Lastly, witness Sorote of TV5 Cebu and The Freeman News testified that he had covered the fire incident at the Parcons, and that he was able to interview appellant in person after the police arrested her. He testified that during the course of the interview, the appellant admitted to the crime.[12]

The appellant denied the offense charged. She narrated that in the morning of February 21, 2012, she wanted to go home because her children were sick. She sought permission from

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[9] *Id.* at 34.

[10] *Id.* at 34-35.

[11] *Id.* at 36.

[12] *Id.* at 38.

Parcon, but the latter refused. As a result, she escaped at about 9:00 or 10:00 p.m. of the same date through the assistance of Cornelia. As agreed with Cornelia, they told Parcon that they were going out for a snack, but that Cornelia would later return to the house, fetch appellant's things and send her a text message. At 11:00 p.m., appellant did not receive any text message from Cornelia, so she proceeded to Talisay City by riding a taxi.[13]

On November 16, 2015, the RTC promulgated its Decision convicting appellant of Qualified Arson. The dispositive portion of the Decision reads as follows:

> WHEREFORE, finding the accused, AUBREY ENRIQUEZ SORIA, guilty beyond reasonable doubt of Qualified Arson as defined and penalized under Section 1, in relation to Section 5, of Presidential Decree No. 1613, she is hereby sentenced to suffer the penalty of *reclusion perpetua*, including all the accessory penalties attached thereto, and to pay Marciano P. Parcon, Jr. a temperate damage of ₱500,000.00 and exemplary damages of ₱50,000.00, as well as the heirs of Cornelia Tagalog ₱50,000.00 as compensation for the latter's death and exemplary damages of ₱50,000.00.
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> SO ORDERED.[14]

In convicting the appellant, the RTC held that the circumstantial evidence that was presented would prove that appellant was the one directly responsible for the burning of the house of the Parcons. *First*, there is no controversy about the fact that the subject house was razed by fire on February 22, 2012. *Second*, appellant made an admission to Sorote, a competent witness who testified thereon, when the latter interviewed her for The Freeman News which was published on February 24, 2012. And *third*, Umandak testified that he caught appellant escaping from the village by jumping over the fence, and the latter's own admission that she did escape, although giving a different reason therefor. As to whether or not the burning was malicious, the trial court held that the appellant's narration — that the fire spread throughout the entire

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[13] *Id.* at 39.

[14] *Id.* at 42.

house when she torched her employment documents and that instead of alarming the occupants, she escaped — is enough circumstantial evidence that the burning of the house was deliberate and malicious.[15]

Thus, appellant appealed before the CA. On April 30, 2019, the CA promulgated its assailed Decision which affirmed with modification the Decision of the RTC, thus:

> WHEREFORE, the appeal is hereby DENIED. The Decision dated November 16, 2015 rendered by the Regional Trial Court, Seventh Judicial Region, Cebu City, Branch 7, in Criminal Case No. CBU-95100 is AFFIRMED with MODIFICATION ordering accused-appellant Aubrey Enriquez Soria to indemnify the heirs of Cornelia Tagalog the amount of ₱50,000.00 as moral damages, in addition to the damages already awarded by the trial court, and to impose interest at the rate of six percent (6%) per annum from finality of decision until fully paid on the temperate and exemplary damages awarded by the court.
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> SO ORDERED.[16]

The CA affirmed the findings of the trial court that the conviction of the appellant is justified upon circumstantial evidence. The appellate court held that the circumstances point to appellant as the author of the crime. As to appellant's contention that her admission of guilt made before news reporter Sorote should not be considered as it was not done intelligently and was made with coercion, the CA observed that appellant voluntarily agreed to take part in the interview and even provided details on how the arson was committed.[17]

Hence, this appeal wherein appellant raises the issue of whether the prosecution was able to establish her guilt beyond reasonable doubt.

OUR RULING

The Court affirms the conviction of appellant.

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[15] *Id.* at 39-42.

[16] *Rollo*, pp. 17-18.

[17] *Id.* at 11-16.

Section 3 of P.D. No. 1613, otherwise known as the New Arson Law, provides that the penalty of *Reclusion Temporal* to *Reclusion Perpetua* shall be imposed if the property burned is an inhabited house or dwelling. Section 5 of the same law states that if by reason of or on the occasion of the arson death results, the penalty of *Reclusion Perpetua* to death shall be imposed." As such, the elements of the crime are: (a) there is intentional burning; and (b) what is intentionally burned is an inhabited house or dwelling.

In *People v. Gil*,[18] appellant therein was convicted of the crime of arson with homicide for willfully setting fire to a residential house by pouring kerosene on a mattress and igniting it with a lighter, directly and immediately causing the death of the person occupying the same. Here, we emphasize the death similarly caused by appellant in deliberately burning the inhabited house of Parcon. Thus, she should likewise be convicted of arson with homicide. According to the trial court, the prosecution positively proved that appellant deliberately set fire on the house owned and occupied by the Parcon family when she burned her employment papers at the home office thereof resulting in the death of the family's house helper. The records reveal that the chain of events before, during, and after the fire established beyond reasonable doubt that the appellant committed the acts alleged in the information.

But contrary to the findings of the trial court, the appellant argues that the circumstantial evidence presented by the prosecution was insufficient to convict her for the crime charged. Appellant further posits that Sorote's testimony, surrounding the interview wherein appellant admitted committing the offense, cannot be given credence because the purported admission was not done intelligently and knowingly, and not without improper pressure and coercion, as they were made while already detained at the Cebu City Police Office. Lastly, she contends that the testimony of Umandak that he caught appellant escaping the village should not be given weight because the same was not corroborated by the testimonies of the other witnesses.

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[18] G.R. No. 172468, October 15, 2008, 590 Phil. 157-169.

On the other hand, the People counters that the prosecution witnesses sufficiently presented an unbroken chain of events that leads to the fair conclusion that appellant intentionally burned the house of the Parcons and, on the occasion of the fire, Cornelia died. As to appellant's contention that her admission to the news reporter should be inadmissible as it was not done intelligently, the People argues that the interview was not done in the course of an investigation and that it was voluntarily given by appellant.

Circumstantial evidence is sufficient to identify appellant as the perpetrator of the arson

In the case at bar, there is no direct evidence to link appellant to the commission of the offense, there being no eyewitness as to how the fire commenced. However, the lack or absence of direct evidence does not necessarily mean that the guilt of the accused cannot be proved by evidence other than direct evidence. Direct evidence is not the sole means of establishing guilt beyond reasonable doubt because circumstantial evidence, if sufficient, can supplant the absence of direct evidence.[19]

Resort to circumstantial evidence is sanctioned by Rule 133, Section 5 of the Revised Rules on Evidence.[20] To sustain a conviction based on circumstantial evidence, three requisites must be established: *first*, there is more than one circumstance; *second*, the facts from which the inferences are derived are proven; and *third*, the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[21]

In several instances, this Court had appreciated circumstantial evidence to sustain convictions for the crime of arson. In *People v. Abayon*,[22] none of the prosecution witnesses actually saw

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[19] *Bacolod v. People*, 714 Phil. 90, 95 (2013).

[20] *Buebos, et al. v. People*, 573 Phil. 347, 358 (2008); citation omitted.

[21] *People v. Ariel Manabat Cadenas, et al.*, G.R. No. 233199, November 5, 2018.

[22] 795 Phil. 291 (2016).

the accused start the fire, but this Court held that the circumstantial evidence presented by the prosecution, taken in its entirety, all pointed to the accused's guilt. Moreover, in *People v. Acosta*,[23] although there was no direct evidence linking the accused to the burning of the house, we sustained the conviction of the accused and ruled that the circumstantial evidence was substantial enough to convict the accused. The accused had motive, and he was present at the scene of the crime before and after the incident.[24]

However, for circumstantial evidence to be sufficient to support a conviction, all the circumstances proved 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 every other rational hypothesis except that of guilt.[25] Thus, the circumstances proven should constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of others, as the guilty person.[26] Moreover, it must be remembered that the probative value of direct evidence is generally neither greater than nor superior to circumstantial evidence. The Rules of Court do not distinguish between "direct evidence of fact and evidence of circumstances from which the existence of a fact may be inferred." The same quantum of evidence is still required, that is guilt beyond reasonable doubt.[27]

Both the trial and appellate courts held that the following circumstances point to the logical conclusion that appellant commenced and caused the fire:

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[23] 382 Phil. 810, 820 (2000).

[24] *Bacerra v. People*, 812 Phil. 25, 37 (2017).

[25] *People v. John Sanota y Sarmiento, et al.*, G.R. No. 233659, December 10, 2019.

[26] *People v. Ariel Manabat Cadenas, et al.*, G.R. No. 233199, November 5, 2018.

[27] *Antonio Planteras, Jr. v. People*, G.R. No. 238889, October 3, 2018.

1. February 22, 2012, at about 2 a.m., Parcon, Jr. and his family were sleeping in their house at Holy Family Village I, Banilad, Cebu City;
2. After having been roused from his sleep by [the] smell of smoke, Parcon, Jr. leaped from his bed and slightly opened the door of his room to check outside;
3. Parcon, Jr. saw a thick cloud of smoke on the second floor and fire spreading on their stairs;
4. Parcon, Jr. opened the fire exit by the window of their bedroom and his family passed [through] it to jump onto the roof of their garage, away from the fire;
5. The firemen recovered the burned remains of Cornelia Tagalog and noted that accused-appellant was missing;
6. At early dawn on even date, Parcon, Jr.'s neighbor, the witness Umandak spoke with accused-appellant who had with her a bag which later turned out to be owned by the deceased Cornelia Tagalog, and that appellant had fled the village by climbing over a fence and jumping over to the adjacent Holy [F]amily Village II;
7. At about 6:00 a.m., another resident of Holy Family Village I, witness Umandak, told Parcon, Jr. that he saw and spoke with a woman, later identified as the appellant;
8. After the appellant was arrested following a hot pursuit operation, police investigators recovered from the appellant two cellular phones that belonged to Parcon, Jr. as well as a handbag, cash and personal effects belonging to the deceased Cornelia Tagalog as identified by Parcon, Jr. and Cornelia *(sic)*[.]
9. Appellant admitted to a news reporter that she burned employment documents inside Parcon, Jr.'s house and that she was willing to face the consequences of her actions.[28]

We find that the CA did not err in finding that the prosecution witnesses realistically described a chain of circumstances which leaves no doubt that appellant perpetrated the arson. The appellate court aptly observed:

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[28] *Rollo*, p. 14.

What the evidence on record tells us is this — accused-appellant, who had just been hired the day before the incident, had stolen the cellular phones of her employer Parcon, Jr., as well as the belongings of her co-worker, the deceased Cornelia Tagalog. To cover her tracks, she burned her employment papers at Parcon, Jr.'s home office, which fire turned into a conflagration that burned the entire Parcon house down and resulted in the death of Cornelia Tagalog. That accused-appellant had in her possession the two cellular phones of Parcon, Jr. and the personal effects of Cornelia Tagalog places her at the scene of the crime.

Even if the trial court disregarded the accused-appellant's confession made before [the] police beat reporters, the testimonies of Parcon, Jr., Umandak and Octe are sufficient to convict as they are "*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 every other rational hypothesis except that of guilt.*"[29]

Indeed, the circumstances constitute an unbroken chain of events which points to the appellant as the one who started the fire which gutted the house of the Parcons, and eventually killed Cornelia. This Court notes that the evidence was adequate to prove that appellant was present at the scene of the crime before the incident and was the one who started the fire. This is clear when she narrated during her interview with Sorote that she burned her employment papers at the home office of Parcon, and that the fire turned into a conflagration that burned the entire Parcon house. Moreover, sufficient evidence was also presented to prove that appellant was in close proximity to the gutted Parcon house after the incident. Umandak, a neighbor of the Parcons, positively identified appellant as the one he spoke with two hours after the incident.

Necessarily, the issue narrows down to credibility of the witnesses. Worthy of reiteration is the doctrine that on matters involving the credibility of witnesses, the trial court is in the best position to assess the credibility of witnesses since it has observed firsthand their demeanor, conduct and attitude

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[29] *Id.* at 14-15; citations omitted.

under grilling examination. Absent any showing of a fact or circumstance of weight and influence which would appear to have been overlooked and, if considered, could affect the outcome of the case, the factual findings and assessment on the credibility of a witness made by the trial court remain binding on an appellate tribunal.[30]

Admissions made by appellant to news reporter Sorote are admissible in evidence against her

We likewise reject appellant's contention that her admission to news reporter Sorote should be struck down for being inadmissible. Appellant posits that the admission was given under intimidating and coercive circumstances since the same was made when she was already detained at the Cebu City Police Office. In this wise, our ruling in *People v. Dacanay*[31] is instructive:

> The fact that the extrajudicial confession was made by Antonio while inside a detention cell does not by itself render such confession inadmissible, contrary to what Antonio would like this Court to believe. In *People v. Domantay*, where the accused was also interviewed while inside a jail cell, this Court held that such circumstance alone does not taint the extrajudicial confession of the accused, especially since the same was given freely and spontaneously[.]
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> x x x x x x x x x
>
> Following this Court's ruling in *People v. Jerez*, the details surrounding the commission of the crime, which could be supplied only by the accused, and the spontaneity and coherence exhibited by him during his interviews, belie any insinuation of duress that would render his confession inadmissible.[32]

Here, Sorote interviewed appellant in person after she was arrested by the police investigators. As correctly observed by the CA, appellant had not only agreed to be interviewed; she

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[30] *People v. Murcia*, 628 Phil. 648, 659 (2010); citation omitted.

[31] 798 Phil. 132 (2016).

[32] *Id.* at 144-145; citations omitted.

also provided details on why and how she perpetrated the offense, thus the admission of guilt made before Sorote is admissible in evidence against her. Sorote testified that:

Q: Now Mr. Witness, can you recall the interview with Soria?

A: During the interview, she said she needed money, and that her live-in partner was already asking for money and asked her to stop being a nanny and go home so that they could be together. So, as far as I could remember, the nanny said, "wala nako toyoa ang pagsunod, nanguha ko ug mga butang sa familya Parcon, and on my way out of the house, I thought of burning the employment documents which were in the office of Mr. Parcon, Jr." However, when she torched the documents, the fire spread throughout the room and to the entire house.

Q: And was there any other statements coming from the accused, Mr. Witness?

A: Yes, she said that she did not intend to do the incident, and she would like to ask forgiveness from the family, as well as from the family of her dead co-worker in the house, and because the incident was already done, she is willing to accept the penalty and imprisonment of what she did.[33]

Clearly, appellant's confession to the news reporter was given free from any undue influence from the police authorities. Sorote acted as a member of the media when he interviewed appellant, and there was evidence presented that would show that Sorote was acting under the direction and control of the police.[34] More importantly, appellant voluntarily supplied the details surrounding the commission of the offense.

Penalty and the awarded indemnities

P.D. No. 1613 imposes the penalty of *reclusion perpetua* to death if by reason or on the occasion of the arson, death results. The lower courts correctly sentenced appellant with *reclusion*

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[33] *Rollo*, p. 9.

[34] *People v. Andan*, 336 Phil. 91, 112 (1997).

perpetua only considering that there was no aggravating circumstance alleged in the information.[35]

Anent the award of damages, the CA included an award of moral damages in favor of the heirs of Cornelia in the amount of Fifty Thousand Pesos (₱50,000.00). In view of our ruling in *People v. Jugueta*,[36] we increase this award to Seventy-Five Thousand Pesos (₱75,000.00). We are also modifying the award by the trial court of civil indemnity, as compensation for death, and exemplary damages to Cornelia's heirs, by increasing them to Seventy-Five Thousand Pesos (₱75,000.00). Also, the award of exemplary damages in favor of Parcon must also be increased to Seventy-Five Thousand Pesos (₱75,000.00).[37] Finally, these amounts shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.[38]

WHEREFORE, the Court **AFFIRMS** the Decision of the Court of Appeals, dated April 30, 2019, in CA-G.R. CEB CR. HC. No. 02503, finding appellant Aubrey Enriquez Soria **GUILTY** beyond reasonable doubt of the crime of Arson with Homicide, with the following **MODIFICATIONS**:

(1) The awarded civil indemnity to the heirs of Cornelia Tagalog is INCREASED to Seventy-Five Thousand Pesos (₱75,000.00);

(2) The award of moral damages in favor of the heirs of Cornelia Tagalog is INCREASED to Seventy-Five Thousand Pesos (₱75,000.00);

(3) The award of exemplary damages in favor of the heirs of Cornelia Tagalog is INCREASED to Seventy-Five Thousand Pesos (₱75,000.00);

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[35] *People v. Nestor Dolendo y Fediles*, G.R. No. 223098, June 3, 2019.

[36] 783 Phil. 806 (2016).

[37] *Id.* at 851.

[38] *People v. Nestor Dolendo y Fediles*, G.R. No. 223098, June 3, 2019.

(4) The award of exemplary damages in favor of Mariano Parcon, Jr. is INCREASED to Seventy-Five Thousand Pesos (₱75,000.00); and

(5) Appellant is also ordered to pay interest on these amounts at the rate of six percent (6%) per annum from the time of finality of this Resolution until fully paid.

SO ORDERED.

Caguioa, Reyes, Jr., Lazaro-Javier, and *Lopez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 248827. August 27, 2020]

CHONA JAYME, *Petitioner*, *v.* **NOEL JAYME and the PEOPLE OF THE PHILIPPINES**, *Respondents*.

SYLLABUS

1. REMEDIAL LAW; RULES OF PROCEDURE; SHOULD BE STRICTLY APPLIED TO FACILITATE THE ADJUDICATION OF CASES; RELAXATION OF THE STRICT APPLICATION THEREOF MAY ONLY BE ALLOWED IF IT WOULD ACCOMMODATE THE GREATER INTEREST OF JUSTICE IN LIGHT OF THE PREVAILING CIRCUMSTANCES OF THE CASE, SUCH AS WHERE STRONG CONSIDERATIONS OF SUBSTANTIVE JUSTICE ARE MANIFEST IN THE PETITION. — Well-entrenched is the rule that the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction if its rigid application will tend to obstruct rather than serve the broader interests of justice. Until then, the procedural rules are accorded utmost respect and due regard as they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. The relaxation of the strict application of the rules may only be allowed if it would accommodate the greater interest of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition.

2. CRIMINAL LAW; CRIME OF USE OF FALSIFIED DOCUMENT IN ANY TRANSACTION (OTHER THAN AS EVIDENCE IN A JUDICIAL PROCEEDING); ELEMENTS. — The elements of the crime of use of falsified document in any transaction (other than as evidence in a judicial proceeding) are: (1) the offender knew that a document was falsified by another person; (2) the false document is embraced in Article 171 or in any of subdivision Nos. 1 and 2 of Article 172; (3) he used such document (not in judicial proceedings); and (4) the use of the false document caused damage to another or at least it was used with intent to cause such damage. The prosecution must

establish with moral certainty the falsity of the document and the defendant's knowledge of its falsity.

3. LEGAL ETHICS; NOTARIES PUBLIC; MUST NOTARIZE A DOCUMENT UNLESS THE PERSONS WHO SIGNED IT ARE THE VERY SAME PERSONS WHO EXECUTED THE SAME, AND PERSONALLY APPEARED BEFORE HIM TO ATTEST TO THE TRUTH OF THE CONTENTS THEREOF. — Settled is the rule that a notary public must not notarize a document unless the persons who signed it are the very same persons who executed the same, and personally appeared before him to attest to the truth of the contents thereof. This is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free and voluntary act and deed.

4. CRIMINAL LAW; CRIME OF USE OF FALSIFIED DOCUMENT IN ANY TRANSACTION (OTHER THAN AS EVIDENCE IN A JUDICIAL PROCEEDING); THE PERSON WHO USED THE FORGED DOCUMENT IS DIFFERENT FROM THE ONE WHO FALSIFIED IT; IF THE ONE WHO USED THE FALSIFIED DOCUMENT IS THE SAME PERSON WHO FALSIFIED IT, THE CRIME IS ONLY FALSIFICATION AND THE USE OF THE SAME IS NOT A SEPARATE CRIME. — [I]n the crime of use of falsified document, the person who used the forged document is different from the one who falsified it such that "[i]f the one who used the falsified document is the same person who falsified it, the crime is only falsification and the use of the same is not a separate crime." Falsification of a public document and use of false document by the same person who falsified it constitute but a single crime of falsification.

APPEARANCES OF COUNSEL

Edgar Claudio O. Sumido for petitioner.
Edgardo Gil for private respondent.
The Solicitor General for public respondent.

D E C I S I O N

REYES, J. JR., *J.*:

This is a Petition for Review on *Certiorari*[1] seeking to reverse and set aside the Resolutions dated March 29, 2017[2] and July 17, 2019[3] of the Court of Appeals-Cebu City (CA-CEBU) in CA-G.R. CR No. 02896.

The Facts

Spouses Vicente G. Capero (Vicente) and Elisa G. Capero[4] (Elisa) (spouses Capero) were the registered owners of Lot No. 3457-E-4-C-2, Psd 06-04930 (subject property) in Iloilo City covered by Transfer Certificate of Title No. T-134480.[5] Vicente died on October 4, 2004.

Chona Jayme (petitioner) alleged that her father Xaudaro Jayme (Xaudaro) purchased the subject property from the spouses Capero, with payments coursed through her uncle Noel Jayme (respondent). Petitioner stated that Xaudaro instructed her to obtain a loan from the Rural Bank of Marayo (Negros Occidental), Inc., of which she was an employee. Since the title of the subject property was still in the name of the spouses Capero, petitioner asked Elisa to execute a Special Power of Attorney (SPA) authorizing her to mortgage the subject property as security for the loan. On March 30, 2009, Elisa delivered to petitioner a notarized SPA signed by the spouses Capero. The SPA was notarized by Atty. Wenslow Teodosio and was entered in his notarial register as Doc. No. 345, Page No. 18, Book No. XVIII, Series of 2009.[6] Thus, petitioner was able to obtain

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[1] *Rollo*, pp. 26-34.

[2] Penned by Associate Justice Pamela Ann Abella Maxino with Associate Justices Pablito A. Perez and Gabriel T. Robeniol, concurring; *id.* at 8-12.

[3] Id. at 14-20.

[4] "Elisa D. Gubatanga" in some parts of the records.

[5] *Rollo*, p. 80.

[6] Id. at 37-38.

a loan with the Rural Bank of Marayo in the amount of ₱100,000.00 using the subject property as collateral.[7]

Respondent, on the other hand, averred that the spouses Capero sold the subject property to him in a Deed of Absolute Sale dated August 17, 2006. The deed was not registered with the Registry of Deeds of Iloilo City. Respondent later discovered that the subject property was mortgaged to the Rural Bank of Marayo in 2009 by petitioner by virtue of an SPA executed in her favor by the spouses Capero. He also learned that Vicente died on October 4, 2004, or more than four years prior to the execution of the SPA. For fear of losing the property, respondent paid the loan on March 13, 2010.[8]

In 2011, respondent filed criminal cases against Elisa and petitioner.

On February 4, 2011, Elisa was charged in an Information[9] for Falsification of Public Document under Article 172, paragraph 1, in relation to Article 171, paragraphs 1 and 2 of the Revised Penal Code (RPC) for causing it to appear that her deceased husband Vicente signed the Deed of Absolute Sale dated August 17, 2006 by counterfeiting or imitating his signature in said document.

Elisa and petitioner were also charged of Falsification of Public Document under Article 172, paragraph 1, in relation to Article 171 paragraphs 1, 2 and 4 of the RPC for making it appear in a notarized SPA dated March 30, 2009 that deceased Vicente signed the document by counterfeiting his signature.[10]

Petitioner was charged of Use of Falsified Public Document under Article 172, last paragraph of the RPC for using the falsified SPA for the purpose of securing a real estate mortgage over the subject property to the damage and prejudice of respondent.[11]

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[7] Id.

[8] Id.

[9] Id. at 42.

[10] Id. at 57.

[11] Id. at 37.

Elisa was found not guilty of falsification of the Deed of Absolute Sale.[12] As regards the charge for falsification of the SPA, Elisa and petitioner were acquitted for failure of the prosecution to prove their guilt.[13]

The MTCC Ruling

In its Decision[14] dated January 27, 2015, the Municipal Trial Court in Cities (MTCC), Branch 5, Iloilo City, found petitioner guilty of the crime of Use of Falsified Document under Article 172, last paragraph, RPC, and sentenced her to suffer the penalty of imprisonment of four (4) months and one (1) day, to two (2) years and four (4) months, and to pay a fine of ₱5,000.00. It held that petitioner had the capacity to forge and falsify the SPA and made it appear as true considering the fact that she was the recipient of the proceeds of the loan and also an employee of the mortgagee-bank who compiled the necessary documents to secure the bank's approval. It further stated that petitioner failed to present sufficient evidence to overthrow the presumption that the possessor and user of a falsified document is the author of the falsification. The MTCC noted in its Decision:

> Ellen Faith A. Tan, Manager of Rural Bank of Marayo (Negros Occidental), Inc., had testified that she was aware that Elisa Capero signed her signature in the Special Power of Attorney, but could not attest to the signature of Vicente Capero since the document was sent to him, allegedly in Mindanao, for him to affix his signature thereon. She affixed her signature as witness in the said Special Power of Attorney because she was authorized to sign documents of the bank. x x x Mrs. Tan was the one who facilitated the notarization of the Special Power of Attorney before Atty. Wenslow Teodosio together with the deed of Real Estate Mortgage. This statement is supported by the fact that the Special Power of Attorney and the Real Estate Mortgage were both notarized on March 30, 2009. It further appears

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[12] *See* Decision dated June 11, 2013 of the Municipal Trial Court in Cities (MTCC), Branch 7, Iloilo City in Criminal Case No. R56-11; *id.* at 42-56.

[13] Decision dated July 7, 2015 of the MTCC, Branch 9, Iloilo City in Criminal Case No. R-293-11; *id.* at 57-68.

[14] *Id.* at 37-41.

that both documents were pre-printed forms of the bank where the parties had only to fill-in the required information. It stands to reason that it was accused Chona Jayme who had a hand in the preparation of the Special Power of Attorney and had in fact used the same to facilitate the mortgage.[15]

The RTC Ruling

On appeal, the Regional Trial Court (RTC), Branch 38, Iloilo City affirmed petitioner's conviction in its Decision[16] dated December 1, 2015. It enunciated that all the essential elements of the crime of use of falsified documents were extant in the case. It declared that petitioner used, took advantage of, and benefitted from the falsified SPA despite knowledge of Vicente's demise long before the execution of the document. The RTC was not convinced that petitioner was not aware of the fact of death for the following reasons: (1) when petitioner went to Elisa and requested for an SPA, she did not meet Vicente who was allegedly in Mindanao; and (2) petitioner did not even verify if Vicente's signature is genuine. The RTC declared that as a bank employee, petitioner should have been prudent in using the SPA.

Petitioner moved for reconsideration but the same was denied in a Resolution[17] dated November 2, 2016.

The CA Ruling

In a Resolution[18] dated March 29, 2017, the CA dismissed petitioner's appeal for: (1) being filed out of time; (2) failure to comply with the requirements as to the contents of the petition; and (3) failure to pay the docket and other lawful fees.

Petitioner moved for reconsideration but the same was denied in a Resolution[19] dated July 17, 2019.

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[15] Id. at 40.

[16] Id. at 79-87.

[17] Id. at 93-94.

[18] Id. at 8-12.

[19] Id. at 14-20.

Hence, this petition with the following assignment of errors:

1. THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR TECHNICALITIES;
2. [THE] LOWER COURT ERRED IN ITS DECISION [IN NOT] FINDING [THE] SIGNATURE APPEARING ON THE DOCUMENT DENOMINATED AS SPECIAL POWER OF ATTORNEY IS *(sic)* GENUINE AS ADMITTED BY THE PRIVATE COMPLAINANT[;]
3. THE LOWER COURT ERRED IN FINDING THAT THE PROSECUTION WAS ABLE TO ESTABLISH THAT ACCUSED BENEFITTED FROM THE PROCEEDS OF THE LOAN[; and]
4. THE LOWER COURT ERRED IN FINDING AND AFFIRMING [THE] MUNICIPAL TRIAL COURT'S *(sic)* DECISION WHEN IN FACT WITNESS ELISA CAPERO ADMITTED THAT THE SPECIAL POWER OF ATTORNEY WAS *(sic)* GIVEN TO THE ACCUSED CHONA JAYME [WAS] ALREADY COMPLETE[.][20]

The Court's Ruling

The petition is without merit.

Petitioner maintains that the CA should not have dismissed the case on the basis of pure technicalities so as not to defeat the ends of justice and cause grave injustice to the parties.[21]

Well-entrenched is the rule that the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction if its rigid application will tend to obstruct rather than serve the broader interests of justice.[22] Until then, the procedural rules are accorded utmost respect and due regard as they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of

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[20] Id. at 30.

[21] Id.

[22] *Curammeng v. People*, 799 Phil. 575, 581 (2016).

rival claims and in the administration of justice.[23] The relaxation of the strict application of the rules may only be allowed if it would accommodate the greater interest of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition.[24]

Petitioner filed her petition for review before the CA beyond the 15-day period to appeal from the RTC's judgment of conviction. She received the RTC's order of denial of the motion for reconsideration of the December 1, 2015 RTC Decision on November 11, 2016. Upon receipt, instead of filing a petition for review before the CA pursuant to Rule 42, Section 1, of the 1997 Rules of Civil Procedure, petitioner challenged her conviction by erroneously filing on November 24, 2016, a notice of appeal before the RTC. The RTC, in its Order dated December 16, 2016, correctly denied the notice of appeal for being an improper remedy.

The CA also pointed out various defects in petitioner's petition for review, to wit: (1) failure to implead the People of the Philippines as respondent; (2) failure to present proof that the Office of the Solicitor General was furnished with a copy of the petition; (3) absence of the province or city of commission of the notary public in the notarial certificate of the verification and certification of non-forum shopping; and (4) failure to attach all pleadings and documents relevant to the petition. The CA likewise noted the deficiency in the docket fees.

The Court agrees with the CA's stringent application of the procedural rules. Petitioner's failure to perfect an appeal within the prescribed reglementary period is not a mere technicality, but jurisdictional.[25] Her failure to meet the requirements of an appeal deprives the appellate court of jurisdiction to entertain

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[23] *CMTC International Marketing Corp. v. Bhagis International Trading Corp.*, 700 Phil. 575, 581 (2012).

[24] Id. at 19.

[25] *Producers Bank of the Philippines v. Court of Appeals*, 430 Phil. 812, 829 (2002).

any appeal.[26] Furthermore, factual issues are beyond the scope of a Rule 45 petition as it is not our function to analyze or weigh all over again evidence already considered in the proceedings below.[27] While there are recognized exceptions to this rule, not one is applicable in the instant petition.

The elements of the crime of use of falsified document in any transaction (other than as evidence in a judicial proceeding) are: (1) the offender knew that a document was falsified by another person; (2) the false document is embraced in Article 171 or in any of subdivision Nos. 1 and 2 of Article 172; (3) he used such document (not in judicial proceedings); and (4) the use of the false document caused damage to another or at least it was used with intent to cause such damage.[28] The prosecution must establish with moral certainty the falsity of the document and the defendant's knowledge of its falsity.[29]

It is undisputed that Vicente died on October 4, 2004. Araceli Villavicencio, Registration Officer II of the Local Civil Registrar of Iloilo City, presented before the MTCC the original copy of the Certificate of Death of Vicente Capero on file with the Office of the Local Civil Registrar.[30] However, Vicente appeared to have signed the SPA dated March 30, 2009, granting petitioner the authority to mortgage the subject property. There is thus no doubt that the SPA was spurious.

There is lack of direct evidence in this case that petitioner knew that Vicente was already dead when the SPA was executed and notarized. But the factual backdrop of the case renders it difficult for the Court to see how petitioner could not have learned of Vicente's death. As employee of the mortgagee-bank, petitioner is naturally expected to know the requirements, procedure and processes in obtaining loans, including the

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[26] *Rodriquez v. Robles*, 622 Phil. 804, 812, 817 (2009).

[27] *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013).

[28] *Bowden v. Bowden*, G.R. No. 228739, July 17, 2019.

[29] *Borlongan, Jr. v. Peña*, 563 Phil. 530, 548 (2007).

[30] *Rollo*, p. 38.

consequences of non-compliance. The SPA which petitioner requested from the spouses Capero is an official bank form. Petitioner knew that the SPA must bear his signature as attorney-in-fact including the signatures of Vicente and Elisa as principals. She was aware that she and the spouses Capero should sign the document in the presence of two witnesses. She also understood that as part of the loan approval process, the SPA should be notarized.

Settled is the rule that a notary public must not notarize a document unless the persons who signed it are the very same persons who executed the same, and personally appeared before him to attest to the truth of the contents thereof. This is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free and voluntary act and deed.[31] The manager of the Rural Bank of Marayo admitted that she could not attest as to the authenticity of Vicente's signature because the SPA was only "sent" to Vicente in Mindanao. This notwithstanding, the bank manager still affixed her signature in the SPA as witness and even facilitated the notarization of the document and the mortgage contract. It appears likely, that the presence of the required persons during the notarization were not secured for had the regular procedure been observed, petitioner would readily discover that Vicente could not have signed the SPA because he was already dead. These irregularities should have put petitioner, as employee of the mortgagee-bank and as borrower/beneficiary, on guard and caused her to inquire about Vicente whom she has never met since she requested for the SPA. To the mind of the Court, petitioner knew that Vicente's signature in the SPA was not genuine yet she went on to use it enabling her to mortgage the subject property and receive the proceeds of the loan.

All the elements of the crime of use of falsified document being present in this case, petitioner's conviction is in order.

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[31] *Almario v. Llera-Agno*, A.C. No. 10689, January 8, 2018, 823 SCRA 1, 10.

A note. The Court observes that when the MTCC convicted petitioner for Use of Falsified Document, it stated in the Decision that it was petitioner "who had a hand in the preparation of the Special Power of Attorney and had in fact used the same to facilitate the mortgage."[32] It further held that as employee of the mortgagee-bank, petitioner had the capacity to falsify documents and make them appear as true.[33] In so ruling, the trial court lost sight of the fact that the case before it was only for petitioner's use of falsified SPA which requires that the document was falsified by another person. The charge of falsification of public document was pending in another court at that time. We deem it necessary to clarify that in the crime of use of falsified document, the person who used the forged document is different from the one who falsified it such that "[i]f the one who used the falsified document is the same person who falsified it, the crime is only falsification and the use of the same is not a separate crime." Falsification of a public document and use of false document by the same person who falsified it constitute but a single crime of falsification.[34]

WHEREFORE, the petition is **DENIED**. The Resolutions dated March 29, 2017 and July 17, 2019 of the Court of Appeals in CA-G.R. CR No. 02896 are **AFFIRMED**.

SO ORDERED.

Peralta, C.J. (*Chairperson*)*, Caguioa, Lazaro-Javier,* and *Lopez, JJ.*, concur.

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[32] *Rollo*, p. 40.

[33] Id.

[34] Supra note 28.

FIRST DIVISION

[G.R. No. 249307. August 27, 2020]

BBB,[1] *Petitioner*, *v.* **THE PEOPLE OF THE PHILIPPINES**, *Respondent*.

SYLLABUS

1. REMEDIAL LAW; CRIMINAL PROCEDURE; JUDGMENT; WHERE THERE IS A CONFLICT BETWEEN THE DISPOSITIVE PORTION OF THE DECISION AND THE BODY THEREOF, THE DISPOSITIVE PORTION CONTROLS IRRESPECTIVE OF WHAT APPEARS IN THE BODY OF THE DECISION; RATIONALE. — It is settled that where there is a conflict between the dispositive part and the opinion of the court contained in the text or body of the decision, the former must prevail over the latter on the theory that the dispositive portion is the final order, while the opinion is merely a statement ordering nothing. x x x [T]he Court will generally not disturb the trial court's factual findings especially when affirmed in full by the Court of Appeals, as in this case. For indeed, the trial court is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during the trial.

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[1] Pursuant to OCA Circular No. 97-2019 or the 2019 Supreme Court Revised Rules on Children in Conflict with the Law, which took effect on July 7, 2019 (amended A.M. No. 02-1-18-SC).

Section 52. *Confidentiality of Proceedings and Record*. — All proceedings and records involving children in conflict with the law from initial contact until final disposition of the case by the court shall be considered privileged and confidential. x x x

The court shall employ other measures to protect confidentiality of proceedings including non-disclosure of records to the media, the maintenance of a separate police blotter for cases involving children in conflict with the law and the adoption of a system of coding to conceal material information, which lead to the child's identity. The records of children in conflict with the law shall not be used in subsequent proceedings or cases involving the same offender as an adult.

2. ID.; EVIDENCE; CREDIBILITY; GENERALLY, TRIAL COURT'S FACTUAL FINDINGS ESPECIALLY WHEN AFFIRMED IN FULL BY THE COURT OF APPEALS, WILL NOT BE DISTURBED BY THE SUPREME COURT. — Succinctly stated, "where there is a conflict between the dispositive portion of the decision and the body thereof, the dispositive portion controls irrespective of what appears in the body of the decision." While the body of the decision, order or resolution might create some ambiguity in the manner the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations. More emphatically, *Light Rail Transit Authority v. Court of Appeals* declares that "it is the dispositive part of the judgment that actually settles and declares the rights and obligations of the parties, finally, definitively, and authoritatively, notwithstanding the existence of inconsistent statements in the body that may tend to confuse." In this regard, it must be borne in mind "that execution must conform to that ordained or decreed in the dispositive part of the decision; consequently, where the order of execution is not in harmony with and exceeds the judgment which gives it life, the order has *pro-tanto* no validity."

3. ID.; ID.; CREDIBILITY OF WITNESSES; IN RAPE CASES, THE CREDIBLE TESTIMONY OF THE VICTIM IS SUFFICIENT TO SUSTAIN A VERDICT OF CONVICTION; CASE AT BAR. — The trial court gave full credence to complainant's positive, clear, and straightforward testimony. Surely, the credible testimony of the victim in rape cases is sufficient to sustain a verdict of conviction. More so, when the victim's testimony, as in this case, firmly conformed with the medical findings of the doctor who examined her. Dr. Ureta testified that he examined complainant and found that the latter had an old hymenal abrasion in 5 to 6 o'clock positions. According to Dr. Ureta, these lacerations were indicative of recent insertion of any hard instrument in the vagina, like a finger.

4. ID.; ID.; ID.; TESTIMONIES OF CHILD-VICTIMS ARE NORMALLY GIVEN FULL WEIGHT AND CREDIT; CASE AT BAR. — [C]omplainant was indisputably only eleven (11) years old when the incident happened on November 14, 2012. Her birth certificate indicated she was born on August

24, 2001. Settled is the rule that testimonies of child-victims are normally given full weight and credit. Youth and immaturity are generally badges of truth and sincerity.

5. ID.; ID.; ID.; ALTHOUGH THE JUDGE WHO RENDERED JUDGMENT IN A CRIMINAL CASE WAS NOT THE SAME JUDGE WHO HEARD THE CASE, THERE IS NOTHING TO PRECLUDE THE FORMER FROM ASCERTAINING COMPLAINANT'S CREDIBILITY BASED ON THE RECORDS. — Time and again, the Court has invariably held that although the judge who rendered judgment in a criminal case was not the same judge who heard the case, there is nothing to preclude the former from ascertaining complainant's credibility based on the case records. ***People v. Udang, Sr.*** instructs: Udang attempts to raise doubt in his conviction because the judge who penned the trial court decision, Judge Mordeno, was not the judge who heard the parties and their witnesses during trial. For Udang, Judge Mordeno was in no position to rule on the credibility of the witnesses, specifically, of AAA, not having observed the manner by which the witnesses testified. x x x [T]he trial court decision convicting Udang is valid, regardless of the fact that the judge who heard the witnesses and the judge who wrote the decision are different. **With no showing of any irregularity in the transcript of records, it is presumed to be a "complete, authentic record of everything that transpire[d] during the trial," sufficient for Judge Mordeno to have evaluated the credibility of the witnesses, specifically, of AAA**.

6. ID.; ID.; ID.; ABSENT EVIDENCE THAT THE PRINCIPAL WITNESS FOR THE PROSECUTION WAS ACTUATED BY THE IMPROPER MOTIVE, THE PRESUMPTION IS THAT HE/SHE WAS NOT ACTUATED AND HIS/HER TESTIMONY IS ENTITLED TO FULL CREDENCE. — [T]here is no showing, as none was shown, that complainant was impelled by improper motive or was influenced by any of her family members to falsely accuse petitioner of rape by sexual assault. Absent evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he/she was not so actuated and his/her testimony is entitled to full credence.

7. ID.; ID.; ID.; DENIAL AND ALIBI; INHERENTLY WEAK DEFENSES WHICH CANNOT PREVAIL OVER THE

POSITIVE AND CREDIBLE TESTIMONY OF THE PROSECUTION WITNESS THAT THE ACCUSED COMMITTED THE CRIME; CASE AT BAR.— Notably, against complainant's positive testimony, petitioner only offered denial as a defense. The Court has constantly decreed that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, between a categorical testimony which has a ring of truth on one hand, and a mere denial on the other, the former is generally held to prevail.

8. CRIMINAL LAW; RAPE BY SEXUAL ASSAULT; ELEMENTS. — ***People v. Bagsic*** enumerated the elements of rape by sexual assault, *viz*.: (1) The offender commits an act of sexual assault; (2) The act of sexual assault is committed by any of the following means: (a) By inserting his penis into another person's mouth or anal orifice; or **(b) By inserting any instrument or object into the genital or anal orifice of another person;** (3) That the act of sexual assault is accomplished under any of the following circumstances: (a) By using force and intimidation; (b) When the woman is deprived of reason or otherwise unconscious; or (c) By means of fraudulent machination or grave abuse of authority; or (d) **When the woman is under 12 years of age** or demented.

9. ID.; REPUBLIC ACT NO. 7610 (SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION AND DISCRIMINATION ACT); CHILDREN; DEFINED; CASE AT BAR. — RA 7610 defines "children" as persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition. Complainant and petitioner, eleven (11) and fifteen (15) years old, respectively, at the time of the incident, were both children. In the Information itself, petitioner was referred to as a "child in conflict with the law" and complainant as an eleven (11) year old girl. Petitioner's minority at the time the offense was committed is undisputed.

10. ID.; ID.; ENACTED TO PROTECT CHILDREN FROM ABUSE, EXPLOITATION, AND DISCRIMINATION BY ADULTS AND NOT BY PERSONS WHO ARE ALSO

CHILDREN THEMSELVES. — RA 7610 was enacted in order to protect children from abuse, exploitation, and discrimination by adults and not by persons who are also children themselves. Section 5 of RA 7610 expressly states that a child is deemed to be sexually abused when coerced or influenced by an ***adult***, syndicate, or group.

11. ID.; 2019 SUPREME COURT REVISED RULES ON CHILDREN IN CONFLICT WITH THE LAW; ORDAINS THAT THE BEST INTEREST OF THE CHILD SHALL BE TAKEN INTO CONSIDERATION IN JUDGING A MINOR OFFENDER; PROPER PENALTY IN CASE AT BAR. — [T]he 2019 Supreme Court Revised Rules on Children in Conflict with the Law which took effect on July 7, 2019 ordains that the best interest of the child shall be taken into consideration in judging a minor offender, to wit: **Section 44.** *Guiding Principles in Judging the Child.* - Subject to the provisions of the Revised Penal Code, as amended, and other special laws, the judgment against a child in conflict with the law shall be guided by the following principles: (1) The judgment shall be in proportion to the gravity of the offense, and shall consider the circumstances and the best interest of the child, the rights of the victim, and the needs of society in line with the demands of balanced and restorative justice. (2) Restrictions on the personal liberty of the child shall be limited to the minimum, x x x Verily, therefore, being only fifteen (15) years and eight (8) months old when he committed the crime he was charged with and found guilty of, petitioner should be penalized under Article 266-A (2) of the Revised Penal Code, as amended by RA 8353. x x x Since the privileged mitigating circumstance of minority applies to petitioner, the penalty next lower in degree should be imposed, *i.e., prision correctional*. Applying the Indeterminate Sentence Law, petitioner should be sentenced to six (6) months of *arresto mayor* as minimum to four (4) years and two (2) months of *prision correctional* as maximum.

12. ID.; REPUBLIC ACT NO. 9344 (JUVENILE JUSTICE AND WELFARE ACT OF 2006); APPLICATION THEREOF EXTENDS TO THE ONE WHO HAS EXCEEDED THE AGE LIMIT OF TWENTY-ONE (21) YEARS, SO LONG AS HE/SHE COMMITTED THE CRIME WHEN HE/SHE WAS STILL A CHILD; RATIONALE; CASE AT BAR. — In accordance, however, with RA 9344 and ***Deliola***, citing ***People***

v. Jacinto and ***People v. Ancajas, et al.***, petitioner, although he is now more than twenty-one (21) years old, is still entitled to be confined in an agricultural camp instead of serving sentence in a regular jail. ***Deliola*** enunciated: Although it is acknowledged that accused-appellant was qualified for suspension of sentence when he committed the crime, Section 40 of R.A. 9344 provides that the same extends only until the child in conflict with the law reaches the maximum age of twenty-one (21) years old. Nevertheless, in extending the application of RA No. 9344 to give meaning to the legislative intent of the said law, we ruled in *People v. Jacinto*, as cited in *People v. Ancajas*, that **the promotion of the welfare of a child in conflict with the law should extend even to one who has exceeded the age limit of twenty-one (21) years, so long as he/she committed the crime when he/she was still a child. The offender shall be entitled to the right to restoration, rehabilitation and reintegration in order that he/she may be given the chance to live a normal life and become a productive member of the community. Thus, accused-appellant is ordered to serve his sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities**, in accordance with Section 51 of R.A. 9344.

CAGUIOA, *J., concurring and dissenting opinion*:

CRIMINAL LAW; REPUBLIC ACT NO. 7610 (ANTI-CHILD ABUSE ACT); SECTION 5, PARAGRAPH b THEREOF; APPLIES ONLY TO THE SPECIFIC AND LIMITED INSTANCES WHERE THE CHILD VICTIM IS "EXPLOITED IN PROSTITUTION OR SUBJECTED TO OTHER SEXUAL ABUSE" EPSOSA); ELEMENTS; AGE OF MINORITY, NOT THE GAUGE FOR THE INAPPLICABILITY OF APPLICABILITY OF THE PENALTY UNDER REPUBLIC ACT NO. 7610. — I reiterate and maintain my position in *People v. Tulaga* that R.A. 7610 and the RPC, as amended by R.A. 8353, "have different spheres of application; they exist to complement each other such that there would be no gaps in our criminal laws. They were not meant to operate simultaneously in each and every case of sexual abuse committed against minors." Section 5, paragraph b of R.A. 7610 applies only to the **specific** and **limited instances** where the child-victim is "exploited in prostitution or subjected to other sexual abuse" (EPSOSA). In

other words, for an act to be considered under the purview of Section 5, paragraph b of R.A. 7610, so as to trigger the higher penalty provided therein, "the following essential elements need to be proved: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child 'exploited in prostitution or subjected to other sexual abuse'; and (3) the child whether male or female, is below 18 years of age. Hence, it is not enough that the victim be under 18 years of age." The element of the victim being EPSOSA - *a separate and distinct element* - must first be both alleged and proved before a conviction under Section 5, paragraph b of R.A. 7610 may be reached. x x x More so, that the element of EPSOSA must be the sole litmus test in drawing distinctions between crimes under Article 266-A and Section 5 of R.A. 7610, as opposed to the minority of the victim, is only further supported by the fact that the criterion of minority of the victim is shown in this case to be an under-inclusive impetus for despite the minority of the victim here, R.A. 7610 was nevertheless deemed inconsequential with respect to the determination of the imposable penalty. Finally, it is worth noting that if we proceed from the line of ratiocination that the gauge for inapplicability or applicability of the penalty under R.A. 7610 is the age of minority of either the victim or the offender, and not the distinct element of EPSOSA, it may well be conceived that for as long as the offender is a minor, regardless of whether the victim was in point of fact exposed to EPSOSA, the offender will still not be meted the penalty under R.A. 7610. Such a scenario, arguably permitted by the premise of the *ponencia* on inapplicability of R.A. 7610, is decidedly incongruent with the legislative intent behind R.A. 7610, and takes significantly away from its impetus involving the specialized protection of children who are sexually exploited and abused for consideration. This all the more makes salient the important criterion of EPSOSA, for any other determinant than this will inevitably allow for offenses which this law was designed to punish to no less than slip through the cracks.

APPEARANCES OF COUNSEL

Alave Law Office for petitioner.
The Solicitor General for respondent.

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This petition for review on *certiorari*[2] seeks to reverse the Decision[3] dated August 29, 2019 of the Court of Appeals in CA-G.R. CR No. 01722-MIN, which affirmed with modification petitioner BBB's conviction for rape by sexual assault.

Antecedents

BBB was charged with rape by sexual assault under Article 266-A (2) of the Revised Penal Code (RPC) in relation to Republic Act No. 7610[4] (RA 7610), *viz.*:

> That sometime on November 14, 2012, in the [redacted] Province of North Cotabato, Philippines and within the jurisdiction of this Honorable Court, the said child in conflict with the law, acting with discernment, with lewd design, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously insert his finger into the genitalia of [AAA][5] who is 11 years old, against her will, which act does not only debases, degrades and demeans the intrinsic worth and dignity of [AAA] as a child but [is] also prejudicial to her growth and development.
>
> CONTRARY TO LAW.[6]

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[2] *Rollo*, pp. 18-43.

[3] Penned by Associate Justice Loida S. Posadas-Kahulugan and concurred in by Associate Justice Edgardo T. Lloren and Associate Justice Angelene Mary W. Quimpo-Sale, *id.* at 47-68.

[4] Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

[5] The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

[6] *Id.* at 48 and 69.

When arraigned, petitioner pleaded not guilty.[7]

Version of the Prosecution

Complainant testified that she was born on August 24, 2001. On November 14, 2012 around 2 o'clock in the afternoon, while attending an event in school, her classmate Hara Jane Generosa (Generosa) invited her to go to John Mark Socubos' (Socubos) house together with petitioner and Robin James Navido (Navido). Due to Generosa's persistent invitation, she eventually agreed. She and Generosa followed petitioner and his friends to Socubos' house. There, she noticed that none of Socubos' relatives were home. When Socubos and Navido went out to buy something, petitioner asked Generosa to go out for a while, leaving her and petitioner alone in the house.[8]

In the living room, petitioner asked her if she had her monthly period. She answered in the negative. He then moved closer to her, lowered her pants and underwear, and kissed her on the cheek. She was so shocked and scared, she failed to do anything. He then inserted his forefinger into her vagina. Jolted by the pain, she immediately pulled up her pants and underwear and dashed out of the house. She and Generosa went back to school. Generosa told her not to tell anyone what happened.[9]

But Generosa herself later told their class adviser what happened to her. The class adviser, in turn, relayed it to her mother. The following day, on December 4, 2012, her mother reported the incident to the Municipal Social Development Office (MSDO). There, they were advised to also report the incident to the police. She was examined at the Municipal Health Center. Dr. Phillen D. Ureta (Dr. Ureta) found an old hymenal abrasion at 5 to 6 o'clock positions.[10]

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[7] *Id.*

[8] *Id.* at 49.

[9] *Id.* at 70.

[10] *Id.* at 51-52.

Version of the Defense

Petitioner testified that he was only fifteen (15) years old when the alleged incident happened. Since February 13, 2011, he and complainant were already a couple.[11]

On November 14, 2012, he was with Socubos and Navido composing a song for their intermission number in complainant's school. But when they later learned they could no longer participate in the event, they just decided to eat lunch at Socubos' house. There, they found nothing to eat. Thus, Socubos and Navido went out to eat while he stayed in the house and took a nap.[12]

He was awakened when he heard someone calling his name. When he looked out, he saw Generosa and complainant. Generosa told him that complainant wanted to talk to him. He told complainant, however, they could not talk inside as the place was not his, but complainant and Generosa came in anyway. Generosa then stepped out again and closed the door behind her. The doorknob was broken and could only be opened from the outside. But Generosa refused to let them out of the house.[13]

Inside, complainant was crying while asking him regarding the rumors she heard about his supposed girlfriend in another school. He consoled and assured her that she was his only girlfriend. To further appease her, he hugged and kissed her on the cheek. She then told him to "*watch out*." Just as Socubos and Navido were coming back, Generosa called out for complainant to come out. He offered to accompany complainant back to school but she refused.[14]

The Trial Court's Ruling

In the body of its Decision dated July 6, 2018,[15] Regional Trial Court (RTC), Branch 23, Kidapawan City pronounced petitioner guilty as charged, *viz.*:

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[11] *Id.* at 52.

[12] *Id.*

[13] *Id.* at 53.

[14] *Id.* at 53.

[15] Penned by Presiding Judge Jose T. Tabosares, *rollo*, *id.* at pp. 69-77.

WHEREFORE, based [on] the forgoing disquisitions, this court finds the accused guilty of the crime as charged beyond reasonable doubt and he is hereby sentenced to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional* as minimum to [eight] (8) years and one (1) day of *prision mayor* as maximum.

The accused is further directed to pay the victim the sum of ₱30,000.00 as civil indemnity; ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The period of preventive detention of the accused is counted in his favor. Cost de Officio.[16]

The trial court gave full credence to complainant's testimony. It noted that complainant was just eleven (11) years old at the time the crime was committed, hence, the only subject of inquiry is whether "carnal knowledge" in fact took place. It similarly noted that complainant never faltered in her testimony even when she was subjected to a grueling cross-examination by the defense. Her testimony was not only consistent and straightforward, it was further supported by Dr. Ureta's findings.

The trial court, too, adopted the social worker's finding that petitioner acted with discernment when he committed the offense. For petitioner admitted that complainant was his girlfriend and he understood how difficult it was inside the detention cell. In fact, he even cried when recalling his time inside.

The trial court, nonetheless, concluded in the body of its decision that since Dr. Ureta found complainant's hymen to be intact, petitioner cannot be convicted of rape, but only of lascivious conduct.

Ruling of the Court of Appeals

On appeal, the Court of Appeals rendered its assailed Decision dated August 29, 2019,[17] *viz.*:

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[16] *Id.* at 77.

[17] Supra note 3.

WHEREFORE, [the] foregoing premises considered, the appeal is **DENIED**. The *Decision* dated 06 July 2018 of the Regional Trial Court (RTC), Branch 23, 12th Judicial Region, Kidapawan City in Crim. Case No. 1737-2013 in convicting the appellant of the crime charged is hereby **AFFIRMED** in that accused-appellant BBB is **GUILTY** beyond reasonable doubt of the crime of Rape by Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correctional [sic]* in its medium period, as minimum, to eight (8) years and one (1) day of *prision mayor* in its medium period, as maximum.

Accused-appellant is **ORDERED** to pay the private complainant the amounts of ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The amounts of damages awarded shall have an interest of six percent (6%) *per annum* from the date of finality of judgment until fully paid.

The case against the accused-appellant shall be **REMANDED** to the trial court for appropriate disposition in accordance with Section 51 of Republic Act No. 9344.

SO ORDERED.[18]

The Court of Appeals found petitioner guilty of rape by sexual assault. It affirmed the trial court's assessment of complainant's credibility as there was no showing that the trial court's factual findings were tainted with arbitrariness or oversight. It disregarded the defense's claim that complainant's account of what happened during and after the alleged incident was contrary to human experience. It emphasized that a child victim cannot be expected to behave and react as an adult.

It similarly found that petitioner acted with discernment when he committed the act. Petitioner obviously knew what he was doing when he asked complainant first whether she had her monthly period at that time.

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays anew for his acquittal.

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[18] *Id.* at 67.

In the main, petitioner, faults the Court of Appeals for affirming the trial court's factual findings on the credibility of complainant's testimony. He maintains that it was inconsistent with human nature for an eleven (11) year old girl to go to the house of someone she claimed she did not even know very well and to not react when this person allegedly undressed and instructed her not to report to anyone the horrendous thing which he allegedly did to her.[19] Too, the imposition of the penalty under RA 7610 instead of the RPC is misplaced considering that he was also a minor when the incident happened. Imposing on him the heavier penalty under RA 7610 is contrary to the provisions of the Juvenile Justice and Welfare Act of 2006 which aim to protect the best interest of the child in conflict with the law.[20]

The People, on the other hand, argues that the issues raised by petitioner are factual in nature, hence, not proper a subject of a petition for review on *certiorari*. Besides, these issues were already discussed and resolved by the trial court and Court of Appeals.[21] In any case, the trial court and the Court of Appeals correctly found petitioner guilty of rape by sexual assault. Complainant never faltered in her testimony. She was consistent and straightforward. Dr. Ureta's findings also corroborate complainant's allegations.[22] Notably too, the defense stipulated on the assessment of the Municipal Social Welfare and Development Officer (MSWDO) that petitioner had acted with discernment. Petitioner cannot now deny a finding to which he agreed.[23]

Lastly, the Court of Appeals did not err when it imposed on petitioner the heavier penalty under RA 7610. The framers of RA 7610 clearly intended to provide a heavier penalty for sexual abuses committed against minors. The provisions of RA 7610

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[19] *Id.* at 25-37.

[20] *Id.* at 37-40.

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

[22] *Id.* at 148.

[23] *Id.* at 149-152.

should be given full force and effect. To exempt a minor offender from the heavier penalty under RA 7610 would not only defeat the purpose of the law but will also prejudice the minor victim because the minor offender is protected by the Juvenile Justice and Welfare Act of 2006. This would be tantamount to tolerating the acts of the minor offender.[24]

Issues

1. Did the Court of Appeals err in finding petitioner guilty of rape by sexual assault?

2. Did the Court of Appeals err when it applied the penalty prescribed under RA 7610 to petitioner, a minor offender?

Ruling

To begin with, there is a discrepancy in the designation of the crime which petitioner was found to have committed, as borne in the body of the trial court's decision, on one hand, and as borne in the *fallo* itself, on the other. In the body, the trial court concluded that the accused (petitioner) did not commit rape through sexual assault but only acts of lasciviousness, thus:

> Nevertheless, since based on the findings of the doctor, the hymen of the victim was intact, it can be gleaned that the accused has not committed the crime of rape [through] sexual assault but merely acts of lasciviousness. Although the charged [sic] was rape by sexual assault under Article 266-A second paragraph, the accused can still be convicted of the crime of acts of lasciviousness under Article 335 of the Revised Penal Code in relation to Title III, Section 5(b) of R.A. 7610.
>
> Under the variance doctrine embodied in Section 4, in relation to Section 5, Rule 120 of the Rules of Criminal Procedure and affirmed by settled jurisprudence, even though the crime charged against the accused was for rape through carnal knowledge, he can be convicted of the crime of acts of lasciviousness without violating any of his constitutional rights because said crime is included in the crime of rape.[25]

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[24] *Id.* at 152-159.

[25] *Id.* at 75.

But in the *fallo*, the trial court pronounced petitioner guilty of the crime, as charged, to wit:

WHEREFORE, based [on] the forgoing disquisitions, this court finds the accused guilty of the crimes as charged beyond reasonable doubt and he is hereby sentenced to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional* as minimum to [eight] (8) years and one (1) day of *prision mayor* as maximum.

The accused is further directed to pay the victim the sum of ₱30,000.00 as civil indemnity; ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The period of preventive detention of the accused is counted in his favor. Cost de Officio.[26]

It is settled that where there is a conflict between the dispositive part and the opinion of the court contained in the text or body of the decision, the former must prevail over the latter on the theory that the dispositive portion is the final order, while the opinion is merely a statement ordering nothing.[27] ***Florentino v. Rivera***[28] ordains:

> It is settled rule that "the operative part in every decision is the dispositive portion or the *fallo*, and where there is conflict between the *fallo* and the body of the decision, the *fallo* controls. This rule rests on the theory that the *fallo* is the final order while the opinion in the body is merely a statement, ordering nothing." We expounded on the underlying reason behind this rule in *Republic v. Nolasco* where, reiterating the earlier pronouncements made in *Contreras v. Felix*, we said:
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> > More to the point is another well-recognized doctrine that the final judgment of the court as rendered in the judgment of the court irrespective of all seemingly contrary statements in the decision. "A judgment must be distinguished from an opinion. The latter is the informal expression of the views of the court and cannot prevail against its final order or decision. While

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[26] Supra note 16.

[27] *PH Credit Corporation v. Court of Appeals, et al.*, 421 Phil. 821, 833 (2001).

[28] 515 Phil. 494, 501-503 (2006).

> the two may be combined in one instrument, the opinion forms no part of the judgment. So, . . . there is a distinction between the findings and conclusions of a court and its Judgment. While they may constitute its decision and amount to the rendition of a judgment, they are not the judgment itself. They amount to nothing more than an order for judgment, which must, of course, be distinguished from the judgment." (1 Freeman on Judgments, p. 6). At the root of the doctrine that the premises must yield to the conclusion is perhaps, side by side with the needs of writing finis to litigations, the recognition of the truth that "the trained intuition of the judge continually leads him to right results for which he is puzzled to give unimpeachable legal reasons." "It is an everyday experience of those who study judicial decisions that the results are usually sound, whether the reasoning from which the results purport to flow is sound or not." (The Theory of Judicial Decision, Pound, 36 Harv. Law Review, pp. 9, 51). It is not infrequent that the grounds of a decision fail to reflect the exact views of the court, especially those of concurring justices in a collegiate court. We often encounter in judicial decisions, lapses, findings, loose statements and generalities which do not bear on the issues or are apparently opposed to the otherwise sound and considered result reached by the court as expressed in the dispositive part, so called, of the decision.

Succinctly stated, "where there is a conflict between the dispositive portion of the decision and the body thereof, the dispositive portion controls irrespective of what appears in the body of the decision." While the body of the decision, order or resolution might create sonic ambiguity in the manner the court's reasoning preponderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.

More emphatically, *Light Rail Transit Authority v. Court of Appeals* declares that "it is the dispositive part of the judgment that actually settles and declares the rights and obligations of the parties, finally, definitively, and authoritatively, notwithstanding the existence of inconsistent statements in the body that may tend to confuse." In this regard, it must be borne in mind "that execution must conform to that ordained or decreed in the dispositive part of the decision; consequently, where the order of execution is not in harmony with

and exceeds the judgment which gives it life, the order has *pro-tanto* no validity."

On appeal, the Court of Appeals disagreed with the trial court's factual conclusion in the body of the latter's decision, *thus*:

> However, this Court disagrees with the RTC in holding that since per Dr. Ureta's findings, the hymen of the victim was intact, appellant cannot be said to have committed the crime of rape by sexual assault but only acts of lasciviousness. It bears emphasizing that a broken hymen is not an element of the crime charged against the appellant.[29]

and eventually made the following disposition, thus:

> **WHEREFORE**, [the] foregoing premises considered, the appeal is **DENIED**. The *Decision* dated 06 July 2018 of the Regional Trial Court (RTC), Branch 23, 12th Judicial Region, Kidapawan City in Crim. Case No. 1737-2013 in convicting the appellant of the crime charged is hereby **AFFIRMED** in that accused-appellant BBB is **GUILTY** beyond reasonable doubt of the crime of Rape by Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correctional* [sic] in its medium period, as minimum, to eight (8) years and one (1) day of *prision mayor* in its medium period, as maximum.
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> x x x x x x x x x

Clearly, therefore, both the trial court and the Court of Appeals convicted petitioner of rape by sexual assault.

We now focus on these courts' appreciation of the evidence which boils down to the issue of credibility. On this score, the Court will generally not disturb the trial court's factual findings especially when affirmed in full by the Court of Appeals, as in this case. For indeed, the trial court is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[30] Here, records bear complainant's detailed narration of

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[29] *Rollo*, p. 59.

[30] *See People v. Mabalo*, G.R. No. 238839, February 27, 2019; also *see People v. Bay-Od*, G.R. No. 238176, January 14, 2019.

the incident when she was left inside the Socubos residence with petitioner: the latter undressed her, kissed her, and inserted his finger into her vagina.

The trial court gave full credence to complainant's positive, clear, and straightforward testimony. Surely, the credible testimony of the victim in rape cases is sufficient to sustain a verdict of conviction. More so, when the victim's testimony, as in this case, firmly conformed with the medical findings of the doctor who examined her. Dr. Ureta testified that he examined complainant and found that the latter had an old hymenal abrasion in 5 to 6 o'clock positions. According to Dr. Ureta, these lacerations were indicative of recent insertion of any hard instrument in the vagina, like a finger.[31]

Also, complainant was indisputably only eleven (11) years old when the incident happened on November 14, 2012. Her birth certificate[32] indicated she was born on August 24, 2001. Settled is the rule that testimonies of child-victims are normally given full weight and credit. Youth and immaturity are generally badges of truth and sincerity.[33]

Petitioner, however, asserts that Presiding Judge Jose T. Tabosares who penned the trial court's decision could not have possibly "observed" complainant's behavior during her testimony because he was not yet the presiding judge when complainant testified.[34]

Time and again, the Court has invariably held that although the judge who rendered judgment in a criminal case was not the same judge who heard the case, there is nothing to preclude the former from ascertaining complainant's credibility based on the case records. ***People v. Udang, Sr.***[35] instructs:

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[31] *Rollo*, p. 108.

[32] Exhibit "C."

[33] *People v. Padit*, 780 Phil. 69, 80 (2016).

[34] *Rollo*, p. 25.

[35] 823 Phil. 411, 424-425 (2018).

Udang attempts to raise doubt in his conviction because the judge who penned the trial court decision, Judge Mordeno, was not the judge who heard the parties and their witnesses during trial. For Udang, Judge Mordeno was in no position to rule on the credibility of the witnesses, specifically, of AAA, not having observed the manner by which the witnesses testified.

Ideally, the same trial judge should preside over all the stages of the proceedings, especially in cases where the conviction or acquittal of the accused mainly relies on the credibility of the witnesses. The trial judge enjoys the opportunity to observe, first hand, "the aids for an accurate determination" of the credibility of a witness "such as the witness' deportment and manner of testifying, the witness' furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath."

However, inevitable circumstances – the judge's death, retirement, resignation, transfer, or removal from office – may intervene during the pendency of the case. An example is the present case, where the trial judge who heard the witnesses, Judge Francisco D. Calingin (Judge Calingin), compulsorily retired pending trial. Judge Calingin was then replaced by Judge Mordeno, who proceeded with hearing the other witnesses and writing the decision. **Udang's argument cannot be accepted as this would mean that every case where the judge had to be replaced pending decision would have to be refiled and retried so that the judge who hears the witnesses testify and the judge who writes the decision world be the same. What Udang proposes is impracticable.**

x x x x x x x x x

Applying the foregoing, the trial court decision convicting Udang is valid, regardless of the fact that the judge who heard the witnesses and the judge who wrote the decision are different. **With no showing of any irregularity in the transcript of records, it is presumed to be a "complete, authentic record of everything that transpire[d] during the trial," sufficient for Judge Mordeno to have evaluated the credibility of the witnesses, specifically, of AAA**. (Emphasis supplied)

So must it be.

Further, there is no showing, as none was shown, that complainant was impelled by improper motive or was influenced by any of her family members to falsely accuse petitioner of

rape by sexual assault. Absent evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he/she was not so actuated and his/her testimony is entitled to full credence.[36]

Notably, against complainant's positive testimony, petitioner only offered denial as a defense. The Court has constantly decreed that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, between a categorical testimony which has a ring of truth on one hand, and a mere denial on the other, the former is generally held to prevail.[37]

The Court of Appeals, therefore, did not err in finding petitioner guilty of rape by sexual assault. ***People v. Bagsic***[38] enumerated the elements of rape by sexual assault, *viz.*:

(1) The offender commits an act of sexual assault;

(2) The act of sexual assault is committed by any of the following means:

(a) By inserting his penis into another person's mouth or anal orifice; or

(b) By inserting any instrument or object into the genital or anal orifice of another person;

(3) That the act of sexual assault is accomplished under any of the following circumstances:

(a) By using force and intimidation;

(b) When the woman is deprived of reason or otherwise unconscious; or

(c) By means of fraudulent machination or grave abuse of authority; or

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[36] *People v. Galuga*, G.R. No. 221428, February 13, 2019.

[37] *People v. Batalla*, G.R. No. 234323, January 07, 2019.

[38] 822 Phil. 784, 800 (2017).

(d) **When the woman is under 12 years of age** or demented. (Emphasis supplied)

All three (3) elements were proved here. Consider (a) petitioner committed a sexual act on complainant; (b) by inserting his finger into complainant's vagina; and (c) complainant was only eleven (11) years old at that time.

On whether petitioner, then only fifteen (15) years old, acted with discernment, the Court affirms the concurrent findings of both courts below. They properly gave weight to the report submitted by Social Worker Antonia Fernandez to the trial court, which stated:[39]

He invited her inside the house and his classmate left them and he had a chance to be alone and there he sexually molested her because he observed that she did not refused *[sic]* what they did and kissed her lips. He admitted during the time the incident happened that what they did is wrong.

All told, the Court of Appeals did not err when it rendered a verdict of conviction against petitioner for rape by sexual assault.

Penalty

Article 266-A and Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353 (RA 8353)[40] define and penalize rape by sexual assault, as follows:

Article 266-A. Rape. *When and How Committed*. – Rape is committed:

x x x x x x x x x

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Article 266-B. *Penalty*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

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[39] *Rollo*, p. 109.

[40] The Anti-Rape Law of 1997.

x x x x x x x x x

Rape under paragraph 2 of the next preceding article shall be punished by *prision mayor*.

RA 7610, on the other hand, provides:

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:

x x x x x x x x x

(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

Petitioner argues it was grave error for the Court of Appeals to impose on him the stiffer penalty of *reclusion temporal* in its medium period under RA 7610 instead of the lighter penalty of *prision mayor* prescribed under the Revised Penal Code considering he was also a minor at the time of the incident.

The argument is meritorious.

RA 7610 defines "children" as persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

Complainant and petitioner, eleven (11) and fifteen (15) years old, respectively, at the time of the incident, were both children.

In the Information itself, petitioner was referred to as a "child in conflict with the law" and complainant as an eleven (11) year old girl. Petitioner's minority at the time the offense was committed is undisputed.

RA 7610 was enacted in order to protect children from abuse, exploitation, and discrimination by adults and not by persons who are also children themselves. Section 5 of RA 7610 expressly states that a child is deemed to be sexually abused when coerced or influenced by an ***adult***, syndicate, or group, thus:

> **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. (Emphasis supplied)

Caballo v. People[41] elucidated on the offenders covered by this provision, *viz.*:

> The second element, *i.e.*, that the act is performed with a child exploited in prostitution or subjected to other sexual abuse, is likewise present. As succinctly explained in *People v. Larin*:
>
> > A child is deemed exploited in prostitution or subjected to other sexual abuse, when the child indulges in sexual intercourse or lascivious conduct (a) for money, profit, or any other consideration; or (b) **under the coercion or influence of any adult, syndicate or group**. . .
>
> It must be noted that the law covers not only a situation in which a child is abused for profit, but also one in which a child, through coercion or intimidation, engages in lascivious conduct.
>
> We reiterated this ruling in *Amployo v. People*:
>
> > . . . As we observed in *People v. Larin*, Section 5 of Rep. Act No. 7610 does not merely cover a situation of a child being abused for profit, but also one in which a child engages in any lascivious conduct through coercion or intimidation. . .

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[41] 710 Phil. 792, 803 (2013).

Thus, a child is deemed subjected to other sexual abuse when the child indulges in lascivious conduct **under the coercion or influence of any adult**. In this case, Cristina was sexually abused because she was coerced or intimidated by petitioner to indulge in a lascivious conduct. x x x (Emphasis supplied)

In ***People v. Deliola***,[42] accused Deliola had carnal knowledge of his niece AAA. At that time, AAA was only eleven (11) years old like complainant herein. Deliola, on the other hand, was fifteen (15) years old, the same age as herein petitioner. Deliola was charged with and found guilty of qualified statutory rape under 266-A and 266-B of the Revised Penal Code and not under RA 7610.

Similarly, the 2019 Supreme Court Revised Rules on Children in Conflict with the Law which took effect on July 7, 2019 ordains that the best interest of the child shall be taken into consideration in judging a minor offender, to wit:

Section 44. *Guiding Principles in Judging the Child.* — Subject to the provisions of the Revised Penal Code, as amended, and other special laws, the judgment against a child in conflict with the law shall be guided by the following principles:

(1) The judgment shall be in proportion to the gravity of the offense, and shall consider the circumstances and the best interest of the child, the rights of the victim, and the needs of society in line with the demands of balanced and restorative justice.

(2) Restrictions on the personal liberty of the child shall be limited to the minimum. x x x[43]

Verily, therefore, being only fifteen (15) years and eight (8) months old when he committed the crime he was charged with and found guilty of, petitioner should be penalized under Article 266-A (2) of the Revised Penal Code, as amended by RA 8353, *viz.*:

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[42] 794 Phil. 194, 212 (2016).

[43] Section 46 under A.M. No. 02-1-18-SC or the Revised Rule on Children in Conflict with the Law.

Article 266-A. Rape: *When and How Committed*. – Rape is committed:

1) x x x

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an **act of sexual assault by inserting** his penis into another person's mouth or anal orifice, or **any instrument or object, into the genital or anal orifice of another person**. (Emphasis supplied)

Since the privileged mitigating circumstance of minority applies to petitioner, the penalty next lower in degree should be imposed, *i.e.*, *prision correccional*.[44]

Applying the Indeterminate Sentence Law, petitioner should be sentenced to six (6) months of *arresto mayor* as minimum to four (4) years and two (2) months of *prision correccional* as maximum.

In accordance, however, with RA 9344[45] and ***Deliola***,[46] citing ***People v. Jacinto***[47] and ***People v. Ancajas, et al.***,[48] petitioner, although he is now more than twenty-one (21) years old, is

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[44] See Supra note 42, at 212.

Art. 68. *Penalty to be imposed upon a person under eighteen years of age*. — When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraphs next to the last of Article 80 of this Code, the following rules shall be observed:

x x x x x x x x x

2. Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.

[45] **Section 51.** ***Confinement of Convicted Children in Agricultural Camps and other Training Facilities.*** — A child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.

[46] Supra note 42.

[47] 661 Phil. 224 (2011).

[48] 772 Phil. 166 (2015).

still entitled to be confined in an agricultural camp instead of serving sentence in a regular jail. ***Deliola*** enunciated:

> Although it is acknowledged that accused-appellant was qualified for suspension of sentence when he committed the crime, Section 40 of R.A. 9344 provides that the same extends only until the child in conflict with the law reaches the maximum age of twenty-one (21) years old. Nevertheless, in extending the application of RA No. 9344 to give meaning to the legislative intent of the said law, we ruled in *People v. Jacinto*, as cited in *People v. Ancajas*, that **the promotion of the welfare of a child in conflict with the law should extend even to one who has exceeded the age limit of twenty-one (21) years, so long as he/she committed the crime when he/she was still a child. The offender shall be entitled to the right to restoration, rehabilitation and reintegration in order that he/she may be given the chance to live a normal life and become a productive member of the community. Thus, accused-appellant is ordered to serve his sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other training facilities**, in accordance with Section 51 of R.A. 9344.[49] (Emphasis supplied)

More, the total period which petitioner initially served from his arrest on August 29, 2013 up till he got released on bail on October 13, 2014[50] shall be credited in his favor.

As for damages, the Court of Appeals correctly ordered petitioner to pay complainant ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages in accordance with ***People v. Lindo***.[51]

WHEREFORE, the petition is **PARTLY GRANTED**. The Decision dated August 29, 2019 of the Court of Appeals in CA-G.R. CR No. 01722-MIN is **AFFIRMED with MODIFICATION**.

Petitioner BBB is found **GUILTY** of **Rape through Sexual Assault** under Article 266-A (2) of the Revised Penal Code.

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[49] Supra note 42, at 212-213.

[50] *Rollo*, p. 24.

[51] 641 Phil. 635 (2010).

He is sentenced to an indeterminate term of six (6) months of *arresto mayor* as minimum to four (4) years and two (2) months of *prision correccional* as maximum. He is further ordered to **PAY** complainant AAA the following monetary awards:

(1) ₱30,000.00 as civil indemnity;
(2) ₱30,000.00 as moral damages; and
(3) ₱30,000.00 as exemplary damages.

All monetary awards shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

This case is **REMANDED** to the Regional Trial Court, Branch 23, Kidapawan City for its appropriate action on petitioner's service of sentence, in lieu of confinement in a regular penal institution, in an agricultural camp or other training facilities established, maintained, supervised, and controlled by the Bureau of Corrections in coordination with the Department of Social Welfare and Development, in accordance with Section 51 of Republic Act No. 9344.

SO ORDERED.

Peralta, C.J. (*Chairperson*), *Reyes, Jr.,* and *Lopez, JJ.*, concur.

Caguioa, J., see concurring and dissenting opinion.

CONCURRING AND DISSENTING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia* insofar as it affirms petitioner BBB's (BBB)[1] conviction of rape by sexual assault under Article

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[1] The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to R.A. 7610, titled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; R.A. 9262, titled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE

266-A, paragraph 2 of the Revised Penal Code (RPC) as amended by Republic Act No. (R.A.) 8353, and its ruling that R.A. 7610 is inapplicable in the present case. However, I dissent as to the basis of such inapplicability.

The *ponencia* holds that the stiffer penalty under R.A. 7610 may not be imposed in the place of that provided in Article 266-A, paragraph 2 of the RPC, but grounds the same on the fact that BBB, at the time of the commission of the crime, was also himself a minor at 15 years old, and R.A. 7610 only covers adult offenders, thus excluding him.[2] This basis predictably proceeds from the prior legal conclusion that had BBB been of majority age at the time of the offense, he would have been meted the penalty prescribed in R.A. 7610, under the premise that the elements of rape by sexual assault under Article 266-A, paragraph 2 are likewise covered under Section 5 of R.A. 7610.

Contrarily, I reiterate and maintain my position in *People v. Tulagan*[3] that R.A. 7610 and the RPC, as amended by R.A. 8353, "have different spheres of application; they exist to complement each other such that there would be no gaps in our criminal laws. They were not meant to operate simultaneously in each and every case of sexual abuse committed against minors."[4] Section 5, paragraph b of R.A. 7610 applies only to

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MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). [*See* footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 (2014), citing *People v. Lomaque*, 710 Phil. 338, 342 (2013). *See also* Amended Administrative Circular No. 83-2015, titled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018.]

[2] *Ponencia*, pp. 16-18.

[3] G.R. No. 227363, March 12, 2019.

[4] Dissenting Opinion of Justice Caguioa in *People v. Tulagan,* id.

the **specific** and **limited instances** where the child-victim is "exploited in prostitution or subjected to other sexual abuse" (EPSOSA).

In other words, for an act to be considered under the purview of Section 5, paragraph b of R.A. 7610, so as to trigger the higher penalty provided therein, "the following essential elements need to be proved: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child 'exploited in prostitution or subjected to other sexual abuse'; and (3) the child whether male or female, is below 18 years of age."[5] Hence, it is not enough that the victim be under 18 years of age. The element of the victim being EPSOSA — *a separate and distinct element* — must first be both alleged and proved before a conviction under Section 5, paragraph b of R.A. 7610 may be reached.

Specifically, in order to impose the higher penalty provided in Section 5, paragraph b as compared to Article 266-B of the RPC, as amended by R.A. 8353, it must be **alleged** and **proved** that the child — (1) for money, profit, or any other consideration or (2) due to the coercion or influence of any adult, syndicate or group — indulges in sexual intercourse or lascivious conduct.[6]

In this case, the Information only alleged that the victim was an 11-year old minor, but it did not allege that she was EPSOSA. Likewise, there was no proof or evidence presented during the trial that she indulged in sexual intercourse or lascivious conduct either for a consideration, or due to the coercion or influence of any adult.

Thus, while I agree that BBB's guilt was proven beyond reasonable doubt of rape by sexual assault as proscribed by the RPC, I reiterate that the penalty under R.A. 7610 may not be imposed herein for the primary reason that the elements of the crime under RPC *vis-à-vis* R.A. 7610 differ in the pivotal

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[5] Id., citing *People v. Abello*, 601 Phil. 373, 392 (2009).

[6] Id.

point of whether or not minor victim was, in fact and as alleged, EPSOSA.

More so, that the element of EPSOSA must be the sole litmus test in drawing distinctions between crimes under Article 266-A and Section 5 of R.A. 7610, as opposed to the minority of the victim, is only further supported by the fact that the criterion of minority of the victim is shown in this case to be an under-inclusive impetus for despite the minority of the victim here, R.A. 7610 was nevertheless deemed inconsequential with respect to the determination of the imposable penalty.

Finally, it is worth noting that if we proceed from the line of ratiocination that the gauge for inapplicability or applicability of the penalty under R.A. 7610 is the age of minority of either the victim or the offender, and not the distinct element of EPSOSA, it may well be conceived that for as long as the offender is a minor, regardless of whether the victim was in point of fact exposed to EPSOSA, the offender will still not be meted the penalty under R.A. 7610. Such a scenario, arguably permitted by the premise of the *ponencia* on inapplicability of R.A. 7610, is decidedly incongruent with the legislative intent behind R.A. 7610, and takes significantly away from its impetus involving the specialized protection of children who are sexually exploited and abused for consideration. This all the more makes salient the important criterion of EPSOSA, for any other determinant than this will inevitably allow for offenses which this law was designed to punish to no less than slip through the cracks.

FIRST DIVISION

[G.R. No. 251631. August 27, 2020]

PEOPLE OF THE PHILIPPINES, *Plaintiff-Appellee, v.* **ATILANO AGATON *y* OBICO,** *Accused-Appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; DENIAL AND ALIBI; MAY, AND SHOULD, BE CONSIDERED COMPLETE AND LEGITIMATE DEFENSES IF FOUND CREDIBLE. — In [*People v.*] *Evangelio*, [*et al.*], we ruled that the prosecution was able to establish that all the accused, herein appellant included, took the pieces of jewelry and valuables of the spouses by means of violence and intimidation. x x x We held in *Evangelio* that although AAA did not exactly witness the actual rape because she was unconscious when it happened, x x x circumstantial evidence shows that she was indeed raped x x x. [W]e disagree with the CA that appellant should be implicated in the rape for the reason that he was positively identified as one of Joseph's companions inside the house. We also disagree with the CA that appellant had the opportunity to stop the other two accused from raping AAA, considering that the same is not supported by the evidence on record. While the trial court found that AAA heard the voice of appellant, this does not prove that appellant had the opportunity to attempt to prevent the rape. x x x There was also no testimony to the effect that appellant saw AAA being brought to the comfort room or being stripped of her clothing—this despite AAA's testimony that she could still see because Joseph and Noel were not able to fully cover her eyes. Otherwise, appellant would have had the opportunity to attempt to prevent the rape. Furthermore, FFF testified that the house where the robbery took place was an elevated house and that while she was blindfolded, her niece was brought upstairs where the pieces of jewelry and firearm are kept x x x. This is in consonance with our finding in *Evangelio* that while some robbers went upstairs and proceeded to ransack the house, the others brought AAA into the comfort room and sexually abused her, then they left the house together carrying the loot. Considering that the rape occurred at the first floor while the ransacking occurred at the second floor, there is reasonable

doubt that appellant was aware of what was going on downstairs, especially because AAA's shouts came afterwards. x x x While appellant's mere denial that he was aware of the rape during the robbery is inherently weak, it is not bankrupt of weight since the same was confirmed on cross-examination and, more importantly, since the prosecution failed to discharge its burden of showing by positive proof that he was aware. x x x Thus, if found credible, the defenses of denial and alibi may, and should, be considered complete and legitimate defenses. The burden of proof does not shift by the mere invocation of said defenses; the presumption of innocence remains in favor of the accused.

2. CRIMINAL LAW; ROBBERY WITH RAPE; WHEN CONSPIRACY IS ESTABLISHED BETWEEN SEVERAL ACCUSED IN THE COMMISSION OF THE CRIME OF ROBBERY, THEY WOULD ALL BE EQUALLY CULPABLE FOR THE RAPE COMMITTED BY ANYONE OF THEM ON THE OCCASION OF THE ROBBERY, UNLESS ANYONE OF THEM PROVES THAT HE ENDEAVORED TO PREVENT THE OTHERS FROM COMMITTING RAPE. — It is a settled rule that when conspiracy is established between several accused in the commission of the crime of robbery, they would all be equally culpable for the rape committed by anyone of them on the occasion of the robbery, unless anyone of them proves that he endeavored to prevent the others from committing rape. By removing culpability for the complex crime from an accused who endeavors to prevent the rape, the law recognizes the less perverse state of his mind vis-á-vis that of the perpetrator of the rape and that of his co-accused who did not even attempt to prevent the same despite an opportunity to do so.

3. ID.; ID.; REQUIRES THAT THE ACCUSED BE AWARE OF THE SEXUAL ACT IN ORDER FOR HIM TO HAVE THE OPPORTUNITY TO ATTEMPT TO PREVENT THE SAME, WITHOUT WHICH HE CANNOT BE FAULTED FOR HIS INACTION. — [T]he long line of jurisprudence on the special complex crime of Robbery with Rape requires that the accused be aware of the sexual act in order for him to have the opportunity to attempt to prevent the same, without which he cannot be faulted for his inaction. Further, there must be positive proof to show such awareness. Although we made a pronouncement in *Evangelio* that there was no showing that the other accused, including herein appellant, prevented Joseph from sexually abusing AAA, the record is bereft of any positive

> proof that he was aware of the act. The fact that he was upstairs while the rape was occurring lends even more credence to the absence of awareness. The accused who is aware of the lustful intent or sexual act of his co-accused but did not endeavor to prevent or stop it, despite an opportunity to do so, becomes complicit in the rape and is perfectly liable for Robbery with Rape. On the other hand, for an accused who is totally ignorant of the same and who did not merely choose to turn a blind eye, it could not have been the intent of the law to punish him as severely as those who committed the sexual act or who were aware thereof but were indifferent to its commission. He shall, therefore, be held liable only for Robbery, as in the case at bench. For lack of positive proof that he was aware of the rape, appellant shall only be liable for robbery under paragraph 5, Article 294 of the Revised Penal Code x x x.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appelle.
Public Attorney's Office for accused-appellant.

D E C I S I O N

PERALTA, *C.J.*:

Before us is an appeal from the Decision[1] dated August 20, 2019 of the Court of Appeals (*CA*) in CA-G.R. CEB CR. HC No. 02949, affirming with modification the Decision[2] dated April 18, 2018 of the Regional Trial Court of Tacloban City in Criminal Case No. 2001-12-773, finding accused-appellant Atilano Agaton *y* Obico guilty beyond reasonable doubt of the special complex crime of Robbery with Rape.

This Court notes that in *People v. Evangelio, et al.*,[3] whose factual antecedents are identical to those of the case at bench,

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[1] *Rollo*, pp. 5-19. Penned by Associate Justice Gabriel T. Ingles, with the concurrence of Associate Justices Edward B. Contreras and Alfredo D. Ampuan.

[2] CA *rollo*, pp. 44-69.

[3] 672 Phil. 229 (2011).

we affirmed the Decision of the CA finding Joseph Evangelio guilty beyond reasonable doubt of Robbery with Rape. At the time, however, accused Edgar Evangelio and appellant had not yet been brought to trial because they were facing another criminal charge and detained at the Bacolod City District Jail.

Upon arraignment on August 18, 2009,[4] Edgar pleaded *guilty*, while appellant pleaded *not guilty* to the crime of Robbery with Rape as charged in the Information[5] dated December 3, 2001, which reads:

> The undersigned City Prosecutor of the City of Tacloban accuses EDGAR EVANGELIO Y GAL[L]O, JOSEPH EVANGELIO, ATILANO AGATON y OBICO, and NOEL MALPAS Y GARCIA of the crime of Robbery With Rape, committed as follows:
>
> That on or about the 3rd day of October, 2001, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, with intent to gain and armed with a handgun and deadly/bladed weapons forcibly enter the inhabited house/residence of [BBB][6] and while inside, by means of violence and intimidation using said arms on the latter and the other occupants therein, and without the consent of their owners did, then and there wil[l]fully, unlawfully and feloniously, take, and carry away from said residence the following personal properties belonging to:

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[4] Records, pp. 280-281.

[5] *Id.* at 4-6.

[6] The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

(a) [BBB]:

- Two Saudi-gold necklace with pendant with a combined value of ₱25,000 more or less;
- Saudi-gold bracelet valued at ₱25,000;
- Leather wallet containing ₱1,500 cash; and
- Two shoulder bags with a combined value of ₱2,000.

(b) [CCC:]

- One tri-colored gold necklace (choker) valued at ₱50,000;
- One yellow gold necklace (choker) valued at ₱5,000;
- One gold necklace with Jesus Christ[‘s] head pendant valued at ₱12,000;
- One gold necklace with star diamond pendant valued at ₱8,000;
- One gold necklace, tri-colored cross diamond valued at ₱13,000;
- Three tri-colored bracelet (gold) with diamond valued at ₱18,000;
- Three tri-colored bracelet (twisted) valued at ₱15,000;
- One gold bracelet with diamonds valued at ₱60,000;
- One gold bracelet (dangling) valued at ₱4,000;
- One gold bracelet (chain) valued at ₱7,000;
- Five sets earrings and rings valued at ₱45,000;
- One set earrings and ring (diamond Solitaire) valued at ₱45,000;
- Two black colored wristwatch (Pierre Cardin) valued at ₱25,000; xxx
- [T]wo gold plated wristwatch (Pierre Cardin) valued at ₱25,000; and
- One gold bracelet (chain) valued at ₱4,000[.]

and -

(c) [DDD:]

- Instamatic Camera, Olympus brand.

to the damage and prejudice of said owners to the extent of the value of their respective properties above indicated.

That on the occasion of the said robbery and in the same house/residence, accused, by means of force and intimidation and using the said handgun and deadly/bladed weapons, did then and there wil[l]fully, unlawfully and feloniously have carnal knowledge of [AAA], a 17 year old minor, against her will and consent and at a time when the latter lost consciousness after her head was banged on the bathroom floor.

CONTRARY TO LAW.[7]

The prosecution presented AAA as its first witness and moved to adopt her earlier testimony, presented during the trial of Joseph. She was likewise made to identify Edgar and appellant. During the hearing, the trial court ordered that the former plea of *guilty* of Edgar be considered as withdrawn and a plea of *not guilty* be reinstated. Other prosecution witnesses included BBB, CCC, Dr. Angel Cordero and Police Inspector Arturo Abuyen.

The version of the prosecution is as follows:

At around 6:30 p.m. of October 3, 2001, AAA was cooking when two persons, armed with a firearm and a knife, entered through the kitchen door. They then held AAA and told her to keep quiet and brought her to the living room. When two more persons, also with knives, arrived, AAA and the rest of the household, namely, EEE, FFF, GGG, HHH, III, JJJ and KKK, were brought to the living room, hogtied, and their eyes covered with tape. They were all separated and brought to different parts of the house. AAA's eyes were only partly covered, thus enabling her to see one of her companions in the house get hit on the head with a firearm, leaving her unconscious. Subsequently, AAA and EEE were brought to the bathroom by Joseph and Noel Malpas. But EEE was then brought outside again when Joseph and Noel started removing AAA's clothing. When she tried to resist them, AAA's head was knocked twice against the cement wall, causing her to faint.[8]

Upon gaining consciousness, AAA discovered that she was half-naked, and felt pain in her knees, head, stomach and vagina.

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[7] Records, pp. 4-6.

[8] CA *rollo*, pp. 49-50.

She realized that the blood in the bathroom came from her vagina. Later, some of her companions in the house entered the bathroom to untie her hands, remove the tape from her eyes and carry her out to the living room. By this time, the four men had already left the house.[9]

AAA was examined the next day by Dr. Angel Cordero of the Philippine National Police Crime Laboratory whose findings were compatible with AAA having had recent sexual intercourse.[10]

For its part, the defense presented Edgar and appellant as its witnesses, who interposed the defenses of alibi and denial.

During the hearing on June 18, 2016, Edgar and appellant manifested their intention to voluntarily plead guilty to Robbery. After searching questions, the trial court was convinced that they freely and voluntarily entered a plea of guilty to Robbery only.[11]

On January 10, 2018, the trial court received a letter[12] from the Bureau of Jail Management and Penology, Tacloban City, informing it that Edgar had died that day. Accordingly, the trial court issued an Order[13] dismissing the case against him on the ground that death of an accused extinguishes his criminal liability.

On April 18, 2018, the trial court rendered a Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, Judgment is hereby rendered finding the accused ATILANO AGATON y OBICO guilty beyond reasonable doubt of the special complex crime of Robbery with Rape and is hereby sentenced to a penalty of *reclusion perpetua* without

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[9] *Id.* at 50.

[10] *Id.* at 51-52.

[11] *Id.* 102.

[12] Records, p. 454.

[13] *Id.* at 456.

eligibility for parole pursuant to Republic Act No. 9346. He is ordered to return the pieces of jewelry and valuables taken from the spouses [BBB] and [CCC] as enumerated in the Information dated December 3, 2001. Should restitution be no longer possible, accused shall pay the spouses Aya-ay the value of the stolen pieces of jewelry and valuables in the amount of PhP336,000.00. He is further directed to pay [AAA] the amounts of PhP75,000.00 as civil indemnity, PhP75,000.00 as moral damages and PhP30,000.00 as exemplary damages. Interest at the rate of six percent (6%) per annum is imposed on all the damages awarded in this case from date of finality of this judgment until fully paid.[14]

On appeal, the CA affirmed the decision of the trial court, but increased the award of civil indemnity, moral and exemplary damages to ₱100,000.00 each,[15] in view of the guidelines laid down in *People v. Jugueta*.[16]

On September 13, 2019,[17] appellant, through the Public Attorney's Office, appealed the Decision of the CA to this Court, assigning the following error in his appeal, initially passed upon by the CA:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[18]

In his brief, appellant averred that his plea of guilt merely involved his intention to rob the house of spouses BBB and CCC, but did not extend to successfully taking the properties therein. He alleges that other than the self-serving declaration of the spouses that personal properties were taken from them, there is no other evidence that could support such claim.[19] In

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[14] CA *rollo*, pp. 68-69.

[15] *Rollo*, p. 18.

[16] 783 Phil. 806 (2016).

[17] *Rollo*, p. 112.

[18] CA *rollo*, p. 37.

[19] *Id.* at 39.

his testimony, he stated that they were not able to take anything because somebody suddenly came to the house.[20]

Appellant's contention is devoid of merit.

In *Evangelio*, we ruled that the prosecution was able to establish that all the accused, herein appellant included, took the pieces of jewelry and valuables of the spouses by means of violence and intimidation. They barged into the house of the victims, armed with a handgun and knives, and tied the hands and feet of the members of the household. The perpetrators then asked for the location of the pieces of jewelry and valuables. BBB was also tied and was struck in the head with a gun, causing him to fall face down on the floor with blood oozing from his left eyebrow. He was able to see the perpetrators going out of the house carrying bags and the jewelry box of his wife. There is no doubt, therefore, that appellant is liable for the robbery.

As regards the allegation of rape, appellant argues that the same was not proven beyond reasonable doubt. According to him, AAA was not inside the house at the time of the incident and he did not witness the alleged rape being committed. Hence, he could not have had the chance to prevent the same considering that he was totally unaware of the same being committed.[21]

We held in *Evangelio* that although AAA did not exactly witness the actual rape because she was unconscious when it happened, the following circumstantial evidence shows that she was indeed raped: *first*, while two of the robbers were stealing, Joseph and one of the robbers brought AAA inside the comfort room; *second*, inside the comfort room, AAA was stripped of her clothes and panty; *third*, when AAA resisted and struggled, Joseph and the other robber banged her head against the wall, causing her to lose consciousness; *fourth*, when she regained consciousness, the culprits were already gone and she saw her clothes and panty strewn at her side; and *fifth*, she suffered

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[20] *Rollo*, p. 10.

[21] CA *rollo*, p. 39.

pain in her knees, head, stomach and, most of all, in her vagina which was then bleeding.[22]

The CA affirmed the trial court's findings that Joseph and Noel were the ones who brought AAA to the comfort room and stripped her of her clothing in the course of the robbery,[23] and that there is no convincing evidence of the actual participation of appellant in the rape.[24] The presence of the aggravating circumstances of band and dwelling was likewise affirmed. Indeed, it is settled that when the factual findings of the trial court are confirmed by the CA, said facts are final and conclusive on this Court, unless the same are not supported by the evidence on record.[25]

However, we disagree with the CA that appellant should be implicated in the rape for the reason that he was positively identified as one of Joseph's companions inside the house. We also disagree with the CA that appellant had the opportunity to stop the other two accused from raping AAA, considering that the same is not supported by the evidence on record. While the trial court found that AAA heard the voice of appellant, this does not prove that appellant had the opportunity to attempt to prevent the rape.

On cross-examination during the trial of Joseph, AAA stated that she does not know what the other robbers did because, after being hogtied in the living room, she and EEE were brought to the comfort room.[26]

When AAA was recalled to the witness stand more than a dozen years later, during the trial of appellant, she merely identified the voice of appellant, but did not say at what point she heard him speak during the robbery, to wit:

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[22] *People v. Evangelio, et al.*, 672 Phil. 229, 243 (2011).

[23] *Rollo*, p. 106.

[24] *Id.* at 66.

[25] *Gatan v. Vinarao*, G.R. No. 205912, October 18, 2017, 842 SCRA 602, 618.

[26] CA *rollo*, p. 50.

PROS. MACALALAG:

> We would like to adopt the direct examination, the re-direct examination that is found in the record, your honor and we will just ask the witness [AAA] to identify the accused in this case Edgar Evangelio and Atilano Agaton.

COURT:

> The Court takes note of the manifestation of the prosecutor and inasmuch as the testimony of this witness is intact, the Court will allow questions only on the identification of the two accused.

x x x x x x x x x

COURT:

Q Of the two accused here, who of them raped you?

A (no answer)

PROS. MACALALAG:

> Your honor, she lost her consciousness at the time she was raped and she was only able to find out that she was raped when she woke up without a panty.

COURT:

Q Who brought you to this bedroom in the house of the [spouses BBB and CCC] before you were raped?

A I could not identify who because I was blindfolded.

Q Could you not recall any voice which you could identify among those inside the courtroom?

A Yes, your honor.

Q Who?

A The voice of Atilano Agaton.[27]

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[27] TSN, pp. 416-417.

There was also no testimony to the effect that appellant saw AAA being brought to the comfort room or being stripped of her clothing—this despite AAA's testimony that she could still see because Joseph and Noel were not able to fully cover her eyes.[28] Otherwise, appellant would have had the opportunity to attempt to prevent the rape.

Furthermore, FFF testified that the house where the robbery took place was an elevated house and that while she was blindfolded, her niece was brought upstairs where the pieces of jewelry and firearm are kept, to wit:

Q How many storey is that house?

A It is elevated house and there is one room upstair[s].

x x x x x x x x x

Q While you were there at the bedroom with masking tape all over your head have [you] noticed anything that transpired?

A I heard Edgar Evangelio asking my nieces where did your father keep the jewelries and firearm.

Q Did your nieces answered?

A My niece replied it is upstairs.

Q What happened next?

A Edgar said come with me.

Q And after that what happened next?

A I heard that my niece was brought upstairs since she was holding on my left arm and heard the footsteps.

Q About the other members of the household were you able to know what happened to them?

A I can only [hear] the noises afterwards [AAA] shouted calling my name.[29]

This is in consonance with our finding in *Evangelio* that while some robbers went upstairs and proceeded to ransack the house, the others brought AAA into the comfort room and sexually abused her, then they left the house together

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[28] Records, p. 120.

[29] *Id.* at 71-72.

carrying the loot. Considering that the rape occurred at the first floor while the ransacking occurred at the second floor, there is reasonable doubt that appellant was aware of what was going on downstairs, especially because AAA's shouts came afterwards.

On cross-examination, appellant alleged that he did not see AAA inside the house and that it was only during the trial that he learned that a rape had occurred on the occasion of the robbery, to wit:

Q Now you are denying of a rape incident, so when you said you are denying of rape in the house of [the spouses BBB and CCC], do you mean to say that there was actually a rape incident that took place but you just did not participate in that rape incident?
A Nothing happened.

Q You mean to say that you were not able to see an incident of rape in the house of the [spouses BBB and CCC]?
A I did not.

Q But you were informed that there was a fact of rape incident that transpired on that day?
A I never heard, I only heard about that here during the hearing.

x x x x x x x x x

COURT: From the court.

x x x x x x x x x

Q You said that you did not rape [AAA]?
A I did not.

Q Before the incident did you already know [AAA]?
A I do not know her.

Q When for the first time did you come to know her?
A Here, during the hearing.[30]

While appellant's mere denial that he was aware of the rape during the robbery is inherently weak, it is not bankrupt of weight since the same was confirmed on cross-examination and,

[30] TSN, pp. 515-520.

more importantly, since the prosecution failed to discharge its burden of showing by positive proof that he was aware.

In considering the defenses of denial and alibi, we held in *Lejano v. People*:[31]

> But not all denials and alibis should be regarded as fabricated. Indeed, if the accused is truly innocent, he can have no other defense but denial and alibi. So how can such accused penetrate a mind that has been made cynical by the rule drilled into his head that a defense of alibi is a hangman's noose in the face of a witness positively swearing, "I saw him do it."? Most judges believe that such assertion automatically dooms an alibi which is so easy to fabricate. This quick stereotype thinking, however, is distressing. For how else can the truth that the accused is really innocent have any chance of prevailing over such a stone-cast tenet?
>
> There is only one way. A judge must keep an open mind. He must guard against slipping into hasty conclusion, often arising from a desire to quickly finish the job of deciding a case. A positive declaration from a witness that he saw the accused commit the crime should not automatically cancel out the accused's claim that he did not do it. A lying witness can make as positive an identification as a truthful witness can. The lying witness can also say as forthrightly and unequivocally, "He did it!" without blinking an eye.[32]

Thus, if found credible, the defenses of denial and alibi may, and should, be considered complete and legitimate defenses. The burden of proof does not shift by the mere invocation of said defenses; the presumption of innocence remains in favor of the accused.

It is a settled rule that when conspiracy is established between several accused in the commission of the crime of robbery, they would all be equally culpable for the rape committed by anyone of them on the occasion of the robbery, unless anyone of them proves that he endeavored to prevent the others from committing rape.[33] By removing culpability for the complex

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[31] 652 Phil. 512 (2010).

[32] *Id.* at 581.

[33] *People v. Suyu*, 530 Phil. 569, 596 (2006); citation omitted.

crime from an accused who endeavors to prevent the rape, the law recognizes the less perverse state of his mind vis-à-vis that of the perpetrator of the rape and that of his co-accused who did not even attempt to prevent the same despite an opportunity to do so.

In *United States v. Tiongco*,[34] we affirmed the conviction of two robbers for Robbery with Rape even if they took no part in the rape because they made no opposition nor prevented their co-accused from consummating the rape. In *People v. Merino*,[35] we found the accused to be equally liable for the rape because he was aware of the dastardly act being performed by his co-accused but merely told the latter to hurry.

In *People v. Canturia*,[36] however, we declined to hold some of the robbers liable for the rape because while the evidence convincingly shows a conspiracy to commit only robbery among the accused, there is no evidence that the other members of the band were aware of the lustful intent of the perpetrator of the rape and his consummation thereof so that they could have attempted to prevent the same. To be equally responsible for the rape, there should be positive proof that they abetted or, at least, were aware of the rape.

Positive proof is not merely an inference drawn more or less logically from a hypothetical fact.[37] It is proof beyond reasonable doubt.[38] Absent positive proof, mere presumptions and inferences, no matter how logical and probable, would not be enough.[39]

In *People v. Anticamara, et al.*,[40] echoing our ruling in *Canturia*, we ruled that there was no evidence to prove that

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[34] 37 Phil. 951 (1918).

[35] 378 Phil. 828 (1999).

[36] 315 Phil. 278 (1995).

[37] *People v. Latag*, 465 Phil. 683, 695 (2004).

[38] *People v. Osianas, et al.*, 588 Phil. 615, 635-636 (2008); and *People v. Rodas*, 558 Phil. 305, 323 (2007).

[39] *People v. Gerry Agramon*, G.R. No. 212156, June 20, 2018.

[40] 666 Phil. 484 (2011).

the accused was aware of the rape and, therefore, could have prevented the same. Thus, we found the accused guilty of the crime of kidnapping and serious illegal detention instead of the special complex crime of kidnapping and serious illegal detention with rape.

In *People v. Villaruel*,[41] we found that there is neither allegation nor evidence that the other co-accused also raped the victim or assisted the perpetrators in committing the rape. Consequently, they cannot be held guilty of robbery with rape, but only of robbery.

In *People v. Mendoza*,[42] we held that for the accused to be convicted only of the crime of robbery, he must prove not only that he himself did not abuse the victim but that he tried to prevent the rape. The accused cannot seek refuge in our ruling in *Canturia* when the evidence shows that he was indeed aware.

In *People v. Belmonte*,[43] we ruled that the act of endeavoring to prevent the commission of the lustful act presupposes that there was an opportunity to do so. Hence, where the accused did not prevent the commission thereof despite an opportunity to do so, he is equally culpable for the rape committed by anyone of them on occasion of the robbery.

In fine, the long line of jurisprudence on the special complex crime of Robbery with Rape requires that the accused be aware of the sexual act in order for him to have the opportunity to attempt to prevent the same, without which he cannot be faulted for his inaction. Further, there must be positive proof to show such awareness.

Although we made a pronouncement in *Evangelio* that there was no showing that the other accused, including herein appellant, prevented Joseph from sexually abusing AAA, the record is bereft of any positive proof that he was aware of the act. The

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[41] 330 Phil. 79 (1996).

[42] 354 Phil. 177 (1998).

[43] 813 Phil. 240 (2017).

fact that he was upstairs while the rape was occurring lends even more credence to the absence of awareness.

The accused who is aware of the lustful intent or sexual act of his co-accused but did not endeavor to prevent or stop it, despite an opportunity to do so, becomes complicit in the rape and is perfectly liable for Robbery with Rape. On the other hand, for an accused who is totally ignorant of the same and who did not merely choose to turn a blind eye, it could not have been the intent of the law to punish him as severely as those who committed the sexual act or who were aware thereof but were indifferent to its commission. He shall, therefore, be held liable only for Robbery, as in the case at bench.

For lack of positive proof that he was aware of the rape, appellant shall only be liable for robbery under paragraph 5, Article 294 of the Revised Penal Code, punishable by *prision correccional* in its maximum period to *prision mayor* in its medium period. Due to the presence of two aggravating circumstances, the proper penalty should be *prision mayor* in its medium period. Applying the Indeterminate Sentence Law, appellant should be imposed the indeterminate penalty of four (4) years and two (2) months of *prision correccional* medium, as minimum penalty, to nine (9) years and four (4) months of *prision mayor* medium, as maximum penalty.

WHEREFORE, premises considered, the Decision of the Court of Appeals dated August 20, 2019 in CA-G.R. CEB CR. HC No. 02949 is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Atilano Agaton *y* Obico is found **GUILTY** beyond reasonable doubt of the crime of Robbery in band, defined and punished under Article 294, in relation to Article 295, of the Revised Penal Code, and is hereby sentenced to suffer an indeterminate prison term of four (4) years and two (2) months of *prision correccional* medium, as minimum penalty, to nine (9) years and four (4) months of *prision mayor* medium, as maximum penalty.

The period of his preventive imprisonment shall be credited in his favor in accordance with Article 29 of the Revised Penal Code, as amended by Republic Act No. 10592.

He is ordered to return the pieces of jewelry and valuables taken from the spouses BBB and CCC as enumerated in the Information dated December 3, 2001. Should restitution be no longer possible, appellant shall pay the spouses BBB and CCC the value of the stolen pieces of jewelry and valuables which have not yet been returned by him or his co-accused.

SO ORDERED.

Caguioa, Reyes, J. Jr., Lazaro-Javier, and *Lopez, JJ.*, concur.

EN BANC

[A.C. No. 11058. September 1, 2020]

RITA P. COSTENOBLE, *Complainant*, *v.* **ATTY. JOSE L. ALVAREZ, JR.**, *Respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; CODE OF PROFESSIONAL RESPONSIBILITY; A LAWYER'S FAILURE TO RETURN UPON DEMAND THE FUNDS HELD BY HIM ON BEHALF OF HIS CLIENT GIVES RISE TO THE PRESUMPTION THAT HE HAS APPROPRIATED THE MONEY FOR HIS OWN SUCH ACT IS A GROSS VIOLATION OF GENERAL MORALITY AS WELL AS PROFESSIONAL ETHICS. — A lawyer's neglect of a legal matter entrusted to him/her constitutes inexcusable negligence for which he must be held administratively liable. From the perspective of ethics in the legal profession, a lawyer's lethargy in carrying out his duties is both unprofessional and unethical. It betrays his avowed fidelity and renders him unworthy of the client's trust and confidence. Ingrained in this professional duty is the obligation of the lawyer to hold in trust and account all moneys and properties of his client that may come into his possession. A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the money for his own. Such act is a gross violation of general morality as well as of professional ethics.

2. ID.; ID.; ID.; ID.; CASE AT BAR. — In this case, the legal service of Atty. Alvarez, Jr. was engaged by Costenoble for the purpose of registering her properties. Atty. Alvarez, Jr. received pertinent documents and a check worth ₱115,000.00 for fees and expenses as evidenced by an acknowledgement receipt. However, Atty. Alvarez, Jr. failed to perform his engagement to register the properties of Costenoble. Despite repeated follow-ups by Costenoble, Aty. Alvarez, Jr. did not respond and even refused to meet with her. Atty. Alvarez, Jr. neglected to perform his duties and failed to return Costenoble's money including the documents he received despite demand. These acts of Atty.

Alvarez, Jr. constitute a clear violation of Canon 16, Rule 16.01 and 16.03, Canon 17, and Canon 18, Rule 18.03 of the Code of Professional Responsibility (CPR).

R E S O L U T I O N

LOPEZ, *J.*:

This is a complaint filed by Rita P. Costenoble (Costenoble) against Atty. Jose L. Alvarez, Jr. (Atty. Alvarez, Jr.) for committing fraudulent acts.[1] Costenoble narrated that, on June 15, 2011, she hired Atty. Alvarez, Jr. to register two parcels of land. She gave Atty. Alvarez, Jr. a check for ₱115,000.00 to cover fees and expenses.[2]

She also entrusted Atty. Alvarez, Jr. with the certificates of title of her real properties.[3] In turn, Atty. Alvarez, Jr. issued an acknowledgment receipt, and assured Costenoble that the transfer of titles will be completed by September 2011.[4]

After several months, Costenoble tried to contact Atty. Alvarez, Jr., but failed. In a visit to Atty. Alvarez, Jr.'s office, Costenoble was able to talk to Atty. Jose Alvarez, Sr., who assured her that he will take care of her case in behalf of his son. However, when Costenoble's secretary inquired with Atty. Alvarez, Sr., the latter got angry and said, "*saan ako magnanakaw ng [₱]115,000.00[?]*."[5] Thereafter, Costenoble sought assistance from the Office of the Barangay in San Vicente, San Pedro, Laguna, however Atty. Alvarez, Jr. never appeared despite notice.[6] On October 9, 2012, Costenoble sent Atty. Alvarez,

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[1] Sent through the Integrated Bar of the Philippines' email (ibp_national@yahoo.com) on October 30, 2012; *rollo*, pp. 11-13. See also *id.* at 2-4.

[2] *Id.* at 7-8.

[3] *Id.* at 5-6.

[4] *Id.* at 9.

[5] *Id.* at 3.

[6] *Id.* at 10.

Jr. a demand letter, asking for the return of the certificates of title and the sum of ₱115,000.00 previously paid to him.[7]

In the proceedings before the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline, Costenoble sought for the disbarment of Atty. Alvarez, Jr. for his dishonest and fraudulent acts, and unprofessional conduct.[8] After filing a motion for extension, Atty. Alvarez, Jr. failed to file his verified answer and position paper.[9] Thus, the case was submitted for resolution. The investigating commissioner rendered his Report and Recommendation,[10] dated August 19, 2014, recommending Atty. Alvarez, Jr.'s suspension from the practice of law for one year. The IBP Board of Governors then issued Resolution No. XXI-2014-910 dated December 13, 2014 adopting and approving the commissioner's report and recommendation, with modification in that Atty. Alvarez, Jr.'s period of suspension was increased to three years.[11] Thereafter, the records of the case were transmitted to the Court for final action.[12]

We adopt the findings and recommendation of the IBP that Atty. Alvarez, Jr. is administratively liable for neglect of duty,

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[7] *Id.* at 14.

[8] *Id.* at 38-40.

[9] A notice dated May 23, 2013 was sent by the Commission; *id.* at 15. Atty. Alvarez, Jr. filed a Motion for Extension of Time to File Answer [*id.* at 16-18], but failed to thereafter submit his answer. After several settings for mandatory conference, the Commission ordered the submission of verified position papers; *id.* at 35.

[10] *Id.* at 58-62; penned by Commissioner Hannibal Augustus B. Bobis.

[11] *Id.* at 57. The Resolution reads:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, x x x finding Respondent's failure to immediately account Complainant's money in violation of Canon 16, Rule 16.01, Rule 16.03, Canon 18, and Rule 18.03 of the Code of Professional Responsibility, Atty. Jose L. Alvarez, Jr. is hereby **SUSPENDED from the practice of law for three (3) years**. (Emphasis in the original.)

[12] *Id.* at 56.

and failure to return the money and documents given to him by Costenoble.

We cannot overemphasize that the practice of law is a profession. It is a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character.[13] When a lawyer agrees to act as a counsel, he guarantees that he will exercise that reasonable degree of care and skill demanded by the character of the business he undertakes to do, to protect the clients' interests, and take all steps or do all acts necessary therefor.[14] He is duty-bound to exert best efforts and serve his client with utmost diligence and competence.[15] This obligation is borne by the fiduciary relationship between a lawyer and his client that prescribes a great fidelity upon the lawyer.[16] Accordingly, lawyers are required to maintain, at all times, a high standard of legal proficiency, and to devote their full attention, skill, and competence to their cases, regardless of their importance, and whether they accept them for a fee or for free.[17]

A lawyer's neglect of a legal matter entrusted to him/her constitutes inexcusable negligence for which he must be held administratively liable.[18] From the perspective of ethics in the legal profession, a lawyer's lethargy in carrying out his duties is both unprofessional and unethical.[19] It betrays his avowed

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[13] *Caballero v. Atty. Pilapil*, A.C. No. 7075, January 21, 2020.

[14] See also *Francia v. Atty. Sagario*, A.C. No. 10938, October 8, 2019; *Sps. Gimena v. Atty. Vijiga*, 821 Phil. 185, 190 (2017).

[15] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 18 — A lawyer shall serve his client with competence and diligence. See also *Sps. Gimena v. Atty. Vijiga, supra.*

[16] *Caballero v. Atty. Pilapil*, *supra*; *Arde v. Atty. De Silva*, A.C. No. 7607, October 15, 2019.

[17] *Aboy, Sr. v. Atty. Diocos*, A.C. No. 9176, December 5, 2019; *Sousa v. Atty. Tinampay*, A.C. No. 7428, November 25, 2019.

[18] *Francia v. Atty. Sagario*, *supra*, citing *Agot v. Rivera*, 740 Phil. 393, 400 (2014).

[19] *Belleza v. Atty. Macasa*, A.C. No. 7815, July 25, 2009.

fidelity and renders him unworthy of the client's trust and confidence. Ingrained in this professional duty is the obligation of the lawyer to hold in trust and account all moneys and properties of his client that may come into his possession. A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the money for his own. Such act is a gross violation of general morality as well as of professional ethics.[20]

In this case, the legal service of Atty. Alvarez, Jr. was engaged by Costenoble for the purpose of registering her properties. Atty. Alvarez, Jr. received pertinent documents and a check worth ₱115,000.00 for fees and expenses as evidenced by an acknowledgement receipt. However, Atty. Alvarez, Jr. failed to perform his engagement to register the properties of Costenoble. Despite repeated follow-ups by Costenoble, Atty. Alvarez, Jr. did not respond and even refused to meet with her. Atty. Alvarez, Jr. neglected to perform his duties and failed to return Costenoble's money including the documents he received despite demand. These acts of Atty. Alvarez, Jr. constitute a clear violation of Canon 16, Rules 16.01 and 16.03, Canon 17, and Canon 18, Rule 18.03 of the Code of Professional Responsibility (CPR), to wit:

> CANON 16 — A lawyer shall hold in trust all moneys and properties of his client that may come into his profession.
>
> Rule 16.01 — A lawyer shall account for all money or property collected or received for or from the client.
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> x x x x x x x x x
>
> 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.
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> x x x x x x x x x

[20] *Caballero v. Atty. Pilapil*, *supra*; *Arde v. Atty. De Silva*, *supra*.

CANON 17 — A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 — A lawyer shall serve his client with competence and diligence.

Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

We stress that a lawyer ought not to neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed in him by his client and makes him answerable not just to his client but also to the legal profession, the court and society.[21] The mere failure of the lawyer to perform the obligations due to his client is considered *per se* a violation of the lawyer's oath.[22]

Indeed, a member of the Bar may be penalized, even disbarred or suspended from his office as an attorney for violation of the lawyer's oath and/or for breach of the ethics of the legal profession as embodied in the CPR.[23] The penalty to be meted to an erring lawyer rests on sound judicial discretion based on the surrounding facts. In cases of similar nature, this Court imposed penalties ranging from a reprimand to suspension of three months to two years, and even disbarment in aggravated cases.[24]

In *Suarez v. Atty. Maravilla-Ona*,[25] the erring lawyer was sanctioned with the ultimate penalty of disbarment. The Court held that Atty. Maravilla-Ona was no longer worthy of the trust

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[21] *Spouses Vargas, et al. v. Atty. Oriño*, A.C. No. 8907, June 3, 2019, citing *Vda. De Enriquez v. San Jose*, 545 Phil. 383 (2007).

[22] *Id.* citing *Nebreja v. Reonal*, 730 Phil. 55, 61 (2014).

[23] *Caballero v. Atty. Pilapil*, *supra* note 13.

[24] *Sps. Gimena v. Atty. Vijiga*, *supra* note 14 at 193, citing *Dumanlag v. Atty. Intong*, 797 Phil. 1 (2016); *Villaflores v. Atty. Limos*, 563 Phil. 453, 463 (2007).

[25] 796 Phil. 27 (2016).

and confidence of her client and the public. It was found that, after collecting the full amount of professional and legal fees, she did not take a single step to process the registration of land title in the name of her client. When Atty. Maravilla-Ona was demanded to return the money, she issued a worthless check that subsequently bounced when presented for payment. Atty. Maravilla-Ona's misconduct was further aggravated by her unjustified refusal to obey orders of the IBP, and other disbarment complaints filed against her.

Meanwhile, in the following cases, the erring lawyers were suspended from the practice of law. In *Francia v. Atty. Sagario*,[26] the latter agreed to handle the case for annulment of marriage of the complainant, and received ₱70,000.00 for his engagement. Six months passed but nothing was filed in court. Complainant asked Atty. Sagario to just return the amount she paid, but the latter refused; thus, complainant filed a small claims case against him. The case was adjudged in favor of complainant, yet Atty. Sagario still failed to pay. He was meted the penalty of suspension from the practice of law for **two years**. In the more recent case of *Caballero v. Atty. Pilapil*,[27] Atty. Pilapil was suspended from the practice of law for **two years** for neglect of the legal matter entrusted to her and failure to account the money given to her. Atty. Pilapil received ₱53,500.00 to cover payment of capital gains tax and real estate tax for the transfer of her clients' property in their name. However, the money was not used for the intended purpose, neither was it returned to the clients despite demand. Atty. Pilapil likewise did not return the original certificate of title and sketch plans entrusted to her. Similarly, in *Jinon v. Atty. Jiz*,[28] the Court suspended Atty. Jiz from the practice of law for **two years** for his failure to facilitate the recovery of the land title of his client and to return the money he received from the latter for such purpose despite demand; and in *Rollon v. Atty. Naraval*,[29] Atty. Naraval was suspended from the practice

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[26] *Supra* note 14.

[27] *Supra* note 13.

[28] 705 Phil. 321 (2013), as cited in *Caballero v. Atty. Pilapil*, *supra* note 13.

[29] 493 Phil. 24 (2005).

of law for **two years** for his failure to render any legal service in relation to the complainant's case despite receiving money from the latter and for refusing to return the money and documents he received.

In like manner, the Court, in *Aboy, Sr. v. Atty. Diocos*,[30] *Villa v. Atty. Defensor-Velez*,[31] *Sousa v. Atty. Tinampay*,[32] respondent errant lawyers were meted the penalty of one year suspension from the practice of law for their negligence in performing their undertakings under their agreements with their clients. The lawyers were held administratively liable for failure to inform a client of the adverse decision within the period to appeal to give the client time to decide whether to seek appellate review,[33] to file an answer on behalf of a client who was later on declared in default,[34] to pay a loan extended by a client despite demand.[35]

Here, the Investigating Commissioner recommended the penalty of suspension from the practice of law for one (1) year. The IBP Board of Governors increased the penalty to suspension from the practice of law for three (3) years. Considering that this is not the first time that Atty. Alvarez, Jr. has been held administratively liable, the Court adopts the IBP Board of Governors' recommendation to suspend Atty. Jose L. Alvarez, Jr. from the practice of law for three (3) years.[36] In *Foronda v. Atty. Alvarez, Jr.*,[37] he was suspended from the practice of law

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[30] *Supra* note 17.

[31] A.C. No. 12202, December 5, 2019.

[32] *Supra* note 17.

[33] *Aboy, Sr. v. Atty. Diocos*, *supra* note 17.

[34] *United Coconut Planters Bank v. Noel*, A.C. No. 3951, June 19, 2018, 866 SCRA 386, as cited in *Sousa v. Atty. Tinampay*, *supra* note 17.

[35] *Villa v. Atty. Defensor-Velez*, *supra* note 31.

[36] See *Gutierrez v. Atty. Maravilla-Ona*, 789 Phil. 619 (2016). In this cited case, the respondent lawyer was suspended from the practice of law for three (3) years for neglecting a legal matter entrusted to her and for her failure to return the fees she received. Therein respondent lawyer was previously suspended from the practice of law for one (1) year.

[37] 737 Phil. 1 (2014).

for six (6) months for issuing worthless checks and for his delay in filing a case on behalf of his client.

Disciplinary proceedings involve the determination of administrative liability, including those intrinsically linked to the lawyer's professional engagement, such as the payment of money received but not used for the given purpose.[38] Here, respondent received ₱115,000.00 from complainant for the registration of several parcels of land. Since respondent failed to accomplish the registration, it is only proper and just that the amount complainant paid for such purpose be returned to her, with legal interest of six percent (6%) *per annum* from the date of receipt of this Resolution until full payment.[39]

WHEREFORE, respondent Atty. Jose L. Alvarez, Jr. is hereby **SUSPENDED** from the practice of law for three (3) years. He is **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

Atty. Alvarez, Jr. is also **ORDERED** to return the full amount of ₱115,000.00 and the documents he received from the complainant, Rita P. Costenoble, within thirty (30) days from the finality of this Resolution. The amount of ₱115,000.00 shall earn legal interest of six percent (6%) *per annum* from the date of receipt of this Resolution until full payment.

Let a copy of this Resolution be entered in Atty. Jose L. Alvarez, Jr.'s record as a member of the Bar, and notice 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.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

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[38] *Gutierrez v. Atty. Maravilla-Ona*, *supra.*

[39] See *Caballero v. Atty. Pilapil*, *supra* note 13.

EN BANC

[A.C. No. 12298. September 1, 2020]

FELIPE D. LAUREL,[*] *Complainant*, *v.* **REYMELIO M. DELUTE**, *Respondent*.

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; DISCIPLINARY PROCEEDINGS; PRESCRIPTION OR LACHES CANNOT BE SAID TO APPLY IN DISCIPLINARY PROCEEDINGS AGAINST ERRING LAWYERS. — Preliminarily, the Court deems it appropriate to address respondent's invocation of laches due to the supposed delay in filing the instant administrative complaint. Suffice it to say that "[t]he Court's disciplinary authority cannot be defeated or frustrated by a mere delay in filing the complaint, or by the complainant's motivation to do so. The practice of law is so intimately affected with public interest that it is both a right and a duty of the State to control and regulate it in order to promote the public welfare." Hence, prescription or laches cannot be said to apply in disciplinary proceedings against erring lawyers, as in this case.

2. ID.; ID.; ID.; DISCIPLINARY PROCEEDINGS AGAINST LAWYERS ARE *SUI GENERIS* IN THAT THEY ARE NEITHER PURELY CIVIL NOR PURELY CRIMINAL; THEY INVOLVE INVESTIGATIONS BY THE COURT INTO THE CONDUCT OF ONE OF ITS OFFICERS, NOT THE TRIAL OF AN ACTION OR A SUIT. — It is well-settled that "disciplinary proceedings against lawyers are *sui generis* in that they are neither purely civil nor purely criminal; they involve investigations by the Court into the conduct of one of its officers, not the trial of an action or a suit." The Court's authority to discipline the members of the legal profession is derived from no other than its constitutional mandate to regulate the admission to the practice of law.

3. ID.; ID.; ADMINISTRATIVE PROCEEDINGS; A LAWYER'S ADMINISTRATIVE MISCONDUCT MAY PROCEED INDEPENDENTLY FROM CRIMINAL AND CIVIL CASES REGARDLESS OF WHETHER OR NOT THESE CASES

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[*] Complainant died on April 6, 2015; see Certificate of Death of Felipe Laurel, *rollo*, p. 259.

INVOLVE SIMILAR OR OVERLAPPING FACTUAL CIRCUMSTANCES. — In a catena of *en banc* and division cases spanning from 1928 up to 2018, **the Court has consistently held that a lawyer's administrative misconduct may proceed independently from criminal and civil cases, regardless of whether or not these cases involve similar or overlapping factual circumstances**. In these cases, the Court has been consistent in ruling that **the findings in one type of case will have no determinative bearing on the others.**

4. REMEDIAL LAW; ACTIONS; CRIMINAL ACTIONS, CIVIL ACTIONS, AND ADMINISTRATIVE DISCIPLINARY ACTIONS AGAINST LAWYERS, DISTINGUISHED. — Verily, the independency of criminal, civil, and administrative cases from one another – irrespective of the similarity or overlap of facts – stems from the **basic and fundamental differences of these types of proceedings** in terms of purpose, parties-litigants involved, and evidentiary thresholds. *These key foundational distinctions constitute the rationale as to why a disposition in one case would not affect the other.* To briefly recount: (1) ***As to purpose***, criminal actions are instituted to determine the penal liability of the accused for having outraged the State with his/her crime; civil actions are for the enforcement or protection of a right, or the prevention or redress of a wrong; while administrative disciplinary cases against lawyers are instituted in order to determine whether or not the lawyer concerned is still fit to be entrusted with the duties and responsibilities pertaining to the office of an attorney. (2) ***As to the party-litigants involved***, criminal actions are instituted in the name of the State, *i.e.*, People of the Philippines, against the accused, and the private complainant, if any, is regarded merely as a witness for the State; in civil actions, the parties are the plaintiff, or the person/entity who seeks to have his right/s protected/enforced, and the defendant is the one alleged to have trampled upon the plaintiff's right/s; in administrative proceedings against lawyers, there is no private interest involved and there is likewise no redress for private grievance as it is undertaken and prosecuted solely for the public welfare and for preserving courts of justice from the official ministration of person unfit to practice law, and the complainant is also deemed as a mere witness. (3) ***As to evidentiary thresholds***, criminal proceedings require proof beyond reasonable doubt; civil actions necessitate the lower threshold of preponderance of evidence; and administrative

disciplinary proceedings against lawyers need only substantial evidence.

5. LEGAL ETHICS; ATTORNEYS; DISCIPLINARY PROCEEDINGS; THE COURT'S POWER TO DISCIPLINE MEMBERS OF THE BAR THROUGH ADMINISTRATIVE DISCIPLINARY PROCEEDINGS IS NOT BEHOLDEN TO THE ACTS AND DECISIONS OF PRIVATE COMPLAINANTS. — Indeed, the Court's power to discipline members of the Bar through administrative disciplinary proceedings is not – as it should not be – beholden to the acts and decisions of private complainants, who are merely witnesses thereto. The Court's disciplinary power is derived from no other than the Constitution which gives it the exclusive and plenary power to discipline erring lawyers. as earlier mentioned, the main thrust behind this authority is to preserve the purity of the legal profession, which in turn, affects the administration of justice itself. Therefore, the Court's ability to discipline unfit members of the Bar is unquestionably **imbued with great public interest** and thus, should not be hindered by extraneous circumstances that are separately taken into account in criminal or civil cases which arise from a similar set of facts.

6. ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; AS OFFICERS OF THE COURT, LAWYERS ARE BOUND TO MAINTAIN NOT ONLY A HIGH STANDARD OF LEGAL PROFICIENCY BUT ALSO OF MORALITY, HONESTY, INTEGRITY, AND FAIR DEALING. — Based on jurisprudence, the foregoing postulates instruct that "as officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing." Clearly, respondent fell short of these ethical standards when he deceived and strong-armed complainant and his wife into signing documents which effectively waived their rights and interest over the land that complainant inherited from his father.

7. ID.; ID.; ID.; IT BEHOOVES LAWYERS NOT ONLY TO KEEP INVIOLABLE THE CLIENT'S CONFIDENCE BUT ALSO TO AVOID THE APPEARANCE OF TREACHERY AND DOUBLE-DEALING. — Case law provides that "[i]t 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. The nature of that relationship is, therefore, one of trust and confidence of the highest degree." In this case, respondent breached these ethical standards when he personally profited from the signing of the Compromise Agreement by his client, and even resorted to manipulation in conspiracy with Azucena, the other party.

8. ID.; ID.; ID.; EVERY CASE WHICH A LAWYER ACCEPTS DESERVES FULL ATTENTION, DILIGENCE, SKILL, AND COMPETENCE, REGARDLESS OF IMPORTANCE. — Jurisprudence explains that once a lawyer agrees to handle a case, he is required to undertake the task with zeal, care, and utmost devotion. Every case which a lawyer accepts deserves full attention, diligence, skill, and competence, regardless of its importance. Thus, clients are led to expect that lawyers would always be mindful of their cause and, accordingly, exercise the required degree of diligence in handling their affairs. On the other hand, a lawyer is expected to maintain, at all times, a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether or not he accepts it for a fee.

LEONEN, *J.*, *concurring opinion*:

1. LEGAL ETHICS; ATTORNEYS; ADMINISTRATIVE PROCEEDINGS; THE PRIMARY OBJECTIVE OF ADMINISTRATIVE CASES AGAINST LAWYERS IS TO PROTECT PUBLIC INTEREST AS THESE PROCEEDINGS DETERMINE THEIR FITNESS TO ENJOY THE PRIVILEGES OF BEING AN ATTORNEY. — The primary objective of administrative cases against lawyers is to protect public interest, as these proceedings determine their fitness to enjoy the privileges of being an attorney. They are not meant to settle rights and controversies between parties as in ordinary cases. Disciplinary cases are distinct, and proceed independently of civil or criminal cases, since a lawyer's administrative liability "stands on grounds different from those in the other cases."

2. ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; TO DETERMINE IF A LAWYER BREACHED THE ETHICS OF HIS OR HER PROFESSION, THE COURT IS GUIDED

BY THE STANDARDS LAID DOWN IN THE CODE OF PROFESSIONAL RESPONSIBILITY AS WELL AS THE LAWYER'S OATH. — To determine if a lawyer breached the ethics of his or her profession, this Court is guided by the standards laid down in the Code of Professional Responsibility, as well as the Lawyer's Oath to which all lawyers are bound. One of the most, if not the most, important responsibility of a lawyer is to refrain from dishonest and deceitful conduct. Violating this is enough to hold a lawyer liable.

CAGUIOA, *J.*, *dissenting and concurring opinion*:

1. LEGAL ETHICS; ATTORNEYS; DISCIPLINARY PROCEEDINGS; WHERE THE QUESTIONABLE CONDUCT OF THE LAWYER IS SO INEXTRICABLY LINKED TO A JUDICIAL ISSUE BETWEEN OTHER PRIVATE PARTIES, THE SUPREME COURT IS REQUIRED TO REFRAIN FROM DELVING INTO SUCH ISSUE AS DOING SO WOULD BE UNFAIRLY PRE-EMPTING ANY APPROPRIATE ACTION THAT WOULD BE TAKEN BY THE COURT OR THE PARTIES-IN-INTEREST. — In cases such as *Espanto*, the issues against the conduct of the lawyer **are susceptible of bifurcation** from other related legal issues at hand over which the Court could not exercise its disciplining authority. This, to my mind, does not mean shirking or conceding responsibility, but is done **as a matter of prudence and fairness**. This delimitation is, in fact, attuned to the oft-cited principle that "[d]isciplinary proceedings involve no private interest and afford no redress for private grievance." As *Espanto* powerfully illustrates, the exercises does not prevent the Court from examining the allegations in the complaint and the evidence available to determine whether it may still rule on the administrative liability of the lawyer. As will be shown below, this finds application here, too. **Thus, where the questionable conduct of the lawyer is so *inextricably linked* to a judicial issue *between other private parties* that ought to be threshed out or is already to subject of pending litigation, then I submit that the Court is required to refrain from delving into such issue as doing so would be unfairly pre-empting any appropriate action that would be taken by the court or the parties-in-interest.**

2. ID.; ID.; ID.; WHEN THE BASIS TO IMPOSE DISCIPLINE IS GROUNDED ON A FACT OR ISSUE THAT CANNOT BE EASILY DIVORCED FROM ANOTHER, THE COURT SHOULD BE MINDFUL TO STAY ITS HAND. — Thus, I respectfully submit that while the Court should not hesitate to discipline errant lawyers, this duty must likewise be exercised carefully, in that an examination of the issues at hand should be had. The general notion that an administrative case is different from a criminal or civil case as enough justification for the Court to wield its disciplining authority should be disabused. **When the basis to impose discipline is grounded on a fact or issue that cannot be easily divorced from another, whose resolution requires a full-fledged trial, and which affects the interest of parties outside of the disbarment case, the Court should be mindful to stay its hand**.

3. ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; TEST TO DETERMINE CONFLICT OF INTEREST AMONG LAWYERS. — The rule against conflict of interest is expressed in Canon 15, Rules 15.01 and 15.03 of the Code of Professional Responsibility. It means the existence of a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected *by the lawyer's own interest* or the lawyer's duties to another client, a former client, or a third person, during the various stages of the professional relationship. The test of conflict of interest among lawyers 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.*"

REYES, J. JR., *J.*, *concurring and dissenting opinion*:

1. LEGAL ETHICS; ATTORNEYS; DISCIPLINARY PROCEEDINGS; THE PROPER SCOPE OF INQUIRY IN DISBARMENT PROCEEDINGS IS TO DETERMINE THE LAWYER'S FITNESS TO CONTINUE AS A MEMBER OF THE BAR. — I submit, however, that rather than being in conflict with these well-established rule and precedents, the line of jurisprudence wherein the Court exercised restraint in fact recognizes the rule that "the proper scope of inquiry in disbarment proceedings is to determine the lawyer's fitness to continue as a member of the Bar." Such cases are representative of instances

when the Court recognized that it cannot determine whether the respondent lawyer indeed committed the imputed wrongdoing without delving into issues which were deemed proper to be threshed out in a more appropriate proceeding and not in the disbarment proceeding itself.

2. ID.; ID.; ID.; FAILURE OF THE LAWYER TO FILE HIS ANSWER CANNOT BE DEEMED AS AN ADMISSION OF THE ALLEGATIONS IN THE COMPLAINT AGAINST HIM BUT MAY SUBJECT HIM TO ADMINISTRATIVE LIABILITY FOR FAILURE TO OBEY THE IBP'S LAWFUL ORDERS. — After all, it is well-settled that an attorney enjoys the legal presumption that he or she is innocent of charges against him or her until the contrary is proved and that as an officer of the court, he or she is presumed to have performed his duties in accordance with his oath. In fact, in *Robiñol v. Bassig*, where the respondent lawyer also failed to file his Answer and to attend the scheduled mandatory conference, the Court held such failure cannot be deemed as an admission of the allegations in the complaint, which the complainant has the burden of proving, but may subject said respondent lawyer to administrative liability for failure to obey the IBP's lawful orders.

3. ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM. — In this respect, respondent violated Canon 17 of the Code of Professional Responsibility (CPR) which states that "[a] lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence repose in him." Regardless of the truthfulness of the allegation that he misled or deceived the complainant into signing the Compromise Agreement, the fact that he stands to benefit from the Compromise Agreement through a person whose interests are adverse to that of his client raises sufficient cause for suspicion that he was protecting his own interest instead of the complainant's interest.

APPEARANCES OF COUNSEL

Maderazo Law Office for complainant.

D E C I S I O N

***PER CURIAM*:**

Before the Court is an Affidavit-Complaint[1] filed by complainant Felipe D. Laurel (complainant) against respondent Reymelio M. Delute (respondent), seeking that the latter be disbarred for misleading and deceiving his own client.

The Facts

In the Affidavit-Complaint filed before the Integrated Bar of the Philippines (IBP), it was alleged that complainant engaged the services of respondent as counsel in a dispute against Azucena Laurel-Velez (Azucena) involving a parcel of land that complainant inherited from his father (subject land). Sometime in 2003, respondent fetched complainant and his wife from their home to sign certain documents. Due to his lack of educational background, complainant wanted to bring his daughter (who is a college graduate) during the meeting to assist them, but respondent refused.[2]

Upon arriving at their destination, respondent represented to complainant and his wife that Azucena were to pay them partial rental payments for the land in the amount of ₱300,000.00, and in connection therewith, presented to them documents to sign. Initially, complainant refused to sign the documents as he did not understand its contents (which were written in English), but due to respondent's prodding, he eventually did. After signing the documents and before parting ways with complainant and his wife, respondent allegedly took ₱100,000.00 out of the ₱300,000.00 given by Azucena.[3]

Later on, complainant found out that, contrary to respondent's earlier representations, the documents which he signed were: *(a)* a Compromise Agreement[4] which effectively caused him

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[1] Id. at 151-152.

[2] See id. at 151.

[3] See id. at 151-152.

[4] Dated June 12, 2003; id. at 157-159.

to cede his rights over the land that he inherited from his father; and *(b)* a receipt stating that he received the amount of ₱300,000.00 in consideration therefor.[5] Further, he also found out that through the Compromise Agreement, respondent was granted a three (3)-meter wide perpetual road right of way on the subject land. Aggrieved not only by the lack of instruction coming from his own legal counsel but also the latter's own active incitement for him to sign these documents and double-dealing, Laurel filed the instant administrative case, seeking that respondent be disbarred.[6]

Respondent failed to file any responsive pleading despite due notice.[7]

The IBP's Report and Recommendation

In a Report and Recommendation[8] dated April 28, 2015, the IBP Investigating Commissioner recommended that respondent be found administratively liable and be meted with the supreme penalty of disbarment.[9]

The Investigating Commissioner found that respondent failed to conduct himself as a lawyer "with all good fidelity" to his client when he failed to explain to complainant and his wife the true import of the documents that he made them sign. Worse, it appears that respondent willfully manipulated complainant and his wife into signing the Compromise Agreement, considering the benefit he will gain from it, *i.e.*, the grant of a right of way in his favor, not to mention the ₱100,000.00 that he took from the ₱300,000.00 given to complainant. In addition, the Investigating Commissioner opined that respondent's administrative liability is further aggravated when he ignored the processes of the IBP in connection with the instant administrative complaint.[10]

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[5] See receipt dated June 12, 2003; id. at 156.

[6] See id. at 152. See also id. at 268-269.

[7] Id. at 269.

[8] Id. at 267-273. Signed by Investigating Commissioner Jose Alfonso M. Gomos.

[9] Id. at 273.

[10] See id. at 270-273.

In a Resolution[11] dated November 29, 2017, the IBP Board of Governors modified the Investigating Commissioner's recommendations, lowering the recommended penalty to a five (5)-year suspension from the practice of law, and further imposing a fine in the amount of ₱5,000.00 for disobeying the orders of the IBP to file responsive pleadings in the instant proceedings.[12]

Subsequent to the foregoing, respondent filed a Motion to Lift Suspension from the Practice of Law,[13] which complainant opposed.[14] In this Motion, respondent did not specifically deny the allegations in the complaint, and instead, invoked laches, contending that it took complainant nine (9) years before filing the instant administrative complaint. He likewise insisted on the validity of the Compromise Agreement, arguing, *inter alia*, that complainant already sought the declaration of nullity of the Compromise Agreement through the filing of Civil Case No. T-2497 before the Regional Trial Court of Toledo City, Cebu, Branch 50 but the suit was dismissed, albeit on the ground of lack of jurisdiction.[15]

The Issue Before the Court

The issue for the Court's resolution is whether or not respondent should be held administratively liable for the acts he committed against complainant.

The Court's Ruling

Preliminarily, the Court deems it appropriate to address respondent's invocation of laches due to the supposed delay in filing the instant administrative complaint. Suffice it to say

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[11] See Notice of Resolution in CBD Case No. 11-3244 signed by Assistant National Secretary Doroteo B. Aguila; id. at 265-266.

[12] Id. at 265.

[13] Dated June 18, 2018; id. at 2-17.

[14] See Opposition to the Motion to Lift suspension from Practice of Law dated July 10, 2018; id. at 106-123.

[15] See id. at 2-15.

that "[t]he Court's disciplinary authority cannot be defeated or frustrated by a mere delay in filing the complaint, or by the complainant's motivation to do so. The practice of law is so intimately affected with public interest that it is both a right and a duty of the State to control and regulate it in order to promote the public welfare."[16] Hence, prescription[17] or laches[18] cannot be said to apply in disciplinary proceedings against erring lawyers, as in this case.

For another, respondent further insists that the Compromise Agreement remains to be valid, considering that the civil case filed by complainant for the declaration of its nullity, *i.e.*, Civil Case No. T-2497, had already been dismissed. Thus, it cannot be said that he manipulated and/or deceived complainant into signing the same.[19]

In this relation, the dissent[20] advances the view that the Court should refrain from passing upon the allegation that respondent manipulated and/or deceived complainant into signing the Compromise Agreement as it would necessarily delve into the validity thereof. In support, the case of *Medina v. Lizardo (Medina)*[21] was cited, *viz.*:

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[16] *Cabanilla v. Cristal-Tenorio*, 461 Phil. 1, 16 (2003), citing *Sevilla v. Salubre*, 401 Phil. 805, 814 (2000); further citation omitted.

[17] See *Heck v. Santos*, 467 Phil. 798, 823-825 (2004) and *Calo, Jr. v. Degamo*, 126 Phil. 802, 805-806 (1967).

[18] In any event, the elements of laches namely: (1) the conduct of the defendant or one under whom he claims, gave rise to the situation complained of; (2) there was delay in asserting a right after knowledge of the defendant's conduct and after an opportunity to sue; (3) defendant had no knowledge or notice that the complainant would assert his right; and (4) there is injury or prejudice to the defendant in the event relief is accorded to the complainant, have not been shown to be obtaining here for respondent's failure to show how iniquitous it would be if the complaint would not be barred. (See *Spouses Aboitiz v. Spouses Po*, 810 Phil. 123, 148; citation omitted.)

[19] See Motion to Lift Suspension from the Practice of Law dated June 18, 2018; *rollo*, pp. 2-15.

[20] See Dissenting and Concurring Opinion of Associate Justice Alfredo Benjamin S. Caguioa, pp. 6-10.

[21] 804 Phil. 599 (2017).

However, we refrain from passing upon the finding of the investigating Commissioner that Atty. Lizardo was guilty of deceit in allegedly inducing Silvestra and the heirs of Alicia into selling their interest in all three lots covered by the subject TCTs in the Extrajudicial Settlement with Sale when their purported intention was to sell only the parcels covered by TCT No. 13866. **The matter of fraud in the execution of said agreement which will have implications on its validity and legal effects must be first threshed out by the parties in the appropriate proceedings**.[22] (Emphasis and underscoring supplied)

Notably, *Medina* echoes a line of case law[23] stating that when a resolution of an administrative disciplinary case against a lawyer would necessarily delve into issues which are proper subjects of judicial action, it is prudent for the Court to dismiss the administrative case without prejudice to the filing of another one, depending on the final outcome of the judicial action.[24]

However, during the deliberations of this case, it was ruminated that the above-described doctrine of restraint as pronounced in the *Medina, et al.* rulings unduly fetters — and in fact, diminishes — the Court's exclusive and plenary power to discipline members of the Bar. In addition, it was highlighted that said rulings run counter to the overwhelming body of jurisprudence which consistently holds that administrative cases for the discipline of lawyers may proceed independently from civil and/or criminal cases despite involving the same set of facts and circumstances.[25]

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[22] Id. at 611.

[23] See *Virgo v. Amorin*, 597 Phil. 182 (2009); *Spouses Williams v. Enriquez*, 722 Phil. 102 (2013); *Felipe v. Macapagal*, 722 Phil. 439 (2013); and *Espanto v. Belleza*, 826 Phil. 412 (2018).

[24] See *Felipe v. Macapagal*, id.; *Spouses Williams v. Enriquez,* id.; and *Virgo v. Amorin,* id.

[25] See *In re: Felipe Del Rosario*, 52 Phil. 399 (1928); *Villanos v. Subido*, 150-A Phil. 650 (1972); *Re: Agripino A. Brillantes, Romeo R. Bringas*, 166 Phil. 449 (1977); *Pangan v. Ramos*, 194 Phil. 1 (1981); *Esquivias v. CA*, 339 Phil. 184 (1997); *Gatchalian Promotions Talents Pool, Inc. v. Naldoza*, 374 Phil. 1 (1999); *Office of the Court Administrator v. Sardido*, 449 Phil. 619 (2003); *Foronda v. Guerrero*, 479 Phil. 636 (2004); *Silva Vda. de Fajardo v. Bugaring*, 483 Phil. 170 (2004); *Po Cham v. Pizarro*, 504 Phil. 273 (2005);

After a careful consideration of these conflicting rulings, the Court has now decided to abandon *Medina* and other cases wherein a similar doctrine of restraint was espoused. As will be discussed below, the Court is not precluded from examining respondent's actuations in this administrative case if only to determine his fitness to remain as a member of the Bar. This is regardless of the fact that this administrative case involves similar or overlapping factual circumstances with a separate civil case.

It is well-settled that "disciplinary proceedings against lawyers are *sui generis* in that they are neither purely civil nor purely criminal; they involve investigations by the Court into the conduct of one of its officers, not the trial of an action or a suit."[26]

The Court's authority to discipline the members of the legal profession is derived from no other than its constitutional mandate to regulate the admission to the practice of law. Section 5 (5), Article VIII of the 1987 Constitution provides:

> ARTICLE VIII
> JUDICIAL DEPARTMENT
>
> x x x x
>
> Section 5. The Supreme Court shall have the following powers:
>
> x x x x x x x x x
>
> (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, *the admission to the practice of law*, the integrated bar, and legal assistance to the underprivileged.

Suzuki v. Tiamson, 508 Phil. 130 (2005); *Tomlin II v. Moya II*, 518 Phil. 325 (2006); *Saludo, Jr. v. CA*, 522 Phil. 556 (2006); *Gonzalez v. Alcaraz*, 534 Phil. 471 (2006); *Hsieh v. Quimpo*, 540 Phil. 205 (2006); *Guevarra v. Eala*, 555 Phil. 713 (2007); *Yu v. Palaña*, 580 Phil. 19 (2008); *De Jesus v. Guerrero III*, 614 Phil. 520 (2009); *Bayonla v. Reyes*, 676 Phil. 500 (2011); *Bengco v. Bernardo*, 678 Phil. 1 (2012); *Spouses Saunders v. Pagano-Calde*, 766 Phil. 341 (2015); *Philcomsat Holdings Corporation v. Lokin, Jr.*, 785 Phil. 1 (2016); *Yumul-Espina v. Tabaquero*, 795 Phil. 653 (2016); *Espanto v. Belleza*, supra.

[26] *Ylaya v. Gacott*, 702 Phil. 390, 406 (2013).

x x x x

The Court's disciplinary authority over members of the Bar is in recognition of the fact that lawyers are not merely professionals, but are also considered *officers of the court*. As such, they are called upon to share in the responsibility of dispensing justice and resolving disputes in society. Hence, it cannot be denied that the Court has "**plenary disciplinary authority**" over members of the Bar.[27] As earlier intimated, in the exercise of such disciplinary powers — through proceedings which are *sui generis* in nature — 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**. In so doing, the Court aims to ensure the proper and honest administration of justice by purging the profession of members who, by their misconduct, have proven themselves no longer worthy to be entrusted with the duties and responsibilities of an attorney.[28]

In a catena of *en banc* and division cases spanning from 1928 up to 2018,[29] **the Court has consistently held that a lawyer's administrative misconduct may proceed independently from criminal and civil cases, regardless of whether or not these cases involve similar or overlapping factual circumstances**. In these cases, the Court has been consistent in ruling that **the findings in one type of case will have no determinative bearing on the others**.

In *Gatchalian Promotions Talents Pool, Inc. v. Naldoza*,[30] the Court elucidated that:

> [A] finding of guilt in the criminal case will not necessarily result in a finding of liability in the administrative case. Conversely, respondent's acquittal does not necessarily exculpate him administratively. In the

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[27] See *Bernardino v. Santos*, 754 Phil. 52, 70 (2015), citing *Zaldivar v. Sandiganbayan*, 248 Phil. 542, 554-556 (1988).

[28] See *Aniñon v. Sabitsana, Jr.*, 685 Phil. 322, 330 (2012).

[29] See note 25.

[30] 374 Phil. 1 (1999).

same vein, the trial court's finding of civil liability against the respondent will not inexorably lead to a similar finding in the administrative action before this Court. Neither will a favorable disposition in the civil action absolve the administrative liability of the lawyer. **The basic premise is that criminal and civil cases are altogether different from administrative matters, such that the disposition in the first two will not inevitably govern the third and *vice versa***. x x x.[31] (Emphasis and underscoring supplied)

In this relation, the Court, in *Bayonla v. Reyes*,[32] observed that "the simultaneous pendency of an administrative case and a judicial proceeding related to the cause of the administrative case, **even if the charges and the evidence to be adduced in such cases are similar**, does not result into or occasion any unfairness, or prejudice, or deprivation of due process to the parties in either of the cases."[33]

Meanwhile, in *Esquivias v. Court of Appeals*,[34] which involved a lawyer's act that was subject of both a disbarment proceeding and a related civil case for the nullity of a deed of sale, the Court held:

> [T]he judgment on the disbarment proceedings, **which incidentally touched on the issue of the validity of the deed of sale, cannot be considered conclusive** in another action where the validity of the same deed of sale is merely one of the main issues. At best, such judgment may only be given weight when introduced as evidence, **but in no case does it bind the court in the second action**.[35] (Emphases and underscoring supplied)

Verily, the independency of criminal, civil, and administrative cases from one another — irrespective of the similarity or overlap of facts — stems from the **basic and fundamental differences of these types of proceedings** in terms of purpose, parties-

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[31] Id. at 10.

[32] 676 Phil. 500 (2011).

[33] Id. at

[34] 339 Phil. 184 (1997).

[35] Id. at

litigants involved, and evidentiary thresholds. *These key foundational distinctions constitute the rationale as to why a disposition in one case would not affect the other.* To briefly recount:

(1) ***As to purpose***, criminal actions are instituted to determine the penal liability of the accused for having outraged the State with his/her crime;[36] civil actions are for the enforcement or protection of a right, or the prevention or redress of a wrong;[37] while administrative disciplinary cases against lawyers are instituted in order to determine whether or not the lawyer concerned is still fit to be entrusted with the duties and responsibilities pertaining to the office of an attorney.[38]

(2) ***As to the party-litigants involved***, criminal actions are instituted in the name of the State, *i.e.*, People of the Philippines, against the accused, and the private complainant, if any, is regarded merely as a witness for the State;[39] in civil actions, the parties are the plaintiff, or the person/entity who seeks to have his right/s protected/enforced, and the defendant is the one alleged to have trampled upon the plaintiff's right/s; in administrative proceedings against lawyers, there is no private interest involved and there is likewise no redress for private grievance as it is undertaken and prosecuted solely for the public welfare and for preserving courts of justice from the official ministration of person unfit to practice law,[40] and the complainant is also deemed as a mere witness.[41]

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[36] See *Montelibano v. Yap*, 822 Phil. 262, 273 (2017), citing *Bumatay v. Bumatay*, 809 Phil. 302, 312 (2017).

[37] See Section 3 (a), Rule 1 of the Rules of Court.

[38] See *Office of the Court Administrator v. Sardido*, 449 Phil. 619, 628-629 (2003), citing *Gatchalian Promotions Talents Pool, Inc. v. Naldoza*, supra.

[39] See *Montelibano v. Yap*, supra, citing *Bumatay v. Bumatay*, supra.

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

[41] See *Ombudsman v. Gutierrez*, 811 Phil. 389, 401 (2017), citing *Paredes v. Civil Service Commission*, 270 Phil. 165, 182 (1990).

(3) ***As to evidentiary thresholds***, criminal proceedings require proof beyond reasonable doubt;[42] civil actions necessitate the lower threshold of preponderance of evidence;[43] and administrative disciplinary proceedings against lawyers need only substantial evidence.[44]

Again, owing to these basic and fundamental differences, a finding in one type of case should have **no binding determinative effect** in the disposition of another. *This is because a civil, criminal or administrative proceeding must be adjudged* ***according to the case type's own peculiar and distinct parameters***. Accordingly, the dissent's fear that the findings in an administrative case would undermine the findings made in a separate civil or criminal case involving related facts is a mere impression that is more notional than conceptual.[45]

In light of the foregoing, the fact that the validity of the Compromise Agreement has yet to be determined in a civil case will **not** – as it should not – preclude the Court from looking into respondent's acts in relation to the execution of the same agreement if only to determine if respondent is still worthy to remain as a member of the Bar. Thus, the dismissal of Civil Case No. T-2497 must not operate to prevent the Court from adjudging respondent's administrative liability based on such

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[42] See Section 2, Rule 133 of the Rules of Court.

[43] See Section 1, Rule 133 of the Rules of Court.

[44] See Section 5, Rule 133 of the Rules of Court. See also *Reyes v. Nieva*, 794 Phil. 360 (2016); *Arsenio v. Tabuzo*, 809 Phil. 206 (2017); *Alicias v. Baclig*, 813 Phil. 893 (2017); *Robiñol v. Bassig*, 821 Phil. 28 (2017); *Tumbaga v. Teoxon*, 821 Phil. 1 (2017); *Dela Fuente v. Dalangin*, 822 Phil. 81 (2017); *Rico v. Salutan*, 827 Phil. 1 (2018); *BSA Tower Condominium Corporation v. Reyes II*, A.C. No. 11944, June 20, 2018, 867 SCRA 12; *Gubaton v. Amador*, A.C. No. 8962, July 9, 2018, 871 SCRA 127; *Goopio v. Maglalang*, A.C. No. 10555, July 31, 2018; *Billanes v. Latido*, A.C. No. 12066, August 28, 2018; *Vantage Lighting Philippines, Inc. v. Diño, Jr.*, A.C. Nos. 7389 and 10596, July 2, 2019; *Adelfa Properties, Inc. (now Fine Properties, Inc.) v. Mendoza*, A.C. No. 8608, October 16, 2019; *Spouses Nocuenca v. Bensi*, A.C. No. 12609, February 10, 2020.

[45] Awaiting opinions.

acts, which matter is separate and distinct from the question of said document's validity.

At any rate, it should be pointed out that Civil Case No. T-2497 was not dismissed on the merits but only on the procedural ground of lack of jurisdiction over the subject matter. As there was no dismissal on the merits, complainant is not barred by *res judicata*[46] and hence, may re-file the same.

At this juncture, it should be pointed out that the decision to re-file said civil case is the prerogative of complainant, and insofar as this case is concerned, still remains speculative. Thus, to follow the dissent's theory of restraint is tantamount to insinuating that the Court must first bank on complainant's resolve to re-file such civil action and then consequently await its final resolution before it can discipline an erring member of the legal profession. This insinuation is not only preposterous but also diminishes outright the Court's constitutional authority to regulate the legal profession. As case law had already expressed, "**it is not sound judicial policy to await the final resolution of [a civil or 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 [said] case is pending final disposition, when the objectives of the x x x 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."[47]

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[46] "The elements of *res judicata* are as follows: (1) the former judgment or order must be final; (2) **the judgment or order must be on the merits**; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (4) there must be, between the first and the second action, identity of parties, of subject matter and cause of action." (*Taganas v. Emuslan*, G.R. No. 146980, 457 Phil. 305, 311-312 [2003].)

[47] *Yu v. Palaña*, supra; citations omitted.

Indeed, the Court's power to discipline members of the Bar through administrative disciplinary proceedings is not — as it should not be — beholden to the acts and decisions of private complainants, who are merely witnesses thereto.[48] The Court's disciplinary power is derived from no other than the Constitution which gives it the exclusive and plenary power to discipline erring lawyers. As earlier mentioned, the main thrust behind this authority is to preserve the purity of the legal profession, which in turn, affects the administration of justice itself. Therefore, the Court's ability to discipline unfit members of the Bar is unquestionably **imbued with great public interest** and thus, should not be hindered by extraneous circumstances that are separately taken into account in criminal or civil cases which arise from a similar set of facts.

At the risk of belaboring the point, the Court's only concern in an administrative case is the determination of whether or not the lawyer involved is still fit to remain as a member of the Bar.[49] As herein applied, the only issue in this case is whether or not respondent violated his oath as lawyer by manipulating and/or deceiving complainant into signing the Compromise Agreement; **this issue is fundamentally different from the issue of the instrument's due execution and authenticity**. To resolve the latter, it is necessary that a civil action be duly instituted by complainant against the instrument's counterparty (*i.e.*, Azucena) before a court of competent jurisdiction. Said civil case will then be adjudged **based on the evidence therein submitted by the parties** and **resolved according to its own parameters** that are separate and distinct from the instant administrative proceeding.[50] To highlight the disparity, it must be pointed out that, among others: *(a)* Azucena is not even a party to this case, and thus, has not submitted his own evidence to uphold the Compromise Agreement; *(b)* the evidentiary threshold to be used in the prospective civil case is preponderance

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[48] See *Ombudsman v. Gutierrez*, supra, citing *Paredes v. Civil Service Commission*, supra.

[49] See *Yu v. Palaña*, supra note 40, at 26-27.

[50] See *Esquivias v. Court of Appeals*, supra note 34, at 193-194.

of evidence which is entirely different from substantial evidence as utilized in this case; and *(c)* in invalidating the Compromise Agreement, the civil principle that "he who alleges fraud or mistake affecting a transaction must substantiate his allegation, since it is presumed that a person takes ordinary care of his concerns and that private transactions have been fair and regular,"[51] will be followed, whereas in this administrative case, these presumptions do not attend.

For all the foregoing reasons, the Court should not shirk from its responsibility to holistically examine respondent's actuations that resulted into complainant's signing of the Compromise Agreement, and consequently, impose the appropriate disciplinary sanction/s based thereon.

The Code of Professional Responsibility (CPR), particularly, Canon 1 and Rule 1.01 thereof, provide:

CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

Based on jurisprudence, the foregoing postulates instruct that "as officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing."[52]

Clearly, respondent fell short of these ethical standards when he deceived and strong-armed complainant and his wife into signing documents which effectively waived their rights and interests over the land that complainant inherited from his father.

Not only that, respondent, through his acts of double-dealing, also violated Canon 15 and Rule 15.03 of the CPR, which read:

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[51] *Spouses Ramos v. Obispo*, 705 Phil. 221, 230 (2013).

[52] *Spouses Lopez v. Limos*, 780 Phil. 113, 112 (2016), citing *Tabang v. Gacott*, 713 Phil. 578, 593 (2013).

CANON 15 — A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENTS.

x x x x

Rule 15.03 –A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of facts.

x x x x

Case law provides that "[i]t 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. The nature of that relationship is, therefore, one of trust and confidence of the highest degree."[53] In this case, respondent breached these ethical standards when he personally profited from the signing of the Compromise Agreement by his client, and even resorted to manipulation in conspiracy with Azucena, the other party.

Respondent's acts further contravene Canons 17 and 18 of the CPR which state that:

CANON 17 — A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST REPOSED IN HIM.

x x x x

CANON 18 — A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

x x x x

Jurisprudence explains that once a lawyer agrees to handle a case, he is required to undertake the task with zeal, care, and utmost devotion. Every case which a lawyer accepts deserves full attention, diligence, skill, and competence, regardless of

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[53] *Paces Industrial Corporation v. Salandanan*, 814 Phil. 93, 101 (2017).

its importance.[54] Thus, clients are led to expect that lawyers would always be mindful of their cause and, accordingly, exercise the required degree of diligence in handling their affairs. On the other hand, a lawyer is expected to maintain, at all times, a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether or not he accepts it for a fee.[55]

Here, respondent not only neglected his duty to protect his own client's interests by failing to explain the true import of the Compromise Agreement; worse, he literally sold out his client's cause in order to gain personal benefits. As mentioned, it is **unrebutted** that respondent received *(a)* a ₱100,000.00 cut from the ₱300,000.00 paid by Azucena to complainant and his wife, and *(b)* a three (3)-meter wide perpetual road right of way on the subject land. Anent the latter, item no. 3 of the Compromise Agreement reads:

> 3. The oppositor [*i.e.*, Azucena] and Gamaliel Casas shall grant to Atty. Reymelio M. Delute, his heirs and assigns, a three-meter wide perpetual road right of way on the subject Lot 4-C, from Atty. Delute's adjoining lot to the nearest public road, which road right of way shall be made into accessible road at the sole expense of the oppositor;[56]

As the Court observes, the straightforwardness and believability of the allegations in the complaint, as buttressed by the benefits received by respondent appearing on the Compromise Agreement, when taken together with respondent's failure to rebut the same despite due notice, already constitute substantial evidence to hold him administratively liable. "It is fundamental that the quantum of proof in administrative cases is substantial evidence. **Substantial evidence is that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other**

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[54] See *San Gabriel v. Sempio*, A.C. No. 12423, March 26, 2019, citing *Padilla v. Samson*, 816 Phil. 954, 956-957 (2017).

[55] See id., citing *Padilla v. Samson*, id. at 958.

[56] *Rollo*, pp. 157-158.

minds, equally reasonable, might conceivably opine otherwise."[57]

In closing, the Court must not turn a blind eye away from complainant's claim of misrepresentation based on the mistaken notion that looking into the same will affect a still non-existent civil case to be instituted for the purpose of annulling the agreement in question, as what the dissent proposes. In this case, the Court must focus on the fact that respondent's behavior and deceit demonstrated a preference of self-gain that transgressed his sworn duty of fidelity, loyalty, and devotion to his client's cause, and that his betrayal of the trust reposed on him by his client besmirched the honorable name of the Law Profession.[58]

In *Tan v. Diamante*,[59] the Court held:

> **Deception and other fraudulent acts by a lawyer are disgraceful and dishonorable.** They reveal moral flaws in a lawyer. They are unacceptable practices. A lawyer's relationship with others should be characterized by the highest degree of good faith, fairness and candor. This is the essence of the lawyer's oath. The lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and keep inviolable. The nature of the office of an attorney requires that he should be a person of good moral character. This requisite is not only a condition precedent to the admission to the practice of law, its continued possession is also essential for remaining in the practice of law. We have sternly warned that **any gross misconduct of a lawyer, whether in his professional or private capacity, puts his moral character in serious doubt as a member of the Bar, and renders him unfit to continue in the practice of law.**[60] (Emphases and underscoring in the original)

In the above case, the erring lawyer was meted with the supreme penalty of disbarment.

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[57] *Gubaton v. Amador*, 871 Phil. 127, 133 (2018).

[58] *Spouses Jacinto v. Bangot, Jr.*, 796 Phil. 302, 317 (2016).

[59] 740 Phil. 382 (2014).

[60] Id. at 391, citing *Sebastian v. Calis*, 372 Phil. 673, 679 (1999).

Similarly, in the cases of *Krursel v. Abion*,[61] *HDI Holdings Philippines, Inc. v. Cruz*,[62] *Billanes v. Latido*,[63] *Justice Lampas-Peralta v. Ramon*,[64] and *Domingo v. Sacdalan*,[65] the erring lawyers therein committed reprehensible acts against their clients which were found to constitute malpractice, gross negligence, and gross misconduct in the performance of their duties as attorneys. According to the Court, their commission of such acts rendered them unfit to continue discharging the trust reposed in them as members of the Bar.

Likewise, for respondent's acts of self-interested double dealing that led to the detriment of his own client which he has paradoxically sworn to defend and protect, respondent should be disbarred from the practice of law.

WHEREFORE, the Court finds respondent Reymelio M. Delute **GUILTY** of violating Rule 1.01, Canon 1, Rule 15.03, Canon 15, Canon 17, and Canon 18 of the Code of Professional Responsibility. Accordingly, he is hereby **DISBARRED** from the practice of law, and his name ordered **STRICKEN OFF** the Roll of Attorneys, effective immediately.

Let copies of this Decision be furnished to: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

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[61] 789 Phil. 584 (2016).

[62] See A.C. No. 11724, July 31, 2018.

[63] See A.C. No. 12066, August 28, 2018.

[64] See A.C. No. 12415, March 5, 2019.

[65] See A.C. No. 12475, March 26, 2019.

Leonen, J., see separate concurring opinion.

Caguioa, J., see dissenting and concurring opinion.

Reyes, Jr., J., see concurring and dissenting opinion.

Zalameda, J., joins the dissenting and concurring opinion of *J.* Caguioa.

Baltazar-Padilla, J., on leave.

CONCURRING OPINION

LEONEN, *J.*:

I concur with the *ponencia*. Atty. Reymelio M. Delute (Atty. Delute) should be disbarred.

The essential functions of lawyers are the representation of others and the protection of their rights. Attorneys-at-law act as agents who prosecute or defend their clients' interests. Equipped with their knowledge of the legal system, lawyers owe the highest fidelity to their clients' cause. This is because the attorney-client relationship is "imbued with utmost trust and confidence."[1]

To effectively discharge this responsibility, any form of conflict of interest should be avoided at all times, with the client's interest placed above the lawyer's. As the primary goal of lawyering is to ensure that the client receives what is due to them by law, remuneration for work done should only be secondary. Here, respondent failed to discharge his responsibility as a lawyer.

The complainant, Felipe D. Laurel (Laurel), and his wife engaged the services of respondent Atty. Delute to assist them in their claim to recover a parcel of land. To supposedly achieve this, they were told by Atty. Delute to sign a document in English—a language they did not understand.[2] As this would

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[1] *Caranza Vda. de Saldivar v. Cabanes*, 713 Phil. 530, 537 (2013) [Per J. Perlas-Bernabe, Second Division].

[2] *Ponencia*, p. 2.

put them at a disadvantage, complainant requested that his daughter, who understood English, be allowed to accompany them during the signing. However, Atty. Delute insisted that only complainant and his wife should come.[3]

Complainant and his wife did not have a hand in the preparation of the document. They did not negotiate its terms and were not aware of its contents. They initially refused to sign and asked for Atty. Delute to explain its contents, but they were coerced by the latter to just sign the document.[4] Caught between their doubts and the insistence of their counsel, they ultimately relied on Atty. Delute who promised that they would be able to collect rent on the lot. They were later given ₱300,000.00, which they believed to be the payment owed to them. From this, Atty. Delute took ₱100,000.00.[5]

As it turns out, the document that complainant and his wife signed was a Compromise Agreement containing a waiver of their claims over the lot. Further, the agreement also contained a stipulation granting Atty. Delute a perpetual right of way over the lot. Complainant and his wife only found out after their daughter came home from Manila and explained the contents of what they had signed.[6]

Atty. Delute abused the confidence his clients placed in him. He left them in the dark and purposefully kept them unaware of the nature of the transactions he brokered. While lawyers, as agents, are entrusted to manage the interests of their clients,[7] this does not grant them the license to transact with others at the expense of their clients' interests. Definitely, lawyers should not use this authority for their personal benefit.[8]

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[3] Id.

[4] Id. at 3.

[5] Id. at 2.

[6] Id.

[7] *Ramirez v. Buhayang-Margallo*, 752 Phil. 473, 480-481 (2015) [Per J. Leonen, En Banc].

[8] Id.

Atty. Delute sold his client's cause by making them sign a waiver of their claims, contrary to what his clients wanted, which was to prosecute their claim over the lot. This could not have escaped Atty. Delute's mind, as he was aware that complainant had previously engaged the services of another counsel for the recovery of the land and the issuance of a Certificate of Land Ownership Award before he took over.[9] Worse, Atty. Delute took advantage of the fact that his clients did not understand the document he made them sign, which allowed him to derive personal benefit from the transaction at his client's expense.

As noted by the Integrated Bar of the Philippines, Atty. Delute willfully manipulated complainant into executing the Compromise Agreement.[10] He also profited ₱100,000.00 from the ₱300,000.00 paid to his clients.[11] This deceitful conduct by a lawyer to his clients is deserving of disbarment.

Respondent violated Canon 1, Rule 1.01;[12] Canon 15, Rule 15.03;[13] and Canon 17[14] of the Code of Professional Responsibility by exhibiting dishonest and deceitful conduct when he manipulated his clients into signing a document which they believed was in furtherance of their cause. When his clients expressed doubts as they could not understand the language in which the document was written, respondent not only failed to explain its contents, he also coerced them to sign the document.

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[9] *Rollo*, p. 2.

[10] Id. at 7.

[11] Id.

[12] CODE OF PROFESSIONAL RESPONSIBILITY, Rule 1.01 provides: Rule 1.01. A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

[13] CODE OF PROFESSIONAL RESPONSIBILITY, Rule 15.03 provides: 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.

[14] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 17 provides: Canon 17. A lawyer owes fidelity to the cause of his [or her] client and he [or she] shall be mindful of the trust and confidence reposed in him.

Citing *Medina v. Lizardo*,[15] the *ponencia* refuses to rule on the validity of the Compromise Agreement given the allegations of deceit in securing complainant's consent. *Medina* imposed the lighter penalty of suspension due to insufficiency of evidence to hold the lawyer liable for deceitful conduct:

> As previously mentioned, the Investigating Commissioner found that Atty. Lizardo allowed himself to be used by Martinez to supposedly defraud Silvestra and the heirs of Alicia and therefore, held that Atty. Lizardo also violated Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility. However, we refrain from passing upon the finding of the Investigating Commissioner that Atty. Lizardo was guilty of deceit in allegedly inducing Silvestra and the heirs of Alicia into selling their interest in all three lots covered by the subject TCTs in the Extrajudicial Settlement with Sale when their purported intention was to sell only the parcels covered by TCT No. 13866. The matter of fraud in the execution of said agreement which will have implications on its validity and legal effects must be first threshed out by the parties in the appropriate proceedings.[16]

While I agree that the Compromise Agreement's validity cannot be settled in an administrative case, *Medina* should not be used to stop this Court from exercising its disciplinary authority over lawyers until deceit can be proven in a separate civil case. After all, disbarment proceedings are *sui generis* and are not akin to civil or criminal cases. A disbarment proceeding "is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts."[17] It is not a trial or a suit, but an investigation by this Court into its officers' conduct.[18]

The primary objective of administrative cases against lawyers is to protect public interest, as these proceedings determine their fitness to enjoy the privileges of being an attorney. They

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[15] 804 Phil. 599 (2017) [Per J. Leonardo-de Castro, En Banc].

[16] Id. at 611.

[17] *Kimteng v. Young*, 765 Phil. 926, 944 (2015) [Per J. Leonen, Second Division].

[18] *See In re: Almacen*, 142 Phil. 353 (1970) [Per J. Castro, First Division].

are not meant to settle rights and controversies between parties as in ordinary cases.[19] Disciplinary cases are distinct, and proceed independently of civil or criminal cases, since a lawyer's administrative liability "stands on grounds different from those in the other cases."[20]

To determine if a lawyer breached the ethics of his or her profession, this Court is guided by the standards laid down in the Code of Professional Responsibility, as well as the Lawyer's Oath to which all lawyers are bound. One of the most, if not the most, important responsibility of a lawyer is to refrain from dishonest and deceitful conduct.[21] Violating this is enough to hold a lawyer liable.

Facts established during the course of disbarment proceedings which prove violations of the canons or the oath may be admitted and are sufficient for this Court to rule on a lawyer's liability. In *Luna v. Galarrita*[22] where the attorney entered into a compromise agreement without his client's consent, this Court found his conduct deceitful and abusive of his client's trust and confidence. *Luna* held the lawyer administratively liable based on the facts established before the Investigating Commissioner, even after the client himself subsequently abandoned the issue.[23]

In this case, regular proceedings were conducted before the Integrated Bar of the Philippines, where the affidavit-complaint was filed. Atty. Delute was given several opportunities to dispute the allegations in the complaint: he was twice given the chance to file his answer, and finally, to file his verified position paper.

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[19] Id.

[20] *Gonzalez v. Alcaraz*, 534 Phil. 471, 482 [Per C.J. Panganiban, First Division].

[21] CODE OF PROFESSIONAL RESPONSIBILITY, Rule 1.01 provides: Rule 1.01. A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

[22] 763 Phil. 175 (2015) [Per J. Leonen, En Banc].

[23] Id. at 195.

However, he failed to do all of these.[24] Subsequently, the Integrated Bar of the Philippines found that he deceived and manipulated his clients.[25] All findings have basis on record, and both parties have been given the opportunity to be heard. Hence, a separate proceeding to establish the deceit by Atty. Delute, such as a civil case, is unnecessary. In any case, the issue here is his deceitful conduct, and not the validity of the Compromise Agreement.

This is not a simple case of a lawyer deceiving his client. It is aggravated by the fact that Atty. Delute deliberately took advantage of his clients' circumstances and their inability to properly defend themselves. This scheme is revealed when he rejected his clients' pleas to allow their daughter to accompany them as a translator so they could understand the document they would sign. When his clients hesitated and asked him to explain the contents, he refused and threatened them into signing, saying he does not "defend a dead person."[26] He sold his client's cause by making them waive their claims—the complete opposite of what they had wanted. To add insult to injury, he even profited from this.

Clients come to lawyers with faith that their legal problems would be solved and that their interests would be protected. Clients may not even be aware of their rights or lack the skills to defend themselves. Lawyers step in to fill in this gap. As such, they must be careful in handling the confidence reposed in them.

This role is even more pronounced when lawyers represent the disadvantaged—those who have difficulty accessing their legal rights because of personal circumstances like socioeconomic status and level of education, among others. Lawyering, in a much broader sense, is designed to bring those at the margins closer to their rights under the law. Atty. Delute did the opposite of this.

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[24] *Ponencia*, p. 3.

[25] Id.

[26] *Rollo*, p. 3.

Clearly, he betrayed the very purpose of being an attorney for his clients. His deceitful and opportunistic actions render him unfit to continue being a lawyer.

ACCORDINGLY, I vote to **DISBAR** Atty. Reymelio M. Delute and to order his name be **STRICKEN** off from the roll of attorneys.

DISSENTING AND CONCURRING OPINION

CAGUIOA, *J.*:

The majority holds respondent administratively liable for allegedly (1) deceiving and strong-arming his clients, herein complainant and his wife, into signing a compromise agreement where they effectively waived their rights and interests over a parcel of land;[1] and (2) selling out his client's cause in order to gain personal benefits.[2] These are the acts on which the majority imposes the supreme penalty of disbarment. I submit, however, that respondent may only be held administratively liable for representing conflicting interests and for disobeying the lawful orders of the Integrated Bar of the Philippines (IBP). In this regard, I further submit that it should suffice that respondent be meted the penalty of suspension from the practice of law for two years and a fine of ₱5,000.00.

In the narration of facts, the *ponencia* makes reference to a compromise agreement between complainant and his wife, on the one hand, and complainant's cousin, Azucena Laurel-Velez (Azucena), on the other, over their legal dispute over a parcel of land. Complainant makes the following allegations surrounding the circumstances which led to the execution of the said instrument:

1. Respondent insisted that only complainant and his wife go with him to the house of Azucena, even after they requested to bring their daughter who could competently assist them;[3]

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[1] *Ponencia*, p. 11.

[2] Id. at 12.

[3] Id. at 2.

2. Complainant and his wife were given ₱300,000.00 by Azucena representing partial rentals over the disputed property;[4]

3. In connection with the payment of ₱300,000.00, respondent presented documents to complainant to sign. Initially, complainant was hesitant to sign the documents because he and his wife did not understand the contents thereof, but upon being prodded by respondent, he eventually did.[5]

4. Respondent took ₱100,000.00 out of the ₱300,000.00 received by complainant and his wife from Azucena;[6] and

5. Complainant and his wife belatedly learned that the documents turned out to be a compromise agreement where they waived their rights and interests over the property, and a receipt stating that he received ₱300,000.00 as consideration therefor.[7]

Based on the foregoing allegations, the majority agrees with complainant that respondent employed deceit against him and his wife into giving their consent to the compromise agreement. It is my view, however, that the Court cannot delve into the validity of the surrounding circumstances in the execution of the compromise agreement in resolving this administrative complaint. Resolving these factual issues **alleged** by complainant in this administrative proceeding would be improper as the resolution would, as a matter of course, venture into the issue of the validity of the compromise agreement **which is purely between private parties**. This issue is best threshed out in an appropriate judicial case other than the present disbarment proceeding.[8]

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[4] Id.

[5] Id.

[6] Id.

[7] Id.

[8] See *Espanto v. Belleza*, A.C. No. 10756, February 21, 2018, 856 SCRA 163. Decision of the Second Division, penned by then Associate Justice, now Chief Justice Diosdado M. Peralta, with the concurrence of Senior Associate Justice Antonio T. Carpio, and Associate Justices Estela M. Perlas-Bernabe, and Andres B. Reyes, Jr. The undersigned, who was also a member then of the Second Division, was on wellness leave.

Indeed, the Court has consistently held that administrative suits against lawyers are *sui generis*. This principle can be traced back to the 1970 case of *In Re Almacen*,[9] where the Court debunked the claim that its members were being "complainants, prosecutors and judges" all rolled into one. In clarifying this misapprehension, the Court expounded that a disbarment proceeding is neither purely civil nor purely criminal, and does not involve a trial of an action or a suit. It is rather an investigation by the Court into the conduct of its officers.

Over the years, in a long line of cases, the principle enunciated in *In Re Almacen* evolved with the further view that disbarment proceedings can proceed independently of civil and criminal cases. Evidently, however, in these cases, the other civil and criminal cases referred to therein **implead** the respondent-lawyers or are concerned **with the determination of their civil and criminal liabilities**. As such, in ruling that all three proceedings may proceed simultaneously and independently, the Court distinguished that disbarment proceedings are not concerned with the civil or criminal liabilities of the respondent-lawyer but only with his or her fitness to continue his or her membership in the Bar. The Court further held that disbarment proceedings do not have any material bearing on any other judicial action which the parties (the complainant and the lawyer) may choose to file against each other.[10]

However, the Court has, as well, drawn a bright line in disbarment cases where other legal rights and judicial matters which are related to the questionable acts of the lawyer are present but do not apparently involve the lawyer's civil or criminal liability. **In these cases, the civil and criminal cases referred to are between parties that do not include the respondent-lawyer**. In other words, the legal rights, interests, and liabilities of other parties are principally at stake and not

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[9] *In the Matter of Proceeding for Disciplinary Action Against Atty. Vicente Raul Almacen in L-27654, Antonio H. Calero v. Virginia Y. Yaptinchay*, 142 Phil. 353 (1970).

[10] See *Suzuki v. Tiamson*, Adm. Case No. 6542, September 30, 2005, 471 SCRA 129, 141-142.

those of the respondent-lawyer. Thus, **in these cases, the Court has limited the issue on whether the respondent-lawyer committed transgressions that would question his fitness to practice law, refraining, at the same time, from discussing issues that are judicial in nature**.[11]

To specifically illustrate, in *Espanto v. Belleza*[12] *(Espanto)*, Atty. Belleza was charged with deliberate falsehood when he facilitated the demolition of a house belonging to complainant therein on a property subject of a case for recovery of possession that Atty. Belleza was handling. In the interim, complainant agreed to sell the house to Atty. Belleza's client and receive partial payment therefor, with an assurance that the subsequent sale of the house and lot would be relayed to him. The house and lot were subsequently sold to another, and the house of complainant was eventually demolished without his knowledge. In weighing in on Atty. Belleza's guilt, the Court made the following pronouncement:

> Well-established is the rule that administrative cases against lawyers belong to a class of their own. These cases are distinct from and proceed independently of civil and criminal cases. 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 proven themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. **Corollarily, We will limit the issue on whether Atty. Belleza committed transgressions that would question his fitness to practice law, and thus, refrain from discussing issues that are judicial in nature.**
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[11] *Espanto v. Belleza*, supra note 8, at 171.

[12] Supra note 8.

Given the facts of the case, we find that Atty. Belleza failed to exercise the good faith required of a lawyer in handling the legal affairs of his client. **Even without touching the issue of the subject properties' ownership, Atty. Belleza cannot deny that the subject property sold by Nelia to Irene was still pending litigation due to the alleged encroachment of Junielito's house on the property of Nelia.** It was precisely the reason why they filed a complaint for recovery of possession against Junielito's relatives. Moreover, when Atty. Belleza sent a notice to vacate Nelia's property to Junielito on November 22, 2010, the civil case was still pending litigation.

As noted by the IBP-CBD, the acknowledgment receipt of ₱50,000.00 issued by Nelia as witnessed and signed by Atty. Belleza is an evidence by itself that he had knowledge of Junielito's interest on the property even if he disputes the latter's ownership of the subject property. x x x

x x x x

Upon review of the foregoing acknowledgment receipt, it can be inferred that Junielito acknowledged that he received ₱50,000.00 as partial payment and that he will receive the final percentage of sale price when house and lot by Nelia is sold. It likewise stated therein that Junielito has the right to be informed of the final sale price and other details related to the sale. Considering that Junielito was in fact paid *albeit* partial and was given the right to be informed of the final sale details, it clearly shows that Nelia and Atty. Belleza recognized Junielito's interest as an owner although it pertains only to a portion of Nelia's property where his house sits. Why else would they agree on informing Junielito of such material information if they knew that he has no right whatsoever with the property being sold.

It should also be pointed out that Atty. Belleza neither denied the existence of the acknowledgment receipt nor the fact that he signed the same. Thus, given the foregoing circumstances, it can be presumed that Atty. Belleza knew that the sale of the property will necessarily affect Junielito. Consequently, when they sold the property of Nelia without informing Junielito despite their agreement to such effect, Atty. Belleza not only breached their agreement and betrayed Junielito's trust; he also instigated a malicious and unlawful transaction to the prejudice of Junielito.[13] (Emphasis and underscoring supplied)

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[13] Id. at 171-173.

In cases such as *Espanto*, the issues against the conduct of the lawyer **are susceptible of bifurcation** from other related legal issues at hand over which the Court could not exercise its disciplining authority. This, to my mind, does not mean shirking or conceding responsibility, but is done **as a matter of prudence and fairness**.[14] This delimitation is, in fact, attuned to the oft-cited principle that "[d]isciplinary proceedings involve no private interest and afford no redress for private grievance."[15] As *Espanto* powerfully illustrates, the exercise does not prevent the Court from examining the allegations in the complaint and the evidence available to determine whether it may still rule on the administrative liability of the lawyer. As will be shown below, this finds application here, too.

Thus, where the questionable conduct of the lawyer is so *inextricably linked* to a judicial issue *between other private parties* that ought to be threshed out or is already the subject of a pending litigation, then I submit that the Court is required to refrain from delving into such issue as doing so would be unfairly pre-empting any appropriate action that would be taken by the court or the parties-in-interest.

Again, to illustrate further, the Court in *Virgo v. Amorin*[16] dismissed without prejudice the disbarment case against the lawyer on the ground of the pendency of several civil cases **between private parties** related to the disbarment case. The Court elaborated in this manner:

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[14] Parenthetically, there are even cases where on account of the *pendency* of civil and criminal cases *against* the respondent-lawyer, the Court refused to pass upon the same acts charged in said other cases and in the disbarment cases for prudence's sake and in order to avoid contradictory findings. See *Gerona v. Datingaling*, 446 Phil. 203 (2003); *Tan v. IBP Commission on Bar Discipline*, 532 Phil. 605 (2006); and *Malvar v. Baleros*, 807 Phil. 16 (2017).

[15] *Spouses Soriano v. Reyes*, A.C. No. 4676, May 4, 2006, 489 SCRA 328, 339.

[16] A.C. No. 7861, January 30, 2009, 577 SCRA 188. Resolution of the Third Division, penned by Associate Justice Ma. Alicia Austria-Martinez, with the concurrence of Associate Justices Dante O. Tinga, Minita V. Chico-Nazario, Antonio Eduardo B. Nachura, and now Chief Justice Diosdado M. Peralta.

Second, Atty. Amorin has pointed out and complainant does not deny, the existence of other cases related to the present disbarment case. Civil Case No. 01-45798, pending before RTC-QC Branch 221, a case for Annulment of Real Estate Mortgage and Foreclosure Proceedings with Damages, Temporary Restraining Order and/or Preliminary Injunction and Preliminary Attachment, filed by LEDI against BPI Leasing and Finance Corp., its officers, the Registrar of Quezon City and the Virgos, assail the foreclosure by BPI of the Virgo Mansion which LEDI claims to have already been sold by the Virgos to them. **In claiming ownership of the property, LEDI necessarily has to raise factual matters pertaining to the sale by the Virgos of the property to them, such as the actual selling price, the validity of the deeds of sale, and the terms of payment, which are inextricably intertwined with the present disbarment case.**

LRC Case No. Q-15382 (02), a petition for the issuance of writ of possession filed by the BPI before RTC QC Br. 216 seeks to foreclose the Virgo Mansion, which complainant and her husband mortgaged to BPI in 1998, while CA-G.R. SP No. 77986 is a petition for *certiorari* and prohibition asking the CA to stop the judge therein from enforcing the writ of possession issued pursuant to LRC Case No. Q-15382.

While it is true that disbarment proceedings look into the worthiness of a respondent to remain as a member of the bar, and need not delve into the merits of a related case, the Court, in this instance, however, cannot ascertain whether Atty. Amorin indeed committed acts in violation of his oath as a lawyer concerning the sale and conveyance of the Virgo Mansion without going through the factual matters that are subject of the aforementioned civil cases, particularly Civil Case No. 01-45798. **As a matter of prudence and so as not to preempt the conclusions that will be drawn by the court where the case is pending, the Court deems it wise to dismiss the present case without prejudice to the filing of another one, depending on the final outcome of the civil case**.[17] (Emphasis and underscoring supplied)

Likewise, in *Felipe v. Macapagal*,[18] the Court refused to rule on the allegation of dishonesty against the respondent-lawyer

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[17] *Id.* at 198-199.

[18] A.C. No. 4549, December 2, 2013, 711 SCRA 198. Resolution of the Second Division, penned by Associate Justice Mariano C. Del Castillo, with the concurrence of Senior Associate Justice Antonio T. Carpio and

therein because of the presence of other issues which were already brought before a court in a civil case **by and between private parties**. The Court held that these issues cannot be appropriately settled in the administrative case against the respondent therein. Thus:

> At the outset, we note that in order to determine whether respondent is guilty of dishonesty, we will have to delve into the issue of whether the complainants are indeed related to the defendants in Civil Case No. A-95-22906 being half-brothers and half-sisters. We would also be tasked to make an assessment on the authenticity of the Certificate of Marriage which respondent submitted in the proceedings in Civil Case No. A-95-22906. Similarly, we will have to make a ruling on whether the *Urgent Motion to Recall Writ of Execution of the Writ of Preliminary Injunction* which respondent filed was indeed baseless and irrelevant to the proceedings in Civil Case No. A-95-22906. Clearly, these prerequisites cannot be accomplished in this administrative case.
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> The resolution of whether the parties are related to each other appears to be one of the issues brought up in Civil Case No. A-95-22906 which is a complaint for *Partition, Reconveyance, Declaration of Nullity of Documents and Damages*. The complainants claimed that they are the legitimate children of the late Gregorio V. Felipe, Sr. This was rebutted by the defendants therein, as represented by the respondent, who denied their filiation with the complainants. Clearly, the issue of filiation must be settled in those proceedings, and not in this administrative case. The same is true with regard to the issue of authenticity of the Marriage Certificate which was submitted in evidence as well as the relevance of the *Urgent Motion to Recall Writ of Execution of the Writ of Preliminary Injunction*. x x x[19]

Similarly in this case, a finding for disbarment against respondent would be hinged on the question of whether he indeed manipulated complainant and his wife into signing the compromise agreement. To answer this question would necessarily entail delving into factual matters that would, in

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Associate Justices Arturo D. Brion, Jose Portugal Perez, and Estela M. Perlas-Bernabe.

[19] Id. at 202.

turn, confront the issue between complainant and Azucena as to whether the consent of the complainant and his wife in the compromise agreement was vitiated. In other words, the argument about the validity of the compromise agreement **between complainant and Azucena** stands heavily, if not entirely, on the very participation of respondent in its execution. Significantly, the issue of vitiated consent is not brought up before the Court and is not clearly a proper subject for disposition in this administrative proceeding.

It appears that the *ponencia* is aware of what a finding on the liability of respondent based on the validity of the compromise agreement would occasion. As such, the *ponencia* refrains from discussing the **manner** by which respondent supposedly deceived and strong-armed complainant and his wife into signing the compromise agreement. Rather, it draws the conclusion based on the "straightforwardness and believability of the allegations in the complaint, as buttressed by the benefits received by respondent appearing on the Compromise Agreement."[20] It further concludes that all these circumstances, "when taken together with respondent's failure to rebut the same despite due notice, already constitute substantial evidence to hold him administratively liable."[21] This conclusion, I submit, does not meet the threshold of substantial evidence as it is sweeping and rests essentially on the bare assertions of complainant. Substantial evidence is more than a mere scintilla.[22] It must be real and substantial, and not merely apparent.[23] The presence of a provision in the compromise agreement which grants a right of way in favor of respondent does not unequivocally prove or lend support to the allegation that respondent had used machinations against his clients or had been motivated to act against their interests. Likewise, the fact that respondent obtained

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[20] *Ponencia*, p. 12.

[21] Id.

[22] *Spouses Boyboy v. Yabut, Jr.*, A.C. No. 5225, April 29, 2003, 401 SCRA 622, 628.

[23] *Gabunas, Sr. v. Scanmar Maritime Services, Inc., et al.*, G.R. No. 188637, December 15, 2010, 638 SCRA 770, 779.

₱100,000.00 from complainant does not conclusively indicate any impropriety on the part of respondent. In the same vein, respondent's silence during the proceedings before the IBP should neither be taken as his effective admission of any wrongdoing, nor a signal to the Court that the allegations in the complaint have been effectively proven. Even if respondent has chosen to be silent during the proceedings before the IBP, the complainant is not discharged of his burden to prove his allegations against respondent.

All in all, I find no real comfort in the proffered justification that a different set of facts may properly exist in different cases that involve a different set of parties on the ground, among others, that the purposes in each case may be different. The purposes of an administrative case and a civil case are, indeed, fundamentally different. **But, again, in order to resolve the very issue of dishonesty and deceit on the part of herein respondent in this proceeding would mean tackling the issue on the due execution of the instrument**. There is no roundabout way to do it. It is incorrect, therefore, to reduce the allegation of manipulation against respondent as a mere incidental or collateral issue.

In the same manner, to maintain that the resolution of the alleged manipulation of respondent in this administrative case would nonetheless be inconclusive in another related action and be limited to the purposes of this proceeding seems, in my view, essentially implausible.

Facts are facts. There simply cannot be two versions of the same truth. To allow a resolution in this disbarment proceeding of the alleged manipulation of respondent against his client in the execution of the compromise agreement would create a situation where the "facts" as already established before Civil Case No. T-2497 would now be different from the "facts" established here. This would be unacceptable. The ineluctable consequence in such situation would mean having *conflicting or contradictory* "findings of facts," that would cast a cloud of uncertainty over Civil Case No. T-2497.

As it stands, Civil Case No. T-2497 was dismissed by the Regional Trial Court (RTC) of Toledo City, Cebu on the ground of lack of jurisdiction on the subject matter. True, the dismissal may have been without prejudice and does not operate as *res judicata*, but even so, it cannot be denied that for the Court now to lend credence to the allegations of complainant in this administrative proceeding would undermine the judicial basis for the dismissal of the civil case. To my mind, *regardless* of the kind of dismissal which attended Civil Case No. T-2497, the fact remains that the validity of the compromise agreement is no longer in dispute. It can now only be viewed by the Court as valid.

Moreover, it should likewise be noted that the notarized compromise agreement appears to have already been approved by the Department of Agrarian Reform Regional Office (DARRO) in its July 15, 2003 Order in DARRO Case No. A-0700-060-2002, an administrative case between complainant and Azucena over the disputed property.[24] **As a result, the case was amicably settled in 2003, or nine years before the present disbarment suit against respondent was instituted**.[25]

Similar to my view as regards the dismissal of Civil Case No. T-2497, to make contrary "factual findings" in this administrative case will also undermine the abovementioned July 15, 2003 Order issued by the DARRO and would amount to a collateral attack on the validity of the compromise agreement.

The fear that generating conflicting "findings of facts" will unnecessarily and unwarrantedly foment more litigation between the contending parties (*i.e.*, **between complainant and Azucena**) and hence, defeat — rather than promote — the tenets of the orderly administration of justice, is legitimate. It *is* truly not hard to imagine that any "findings of facts" the Court makes in this disbarment proceeding can and will be used by complainant in another civil litigation against Azucena as basis for having the compromise agreement annulled. In fact, in *Esquivias v.*

[24] *Rollo*, p. 3.

[25] Id. at 6.

CA,[26] while the Court held that the factual findings in a disbarment case are conclusive only in said proceedings and not to a related action, it acknowledged, nevertheless, that the judgment in the disbarment case may, at best, be given weight when introduced as evidence in another case. This, in my view, is recognition that the outcome of a disbarment case **which involves a crucial issue between other parties** may urge any of them to bring an action in court to settle a controversy that rests closely on the said issue.

At the same time, should a subsequent case proceed and the trial court arrive at factual findings that are diametrically opposed to that which the Court has come up with to support its decision in disbarring a lawyer in a disciplinary proceeding, the unfairness against the lawyer is, at once, palpable. In that given scenario, a lawyer would suffer the stinging effects of disbarment on the basis of factual findings that run entirely different from a version in another case — which, I hasten to add, would be more "truthful" if arrived at through a trial with the right of cross-examination being available.

Thus, I respectfully submit that while the Court should not hesitate to discipline errant lawyers, this duty must likewise be exercised carefully, in that an examination of the issues at hand should be had. The general notion that an administrative case is different from a criminal or civil case as enough justification for the Court to wield its disciplining authority should be disabused. **When the basis to impose discipline is grounded on a fact or issue that cannot be easily divorced from another, whose resolution requires a full-fledged trial, and which affects the interest of parties outside of the disbarment case, the Court should be mindful to stay its hand**.

The Court, in fact, has been prudent in earlier cases. In *Medina v. Lizardo*[27] *(Medina)*, the Court refused to rule on the alleged

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[26] G.R. No. 119714, May 29, 1997, 272 SCRA 803.

[27] A.C. No. 10533, January 31, 2017, 816 SCRA 259. Decision of the *En Banc*, penned by Associate Justice Teresita J. Leonardo-de Castro, with

fraud of the respondent therein **even without a pending case impugning the validity of the extrajudicial settlement in question**. The pertinent text in *Medina* reads:

> As previously mentioned, the Investigating Commissioner found that Atty. Lizardo allowed himself to be used by Martinez to supposedly defraud Silvestra and the heirs of Alicia and therefore, held that Atty. Lizardo also violated Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility. However, we refrain from passing upon the finding of the Investigating Commissioner that Atty. Lizardo was guilty of deceit in allegedly inducing Silvestra and the heirs of Alicia into selling their interest in all three lots covered by the subject TCTs in the Extrajudicial Settlement with Sale when their purported intention was to sell only the parcels covered by TCT No. 13866. **The matter of fraud in the execution of said agreement which will have implications on its validity and legal effects must be first threshed out by the parties in the appropriate proceedings**.[28] (Emphasis and underscoring supplied)

Also, in *Spouses Williams v. Enriquez*,[29] the Court refused to rule on the alleged dishonesty committed by the respondent therein in a pleading he submitted in an ejectment case in defense of a client. The Court dismissed the case on the ground that it could not determine his fitness to remain a member of the Bar without delving into the issue of who really owned the subject property. **Notwithstanding the fact that the ejectment case was already concluded and there was no other pending case, the Court still refused to rule on the complaint against respondent therein because the allegation of his dishonesty was *inextricably connected* with the issue of ownership**

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the concurrence of Chief Justice Maria Lourdes P. A. Sereno, Senior Associate Justice Antonio T. Carpio, Associate Justices Presbitero J. Velasco, Jr., Diosdado M. Peralta, Lucas P. Bersamin, Mariano C. Del Castillo, Jose Catral Mendoza, Bienvenido L. Reyes, Estela M. Perlas-Bernabe, Marvic M.V.F. Leonen, Francis H. Jardeleza, and the undersigned.

[28] Id. at 271-272.

[29] A.C. No. 7329, November 27, 2013, 710 SCRA 620. Resolution of the Second Division, penned by Senior Associate Justice Antonio T. Carpio, with the concurrence of Associate Justices Arturo D. Brion, Mariano C. Del Castillo, Roberto A. Abad, and Jose Portugal Perez.

between the parties-in-interest, but which issue had not been judicially settled in any case. Thus:

> On its face, the 12 September 2006 complaint filed by the Spouses Williams against Atty. Enriquez does not merit an administrative case. In order for the Court to determine whether Atty. Enriquez is guilty of dishonesty, the issue of ownership must first be settled. The Spouses Williams alleged that Verar was the owner of the property and that she sold a portion of it to them. On the other hand, Atty. Enriquez alleged that Desiderio, Francisco, Ramon, Umbac and Briones were the real owners of the property and that Verar was only a trustee. This was precisely the issue in Civil Case No. 390. Unfortunately, the MCTC was not able to make a definite ruling because the Spouses Williams failed to file their answer within the prescribed period.
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> The issue of ownership of real property must be settled in a judicial, not administrative case. In *Virgo v. Amorin*, the Court dismissed without prejudice a complaint against a lawyer because it could not determine his fitness to remain a member of the Bar without delving into issues which are proper subjects of judicial action. x x x[30]

The above statements, notwithstanding, I agree with the findings of the *ponencia* that respondent should be held administratively liable for acquiring an interest in the form of a right of way over the property subject of the compromise agreement. Aside from this, he should also be held administratively liable for disobeying the orders of the IBP anent the submission of an answer and a position paper.

It is undisputed that respondent benefited from the compromise agreement because he was granted by the parties a perpetual right of way on the property. This is a clear violation against the proscription of representing conflicting interests.

The rule against conflict of interest is expressed in Canon 15,[31] Rules 15.01[32] and 15.03[33] of the Code of Professional Responsibility. It means the existence of a substantial risk that

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[30] Id. at 630-631.

[31] CANON 15 — A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

[32] Rule 15.01 — A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict

a lawyer's loyalty to or representation of a client would be materially and adversely affected *by the lawyer's own interest* or the lawyer's duties to another client, a former client, or a third person, during the various stages of the professional relationship.[34] The test of conflict of interest among lawyers 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*."[35] The illustration of the Court in *Palalan Carp Farmers Multi-Purpose Coop v. Dela Rosa*[36] is instructive:

> Conflicts may also arise because of the lawyer's own financial interests, which could impair client representation and loyalty. This is reasonably obvious where a lawyer is asked to advise the client in respect of a matter in which the lawyer or a family member has a material direct or indirect financial interest. The conflict of interest is exacerbated when the lawyer, without full and honest disclosure to the client of the consequences of appointing him or her as an agent with the power to sell a piece of property, willfully and knowingly accepts such an appointment. When the lawyer engages in conduct consistent with his or her appointment as an agent, this new relationship may obscure the line on whether certain information was acquired in the course of the lawyer-client relationship or by reason of agency, and may jeopardize the client's right to have all information concerning the client's affairs held in strict confidence.
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> The relationship may in some circumstances permit exploitation of the client by the lawyer as he or she still is, after all, the lawyer from whom the client seeks advice and guidance.[37]

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with another client or his own interest, and if so, shall forthwith inform the prospective client.

[33] 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.

[34] *Palalan Carp Farmers Multi-Purpose Coop v. Dela Rosa*, A.C. No. 12008, August 14, 2019, p. 7.

[35] *Gamilla v. Mariño, Jr.*, A.C. No. 4763, March 20, 2003, 399 SCRA 308, 317. Italics in the original.

[36] Supra note 34.

[37] Id. at 7-8.

Hence, lawyers should always be mindful not to put themselves in a position where self-interest tempts, or worse, actually impels them to do less than their best for their clients.[38] Respondent went against this reminder when he had his own interest served in a compromise agreement between his own clients and their adversary. His act, as the Court said in *Gamilla v. Mariño, Jr.*,[39] naturally invited suspicion of unfaithfulness or double-dealing and should not be countenanced. In this regard, in consonance with prevailing jurisprudence,[40] I submit that the penalty of suspension from the practice of law for two years is commensurate with the infraction committed.

Finally, the failure of respondent to file his answer and position paper constitutes disobedience to the lawful orders of the IBP and should warrant a penalty. Following *Domingo v. Sacdalan*,[41] a fine of ₱5,000.00 is proper:

> It must be underscored that respondent owed it to himself and to the entire Legal Profession of the Philippines to exhibit due respect towards the IBP as the national organization of all the members of the Legal Profession. His unexplained disregard of the orders issued to him by the IBP to comment and to appear in the administrative investigation of his misconduct revealed his irresponsibility as well as his disrespect for the IBP and its proceedings. He thereby exposed a character flaw that should not tarnish the nobility of the Legal Profession. He should always bear in mind that his being a lawyer demanded that he conduct himself as a person of the highest moral and professional integrity and probity in his dealings with others. He should never forget that his duty to serve his clients with unwavering loyalty and diligence carried with it the corresponding responsibilities towards the Court, to the Bar, and to the public in general.

For his disobedience to the orders of the IBP Commission, respondent must pay a fine of ₱5,000.00.[42]

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[38] *Gamilla v. Mariño, Jr.*, supra note 35, at 317.

[39] Id.

[40] *Palacios v. Amora, Jr.*, A.C. No. 11504, August 1, 2017, 833 SCRA 481.

[41] A.C. No. 12475, March 26, 2019.

[42] Id. at 10-11.

For these reasons, I dissent from the majority in finding respondent guilty of deceit and in imposing on him the penalty of disbarment. I vote, however, to hold respondent guilty of violating Rule 15.3, Canon 15 of the Code of Professional Responsibility and of disobeying the orders of the IBP. For these violations, respectively, I vote that respondent should be meted with the penalty of suspension from the practice of law for two (2) years and to pay a fine in the amount of ₱5,000.00.

CONCURRING AND DISSENTING OPINION

REYES, J. JR. *J.*:

While I concur that Atty. Reymelio M. Delute (respondent) should be held administratively liable in this case, I am unable to join the majority in imposing upon him the supreme penalty of disbarment.

I maintain the view that in this case, the Court should refrain from passing upon the allegation of whether respondent manipulated and/or deceived the complainant into signing the Compromise Agreement. In *Medina v. Lizardo*,[1] the Court similarly declined to pass upon the issue of whether the respondent lawyer therein was guilty of deceit in inducing the complainant to sell her interests in certain parcels of land, to wit:

> x x x However, we refrain from passing upon the finding of the Investigating Commissioner that Atty. Lizardo was guilty of deceit in allegedly inducing Silvestra and the heirs of Alicia into selling their interest in all three lots covered by the subject TCTs in the Extrajudicial Settlement with Sale when their purported intention was to sell only the parcels covered by TCT No. 13866. The matter of fraud in the execution of said agreement which will have implications on its validity and legal effects must be first threshed out by the parties in the appropriate proceedings.[2]

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[1] 804 Phil. 599 (2017).

[2] *Id.* at 611.

The *ponencia* pronounces that *Medina* and other cases[3] where this Court refrained from passing upon issues deemed proper subjects of a judicial action run counter to the Court's exclusive and plenary power to discipline members of the Bar and established jurisprudence that disbarment proceedings proceed independently from civil and/or criminal cases despite involving the same set of facts and circumstances.[4] I submit, however, that rather than being in conflict with these well-established rule and precedents, the line of jurisprudence wherein the Court exercised restraint in fact recognizes the rule that the proper scope of inquiry in disbarment proceedings is to determine the lawyer's fitness to continue as a member of the Bar.[5] Such cases are representative of instances when the Court recognized that it cannot determine whether the respondent lawyer indeed committed the imputed wrongdoing without delving into issues which were deemed proper to be threshed out in a more appropriate proceeding and not in the disbarment proceeding itself.

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[3] *See Virgo v. Amorin*, 597 Phil. 182 (2009); *Spouses Williams v. Enriquez*, 722 Phil. 102 (2013); *Felipe v. Macapagal*, 722 Phil. 439 (2013); and *Espanto v. Belleza*, 826 Phil. 412 (2018).

[4] *Ponencia*, p. 5.

[5] As comprehensively stated by the Court in *In re: Almacen*, 142 Phil. 353, 390 (1970):
x x x disciplinary proceedings x x x are *sui generis*. Neither purely civil nor purely criminal, this proceeding is not — and does not involve — a trial of an action or a suit, but is rather an investigation by the Court into the conduct of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. It may be initiated by the Court *motu proprio*. 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. (Citations omitted)

I am of the view that such similar stance of restraint is more prudent in this case. Accordingly, I submit that the allegation of manipulation or deceit should be threshed out in the appropriate proceeding where the issue of the validity of the Compromise Agreement will be properly resolved. For one, the matter of whether respondent misled or deceived complainant cannot be easily separated from the issue of the validity of the Compromise Agreement which should be properly resolved in a judicial action rather than in this disbarment proceeding since this goes into the matter of whether complainant gave valid consent in entering the same. Stated differently, whether complainant was misled into signing the Compromise Agreement not only calls for a determination of whether respondent really uttered a statement which caused fear and confusion on the part of complainant and his wife, but also of the complainant's capacity to understand the import of what he was signing. Furthermore, the allegation of manipulation against respondent is also connected with the alleged actuations of other parties who are not involved in this proceeding before the Court.

In fact, complainant instituted Civil Case No. T-2497 before the RTC of Toledo City, Cebu precisely to declare as void and inexistent the Compromise Agreement for being contrary to law and for want of consent on account of respondent's alleged fraudulent representations as to the nature of the documents he was signing. The case, however, was dismissed by the Regional Trial Court (RTC) for lack of jurisdiction over the subject matter in an Order dated January 8, 2018,[6] and complainant's motion for reconsideration was denied in an Order dated June 13, 2018.[7] The *ponencia* holds that the dismissal of Civil Case No. T-2497 should not preclude the Court from adjudging respondent's administrative liability in connection with his acts relative to the execution of the Compromise Agreement, and neither should such determination be made dependent on whether complainant

[6] A copy is attached as Annex "8" to respondent's Motion to Lift Suspension from the Practice of Law; *rollo*, pp. 101-102.

[7] A copy is attached as Annex "9" to respondent's Motion to Lift Suspension from the Practice of Law; id. at 103-104.

would want to re-file the action considering that the dismissal was based on lack of jurisdiction over the subject matter and is thus not barred by *res judicata*. While these points are well-taken, I find that the *ponencia* may have in fact pre-empted certain factual findings which should be better threshed out in the appropriate proceedings — which to my mind, is the very essence of the line of jurisprudence which the *ponencia* revisited.

In not only passing upon but also lending credence to complainant's allegation that he was misled into signing documents that effectively waived all his rights and interests over Lot 4-C, the *ponencia* adjudged respondent liable for breaching ethical standards "when he personally profited from the signing of the Compromise Agreement by his client, and even resorted to manipulation in conspiracy with Azucena [Laurel-Velez], the other party."[8] The inequity against Azucena becomes manifest when this Court pronounced her as party to an alleged scheme against the complainant without giving her the opportunity to defend herself as she is not a party in this disbarment case. It is inconsistent to insist that the Court should pass upon the allegation of manipulation, if only to determine respondent's fitness as a member of the Bar, but at the same time impute wrongdoing against someone who is not even a party here, and who was not given the opportunity to be heard and to present evidence in her behalf.

While I acknowledge that *Esquivias v. Court of Appeals*[9] is authority for the proposition that findings in a disbarment case are not conclusive or binding in another action which involves the same act of the lawyer subject of the former, I submit that this would neither afford comfort nor justification for the *ponencia's* declaration that respondent acted in conspiracy with Azucena on the basis of complainant's allegation without affording Azucena due process in this proceeding.

On this score, I cannot agree as well with the *ponencia's* finding that there is substantial evidence to support the

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[8] *Ponencia*, p. 11.

[9] 339 Phil. 184 (1997).

complainant's allegation that he was misled into signing the documents and that respondent took ₱100,000.00 out of the ₱300,000.00 given by Azucena Laurel-Velez (Azucena). In particular, the Decision states that "the straightforwardness and believability of the allegations in the complaint, as buttressed by the benefits received by respondent appearing on the Compromise Agreement, when taken together with respondent's failure to rebut the same despite due notice, already constitute substantial evidence to hold him administratively liable."[10]

It is true that on certain occasions, the failure of the respondent lawyer to file his Answer and position paper was taken "not only as lack of responsibility but also lack of interest on the part of the respondent in clearing his name which is constitutive of an implied admission of the charges leveled against him."[11] However, it must be emphasized that such failure should not dispense with the burden of the complainant to establish the case against the respondent lawyer[12] with the evidentiary threshold of substantial evidence.[13] As aptly pointed out by Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) during the deliberations of this case, the failure of respondent to file his Answer and position paper should not be taken as an implied admission of the allegations against him nor a signal for the Court that such allegations have been effectively proven.

After all, it is well-settled that an attorney enjoys the legal presumption that he or she is innocent of charges against him or her until the contrary is proved and that as an officer of the

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[10] *Ponencia*, p. 12.

[11] *See Yap v. Buri*, A.C. No. 11156, March 19, 2018, 859 SCRA 411, 417; *Padilla v. Samson*, A.C. No. 10253, August 22, 2017, 837 SCRA 352, 358; *Pitcher v. Gagate*, A.C. No. 9532, October 8, 2013, 707 SCRA 13, 24. *See* also *Yoshimura v. Panagsagan*, A.C. No. 10962, September 11, 2018, 880 SCRA 49, 57; *HDI Holdings Philippines, Inc. v. Cruz*, A.C. No. 11724, July 31, 2018, 875 SCRA 112, 127; *Anacta v. Resurreccion*, A.C. No. 9074, August 14, 2012, 678 SCRA 352, 359-360, where the silence of the respondent was taken as an implied admission.

[12] *Santos v. Dichoso*, 174 Phil. 115, 119 (1978).

[13] *See Reyes v. Nieva*, 794 Phil. 360, 379-380 (2016).

court, he or she is presumed to have performed his duties in accordance with his oath.[14] In fact, in *Robiñol v. Bassig*,[15] where the respondent lawyer also failed to file his Answer and to attend the scheduled mandatory conference, the Court held such failure cannot be deemed as an admission of the allegations in the complaint, which the complainant has the burden of proving, but may subject said respondent lawyer to administrative liability for failure to obey the IBP's lawful orders.

From the foregoing, I have reservations in taking against the respondent the allegation that he obtained ₱100,000.00 from the complainant before they parted ways, an allegation which the IBP-CBD considered as uncontroverted for respondent's failure to file his Answer and his position paper, and taken as evidence that he benefited from the transaction. A reading of complainant's Affidavit-Complaint[16] as well as Position Paper[17] shows that he merely alleged that respondent obtained ₱100,000.00 out of ₱300,000.00. Although respondent appears to have not squarely addressed this in his Motion to Lift Suspension from the Practice of Law[18] and in his Comment[19] to the complainant's Opposition,[20] complainant did not even allege any impropriety or irregularity about the alleged amount that respondent took as payment for attorney's fees. At any rate, from the records available to the Court, there was no sufficient proof that such amount was indeed obtained by respondent.

The foregoing reservations notwithstanding, I find that respondent must be held administratively liable for acquiring

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[14] *See Aba v. De Guzman, Jr.*, 678 Phil. 588, 599-600 (2011), citing *In Re: De Guzman*, 154 Phil. 127 (1974), *De Guzman v. Tadeo*, 68 Phil. 554 (1939), *In Re: Tiongko*, 43 Phil. 191 (1922), and *Acosta v. Serrano*, 166 Phil. 257 (1977).

[15] A.C. No. 11836, November 21, 2017, 845 SCRA 447.

[16] *Rollo*, pp. 151-153.

[17] Id. at 214-227.

[18] Id. at 2-17.

[19] Id. at 416-434.

[20] Id. at 106-122.

an interest over Lot 4-C under paragraph 3 of the Compromise Agreement, the existence of such stipulation of which is not seriously disputed, and where it is provided that he will be given a perpetual right of way by Azucena, to wit:

> 3. The oppositor and Gamaliel Casas shall grant to Atty. Reymelio M. Delute, his heirs and assigns, a three-meter wide perpetual road right of way on the subject Lot 4-C, from Atty. Delute's adjoining lot to the nearest public road, which road right of way shall be made into accessible road at the sole expense of the oppositor;[21]

"The relationship between a lawyer and a client is highly fiduciary; it requires a high degree of fidelity and good faith. It is designed 'to remove all such temptation and to prevent everything of that kind from being done for the protection of the client.'"[22] Also, considering that complainant's consent was necessary for the Compromise Agreement which contained a grant of benefit in favor of the respondent, the Court's previous ruling that dealings between a lawyer and his client must be greatly scrutinized in order to ensure that the former does not take advantage of the latter. As stated in *Nakpil v. Valdes*:[23]

> As a rule, a lawyer is not barred from dealing with his client but the business transaction must be characterized with utmost honesty and good faith. The measure of good faith which an attorney is required to exercise in his dealings with his client is a much higher standard than is required in business dealings where the parties trade at "arm's length." Business transactions between an attorney and his client are disfavored and discouraged by the policy of the law. Hence, courts carefully watch these transactions to assure that no advantage is taken by a lawyer over his client. This rule is founded on public policy for, by virtue of his office, an attorney is in an easy position to take advantage of the credulity and ignorance of his client. Thus, no presumption of innocence or improbability of wrongdoing is considered in an attorney's favor.[24]

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[21] Id. at 157-158.

[22] *Angeles v. Uy*, 386 Phil. 221, 231 (2000).

[23] 350 Phil. 412 (1998).

[24] Id. at 424.

Independent of whether there was fraud that vitiated complainant's consent to the Compromise Agreement, the grant of the right of way was highly improper in this particular case. While it may be conceded that the Compromise Agreement is valid unless annulled or declared void in the appropriate proceeding, this does not absolve respondent from any badges of impropriety for acquiring the right of way under paragraph 3 thereof. By the plain reading of the Compromise Agreement, the right of way was for respondent's own benefit and not for the complainant, contrary to what respondent wants to impress upon the Court. Notably, by way of special and affirmative defenses in his Answer[25] to the Complaint in Civil Case No. T-2497, respondent averred that he informed the complainant of Azucena's desire to settle the case amicably, but claimed that he did not meddle in the fixing of the amount of settlement.[26] Thereafter, he advised the complainant to retain a 300 sq m-portion of Lot 4-C and for Azucena to grant him (referring to the respondent) a perpetual right of way, to wit:

> 14. [Respondent] advised Felipe Laurel to retain a 300 square meter portion of Lot 4-C to serve as his future residence in the event he would no longer reside in Cebu City, as well as, the establishment of perpetual road right of way on Lot 4-C at the expense of AZUCENA LAUREL-VELEZ in favor of [respondent]; both offers were accepted by AZUCENA LAUREL-VELEZ and embodied in the Compromise Agreement (Annex "L");[27]

In this respect, respondent violated Canon 17 of the Code of Professional Responsibility (CPR) which states that "[a] lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him." Regardless of the truthfulness of the allegation that he misled or deceived the complainant into signing the Compromise Agreement, the fact that he stands to benefit from the Compromise Agreement through

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[25] Attached as Annex "4" of Respondent's Motion to Lift Suspension from the Practice of Law; *rollo*, pp. 339-343.

[26] Id. at 341.

[27] Id.

a person whose interests are adverse to that of his client raises sufficient cause for suspicion that he was protecting his own interest instead of the complainant's interest.

Furthermore, I agree with the *ponencia* that respondent violated the rule against conflict of interest. Rules 15.01 and 15.03, Canon 15 of the CPR provides:

> CANON 15 – A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENTS.
>
> Rule 15.01 – A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict with another client or his own interest, and if so, shall forthwith inform the prospective client.
>
> x x x x
>
> Rule 15.03 — A lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts.

Although jurisprudence has often applied the rule against conflict of interest in cases involving multiple clients or parties, the rationale behind said rule may likewise be applied in cases where a conflict arises between the client and the lawyer himself. As stated in *Samson v. Era*,[28] the prohibition against conflict of interest rests on five rationales, to wit:

> x x x First, the law seeks to assure clients that their lawyers will represent them with undivided loyalty. A client is entitled to be represented by a lawyer whom the client can trust. Instilling such confidence is an objective important in itself. x x x
>
> Second, the prohibition against conflicts of interest seeks to enhance the effectiveness of legal representation. To the extent that a conflict of interest undermines the independence of the lawyer's professional judgment or inhibits a lawyer from working with appropriate vigor in the client's behalf, the client's expectation of effective representation x x x could be compromised.

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[28] 714 Phil. 101 (2013).

> Third, a client has a legal right to have the lawyer safeguard the client's confidential information. x x x Preventing use of confidential client information against the interests of the client, either to benefit the lawyer's personal interest, in aid of some other client, or to foster an assumed public purpose is facilitated through conflicts rules that reduce the opportunity for such abuse.
>
> **Fourth, conflicts rules help ensure that lawyers will not exploit clients, such as by inducing a client to make a gift to the lawyer. x x x**
>
> Finally, some conflict-of-interest rules protect interests of the legal system in obtaining adequate presentations to tribunals. In the absence of such rules, for example, a lawyer might appear on both sides of the litigation, complicating the process of taking proof and compromise adversary argumentation. x x x[29] (Citations omitted; emphasis supplied)

In *Palalan Carp Farmers Multi-Purpose Coop v. Dela Rosa*,[30] the Court stated that conflict of interest means "[t]he existence of a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's own interest or the lawyer's duties to another client, a former client, or a third person, during the various stages of the professional relationship." In the same case, the Court recognized that conflicts may arise "because of the lawyer's own financial interests, which could impair client representation and loyalty" such as when "a lawyer is asked to advise the client in respect of a matter in which the lawyer or a family member has a material direct or indirect financial interest."

In the present case, it is not enough for the respondent to argue that the Compromise Agreement was validly executed. While the possibility that complainant and Azucena would have genuinely desired to amicably settle their dispute cannot be discounted, this does not readily justify the grant of right of way in respondent's favor. Respondent's argument that there was no need for him to deceive the complainant into signing the Compromise Agreement just for him to acquire a right of

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[29] *Id.* at 112-113.

[30] A.C. No. 12008, August 14, 2019.

way is untenable. Again, regardless of whether there was fraud, he could have shown either that he advised the complainant against the grant of the right of way in the said agreement, or accepted only the said grant with full consent of the complainant after explaining the possible legal consequences. Here, there is absence of circumstances indicating that complainant's interests were adequately protected in order to rule out the possibility that he may have been taken advantage of — an evil sought to be avoided by the rule against conflict of interest. As it turned out, respondent put himself in a situation where there is reasonable suspicion that he argues for the validity of the Compromise Agreement, not because of the complainant's desire to have his dispute with Azucena amicably settled, but because his own interest would be served by said agreement.

Going now to the proper penalty, it has been held that the determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of a sound judicial discretion.[31] In *Quiambao v. Bamba*,[32] the Court cited jurisprudence[33] providing for the penalty of suspension from the practice of law for one to three years solely for a lawyer's representation of conflicting interests. In this case, I find that under the circumstances, a penalty of two years suspension from the practice of law would suffice.

Moreover, I find in order the recommendation of the IBP in imposing fine insofar as it concerns the respondent's failure to comply with the directives of the IBP-CBD. Aside from failing to file an Answer to the Complaint despite due notice, he also failed to file his verified position paper. In paragraph 9 of his Motion, the respondent states:

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[31] *Marcelo v. Javier, Sr.*, 288 Phil. 762, 778 (1992).

[32] 505 Phil. 126 (2005).

[33] *Vda. de Alisbo v. Jalandoni*, A.C. No. 1311, July 18, 1991, 199 SCRA 321; *PNB v. Cedo*, A.C. No. 3701, March 28, 1995, 243 SCRA 1; *Maturan v. Gonzales*, A.C. No. 2597, March 12, 1998, 287 SCRA 443; *Northwestern University, Inc. v. Arguillo*, A.C. No. 6632, August 2, 2005.

> 9. Regrettably, however, Respondent did not attempt to answer the complaint for his erroneous belief that the complaint must first be referred to the local IBP Chapter for investigation at which investigation Respondent intended to personally and wholeheartedly confront Complainant why he filed the instant complaint alleging twisted facts and fabricated lies calculated to destroy the herein Respondent who defended him with utmost fidelity. With the motion filed by the Complainant that the hearing be held in Cebu City, Respondent had waited for such investigation which unfortunately did not occur or happen[.][34]

Respondent's explanation is unsatisfactory considering that the Order[35] from the IBP-CBD for him to file his Answer was clear enough and his only basis for not even attempting to comply was his erroneous belief that a referral to the local IBP chapter was still necessary. Furthermore, his Motion is silent as to his failure to file his verified position paper, even though it appears that he received the Order[36] dated October 20, 2014 reiterating said directive.[37]

It does not escape attention that for more than six years, respondent did nothing in relation to this case from the time he was required to file an Answer in the Order dated December 5, 2011. Despite the categorical warning in the said Order that failure to file an Answer will result in being considered in default and the case heard *ex parte*,[38] respondent was given a new period of 10 days to file an Answer in the Order[39] dated March 2, 2012.[40] Similarly, although the parties were required to submit position papers in the Order[41] dated April 30, 2012,

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[34] *Rollo*, p. 4.

[35] Id. at 161.

[36] Id. at 169.

[37] *See* Registry Receipt attached to the Order dated October 20, 2014.

[38] Id.

[39] *Rollo*, p. 164.

[40] Id.

[41] Id. at 168.

the IBP-CBD gave a new period of 10 days to file said position papers in the Order[42] dated October 20, 2014 since there was no proof that the Order dated April 30, 2012 was received by the parties.[43] Despite the opportunities given by the IBP-CBD for him to air his side, he chose to ignore its directives.

As a lawyer, respondent "must observe and maintain respect not only to the courts, but also to judicial officers and other duly constituted authorities, including the IBP."[44] He must be reminded that orders of the IBP, just like resolutions of this Court, must be complied with promptly and completely as they are not mere requests.[45]

In *Domingo v. Sacdalan*,[46] the Court, in addition to the penalty of disbarment and the order for the respondent to return to the complainant amounts representing legal deposit to cover expenses related to the expected litigation and cash advance chargeable against his appearance fees and other fees, the Court ordered the respondent to pay a fine of ₱5,000.00 for his disobedience to the lawful orders of the IBP. In light of the foregoing discussion, the imposition of a fine in the amount of ₱5,000.00 as recommended by the IBP-BOG is in order.

ACCORDINGLY, I vote to have respondent Atty. Reymelio M. Delute **SUSPENDED from the practice of law for two (2) years**, with the **STERN WARNING** that the commission of the same or similar offense in the future will result in the imposition of a more severe penalty, and to be **ORDERED** to pay a **FINE** in the amount of **Five Thousand Pesos (₱5,000.00)**.

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[42] Id. at 169.

[43] Id.

[44] *Almendraz, Jr. v. Langit*, 528 Phil. 814, 821 (2006), citing Canon 11 of the Code of Professional Responsibility, which provides:
CANON 11 — A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

[45] *See Mariano v. Echanez*, 785 Phil. 923, 929-930 (2016).

[46] A.C. No. 12475, March 26, 2019.

EN BANC

[A.C. No. 12424. September 1, 2020]

MA. HERMINIA T. TIONGSON, *Complainant*, *v.* **ATTY. MICHAEL L. FLORES**, *Respondent*.

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; DISBARMENT PROCEEDINGS; A DISBARMENT CASE DOES NOT INVOLVE A TRIAL BUT ONLY AN INVESTIGATION INTO THE CONDUCT OF LAWYERS AND THEIR FITNESS TO CONTINUE IN THE PRACTICE OF LAW. — At the outset, we clarify that a disbarment case does not involve a trial but only an investigation into the conduct of lawyers. The only issue is their fitness to continue in the practice of law. Hence, the findings have no material bearing on other judicial action which the parties may choose to file against each other. Specifically, a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer. The two cases may proceed independently of each other. A conviction in the criminal case does not necessarily mean a finding of liability in the administrative case. In the same way, the dismissal of a criminal case against an accused does not automatically exculpate the respondent from administrative liability. The quantum of evidence is different. In a criminal case, proof beyond reasonable doubt is required. In an administrative case against a lawyer, preponderant evidence is necessary which means that the evidence adduced by one side is superior to or has greater weight than that of the other. More importantly, the burden of proof rests upon the complainant. The lawyer's presumption of innocence subsists absent contrary evidence.

2. ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; IN NO CASE SHALL AN ATTORNEY ALLOW A CLIENT TO PERPETRATE FRAUD UPON A PERSON OR COMMIT ANY ACT WHICH SHALL PREJUDICE THE ADMINISTRATION OF JUSTICE; CASE AT BAR. — On this point, we stress that in no case shall an attorney allow a client to perpetrate fraud upon a person or commit any act which shall prejudice the administration of justice. The lawyer and

client alike must only employ fair, honest, and honorable means to advance their interests. x x x Atty. Flores failed to follow the above-cited Rule. Upon knowledge of falsification, Atty. Flores should have immediately alerted the trial court or reported the matter to the authorities. However, Atty. Flores's negligence encourage Arthur, *et al*. to assert their supposed claim against Herminia.

APPEARANCES OF COUNSEL

Cristal Tenorio Law Offices for complainant.

D E C I S I O N

LOPEZ, *J.*:

A lawyer must promptly call upon the client to correct any fraud. If the client refuses, the lawyer should terminate their professional relationship.[1] The observance of this rule is the core issue in this administrative case involving a lawyer who shared a falsified Court Order with his client who then used it to harass another person.

ANTECEDENTS

In 2014, a former court employee named Vincent gave Atty. Michael Flores (Atty. Flores) an Order that the Regional Trial Court (RTC) supposedly issued in Civil Case No. 1445-13 entitled *"Heirs of Jacinta R. Tenorio, Represented by Arthur R. Tenorio, versus Ma. Herm[i]nia T. Tiongson and Register of Deeds-Bukidnon."* The case is for segregation survey of Jacinta R. Tenorio's land registered under Transfer Certificate of Title No. T-30875 in favor of her compulsory heirs. Atty. Flores knew that the document was falsified but he still shared it with his client Arthur Tenorio (Arthur). The Court Order states:

Notice is hereby given that the remaining balance of Title No. T-30875 titled in the name of JACINTA R. TENORIO situated at

[1] See *Dalisay v. Atty. Mauricio, Jr.*, 515 Phil. 283, 294 (2006).

Laguitas, Malaybalay City, Bukidnon, shall [be] subdivided or segregated among all legitimate compulsory heirs EQUALLY OR IN EQUAL SHARES.

Let a report be submitted to this court upon completion or approval of the [subdivision] survey for the final disposition of subject property.

SO ORDERED.

Given this 21st day of January 2014 at Malaybalay City, Bukidnon, Philippines.

(Sgd.)
JOSEFINA GENTILES BACAL
Judge

COPY FURNISHED:
1. Deticio/Flores Law Centrum
2. Herm[i]nia Tiongson
3. Register of Deeds-Bukidnon[2]

On March 9, 2014, Arthur together with Beverly Tenorio and Leonard Seña (Arthur, *et al.*) used the Court Order and presented it to Herminia Tiongson's (Herminia) caretaker Rogelio Lira (Rogelio). They advised Rogelio to refrain from planting on the land because it will be subdivided and to tell Herminia that she is no longer its owner. Upon verification, Herminia discovered that there was no such Civil Case No. 1445-13 pending before the RTC and that the judge's signature was forged. Aggrieved, Herminia instituted against Arthur, *et al.* a criminal complaint for falsification. As supporting evidence, Herminia submitted certifications from the clerk of court and the legal researcher stating that the Court Order and its contents are fake.[3] The public prosecutor found probable cause against Arthur, *et al.* for three counts of falsification of public documents and grave coercion.[4] The corresponding informations were filed before the Municipal Trial Court.[5]

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[2] *Rollo*, p. 6.

[3] *Id.* at 7-8.

[4] *Id.* at 9-12.

[5] *Id.* at 13-16.

Later, Leonard Seña (Leonard) filed a criminal complaint for falsification against Atty. Flores considering that he was the one who handed the fake document to Arthur.[6] In his counter-affidavit, Atty. Flores claimed that it was a certain Vincent who gave him the falsified Court Order. He merely shared the document to Arthur without any instruction of using it. He maintained that the fake Order is inexistent, useless, and without value. It was not implemented and no one was prejudiced.[7] The public prosecutor found probable cause against Atty. Flores for falsification of public document.[8] Accordingly, the informations against Arthur, *et al.* were amended to include Atty. Flores as a conspirator.[9]

Meantime, Herminia filed a disbarment complaint[10] against Atty. Flores before the Integrated Bar of the Philippines (IBP) docketed as CBD Case No. 15-4595. Herminia repined that Atty. Flores committed gross misconduct, malpractice and deceit when he obtained a forged Court Order and shared it with his client who used it to coerce her caretaker. On the other hand, Atty. Flores did not file any answer and did not attend the mandatory conference.

On November 7, 2016, the IBP Commission on Bar Discipline reported that Atty. Flores violated the lawyer's oath and the Code of Professional Responsibility (CPR), specifically, Canon 1, Rules 1.01, 1.02, 1.03, Canon 7, Rule 7.03, Rules 10.01 and 10.03. It held that Atty. Flores authored the fake Court Order which warrants the penalty of disbarment,[11] *viz.*:

> A lawyer who forges a court decision and represents it as that of a court of law is guilty of the gravest misconduct and deserves the supreme penalty of disbarment.

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[6] *Id.* at 17-18.

[7] *Id.* at 21-22.

[8] *Id.* at 23-26.

[9] *Id.* at 27-29.

[10] *Id.* at 2-4.

[11] *Id.* at 53-71.

In this case, Respondent has made the following admissions in his Counter-Affidavit:

1. That the document came from a person named "VINCENT[;"]
2. That he shared the document [with] Mr. Tenorio;
3. That he knew from the start that the document is non-existent, useless, of no value and not a public document;
4. That it did not cause any damage.

Independently of the admissions made by the Respondent, the evidence showed that the Order purportedly issued by the Court is a falsity. This led to the filing of three (3) Information for Falsification of Public Document against the Respondent before the Court.

Based on the admissions made by the Respondent in his Counter-Affidavit filed before the Prosecutor's Office, this Commission is fully convinced that Respondent was the author of the falsified court order x x x in view of the following considerations:

First, the Court Order dated 21 January 2014 is a falsified document. This is clearly shown by the Certification issued by the OIC and the Office of the Clerk of Court considering that: a) there is no such case number in the files or is pending before the Court, and b) the signature of the Presiding Judge is a forgery. In short, the purported case is non-existent.

Second, **Respondent was the author of the falsified Court Order dated 21 January 2014. By his own admission, Respondent has full knowledge from the start on the falsity x x x when the alleged "VINCENT" had handed to him the spurious court order. Despite full knowledge of its falsity, Respondent had admitted that he still shared a copy thereof [with] Mr. Tenorio. This is a clear criminal act of falsification of a public document by a private individual and by an officer of the Court.**

Third, [a]s a lawyer, Respondent should have known the consequences of the illegality of his acts. However, by sharing a falsified document to Mr. Tenorio, Respondent has allowed a falsified court order for *[sic]* be used for illegal purpose, that is, to deceive, misrepresent and or to defraud Herminia T. Tiongson. x x x.

Fourth, irrespective of the outcome of the pending criminal cases against the Respondent x x x, the guilt of the Respondent in this case has clearly been proven by overwhelming evidence. This is in addition to the Respondent's admission clearly showing his lack of

moral character which is indispensable in the continued license to practice of law. x x x.

x x x x

IN VIEW THEREOF, finding overwhelming evidence that Respondent is guilty of falsification of a judicial order, it is hereby recommended that Respondent be DISBARRED.

RECOMMENDATION

WHEREFORE, premised considered, it is hereby recommended that Respondent ATTY. MICHAEL L. FLORES be DISBARRED and his name stricken off from the Roll of Attorneys.

RESPECTFULLY SUBMITTED.[12] (Emphases supplied.)

The IBP Board of Governors adopted the Commission's findings,[13] thus:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of **Disbarment** from practice of law of Atty. Michael L. Flores and his name stricken off from the Rolls of Attorneys.[14] (Emphasis in the original.)

RULING

At the outset, we clarify that a disbarment case does not involve a trial but only an investigation into the conduct of lawyers. The only issue is their fitness to continue in the practice of law. Hence, the findings have no material bearing on other judicial action which the parties may choose to file against each other.[15] Specifically, a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer. The two cases may proceed independently of each other.[16] A conviction in the criminal case does not necessarily mean a

[12] *Id.* at 62-71.

[13] *Id.* at 51.

[14] *Id.*

[15] *Alpha Insurance and Surety Co., Inc. v. Castañeda*, A.C. No. 12428, March 18, 2019, citing *Heenan v. Atty. Espejo*, 722 Phil. 528, 537 (2013). See also *Zarcilla, et al. v. Atty. Quesada*, 827 Phil. 629 (2018).

[16] *Yu, et al. v. Atty. Palaña*, 580 Phil. 19, 26 (2008).

finding of liability in the administrative case.[17] In the same way, the dismissal of a criminal case against an accused does not automatically exculpate the respondent from administrative liability. The quantum of evidence is different. In a criminal case, proof beyond reasonable doubt is required.[18] In an administrative case against a lawyer, preponderant evidence is necessary which means that the evidence adduced by one side is superior to or has greater weight than that of the other.[19] More importantly, the burden of proof rests upon the complainant.[20] The lawyer's presumption of innocence subsists absent contrary evidence.[21]

Also, it bears emphasis that the Court must exercise the power to disbar with great caution. The supreme penalty of disbarment is imposed only for the most imperative reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and a member of the bar.[22] Notably, we disbarred lawyers who simulated court documents in *Gatchalian Promotions Talents Pool, Inc. v. Atty. Naldoza*,[23] *Tan v. Diamante*,[24] *Krursel v. Atty. Abion*,[25] *Madria v. Atty. Rivera*,[26] *Taday v. Apoya, Jr.*,[27] *Lampas-Peralta v. Ramon*,[28] and *Sitaca v. Palomares*.[29]

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[17] *Bengco, et al. v. Atty. Bernardo*, 687 Phil. 7, 17 (2012).

[18] *Jimenez v. Atty. Jimenez*, 517 Phil. 68, 73 (2006).

[19] *Aba, et al. v. Attys. De Guzman, Jr., et al.*, 678 Phil. 588, 600-601 (2011).

[20] *Cruz v. Atty. Centron*, 484 Phil. 671, 675 (2004).

[21] *Francia v. Atty. Abdon*, 739 Phil. 229, 309 (2014).

[22] *Yu, et al. v. Atty. Palaña*, *supra* at 27. See also *Kara-an v. Atty. Pineda*, 548 Phil. 82, 85 (2007).

[23] 374 Phil. 1 (1999).

[24] 740 Phil. 382 (2014).

[25] 789 Phil. 584 (2016).

[26] 806 Phil. 774 (2017).

[27] A.C. No. 11981, July 3, 2018, 870 SCRA 1.

[28] A.C. No. 12415, March 5, 2019.

[29] A.C. No. 5285, August 14, 2019, 427 SCRA 121.

In *Gatchalian Promotions*, the respondent obtained from the complainant money allegedly for "cash bond" in connection with an appealed case and falsified an official receipt from the Court to conceal the misappropriation of the amount entrusted to him.[30] In *Tan*, the respondent falsified a court order purportedly directing the submission of Deoxyribonucleic Acid (DNA) results in order to misrepresent to his client that he still had an available remedy, when in reality, his case had long been dismissed for failure to timely file an appeal. The Court considered the acts of the respondent so reprehensible and flagrant exhibiting moral unfitness and inability to discharge his duties as a member of the bar.[31] In *Krursel*, the complainant paid substantial amounts of money to respondent in relation to the filing of the complaint for injunction. The respondent did not issue any receipt or accounting despite her demands. Instead, respondent drafted a fake order from this Court granting the complaint.[32]

In *Madria*, we held that falsifying or simulating the court papers amounted to deceit, malpractice or misconduct in office, any of which was already a ground sufficient for disbarment. In that case, the respondent acknowledged authorship of the simulated court decision and certificate of finality in a case for annulment of marriage. The Court rejected the explanation of the respondent that he forged the documents only upon the persistent prodding of the complainant.[33] In *Taday*, the respondent notarized a petition for annulment of marriage without the appearance of the complainant. Thereafter, the respondent authored a fake decision to deceive the complainant that her petition was granted. The Court observed that the falsified decision is strikingly similar with the petition that the respondent drafted. The respondent then retaliated against complainant for confronting him with the fake decision by withdrawing the

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[30] *Supra.*

[31] *Supra* note 24.

[32] *Supra* note 25.

[33] *Supra* note 26.

petition in the court resulting into the dropping of the case from the civil docket.[34] In *Lampas-Peralta*, the respondent falsified a decision of the Court of Appeals and demanded exorbitant professional fees from her clients. She was even caught in an entrapment operation by the National Bureau of Investigation.[35]

In *Sitaca*, the combination of all the circumstances produced the indubitable conclusion that it was respondent who conceptualized, planned, and implemented the falsified bail bond and release order for his son's temporary liberty. As the counsel of record for his son, the respondent knew that there was no petition or an order granting and fixing the amount of bail. Corollarily, the respondent cannot feign ignorance of the spurious documents which he presented to the clerk of court with the goal of securing his son's liberty. The respondent pointed to a person named "Guialani" who processed the falsified court issuances but failed to shed light on his true identity and actual participation. The respondent likewise did not file an action against Guialani.[36]

In the above-cited cases, there are sufficient circumstances and admissions that the respondents committed falsification or forgery and that they benefitted from the use of fake documents. Here, the IBP recommended to disbar Atty. Flores because he falsified a court order. It relied on the principle that he who possessed a forged/falsified document and made use and benefited from it is deemed the forger/falsifier.[37] Yet, the facts are insufficient to presume that Atty. Flores authored the falsification. Foremost, Herminia failed to show that Atty. Flores was involved directly or indirectly in the falsification of the court order and forgery of the judge's signature. The

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[34] *Supra* note 27.

[35] *Supra* note 28.

[36] *Supra* note 29.

[37] *United States v. Castillo*, 6 Phil. 453, 455; *People v. De Lara*, 45 Phil. 754, 761; *People v. Domingo*, 49 Phil. 28, 34; *People v. Astudillo*, 60 Phil. 338, 343-344; and *People v. Manansala*, 105 Phil. 1253.

substance of Atty. Flores' counter-affidavit before the public prosecutor can hardly be considered as acknowledgment of the imputed acts. To be sure, Atty. Flores vehemently denied authorship of the bogus court order and explained that a former court employee named Vincent gave it to him. At most, Atty. Flores only admitted the possession of spurious document and knowledge of its falsity. Moreover, there is no evidence that Atty. Flores used the fake order and benefitted from it. Atty. Flores even categorically stated in his counter-affidavit that the document is inexistent, useless, and without value.[38] Thus, he shared the document to his client. Unknown to Atty. Flores, Arthur, *et al.* utilized the falsified order to harass Herminia's caretaker. It must be underscored that the fake order is about the segregation of the land and submission of the survey report. On the other hand, the threat against Herminia to refrain from planting on the land because she is no longer its owner is Arthur, *et al.*'s own words and beyond the contents of the document. Lastly, we applied in *Sitaca*, the presumption of authorship against the respondent. However, the present case is starkly different. The essential requisites that the respondent must use and benefit from the simulated court issuance are absent. Unlike the respondent in *Sitaca*, Atty. Flores did not utilize or derive any benefit from the fake court order but merely shared it to his client. Quite the contrary, the respondent in *Sitaca* used the falsified documents with the goal of securing his son's liberty. Also, Atty. Flores did not feign ignorance of the spurious document but is keen in noticing its falsity. The fact that Atty. Flores is Arthur's counsel of record and that he did not explain Vincent's identity or file a case against him are minor considerations inadequate to warrant the presumption.

Nevertheless, Atty. Flores must be penalized for his carelessness in entrusting a forged document in the hands of his client despite the danger of using it for a wrongful purpose. On this point, we stress that in no case shall an attorney allow a client to perpetrate fraud upon a person or commit any act which shall prejudice the administration of justice. The lawyer

[38] *Rollo*, p. 22.

and client alike must only employ fair, honest, and honorable means to advance their interests.[39] Particularly, Rule 19.02 of the CPR outlines the procedure in dealing with a client who committed fraud, to wit:

> **Rule 19.02** — A lawyer who has received information that his clients has, in the course of the representation, perpetrated a fraud upon a person or tribunal, **shall promptly call upon the client to rectify the same**, and **failing which he shall terminate the relationship with such client in accordance with the Rules of Court**.

Atty. Flores failed to follow the above-cited rule. Upon knowledge of falsification, Atty. Flores should have immediately alerted the trial court or reported the matter to the authorities. However, Atty. Flores's negligence encouraged Arthur, *et al.* to assert their supposed claim against Herminia. Worse, Atty. Flores remained indifferent and did not confront Arthur to rectify his fraudulent representation. Considering that this is Atty. Flores' first infraction, and that there is no clear showing that his malpractice was deliberately done in bad faith or with deceit, a penalty of suspension from the practice of law for one year is proper.

Finally, Atty. Flores disobeyed the orders of the IBP Commission without justifiable reason when he did not file an answer and did not attend the mandatory conference despite due notice. As such, Atty. Flores must pay a fine of ₱5,000.00.[40]

FOR THESE REASONS, Atty. Michael L. Flores is **GUILTY** of violation of Rule 19.02 of the Code of Professional Responsibility and is **SUSPENDED** from the practice of law for a period of one year. The suspension in the practice of law shall take effect immediately upon respondent's receipt of this decision. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his

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[39] Eldrid C. Antiquiera, *Comments on Legal and Judicial Ethics*, Second Edition (2018), p. 103.

[40] *Domingo v. Sacdalan*, A.C. No. 12475, March 26, 2019, citing *Ojales v. Atty. Villahermosa III*, 819 Phil. 1 (2017).

appearance as counsel. He is likewise **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

Atty. Michael L. Flores is also meted a **FINE** in the amount of ₱5,000.00 for disobedience to the orders of the Integrated Bar of the Philippines. These payments shall be made within ten days from notice of this decision.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be entered into Atty. Michael L. Flores' records. Copies shall likewise be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

EN BANC

[A.C. No. 12689. September 1, 2020]
(Formerly CBD Case No. 14-4459)

VDA. ELEANOR V. FRANCISCO, *Complainant*, *v.* **ATTY. LEONARDO M. REAL**, *Respondent*.

1. LEGAL ETHICS; ATTORNEYS; CODE OF PROFESSIONAL RESPONSIBILITY (CPR); FAILURE TO PAY DEBTS CONSTITUTES VIOLATION OF RULE 1.01 OF THE CPR BECAUSE IT IS WILLFUL IN CHARACTER AND IMPLIES A WRONGFUL INTENT, IT IS NOT CONSIDERED A MERE ERROR IN JUDGMENT; CASE AT BAR. — In *Sosa v. Mendoza*, the Court ruled that failure to pay debts constitutes violation of Rule 1.01 of the CPR, because it is willful in character and implies a wrongful intent; it is not considered a mere error in judgment. x x x In this case, respondent began defaulting in his obligation in October 2012, when the post-dated check issued for that month was dishonored. The two remaining post-dated checks were likewise dishonored subsequently. Complainant sent demand letters to respondent and sought the help of the *barangay* for conciliation, but her attempts to get respondent to pay all proved futile. Respondent simply denied he received these notices. While he acknowledged the decision of the MTCC, it is nonetheless quite telling that he also did not participate in the proceedings before it despite notice. Verily, it cannot escape the attention of the Court that several months had already passed from October 2012, when the first check was dishonored, after the first demand letter was sent to respondent in May 2013. It also took almost a year from October 2012 to September 2013, when complainant filed the small claims action against respondent. It is revealing of respondent's character that he let the months slip by without attending to his obligation, and belies his avowal that he had no intention to renege.

2. ID.; ID.; A LAWYER'S ACT OF ISSUING WORTHLESS CHECKS CONSTITUTES SERIOUS MISCONDUCT. — Furthermore, a lawyer's act of issuing worthless checks, punishable under Batas Pambansa Blg. (BP) 22, constitutes serious misconduct. x x x The issuance of checks which were

later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on him, shows such lack of personal honesty and good moral character as to render him unworthy of public confidence, and constitutes a ground for disciplinary action.

3. ID.; ID.; DISBARMENT PROCEEDINGS; IT IS THE DUTY OF THE SUPREME COURT TO EXERCISE ITS SOUND JUDICIAL DISCRETION BASED ON THE SURROUNDING FACTS OF THE CASE; THE SUPREME COURT DOES NOT HESITATE TO IMPOSE THE PENALTY OF DISBARMENT WHEN THE GUILTY PARTY HAS BECOME A REPEAT OFFENDER. — In imposing the appropriate penalty in administrative cases, it is the duty of the Court to exercise its sound judicial discretion based on the surrounding facts of the case. Well-settled is the rule in our jurisdiction that disbarment ought to be meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court and that the Court will not disbar a lawyer where a lesser penalty will suffice to accomplish the desired end. **The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender.**

D E C I S I O N

***PER CURIAM*:**

This is an administrative complaint[1] against respondent Atty. Leonardo M. Real for violation of Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility (CPR) for non-payment of just debts and issuing worthless checks.

The Case

Complainant Eleanor V. Francisco (complainant) is the owner of a property located in Carigma St. corner Burgos St., Brgy. San Jose, Antipolo City. In February 2012, complainant and respondent entered into a contract of lease over one of the rooms

[1] *Rollo*, pp. 2-8.

at the second floor of the property as lessor and lessee, respectively. The term of the lease was from February 1, 2012 to January 31, 2013 with a monthly rental in the amount of ₱6,500.00.[2]

Complainant alleged that as payments for the months of October to December 2012, respondent, using his wife's checks, issued three (3) checks in the amount of ₱6,500.00 each in favor of complainant. However, these checks were dishonored upon presentment for the reason "account closed."[3]

On May 21, 2013, complainant sent respondent a demand letter, but the same was ignored. She thereafter filed a complaint before the Barangay Lupon of San Jose, Antipolo City, but she and respondent failed to reach a settlement and so a certificate to file an action was issued in favor of complainant.[4] On August 1, 2013, complainant sent another demand letter to respondent, but it also remained unheeded. Thus, on September 10, 2013, complainant filed a small claims action for sum of money before the Municipal Trial Court in Cities (MTCC) of Antipolo City against respondent and his wife.[5]

Respondent and his wife did not participate in the proceedings before the MTCC. Thus, upon motion of complainant, the case was submitted for decision.[6] In its October 22, 2013 Decision,[7] the MTCC ruled in favor of complainant and ordered respondent and his wife to pay the unpaid rentals from October 2012 to November 2013 in the total amount of ₱91,000.00.[8]

On December 17, 2013, the MTCC issued a writ of execution and a notice to vacate was sent to respondent. However,

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[2] Id. at 2-3, 58.

[3] Id. at 3, 9.

[4] Id. at 3.

[5] See id. at 3, 10-11.

[6] Id. at 3-4, 10.

[7] Id. at 10-11.

[8] Id. at 11.

complainant alleged that until the filing of her administrative complaint on December 15, 2014, or one year after the issuance of the writ of execution, respondent continued to occupy the property.[9]

Complainant averred that she was perplexed about the conduct of respondent in consistently giving her false hopes, which, in her opinion, ran contrary to the ideals of his legal profession. She said she only understood it all after she learned about the prior suspension of respondent from the practice of law and the revocation of his notarial commission.[10]

In his Answer,[11] respondent explained that he held office in the subject property, but due to his financial distress by reason of his one (1)-year suspension from the practice of law and revocation of his notarial commission, he was forced to close his office and leave the premises. He countered that the rentals from February 2012 to November 2012 were duly paid through the checks of his wife issued on his behalf. He denied ever receiving any demand letter from complainant or being summoned for conciliation before a barangay.[12]

Respondent acknowledged the decision of the MTCC of Antipolo City in the small claims action filed against him by complainant, but denied that he ignored the writ of execution and the notice to vacate. He maintained that he had long vacated the property even before complainant asked for his ejectment. Respondent also maintained that even before complainant filed the case, he offered to pay his arrears in installment, but complainant allegedly refused because she wanted to be paid in full instead. Respondent recounted that, in fact, during the execution stage of the decision of the MTCC, he instructed his secretary, who was accompanied by the sheriff, to tender the amount of ₱20,000.00 as part of payment to complainant in

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[9] Id. at 4.

[10] Id. at 5.

[11] Id. at 19-22.

[12] Id. at 19-20.

her office. Complainant, however, allegedly refused to accept such partial payment.[13]

Respondent expressed that he is very much willing to pay his debts, albeit in installment as he has yet to regain a vibrant practice after his suspension from the practice of his legal profession.[14]

The IBP Findings

In its Report and Recommendation,[15] the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) found that respondent has not learned from his previous suspension by the Court. Since he was aware that he cannot meet his obligation to pay his lease, the most prudent thing respondent could have done was to immediately vacate the premises. He only did so, however, after the MTCC issued a writ of execution. In short, respondent continued to occupy the property without paying rentals for almost a year.[16]

The IBP-CBD also held that although the checks were drawn against the account of his wife, it was as if respondent himself issued them. The checks were issued in favor of complainant to cover the payment of respondent's lease obligation. It can safely be assumed therefore that respondent knew that the checking account of his wife was already closed.[17]

Thus, the IBP-CBD recommended that respondent be suspended from the practice of law for six (6) months and that, as mandated in the decision of the MTCC, respondent be ordered to pay his financial obligations to complainant in the amount of ₱91,000.00 with legal interest from May 21, 2013, the date of the formal demand.[18]

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[13] Id. at 20-21.

[14] Id. at 21.

[15] Id. at 58-60.

[16] Id. at 59.

[17] Id.

[18] Id. at 59-60.

The IBP-Board of Governors (IBP-BOG) adopted the findings of the IBP-CBD, but modified its recommended penalty from a six (6)-month suspension to disbarment. The IBP-BOG ruled in this wise in view of respondent's failure to pay rentals of his law office despite demand; his continuously occupying the premises without paying rentals even after complainant filed a case with the MTCC of Antipolo City for almost one year; his having vacated the premises only after the MTCC issued a writ of execution; his issuance of three (3) worthless checks as payment of rentals under the name of his wife; and his being a habitual violator of the CPR.[19]

Respondent filed a motion for reconsideration[20] of the Resolution of the IBP-BOG, lamenting that the penalty imposed was too harsh. He recounted that he had no original intention to rent the place, and that it was complainant's friends who initiated the lease, suggesting that a part thereof would be rented out for medical purposes and a part would be rented out as respondent's notarial office. Respondent claimed that complainant's friends later changed their minds.[21]

Respondent also maintained that he had no intention to deceive complainant, pointing out that it was she who drafted the lease contract and who proposed that post-dated checks be issued to cover the monthly rentals. Respondent likewise emphasized that there were nine (9) post-dated checks in total and only three (3) of these were dishonored.[22]

Moreover, respondent insisted that he had no intention to evade his obligation, reiterating that he approached complainant several times to offer paying the accrued rentals in installment, but she always refused and only wanted to be paid in full.[23]

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[19] Id. at 57.

[20] Id. at 61-64.

[21] Id. at 61-62.

[22] Id. at 62.

[23] Id.

Complainant, in her Comment[24] to the motion for reconsideration, countered that prior to her filing of the small claims action before the MTCC, she repeatedly reached out to respondent about his obligation, but to no avail. It was only after the writ of execution was issued by the MTCC that respondent wanted to settle in installment. Complainant argued that under the Rules of Court, there is no piecemeal payment in execution of judgments for money.[25]

The IBP-BOG in its Resolution[26] dated September 28, 2017 denied respondent's motion for reconsideration.

The Issue

Whether respondent should be administratively held liable for his failure to pay the monthly rentals due the complainant, for the dishonor of the checks issued in payment of these monthly rentals, and for his alleged obstinate refusal to vacate the premises.

The Court's Ruling

The Court adopts the findings and recommendation of the IBP-BOG with modification.

The fact that respondent incurred delay in the payment of his rental obligations with complainant is undisputed. Respondent does not deny this, but contends that he is willing to pay complainant in installment. Respondent has also explained that when he entered into the contract of lease with complainant from February 2012 to January 2013, they agreed that the monthly payment of ₱6,500.00 shall be drawn from the checking account of his wife. Respondent also does not deny that checks were dishonored, but raises it as a defense of his good faith that only three (3) out of the nine (9) checks issued were dishonored.

The way respondent downplays his offenses cannot be countenanced. His non-payment of just debts and his hand in

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[24] Id. at 67-75.

[25] Id. at 68.

[26] Id. at 81-82.

the issuance of worthless checks constitute gross misconduct on respondent's part which deserve to be sanctioned.

Gross misconduct is defined as "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not a mere error in judgment." In *Sosa v. Mendoza*,[27] the Court ruled that failure to pay debts constitutes violation of Rule 1.01 of the CPR, because it is willful in character and implies a wrongful intent; it is not considered a mere error in judgment. Canon 1, Rule 1.01 of the CPR states:

CANON 1 — A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Similarly, Canon 7, Rule 7.03 of the CPR 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.

x x x x

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.

In this case, respondent began defaulting in his obligation in October 2012, when the post-dated check issued for that month was dishonored. The two remaining post-dated checks were likewise dishonored subsequently. Complainant sent demand letters to respondent and sought the help of the *barangay* for conciliation, but her attempts to get respondent to pay all proved futile. Respondent simply denied he received these notices. While he acknowledged the decision of the MTCC, it

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[27] A.C. No. 8776, March 23, 2015, 754 SCRA 61.

is nonetheless quite telling that he also did not participate in the proceedings before it despite notice. Verily, it cannot escape the attention of the Court that several months had already passed from October 2012, when the first check was dishonored, after the first demand letter was sent to respondent in May 2013. It also took almost a year from October 2012 to September 2013, when complainant filed the small claims action against respondent. It is revealing of respondent's character that he let the months slip by without attending to his obligation, and belies his avowal that he had no intention to renege.

Thus, in light of the prolonged silence of respondent, the Court is inclined to believe the version of complainant that the alleged willingness of respondent to pay, albeit in piecemeal, was a belated attempt on his part to settle after the MTCC had already issued the writ of execution. As correctly pointed out by complainant, she had no obligation to accept the payment plan of respondent, considering his previous failure to pay promptly[28] and the express provision under Section 9, Rule 39 of the Revised Rules of Court that the officer enforcing an execution of a judgment for money shall demand from the judgment obligor the immediate payment of the **full amount** stated in the writ of execution and all lawful fees.

Furthermore, a lawyer's act of issuing worthless checks, punishable under Batas Pambansa Blg. (BP) 22, constitutes serious misconduct.[29] In *Ong v. Delos Santos*,[30] the Court also held that a lawyer who issues a worthless check is in breach of his oath to obey the laws.[31] The Court explained thus:

> [BP 22] has been enacted in order to safeguard the interest of the banking system and the legitimate public checking account users. The gravamen of the offense defined and punished by [BP 22],

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[28] See *Lao v. Medel*, A.C. No. 5916 (Formerly CBD 01-825), July 1, 2003, 405 SCRA 227, 232.

[29] *Enriquez v. De Vera*, A.C. No. 8330, March 16, 2015, 753 SCRA 235, 245.

[30] A.C. No. 10179 (Formerly CBD 11-2985), March 4, 2014, 717 SCRA 663.

[31] Id. at 665.

according to *Lozano v. Martinez*, is the act of making and issuing a worthless check, or any check that is dishonored upon its presentment for payment and putting it in circulation; the law is designed to prohibit and altogether eliminate the deleterious and pernicious practice of issuing checks with insufficient funds, or with no credit, because the practice is deemed a public nuisance, a crime against public order to be abated. The Court has observed in *Lozano v. Martinez*:

> The effects of the issuance of a worthless check transcends the private interests of the parties directly involved in the transaction and touches the interests of the community at large. The mischief it creates is not only a wrong to the payee or holder, but also an injury to the public. The harmful practice of putting valueless commercial papers in circulation, multiplied a thousandfold, can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest. x x x[32]

Here, the fact that the checks were drawn in the name of respondent's wife and not directly in his name is of no moment. As respondent himself has admitted, he stood as the lessee of the property subject of the lease contract and acknowledged that he and complainant had agreed that the post-dated checks drawn in the name of his wife would be used in payment of the monthly rentals. Being a lawyer, respondent was well aware of, or was nonetheless presumed to know, the objectives and coverage of BP 22. Yet, he knowingly violated the law and thereby "exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order."[33]

The issuance of checks which were later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on him, shows such lack of personal honesty and good moral character as to render him unworthy of public confidence, and constitutes a ground for disciplinary action.[34] In the same manner, respondent should

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[32] Id. at 668.

[33] Id. at 669.

[34] See *Cuizon v. Macalino*, A.C. No. 4334, July 7, 2004, 433 SCRA 479, 484.

not have resorted to persistently ignoring the demands made against him by the complainant to settle his obligations. If he were truly in dire financial straits, he could have facilely explained his circumstances to complainant and be, at the very least, forthcoming about it.

The Court has constantly reminded lawyers that as guardians of the law, they are mandated to obey and respect the laws of the land and to uphold the integrity and dignity of the legal profession.[35] They must at all times faithfully perform their duties to society, to the bar, the courts and to their clients, which include prompt payment of financial obligations. They must conduct themselves in a manner that reflects the values and norms of the legal profession as embodied in the CPR.[36] Respondent utterly failed in this regard.

As regards the proper penalty to be imposed upon respondent, the Court notes the differing penalties the Court has imposed in the past for offenses similar to those committed by herein respondent.

In *Lim v. Rivera*,[37] the Court observed that in the cases of *Lao v. Medel*,[38] *Rangwani v. Diño*,[39] and *Enriquez v. De Vera*,[40] the Court imposed the penalty of one (1)-year suspension from the practice of law for deliberate failure to pay just debts and for the issuance of worthless checks. Meanwhile, in *Sanchez v. Torres*,[41] the Court increased the penalty to two (2) years in light of the amount of the loan which was ₱2,200,000.00,

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[35] *Saladaga v. Astorga*, A.C. Nos. 4697 & 4728, November 25, 2014, 741 SCRA 603, 605.

[36] *A-1 Financial Services, Inc. v. Valerio*, A.C. No. 8390 (Formerly CBD 06-1641), July 2, 2010, 622 SCRA 616, 621.

[37] A.C. No. 12156, June 20, 2018, 867 SCRA 35.

[38] Supra note 28.

[39] A.C. No. 5454, November 23, 2004, 443 SCRA 408.

[40] Supra note 29.

[41] A.C. No. 10240 (Formerly CBD No. 11-3241), November 25, 2014, 741 SCRA 620.

and the fact that respondent therein had repeatedly asked for extensions of time to file an answer and a motion for reconsideration, which he nonetheless failed to submit, and had likewise failed to attend the disciplinary hearings set by the IBP.[42]

In *Barrientos v. Libiran-Meteoro*,[43] on the other hand, the Court merely imposed a penalty of a six (6)-month suspension against the respondent therein who failed to pay just debts and who issued worthless checks. The Court tempered the penalty in view of her payment of a portion of her debt, as evidenced by receipts amounting to ₱50,000.00.

Here, the IBP recommends that the Court impose the penalty of disbarment against respondent, highlighting his habit of violating the CPR. The Court agrees.

In imposing the appropriate penalty in administrative cases, it is the duty of the Court to exercise its sound judicial discretion based on the surrounding facts of the case.[44] Well-settled is the rule in our jurisdiction that disbarment ought to be meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court and that the Court will not disbar a lawyer where a lesser penalty will suffice to accomplish the desired end.[45] **The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender**.[46] Thus, the Court in *Flores v. Mayor, Jr.*,[47] after finding respondent therein guilty of clear neglect of duty and gross ignorance of the law, considered his previous suspension by the Court in meting out

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[42] *Lim v. Rivera*, supra note 37, at 42.

[43] A.C. No. 6408 (CBD 01-840), August 31, 2004, 437 SCRA 209.

[44] See *Lim v. Rivera*, supra note 37, at 42.

[45] See *De Jesus v. Sanchez-Malit*, A.C. No. 6470, July 8, 2014, 729 SCRA 272, 285.

[46] *Flores v. Mayor, Jr.*, A.C. No. 7314, August 25, 2015, 768 SCRA 161, 169.

[47] Id.

the extreme penalty of disbarment. The Court concluded in this wise:

> The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender.
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> In *Maligsa v. Cabanting*, the respondent lawyer was disbarred after the Court found out that he had notarized a forged deed of quitclaim. The penalty of disbarment was imposed after considering that he was previously suspended from the practice of law for six months on the ground that he had purchased his client's property while it was still the subject of a pending *certiorari* proceeding.
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> In *Flores v. Chua*, the respondent lawyer was disbarred after he was found guilty of notarizing a forged deed of sale. The penalty of disbarment was imposed because in a previous administrative case, respondent was found guilty of violating Rule 1.01[16] of the Code of Professional Responsibility. He was also sternly warned that a repetition of a similar act or violation in the future would be dealt with more severely.
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> Herein respondent was already suspended from the practice of law for a period of six (6) months in another case, *Lahm III v. Mayor, Jr.*, in which he was found guilty of gross ignorance of the law in violation of the Lawyer's Oath and the Code of Professional Responsibility. For that offense, he was warned that the commission of the same or a similar offense in the future would result in the imposition of a more severe penalty. In light of respondent's previous suspension from the practice of law in an earlier administrative case as above[-]mentioned, the recommendation of the IBP Board to disbar respondent is only proper.[48]

Here, the Court takes judicial notice of the fact that for the past eight (8) years, respondent has been disciplined by the Court thrice. Glaringly, as well, his other misdeeds also constituted gross misconduct.

In *Isenhardt v. Real*,[49] the Court revoked the notarial commission of respondent for notarizing a document even without

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[48] Id. at 169-170.

[49] A.C. No. 8254 (Formerly CBD Case No. 04-1310), February 15, 2012, 666 SCRA 20.

the appearance of one of the parties. The Court held that "[r]espondent violated his oath as a lawyer and the [CPR] when he made it appear that [the] complainant [therein] personally appeared before him and subscribed an SPA authorizing her brother to mortgage her property."[50] As such, respondent was disqualified from reappointment as notary public for a period of two (2) years and was suspended from the practice of law for a period of one (1) year, effective immediately. The Court warned him that a repetition of the same or similar offense in the future shall be dealt with more severely.

In 2016, in *Fabie v. Real*,[51] the Court suspended respondent anew from the practice of law for a period of six (6) months after he was found liable for abandoning his client's cause and for failing to return the amount of ₱40,000.00 given to him as legal fees. The Court also warned respondent that a repetition of the same or similar offense in the future shall be dealt with more severely.

Yet, again, in a Resolution dated June 10, 2019, the Court in *Pacificar v. Real*[52] suspended respondent from the practice of law for a period of three (3) months for neglecting his client's cause despite receiving ₱155,500.00 as attorney's fees.

Given the foregoing, it would not be inaccurate to conclude that respondent has a penchant for violating his oath as a lawyer and the CPR. He had been repeatedly warned that a similar violation will merit a more severe penalty, and yet, his blatant disregard of the Code and his sworn duty has, time and again, brought embarrassment and dishonor to the legal profession.[53] The Court cannot afford to be lenient this time. Membership in the legal profession is a privilege, and whenever it is made

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[50] Id. at 24.

[51] A.C. No. 10574 (Formerly CBD Case No. 11-3047), September 20, 2016, 803 SCRA 388.

[52] A.C. No. 9022, June 10, 2019 (Unsigned Resolution).

[53] *San Juan v. Venida*, A.C. No. 11317, August 23, 2016, 801 SCRA 268, 278.

to appear that an attorney is no longer worthy of the trust and confidence of his clients and the public, it becomes not only the right but also the duty of the Court to withdraw the same.[54]

Finally, however, the Court cannot order respondent to pay his financial obligations to complainant, as recommended by the IBP. The delineation between which obligations the Court can order a respondent-lawyer to perform has already been settled in *Tria-Samonte v. Obias*.[55] The Court clarified therein that disciplinary proceedings against lawyers are only confined to the issue of whether or not the respondent-lawyer is still fit to be allowed to continue as a member of the Bar and that the only concern is his or her administrative liability. Thus, matters which have no intrinsic link to the lawyer's professional engagement, such as the liabilities of the parties which are purely civil in nature,[56] should be threshed out in a proper proceeding of such nature, and not during administrative-disciplinary proceedings, as in this case.[57] Considering that the liability of respondent here with regard to the amount involved is purely civil in nature, it being his obligation as a lessee, the Court cannot properly order respondent to pay complainant said amount. The remedy of complainant in this score lies with the MTCC which, as it turns out, has already granted her motion for execution.

WHEREFORE, the Court finds respondent Atty. Leonardo M. Real **GUILTY** of gross misconduct in violation of the Lawyer's Oath and the Code of Professional Responsibility. He is hereby **DISBARRED** from the practice of law. The Office of the Bar Confidant is **DIRECTED** to remove the name of Leonardo M. Real from the Roll of Attorneys.

This Decision is without prejudice to any pending or contemplated proceedings to be initiated against respondent.

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[54] Id. at 279.

[55] A.C. No. 4945, October 8, 2013, 707 SCRA 1.

[56] Id. at 12.

[57] *Dagala v. Quesada, Jr.*, A.C. No. 5044, December 2, 2013, 711 SCRA 206, 217.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as a member of the Bar, the Integrated Bar of the Philippines, the Office of the Court Administrator, the Department of Justice, and all courts in the country for their information and guidance.

This Decision takes effect immediately.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

EN BANC

[A.M. No. P-15-3290. September 1, 2020]

OFFICE OF THE COURT ADMINISTRATOR, *Complainant*, *v*. **GARY G. FUENSALIDA, Utility Worker I, Office of the Clerk of Court, Regional Trial Court, Sorsogon City, Sorsogon**, *Respondent*.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; THE INSTITUTION DEMANDS THE BEST POSSIBLE INDIVIDUALS IN THE SERVICE AND IT HAD NEVER AND WILL NEVER TOLERATE NOR CONDONE ANY CONDUCT WHICH WOULD VIOLATE THE NORMS OF PUBLIC ACCOUNTABILITY, AND DIMINISH, OR EVEN TEND TO DIMINISH, THE FAITH OF THE PEOPLE IN THE JUSTICE SYSTEM. — It must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.

2. ID.; ID.; ID.; THE EMPLOYEE'S ACT OF STEALING, FORGING THE SIGNATURE OF A CO-EMPLOYEE IN THE ENDORSEMENT OF THE CHECK, AND ENCASHING THE CHECK FOR PERSONAL GAIN, CONSTITUTED GRAVE MISCONDUCT AND SERIOUS DISHONESTY. — [I]t was established that Fuensalida was an accountable officer, being the custodian of all the property and financial collections of the court. Fuensalida's tasks included safekeeping of important and financial documents that required his utmost trustworthiness. The Court concurs with the OCA that his act of stealing, forging the signature of Toledo in the endorsement

of the check, and finally, encashing the check for personal gain, constituted grave misconduct and serious dishonesty.

3. ID.; ID.; ID.; MISCONDUCT, DEFINED; TO WARRANT DISMISSAL FROM SERVICE, THE MISCONDUCT MUST BE GRAVE, SERIOUS, IMPORTANT, WEIGHTY, MOMENTOUS, NOT TRIFLING, AND MUST IMPLY WRONGFUL INTENTION AND NOT A MERE ERROR OF JUDGMENT, AND HAVE A DIRECT RELATION TO AND BE CONNECTED WITH THE PERFORMANCE OF THE PUBLIC OFFICER'S OFFICIAL DUTIES AMOUNTING EITHER TO MALADMINISTRATION OR WILLFUL, INTENTIONAL NEGLECT, OR FAILURE TO DISCHARGE THE DUTIES OF THE OFFICE. — Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate [grave] misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.

4. ID.; ID.; ID.; DISHONESTY, DEFINED; DISHONESTY IS CONSIDERED SERIOUS WHERE THE RESPONDENT IS AN ACCOUNTABLE OFFICER; THE DISHONEST ACT DIRECTLY INVOLVES PROPERTY, ACCOUNTABLE FORMS OR MONEY FOR WHICH HE IS DIRECTLY ACCOUNTABLE; AND RESPONDENT SHOWS INTENT TO COMMIT MATERIAL GAIN, GRAFT AND CORRUPTION. — [D]ishonesty means "a 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." Although dishonesty covers a broad spectrum of conduct, Civil Service Commission (CSC) Resolution No. 06-0538 sets the criteria for determining the severity of dishonest acts. According to Section 3 of CSC Resolution No. 06-0538, for

dishonesty to be considered serious, any of the following circumstances must be present: x x x 3. **Where the respondent is an accountable officer, the dishonest act directly involves property; accountable forms or money for which he is directly accountable; and respondent shows intent to commit material gain, graft and corruption.** x x x.

5. ID.; ID.; ID.; GRAVE MISCONDUCT AND DISHONESTY ARE GRAVE OFFENSES, EACH PUNISHABLE BY DISMISSAL ON THE FIRST OFFENSE. — Grave misconduct and dishonesty are grave offenses each punishable by dismissal on the first offense under Section 46 (A), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS). Corollary thereto, the penalty of dismissal from service carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.

6. ID.; ID.; ID.; CESSATION FROM OFFICE BY REASON OF RESIGNATION, DEATH OR RETIREMENT IS NOT A GROUND TO DISMISS THE CASE FILED AGAINST THE ERRING OFFICER OR EMPLOYEE AT THE TIME THAT HE WAS STILL IN THE PUBLIC SERVICE, OR RENDER IT MOOT AND ACADEMIC. — On June 21, 2018, Jean G. Fuensalida, wife of respondent Gary G. Fuensalida, informed the Court that the latter died on April 13, 2017. Nonetheless, Fuensalida's death should not result in the dismissal of the administrative case. Since Fuensalida's intervening death has rendered his dismissal no longer feasible, the accessory penalty of forfeiture of all such retirement and allied benefits, except accrued leaves, then becomes the practicable penalty. Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case. In fine, cessation from office by reason of resignation,

death or retirement is not a ground to dismiss the case filed against the said officer or employee at the time that he was still in the public service or render it moot and academic.

D E C I S I O N

DELOS SANTOS, *J.*:

The Facts

On April 10, 2013, Atty. Marilyn D. Valino (Clerk of Court Valino), Clerk of Court VI, Office of the Clerk of Court (OCC), Regional Trial Court (RTC), Sorsogon City, wrote a Letter[1] addressed to the Office of the Court Administrator (OCA) and reported that on November 5, 2012, a check was lost in their office while checks were being distributed to the employees of the court. The subject check[2] was dated October 31, 2012 in the amount of ₱21,379.00, which belonged to Salvacion Toledo (Toledo), Court Stenographer III, Branch 52, RTC, Sorsogon City. According to Clerk of Court Valino, from the circumstances surrounding the loss of the check, there was no doubt that Gary G. Fuensalida (Fuensalida), Utility Worker I, OCC, RTC, Sorsogon City was the person responsible for the theft and its consequent endorsement by forging the signature of Toledo.

Based from the records, Toledo requested the Fiscal Management and Budget Office (FMBO) of this Court for stoppage of payment of the subject check. However, in its Letter-Reply,[3] the FMBO informed Ms. Toledo that the check was already negotiated on November 7, 2012 upon its verification with the Land Bank of the Philippines. The FMBO also enclosed a photocopy of the negotiated check[4] for reference.

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[1] *Rollo*, pp. 4-5.

[2] LBP Check No. 0001083287.

[3] *Rollo*, p. 9.

[4] *Id.* at 10.

According to Clerk of Court Valino, Fuensalida denied that he stole the check and that he forged the signature of Toledo. Thus, upon being furnished with a copy of the negotiated check, Clerk of Court Valino wrote a Letter[5] to the Sorsogon Provincial Crime Laboratory Office, Camp Salvador Escudero, Sorsogon City, requesting for assistance by way of handwriting examination/investigation as regards the check of Toledo. Clerk of Court Valino likewise submitted the logbook of the checks, which contained the handwriting of the employees including Fuensalida's handwriting, for the crime laboratory's reference and comparison.

In Document Examination Report No. 03-2013,[6] Police Chief Inspector Gregorio M. Villanueva (PCI Villanueva), Forensic Document Examiner, Sorsogon Provincial Crime Laboratory Office, reported that the comparative examination and analysis of the questioned handwriting and the submitted handwriting revealed significant similarities in handwriting movement, line quality, stroke structures, and other handwriting characteristics. PCI Villanueva concluded, thusly:

> The questioned handwriting **SALVACION J. TOLEDO, RTC-52, Sorsogon City** marked QH-A, QH-B & QH-C appearing at the back of the abovementioned check & the submitted standard handwriting of GARY FUENSALIDA appearing in the abovementioned pages of the logbook marked as SH-1 to SH-22, **WERE WRITTEN BY ONE AND THE SAME PERSON**.[7]

In view of the foregoing report, Clerk of Court Valino manifested to the OCA that Fuensalida can no longer be trusted because of the gravity of the offense committed and considering that the latter is the custodian of all the property and financial collections of the court. Accordingly, Clerk of Court Valino requested the OCA for an action on the matter because she fears that Fuensalida will repeat the same whilst being absent without official leave.

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[5] *Id.* at 8.

[6] *Id.* at 6-7.

[7] *Id.* at 7. (Emphasis in the original)

In his Comment,[8] Fuensalida admitted that he stole and encashed Toledo's check. Fuensalida claimed he was tempted to steal the check of Toledo due to financial distress that his family was experiencing during that time. According to Fuensalida, he had too many monetary obligations that included many debts and school fees of his five (5) children. Fuensalida expressed his deep remorse for the offense he committed and manifested that his liability to the parties involved were already being settled. Lastly, Fuensalida appealed for compassion and promised the Court that the incident will never happen again.

The OCA's Report and Recommendation

In a Memorandum[9] dated October 17, 2014, the OCA recommended that: (a) the instant administrative matter be re-docketed as a regular administrative complaint against respondent Gary G. Fuensalida; (b) respondent Fuensalida be found guilty of Grave Misconduct and Serious Dishonesty; and (c) respondent Fuensalida be dismissed from the service, with forfeiture of all the benefits except accrued leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.[10]

The OCA found that the act of Fuensalida of stealing and encashing the check payable to Toledo without the latter's authority constituted grave misconduct and was also considered as serious dishonesty. According to the OCA, even assuming that Fuensalida did not admit to the charge, there was substantial evidence to hold him liable.

The OCA pointed out that Fuensalida's admission of guilt and subsequent explanation cannot exculpate him from liability as none of these defenses can free him from the consequences of his wrongdoing, which was duly established by PCI Villanueva.

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[8] *Id.* at 12-13.

[9] *Id.* at 17-20.

[10] *Id.* at 20.

Issue

Whether or not Fuensalida should be administratively liable for Grave Misconduct and Serious Dishonesty.

The Court's Ruling

The Court adopts the findings and the recommendation of the OCA.

It must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.[11]

In this case, it was established that Fuensalida was an accountable officer, being the custodian of all the property and financial collections of the court. Fuensalida's tasks included safekeeping of important and financial documents that required his utmost trustworthiness.

The Court concurs with the OCA that his act of stealing, forging the signature of Toledo in the endorsement of the check, and finally, encashing the check for personal gain, constituted grave misconduct and serious dishonesty.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must

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[11] *Office of the Court Administrator v. Executive Judge Amor*, 745 Phil. 1, 11 (2014).

imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate [grave] misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.[12]

On the other hand, dishonesty means "a 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."[13] Although dishonesty covers a broad spectrum of conduct, Civil Service Commission (CSC) Resolution No. 06-0538 sets the criteria for determining the severity of dishonest acts.[14]

According to Section 3 of CSC Resolution No. 06-0538, for dishonesty to be considered serious, any of the following circumstances must be present:

1. The dishonest act caused serious damage and grave prejudice to the government;
2. The respondent gravely abused his authority in order to commit the dishonest act;
3. **Where the respondent is an accountable officer, the dishonest act directly involves property; accountable forms or money for which he is directly accountable; and respondent shows intent to commit material gain, graft and corruption;**
4. The dishonest act exhibits moral depravity on the part of the respondent;

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[12] *Judaya v. Balbona*, 810 Phil. 375, 381 (2017).

[13] *Duque v. Calpo*, A.M. No. P-16-3505, January 22, 2019.

[14] *Re: Alleged Dishonesty and Falsification of Civil Service Eligibility of Mr. Samuel R. Ruñez, Jr.*, A.M. No. 2019-18-SC, January 28, 2020.

5. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;

6. The dishonest act was committed several times or on various occasions;

7. The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets;

8. Other analogous circumstances. (Emphasis supplied)

Grave misconduct and dishonesty are grave offenses each punishable by dismissal on the first offense under Section 46 (A), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS).[15] Corollary thereto, the penalty of dismissal from service carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.[16]

On June 21, 2018, Jean G. Fuensalida, wife of respondent Gary G. Fuensalida, informed the Court that the latter died on April 13, 2017. Nonetheless, Fuensalida's death should not result in the dismissal of the administrative case. Since Fuensalida's intervening death has rendered his dismissal no longer feasible, the accessory penalty of forfeiture of all such retirement and allied benefits, except accrued leaves, then becomes the practicable penalty.

Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the

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[15] *Olympia-Geronilla v. Montemayor*, 810 Phil. 1, 14 (2017).

[16] *Lagado v. Leonido*, 741 Phil. 102, 107 (2014).

respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case. In fine, cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against the said officer or employee at the time that he was still in the public service or render it moot and academic.[17]

WHEREFORE, the Court **FINDS** and **DECLARES** the late Gary G. Fuensalida, former Utility Worker I, Office of the Clerk of Court, Regional Trial Court, Sorsogon City, Sorsogon **GUILTY** of Gross Misconduct and Serious Dishonesty; and, accordingly, **FORFEITS** all benefits, including retirement gratuity, exclusive of his accrued leaves, which shall be released to his legal heirs.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

[17] *Office of the Court Administrator v. Grageda*, 706 Phil. 15, 21 (2013).

EN BANC

[A.M. No. 19-01-15-RTC. September 1, 2020]

RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN BRANCH 24, REGIONAL TRIAL COURT, CABUGAO, ILOCOS SUR, UNDER HON. RAPHIEL F. ALZATE, AS ACTING PRESIDING JUDGE

SYLLABUS

1. LEGAL ETHICS; JUDGES; NEW CODE OF JUDICIAL CONDUCT FOR THE PHILIPPINE JUDICIARY; JUDGES MUST UPHOLD THE INTEGRITY OF THE JUDICIARY, AVOID IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES, AND PERFORM THEIR DUTIES HONESTLY AND DILIGENTLY; THE FAILURE TO PRESENT EVIDENCE THAT THE RESPONDENT JUDGE ACTED WITH PARTIALITY AND MALICE CAN ONLY NEGATE THE ALLEGATION OF IMPROPRIETY, BUT NOT THE APPEARANCE OF IMPROPRIETY. — While there was no concrete evidence presented to prove Judge Alzate's partiality and malice, it must be emphasized that Canon 2 of the Code of Judicial Conduct provides: "A judge should avoid impropriety and the appearance of impropriety in all activities." The failure to present evidence that the respondent acted with partiality and malice can only negate the allegation of impropriety, but not the appearance of impropriety. In *Dela Cruz v. Judge Bersamira*, this Court underscored the need to show not only the fact of propriety but the appearance of propriety itself. It held that the standard of morality and decency required is exacting so much so that a judge should avoid impropriety and the appearance of impropriety in all his activities. The Court explains, thus: By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. The character of a judge is perceived by the people not only through his official acts but also through his private morals as reflected in his external behavior. It is, therefore, paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond

reproach. x x x. In fine, based on all x x x findings, it is undisputed that Judge Alzate violated the Code of Judicial Conduct, which enjoins judges to uphold the integrity of the Judiciary, avoid impropriety or the appearance of impropriety in all activities and to perform their duties honestly and diligently.

2. ID.; ID.; ID.; GROSS IGNORANCE OF THE LAW; A JUDGE MUST BE ACQUAINTED WITH LEGAL NORMS AND PRECEPTS AS WELL AS WITH PROCEDURAL RULES, FOR WHEN A JUDGE DISPLAYS AN UTTER LACK OF FAMILIARITY WITH THE RULES, HE ERODES THE PUBLIC'S CONFIDENCE IN THE COMPETENCE OF OUR COURTS; UNFAMILIARITY WITH THE RULES OF OUR COURT IS A SIGN OF INCOMPETENCE, AS BASIC RULES OF PROCEDURE MUST BE AT THE PALM OF A JUDGE'S HANDS. — No less than the Code of Judicial Conduct mandates that a judge shall be faithful to the laws and maintain professional competence. Indeed, competence is a mark of a good judge. A judge must be acquainted with legal norms and precepts as well as with procedural rules. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law. Unfamiliarity with the Rules of Court is a sign of incompetence. Basic rules of procedure must be at the palm of a judge's hands.

3. ID.; ID.; ID.; GROSS IGNORANCE OF THE LAW AND GROSS MISCONDUCT; WHEN THERE IS PERSISTENT DISREGARD OF WELL-KNOWN RULES, JUDGES NOT ONLY BECOME LIABLE FOR GROSS IGNORANCE OF THE LAW, THEY COMMIT GROSS MISCONDUCT AS WELL, AS THE MISTAKE CAN NO LONGER BE REGARDED AS A MERE ERROR OF JUDGMENT, BUT ONE PURELY MOTIVATED BY A WRONGFUL INTENT; A JUDGE'S COMPLETE DISREGARD OF THE GLARING IRREGULARITIES AND NON-COMPLIANCE OF THE RULES, AND MINDLESSLY PROCEEDED WITH THE COURT PROCEEDING, BREEDS A SUSPICION THAT HE HAS PERSONAL INTEREST IN THOSE CASES BEFORE HIM; A JUDGE'S UNUSUAL INTEREST IN THE CASES BEFORE HIM, NOT ONLY DISPLAYED HIS UTTER

LACK OF COMPETENCE AND PROBITY, BUT ALSO MAKES HIM LIABLE FOR GROSS MISCONDUCT. — In the instant case, Judge Alzate's blatant disregard of the provisions of A.M. No. 02-11-10-SC shows not only a lack of familiarity with the law but a gross ignorance thereof. However, when there is persistent disregard of well-known rules, judges not only become liable for gross ignorance of the law, they commit gross misconduct as well. It is then that a mistake can no longer be regarded as a mere error of judgment, but one purely motivated by a wrongful intent. The fact that in many instances, Judge Alzate chose to ignore if not completely disregard the glaring irregularities and non-compliance of the rules, and mindlessly proceeded with the court proceeding breeds a suspicion that he has personal interest in those cases before him. His unusual interest in the cases before him, not only displayed his utter lack of competence and probity but also make him liable for gross misconduct. Misconduct refers to any unlawful conduct on the part of a judge prejudicial to the rights of parties or to the right determination of the cause. It entails wrongful or improper conduct motivated by a premeditated, obstinate or deliberate purpose. Simple misconduct is defined as an unacceptable behavior that transgresses the established rules of conduct for public officers. On the other hand, gross misconduct connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful."

4. ID.; ID.; ID.; A JUDGE SHOULD OBSERVE THE USUAL AND TRADITIONAL MODE OF ADJUDICATION REQUIRING THAT HE SHOULD HEAR BOTH SIDES WITH PATIENCE AND UNDERSTANDING TO KEEP THE RISK OF REACHING AN UNJUST DECISION AT A MINIMUM; THUS, HE MUST NEITHER SACRIFICE FOR EXPEDIENCY'S SAKE THE FUNDAMENTAL REQUIREMENTS OF DUE PROCESS, NOR FORGET THAT HE MUST CONSCIENTIOUSLY ENDEAVOR EACH TIME TO SEEK THE TRUTH, TO KNOW AND APTLY APPLY THE LAW, AND TO DISPOSE OF THE CONTROVERSY OBJECTIVELY AND IMPARTIALLY. — [F]or all his infractions, there is no question that Judge Alzate also violated the following Canons of the New Code of Judicial Conduct for the Philippine Judiciary: Canon 2 Integrity. Section 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a

reasonable observer. Section 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done. Canon 6 Competence and Diligence. x x x Section 3. Judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges. x x x Section 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness. x x x Section 7. Judges shall not engage in conduct incompatible with the diligent discharge of judicial duties. As a judge, more than anyone else, they are required to uphold and apply the law. They should maintain the same respect and reverence accorded by the Constitution to our society's institutions, particularly marriage. Instead, their actuations relegated marriage to nothing more than an annoyance to be eliminated. In the process, they also made a mockery of the rules promulgated by this Court. A judge should observe the usual and traditional mode of adjudication requiring that he should hear both sides with patience and understanding to keep the risk of reaching an unjust decision at a minimum. Thus, he must neither sacrifice for expediency's sake the fundamental requirements of due process nor forget that he must conscientiously endeavor each time to seek the truth, to know and aptly apply the law, and to dispose of the controversy objectively and impartially.

5. ID.; ID.; ID.; A JUDGE WHO ISSUES DECISIONS THAT VOIDED MARITAL UNIONS DESPITE IRREGULARITIES AND NON-COMPLIANCE WITH THE RULES, NOT ONLY MAKES A MOCKERY OF MARRIAGE AND ITS LIFE-CHANGING CONSEQUENCES, BUT LIKEWISE VIOLATES THE BASIC NORMS OF TRUTH, JUSTICE, AND DUE PROCESS, AND HIS CONDUCT GREATLY UNDERMINES THE PEOPLE'S FAITH IN THE JUDICIARY AND BETRAYS PUBLIC TRUST AND CONFIDENCE IN THE COURTS. — Judge Alzate's act of issuing decisions that voided marital unions despite irregularities and non-compliance with the rules not only made a mockery of marriage and its life-changing consequences but likewise violated the basic norms of truth, justice, and due process. His conduct greatly undermines

the people's faith in the Judiciary and betrays public trust and confidence in the courts. Thus, it must be once again emphasized that everyone in the Judiciary, from the presiding judge to the clerk, must always be beyond reproach, free of any suspicion that may taint the Judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the Judiciary should be an example of integrity, uprightness, and honesty.

6. ID.; ID.; ID.; GROSS IGNORANCE OF THE LAW AND GROSS MISCONDUCT CONSTITUTING VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT ARE SERIOUS CHARGES; PROPER IMPOSABLE PENALTY; EVEN IF THE ERRING JUDGE HAS OPTED TO RESIGN OR RETIRE, IT WOULD NOT EXTRICATE HIM/HER FROM THE CONSEQUENCES OF THE OFFENSES HE/SHE COMMITTED, AS RESIGNATION OR RETIREMENT HAS NEVER BEEN A WAY OUT TO EVADE ADMINISTRATIVE LIABILITY. — Gross ignorance of the law and gross misconduct constituting violations of the Code of Judicial Conduct are serious charges under Section 8, Rule 140 of the Rules of Court. Justices and judges found guilty of these charges may be penalized by any of the following: 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided*, however, that the forfeiture of benefits shall in no case include accrued leave credits; 2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or 3. A fine of more than ₱20,000.00 but not exceeding ₱40,000.00. In *OCA v. Castañeda*, the Court found the respondent guilty of gross ignorance of the law and procedure for her blatant disregard of the provisions of A.M. Nos. 02-11-10-SC and 02-11-11-SC, among others, and

imposed the penalty of dismissal. Finally, let this be a **WARNING** to those judges who continuously disregard the rules and guidelines pertaining to cases of annulment of marriage, as particularly provided in A.M. Nos. 02-11-10-SC and 02-11-11-SC, that any brazen disregard of the existing rules is an *indicium* of a judge's unfitness to continue as member of the bench, as such acts erode public's trust and confidence, and creates disrespect to the Judiciary, in general. Moreover, even if the erring judge has opted to resign or retire, it would not extricate him/her from the consequences of the offenses he/she committed, as resignation or retirement has never been a way out to evade administrative liability.

D E C I S I O N

***PER CURIAM*:**

This is an administrative complaint against Judge Raphiel F. Alzate *(Judge Alzate)*, as Acting Presiding Judge, Branch 24, Regional Trial Court *(RTC)*, Cabugao, Ilocos Sur, which stemmed from reports relayed to the Office of the Court Administrator *(OCA)* alleging irregular disposal of cases on nullity of marriages.

To verify the allegations against Judge Alzate, the OCA conducted a judicial audit on Branch 24, RTC, Cabugao, Ilocos Sur from October 11 to 15, 2018 with special attention to the nullity of marriage cases.

In its Memorandum Report[1] dated January 22, 2019, the audit team confirmed previous reports that Branch 24, Regional Trial Court, Cabugao, Ilocos Sur, presided by Judge Alzate, was issuing swift and "worry-free" favorable decisions of nullity of marriage cases for financial considerations, in wanton disregard of the rules of procedures in the declaration of nullity of marriage cases.

Relative thereto, the OCA recommended that Judge Alzate be preventively suspended from the service, effective

[1] *Rollo*, pp. 1-11.

immediately, for a period of six (6) months, or until further orders from the court, and that the OCA be directed to conduct an investigation on matters pertaining to the nullity of marriage cases in question, and the actual number of nullity of marriage cases filed in Branch 24, RTC, Cabugao, Ilocos Sur since May 4, 2016, the day Judge Alzate was designated as Acting Presiding Judge in the said court up to the present.

In the Resolution[2] dated February 12, 2019, the Court resolved, upon the recommendation of the OCA, to: (a) PREVENTIVELY SUSPEND Judge Alzate for a period of six (6) months, effective immediately, and (b) DIRECT the OCA to CONDUCT an investigation on matters pertaining to the nullity of marriage cases in question, and the actual number of nullity of marriage cases filed in Branch 24, RTC, Cabugao, Ilocos Sur since May 4, 2016, the day Judge Alzate was designated as Acting Presiding Judge in the said court up to the present.

In compliance with the Court's directive, in a Memorandum[3] dated June 28, 2019, the OCA recommended the following:

(a) the findings as a result of the investigation in Branch 28, Regional Trial Court, Cabugao, Ilocos Sur and Branch 58, Regional Trial Court, Bucay, Abra, be NOTED; [and]

(b) A.M. No. 19-01-15-RTC (Re: Report on the Judicial Audit conducted in Branch 24, Regional Trial Court, Cabugao, Ilocos Sur, under Hon. Raphiel F. Alzate, as Acting Presiding Judge), be **RE-DOCKETED** as a regular administrative matter.[4]

In support of its recommendation, the OCA reported the following irregularities:

A. Issue of Residency of the Parties

Of the seven (7) nullity of marriage cases previously identified in the OCA's Memorandum dated January 22, 2019, four (4) cases

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[2] *Id.* at 21.

[3] *Id.* at 26-60.

[4] *Id.* at 59.

were confirmed to have parties who were not actual residents of the municipalities under the territorial jurisdiction of Branch 24, RTC, Cabugao, Ilocos Sur prior to the filing of the subject petitions. Based on Administrative Order No. 3, Series of 1983, the territorial jurisdiction of Branch 24, Cabugao, Ilocos Sur, encompasses the Municipalities of Sinait, Magsingal and San Juan, all in the Province of Ilocos Sur.

The OCA team was able to secure certifications from the four (4) different *barangays* which were indicated in the questioned petitions by the petitioners as their residences:

Case Number	Petitioner	Residence indicated in the Petition	Certification
925-KC	Cherry Gatchalian	Barangay Bannuar, San Juan, Ilocos Sur	Certification issued on May 21, 2019 by Chairman Jowin T. Ubaldo of Barangay Bannuar, San Juan, Ilocos Sur certifying that, "as per verification from all files of inhabitants from January of 2017 to May 21, 2019 there is no residents *(sic)* named CHERRY GATCHALIAN on our records."
924-KC	Ma. Theresa B. De Leon	Barangay Bannuar, San Juan, Ilocos Sur	Certification issued on May 21, 2019 by Chairman Jowin T. Ubaldo of Barangay Bannuar, San Juan, Ilocos Sur certifying that, "as per verification from all files of inhabitants from January of 2017 to May 21, 2019 there is no residents *(sic)* named MA. THERESA B. DE LEON on our records."
921-KC	Ruel Bagne and Rose Anne Bagne	Barangay Baclig, Cabugao, Ilocos Sur	Certification issued on May 21, 2019 by Chairman Michael Angelo B. Sarmiento of Barangay Baclig, Cabugao, Ilocos Sur certifying that, "RUEL BAGNE AND ROSE

			ANNE BAGNE are not residents of Barangay Baclig, Cabugao, Ilocos Sur."
928-KC	Dino Roa	Barangay Rizal, Cabugao, Ilocos Sur	SMS message from Jim Castro, Secretary of Barangay Rizal, Cabugao, Ilocos Sur, *"Regarding po kay Dino Roa, hindi po taga Rizal po. Base po sa List of Census 2018-2019."*

B. Number of Nullity of Marriage Cases Filed and Decided in Branch 24, Regional Trial Court, Cabugao, Ilocos Sur

The following statistics are the data given by the Statistical Reports Division, Court Management Office, OCA which are based on the Monthly Reports submitted by Branch 24, RTC, Cabugao, Ilocos Sur, to the said office:

I. Number of Cases Filed

	2013	2014	2015	2016	2017	2018
January	1	1	1	1	1	3
February	0	0	0	0	1	1
March	0	0	1	0	0	1
April	1	2	1	1	2	2
May	1	0	2	1	0	2
June	0	0	0	0	0	5
July	0	0	0	2	0	0
August	0	0	1	2	0	0
September	0	0	0	1	0	2
October	0	1	0	2	0	0
November	0	0	0	1	0	2
December	1	0	0	0	0	2
TOTAL	**4**	**4**	**6**	**11**	**4**	**20**

II. Number of Cases Decided

	2013	2014	2015	2016	2017	2018
January	0	0	0	2	0	0
February	0	0	2	1	0	0
March	0	0	0	0	0	0
April	0	0	0	1	0	1
May	0	0	0	0	0	3
June	0	0	0	0	0	1
July	0	1	2	0	0	1
August	1	0	1	0	0	4
September	3	0	0	0	0	2
October	0	0	0	2	0	0
November	0	0	0	2	0	0
December	1	0	3	0	0	5
TOTAL	**4**	**1**	**7**	**8**	**0**	**17**

The foregoing tables reveal the marked increase of nullity of marriage cases filed and decided when Judge Alzate was the Acting Presiding Judge of Branch 24, RTC, Cabugao, Ilocos Sur, in 2016 as compared to the previous years.

C. Irregularities in the Proceedings

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1. No Report on the Collusion Investigation

CASE NUMBER	*Title*	*Last Court Action*
875-KC	Beverly Tica vs. Jesus Fantastico	• Sheriff's Return dated September 8, 2016 stating that the Summons dated August 24, 2016 was personally served upon respondent on September 8, 2016. • Order dated February 22, 2017 directing the Public Prosecutor to conduct investigation on possible collusion of parties and to submit the said report

		within thirty (30) days from receipt of a copy of the order. (Received on February 24, 2017) • Order dated March 15, 2017 the Urgent Motion to Take Deposition by Way of Advance Testimony was granted. The reception of the advance testimony was set on the same day at 11:00. • Order dated March 15, 2017 wherein the testimony of petitioner was completed and terminated. • "Collusion Report" was marked as "reserved" in the Minutes on March 15, 2017 (11:35 am) on the Preliminary Conference. • Decision dated April 18, 2018.
924-KC	Maria Teresa B. De Leon vs. Geremy De Leon	• Officer's Return dated May 23, 2018 wherein the Summons dated May 11, 2018 was personally received by respondent on May 23, 2018. • Pre-Trial Order dated July 25, 2018 - Collusion Report of the Public Prosecutor was not included as one of the documentary evidence. • Order dated July 25, 2018 wherein petitioner was presented and her testimony was terminated. • Order dated August 8, 2018 wherein petitioner presented Leo Christian P. Lumbre, Clinical Psychologist, and his direct testimony was finished. Conduct of cross examination was set on September 19, 2018. (No order or minutes was attached showing what transpired during September 19, 2018 setting)

		• Formal Offer of Evidence for the Petitioner filed on October 4, 2018. • Collusion Report dated October 10, 2018 received by the court on October 12, 2018. • Order dated November 21, 2018 wherein "all exhibits offered by the petitioner through counsel are hereby ADMITTED. Case is now submitted for decision." • Decision dated December 5, 2018.
925-KC	Cherry A. Gatchalian vs. Roel M. Gatchalian	• Process Server's Return dated May 28, 2018 wherein Summons dated May 11, 2018 was served through substituted service on May 25, 2018. • *Ex Parte* Motion to Take Advance Testimony filed on June 27, 2018, 9:30 am. • Order dated June 27, 2018 wherein the *Ex Parte* Motion to Take Advance Testimony filed by petitioner was granted. The taking of advance testimony of the petitioner was set on the same day. • Order dated June 27, 2018 wherein the advance testimony of petitioner was terminated, and the case was set for initial hearing on August 8, 2018 at 2:00 p.m. • Order dated August 8, 2018 wherein petitioner presented Leo Christian P. Lumbre and his direct testimony was finished. Cross examination was set on September 19, 2018. • Order dated September 19, 2018 that in view of the absence of [a] public

		prosecutor, hearing was reset to October 17, 2018. • Formal Offer of Evidence for the petitioner dated September 28, 2018 filed on October 4, 2018. (no resolution on admission) • Collusion Report dated October 10, 2018 filed on October 12, 2018. • Decision dated December 5, 2018.

2. No Pre-Trial Conducted

925-KC	Cherry A. Gatchalian vs. Roel M. Gatchalian	• Though it was mentioned in the Decision dated December 5, 2018, no minutes or orders were seen in the records showing that a preliminary conference or pre-trial was conducted.
894-KC	Grace V. Torres vs. Gerald S. Torres	• No Minutes was attached in the records showing the conduct of the Pre-Trial. • The Pre-Trial Order dated July 12, 2017 was unsigned by Judge Alzate as well as the counsels and parties to the case.

3. No Proof of Service of Petition to the OSG

896-KC	Orlando Barbosa, Jr. vs. Maureen Resurreccion Piros-Barbosa	• No proof of service of the petition on the OSG; no OSG appearance. • Pre-Trial Order dated August 15, 2018 setting initial trial to October 24, 2018.
871-KC	Fedelina A. Agdeppa vs. Emerson D. Agdeppa	• No proof of service of the petition on the OSG; no OSG appearance. • Pre-Trial Order dated September 27, 2017.

		• Order dated September 26, 2018 wherein the continuation of the presentation of petitioner's testimony was reset to October 24, 2018.

4. Suspicious Haste in Resolving Cases

894-KC	Grace V. Torres vs. Gerald S. Torres	• Petition filed on May 15, 2017. • *Ex Parte* Motion (A. To Set Case for Pre-Trial and/or Trial, and B. For Leave of Court for the Taking of Advance Testimony) dated July 5, 2017. (not stamped received by the court) • Notice of Appearance by the Office of the Solicitor General received by the court on July 11, 2017. • Order dated July 12, 2017 (unsigned) granting the *Ex Parte* Motion filed by petitioner. • Collusion Report dated July 12, 2017 received by the court on the same day at 10:00 am. • Pre-Trial Order dated July 12, 2017 was unsigned by Judge Alzate as well as the counsels and parties to the case. • Order dated July 12, 2017 wherein petitioner was presented and her testimony was completed and terminated. (unsigned) • Order dated July 12, 2017 wherein petitioner presented Leo Christian P. Lumbre and his testimony was terminated. Petitioner was given 5 days to file his

		Formal Offer of Evidence and [the] public prosecutor the same period to file comment, afterwhich incident shall be submitted for resolution. (unsigned) • Order dated August 9, 2017 that all exhibits offered by petitioner were admitted. Case was then submitted for decision. • Decision dated August 30, 2017. • Transcript of Stenographic Notes of the Proceedings on July 12, 2017 was unsigned by the Court Stenographer who allegedly prepared the same. • No proof of mailing/service was attached in the Pre-Trial Brief and the Formal Offer of Evidence filed by the petitioner. • The foregoing orders issued by Judge Alzate contain no proof of mailing/service. • The Registry Return Receipt of the Decision dated August 30, 2017 for the OSG was signed by one Mark Lhey Brillantes, instead of being stamped received by the OSG.
872-KC	Carlito Merto Tigao vs. Grace Borja Marquez	• Petition filed on July 5, 2016. • Urgent Motion to Take Deposition by Way of Advance Testimony on July 13, 2016 ("petitioner is soon leaving for U.A.E.") filed by petitioner on July 12, 2016, 3:30 pm. • Order dated July 13, 2016 granting the Urgent Motion to Take Deposition by Way

		of Advance Testimony. The taking of the advance testimony of the petitioner was set on the same day. • Order dated July 13, 2016 wherein petitioner was presented and his advance testimony was terminated. • Minutes of proceedings on July 13, 2016 were not signed by counsels and parties. • Summons was issued on July 13, 2016.

Investigation on the Nullity of Marriage Cases decided by Judge Alzate as Acting Presiding Judge in Branch 58, RTC, Bucay, Abra

In addition to the investigation conducted in Cabugao, Ilocos Sur and the neighboring towns, the OCA team interviewed members of the Judiciary and law practitioners in Ilocos Sur and Abra. From them, they received reports that Judge Alzate, together with his wife, Atty. Maria Saniata Liwliwa Gonzales-Alzate who is a law practitioner in Abra, "sell" favorable and swift decisions in nullity of marriage cases to residents outside of the territorial jurisdiction of Branch 58, RTC, Bucay, Abra, and without any appearance in court. Based on Administrative Order No. 3, Series of 1983, the territorial jurisdiction of Branch 58, RTC, Bucay, Abra, encompasses Bucay, Tayum, Peñarrubia, Manabo, Boliney, Tubo, Luba, Sallapdan, Bucloc and Daguioman, all in the Province of Abra.

According to the reports, the alleged *modus* is that Judge Alzate and his wife would prepare the necessary petition for a client under the name and signature of another lawyer. In most instances, such petitions were filed even without the knowledge of the lawyers whose signatures were allegedly falsified so they would appear that such were personally prepared and filed by them.

In order to verify the said reports, the OCA team went unannounced to Branch 58, RTC, Bucay, Abra, to secure records of nullity of marriage cases decided by Judge Alzate. The examination of the said records by the OCA team confirmed the reports that the nullity of marriage cases decided by Judge Alzate in Branch 58, RTC, Bucay, Abra, were marked by irregularities and anomalous proceedings. The

examination also revealed that, from among the records secured, at least four (4) lawyers were identified to have filed, on record, multiple nullity of marriage cases in Branch 58, RTC, Bucay, Abra, with dubious proceedings.

Except in certain cases where the signatures of the lawyers were obviously falsified even from the view of an untrained eye, it cannot be determined, albeit for now, that the petitions in the cases listed below were prepared and filed by the said lawyers personally or not. Be that as it may, what can be deduced from the foregoing is that Judge Alzate may be involved in corruption activities over the nullity of marriage cases filed in Branch 58, RTC, Bucay, Abra.

The results of the judicial audit of the records secured from Branch 58, RTC, Bucay, Abra, are as follows:

1. Petitions for Nullity of Marriage with ATTY. BYRONE ALZATE as counsel of record

Case Number and Title	Addresses as indicated in the Petition	Addresses indicated in the Marriage Certificate	Observations in the Case Records
Civil Case No. 15-841 Ruth Chua-Tamayo vs. Jose Noel-Tamayo	Sallapadan, Abra (Petitioner); Manabo, Abra (Respondent)	Philamlife Homes, Quezon City – both parties	* No proof of service to OSG. * Process Server's Return dated April 23, 2015 wherein the Summons dated March 16, 2015 was served thru substituted service on April 21, 2015 but the one who received the same refused to sign. * Judicial Affidavits of petitioner and psychologist were without proof of identification.

			* Order dated April 28, 2015 wherein petitioner through counsel manifested that the appearance of the Solicitor General was not yet appended to the records. Counsel manifested that petitioner is in court and would like that her testimony be taken on that day. Without objection on the part of the government, the petitioner was allowed to testify thereat. * Order dated April 28, 2015 wherein petitioner testified and her testimony was terminated. The case was set as soon as the appearance of the Solicitor General is appended to the records. * Notice of Appearance of the OSG filed on June 9, 2015. * Order dated June 11, 2015 wherein the assigned Prosecutor was directed to conduct an

			investigation to determine whether or not there was collusion between the parties and to submit his report within 30 days from receipt. (stamped received July 27, 2015) * Compliance dated June 25, 2015 of Associate Provincial Prosecutor Marcelo Ortega reporting that no collusion exists between the parties. (Not stamped received by court) * Decision dated August 20, 2015 – no proof of receipt by the OSG. * Certificate of Finality dated November 3, 2015 – subject decision became final on October 2, 2015.
Civil Case No. 14-813 Mauris Siddayao vs. Lorna Banizal	Bangued, Abra (Petitioner) and Sallapadan, Abra (Respondent)	Same	* No proof of mailing/service of petition to OSG. * Process Server's Return dated August 20, 2014 wherein the Summons dated

			July 21, 2014 was served thru substituted service on August 15, 2014, but the one who received the same refused to sign. * Notice of Appearance of OSG dated November 14, 2014. (not stamped received by court) * Order dated September 4, 2014 wherein this case was called for hearing and counsel for petitioner manifested that petitioner will soon go back abroad, and without objection from public prosecutor, the petitioner is allowed to testify at today's hearing. * Judicial Affidavit of petitioner executed on September 4, 2014 was not authorized. * Notice of Appearance of OSG filed on January 6, 2015. * Decision dated January 22, 2015. (without proof of

			receipt from OSG) * No Pre-trial was conducted. * Process Server's Return dated August 15, 2014 summons was received thru substituted service on August 15, 2014, but the one who received the same refused to sign. (copy furnished Atty. Ma. Saniata Liwliwa G. Alzate) * No collusion report on file despite no answer being filed. * No Formal Offer of Evidence filed; the same was not even mentioned in the decision. * No order on the admission of petitioner's evidence.
Civil Case No. 14-804 Nathaniel Bermudez vs. Margie Valencia Rillamas-Bermudez	Bucay, Abra (Petitioner) and Bangued, Abra (Respondent)	Bangued, Abra (both parties)	* Order dated June 19, 2014 wherein public prosecutor was directed to conduct a collusion investigation and to submit report within 15 days from receipt. * Sheriff's Return dated June 30, 2014 that summons was

			served thru substituted service on June 17, 2014. * Order dated July 24, 2014 wherein the exhibits were admitted and special jurisdiction of court was conferred. Case was set for reception of evidence on August 28, 2014. * Order dated August 28, 2014 wherein the testimonies of the petitioner and psychologist were terminated. Presentation of additional evidence was set on October 16, 2014. * Order dated October 16, 2014 that exhibits for petitioner formally offered and admitted for the purpose they were offered. Case was submitted for decision. * Decision dated January 5, 2015.

2. Petitions for Nullity of Marriage with ATTY. AMELY DAIT-AGMATA as counsel of record

Case Number and Title	*Addresses as indicated in the Petition*	*Addresses indicated in the Marriage Certificate*	*Observations in the Case Records*
Civil Case No. 15-835 Albife Sullano vs. Rodel Del Rosario	Tayum, Abra (Petitioner) and Cantilan, Surigao Del Sur (Respondent)	Canumay, Valenzuela City (both parties)	* Verification and Certificate of Non-Forum Shopping was not notarized. * No office address of the counsel for the petitioner was indicated in the petition. * No proof of service of Summons dated March 2, 2015. * No pre-trial conducted. * Decision dated January 4, 2016. * In the Notice of Appearance by the OSG dated July 6, 2015, the office address of Atty. Agmata was "c/o RTC - Br. 58, Bucay, Abra." * There is *(sic)* no signature of counsels and parties in the minutes on the reception of the testimonies for the petitioner and psychologist as well as in the formal offer of exhibits by petitioner and the admission thereof.
Civil Case No. 15-848 Louie Luico	Tayum, Abra (Petitioner) and	Dolores, Quezon (Petitioner)	* Summons dated April 16, 2015. * Process Server's

vs. Baby Rose Reyes	Sampaloc, Manila (Respondent)	and San Pablo City, Laguna (Respondent)	Return dated May 19, 2015 wherein summons was served thru substituted service on May 8, 2015 but the one who received the same refused to sign. * Order dated March 26, 2015 terminated petitioner's testimony. * OSG Appearance filed on July 7, 2015. * No pre-trial was conducted. * There was no signature of the counsels and parties in the minutes on the reception of the testimonies for the petitioner and psychologist as well as in the formal offer of exhibits by petitioner and the admission thereof. * Decision dated September 24, 2015.
Civil Case No. 15-850 Aleli Historillo-Salido vs. Keith Rosario Salido	Peñarubia, Abra (Petitioner) and Mandaluyong City (Respondent)	Bagong Ilog, Pasig (Petitioner) and Mandaluyong City (Respondent)	* The Verification and Certification Against Forum Shopping was not properly notarized. * No summons was attached to the records. * Order dated August 6, 2015 that the testimony of the petitioner was terminated. (The hearing was covered by minutes but no signature of counsel and parties.)

			* Notice of Appearance by the OSG filed on October 13, 2015. * Order dated May 21, 2015 wherein public prosecutor was directed to conduct a collusion investigation. * No collusion investigation report attached to the records. * Order dated October 22, 2015 wherein the testimony of the psychologist was terminated. Further reception of evidence for the petitioner was set on November 12, 2015. * No judicial affidavit attached to the records. * Minutes were without the signatures of the counsel and parties. * Decision dated January 7, 2016. * Motion for Reconsideration of the decision was filed by the OSG. (Stamped received by the court but no date indicated) * Order dated March 17, 2016 for the petitioner to file comment on the motion for reconsideration within 10 days from receipt. (No proof of mailing/service of the

			order to the petitioner) * Order dated August 16, 2018 wherein, due to inadvertence, the instant case was overlooked by the court. Petitioner did not file any comment. Thus, the motion for reconsideration was granted and the case was dismissed.
Civil Case No. 14-814 Mary Joanne Cayana-Elfa vs. Michael Richard Elfa	Tayum, Abra (Petitioner) and Barangay Sauyo, Quezon City (Respondent)	Project 6, Quezon City (Petitioner) and Tandang Sora, Quezon City (Respondent)	* Process Server's Return dated August 28, 2014 wherein summons was served thru substituted service on August 26, 2014 but the one who received the same refused to sign. * Order dated September 25, 2014 wherein considering the absence of the petitioner and counsel, the case was ordered dismissed. (Without previous setting) * Motion for Reconsideration filed on October 15, 2014. * Order dated December 4, 2016 wherein the Motion for Reconsideration was granted. Reception of petitioner's evidence was set on February 26, 2015. * Order dated January 8, 2015 wherein counsel manifested

			that the appearance of the Solicitor General is not yet appended to the record. Petitioner was present and was willing to testify. Without objection on the part of the Government, the petitioner was allowed to testify on the same day. (No previous setting made by the court) * Notice of Appearance by the OSG was filed on January 15, 2015. * Minutes were without the signatures of the counsel parties. * Collusion Report (not stamped received) * Order dated January 15, 2015 wherein the exhibits offered by petitioner were admitted and the special jurisdiction of the court was conferred. * Order dated January 29, 2015 wherein the psychologist testified and the testimony was terminated. The exhibits offered were then admitted. Case was submitted for decision. * Decision dated February 27, 2015. * Certificate of Finality issued on March 14, 2015. (even without proof of receipt by the OSG of the Decision)

Civil Case No. 14-815 Jhoneil Alquino vs. Sheryl Lynn Ciano	Tayum, Abra (Petitioner) and Sampaloc, Manila (Respondent)	Binangonan, Rizal (both parties)	* Verification and Certificate of Non-Forum Shopping were not notarized. * Process Server's Return dated August 28, 2014 wherein summons was served on August 26, 2014 thru substituted service but the one who received the same refused to sign. * Order dated December 4, 2014 wherein the motion for reconsideration was granted. Reception of petitioner's evidence was set on February 26, 2015. * Order dated January 8, 2015 wherein the petitioner testified and her testimony was terminated. Further reception of evidence was set on January 15, 2015. * Order dated January 15, 2015 wherein the psychologist testified and her testimony was terminated. Further reception of evidence was set on February 19, 2015. * No Psychology Report was attached to the records, although mentioned in the decision as Exhibit H, but there was no mention of the name of the

			psychologist who prepared the alleged report. * Collusion Report filed on February 10, 2015 * Order dated February 26, 2015 wherein the petitioner manifested that she has no more evidence to present. She further manifested that upon the appearance of the Solicitor General and the authorization of the Solicitor General, this case shall be immediately submitted for resolution. The manifestation was not objected to by the Government. In view of the foregoing, upon receipt of the above-stated documents, the case was deemed submitted for decision. * Notice of OSG Appearance filed February 27, 2015. * Decision dated March 3, 2015. * Decree of Annulment of Marriage dated May 7, 2015. (This was issued even without proof of receipt of the decision by the OSG.)
Civil Case No. 15-833 Imelda Decepida vs.	San Juan, Batangas (Petitioner) and Boliney,	Bangkal, Makati (both parties)	* Verification and Certificate of Non-Forum Shopping were not notarized.

Walden Salayo	Abra (Respondent)		* Judicial affidavit of the petitioner was not signed and notarized. * Process Server's Return dated May 5, 2015 served on respondent on April 30, 2015 but he refused to sign. * Order dated June 18, 2015 wherein the public prosecutor was directed to conduct a collusion investigation. * No pre-trial conducted. * Order dated August 6, 2015 wherein exhibits were admitted and special jurisdiction of the court was conferred. Further reception of evidence was set to September 10, 2015. * Order dated September 10, 2015 wherein petitioner testified and her testimony was terminated. Further reception of evidence was set on September 24, 2015. * Order dated October 10, 2015 wherein petitioner formally offered her exhibits and all were admitted for the purpose they were offered. Case was submitted for decision. * Certificate of Due Search and Inability

			to Find allegedly issued by Local Civil Registrar, and marked as Exhibit "C", a crucial documentary evidence which was nowhere to be found in the records. Likewise, it was not attached to the petition. * Decision dated January 21, 2016.
Civil Case No. 15-846 Augene Taberdo vs. Glenda Ayco	Manabo, Abra (Petitioner) and Manabo, Abra (Respondent)	Manabo, Abra (Petitioner) and Manabo, Abra (Respondent)	* Summons dated April 16, 2015 * No proof of service of summons * Order dated September 10, 2015 wherein petitioner's exhibits were admitted and the special jurisdiction of the court was conferred. Further reception of evidence was set to October 15, 2015. * No proof of service of petition to the OSG. * Judicial Affidavit of petitioner was not notarized. * Order dated August 13, 2015 wherein the assigned public prosecutor was directed to conduct an investigation to determine whether there was collusion between the parties and to submit his report thereon within a period of 30 days from receipt of the

			Order. (Stamped received by the Provincial Prosecutor on November 20, 2015) * Compliance dated September 4, 2015 of the public prosecutor stating that there was no collusion between the parties. * Decision dated July 18, 2016.

3. Petitions for Nullity of Marriage with ATTY. CHERRIE GRACE P. BARENG (ASSISTIN) as counsel of record

Case Number and Title	Addresses as indicated in the Petition	Addresses indicated in the Marriage Certificate	Observations in the Case Records
Civil Case No. 15-828 Lenie Cabintoy Agbilay vs. Reysel Agbilay	Lagangilang, Abra (Petitioner) and Bucay, Abra (Respondent)	Luisiana, Laguna (Petitioner) and Bucay, Abra (Respondent)	* Process Server's Return dated January 26, 2015 wherein the Summons dated January 21, 2015 was served thru substituted service on January 23, 2015. But the one who received the same refused to sign. * No pre-trial conducted. * Decision dated January 14, 2015. * A copy of the said decision was received by one Airene Paringit "for Atty. Ma. S L Alzate" on February 29, 2016.
Civil Case No. 16-944 Antonio	Amti, Boliney, Abra	San Nicolas, Ilocos Norte (Petitioner)	* No Return of Summons attached to the records.

Bonilla vs. Rhia Tolentino Bonilla	(Petitioner) and Gonzaga, Cagayan (Respondent)	and Gozaga, Cagayan (Respondent)	* Order dated June 15, 2017 there being no answer filed by respondent within the period, assigned prosecutor was directed to conduct collusion investigation and submit a report within 15 days from receipt thereof. * Order dated June 22, 2017 wherein exhibits marked to establish jurisdictional facts were admitted * Order dated August 3, 2017 wherein the court will issue the necessary Pre-Trial Order within 10 days and that the case was set on August 10, 2017. * Motion to Dismiss filed on August 8, 2017 with a Certification from the Barangay Captain that petitioner was not a resident of Barangay Amti, Boliney, Abra. (Remained unresolved.) * Compliance (dated November 27, 2017) filed on December 8, 2017 by Public Prosecutor. * Order dated February 8, 2018 wherein Exhibits A to E formally offered by petitioner were all admitted. Case was

			submitted for decision. Court Stenographer was ordered to transcribe the stenographic notes within 20 days and submit the same to the Clerk of Court. * Decision dated April 26, 2018. * No signature in the stamp "Received" of the Decision by the OSG.
Civil Case No. 15-878 Maria Luz D. Bides-Reyes vs. Eldrino Reyes IV	Bucay, Abra (both parties)	Bangued, Abra (Petitioner) and Dolores, Abra (Respondent)	* Summons dated October 8, 2015. * Sheriff's Return dated December 2, 2015 wherein summons was served thru substituted service on December 1, 2015. * Order dated December 3, 2015 wherein petitioner testified and her testimony terminated. Further hearing was set on January 14, 2016. * Order dated December 3, 2015 wherein the petitioner's exhibits were admitted and the special jurisdiction of the court was conferred. * Order dated April 14, 2016 wherein the psychologist testified and her testimony was terminated. Further presentation of additional

			evidence was set on April 28, 2016. * Order dated April 28, 2016 wherein Exhibits A to J were formally offered and admitted. Case was submitted for decision. * Order dated May 19, 2016 wherein assigned public prosecutor was directed to conduct a collusion investigation and to submit a report within 30 days * Compliance dated June 2, 2016 filed on June 2, 2016 by public prosecutor stating that no collusion exists between the parties * Decision dated July 25, 2016.
Civil Case No. 15-829 Declaration of Void Marriage of Gaudencio Urbano Jr. and Vernalyn Bueno Aida Fernandez Urbano, Petitioner	Sallapadan, Abra (Petitioner) and Caloocan City (Respondent Vernalyn Bueno)	San Isidro, Abra (Petitioner)	* No pre-trial conducted. No Pre-Trial Order issued. * Decision dated November 24, 2016. * A copy of the decision was received for "Atty. Alzate" on November 25, 2016.

4. Petitions for Nullity of Marriage with ATTY. JASON A. CANTIL as counsel of record

Case Number and Title	Addresses as indicated in the Petition	Addresses indicated in the Marriage Certificate	Observations in the Case Records
Civil Case No. 16-916 Rey Vicentillo vs. Rheza Padullon-Vicentillo	Bucay, Abra (Petitioner) and Cubao, Quezon City (Respondent)	Tacloban City — (both parties)	* Proof of residency of petitioner that was submitted was his Driver's License where the address indicated is Caibaan, Tacloban City. * Petition not signed by counsel. * Sheriff's Return dated April 11, 2016 wherein the Summons dated February 3, 2016 was received on April 8, 2016 thru substituted service. * The receiving copy of the summons signed by recipient was not attached into the records. * *Ex Parte* Motion to Take Advance Testimony filed by Petitioner on October 25, 2016. (No proof of mailing/service) * Minutes dated November 10, 2016 wherein testimony of petitioner was terminated. (No order was issued granting the *Ex Parte* Motion to Take Advance Testimony) * Formal Offer of Evidence for the petitioner filed on April 5, 2017.

			* No order issued admitting the exhibits offered by petitioner was attached to the records of the case. * Decision dated June 8, 2017.
Civil Case No. 15-891 Jenny Rose Alcalde vs. Jessie Ferrer	Tabiog, Abra (Petitioner) and Bangued, Abra (Respondent)	Bucay, Abra (Petitioner) and Calasiao, Pangasinan (Respondent)	* Order dated September 15, 2016 that the advance testimony of petitioner was terminated. * Compliance dated September 10, 2016 issued by the public prosecutor (received by court on September 30, 2016) stating that no collusion exists between the parties. * Formal Offer of Evidence for the petitioner filed on April 5, 2017. * No order issued admitting the exhibits offered by petitioner was attached to the records of the case. * Decision dated May 18, 2017.
Civil Case No. 15-884 Jackqueline D. Valera vs. Reynaldo C. Piñera	Bucay, Abra (Petitioner) and Malanday, Marikina City (Respondent)	Gattaran, Cagayan (Both parties)	* Order dated November 3, 2016 that petitioner testified and terminated her testimony. Pre-Trial set on November 10, 2016. * Compliance filed on March 17, 2017 by the public prosecutor stating that no collusion exists

			between the parties. * Order dated March 23, 2017 wherein the counsel for petitioner presented petitioner and her direct testimony was terminated. Further hearing was set on March 30, 2017. * Formal Offer of Exhibits filed on April 5, 2017. * Decision dated April 27, 2017. * No Pre-Trial Order was issued.

DISCUSSION

1. Non-compliance with the rules.

a. Residence outside of the territorial jurisdiction of the court

Confirmed by the certifications above-mentioned, and copies of which are attached herewith, most of the nullity of marriage cases that were identified did not comply with the rule on venue as provided in Section 4 of the Rule on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages, which provided that:

> Section 4. *Venue*. – The Petition shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of filing. Or in the case of non-resident respondent, where he may be found in the Philippines, at the election of the petitioner.

As reported by the OCA team, Judge Alzate failed to exercise his judicial discretion to ascertain the true residence of the parties even though the marriage certificates that were appended to the petitions clearly showed different addresses from the ones stated in the petitions. Judge Alzate could have required the petitioners to submit their respective proof of residency, such as utility bills or government-issued IDs, which are now required to be attached to the petitions pursuant to OCA Circular 63-2019 on the Guidelines to Validate Compliance with the Jurisdictional Requirement Set Forth in A.M.

No. 02-11-10-SC (Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages).

This is in stark contrast to his resolution in Civil Case No. 935-KC, entitled "Esabro L. Yogue vs. Marishelle C. Daiz Yogue," through his Order dated July 1, 2018, where Judge Alzate dismissed the case since "petitioner has no proof that he is a resident within the jurisdiction of the Honorable Court. A mere allegation in the petition that he is a *bona fide* resident in Brgy. Declapan, Cabugao, Ilocos Sur will not suffice without a proof to support the same. Based on the certificate of marriage, neither of them is a resident within the jurisdiction of this court. The petitioner is a resident of Malabon City."

b. Proceedings continued despite the absence of the Report on Collusion Investigation

In Civil Case No. 15-850, entitled "Aleli Historillo-Salido vs. Keith Rosario-Salido," no copy of the report on the collusion investigation was attached to the records despite the directive to conduct the same pursuant to the Order dated May 21, 2015 of Judge Alzate. Hearings still proceeded even without such report until the case was decided on January 7, 2016.

Likewise, in Civil Case No. 925-KC entitled "Gatchalian vs. Gatchalian," the Collusion Report dated October 10, 2018 was belatedly submitted on October 12, 2018, or after the petitioner already rested her case by the filing of her Formal Offer of Evidence on October 4, 2018. This is in violation of Section 9 of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages wherein it is stated that "(i)f the public prosecutor reports that no collusion exists, the court shall set the case for pre-trial. It shall be the duty of the public prosecutor to appear for the State at the pre-trial." This implies that the submission of the report by the public prosecutor to the court on the collusion investigation is mandatory before the proceedings can continue.

c. No Pre-Trial was conducted

According to Section 11 of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, pre-trial is mandatory.

However, in Civil Case Nos. 15-828 and 15-829, among others, the case proceeded, and eventually decided by Judge Alzate without any record that the cases underwent pre-trial. The fact that no notice

of pre-trial, or that pre-trial orders were reportedly not found in the records of the said cases only proves that such proceeding was never held.

d. No proof that the Office of the Solicitor General was furnished with a copy of the petition.

In Civil Case Nos. 15-841 and 14-813, it was reported that, after an audit of the records of the same, no proofs of service were attached to the said petitions. Pursuant to Section 5 (4) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, it is required that the Office of the Solicitor General and the Public Prosecutor be furnished with a copy of the petition for declaration of nullity of void marriages, to wit:

"Section 5. *Contents and form of petition.* — x x x

x x x x x x x x x

(4) It shall be filed in six copies. The petitioner shall serve a copy of the petition on the Office of the Solicitor General and the Office of the City or Provincial Prosecutor, within five days from the date of its filing and submit to the court proof of such service within the same period.

Failure to comply with any of the preceding requirements may be a ground for immediate dismissal of the petition."

Notwithstanding the glaring absence of the required proofs of service, Judge Alzate, instead of dismissing the same for non-compliance with the foregoing provision, still heard the cases and ultimately decided the same per the decisions he rendered on August 20, 2015 and January 22, 2015, respectively.

Likewise, in relation thereto, Judge Alzate concluded the trial in Civil Case No. 14-815 despite the absence of the Notice of Appearance of the OSG and the delegation of the Public Prosecutor to represent the said office when he issued the Order dated February 26, 2015 wherein he pronounced that the said case would be submitted for decision only upon receipt by the court of the Notice of Appearance of the OSG. This ruling did not only run counter to Section 5 (4) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages but also with Administrative Circular No. 28 issued on July 3, 1989.

2. Procedural Lapses

The following is a table enumerating the apparent lapses in the proceedings of the previously decided cases by Judge Alzate as a result of the judicial audit of the records of the same. Thus:

Civil Case No. 16-916	Petition was not signed by the counsel
Civil Case Nos. 15-835, 14-815 and 15-850	Verification and certification against forum shopping attached to the petition was not notarized
Civil Case Nos. 15-848 and 15-835	Minutes were not signed by counsels and parties
Civil Case No. 15-841	Trial proceeded when no Notice of Appearance of the OSG and Deputation of the Public Prosecutor have yet been received by the court.
Civil Case No. 15-850	No judicial affidavits were attached to the records
Civil Case No. 14-804	An order for the conduct of collusion investigation was issued despite no return of summons having been prepared/ filed yet.
Civil Case Nos. 14-813, 15-833 and 15-846	Judicial affidavits attached to the records were not notarized.
Civil Case Nos. 16-916, 15-835, 14-815, 15-850, 15-848, 14-813, 15-833, 15-846, 15-844	Notices and orders were without attached proof of service/ registry receipts.
Civil Case Nos. 15-891, 16-916 and 14-813	There was no order admitting formal offer of exhibits
Civil Case No. 14-815	No psychological report was attached to the records

Special attention should be given to those cases with notices or orders for the setting of hearings where no proof of service or registry receipts were attached, and those where the minutes of the proceedings were not signed by the counsels and parties. The only conclusion that can be drawn is that the proceedings were never set for hearing and were never conducted. This would demonstrate the questionable

haste by which Judge Alzate was able to hear and resolve his cases in Branch 24, RTC, Cabugao, Ilocos Sur, and Branch 58, RTC, Bucay, Abra, where he served as Acting Presiding Judge, the most dubious of which is Civil Case No. 894-KC which was identified in the previous report.

3. Suspicious Haste in Resolving Cases

Based on the evaluation of the foregoing, Civil Case No. 894-KC was decided by Judge Alzate within a period of only ***three (3) months, two (2) weeks and one (1) day***. The fact that the filing of the Report on the Investigation of Collusion between the parties, the pre-trial and the initial trial happened on the same day, *i.e.*, July 12, 2017, puts in serious doubt the integrity of the proceedings in the case. Also, since Judge Alzate, as the Acting Presiding Judge, conducts hearings in Branch 24, RTC, Cabugao, Ilocos Sur, only on Wednesdays, it is highly improbable that he could resolve the said case within such a short span of time.

4. Proof of Bad Faith

a. Disparities in the Signatures of Counsels

As earlier mentioned, reports were gathered that the alleged *modus* of Judge Alzate and his wife, Atty. Ma. Saniata Liwliwa G. Alzate, was to offer clients who wished to have their marriage annulled was to let the petition be signed by another lawyer. Based on the reports, such petitions were filed even without the knowledge of the lawyer whose signatures were merely falsified so they would appear that such were personally prepared and filed by them. Upon examination of the records of the above cases in question, more particularly those where the counsel of record is Atty. Cherrie Grace P. Bareng, there may be truth to the alleged *modus*.

The disparity between the signatures of Atty. Bareng in the petitions for Civil Case Nos. 15-828, 15-829 and 15-878 compared with her signature in Civil Case No. 16-944, all filed in Branch 58, RTC, Bucay, Abra, is very evident even when viewed with an untrained eye. In order to put a semblance of genuineness on the said petitions and to create a different personality, the surname "Asistin" was added to the name of Atty. Bareng, though the same Attorney's Roll Number, IBP Number, etc. were used.

b. Copies of the Decisions received "for Atty. Alzate"

The most compelling proofs that would confirm the allegations against Judge Alzate and his wife, Atty. Ma. Saniata Liwliwa G.

Alzate, are the notations in the copies of the decisions in Civil Case Nos. 15-828 and 15-829 that the same were received "for Atty. Alzate." Since she was not the counsel of record of the said cases, it begs the question why Atty. Alzate would need a copy of the decisions if she had no interest in them? Photocopies of the decisions in Civil Case Nos. 15-828 and 15-829 showing the subject notations are herewith attached for ready reference.[5]

Thus, in the same Memorandum, the OCA recommended that the judicial audit report conducted in Branch 24, Regional Trial Court, Cabugao, Ilocos Sur be re-docketed as a regular administrative matter.

In the Resolution[6] dated September 3, 2019, upon the recommendation of the OCA, the Court resolved to extend the preventive suspension of Judge Alzate for another six (6) months, effective immediately.

In the Resolution[7] dated September 10, 2019, the Court resolved to require Judge Alzate to comment on the Report on the Judicial Audit Conducted in Branch 24, RTC, Cabugao, Ilocos Sur.

In his Comment[8] dated December 19, 2019, Judge Alzate refuted the allegations against him, to wit:

On the allegation of anomalous residencies of petitioners, Judge Alzate argued that in annulment of marriage cases, it is beyond his authority to "*re-examine and re-assess the evidence of the parties and weigh anew the probative value of the evidence presented in the court*" because "*it is within the judicial discretion of the judge under the circumstances whether the parties or the petitioner or witnesses are telling the truth, wherever, whenever they take the witness stand and under oath, and not only based on the petition*." He also questioned the authority of the judicial audit team to investigate the annulment of marriage

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[5] *Id.* at 114-116. (Citations omitted)

[6] *Id.* at 109.

[7] *Id.* at 111.

[8] *Id.* at 201-224.

cases he decided in the RTC, Bucay, Abra, when the subject of the instant administrative case involved those cases filed in the RTC, Cabugao, Ilocos Sur.

As to the allegation of significant increase of nullity of marriage cases filed in RTC, Cabugao, Ilocos Sur when Judge Alzate was designated Acting Presiding Judge therein, he raised doubts on the veracity of the given figures reported in the Memorandum dated June 28, 2019 and, instead, he submitted a certification from the RTC Cabugao, Ilocos Sur showing different figures.

On the allegation of irregularities in the procedure observed by Judge Alzate, such as absence of report on the collusion investigation, Judge Alzate alleged that there are collusion reports in Civil Case No. 875-KC, Civil Case No. 924-KC and Civil Case No. 925-KC.

On the allegation of absence of pre-trial, Judge Alzate did not deny that there were no pre-trial conducted in Civil Case Nos. 15-828 and 15-829, which he decided as Assisting Judge in Branch 58, Regional Trial Court, Bucay, Abra. However, he argued that since the said cases were for declaration of void marriages due to the existence of previous marriage, "the only documents to be presented should be the two marriage certificates, to prove that the person had two marriages" considering that "there is no issue as to the properties in the petition and due to the absence of answer of the respondent and his non-appearance."

As to the allegation of procedural lapses, such as the unnotarized verification and certificate of non-forum shopping, Judge Alzate admitted that he failed to notice that the verification and the certification of non-forum shopping in three (3) petitions, namely, Civil Case Nos. 15-850, 15-835 and 14-815, were not notarized but reasoned out that when the petitioners testified under oath and affirmed the allegation in the petition, the defect, as a result of inadvertence was already cured.

On the alleged disparity of the signatures of counsels in certain petitions, and the alleged involvement of his wife in the questioned cases, Judge Alzate submitted a copy of Atty. Bareng-

Asistin's affidavit where the latter attested that the questioned cases where she appeared as counsel were indeed her cases and admitted that she used different signatures. Atty. Bareng-Asistin also stated that she is married and, thus, her complete name is "Cherrie Grace P. Bareng-Asistin" and that sometimes she "put or add the surname Asistin" in her pleadings "when time and the mood prevails."

Further, to prove that the appearance of his wife's name in the copies of decisions as recipient of the same was unintentional and only due to inadvertence, Judge Alzate submitted a Certification issued on December 11, 2019 by Roger B. Viado, Sheriff IV of Branch 58, RTC, Bucay, Abra attesting that he "mistakenly and erroneously served a copy of a Decision in Civil Case No. 15-829, Re: Declaration of Void Marriage of Gaudencio Urbano, Jr. and Vernalyn Bueno vs. Aida Fernandez-Urbano on November 25, 2016 to Atty. Ma. Saniata Liwliwa G. Alzate where in truth and in fact, the counsel for the petitioner is Atty. Cherri Grace Bareng-Asistin."

On February 11, 2020, the Court resolved to refer the Comment of Judge Alzate to the OCA for evaluation, report and recommendation.[9]

In its Comment[10] dated June 30, 2020, the OCA, foremost, asserted that the investigation conducted on the cases decided by Judge Alzate in the RTC, Bucay, Abra, was authorized and approved by then Honorable Chief Justice Lucas P. Bersamin, who also directed the audit team to "conduct an investigation on matters pertaining to cases of nullity of marriages filed in Branch 24, Regional Trial Court, Cabugao, Ilocos Sur, and those filed in the other courts presided by Judge Alzate.

As to the issue on the anomalous residences of petitioners, the OCA pointed out that Judge Alzate was unable to give any justifiable reason for his failure to show that he actually ascertained the actual residences of the parties, particularly in

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[9] *Id.* at 266-268.

[10] *Id.* at 309-323.

the numerous petitions identified to be with questionable proceedings.

The OCA maintained that in Civil Case No. 921-KC entitled "*Ruel Bagne v. Rose Anne Bagne*" and Civil Case No. 928-KC, entitled "*Dino Roa v. Jane Roa*," the petitioners stated in their petitions their addresses as "Barangay Baclig, Cabugao, Ilocos Sur c/o Atty. Cherry Bareng, Legal Counsel with office address at Unit 101, Ground Floor, CAP Bldg., F.R. Castro St., Laoag City" and "Barangay Rizal, Cabugao, Ilocos Sur, Legal Counsel with office address at Unit 101, Ground Floor, CAP Bldg., F.R. Castro St., Laoag City," respectively. Judge Alzate should have questioned these odd addresses, and compared them with the residences entered in the certificates of marriage which were the only proof of residency of the parties attached in the petitions. There was also no explanation as to how Judge Alzate took steps to ascertain the veracity of the residences of the parties as he claimed to have done.

As to Judge Alzate's doubts on the veracity of the alleged suspicious increase of case disposal of annulment cases, the OCA claimed that the given statistics were taken from the data reflected in the Statistical Reports Division, Court Management Office, OCA which were based in the monthly reports submitted by Branch 24, RTC, Cabugao, Ilocos Sur. The said monthly reports are both signed by the Branch Clerk of Court and Judge Alzate, and subscribed by the Executive Judge. Thus, if there are discrepancies in the figures as alleged by Judge Alzate, he can be liable for perjury for submitting wrong entries in the monthly reports.

As to the issue of irregularities in the procedures observed by Judge Alzate such as absence of collusion investigation report where Judge Alzate claimed that there were actual collusion investigation reports in Civil Case Nos. 924-KC and 925-KC, the OCA averred that what was being questioned therein was the fact that the proceedings in the said cases continued even with the absence of the report on the collusion investigation and which was submitted only after the filing of the petitioner's Formal Offer of Evidence, to wit:

Likewise, in Civil Case No. 925-KC entitled "Gatchalian vs. Gatchalian," the Collusion Report dated October 10, 2018 was belatedly submitted on October 12, 2018, or after the petitioner already rested her case by the filing of her Formal Offer of Evidence on October 4, 2018. This is in violation of Section 9 of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages wherein it is stated that "if the public prosecutor reports that no collusion exists, the court shall set the case for pre-trial. It shall be the duty of the public prosecutor to appear for the State at the pre-trial." This implies that the submission of the report by the public prosecutor to the court on the collusion investigation is mandatory before the proceedings can continue.[11]

On the other hand, in Civil Case No. 15-875, the alleged existence of collusion report was indicated in the pre-trial order, in the formal offer of exhibit, and in the decision itself, but no copy of the said report was ever found in the case records. In fact, the "collusion report" was simply noted as "reserved" in the minutes of the preliminary conference held on March 15, 2017. This would imply that, at the time of the preliminary conference, no collusion report was submitted by the public prosecutor, and yet Judge Alzate proceeded in hearing the case. Thus, unless there is an actual copy, it does not prove the existence of the collusion report or the actual conduct of the collusion investigation. Incidentally, the order granting the urgent motion to take deposition by way of advance testimony of the petitioner, and the order stating that the testimony of the petitioner was completed and terminated were both issued on March 15, 2017, or the same day the preliminary conference was allegedly conducted based on the minutes of the proceedings. Again, there was no reasonable explanation given by Judge Alzate on this matter.

The OCA further averred that Judge Alzate, likewise, gave no justifiable reason for his non-compliance with the rules of procedure. Section 5 (3) of the Rules on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages specifically require that all petitions must be verified and

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[11] *Id.* at 313-314.

accompanied by a certificate of non-forum shopping and the absence thereof will render the said petitions as mere scraps of paper. The fact that Judge Alzate went as far as deciding the said cases without ever noticing these fatal defects in the petitions puts serious doubt on his competence as a judge.

As to Judge Alzate's submission of affidavits which, in effect, meant to disprove his wife's alleged involvement in cases pending before his sala, the OCA was unconvinced and treated the same as self-serving. The OCA maintained that the connection between Atty. Ma. Saniata Liwliwa G. Alzate, and Atty. Bareng-Asistin may be deduced from the report on Civil Case Nos. 15-828 and 15-829, both decided favorably by Judge Alzate as Acting Presiding Judge of Branch 58, RTC, Bucay, Abra, to wit:

i. Civil Case Nos. 15-828 and 15-829 were both filed with Atty. Cherrie Grace Bareng-Asistin as the counsel on record for the petitioners;

ii. Civil Case Nos. 15-828 and 15-829 were both filed on the same day on January 21, 2015 as shown by the stamp receipt of the court;

iii. The names "Atty. Ma S L Alzate" and "Atty. Alzate" appeared in the copies of the decisions in Civil Case Nos. 15-828 and 15-829, respectively, as recipients;

iv. In the petitions for both cases, the font of the "Verification and Certification" is noticeably different from the one used in the main petition; and

v. In both cases, no pre-trial was conducted.[12]

No explanation was made on the copy of the Decision dated January 14, 2015 in Civil Case No. 15-828 where it was received by one Airene Paringit "for Atty. Ma S L Alzate" on February 29, 2016.

Further, in Civil Case No. 16-944 where Atty. Bareng-Asistin appeared to be the counsel of record, there is a Motion to Dismiss filed on August 8, 2017 and with the Certification from the

[12] *Id.* at 317.

Barangay Captain that the petitioner is not a resident of Barangay Amti, Boliney, Abra, the address alleged in the petition. However, without resolving the motion to dismiss as there was no order found in the records, Judge Alzate proceeded with the hearing of the said case and eventually rendered a Decision dated April 26, 2018. The OCA, thus, observed that there is enough basis to conclude that the proceedings in some nullity of marriage cases where Atty. Bareng-Asistin appeared as counsel of record, more particularly Civil Case Nos. 15-828, 15-829 and 16-944, among others, all filed in the RTC, Bucay, Abra, were tainted with bad faith.

In sum, the OCA concluded that Judge Alzate's comments on the allegations against him were, in fact, admissions that he indeed failed to comply with the Rules on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages, *albeit*, he justified such non-compliance by invoking "substantive justice," "judicial discretion," and "human frailty" as excuses in order to escape administrative liability.

The OCA pointed out that the specific rules of procedures which have been violated by Judge Alzate are considered basic rules, such as the requirement that initiatory pleadings should be signed by the counsel and the verification and certification of non-forum shopping should be notarized. However, despite the glaring absence of the said requisites, he still continued to hear the subject cases and eventually rendered decision by granting the petitions.

Thus, for failing to comply with the Rules of Procedure on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages, the OCA recommended that Judge Alzate be found guilty of gross ignorance of the law and procedures.

RULING

After a perusal of the records, We find no compelling reason to deviate from the findings and recommendations of the OCA.

The foregoing are undisputed facts as they are based on court records. The irregularities speak for themselves and require no in-depth discussion. In effect, the evidence against Judge Alzate

speaks of his grave infractions where the application of the doctrine of *res ipsa loquitur* may be applied. As can be gathered from the cases decided in this jurisdiction, *res ipsa loquitor* has been defined as "the thing speaks for itself" and "the fact speaks for itself."[13] It is even asserted that in cases like the one at bar, there is no more need for any further investigation as the determination of administrative liability can be determined on the basis of court records alone.[14]

Improper venue

In petitions for declaration of nullity of void marriages, the applicable rule is A.M. No. 02-11-10-SC, as amended.[15] In particular, Section 4 categorically states the venue where a petition shall be filed, to wit:

> SEC. 4. *Venue*. — The petition shall be filed in the Family Court of the province or city where the petitioner or the respondent has been residing for at least six months prior to the date of the filling, or in case of a non-resident respondent, where he may be found in the Philippines, at the election of the petitioner, x x x.

Further, in the Resolution[16] dated October 2, 2018, the Court likewise enunciated that petitioner shall state the complete address of the parties in the petition (*i.e.*, house number, street, purok/village/subdivision, barangay, zone, town, city, and province); and that petitioner shall attach the following: (1) sworn certification of residency (with house location sketch) issued by the barangay; (2) sworn statement of counsel of record that he/she has personally verified petitioner's residency and that

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[13] *People v. Valenzuela*, G.R. Nos. 63950-60, April 19, 1985, 135 SCRA 712 and *Padilla v. Dizon*, A.C. No. 3086, February 23, 1988, 158 SCRA 127.

[14] See *Sy v. Mongcupa*, 335 Phil. 182, 187 (1997).

[15] A.M. No. 02-11-10-SC, March 4, 2003, RE: PROPOSED RULE ON DECLARATION OF ABSOLUTE NULLITY OF VOID MARRIAGES AND ANNULMENT OF VOIDABLE MARRIAGES.

[16] A.M. No. 02-11-10-SC *(Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages)* and in A.M. No. 02-11-11-SC *(Re: Rule on Legal Separation)*.

the petitioner had been residing thereat for at least six (6) months prior to the filing of petition; and (3) any but not limited to the following supporting documents: (i) Utility bills in the name of the petitioner for at least six (6) months prior to the filing of the petition; (ii) Government-issued I.D. or Company I.D., bearing the photograph and address of the petitioner and issued at least six (6) months prior to the filing of the petition; (iii) Notarized lease contract, if available, and/or receipts for rental payments (bearing the address of the petitioner) for at least six (6) months prior to the filing of the petition.

In the instant case, the audit report is replete with findings showing that Judge Alzate continued to try and resolve cases despite the parties' dubious circumstances which should have instead put him on guard. There were certifications which showed that most of the nullity of marriage cases that were identified did not comply with the rule on venue as provided in Section 4 of the Rule on Declaration of Nullity of Void Marriages and Annulment of Voidable Marriages. Judge Alzate failed to ascertain the true residence of the parties even though the marriage certificates that were appended to the petitions clearly showed different addresses from the ones stated in the petitions.

Indeed, Judge Alzate could have required the petitioners to submit their respective proof of residency, such as utility bills or government-issued IDs, which are now required to be attached to the petitions pursuant to OCA Circular 63-2019 on the Guidelines to Validate Compliance with the Jurisdictional Requirement Set Forth in A.M. No. 02-11-10-SC, but failed to do so.

Absence of collusion report

The audit team also reported that Judge Alzate continued with the court proceedings despite the absence of the Report on Collusion Investigation. In Civil Case No. 15-850, entitled "*Aleli Historillo-Salido vs. Keith Rosario-Salido*," no copy of the report on the collusion investigation was attached to the records despite the directive to conduct the same pursuant to the Order dated May 21, 2015 of Judge Alzate. Case hearings proceeded even without said report until the case was decided. Likewise, in Civil Case No. 925-KC entitled "*Gatchalian vs.*

Gatchalian," the Collusion Report dated October 10, 2018 was belatedly submitted on October 12, 2018, or after the petitioner already rested her case by the filing of her Formal Offer of Evidence on October 4, 2018.

It must be stressed that under Section 8 (1) of A.M. No. 02-11-10-SC, the respondent is required to submit an Answer within 15 days from receipt of the summons. If no answer is filed, the court shall order the public prosecutor to investigate whether collusion exists between the parties.[17] Within one month from receipt of the order of the court, the public prosecutor shall submit a report to the court stating whether the parties are indeed in collusion.[18] If it is found that collusion exists, the public prosecutor shall state the basis of that conclusion in the report.[19] The court shall then set the report for hearing; and if convinced that the parties are in collusion, it shall dismiss the petition. If the public prosecutor reports that no collusion exists, the court shall set the case for pre-trial.[20]

The rules do not merely ask whether the public prosecutor is in a position to determine whether collusion exists. They require that the investigating prosecutor determine whether or not there is collusion. Furthermore, in declaration of nullity and annulment of marriage cases, the investigation report of the prosecutor on whether there is collusion between the parties is a condition *sine qua non* for setting the case for pretrial or further proceedings.[21] No further proceedings should have been held without the investigation report, thus, Judge Alzate should have refrained from proceeding with the subject cases.

In *Corpus v. Ochotorena*,[22] the Court found the respondent judge therein administratively liable for failure to observe the

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[17] A.M. No. 02-11-10-SC, Section 8 (3).

[18] *Id.* at Section 9 (1).

[19] *Id.* at Section 9 (2)

[20] *Id.* at Section 9 (3).

[21] *OCA v. Judge Aquino*, 699 Phil. 513, 518 (2012).

[22] 479 Phil. 355 (2004).

mandatory requirement of ordering the investigating public prosecutor to determine whether collusion existed between the parties. The Court emphasized that the active participation of the public prosecutor in the proceedings of the case could not take the place of the investigation report. Shortcuts in judicial processes cannot be countenanced, because speed is not the principal objective of a trial.[23]

Absence of pre-trial, proof of service and notice of appearance

During the investigation, the OCA also found that in Civil Case Nos. 15-828 and 15-829, among others, Judge Alzate proceeded with the court hearings and eventually rendered judgment therein without any record that the cases underwent pre-trial. Considering that no notices of pre-trial and pre-trial orders were found in the records of the said cases, it gives the conclusion that no pre-trial was held, thus, the same was in violation of Section 11[24] of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages where it is stated that pre-trial if mandatory.

Moreover, the OCA reported that they found no proof that the Office of the Solicitor General was furnished with copies of the petitions for annulment. In Civil Case Nos. 15-841 and

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[23] *Supra* note 8.

[24] Section 11. *Pre-trial.* –

(1) Pre-trial mandatory. – A pre-trial is mandatory. On motion or *motu proprio*, the court shall set the pre-trial after the last pleading has been served and filed, or upon receipt of the report of the public prosecutor that no collusion exists between the parties.

(2) Notice of pre-trial. – (a) The notice of pre-trial shall contain:

(1) the date of pre-trial conference; and

(2) an order directing the parties to file and serve their respective pre-trial briefs in such manner as shall ensure the receipt thereof by the adverse party at least three days before the date of pre-trial.

(b) The notice shall be served separately on the parties and their respective counsels as well as on the public prosecutor. It shall be their duty to appear personally at the pre-trial.

(c) Notice of pre-trial shall be sent to the respondent even if he fails to file an answer. In case of summons by publication and the respondent failed to file his answer, notice of pre-trial shall be sent to respondent at his last known address.

14-813, no proofs of service were attached to the said petitions, in violation of Section 5 (4) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages[25] which requires that the Office of the Solicitor General and the Public Prosecutor be furnished with a copy of the petition for declaration of nullity of void marriages. However, notwithstanding the glaring absence of the required proofs of service, Judge Alzate, instead of dismissing the same for non-compliance with the foregoing provision, proceeded in hearing the cases and eventually rendered judgment therein on August 20, 2015 and January 22, 2015, respectively.

Likewise, in Civil Case No. 14-815, Judge Alzate concluded the trial therein despite the absence of the notice of appearance of the OSG and the delegation of the public prosecutor to represent the said office which again runs counter to Section 5 (4) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

There were also cases with notices or orders for the setting of hearings where no proof of service or registry receipts were attached, and those where the minutes of the proceedings were not signed by the counsels and parties which gives the impression that those cases were neither set for hearing nor ever conducted.

Suspicious haste in resolving annulment cases

The OCA also reported the questionable and suspicious haste in hearing and resolving cases under the jurisdiction of Branch 24, RTC, Cabugao, Ilocos Sur. In Civil Case No. 894-KC, Judge Alzate rendered judgment therein within a period of only three (3) months, two (2) weeks and one (1) day. Indeed, as noted

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[25] Section 5. *Contents and form of petition.* – (1) The petition shall allege the complete facts constituting the cause of action.

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(4) it shall be filed in six copies. The petitioner shall serve a copy of the petition on the Office of the Solicitor General and the Office of the City or Provincial Prosecutor, within five days from the date of its filing and submit to the court proof of such service within the same period.

Failure to comply with any of the preceding requirements may be a ground for immediate dismissal of the petition.

by the OCA, the filing of the Report on the Investigation of Collusion between the parties, the pre-trial and the initial trial which all happened on the same day, *i.e.*, July 12, 2017, put in serious doubt the integrity of the proceedings in the said case.

Equally disturbing are the reports which alleged the *modus* of Judge Alzate and his wife, Atty. Ma. Saniata Liwliwa G. Alzate *(Atty. Alzate)* in offering clients who wished to have their marriage annulled. Based on the reports, such petitions were filed even without the knowledge of the lawyer whose signatures were merely falsified so it would appear that such were personally prepared and filed by them. Upon examination of the records of the above cases in question, the OCA reported that there might be truth to the said *modus* as shown more particularly in the case where the counsel of record is Atty. Cherrie Grace P. Bareng.

The OCA, likewise, reported suspicious notations in the copies of the decisions in Civil Case Nos. 15-828 and 15-829 which showed that the same were received "for Atty. Alzate," as evidenced by the photocopies of the decisions in Civil Case Nos. 15-828 and 15-829. Indeed, while Atty. Alzate was not the counsel of record of the said cases, why would she need a copy of the decisions if she had no interest in them. The affidavits which Judge Alzate submitted to refute the allegations against his wife, indeed, fails to convince. Although admissible in evidence, affidavits being self-serving must be received with caution.[26] This is because the adverse party is not afforded any opportunity to test their veracity.[27] By themselves, generalized and *pro forma* affidavits cannot constitute relevant evidence which a reasonable mind may accept as adequate. There must be some other relevant evidence to corroborate such affidavits.[28] Likewise, it did not help either that in a recent administrative case against him, Judge Alzate was reprimanded with warning for failing to compulsorily inhibit himself from

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[26] *PLDT Company, Inc. v. Tiamson*, 511 Phil. 384, 400 (2005).

[27] *Id.*

[28] *Id.*

acting on his wife's application for notarial commission, which now, thus, shows his apparent propensity to abuse his authority.[29]

While there was no concrete evidence presented to prove Judge Alzate's partiality and malice, it must be emphasized that Canon 2 of the Code of Judicial Conduct provides: "A judge should avoid impropriety and the appearance of impropriety in all activities." The failure to present evidence that the respondent acted with partiality and malice can only negate the allegation of impropriety, but not the appearance of impropriety. In *De la Cruz v. Judge Bersamira*,[30] this Court underscored the need to show not only the fact of propriety but the appearance of propriety itself. It held that the standard of morality and decency required is exacting so much so that a judge should avoid impropriety and the appearance of impropriety in all his activities. The Court explains, thus:

> By the very nature of the bench, judges, more than the average man, are required to observe an exacting standard of morality and decency. The character of a judge is perceived by the people not only through his official acts but also through his private morals as reflected in his external behavior. It is, therefore, paramount that a judge's personal behavior both in the performance of his duties and his daily life, be free from the appearance of impropriety as to be beyond reproach.[31]

In *Magarang v. Judge Jardin, Sr.*,[32] the Court pointedly stated that:

> While every public office in the government is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. Hence, judges are strictly mandated to abide by the law, the Code of Judicial

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[29] *Samson Sindon v. Judge Alzate*, A.M. No. RTJ-20-2576, January 29, 2020.

[30] 402 Phil. 671 (2001).

[31] *Id.* at 679-680.

[32] 386 Phil. 272, 284 (2000). (Emphases ours)

Conduct and with existing administrative policies in order to maintain the faith of the people in the administration of justice.

Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence. A judge's conduct must be above reproach. **Like Caesar's wife, a judge must not only be pure but above suspicion. A judge's private as well as official conduct must at all times be free from all appearances of impropriety, and be beyond reproach.**

In fine, based on all the foregoing findings, it is undisputed that Judge Alzate violated the Code of Judicial Conduct, which enjoins judges to uphold the integrity of the Judiciary, avoid impropriety or the appearance of impropriety in all activities and to perform their duties honestly and diligently.

No less than the Code of Judicial Conduct mandates that a judge shall be faithful to the laws and maintain professional competence. Indeed, competence is a mark of a good judge. A judge must be acquainted with legal norms and precepts as well as with procedural rules. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law. Unfamiliarity with the Rules of Court is a sign of incompetence. Basic rules of procedure must be at the palm of a judge's hands.[33]

In the instant case, Judge Alzate's blatant disregard of the provisions of A.M. No. 02-11-10-SC shows not only a lack of familiarity with the law but a gross ignorance thereof. However, when there is persistent disregard of well-known rules, judges not only become liable for gross ignorance of the law, they commit gross misconduct as well.[34] It is then that a mistake can no longer be regarded as a mere error of judgment, but one purely motivated by a wrongful intent.[35] The fact that in many

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[33] *State Prosecutor Comilang, et al. v. Judge Belen*, 689 Phil. 134, 146 (2012).

[34] *OCA v. Judge Flores*, 758 Phil. 30, 60 (2015).

[35] *Id.*

instances, Judge Alzate chose to ignore if not completely disregard the glaring irregularities and non-compliance of the rules, and mindlessly proceeded with the court proceeding breeds a suspicion that he has personal interest in those cases before him. His unusual interest in the cases before him, not only displayed his utter lack of competence and probity but also make him liable for gross misconduct.

Misconduct refers to any unlawful conduct on the part of a judge prejudicial to the rights of parties or to the right determination of the cause. It entails wrongful or improper conduct motivated by a premeditated, obstinate or deliberate purpose. Simple misconduct is defined as an unacceptable behavior that transgresses the established rules of conduct for public officers. On the other hand, gross misconduct connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful."[36]

Clearly, for all his infractions, there is no question that Judge Alzate also violated the following Canons of the New Code of Judicial Conduct for the Philippine Judiciary:

Canon 2
Integrity

Section 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

Section 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Canon 6
Competence and Diligence

x x x x

Section 3. Judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this

[36] *OCA v. Judge Cabrera-Faller*, A.M. No. RTJ-11-2301, January 16, 2018, 851 SCRA 207, 301.

purpose of the training and other facilities which should be made available, under judicial control, to judges.

x x x x

Section 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

x x x x

Section 7. Judges shall not engage in conduct incompatible with the diligent discharge of judicial duties.

As a judge, more than anyone else, they are required to uphold and apply the law. They should maintain the same respect and reverence accorded by the Constitution to our society's institutions, particularly marriage. Instead, their actuations relegated marriage to nothing more than an annoyance to be eliminated. In the process, they also made a mockery of the rules promulgated by this Court.

A judge should observe the usual and traditional mode of adjudication requiring that he should hear both sides with patience and understanding to keep the risk of reaching an unjust decision at a minimum. Thus, he must neither sacrifice for expediency's sake the fundamental requirements of due process nor forget that he must conscientiously endeavor each time to seek the truth, to know and aptly apply the law, and to dispose of the controversy objectively and impartially.

Judge Alzate's act of issuing decisions that voided marital unions despite irregularities and non-compliance with the rules not only made a mockery of marriage and its life-changing consequences but likewise violated the basic norms of truth, justice, and due process.[37] His conduct greatly undermines the people's faith in the Judiciary and betrays public trust and confidence in the courts.

Thus, it must be once again emphasized that everyone in the Judiciary, from the presiding judge to the clerk, must always

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[37] See *Office of the Court Administrator v. Castañeda, et al.*, 696 Phil. 202 (2012).

be beyond reproach, free of any suspicion that may taint the Judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the Judiciary should be an example of integrity, uprightness, and honesty.[38]

PENALTY

Gross ignorance of the law and gross misconduct constituting violations of the Code of Judicial Conduct are serious charges under Section 8, Rule 140 of the Rules of Court. Justices and judges found guilty of these charges may be penalized by any of the following:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided*, however, that the forfeiture of benefits shall in no case include accrued leave credits;

2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

3. A fine of more than ₱20,000.00 but not exceeding ₱40,000.00.[39]

In *OCA v. Castañeda*,[40] the Court found the respondent guilty of gross ignorance of the law and procedure for her blatant

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[38] *Office of the Court Administrator v. Chavez*, 806 Phil. 932, 966 (2017).

[39] Rules of Court, Rule 140, Section 11 (A).

[40] *Supra* note 37.

disregard of the provisions of A.M. Nos. 02-11-10-SC and 02-11-11-SC, among others, and imposed the penalty of dismissal.

Finally, let this be a **WARNING** to those judges who continuously disregard the rules and guidelines pertaining to cases of annulment of marriage, as particularly provided in A.M. Nos. 02-11-10-SC[41] and 02-11-11-SC,[42] that any brazen disregard of the existing rules is an *indicium* of a judge's unfitness to continue as member of the bench, as such acts erode public's trust and confidence, and creates disrespect to the Judiciary, in general. Moreover, even if the erring judge has opted to resign or retire, it would not extricate him/her from the consequences of the offenses he/she committed, as resignation or retirement has never been a way out to evade administrative liability.[43]

WHEREFORE, the Court finds respondent Judge Raphiel F. Alzate, as Acting Presiding Judge of both Branch 24, Regional Trial Court, Cabugao, Ilocos Sur and Branch 58, Regional Trial Court, Bucay, Abra, **GUILTY** of Gross Ignorance of the Law and Gross Misconduct for which he is **DISMISSED** from the service, with forfeiture of all benefits due him, except accrued leave benefits, if any, with prejudice to re-employment in any branch of the government, including government-owned or controlled corporations.

Let a copy of this Decision be entered into Judge Alzate's record as a member of the bar and notice 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.

The Office of the Bar Confidant is **ORDERED** to **INVESTIGATE** Atty. Ma. Saniata Liwliwa G. Alzate, on her alleged participation in the questioned Decisions on the annulment of marriage cases issued by Judge Raphiel F. Alzate.

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[41] Rule on Declaration of Absolute Nullity of Void Marriages and Amendment of Voidable Marriages, March 4, 2003.

[42] Rule on Legal Separation, March 4, 2003.

[43] *Judge Gallon-Gayanilo v. Caldito*, 794 Phil. 32, 39 (2016).

This Decision is immediately executory.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

EN BANC

[A.M. No. 20-07-96-RTC. September 1, 2020]

RE: JUDICIAL AUDIT CONDUCTED ON BRANCH 64, REGIONAL TRIAL COURT, GUIHULNGAN CITY, NEGROS ORIENTAL, PRESIDED BY HON. MARIO O. TRINIDAD.

SYLLABUS

1. LEGAL ETHICS; JUDGES; UNDUE DELAY IN THE DISPOSITION OF CASES; JUDGES MUST OBSERVE THE PERIODS PRESCRIBED BY THE CONSTITUTION FOR DECIDING CASES. — The Constitution expressly provides that all lower courts should decide or resolve cases or matters within three months from the date of submission. Section 5, Canon 6 of the New Code of Judicial Conduct likewise provides:

> Sec. 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness.

Accordingly, this Court has laid down certain guidelines to ensure the compliance with this mandate. More particularly, Supreme Court Administrative Circular No. 13-87 provides:

> 3. Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts.

Thus, all cases or matters must be decided or resolved by all lower collegiate courts, within twelve months from the date of submission . . . ; while all other lower courts are given a period of three months to do so.

> Supreme Court Administrative Circular No. 1- 88 further states:
> 6.1 All Presiding Judges must endeavor to act promptly on all motions and interlocutory matters pending before their courts.

2. ID.; ID.; ID.; INORDINATE DELAY FOR YEARS WHEN NOT SUFFICIENTLY EXPLAINED WILL SUBJECT THE JUDGE TO ADMINISTRATIVE LIABILITY; CASE AT BAR. — [W]e have considered the justifications and explanations proffered by Judge Trinidad; however, while they may be recognized as true and reasonable, they are not sufficient to exonerate him from liability. Indeed, as the OCA noted, Judge Trinidad's explanations cannot exculpate him from his administrative liability for undue delay in deciding the two (2) cases and in resolving the pending incidents for resolution in forty-six (46) cases. The inordinate delay was not just in terms of days or months, but delay in terms of years. Aside from the said undecided cases and unresolved incidents, there were, as of the date of the judicial audit, eighty-four (84) pending incidents that remained to be resolved; forty-one (41) cases which were considered as dormant, there being no further action and/or further setting thereon; and the absence of hearings in some criminal cases for one (1) to two (2) years.

3. ID.; ID.; ID.; REQUEST FOR EXTENSION OF TIME TO RESOLVE CASES; JUDGES CANNOT BY THEMSELVES CHOOSE TO PROLONG THE PERIOD FOR DECIDING CASES BEYOND THAT AUTHORIZED BY LAW, FOR WHENEVER THEY CANNOT DECIDE A CASE PROMPTLY, THEY CAN ASK THE COURT FOR A REASONABLE EXTENSION OF TIME TO RESOLVE IT. — We are also aware of the heavy case load of trial courts, as well as the different circumstances or situations that judges may encounter during trial, thus, the Court has allowed reasonable extensions of time needed to decide cases, but such extensions must first be requested from the Court. Whenever a judge cannot decide a case promptly, all he has to do is to ask the Court for a reasonable extension of time to resolve it. However, there is no showing that Judge Trinidad requested for any extension of time within which to decide the said civil cases and the said pending incidents for resolution. A judge cannot by himself choose to prolong the period for deciding cases beyond that authorized by law.

4. ID.; ID.; ID.; GROSS INEFFICIENCY; FAILURE TO DECIDE CASES AND OTHER MATTERS WITHIN THE REGLEMENTARY PERIOD CONSTITUTES GROSS INEFFICIENCY AND VIOLATIONS OF THE CONSTITUTION AND THE CODE OF JUDICIAL CONDUCT, WHICH

WARRANTS THE IMPOSITION OF AN ADMINISTRATIVE SANCTION AGAINST THE ERRING MAGISTRATE.— The rules and jurisprudence are clear on the matter of delay. Failure to decide cases and other matters within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanction against the erring magistrate. Judges must decide cases and resolve matters with dispatch because any delay in the administration of justice deprives litigants of their right to a speedy disposition of their case and undermines the people's faith in the judiciary. Indeed, justice delayed is justice denied.

Delay in rendering decisions and resolutions of pending incidents already submitted for resolution is a serious violation of Section 15, Article VIII of the Constitution, and a blatant violation of Rule 3.05 of the Code of Judicial Conduct and Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary, which require judges to dispose of court businesses promptly.

5. ID.; ID.; GROSS IGNORANCE OF THE LAW; WHEN THE LAW OR THE RULE IS SO ELEMENTARY, NOT TO BE AWARE OF IT CONSTITUTES GROSS IGNORANCE OF THE LAW.— Indeed, as OCA observed, Judge Trinidad repeatedly failed to apply even the very basic of laws, rules and procedures, which he cannot feign ignorance of, given his stature as a presiding judge of the second level court for fifteen (15) years.

No less than the Code of Judicial conduct mandates that a judge shall be faithful to the laws and maintain professional competence. Indeed, competence is a mark of a good judge. A judge must be acquainted with legal norms and precepts as well as with procedural rules. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law. Unfamiliarity with the Rules of Court is a sign of incompetence. Basic rules of procedure must be at the palm of a judge's hands.

Though not every judicial error bespeaks ignorance of the law or of the rules, and that, when committed in good faith,

does not warrant administrative sanction, the rule applies only in cases within the parameters of tolerable misjudgment. When the law or the rule is so elementary, not to be aware of it or to act as if one does not know it constitutes gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court proficiency in the law, and the duty to maintain professional competence at all times. When a judge displays an utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. A judge is expected to keep abreast of the developments and amendments thereto, as well as of prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.

6. ID.; ID.; ID.; ABUSE OF AUTHORITY; OBSTINATE DISREGARD OF BASIC AND ESTABLISHED RULE OF LAW OR PROCEDURE AMOUNTS TO INEXCUSABLE ABUSE OF AUTHORITY AND GROSS IGNORANCE OF THE LAW. — In the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action. However, the assailed judicial acts must not be in gross violation of clearly established law or procedure, which every judge must be familiar with. Every magistrate presiding over a court of law must have the basic rules at the palm of his hands and maintain professional competence at all times. Thus, Judge Trinidad's actuations cannot be considered as mere error of judgment that can be easily excused. Obstinate disregard of basic and established rule of law or procedure amounts to inexcusable abuse of authority and gross ignorance of the law.

7. ID.; ID.; ID.; GROSS IGNORANCE OF THE LAW IS CLASSIFIED AS A SERIOUS CHARGE; PROPER IMPOSABLE PENALTY. — [G]ross ignorance of the law is a serious charge under Section 8, Rule 140 of the Rules of Court. Justices and judges found guilty of these charges may be penalized by any of the following:

> 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;

2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months: or

3. A fine of more than ₱20,000.00 but not exceeding ₱40,000.00.

8. ID.; ID.; CESSATION FROM OFFICE, NOT A GROUND FOR THE DISMISSAL OF A CASE; IMPOSITION OF ACCESSORY PENALTIES IN LIEU OF DISMISSAL FROM SERVICE. — [I]n A.M. No. RTJ-15-2436 dated July 18, 2016, Judge Trinidad was found guilty of conduct unbecoming a judge and fined with a stern warning that a repetition of the same or similar offenses shall be dealt with more severely.

Considering Judge Trinidad's previous administrative sanction, the number of cases/incidents left undecided and the lack of any plausible explanation for such failure to decide within the reglementary period constituting gross inefficiency, his violations of Court resolutions and directives constituting gross ignorance of the law, the most severe penalty should be imposed upon Judge Trinidad.

However, considering his compulsory retirement on January 19, 2020, the penalty of dismissal from service can no longer be imposed. Nevertheless, cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against him at the time that he was still in the public service. Thus, in *lieu* of the penalty of dismissal from the service for his gross inefficiency and gross ignorance of the law, We, instead, impose the accessory penalties of dismissal from the service, *i.e.,* forfeiture of retirement benefits, **except** accrued leave credits, and disqualification from re-employment in any branch or service of the government, including government-owned and controlled corporations.

R E S O L U T I O N

***PER CURIAM*:**

This is an administrative complaint against Judge Mario O. Trinidad[1] (retired), in his capacity as then Presiding Judge, of

[1] On January 19, 2020, Judge Trinidad compulsorily retired.

Branch 64, Regional Trial Court, Guihulngan City, for gross inefficiency and incompetence for failing to decide cases within the reglementary period to decide, and gross ignorance of the law.

On August 13 to 20, 2019, the judicial audit team conducted a spot audit of the cases in Branch 64, Regional Trial Court, Guihulngan City, presided by Hon. Mario O. Trinidad.

In its Memorandum dated November 18, 2019 for Hon. Jenny Lind R. Aldecoa-Delorino, Deputy Court Administrator, the audit team revealed the following findings:

First, there are five (5) civil cases submitted/deemed submitted for decision. The decisions of two (2) of these cases, Civil Case No. FC-11-03-G *(no. 4)* and Spec. Pro. Case No. FC-14-03-G *(no. 5)*, are already overdue as of the date of the judicial audit. Below is the matrix delineating the details of the said cases:

Civil Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Last Action Taken**	**Remarks**
1-3	EPC-16-01-V to EPC-16-03-V	Hon. Joniper T. Villegas vs. Hon. Marianne S. Gutilo; Hon. Gemma P. Evangelista vs. Hon. Oliver S. Bongoyan; and Hon. Archie Teologo, et al. vs. Hon. Glorian Repita, et al.	5-16-16	Order dated 5-28-19, denying the Motion to Dismiss filed on 2-12-19, and submitting the instant case for decision.	No decision on the instant case as of the date of the judicial audit. The instant case should be decided on or before 26 August 2019.
4	**FC-11-03-G**	Mary Grace Lostan-Aguilos vs. Giovie Aguilos (for Declaration of Nullity of Marriage)	9-9-11	Order dated 2-6-17, admitting the Formal Offer of Exhibits of petitioner, and submitting the instant case for decision.	No decision on the instant case as of the date of the judicial audit. The instant case should have been decided on or before 7 May 2017; **hence, the said decision is already long overdue.**

Special Proceedings					
No.	**Case No.**	**Title**	**Date Filed**	**Last Action Taken**	**Remarks**
5	**FC-14-03-G**	Adoption and Cancellation of Simulated Birth Record	5-23-14	Order dated 11-27-17, submitting the instant case for decision.	No decision on record as of the date of the judicial audit.
		Sps. Fernando and Rossini C. Villasor, petitioners			The instant case should have been decided on or before 25 February 2018. **Hence, the said decision is already overdue.**

Second, there are forty-nine (49) cases with pending and unresolved incidents submitted/deemed submitted for resolution. As of the date of the judicial audit, forty-six (46) of these incidents remained pending and unresolved beyond the reglementary period, and have been delayed for almost a year to over a year. However, the submitted/deemed submitted pending incidents in Criminal Case Nos. 07-069-G *(no. 6)*; 99-036-V *(no. 7)*; 11-093-C *(no. 8)*; FC-12-18-C *(no. 12)*, and 14-103-C *(no. 14)* remain unresolved after over four (4) years, while in Criminal Case Nos. 11-095-C *(no. 11)* and 07-080-G *(no. 5)*, the submitted/deemed submitted pending incidents have not been resolved for five (5) years and over nine (9) years, respectively.

The following table shows the details of the above-mentioned cases:

Criminal Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Pending Incident/s**	**Remarks**
1-2	**13-014-G and 13-015-G**	Pp. vs. Dirk Raymund Ricante	3-4-13	Motion to Plea Bargain was filed on 9-8-18, and the Opposition to the Motion to Plea Bargain was submitted on 9-27-18.	The said Motion remains pending and unacted upon as of the date of the judicial audit. However, considering that the public

					prosecutor already submitted his Opposition thereto, the same should have been resolved on or before 26 December 2018. **Hence, the resolution on the instant Motion is Already overdue.**
3-4	**16-074-C and 16-075-C**	Pp. vs. Martin Vailoces	4-22-16	Motion to Allow Accused to Plea Bargain was filed on 8-13-18, and the Vehement Opposition to the said Motion was submitted on 9-20-18.	The said Motion remains pending and unacted upon as of the date of the judicial audit. However, considering that the public prosecutor already submitted his Opposition thereto, the same should have been resolved on or before 19 December 2018. **Hence, the** resolution **on the instant Motion is already overdue.**
5	**07-080-G**	Pp. vs. Tito Anthony Dela Cruz	11-23-07	Petition for Bail was filed on 12-4-07, per Order dated 12-17-07. Order dated 1-27-10, the said Petition for Bail is submitted for resolution.	No resolution on the said Petition as of the date of the judicial audit. The pending incident should have been resolved on 27 April 2010; **hence, its resolution is way overdue.**
6	**07-069-G**	Pp. vs. Diosdado Dorimon	9-24-07	Formal Offer of Exhibits of the prosecution was filed on 3-9-18,	No resolution on the said Formal Offer of Exhibits as of the date of

				and the corresponding Comment thereon was submitted on 3-16-18.	the judicial audit. The pending incident should have been resolved on or before 14 June 2018; **hence, its resolution is already overdue.**
7	**99-036-V**	Pp. vs. Florencio Escorial and Resituto Calago	4-27-99	Formal Offer of Exhibits of the prosecution was filed on 3-2-15, and the corresponding Comment thereon was submitted on 3-31-15.	No resolution on the said Formal Offer of Exhibits as of the date of the judicial audit. The pending incident should have been resolved on or before 14 June 2015; **hence, its resolution is already overdue.**
8	**11-093-C**	Pp. vs. Pelmar Q. Pepino, et al.	12-9-11	Motion to Suppress Evidence Seized was filed on 1-6-12. Order dated 10-1-14, directing the handling prosecutor to file his Comment on the said Motion within 10 days from even date. Comment on the said Motion was filed on 10-17-14.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the handling prosecutor already submitted his Comment thereon, the same should have been resolved on or before 15 January 2015; **hence, the resolution on the instant Motion is already overdue.**
9-10	13-036-C and FC-13-09-C	Pp. vs. Samuel Camarines	4-18-13	Motion to Dismiss was filed on 6-6-19, and the Comment thereon was submitted on 7-16-19.	No resolution on the said Motion as of the date of the judicial audit.

					However, considering that the handling prosecutor already submitted his Comment thereon, the same was deemed submitted for resolution on 16 July 2019, and it should therefore be resolved on or before 14 October 2019.
11	**11-095-C**	Pp. vs. Melchor Estrada, et al.	12-9-11	Motion to Suppress Evidence was filed on 1-6-12. Order dated 10-1-14, directing the prosecution to file its Comment thereon within 10 days. Reply was received on 10-23-14, mentioning that the prosecution filed its Comment dated 10-2-14.	No resolution on the said Motion as of the date of the judicial audit. There is also an evident inordinate delay of more than two (2) years in the issuance of the Order dated 1 October 2014, directing the prosecution to file its Comment. Considering the delay, and the submission of the Comment thereon, and the Reply to the said Comment, the instant matter is deemed submitted for resolution as of 23 October 2014, and the same should have been decided on or before 21 January 2015; **hence, its resolution is already overdue.**
12	**FC-12-18-C**	Pp. vs. Albert Lina	7-31-12	Petition for Release of Minor was filed on 8-29-14, and the	No resolution on the said Motion as of the date of the judicial audit.

				corresponding Opposition thereon was received on 9-18-14.	However, considering that the Opposition thereon had already been submitted, the pending incident should have been resolved on or before 22 December 2014; **hence, its resolution is already overdue.**
13	**18-008-G**	Pp. vs. Henry Tiongson	2-1-18	Motion to Allow the Accused to Plea Bargain was filed on 9-27-18, and the Comment thereon was received on 10-2-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment on the said Motion had already been submitted on 2 October 2018, the instant pending incident should have been resolved 90 days thereafter, or on or prior to 31 December 2018. **Hence, the resolution on the instant matter is already overdue.**
14	**14-103-C**	Pp. vs. John Jason Bacroya	5-29-14	Motion for Release on Recognizance was filed on 1-12-15, and the Comment thereon was received on 2-2-15.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment on the said Motion had already been submitted on 2 February 2015, the instant

					pending incident should have been resolved 90 days thereafter, or on or prior to 3 May 2015. **Hence, the resolution on the instant matter is already overdue.**
15	**15-010-G**	Pp. vs. Alvin Ferolino	1-26-15	Motion to Plea Bargain was filed on 8-16-18, and the Comment thereon was submitted on 8-30-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the prosecution had already submitted its Comment thereon on 30 August 2018, the instant matter is deemed submitted for resolution on the said date, and its resolution should have been rendered on or before 28 November 2018. **Hence, the said resolution is already overdue.**
16	**15-134-G**	Pp. vs. Jonathan Jurado, et al.	10-29-15	Motion to Plea Bargain was filed on 8-16-18, and the corresponding Comment thereon was submitted on 8-23-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 23 August 2018,

					and it should have been resolved on or before 21 November 2018. **Hence, its resolution is already overdue.**
17	15-147-G	Pp. vs. Narcisa Pabillar	12-18-15	Motion to Plea Bargain filed on 8-2-19, and the corresponding Comment thereon was filed on 8-3-19.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 3 August 2019, and it should be resolved on or before 1 November 2019.
18	**15-142-G**	Pp. vs. Jolar C. Cantile	11-16-15	Motion to Plea Bargain was filed on 9-4-18, and the Comment thereon was filed on 9-7-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 7 September 2018, and it should have been resolved on or before 6 December 2018. **Hence, its resolution is already overdue.**
19-20	**14-135-C and 14-136-C**	Pp. vs. Al Casuyon	7-30-14	Motion to Allow the Accused to	No resolution on the said Motion as

				Plea Bargain was filed on 7-13-18, and the corresponding Comment Opposition thereon was submitted on 7-27-18, objecting to the proposal to plea bargain to the lesser offense under Sec. 15, R.A. No. 9165.	of the date of the judicial audit. However, given that the Comment Opposition thereon was already filed, the instant matter is deemed submitted for resolution as of 27 July 2018, and it should have been resolved on or before 25 October 2018. **Hence, its resolution is already overdue.**
21-22	**17-026-C and 17-027-C**	Pp. vs. Cecelio Caballero	3-28-17	Motion to Allow the Accused to Plea Bargain was filed on 8-13-18, and the Comment/ Objection thereon was received on 8-28-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment Opposition thereon was already filed, the instant matter is deemed submitted for resolution as of 28 August 2018, and it should have been resolved on or before 26 November 2018. **Hence, its resolution is already overdue.**
23	**18-012-C**	Pp. vs. Eruel Delubio, et al.	2-12-18	Motion to Allow Accused to Enter into Plea Bargaining was filed on 9-17-18, and the Opposition	No resolution on the said Motion as of the date of the judicial audit. However, considering that

				thereon was filed on 9-20-18. The Reply filed by the accused to the said Opposition was submitted on 9-26-18.	the Comment/ Opposition thereon, and the Reply to the former were already filed, the instant matter is deemed submitted for resolution as of 26 September 2018, and it should have been resolved on or before 25 December 2018. **Hence, its Resolution is already overdue.**
24	**16-211-G**	Pp. vs. Celdan M. Zapanta	11-14-16	Motion to Allow the Accused to Plea Bargain was filed on 8-9-18, and the corresponding Comment thereon was received on 8-30-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment/ Opposition thereon and the Reply to the former were already filed, the instant matter is deemed submitted for resolution as of 30 August 2018, and it should have been resolved on or before 28 November 2018. **Hence, its Resolution is already overdue.**
25-26	**16-026-C and 16-027-C**	Pp. vs. Jason Villegas, et al.	2-3-16	Motion to Allow the Accused to Plea Bargain was filed on 8-16-18, and the Consent to the said Motion, filed by the Office	No resolution on the said Motion as of the date of the judicial audit. However, considering that

				of the City Prosecutor of Canlaon City, Negros Oriental, was submitted on 9-20-18.	the Consent thereto was already submitted, the instant matter is deemed submitted for resolution as of 20 September 2018, and it should have been resolved on or before 19 December 2018. **Hence, its Resolution is already overdue.**
27-28	**16-028-C and 16-029-C**	Pp. vs. Edgardo Villegas	2-3-16	Motion to Allow the Accused to Plea Bargain was filed on 8-16-18, and the Consent to the said Motion was submitted on 8-31-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Consent thereto was already submitted, the instant matter is deemed submitted for resolution as of 31 August 2018, and it should have been resolved on or before 29 November 2018. **Hence, its resolution is already overdue.**
29	**16-047-G**	Pp. vs. Mark Anthony Denogo	3-8-16	Motion to Allow the Accused to Plea Bargain was filed on 8-18-19, and the corresponding Comments thereon were filed by the prosecution on 8-30-18 and the Guihulngan Police	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comments thereon were already submitted, the instant matter

				on 9-14-18, respectively.	is deemed submitted for resolution as of 14 September 2018, and it should have been resolved on or before 13 December 2018. **Hence, its resolution is already overdue.**
30-31	**16-175-C and 16-176-C**	Pp. vs. Cyrus C. Gonzales	9-7-16	Motion to Allow the Accused to Plea Bargain was filed on 8-13-18, and the Vehement Opposition thereon was received on 9-20-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Vehement Opposition thereon was already filed, the instant matter is deemed submitted for resolution as of 20 September 2018, and it should have been resolved on or before 19 December 2018. **Hence, its resolution is already overdue.**
32-33	**16-155-C and 16-156-C**	Pp. vs. Daniel John Cornelio	8-8-16	Motion to Plea Bargain was filed on 8-13-18, and the Vehement Opposition thereon was submitted on 9-20-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Vehement Opposition thereon was already submitted, the instant matter is deemed submitted for resolution as of 20

					September 2018, and it should have been resolved on or before 19 December 2018. **Hence, its resolution is already overdue.**
34	**17-064-V**	Pp. vs. John Anthony Esconde	6-27-17	Motion to Plea Bargain was filed on 8-7-18, and the corresponding Comment thereon was received on 10-3-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 3 October 2018, and it should have been resolved on or before 1 January 2019. **Hence, its resolution is already overdue.**
35	**18-014-C**	Pp. vs. Charie Kay Bayawa	2-12-18	Motion to Allow the Accused to Plea Bargain was filed on 9-12-18, and the Vehement Opposition thereon was submitted on 9-20-18, while the Reply to the Vehement Opposition was received on 9-25-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Vehement Opposition thereon and the Reply to the former were already filed, the instant matter is deemed submitted for resolution as of 25 September 2018, and it should have been resolved on or

					before 24 December 2018. **Hence, its resolution is already overdue.**
36-37	**18-008-G and 18-009-G**	Pp. vs. Henry Tiongson	2-1-18	Motion to Allow Accused to Plea Bargain from Sec. 5 to Sec. 12 of R.A. No. 9165, and from Sec. 11 to Sec. 12 of R.A. No. 9165 was filed on 9-27-18, and the Comment thereon was received on 10-2-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 2 October 2018, and it should have been resolved on or before 31 December 2018. **Hence, its resolution is already overdue.**
38-39	**17-102-C and 17-103-C**	Pp. vs. Laurence Duro	9-18-17	Motion to Allow Accused to Plea Bargain was filed on 7-25-18, and the corresponding Comment/ Opposition thereon was submitted on 8-28-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment/ Opposition thereon was already filed, the instant matter is deemed submitted for resolution as of 28 August 2018, and it should have been resolved on or before 26 November 2018. **Hence, its resolution is already overdue.**

40	**12-084-G**	Pp. vs. Conrado Fiel Merabelis	7-9-12	Motion for Bail was received on 7-26-14. Prosecution's Formal Offer of Exhibits on the Motion for Bail was submitted on 5-16-17. Order dated 6-29-17, admitting the said Formal Offer of Exhibits.	No resolution on the said Motion as of the date of the judicial audit. The same should have been resolved on 27 September 2017; **hence, the resolution on the said Motion for Bail is already overdue.**
41	**16-180-C**	Pp. vs. Ricardo Demetillo, Jr.	9-6-16	Motion to Allow the Accused to Plea Bargain was filed on 7-25-18, and the corresponding Comment thereon was received on 8-3-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 3 August 2018, and it should have been resolved on or before 1 November 2018. **Hence, its resolution is already overdue.**
42-43	**16-223-C and 16-224-C**	Pp. vs. Erwin Javier	12-12-16	Motion to Allow the Accused to Plea Bargain was filed on 8-13-18, and the corresponding Comment thereon was received on 9-20-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 20 September

					2018, and it should have been resolved on or before 19 December 2018. **Hence, its resolution is already overdue.**
44-45	**16-147-C and 16-148-C**	Pp. vs. Gaudencio Canete	7-29-16	Motion to Allow the Accused to Plea Bargain was filed on 8-13-18, and the corresponding Comment thereon was received on 9-20-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 20 September 2018, and it should have been resolved on or before 19 December 2018. **Hence, its Resolution is already overdue.**
46-47	**16-049-V and 16-050-V**	Pp. vs. Gilbert Tejeros	3-5-16	Motion to Allow Accused to Plea Bargain was filed on 9-4-18, and the corresponding Comment thereon was received on 11-6-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 6 November 2018, and it should have been resolved on or before 4 February 2019.

					Hence, its resolution is already overdue.
48	**15-056-V**	Pp. vs. Harvey Hayahay	4-6-15	Motion for Accused to Plea Bargain was filed on 11-7-18, and the corresponding Comment thereon was submitted on 3-19-19.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already filed, the instant matter is deemed submitted for resolution as of 19 March 2019, and it should have been resolved on or before 17 June 2019. **Hence, its resolution is already overdue.**
49	**17-018-G**	Pp. vs. Christian Tayona	3-9-17	Motion for Accused to Plea Bargain was filed on 5-15-18, and the Comment thereon was received on 7-21-18.	No resolution on the said Motion as of the date of the judicial audit. However, considering that the Comment thereon was already submitted, the instant matter is deemed submitted for resolution as of 21 July 2018, and it should have been resolved on or before 19 October 2018. **Hence, its Resolution is already overdue.**

Third, eighty-four (84) cases have pending incidents that remain unresolved as of the date of the judicial audit, majority of which are still unresolved for at least almost one (1) year, although in Criminal Case No. 12-026-G, the Petition for Bail filed on 14 November 2012 remains unresolved after almost seven (7) years.

The list of these cases and the corresponding audit findings are enumerated in the following table:

Criminal Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Incident/s**	**Remarks**
1	13-098-G	Pp. vs. Dandy Demiren	9-23-13	1. Motion for Bill of Particulars was filed on 11-11-14, and 2. Motion for Bail was filed on 7-8-14.	The said Motions remain unacted upon and unresolved for over four (4) years as of the date of the judicial audit.
2	17-130-C	Pp. vs. Ranilo Cambang	12-20-17	Petition for Bail was filed on 1-8-18.	The said Petition remains pending and unresolved for over one (1) year as of the date of the judicial audit.
3-4	19-075-C and 19-076-C	Pp. vs. Maria Corazon Javier	3-31-19	Motion for Bail was filed on 6-26-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
5	12-017-C	Pp. vs. Eleuterio Maglasang, Jr.	1-31-12	Formal Offer of Exhibits by the accused was filed on 11-14-18 (reverse trial).	The said Formal Offer of Exhibits remains pending and unresolved for almost one (1) year as of the date of the judicial audit.
6	FC-18-07-C	Pp. vs. Jerry Monis	4-13-18	1. Petition for Bail was filed on 5-3-18, and 2. Formal Offer of Exhibits of the prosecution was	The said Petition has been pending for over one (1) year, while the Formal Offer of Exhibits remains unresolved, as of

				submitted on 6-26-19.	the date of the judicial audit.
7	14-004-G	Pp. vs. Jeoffrey Villaester	1-8-14	Motion to Dismiss was filed on 6-25-14.	The said Motion remains pending and unresolved for over five (5) years as of the date of the judicial audit.
8	13-112-G	Pp. vs. Ariel de Asis Rama	10-29-13	Motion for Bail was filed on 6-25-14.	The said Motion remains pending and unresolved for over five (5) years as of the date of the judicial audit.
9-10	18-063-C and 18-064-C	Pp. vs. Edzel Jamio	7-4-18	1. Motion to Post Bail was filed on 10-5-18; 2. *Ex-Parte* Motion for an Early Setting for Bail Hearing was filed on 8-7-18, and 3. *Ex-Parte* Motion for an Early Setting for Bail Hearing was filed on 12-23-18.	All the said Motions remain pending and unresolved for almost one (1) year as of the date of the judicial audit.
11	13-104-G	Pp. vs. Jeoffrey Villaester	10-7-13	Motion to Plea Bargain was filed on 12-20-18.	The said Motion remains pending and unresolved for almost one (1) year as of the date of the judicial audit.
12-13	16-084-C and 16-085-C	Pp. vs. Robert Dionaldo, Jr.	5-11-16	Motion to Plea Bargain was filed on 2-27-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
14	16-013-C	Pp. vs. Rodolfo Ortega, et al.	1-21-16	Motion for Release of Accused Nino Devibar on Bail was filed on 4-14-16 on the ground of minority.	The said Motion remains pending and unresolved for over three (3) years as of the date of the judicial audit.

15	15-043-L	Pp. vs. Archie Tubat	3-19-15	Motion for Plea Bargaining was filed on 10-3-18.	The said Motion remains pending and unresolved for almost one (1) year as of the date of the judicial audit.
16	19-072-C	Pp. vs. Azucena Avelino Garubat	3-31-19	Motion for Bail was filed on 6-26-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
17	**12-026-G**	Pp. vs. Jerry Cuevas, et al.	2-27-12	Petition for Bail (of accused Cuevas) dated 11-14-12 (no date of receipt by the subject court).	**The said Petition remains pending and unresolved for almost seven (7) years as of the date of the judicial audit.**
18	FC-18-12-L	Pp. vs. Brian Taob	6-8-18	Motion to Dismiss (based on the Affidavit of Desistance of private complainant) was filed by accused on 11-21-18.	The said Motion remains pending and unresolved for almost one (1) year as of the date of the judicial audit.
19-20	18-138-G and 18-139-G	Pp. vs. Melinda Abraham	12-28-18	Motion for Bail was filed on 2-26-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
21	19-002-G	Pp. vs. Elpie Boy Brigole	1-9-19	Motion for Bail was filed on 2-26-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
22	05-062-G	Pp. vs. Romeo Adlawon, et al.	8-16-05	Motion to Dismiss was filed on 7-22-15.	The said Motion remains pending and unresolved for over four (4) years as of the date of the judicial audit.
23	FC-12-18-C	Pp. vs. Albert Lina	7-31-12	Motion for Leave to File Amended Information was submitted on 11-08-14.	The said Motion remains pending and unresolved for almost five (5) years as of the date of the judicial audit.

24	19-073-C	Pp. vs. Amorgena Caballero	3-31-19	Petition for Bail was filed on 5-7-19.	The said Petition remains pending and unresolved as of the date of the judicial audit.
25	16-046-C	Pp. vs. Jocelyn Marce Canete	3-8-16	Motion to Dismiss was filed on 8-8-18.	The said Motion remains pending and unresolved for a year as of the date of the judicial audit.
26	FC-11-03-G	Pp. vs. Luther Estorco	1-17-11	Motion for Bail was filed on 11-8-18.	The said Motion remains pending and unresolved for almost one (1) year as of the date of the judicial audit.
27	17-025-V	Pp. vs. Franklin Navarro	3-24-17	Motion for Plea Bargaining under Sec. 2, Rule 116 in rel. to DOJ Circular was filed on 6-11-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
28	18-119-G	Pp. vs. Frannie Avancena	11-17-18	Motion for Plea Bargaining under Sec. 2, Rule 116 in rel. to SC A.M. No. 18-03-16-SC was filed on 3-28-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
29	17-104-L	Pp. vs. Ceasario Constanilla, Jr.	9-19-17	Motion to Dismiss was filed on 5-2-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
30	16-097-C	Pp. vs. Epifanio Jaculbe	5-27-16	Petition for Bail was filed on 10-28-16.	The said Petition remains pending and unresolved for almost three (3) years as of the date of the judicial audit.
31	18-107-C	Pp. vs. Tommy Flores	10-9-18	1. Motion for Reduction of Bail was filed on 10-11-18, and 2. Motion to	The said Motions remain pending and unresolved for almost a year as of the date of the judicial audit.

				Quash Information was submitted on 10-11-18.	
32	17-073-G	Pp. vs. Cris Ferolino Tumarong	7-3-17	Motion for Reduction of Bail Bond from Php 40,000.00 to Php 20,000.00 was filed on 7-31-17.	The said Motion remains pending and unresolved for over two (2) years as of the date of the judicial audit.
33	14-021-C	Pp. vs. Alden De Asis Ramas	2-7-17	1. Motion for Reduction of Bail was filed on 2-20-14, 2. Motion for Leave to Amend Information and to Admit Amended Information was filed on 1-14-15, and 3. Motion for the Reduction of Bail Bond was submitted on 5-24-17.	The said Motions remain pending and unresolved for five (5) years, four (4) years and two (2) years, respectively, as of the date of the judicial audit.
34	17-130-C	Pp. vs. Ranilo Cambang	12-20-17	Petition for Bail was filed on 1-8-18.	The said Petition remains pending and unresolved for over one (1) year as of the date of the judicial audit.
35	16-223-C and 16-224-C	Pp. vs. Erwin Javier	12-12-16	1. Motion to Plea Bargain was filed on 8-13-18, and 2. Motion for Bail was filed on 3-15-19.	The said Motion to Plea Bargain remains unresolved for a year, while the Motion for Bail is still unresolved, as of the date of the judicial audit.
36	16-038-G	Pp. vs. Jevie Ersan Bayer	2-19-16	1. Petitions for Bail were filed on 2-23-16 and 3-14-16, 2. Motion to Suppress	The said Petitions and Motion to Suppress Evidence remain unresolved for over three (3) years, while the

				Evidence was filed on 3-31-16, and 3. Motion for Bail was filed on 6-11-19.	Motion for Bail is still pending, as of the date of the judicial audit.
37	15-010-G	Pp. vs. Alvin Ferolino	1-26-15	Motion for Bail was filed on 6-13-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
38	15-142-G	Pp. vs. Jolar C. Cantile	11-16-15	Motion for Bail was filed on 2-28-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
39	15-088-G	Pp. vs. Rouel Diamano	6-15-15	Motion for Bail was filed on 6-13-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
40	14-106-C and 14-107-C	Pp. vs. Dominador Ortilano	6-3-14	1. Motion for Bail filed on 8-20-14, 2. Motion for Release of Impounded Motor Vehicle was submitted on 9-26-14, and 3. Motion to Allow Accused to Plea Bargain was submitted on 6-25-18.	The said Motions remain pending and unresolved for over five (5) years, almost five (5) years, and more than a year, respectively, as of the date of the judicial audit.
41	17-026-C	Pp. vs. Cecelio Caballero	3-28-17	Motion for Bail was filed on 3-21-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
42	17-070-C	Pp. vs. Romulo Tan	7-1-17	Motion to Allow Accused to Plea Bargain was filed on 8-13-18.	The said Motion remains pending and unresolved for a year as of the date of the judicial audit.

43	14-141-G	Pp. vs. Roy Soreno	8-7-14	Motion to Plea Bargain was filed on 3-12-19.	The said Motion remains pending and unresolved as of the date of judicial audit.
44	18-031-V	Pp. vs. Jolito Montemayor	3-27-18	Motion to Plea Bargain was filed on 11-7-18.	The said Motion remains pending and unresolved for almost a year as of the date of the judicial audit.
45	18-010-V	Pp. vs. Roman Espadilla	2-2-18	Motion for Plea Bargaining was filed on 12-4-18.	The said Motion remains pending and unresolved for almost a year as of the date of the judicial audit.
46	18-122-V	Pp. vs. Jose Gil Gallo	11-17-18	Motion for Plea Bargaining was filed on 3-19-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
47-48	18-041-C and 18-042-C	Pp. vs. Floredo Selade	5-4-18	Motion for Bail was filed on 3-21-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
49	18-050-V	Pp. vs. Anthony Wendell Tarugo	6-8-18	Motion for Plea Bargaining was filed on 11-7-18.	The said Motion remains pending and unresolved for almost a year as of the date of the judicial audit.
50	18-019-C	Pp. vs. Marlon Nilarao	3-5-18	Motion for Bail was filed on 3-21-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
51-52	15-051-L and 15-052-L	Pp. vs. Asterio Bulandres	4-1-15	Motion for Reduction of Bail Bond filed on 6-13-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
53	16-211-G	Pp. vs. Celdan M. Zapanta	11-14-16	Motion for Bail was filed on 3-11-18.	The said Motion remains pending and unresolved, and unacted upon by the subject court for over a

					year, as of the date of the judicial audit.
54	16-154-G	Pp. vs. Aldinnes G. Carba	8-8-16	Motion for Bail was filed on 5-14-19.	The said Motion remains pending and unresolved, and unacted upon by the subject court, as of the date of the judicial audit.
55-56	15-001-L and 15-002-L	Pp. vs. Rando Dacillo Benlot	1-5-15	Motion to Plea Bargain was filed on 11-7-18.	The said Motion remains pending and unresolved for almost a year as of the date of the judicial audit.
57	16-150-G	Pp. vs. Arsenio Empiales, Jr.	8-1-16	1. Motion to Plea Bargain was filed on 8-9-18, and 2. Motion for Bail was received on 6-13-19.	The Motion to Plea Bargain remains pending and unresolved as of the date of the judicial audit for a year, while the Motion for Bail is also pending and unresolved, and unacted upon by the subject court, as of the date of the judicial audit.
58	18-078-G	Pp. vs. Bernardo Baynos Secong	8-9-19	Motion for Plea Bargaining was received on 5-6-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
59	17-064-V	Pp. vs. John Anthony Esconde	6-27-17	Motion for Bail was received on 8-6-18.	The said Motion remains pending and unresolved for a year as of the date of the judicial audit.
60	16-223-C	Pp. vs. Erwin Javier	12-12-16	Motion for Bail was filed on 3-15-19.	The said Motion remains pending and unresolved, and unacted upon by the subject court, as of the date of the judicial audit.

61-62	13-002-V and 13-003-V	Pp. vs. Eugenio Belandres, et al.	1-6-13	Motion to Allow the Accused to Plea Bargain was filed on 5-7-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
63	18-079-G	Pp. vs. Kevin Tan	8-23-18	Motion for Bail was filed on 4-30-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
64	18-008-G	Pp. vs. Henry Tiongson	2-1-18	Motion for Bail was filed on 3-22-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
65-66	18-120-G and 18-121-G	Pp. vs. Frannie Avancena	11-17-18	Motion to Allow the Accused to Plea Bargain was filed on 3-28-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
67	16-012-G	Pp. vs. Rant Geronimo	1-18-16	Motion for Bail was filed on 5-14-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
68	16-151-G	Pp. vs. Arsenio Empiale, Jr.	8-1-16	Motion to Allow the Accused to Plea Bargain was filed on 8-9-18.	The said Motion remains pending and unresolved for a year as of the date of the judicial audit.
69-70	16-220-C and 16-221-C	Pp. vs. Julmar Gabagaba	12-9-16	1. Application for Bail and Motion for Reduction (for Crim. Case No. 16-220) were filed on 4-2-18, and 2. Motion to Allow the Accused to Plea Bargain was submitted on 5-16-18.	The said Application and Motions remain pending and unresolved for over a year as of the date of the judicial audit.
71	17-050-C	Pp. vs. Ritchie Abarquez	5-26-17	Petition for Bail was filed on 6-8-17.	The said Petition remains pending and unresolved for over two (2) years as of the

					date of the judicial audit.
72-74	16-124-G to 16-126-G	Pp. vs. Raymund Caracut	7-2-16	Motion to Allow the Accused to Plea Bargain was filed on 8-9-18.	The said Motion remains pending and unresolved for a year as of the date of the judicial audit.
75	15-085-L	Pp. vs. Bayani Avila	6-5-15	Motion for Bail and Motion for Reduction of Bail were filed on 12-5-17.	The said Motions remain pending and unresolved for almost two (2) years as of the date of the judicial audit.
76	15-054-V	Pp. vs. Lurence Candilanza, et al.	4-6-15	Motion for Bail was filed on 5-7-19.	The said Motion remains pending and unresolved as of the date of the judicial audit.
77	15-129-G	Pp. vs. Ronmark Besano	10-12-15	Motion for Bail was filed on 6-14-16.	The said Motion remains pending and unresolved for over three (3) years as of the date of the judicial audit.
78	17-018-G	Pp. vs. Christian Tayona	3-9-17	Application for Bail was filed on 4-27-17.	The said Application remains pending and unresolved for over two (2) years as of the date of the judicial audit.
79	07-013-G	Pp. vs. Junmar Gemina	2-21-07	Motion to Allow the Accused to Plea Bargain was filed on 11-22-18.	The said Motion remains pending and unresolved close to one (1) year as of the date of the judicial audit.
80	15-042-L	Pp. vs. Archie Tubat	3-19-15	Motion to Allow the Accused to Plea Bargain was filed on 10-3-18.	The said Motion remains pending and unresolved close to one (1) year as of the date of the judicial audit.

81	18-060-V	Pp. vs. Angelito Oghayon	1-27-18	Petition for Bail was filed on 7-6-18.	The said Petition remains pending and unresolved for over one (1) year as of the date of the judicial audit.
82	CICL No. 04-2016-D	Pp. vs. Venny Kristoffer Barillo	7-29-16	1. Motion to Plea Bargain was filed on 12-18-18, and 2. Motion for Bail was received on 6-13-19.	As of the date of the judicial audit, the said Motions remain pending and unresolved. In particular, the Motion to Plea Bargain remains pending and unresolved for almost one (1) year.
Civil Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Last Action Taken**	**Remarks**
83	FC-11-03-G	Mary Grace Lostan-Aguilos vs. Giovie Aguilos (for Declaration of Nullity of Marriage)	9-9-11	1. Motion to Dismiss was filed on 7-22-14; 2. Motion to Withdraw Motion to Dismiss was filed on 9-17-14; 3. Motion for Resolution was submitted on 2-8-17; and 4. Reiterated Motion for Resolution was submitted on 7-18-19, stating that the instant case was submitted for decision as early as 2-7-17. Order dated 2-6-17, admitting the Formal Offer of Exhibits of	Although already moot, given that the instant case was already submitted for decision per Order dated 6 February 2017, the said Motions were not acted upon and were never resolved by the subject court prior to the submission of the instant case for decision.

				petitioner, and submitting the instant case for decision.	
84	FC-17-05-G	Eduardo Cordova vs. Marites Cordova (for the declaration of nullity of marriage)	9-25-17	Motions to Set Pre-Trial were filed on 12-14-17 and 11-22-18. Order dated 6-18-19, stating that, *"upon Motion of the petitioner, set this case for trial proper to September 17, 2019 at 8:00 o'clock in the morning."*	Both Motions remain unacted upon and unresolved as of the date of the judicial audit.

Fourth, among the cases audited, forty-one (41) are considered as dormant, there being no further action or setting by the subject court as of the date of the judicial audit.

The list of these cases is provided in the ensuing matrix with the corresponding details per case:

Criminal Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Last Action Taken**	**Remarks**
1-2	FC-19-20-C and FC-19-21-C	Pp. vs. Loumar O. Mabasa	3-27-19	Warrant of Arrest was issued on 3-21-19, and the corresponding Return was filed on 4-12-19. The Commitment Order was issued on 4-10-19.	No further action/setting by the subject court as of the date of the judicial audit.
3-4	03-014-G and 03-015-G	Pp. vs. Honofre Cabrera	2-24-03	Order dated 10-5-17, resetting the hearing on the instant case on 4-12-18 at	No further action/setting by the subject court as of the date of the judicial audit.

				8:30 in the morning, on account of the manifestation of the defense counsel that accused is already dead, and the said information needs to be verified.	
5	10-064-G	Pp. vs. Randy Magale	12-23-10	Order dated 5-16-19, directing the issuance of a Bench Warrant of Arrest against the accused, and fixing the bail at Php10,000.00. Bench Warrant of Arrest was issued on 7-5-19.	No further action/setting by the subject court as of the date of the judicial audit.
6	19-038-C	Pp. vs. Juan Hinandoy	2-16-19	Commitment Order was issued on 2-21-19.	No further action/setting by the subject court as of the date of the judicial audit.
7	19-041-C	Pp. vs. Francisco Maribong	2-22-19	Order dated 2-27-19, directing the release of the accused who posted his bail.	No further action/setting by the subject court as of the date of the judicial audit.
8	19-056-G	Pp. vs. Corcodia Saragueles Aceveda	3-19-19	Order dated 5-9-19, directing the counsel for the accused to amend his Motion. Reinvestigation Report of the public prosecutor was filed on 7-30-19.	No compliance as regards the amendment of the Motion, and no further action by the subject court as of the date of judicial audit.
9	FC-12-06-C	Pp. vs. Vincent Manila	4-11-12	Order dated 5-30-18, resetting the trial on 10-31-18.	No further action/setting by the subject court as of the date of the judicial audit.

10	19-097-C	Pp. vs. Leopoldo Lenciano	5-3-19	Order dated 6-3-19, directing the release of the accused after he posted bail.	No further action/setting by the subject court as of the date of judicial audit.
11	19-105-G	Pp. vs. Donato C. Riveral, Jr.	5-27-19	Order dated 6-3-19, directing the release of the accused after he posted bail.	No further action/setting by the subject court as of the date of the judicial audit.
12	FC-12-73-G	Pp. vs. Mendino Gallardo	6-7-12	Order dated 12-6-18, resetting the trial on 5-2-19.	No further action/setting by the subject court as of the date of the judicial audit.
13	19-006-L	Pp. vs. Russel Magos Torino	1-17-19	Commitment Order was issued on 2-21-19.	No further action/setting by the subject court as of the date of the judicial audit.
14	19-033-C	Pp. vs. Roberto Quibrantar	7-15-19	Order dated 7-19-19, directing the release of the accused upon the approval of his bail.	No further action/setting by the subject court as of the date of the judicial audit.
15	19-113-C	Pp. vs. Vanessa Baylon	6-4-19	Commitment Order was issued on 6-20-19.	No further action/setting by the subject court as of the date of the judicial audit.
16	FC-19-28-L	Pp. vs. Kent Absin Gallosa	6-28-19	Order dated 7-5-19, directing the prosecution to file its Comment on the Motion for Judicial Determination of Probable Cause within five (5) days.	No compliance on the said Order, and no further action by the subject court as of the date of the judicial audit.
17	FC-11-03-G	Pp. vs. Luther Estorco	1-17-11	Order dated 5-16-19, resetting the Pre-Trial on 5-16-19.	No further action/setting by the subject court as of the date of the judicial audit.
18-19	FC-04-10-G and	Pp. vs. Rady Alcala	3-25-04	Order dated 3-14-19, setting	No further action/setting by

	FC-04-042-G			the instant case for the continuation of the initial trial on 8-15-19.	the subject court as of the date of the judicial audit.
20	15-142-G	Pp. vs. Jolar C. Cantile	11-16-15	Order dated 2-28-19, resetting the hearing on 5-9-19.	No further action/setting by the subject court as of the date of the judicial audit.
21-22	19-110-V and 19-111-V	Pp. vs. Tonny Laguido	3-3-19	Warrant of Arrest dated 6-4-19. Commitment Order dated 6-4-19.	No further action/setting by the subject court as of the date of the judicial audit.
23	19-115-V	Pp. vs. Richie Dale Ramirez	6-13-19	Warrant of Arrest dated 6-3-19. Commitment Order dated 6-13-19. Order dated 6-14-19, directing the release of the accused after he posted bail.	No further action/setting by the subject court as of the date of the judicial audit.
24-25	19-089-C and 19-090-C	Pp. vs. Jumenick Maquiling	4-17-19	Warrant of Arrest dated 4-22-19. Commitment Order dated 4-22-19.	No further action/setting by the subject court as of the date of judicial audit.
26	19-116-V	Pp. vs. Joseph Rojo	6-13-19	Warrant of Arrest dated 6-13-19. Commitment Order dated 6-13-19. Order dated 6-14-19, directing the release of the accused after posting bail.	No further action/setting by the subject court as of the date of the judicial audit.

27	18-031-V	Pp. vs. Jolito Montemayor	3-27-18	Motion to Plea Bargain was filed on 11-7-18. Order dated 11-6-18, stating that, *"considering that there is a standing motion for plea bargaining and considering further that the conflict of the Supreme Court Circular and DOJ Circular with respect to Sec. 5 is still subjudice, action in this case is held in abeyance."*	No further action by the subject court as of the date of the judicial audit.
28-29	18-021-L to 18-023-L	Pp. vs. Larry Sampero	3-19-18	Order dated 11-6-18, holding in abeyance the proceedings in the instant cases pending the resolution by the Supreme Court of the conflict between the SC Circular and the DOJ Circular on the plea bargaining guidelines.	No further action by the subject court as of the date of the judicial audit.
30	18-050-V	Pp. vs. Anthony Wendell Tarugo	6-8-18	Motion for Plea Bargaining was filed on 11-7-18. Order dated 11-6-18, stating that, *"considering that there is a standing motion for plea bargaining and*	No further action by the subject court as of the date of the judicial audit.

				considering further that the conflict between the Supreme Court Circular and the DOJ Circular with respect to Sec. 5 is still subjudice, the action on this case is held in abeyance."	
31-32	15-001-L and 15-002-L	Pp. vs. Rando Dacillo Benlot	1-5-15	Motion to Plea Bargain was filed on 11-7-18. Order dated 11-6-18, holding in abeyance the resolution on the said Motion due to the conflict between the guidelines under the SC Circular and the DOJ Circular with respect to Sec. 5, R.A. 9165.	No further action by the subject court as of the date of the judicial audit.
33-34	16-220-C and 16-221-C	Pp. vs. Julmar Gabagaba	12-9-16	Order setting the continuation of the trial on 4-24-19.	No further action/setting by the subject court as of the date of the judicial audit.
35	02-043-G	Pp. vs. Proculo Gako, et al.	6-10-02	Order dated 4-19-18, stating that the prosecution is deemed to have rested its case, and noting further that the prosecution has not yet submitted its Formal Offer of Exhibits.	There is no Formal Offer of Exhibits submitted by the prosecution on record, and there is no further action/setting therein by the subject court as of the date of the judicial audit.

Civil Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Last Action Taken**	**Remarks**
36	FC-17-03-V	Cecilia Bernus vs. Geoffrey Rigor	3-17-17	Issuance of Summons dated 3-17-17.	No Return on the said Summons, and no further action by the subject court as of the date of the judicial audit.
37	FC-17-04-C	Nelly Estrada vs. Joemon Estrada	9-18-17	Order dated 6-18-19, directing the public prosecutor to investigate whether or not collusion exits between the parties.	No compliance on record, and no further action by the subject court as of the date of the judicial audit.
38	FC-16-03-C	Jay Dayondon vs. Charrie Dayondon	3-14-16	Answer was filed on 7-12-16. Order dated 12-6-17, stating that, *"when this case was called for pre-trial, petitioner and counsel appeared. There was no appearance on the part of the respondent and counsel. Considering the attendant circumstances, petitioner is given ten days to file his legal opinion. In the meantime, this case is held in abeyance."*	No compliance on record, and no further action by the subject court as of the date of the judicial audit.
39	FC-12-01-G	Ronard M. Susas vs. Robie A. Susas	4-25-12	Summons dated 4-25-12 was duly served per Return that was	No compliance on record, and no further action by the subject court

				submitted on 5-9-12. The Notice of Appearance of the Office of the Solicitor General was filed on 6-6-12. Order dated 9-6-18, directing the public prosecutor to conduct an investigation whether or not collusion exists between the parties.	as of the date of the judicial audit.
40	FC-17-06-G	Niña Ventula vs. Mario Ventula	11-16-17	Order dated 11-29-17, stating that there was no urgency in issuing the Permanent Protection Order, and setting the instant case for preliminary conference on 12-17-17.	No further action/setting by the subject court as of the date of the judicial audit.
41	FC-14-02-V	Guillermo Laguda vs. Karen Balo-an	12-19-14	Order dated 9-13-18, holding the proceedings on the instant case in abeyance.	No further action/setting by the subject court as of the date of the judicial audit.

Fifth, the judicial audit team classifies thirty-nine (39) criminal cases that may be archived, following the guidelines set forth in OCA Circular No. 89-2004[2] dated 12 August 2004, and reiterated in A.M. No. 15-06-10-SC[3] dated 25 April 2017. The

[2] Reiteration of the Guidelines in the Archiving of Cases.

[3] Revised Guidelines for Continuous Trial of Criminal Cases.

following is the list of these cases with their corresponding details:

Criminal Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Last Action Taken**	**Remarks**
1-4	FC-16-23-G; FC-16-24-G; 16-080-G; and 16-081-G	Pp. vs. Jelord Melancolico	4-29-16	Order dated 8-8-19, resetting the arraignment of the accused who is of unsound mind, and is presently undergoing treatment at Talay Rehabilitation Center.	The said cases against the accused may be archived while his treatment is on-going, if he is of unsound mind and unfit to stand trial.
5	17-45-C	Pp. vs. Elfren Ann Millares	9-22-17	Order dated 9-12-18, holding in abeyance the proceedings in the subject case pending the report by the attending physician that the accused is fit to stand trial.	No compliance on record as of the date of the judicial audit. The case against the accused may be archived if based on the medical report, he is found unfit to stand trial.
6-7	19-131-C and 19-132-C	Pp. vs. Luarence-Cin Penkian	1-12-19	Warrant of Arrest was issued on 1-15-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
8	19-134-C	Pp. vs. Antonio Amparado, et al.	7-16-19	Warrant of Arrest was issued on 1-19-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of

					the said Warrant of Arrest.
9	19-135-C	Pp. vs. Joeneven Seraquillo	7-16-19	Warrant of Arrest was issued on 1-16-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
10	19-001-G	Pp. vs. Carl Ray Justiniani	1-3-19	Warrant of Arrest was issued on 1-10-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
11	19-016-G	Pp. vs. Gil Marco	1-30-19	Warrant of Arrest was issued on 2-6-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
12	19-020-G	Pp. vs. Pablo Niminio	1-31-19	Warrant of Arrest was issued on 2-6-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
13	19-003-G	Pp. vs. Jeboy Tuayon, et al.	1-11-19	Warrant of Arrest was issued on 1-21-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit.

					The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
14	19-004-G	Pp. vs. Thomas Isugan and several John Does	1-11-19	Warrant of Arrest was issued on 1-21-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
15	19-007-G	Pp. vs. Josephine Saguran	1-22-19	Warrant of Arrest was issued on 2-6-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
16	19-136-G	Pp. vs. Joeneven Seraquillo	7-16-19	Warrant of Arrest was issued on 1-19-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
17	19-029-G	Pp. vs. Rolando Lado	2-7-19	Warrant of Arrest was issued on 2-7-19, and the same was received by the Philippine National Police on 2-13-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.

18	19-024-G	Pp. vs. Jeremy Gelacio	2-1-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
19	FC-19-03-L	Pp. vs. Gerome Billiones	1-17-19	Warrant of Arrest was issued on 1-21-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
20	19-011-G	Pp. vs. Jiboy Pasinabo	1-24-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
21	19-014-G	Pp. vs. Marilou Alangilan	1-28-19	Warrant of Arrest was issued on 2-6-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
22	19-015-G	Pp. vs. Baldo Acero	1-29-19	Warrant of Arrest was issued on 2-6-19, and the same was forwarded to the Philippine	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still

				National Police on 2-7-19.	remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
23	19-009-V	Pp. vs. Hipolito De Asis	1-22-19	Warrant of Arrest was issued on 2-6-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
24	19-010-G	Pp. vs. Ame Baquilta	1-23-19	Warrant of Arrest was issued on 2-6-19, and the same was forwarded to the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
25-26	19-030-G and 19-031-G	Pp. vs. Selverio Amalio	2-7-19	Warrant of Arrest was issued on 2-7-19, and the same was forwarded to the Philippine National Police on 2-13-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
27	19-032-G	Pp. vs. Danny Dalino	2-7-19	Warrant of Arrest was issued on 2-7-19, and the same was forwarded to the Philippine National Police on 2-13-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.

28	19-012-G	Pp. vs. Pompeo Landesa	1-24-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
29	19-019-G	Pp. vs. Vivian Tormis	1-31-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
30	19-021-G	Pp. vs. Caesar Baquilta	1-31-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
31	19-022-G	Pp. vs. Undo Burdado	1-31-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine National Police on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
32	19-023-G	Pp. vs. Junior Isugan	1-31-19	Warrant of Arrest was issued on 2-6-19, and the same was received by the Philippine	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still

				National Police on 2-7-19.	remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
33	19-028-G	Pp. vs. Julian Villanueva	2-7-19	Warrant of Arrest was issued on 2-7-19, and the same was received by the Philippine National Police on 2-13-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
34-35	FC-19-01-G and FC-19-02-G	Pp. vs. Demar Casulay Calago	1-9-19	Warrant of Arrest was issued on 1-21-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
36-38	FC-19-04-L to FC-19-06-L	Pp. vs. Edmar Lazaro	1-17-19	Warrant of Arrest was issued on 1-21-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.
39	FC-19-07-G	Pp. vs. Jomar Casipong Aris	2-7-19	Warrant of Arrest was issued on 2-7-19.	No Return on the said Warrant of Arrest as of the date of the judicial audit. The accused still remains at-large after six (6) months from the issuance of the said Warrant of Arrest.

Sixth, as to the subject court's compliance with the laws, rules, circulars, and other issuances of the Supreme Court, the following are the team's findings:

1. Most Pre-Trial Orders were signed by the parties, but a few were either partially signed or were not signed at all;

2. A Certificate of Arraignment was issued to the accused upon arraignment in all criminal cases;

3. It was a prevalent practice of the subject court to still direct the issuance of a Warrant of Arrest even if the accused was already in custody at the time of the filing of the case, despite having already issued a Commitment Order;

4. It has been observed that some orders issued by the subject court were repetitive and contradictory. For instance, in Criminal Case No. 17-096-C,[4] the accused's Proposal to Plea Bargain filed on 16 July 2018 was denied in the Order dated 12 September 2018. However, in the ensuing Order dated 12 December 2018, it was stated that *"[t]here being a proposal for plea bargaining, reset this case to May 15, 2019 at 8:30 in the morning"*;

5. In drugs cases, the subject court deferred the resolution on a number of motions to plea bargain due to the conflict between the guidelines set forth in the Supreme Court Circular and the Department of Justice Memorandum until such time that the said conflict was resolved by the Supreme Court. The said motions remained unacted upon and unresolved for quite some time as of the date of the judicial audit;

6. The subject court, upon the filing of a Motion to Allow the Accused to Plea Bargain, directed the accused to submit to a drug dependency examination even before

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[4] Titled *"People of the Philippines vs. Nelfen Calanza,"* for violation of Sec. 5, R.A. No. 9165.

it resolved the pending motion. This practice was not in accord with the framework for plea bargaining in drugs cases since the presumption is that the requirements for the accused to undergo a drug dependency examination was directed after the favorable resolution of the said motion. Hence, in A.M. No. 18-03-16-SC,[5] under the Remarks column, it is provided that, *"[i]n all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If the accused admits drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his after-care and follow-up program is penalty is still unserved"*; and

7. It should be noted that in the Minutes of the Hearing, the total duration of the hearings lasted for only two (2) hours at most, considering that the actual hearings usually started at past 10:00 a.m. and ended at 12:00 noon. However, in the orders setting the case for hearing, it was indicated that the hearing starts at 8:30 a.m. There was also no showing that hearings were conducted in the afternoon. This practice contradicted the mandate provided in A.M. No. 15-06-10-SC.[6]

Seventh, the judicial audit team pinpointed seventy-one (71) cases with court actions that may constitute a violation or violations of existing laws, the Rules of Court, circulars and other issuances of the Supreme Court. These cases are delineated in the subsequent table:

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[5] Adoption of the Plea Bargaining Framework in Drugs Cases dated 10 April 2018.

[6] *Ibid*.

Criminal Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Court Action**	**Observation(s)/ Finding(s)**
1-2	03-014-G and 03-015-G	Pp. vs. Honofre Cabrera	2-24-03	Application for Bail was filed on 7-17-03. Order dated 2-9-06, submitting the said application for decision, and giving the prosecution five (5) days from receipt to file its Formal Offer of Exhibits, and five (5) days from receipt for the defense to file its Comment. Prosecution's Formal Offer of Exhibits was filed on 2-28-06, while the corresponding Comment thereto was submitted on 3-2-06. Order dated 2-27-06, granting the Petition for Bail. Court of Appeals Resolution dated 6-25-08 on C.A. G.R. SP No. 01919, received by the subject court on 7-10-08, directing the latter to order the arrest and detention of the accused, and to cancel his bail. Court of Appeals Resolution dated 8-26-08, denying the Motion for	Since the instant case was filed in 2003, Pre-Trial has not yet commenced even up to the time of the judicial audit. Apparently, the subject court patently disregarded the Resolution of the Court of Appeals dated 25 June 2008 in C.A. G.R. SP No. 01919, directing it to order the revocation of the bail posted by the accused and for the latter's arrest and detention, since nothing in the case records would show that the subject court complied with the said directive. Likewise, despite its receipt of the Supreme Court Resolution on G.R. No. 192919, denying the Petition for Review on the said Court of Appeals Resolution, there is still no compliance on record by the subject court on the said directive of the Court of

				Reconsideration. Resolution of the First Division of the Supreme Court dated 10-20-10, on G.R. No. 192919, denying the Petition for Review. The said Resolution was received by the subject court sometime in May 2011. Manifestation dated 10-5-17, stating the death of the accused, with prayer for the dismissal of the said cases. Order dated 10-5-17, resetting the hearing on these cases to 4-12-18 at 8:30 in the morning, considering that the manifestation of the defense counsel that accused is already dead needs to be verified.	Appeals as of the date of the judicial audit. To date, the accused remains at-large, and the instant case remains dormant, there being no further action or setting therein, after the issuance of the Order dated 5 October 2017, setting the instant case for hearing on 12 April 2018.
3	13-098-G	Pp. vs. Dandy Demiren	9-23-13	Order dated 5-9-19, resetting the initial trial on 9-12-19.	There is a discrepancy relative to the date of arraignment, since in the Certificate of Arraignment the accused was arraigned on 22 May 2014, while in the corresponding Order, he was

					arraigned on 3 June 2014.
4	16-225-V	Pp. vs. Lester G. Benlot	12-13-16	Order dated 3-26-19, stating that, *"considering that the private complainant is already dead, this case should be as it is hereby ordered DISMISSED."*	There is nothing in the case records to suggest that the subject court's dismissal of the instant case was made through the Motion of the public prosecutor, or that the latter concurred in the said decision. Moreover, the case records are devoid of any information that proof of death of the accused was submitted in evidence before the subject court, and that the same was considered in arriving at the decision to dismiss the instant case.
5	14-114-G	Pp. vs. Marla Ompoc Hailand	6-26-14	Motion to Suppress Evidence was filed on 10-28-14, and the Opposition to the Motion to Suppress Evidence was submitted on 11-17-14. Order dated 3-31-15, denying the said Motion.	The resolution on the said Motion was delayed, considering that the same should have been decided on or before 15 February 2015.
6	14-001-G	Pp. vs. Edgar Icalina	11-26-14	Motion for Bail was filed on 6-24-14. Order dated 5-30-19, resetting the	A Motion for Bail was already filed as early as 24 June 2014, and apparently, the same was not

				instant case due to the intended filing of a Motion for Bail.	acted upon by the subject court and remains unresolved as of the date of the judicial audit.
7	12-017-C	Pp. vs. Eleuterio Maglasang, Jr.	1-31-12	Application for Bail was filed on 3-6-12. Order dated 12-17-14, submitting the said Application for Bail for resolution. Order dated 3-11-15, granting the Motion for Reduction of Bail filed on 3-10-15. Formal Offer of Exhibits by the accused was filed on 11-14-18 (reverse trial).	The instant case involves the crime of Murder, hence, non-bailable. However, there is no record of any resolution on the said Application for Bail after it was submitted for resolution on 17 December 2014. Instead, the subject court issued an Order granting the Motion to Reduce Bail even if there was no resolution yet on the Application for Bail.
8-9	FC-08-05-V and FC-08-06-V	Pp. vs. Celso Supremo	4-15-08	Formal Offer of Exhibits of the prosecution was filed on 11-26-17. Order dated 11-28-17, directing the defense to file its Comment thereto within five (5) days. Order dated 8-6-19, directing anew the defense to file its Comment within ten (10) days, and setting the presentation of defense evidence on 12-3-19.	There was inordinate delay in the submission of the Comment by the defense on the Formal Offer of Exhibits of the prosecution, spanning close to two (2) years from the time it was first directed to file the same on 28 November 2017. The subject court should have *motu proprio* ordered for the waiver of the said Comment owing to the delay, and outrightly

					resolved the pending incident. As a consequence of the delayed compliance, the instant case has been dormant for the last two (2) years as of the date of the judicial audit.
10	16-117-V	Pp. vs. Millard C. Aplicador	6-27-16	Motion to Release the Items Subject of the Case was filed on 3-30-16, and the corresponding Comment thereon was submitted on 8-1-16. Order dated 3-6-18, resolving the said Motion.	There was inordinate delay of almost two (2) years in the resolution of the said Motion.
11	18-24-L	Pp. vs. Wilfredo Absin	9-3-18	Order dated 3-26-19, dismissing the instant case due to the manifestation of the complainant that she and her accused-husband have already patched things up.	There is nothing in the case records which shows that the public prosecutor was directed to Comment on the said Manifestation prior to the *motu proprio* dismissal of the instant case by the subject court.
12	18-006-V	Pp. vs. Teodoro Andraque	1-25-18	Order dated 5-7-19, conducting the arraignment of the accused in Crim. Case No. 18-005-V.	There is nothing in the case records to show that accused Teodoro Andraque was arraigned. It was only accused Sixto Andraque who was arraigned in Crim. Case No. 18-005-V.

13-14	FC-04-10-G and FC-04-042-G	Pp. vs. Rady Alcala	3-25-04	Court of Appeals Decision dated 7-11-11, remanding the instant cases to the subject court for the reception of the prosecution's evidence. The said Court of Appeals decision was received by the subject court on 3-1-12. Order dated 9-13-18, resetting the hearing on the said cases on 3-14-19, after the same were remanded to the subject court. Order dated 3-14-19, setting the instant cases for continuation of the initial trial on 8-15-19.	It can be gleaned from the flow of the proceedings that there was inordinate delay by the subject court to comply with the Court of Appeals' directive, and set the instant cases for hearing after it received the appellate court's decision on 1 March 2012; taking more than six (6) years before it issued the Order dated 13 September 2018, setting the hearing on 14 March 2019.
15	12-023-G	Pp. vs. Cerelo Ferolino Tejares	2-22-12	Prosecution's Formal Offer of Exhibits was received on 6-30-17. Order dated 11-16-17, directing the defense to file its Comment on the said Formal Offer of Exhibits within five (5) days. However, no Comment was submitted. Order dated 8-1-18, admitting the said Formal Offer of Exhibits.	It can be gleaned from the flow of the proceedings that there was no compliance by the defense on the subject court's Order to file its Comment on the prosecution's Formal Offer of Exhibits. Consequently, on 1 August 2018, the subject court admitted the Prosecution's Formal Offer of Exhibits, without the Comment of

				Order dated 11-15-18, directing the defense to again file its Comment on the said Formal Offer of Exhibits within five (5) days. Order dated 5-16-19, stating that, *"[t]he State in this case having already rested its case and filed its FOE, the defense intimated to the court that he is filing his comments to the FOE. Reset this case to 10-29-19."*	the defense. However, the subject court still continued to reiterate its directive for the defense to file its Comment in the ensuing Orders dated 15 November 2018 and 16 May 2019, notwithstanding its prior ruling on the said Formal Offer of Exhibits. Such a repetitive act contributes largely to the further delay in the litigation of the instant case.
16	11-008-C	Pp. vs. Juvy Renejani, et al.	2-2-11	Prosecution's Formal Offer of Exhibits was filed on 10-26-16. Order dated 11-10-16, admitting the said Formal Offer of Exhibits despite the failure of the defense to file its Comment thereon. Order dated 11-29-17, directing the defense to file its Comment on the said Formal Offer of Exhibits.	Based on the Order dated 10 November 2016, the defense has not filed its Comment on the Formal Offer of Exhibits of the prosecution. Notwithstanding, the said Formal Offer of Exhibits was admitted. However, the subject court still continued to reiterate its directive for the defense to file is Comment in the ensuing Order dated 29 November 2017, despite its previous ruling on the said Formal

					Offer of Exhibits. Such a repetitive act contributes largely to the further delay in the litigation of the instant case.
17	16-087-C	Pp. vs. Narciso Omboy, et al.	5-11-16	Motion to Dismiss with an Affidavit of Desistance filed on 8-5-16. Order dated 9-20-17, denying the said Motion on the basis of the Manifestation of the prosecutor that he can probably secure the conviction of the accused.	There was inordinate delay of over one (1) year and three (3) months in resolving the said Motion which is way beyond the reglementary period to resolve the same.
18	00-024-G	Pp. vs. Ranulfa Alpas	4-3-00	Order dated 7-26-06, archiving the instant case for the reason that the accused had jumped bail. Order dated 4-26-11, setting the Pre-Trial Conference on 3-31-11, and the Pre-Trial on 6-19-11. Notice of Hearing dated 1-15-16.	The reason adduced in archiving the instant case, as stated in the Order dated 26 July 2006, is not among those allowed under OCA Circular No. 89-2004 dated 12 August 2004.[7] The case of an accused who jumped bail may only be archived if she/he is not yet arraigned and can no longer be arrested by the bondsman. This, however, is not the situation in the instant case since

[7] Reiteration of the Guidelines in the Archiving of Cases.

					prior to its archiving, the accused was already arraigned on 3 April 2000. The subject court should have conducted a trial in *absentia* which is authorized under Sec. 14 (2), Article III of the Constitution, which provides that, "*after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.*" Moreover, the instant case has become dormant for about five (5) years, there being no movement in the proceedings therein from the issuance of the Order dated 26 April 2011, setting the Pre-Trial Conference on 31 March 2011 and the Pre-Trial on 19 June 2011, to the issuance of the Notice of Hearing dated 15 January 2016.
19	FC-17-48-G	Pp. vs. Ailita Herebit	10-30-17	Order dated 10-18-18, directing the handling prosecutor to	The case records do not show that the subject court afforded the

				reinvestigate the propriety of releasing the accused when the offense charged is considered to be non-bailable. Motion to Expunge the Record of Arraignment (for reinvestigation purposes) filed on 11-5-18. Order dated 12-12-18, granting the said Motion, and directing the public prosecutor to conduct the reinvestigation. Motion to Admit Amended Information filed on 2-14-19. Order dated 2-27-19, granting the said Motion.	defense the opportunity to file its corresponding Comment/s relative to the said Motions.
20	17-070-C	Pp. vs. Romulo Tan	7-1-17	Motion to Allow the Accused to Plea Bargain was filed on 8-13-18. Order dated 11-14-18, stating that, *"considering that there is a standing motion for plea bargaining and considering further that the conflict between the Supreme Court Circular and Department of Justice Circular with respect to*	As of the date of the judicial audit, the resolution on the instant Motion is already delayed for a year because the subject court deferred its ruling on the same until the said conflict is finally resolved. However, the said Order is devoid of any information regarding how the said conflict will be resolved and by whom, or if there

				Sec. 5 is still to be resolved, reset this case to March 20, 2019 at 8:30 in the morning."	is a pending case on the matter before the Supreme Court for resolution. Notwithstanding, it bears to emphasize that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[8] dated 4 May 2018, OCA Circular No. 80-2019[9] dated 30 May 2019, and OCA Circular No. 104-2019[10] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. Specifically, OCA Circular No. 80-2019 unequivocally enunciates that judges are bound to exercise their

[8] Plea Bargaining Framework in Drugs Cases [in reference to Resolution dated April 10, 2018 of the Court *En Banc* in Administrative Matter No. 18-03-16-SC (Adoption of the Plea Bargaining Framework in Drugs Cases)].

[9] Minute Resolution dated April 2, 2019 in A.M. No. 18-03-16-SC (Re: Letter of Associate Justice Diosdado M. Peralta on the Suggested Plea Bargaining Framework Submitted by the Philippine Judges Association).

[10] Court *En Banc* Resolution dated June 4, 2019 in A.M. No. 18-03-16-SC (Re: Adoption of Plea Bargaining Framework in Drug Cases).

					judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.
21-22	09-002-L and 09-003-L	Pp. vs. Dave Clark Rife	1-27-09	Order dated 4-18-18, directing the defense counsel to comply with all the requirements	With regard to the Order dated 13 November 2018, reference is made to OCA Circular

				for plea bargaining so that the court can act on his manifestation that the accused intends to plea-bargain. Order dated 11-13-18, resetting the hearing on the instant cases on 3-12-19, pending the resolution by the Supreme Court on the conflict between the SC Circular and DOJ Memorandum. Order dated 1-14-19, directing the accused to report to the Negros Oriental Provincial Crime Laboratory in Dumaguete City for a drug dependency examination.	No. 80-2019[11] dated 30 May 2019, mandating judges to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, it is incumbent upon the subject court to accordingly act on the pending

[11] *Ibid.*

					Motion to Plea Bargain. However, there is nothing in the case records which shows that accused filed any Motion to Plea Bargain. Notwithstanding, the subject court issued the Order dated 4 September 2018, directing the accused to undergo a drug dependency examination despite the absence of any corresponding Motion to Plea Bargain, and granting that the said Motion was filed, the said Order was issued prior to the ruling of the same.
23	14-141-G	Pp. vs. Roy Sereno	8-7-14	Prosecution's Formal Offer of Exhibits for the Petition for Bail was filed on 6-25-15. Order dated 4-28-16, admitting the said Formal Offer of Exhibits, and submitting for resolution the Petition for Bail (defense waived the presentation of its evidence). Motion for Reconsideration	There was inordinate delay of almost one (1) year in the issuance of the ruling on the prosecution's Formal Offer of Exhibits. Likewise, there was also inordinate delay of close to a year in resolving the Petition for Bail which was submitted for resolution on 28 April 2016, but

				on the Order dated 4-28-16 was received on 6-3-16, regarding the proper marking of exhibits on the formal offer. Order dated 6-10-16, granting the said Motion for Reconsideration. Order dated 3-20-17, denying the Motion for Bail.	was only decided on 20 March 2017.
24	19-123-C	Pp. vs. Jannelo Bulandres	6-19-19	Motion to Release Impounded Motorcycle to its Registered Owner was filed on 7-26-16. Order dated 7-29-19, granting the said Motion.	There was inordinate delay of three (3) years in resolving the said Motion.
25-26	04-051-G and 04-052-G	Pp. vs. Vicente Vergara	6-24-04	Motion for Reduction of Bail (from P200,000.00 to P100,000.00) was filed on 9-24-04. Order dated 12-2-04, denying the said Motion. A copy of the said Order was personally received on 12-10-04 by Atty. Jasper Adrian P. Cadelina, counsel of record of the accused. Accused's Motion for Reconsideration	Upon perusal of the case records, it reveals that the public prosecutor on record was public prosecutor Ethyl B. Eleccion who was the one furnished a copy of the Motion for Reduction of Bail that she received on 2 December 2004. She was also the public prosecutor during the arraignment of the accused, as well as during the conduct of the Pre-Trial and the initial trial. However, in

				on the Order dated 12-2-04 was filed on 3-21-05. Order dated 3-22-05, granting the said Motion for Reconsideration. Opposition to the Motion for Reconsideration was filed by public prosecutor Eleccion on 4-8-05. Motion for Further Reduction of Bail (from P100,000.00 to P60,000.00) was filed on 8-11-05. Order dated 10-11-05, granting the said Motion.	resolving the said Motion for Reduction of Bail, the said public prosecutor was not required by the subject court to submit her Comment Opposition thereon. Interestingly, in the hearing on the said Motion for Reconsideration on 22 March 2005, public prosecutor Eleccion was not present. In her stead was public prosecutor Macarieto I. Trayvilla, in a "*special appearance*," who interposed no objection to the said Motion for Reconsideration. Ironically, on 8 April 2005, prosecutor Eleccion filed her Opposition to the said Motion for Reconsideration but the same was unacted upon by the subject court since it resolved with apparent haste the pending incident on 22 March 2005, a day after it was filed.
27	16-174-C	Pp. vs. Michael Villarante	9-2-16	The Minutes of the Hearing dated 15 August 2018	Evidently, the subject court merely relied on

				states that, *"regarding the plea bargain, the State is opposed to it. Said incident is denied."* Order dated 10-3-18, denying the Motion for Reconsideration to the order denying the Motion to Plea Bargain filed on 8-24-18.	the objection or opposition of the public prosecutor in denying the said Motion for Reconsideration, without even considering the grounds and arguments propounded therein. It should be emphasized that OCA Circular No. 80-2019[12] mandates judges to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot*

[12] *Ibid.*

					just defer to the policy of another Branch of the government." (underscoring provided)
28	09-033-C	Pp. vs. Vannie Baluran	6-30-00	Date of the initial trial on 3-30-11. Order dated 3-20-19, resetting the trial on 9-18-19.	There were apparent inordinate delays in the hearings of the instant case, considering that no hearings were conducted from 4 November 2015 to 20 March 2019, or for a period of more than three (3) years, due to innumerable postponements.
29	18-031-V	Pp. vs. Jolito Montemayor	3-27-18	Motion to Plea Bargain was filed on 11-7-18. Order dated 11-6-18, stating that, *"considering that there is a standing motion for plea bargaining and considering further that the conflict of the Supreme Court Circular and DOJ Circular with respect to Sec. 5 is still subjudice, action in this case is held in abeyance."*	As of the date of the judicial audit, the said Motion remains unresolved and the instant case is considered as dormant, there being no further setting therein or action done by the subject court on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining

					Framework in Drugs Cases, to wit: OCA Circular No. 90-2018[13] dated 4 May 2018, OCA Circular No. 80-2019[14] dated 30 May 2019, and OCA Circular No. 104-2019[15] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. Moreover, as enunciated in OCA Circular No. 80-2019, judges are bound to exercise their judicial discretion in resolving objections to the plea-bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally*

[13] *Ibid.*

[14] *Ibid.*

[15] *Ibid.*

					demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government." (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright. It should also be noted that the Order dated 6 November 2018, holding the proceedings in the instant case in abeyance due to the filing of the Motion to Plea Bargain, was issued a day earlier than the filing of the said Motion to Plea Bargain, which was only submitted a day after, or on 7 November 2018.
30-32	18-021-L to 18-023-L	Pp. vs. Larry Sampero	3-19-18	Order dated 11-6-18, holding in abeyance the proceedings in the instant cases pending the resolution by the	As of the date of the judicial audit, the instant case is deemed as dormant, there being no further setting or action

				Supreme Court of the conflict between the SC Circular and DOJ Circular on the plea bargaining guidelines.	done by the subject court on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea-bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[16] dated 4 May 2018, OCA Circular No. 80-2019[17] dated 30 May 2019, and OCA Circular No. 104-2019[18] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. As enunciated in OCA Circular No. 80-2019, judges are mandated to exercise their judicial discretion in resolving

[16] *Ibid.*

[17] *Ibid.*

[18] *Ibid.*

					objections to the plea-bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.
33	18-050-V	Pp. vs. Anthony Wendell Tarugo	6-8-18	Motion for Plea Bargaining was filed on 11-7-18. Order dated 11-6-18, stating that, *"considering that there is a standing*	As of the date of the judicial audit, the said Motion remains unresolved and the instant case is considered as dormant, there

				motion for plea bargaining and considering further that the conflict between the Supreme Court Circular and DOJ Circular with respect to Sec. 5 is still subjudice, the action on this case is held in abeyance."	being no further setting therein or action done by the subject court on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea-bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[19] dated 4 May 2018, OCA Circular No. 80-2019[20] dated 30 May 2019, and OCA Circular No. 104-2019[21] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. As enunciated in OCA Circular No. 80-2019, judges are mandated to exercise their

[19] *Ibid.*

[20] *Ibid.*

[21] *Ibid.*

					judicial discretion in resolving objections to the plea-bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.
34-35	15-001-L and 15-002-L	Pp. vs. Rando Dacillo Benlot	1-5-15	Motion to Plea Bargain was filed on 11-7-18. Order dated 11-6	As of the date of the judicial audit, the said Motion remains unresolved and

				18, holding in abeyance the resolution on the said Motion due to the conflict between the guidelines under the SC Circular and the DOJ Circular with respect to Sec. 5, R.A. 9165.	the instant case is considered as dormant, there being no further setting therein or action done by the subject court on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea-bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[22] dated 4 May 2018, OCA Circular No. 80-2019[23] dated 30 May 2019, and OCA Circular No. 104-2019[24] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. As enunciated in OCA Circular No. 80-2019, judges

[22] *Ibid.*

[23] *Ibid.*

[24] *Ibid.*

					are mandated to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled considering that judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.
36-37	19-110-V and 19-111-V	Pp. vs. Tonny Laguido	3-3-19	Warrant of Arrest dated 6-4-19. Commitment	It should be noted that the subject court still issues

				Order dated 6-4-19.	an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 4 June 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant cases. In instances such as this, the subject court needs only to issue a Commitment Order.
38	19-115-V	Pp. vs. Richie Dale Ramirez	6-13-19	Warrant of Arrest dated 6-3-19. Commitment Order dated 6-13-19. Order dated 6-14-19, directing the release of the accused after he posted bail.	It should be noted that the subject court still issues an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 3 June 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant case. In instances such as this, the subject court needs only to issue a Commitment Order.
39-40	19-089-C and 19-090-C	Pp. vs. Jumenick Maquiling	4-17-19	Warrant of Arrest dated 4-22-19. Commitment Order dated 4-22-19.	It should be noted that the subject court still issues an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 22

					April 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant cases. In instances such as this, the subject court needs only to issue a Commitment Order.
41	19-116-V	Pp. vs. Joseph Rojo	6-13-19	Warrant of Arrest dated 6-13-19. Commitment Order dated 6-13-19. Order dated 6-14-19, directing the release of the accused after posting bail.	It should be noted that the subject court still issues an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 13 June 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant case. In instances such as this, the subject court needs only to issue a Commitment Order.
Civil Cases					
No.	**Case No.**	**Title**	**Date Filed**	**Court Action**	**Observation(s)/ Finding(s)**
42	FC-02-03-G	Hyacinth Escutin vs. Ric Richard Liclican (for Voiding of Marriage)	3-21-02	Decision dated 9-1-07, declaring the marriage void.	There was an Answer filed on 6 June 2002, but the respondent did not appear during the trial, notwithstanding the fact that he only resides in Dumaguete City.

					Moreover, there is no copy of the Notice of Appearance of the Office of the Solicitor General on record, which is tantamount to the absence of authority of the public prosecutor to represent the State in the instant case. Finally, no Pre-Trial was conducted thereon, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[25] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
43	FC-11-04-G	Sps. Nicasio Tabilon and Norelie Germunda vs. Jackeline Enero and the LCR of Numancia, Aklan (for Annulment of Marriage)	10-14-11	Decision dated 7-9-17, granting the annulment of marriage.	The decision was fairly swift, given that the instant case was submitted for decision on 6 June 2017 and was decided on 6 July 2017, or approximately only one (1) month thereafter. Moreover, no Pre-Trial was

[25] Re: Proposed Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages dated March 3, 2003.

					conducted considering that the instant case was immediately set for the presentation of evidence *ex parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[26] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
44	FC-95-9-G	Edith Saraña vs. Reinaldo Saraña (for Voiding of Marriage)	6-27-95	Decision dated 2-11-16, declaring the marriage void.	There is no Order on record stating that the instant case is submitted for decision. However, the Memorandum of plaintiff was submitted on 5 May 2011. Hence, the instant case is deemed submitted for decision on 5 May 2011, based on Administrative Circular No. 28,[27] which states that, *"the case shall be considered submitted for decision upon the filing of the last memorandum or*

[26] *Ibid*.

[27] Submission of Memoranda dated July 3, 1989.

					the expiration of the period to do so, whichever is earlier." Accordingly, the decision on 11 February 2016 was already delayed given that the said decision should have been rendered on or before 3 August 2011, or within ninety (90) days after the submission of the instant case for decision on 5 May 2011. Moreover, no Pre-Trial was conducted considering that the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[28] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
45	FC-10-02-G	Monique Jennifer Lim-Sarabia vs. Lloyd Dexter Sarabia (for	10-1-10	Decision dated 6-29-17, declaring the marriage void.	The instant case was submitted for decision on 14 March 2016, but it

[28] *Supra.*

		Nullity of Marriage)			was only decided on 29 June 2017, or approximately one (1) year and three (3) months thereafter. Hence, there was inordinate delay in rendering the said decision. Moreover, no Pre-Trial was conducted considering that the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[29] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
46	FC-02-02-G	Joel Sy vs. Celerina Osorio Sy (for Declaration of Absolute Nullity of Marriage)	3-15-02	Decision dated 4-29-16, nullifying the marriage.	The instant case was submitted for decision on 18 September 2012, although in the Order dated 12 November 2012, the Office of the Solicitor General was given time to file its Comment on the said petition. But there is no compliance thereon in the

[29] *Ibid.*

					records as of the date of the judicial audit. Regardless, the instant case was decided, but only after approximately three (3) years and five (5) months. Hence, there was inordinate delay in rendering the said decision.
47	FC-06-03-G	Sarah de Guia vs. Michael de Guia (for Declaration of Absolute Nullity of Marriage)	5-2-06	Decision dated 7-25-07, declaring the marriage void.	The proceedings in the instant case is exceptionally fast compared to other cases, considering that from the time it was filed on 4 May 2006, the instant case was decided only after one (1) year and two (2) months. Moreover, there is no Order on record to show that the instant case was submitted for decision. It was decided on 25 July 2007, a month after the petitioner filed her Formal Offer of Exhibits on 18 June 2007. Relative thereto, there is also no Order on record to show that the Formal Offer of Exhibits filed by petitioner was resolved by the

					subject court. Obviously, no Pre-Trial was conducted since the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[30] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
48	FC-02-01-G	Yvette Martinez vs. Joseph Francis Martinez (for Annulment of Marriage)	3-1-02	Decision dated 6-15-06, granting the annulment of marriage.	No Notice of Appearance by the Office of the Solicitor General on record, absent which, it cannot be presumed that the public prosecutor is properly deputized to appear for the State in the proceedings thereon.
49	FC-02-06-V	Teodor Calderon Baradi vs. Cherelyn Batilo-Baradi (for Annulment of Marriage)	7-11-02	Decision dated 6-30-08, granting the annulment of marriage.	No Order on record submitting the instant case for decision, but the last Memorandum was filed by petitioner on 3 May 2007. Hence, the instant case was deemed submitted for

[30] *Ibid.*

					decision on 3 May 2007, following Administrative Circular No. 28,[31] which states that, *"the case shall be considered submitted for decision upon the filing of the last memorandum or the expiration of the period to do so, whichever is earlier."* Accordingly, the decision on 30 June 2008 was already delayed since it should have been rendered on or before 1 August 2007. Therefore, there was inordinate delay in deciding the instant case.
50	FC-06-01-V	Trinidad Ejercito Canomay vs. Uldarico Canomay (for Annulment of Marriage)	1-10-06	Decision dated 6-23-08, granting the said annulment of marriage.	There is no Return on the Summons dated 7 February 2006 on record. Moreover, the instant case was submitted for decision on 22 August 2007, and should have been decided on or before 20 November 2007. Hence, the decision rendered on 23 June 2008

[31] *Supra.*

					was already delayed since it was rendered beyond the reglementary period to decide.
51	FC-06-04-G	Charlow Vargas vs. Oscar Vargas (for Annulment of Marriage)	5-30-06	Decision dated 6-8-2015, granting the said annulment of marriage.	There is no Order on record that the instant case was submitted for decision. However, petitioner's Formal Offer of Exhibits was filed on 20 November 2010, but nothing in the record shows that the subject court ruled on the same. Nevertheless, it can be inferred that upon the submission of the said Formal Offer of Exhibits by the petitioner, the latter rested its case. Hence, instant case was deemed submitted for decision on 20 November 2010, and the same should have been decided on or before 18 February 2011. Accordingly, the decision on 8 June 2015 was already delayed since it was rendered beyond the reglementary period to decide.

					Moreover, no Pre-Trial was conducted therein, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[32] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
52	FC-17-04-C	Nelly Estrada vs. Joemon Estrada (for Declaration of Absolute Nullity of Marriage)	9-18-17	The Return on Summons dated 10-10-17 provides that, *"respondent is now in Manila with no address given for almost two (2) years now."* *Ex-Parte* Motion to Serve Summons either by substituted service or by publication was filed on 4-16-18. Order dated 5-30-18, stating that, *"the Sheriff is hereby directed to serve the Summons thru substituted service, should the same be futile, let the Summons and petition and the Order be published in a*	The Order dated 30 May 2018 of the subject court, directing the petitioner to publish the Summons and the Order in a newspaper of general circulation in Negros Oriental and its component cities, runs counter to the specific provision under Sec. 6 (1) of A.M. No. 02-11-10-SC[33] which provides that, *"[w]here the respondent cannot be located at his given address or his whereabouts are unknown and cannot be ascertained by diligent inquiry, service of summons may, by*

[32] *Ibid.*

[33] *Supra.*

				newspaper of general circulation in the Province of Negros Oriental and its component cities once a week for 3 consecutive weeks." (underscoring provided) Publication in the Dumaguete Star Informer on 22 and 29 July, and on 5 August 2018.	*leave of court, be effected upon him by publication once a week for two consecutive weeks in a newspaper of general circulation in the Philippines and in such places as the court may order."* (underscoring provided) The need to comply with the above-quoted provision is mandatory, and with more reason in the instant case since the respondent is known to have been residing in Manila for the last two (2) years.
53	FC-16-03-C	Jay Dayondon vs. Charrie Dayondon (for Annulment of Marriage)	3-14-16	Answer was filed on 7-12-16. Order dated 12-6-17, stating that, *"when this case was called for Pre-Trial, petitioner and counsel appeared. There was no appearance on the part of the respondent and counsel. Considering the attendant circumstances, petitioner is given ten days to file his*	The instant case has not been acted upon since December 2017 after the issuance of the Order dated 6 December 2017. However, the rationale of the said Order runs counter with Sec. 13 (b) of A.M. No. 02-11-10-SC[34] which states that, *"if the respondent has filed his answer but fails to appear, the court shall proceed with*

[34] *Ibid.*

				legal opinion. In the meantime, this case is held in abeyance."	*the pre-trial and require the public prosecutor to investigate the non-appearance of the respondent and submit within fifteen days thereafter a report to the court stating whether his non-appearance is due to any collusion between the parties. If there is no collusion, the court shall require the public prosecutor to intervene for the State during the trial on the merits to prevent suppression or fabrication of evidence."*
54	FC-18-05-G	Nathaniel Villahermosa vs. Mary Ann Villahermosa (for Declaration of Nullity of Marriage)	5-23-18	Order dated 7-18-19, directing the petitioner to amend the petition for being defective, there being no specific address of the respondent in the said Petition.	The said Petition should have been dismissed in accordance with par. d of OCA Circular No. 63-2019[35] dated 17 April 2019, stating that, "*the failure of the petitioner to comply with the residency requirement shall be a ground for the immediate dismissal of the*

[35] Issuance of the En Banc Resolution dated 2 October 2018 in A.M. No. 02-11-10-SC *(Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages)* and A.M. No. 02-11-11-SC *(Re: Rule on Legal Separation)*.

					petition, without prejudice to the refiling of the petition in the proper venue."
55	FC-17-07-G	Marjorie Salvador vs. Bryan Roy Salvador (for Declaration of Nullity of Marriage)	11-24-17	Order dated 2-7-19 states that, *"considering that the investigation report is already in, after marking the exhibits today, set this case for trial proper on 3-28-19 at 8:30 in the morning."*	It is evident from the Order dated 7 February 2019 that there was no Pre-Trial conducted since the proceedings therein was immediately set for initial trial after the filing of the No Collusion Report. This practice contravenes the succinct provision of Sec. 11 (1) of A.M. No. 02-11-10-SC,[36] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases. Moreover, it has been observed that the address of the petitioner, as indicated in the petition, is incomplete as it only states "*Poblacion, Guihulngan City, Negros Oriental*," without the house number or the street name.

[36] *Ibid.*

					There is also no address indicated in the Verification of the said Petition. However, in the Barangay Certification dated 1 February 2019, to prove the residency of the petitioner, which was submitted over one (1) year after the said Petition was filed, the indicated address of the petitioner is Roxas St., Poblacion, Guihulngan City, Negros Oriental. It can then be inferred that it was only after over one (1) year following the filing of the said Petition that the petitioner resided in the address indicated in the said Barangay Certification.
56	FC-15-05-G	Alvin Mendoza Tomesa vs. Jenilyn Masa Paguio-Tomesa (for Declaration of Nullity of Marriage)	8-26-15	Decision dated 4-19-18, granting the nullity of marriage.	The instant case was decided faster than the other cases given that the Formal Offer of Exhibits of the petitioner was only filed on 5 March 2018, and over a month thereafter, the instant case was decided.
57	FC-12-01-G	Ronard M. Susas vs. Robie A. Susas (for Declaration of	4-25-12	Summons dated 4-25-12 was duly served per Return	From the time the Return on the Summons was

		Absolute Nullity of Marriage)		that was filed on 5-9-12. The Notice of Appearance of the Office of the Solicitor General was filed on 6-6-12. Order dated 9-6-18, directing the public prosecutor to conduct an investigation whether or not collusion exists between the parties.	filed on 9 May 2012, there was an inordinate delay of more than six (6) years before the subject court acted on the instant case, and issued the Order dated 6 September 2018. The latter Order is also the last issued by the subject court, and no further action has been done since then.
58	FC-06-06-C	Junrose Silvano vs. Celso Silvano (for Declaration of Nullity of Marriage)	8-10-06	Order dated 9-3-13, issued by then APJ Bahonsua, directing the parties to submit their respective Memoranda. Respondent's Memorandum was filed on 3-30-14, but there is no Memorandum from the petitioner on record. Decision dated 11-18-2015, granting the nullity of marriage.	Based on A.O. No. 95-2013 dated 6 May 2013, the designation of Judge Mario O. Trinidad as assisting judge of Br. 61, RTC, Bogo City, Cebu, pursuant to A.O. No. 137-2012 dated 17 July 2012, was revoked on even date. Consequently, he was expected thereafter to re-assume as the presiding judge of the subject court. Evidently, there was delay in deciding the instant case since approximately more than two (2) years have elapsed from the time Judge Trinidad should have re-

					assumed as the presiding judge of the subject court to the time that he decided the instant case.
59	FC-18-06-V	Janet Sabanal-Arigo vs. AM Arigo (for Declaration of Nullity of Marriage)	8-16-18	The address of the petitioner, as indicated in the petition, is Poblacion, Vallehermoso, Negros Oriental. In the Verification with Certification of Non-Forum Shopping, the stated address of petitioner is Tandayag Sur, Amlan, Negros Oriental. The Sheriff's Return on the Summons dated 9-17-18 (no date of receipt) states that, "*on 30th day of August, the undersigned tried to serve a copy of Summons with Respondent and annexes attached thereto issued by the Regional Trial Court, Branch 64, Guihulngan City on the above-entitled case upon respondent AM C. Arigo with given address at Tandayag, Amlan, Negros Oriental.* *However, the house was closed and no person was*	It can be noted that the address of petitioner in the said Petition is not complete, there being no indication of the house number and street name. Moreover, the address indicated in the Verification is different from the one stated in the body of the said Petition. However, in the Amended Judicial Affidavit of petitioner, Janet Sabanal Arigo, which was filed on 21 March 2019, it is only indicated that she is "*a resident of Amlan, Negros Oriental.*" The Municipality of Amlan, Negros Oriental, is outside the jurisdiction of the City of Guihulngan, Negros Oriental, it being within the territorial jurisdiction of Tanjay City, Negros Oriental. A further verification

				inside the house. As per information by the neighbor, no one occupies the house." (underscoring supplied) It further discloses that, *"on 14th day of September 2018, the undersigned went back at the given address. A certain Honeylyn C. Sabanal, 24 years of age were (sic) there, who claimed to be Petitioner's [Sister-in-law]. As per information, respondent is not leaving (sic) in that house anymore. Hence, substituted service is resorted to her who signed and acknowledged the receipts thereof."* (underscoring provided)	revealed that the same parties have a pending Petition for the same cause of action before Br. 43, RTC, Tanjay City, Negros Oriental (currently stationed in Dumaguete City), denominated as Spec. Proc. No. 453,[37] that was filed earlier on 21 November 2013. In the said Petition, the stated address of both parties is Tandayag, Amlan, Negros Oriental, and the same address was also reflected in petitioner's Judicial Affidavit that was filed on 4 May 2017 for the aforementioned case. On 30 July 2018, the petitioner filed a Notice to Withdraw Petition, but, as of the date of the judicial audit, the same remains unacted upon by Br. 43, RTC, Tanjay City, Negros Oriental. Meanwhile, the Sheriff's Return

[37] Titled *"Janet D. Sabanal-Arigo & AM C. Arigo,"* for Declaration of Nullity of Marriage.

					on the Summons dated 17 September 2018 categorically states that the respondent no longer resides in the said address, yet substituted service was still resorted to, and the Summons was declared to have been duly served. Finally, no Pre-Trial was conducted therein, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[38] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
60	FC-17-02-C	Flonisa Aragon Mindac vs. Mark Besin Amarante (for Declaration of Nullity of Marriage)	2-14-17	Order dated 6-27-19, resetting the initial trial on 10-3-19.	No Pre-Trial was conducted therein, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[39] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
61	FC-18-02-C	Robengie D. Rogano vs. Jeany	3-13-18	Return on Summons was	The Order dated 4 June 2018,

[38] *Supra.*

[39] *Ibid.*

		Per Rogano		submitted on 4-25-18, stating that it was unserved since respondent no longer resides at their ancestral home for almost three (3) years, and she is now in Manila working as a lady guard. Her aunt, Nenita Dela Cuesta, does not know her present address. Motion for Leave to Serve Summons with copy of Petition by way of publication in accordance with Section 14, Rule 14, New Rules of Court dated 5-11-18 (no date of receipt). Order dated 6-4-18, directing the petitioner to publish a copy of the Petition and the Order in a newspaper of general circulation in the Province of Negros Oriental and its component cities once a week for three (3) consecutive weeks. The same were	directing the petitioner to publish the Summons and the Order in a newspaper of general circulation in Negros Oriental and its component cities, runs counter to the specific provision under Sec. 6 (1) of A.M. No. 02-11-10-SC,[40] which provides that, *"where the respondent cannot be located at his given address or his whereabouts are unknown and cannot be ascertained by diligent inquiry, service of summons may, by leave of court, be effected upon him by publication once a week for two consecutive weeks in a newspaper of general circulation in the Philippines and in such places as the court may order."* (underscoring provided) The need to comply with the above-quoted provision is mandatory, and

[40] *Ibid.*

				published on 29 July, 5 August and on 12 August 2018 in the Dumaguete Star Informer.	with more reason in the instant case given that the respondent had already been residing in Manila for the last three (3) years.
62	FC-18-01-G	Francis Eusebio vs. Roxane L. Eusebio (for declaring the marriage void)	3-8-18	Decision dated 11-28-18, declaring the marriage void.	It should be noted that the instant case was decided exceptionally fast as compared to the other cases with similar cause of action, given that the same was submitted for decision on 22 November 2018, and six (6) days thereafter, the same was decided. Moreover, no Pre-Trial was conducted, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[41] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
63	FC-17-05-G	Eduardo Cordova vs. Marites Cordova (for the declaration of nullity of marriage)	9-25-17	Motion to Set Pre-Trial was filed on 12-14-17. Motion to Set Pre-Trial was filed on 11-22-18.	In spite of the said Motions, which are still pending and unresolved as of the date of the judicial audit, the subject court proceeded to set

[41] *Ibid.*

				Order dated 6-18-19, stating that, *"upon Motion of the petitioner, set this case for trial proper to September 17, 2019 at 8:00 o'clock in the morning."*	the case for trial proper, without first conducting the Pre-Trial. Such act contravenes Sec. 11 (1) of A.M. No. 02-11-10-SC,[42] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.
64	FC-14-02-V	Guillermo Laguda vs. Karen Balo-an (for Declaration of Nullity of Marriage)	12-19-14	Motion to Dismiss was filed on 3-6-15 due to improper venue on the ground that the petitioner is a resident of Dumaguete City, and that two (2) other cases were previously filed based on the same cause of action in Br. 58, RTC, San Carlos City, Negros Occidental, on 7-24-13, but was eventually dismissed for improper venue, having been established therein that the petitioner is a resident of Dumaguete City and not of San Carlos City; and in Br. 63, RTC, Bayawan City, filed on 9-11-14,	It should be noted that the holding in abeyance of the proceedings in the instant case is improper considering that the Court of Appeals has not issued a TRO to suspend the proceedings. Moreover, in the hearing on 12 November 2015, wherein the Motion to Dismiss was denied, the reception of petitioner's evidence proceeded despite the absence of the movant who was not properly notified based on the transcript of stenographic notes, disclosing that there was no return on the

[42] *Ibid.*

				which was also dismissed for lack of jurisdiction on the ground that petitioner is a resident of Camanjac, Dumaguete City. Order dated 11-12-15, denying the said Motion to Dismiss after hearing was conducted thereon. Motion for Reconsideration on the Order dated 11-12-15 was filed on 5-5-16. Order dated 11-3-17, denying the said Motion for Reconsideration. Petition for Certiorari before the Court of Appeals, assailing the Orders dated 11-12-15 and 11-3-17, and praying for a Preliminary Injunction and/or TRO. Court of Appeals Resolution dated 4-19-18, directing the private respondent (petitioner in the instant case) to file his Comment. No ruling on the prayer for TRO was issued. Order dated 9-13-18, holding the proceedings in the	Subpoena sent to her. In effect, the latter was not afforded due process inasmuch as she was deprived of the opportunity to cross-examine the witness presented during the said hearing.

				instant case in abeyance, there being a petition for Certiorari.	
Special Proceedings					
No.	**Case No.**	**Title**	**Date Filed**	**Court Action**	**Observation(s)/ Finding(s)**
65	18-03-G	In the Matter of Change of Name from Jamila Brillanes to Jamila Mubarak Munasir Ali Billanes Al-Ghayathin in the Certificate of Live Birth Elisa O. Billanes, petitioner vs. Local Civil Registrar, Bacolod City	6-11-18	Decision dated 10-9-18, granting the instant Petition.	The instant case was filed on 18 June 2018, and it was decided on 9 October 2018, or approximately after only four (4) months. Likewise, in the said Petition, the address of the petitioner is incomplete since it was merely mentioned that she is a "*resident of Guihulngan City, Negros Oriental, for more than 3 years.*" There is also no address indicated in the Verification therein.
66	FC-18-03-G	In the Matter of Adoption of Minor Queenzy Zyra Que Anthony Thimoth Clarke, consented by spouse Jethel Aliling Que Clarke, petitioner	4-2-18	Order dated 6-4-18, directing the party to submit its Formal Offer of Exhibits within 10 days after the Comment of the State; thereafter, the instant case is submitted for decision. State's Comment provides, among others, that the case study should be submitted first before the subject	It is readily apparent that the instant case was decided exceptionally fast as compared to other cases with similar cause of action, considering that the same was decided after only three (3) days from the filing of the case study as prayed for in the Comment of the State.

				court decides on the instant case. Case study was filed on 7-13-18. Decision dated 7-16-18, granting the adoption.	
67-68	15-01-L and 15-02-L	Correction of Entry on the Date of Birth in the Marriage Record of Danilo A. Bebelone	3-30-15	Order dated 2-16-17, submitting the instant cases for decision. Decision dated 2-21-18, granting the said Petition.	There was inordinate delay in deciding the instant case, given that over one (1) year had elapsed from the time the same was submitted for decision until the time that it was decided.
69	11-02-C	Change of First Name and Correction of Entry of Sex of Stephen Feliciano	1-31-11 (Amended Petition was filed on 5-17-17)	Order dated 8-1-18, submitting the instant case for decision. Decision dated 8-14-19, granting the said Petition.	Nothing in the case records would show that the mandatory requirement of publication was complied with as regards the Amended Petition. Furthermore, there was inordinate delay of almost a year from the time the instant case was submitted for decision until the time that it was decided.
70	FC-13-01-G	In the Matter of Adoption of Vera Christine Martinez Vergara Sps. Rojan and Rosalie Postrano-Vergara, petitioners	2-4-13	Order dated 2-7-19, submitting the instant case for decision. Decision dated 7-15-19, granting the said Petition.	There was inordinate delay from the time the instant case was submitted for decision until the time that it was decided.

71	FC-17-01-V	Ronz Ivan Pagar Escribano vs. Helen Dickenson	2-7-17	Order dated 7-17-19, submitting the instant case for decision. Decision dated 7-25-19, granting the said petition.	The instant case was decided exceptionally fast as compared to other cases with similar cause of action, considering that the decision was rendered only six (6) days after the same was submitted for decision.

Thus, based on the foregoing judicial audit findings, the judicial audit team recommended the following:

1. Presiding Judge Mario O. Trinidad be DIRECTED to:

A. DECIDE WITH DISPATCH the cases that are submitted/deemed submitted for decision, giving due priority to Civil Case No. FC-11-03-G and Spec. Pro. Case No. FC-14-03-G, the respective decisions of both cases being already overdue, and to submit a copy of the decision rendered therein within fifteen (15) days from its issuance or promulgation;

B. RESOLVE WITH DISPATCH the cases with pending incident/s that is/are submitted for resolution, giving preference to cases in Sub-Par. Nos. 1-8; 11-16; 18-49, which pending incident/s is/are already overdue, and to submit a copy of the resolutions rendered therein within fifteen (15) days from its issuance;

C. ACT WITH DISPATCH on cases with pending and unresolved incidents as of the date of the judicial audit, and to provide a copy of the Order issued relative to any action taken thereon within fifteen (15) days from the date of its issuance;

D. ACT the cases classified as dormant, there being no further setting therein and/or no action done thereto by the subject court, and to furnish a copy of any Order

issued relative to any action taken thereon within fifteen (15) days from the date of its issuance;

E. ARCHIVE, if warranted, the criminal cases that may be archived, and to submit a copy of the Order archiving the same within fifteen (15) days from its issuance;

F. EXPLAIN IN WRITING within fifteen (15) days from receipt hereof why he should not be administratively sanctioned relative to the following judicial audit findings, to wit:

a. Delay in deciding Civil Case No. FC-11-03-G and Spec. Pro. Case No. FC-14-03-G;

b. Delay in resolving the pending incidents that were already submitted/deemed submitted for resolution;

c. Delay in the flow of the proceedings in criminal cases, taking between two (2) to six (6) months for the next setting to be scheduled;

d. Absence of hearing in some criminal cases for one (1) to two (2) years from the date of filing, as of the date of the judicial audit, brought about by successive postponements of settings;

e. The subject court, upon the filing of a Motion to Allow the Accused to Plea Bargain, directs the accused to submit to a drug dependency examination even before it resolves the said Motion;

f. The duration of the hearings lasted only for two (2) hours at most, starting at past 10:00 a.m. until 12:00 noon, with no record that hearings were conducted in the afternoon *(Item No. III, Par. No. 8)*; and

g. Regarding the seventy-one (71) cases with court actions that may constitute a violation or violations

of existing laws, the Rules, circulars and other issuances of the Supreme Court.

In his Letter-Reply dated December 2, 2019, Judge Trinidad provided the following reasons/explanations:

1. The subject court has a caseload of almost two thousand (2,000) cases, and as a result thereof, the settings of all cases would have an interval of two (2) to six (6) months;

2. In 2008, he was ambushed, and was thereafter temporarily stationed in other courts for four (4) years, thus making him lose control of the cases in the subject court;

3. In 2012, while he was assigned in Branch 53, Regional Trial Court, Lapu-Lapu City, Cebu, a strong earthquake struck the City of Guihulngan, Negros Oriental, resulting in the collapse of the Hall of Justice thereat and the disarray of the case records therein, which his staff failed to thereafter chronologically and orderly arrange resulting in some older cases being overlooked and unattended;

4. Sometime in 2014, his house was lobbed with a grenade, hence, for security reasons he cancelled the proceedings for a few days following the advice of the Philippine National Police (PNP);

5. In 2017, due to the escalation of the encounters between the National People's Army and the PNP in the area where killings became rampant, the litigants, their witnesses, the lawyers and the public prosecutors were afraid to appear before the subject court, prompting him to reset the proceedings due to the former's non-appearance;

6. On the findings involving the duration of the hearings that lasted only for two (2) hours at most, starting at past 10:00 a.m. until 12:00 noon, with no record that hearings were conducted in the afternoon, he explained that due to the severe threats on his life and the

resurgence of insurgency in the area, he avoided having a pattern in his arrival and departure during hearings. He also attributed this to the lawyers and public prosecutors who come from Cebu, Bacolod, Dumaguete City and Canlaon City, whose travel time to the subject court takes three (3) hours. Corollarily, he stated that no hearings were conducted in the afternoon because that was when the public prosecutors, PAO lawyers and private lawyers had their hearings before the first-level courts, particularly in the MTCC of Canlaon City, MTCC of Guihulngan City and the MCTC of Vallehermoso-La Libertad in Vallehermoso, Negros Oriental; and

7. As for the seventy-one (71) cases with court actions that may constitute a violation or violations of existing laws, the Rules, circulars and other issuances of the Supreme Court, the corresponding comments of Judge Trinidad are enumerated under the column denominated as Comment/s of Judge Trinidad, as follows:

Criminal Cases						
No.	**Case No.**	**Title**	**Date Filed**	**Court Action**	**Observation(s)/ Finding(s)**	**Comment/s of Judge Trinidad**
1-2	03-014-G and 03-015-G	Pp. vs. Honofre Cabrera	2-24-03	Application for Bail was filed on 7-17-03. Order dated 2-9-06, submitting the said application for decision, and giving the prosecution 5 days from receipt to file its Formal Offer of Exhibits, and 5 days from	Since the instant cases were filed in 2003, Pre-Trial has not yet commenced even up to the time of the judicial audit. Apparently, the subject court patently disregarded the Resolution of the Court of Appeals dated 25 June 2008 in C.A. G.R. SP No. 01919, directing it to	*". . . [T]his case was (sic) left unattended and dormant because of the heavy caseloads (sic) in the subject court and the case folders were not orderly arranged."*

				receipt for the defense to file its Comment. Prosecution's Formal Offer of Exhibits was filed on 2-28-06, while the corresponding Comment thereon was submitted on 3-2-06. Order dated 2-27-06, granting the Petition for Bail. Court of Appeals Resolution dated 6-25-08 on C.A. G.R. SP No. 01919, received by the subject court on 7-10-08, directing the latter to order the arrest and detention of the accused, and to cancel his bail. Court of Appeals Resolution dated 8-26-08, denying the Motion for Reconsideration. Resolution of the First Division of the Supreme Court dated 10-20-10, on G.R. No.	order the revocation of the bail posted by the accused and for the latter's arrest and detention, since nothing in the case records would show that the subject court complied with the said directive. Likewise, despite its receipt of the Supreme Court Resolution on G.R. No. 192919, denying the Petition for Review on the said Court of Appeals Resolution, there is still no compliance on record by the subject court on the said directive of the Court of Appeals as of the date of the judicial audit. To date, the accused remains at-large, and the instant case remains dormant, there being no further action or setting thereof, after the issuance of the Order dated 5 October 2017, setting the instant case for hearing on 12 April 2018.	

				192919, denying the Petition for Review. The said Resolution was received by the subject court sometime in May 2011. Manifestation dated 10-5-17, stating the death of the accused, with prayer for the dismissal of the said cases. Order dated 10-5-17, resetting the hearing on these cases to 4-12-18 at 8:30 in the morning, considering that the manifestation of the defense counsel that accused is already dead needs to be verified.		
3	13-098-G	Pp. vs. Dandy Demiren	9-23-13	Order dated 5-9-19, resetting the initial trial on 9-12-19.	There is a discrepancy relative to the date of arraignment, since in the Certificate of Arraignment, the accused was arraigned on 22 May 2014, while in the corresponding Order, he was arraigned on 3 June 2014.	*". . . [T]he discrepancy in the date of arraignment and the Order was due to clerical error committed by my staff who prepares the Certificate of Arraignment."*

4	16-225-V	Pp. vs. Lester G. Benlot	12-13-16	Order dated 3-26-19, stating that, *"considering that the private complainant is already dead, this case should be as it is hereby ordered DISMISSED."*	There is nothing in the case records to suggest that the subject court's dismissal of the instant case was made through the Motion of the public prosecutor, or that the latter concurred in the said decision. Moreover, the case records are devoid of any information that proof of death of the accused was submitted in evidence before the subject court, and that the same was considered in arriving at the decision to dismiss the instant case.	*". . . [T]he motion was being made orally by both parties, and in order to unclog the docket of the court, the case was dismissed."*
5	14-114-G	Pp. vs. Marla Ompoc Hailand	6-26-14	Motion to Suppress Evidence was filed on 10-28-14, and Opposition to the Motion to Suppress Evidence was submitted on 11-17-14. Order dated 3-31-15, denying the said Motion.	The resolution on the said Motion was delayed, considering that the same should have been decided on or before 15 February 2015.	*". . . [T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012, as a result some cases were left unattended."*
6	14-001-G	Pp. vs. Edgar Icalina	11-26-14	Motion for Bail was filed on 6-24-14.	Based on the case records, a Motion for Bail was already filed as	*"…[T]he delay in the resolutions and decisions was*

				Order dated 5-30-19, resetting the instant case due to the intended filing of a Motion for Bail.	early as 24 June 2014, and apparently, the same was not acted upon by the subject court; hence it remains unresolved as of the date of judicial audit.	*due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012, as a result some cases were left unattended."*
7	12-017-C	Pp. vs. Eleuterio Maglasang, Jr.	1-31-12	Application for Bail was filed on 3-6-12. Order dated 12-17-14, submitting the said Application for Bail for resolution. Order dated 3-11-15, granting the Motion for Reduction of Bail was filed on 3-10-15. Formal Offer of Exhibits by the accused was filed on 11-14-18 (reverse trial).	The instant case involves the crime of Murder, hence, non-bailable. However, there is no record of any resolution on the said Application for Bail after it was submitted for resolution on 17 December 2014. Instead, the subject court issued an Order granting the Motion to Reduce Bail even if there was no resolution yet on the Application for Bail.	*"...A resolution dated February 16, 2015 on the Application for Bail is now attached to the records of the case. My staff failed to properly stitch the case folders. The pleadings, orders and resolutions in the case folders are loosely inserted and as a result the said resolution was detached from the record during audit."*
8-9	FC-08-05-V and FC-08-06-V	Pp. vs. Celso Supremo	4-15-08	Formal Offer of Exhibits of the prosecution was filed on 11-26-17.	There was inordinate delay in the submission of the Comment by the defense on the	*"[T]he delay in the resolutions and decisions was due to heavy*

				Order dated 11-28-17, directing the defense to file its Comment thereto within 5 days. Order dated 8-6-19, directing anew the defense to file its Comment within 10 days, and setting the presentation of defense evidence on 12-3-19.	Formal Offer of Exhibits of the prosecution, spanning close to two (2) years from the time it was first directed to file the same on 28 November 2017. The subject court should have *motu proprio* ordered for the waiver of the said Comment owing to the said delay, and outrightly resolved the pending incident. Hence, due to the delayed compliance, the instant case has been dormant for the last two (2) years as of the date of the judicial audit.	*caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012, as a result some cases were left unattended."*
10	16-117-V	Pp. vs. Millard C. Aplicador	6-27-16	Motion to Release the Items Subject of the Case was filed on 3-30-16, and the corresponding Comment thereon was submitted on 8-1-16. Order dated 3-6-18, resolving the said Motion.	There was inordinate delay of almost two (2) years in the resolution of the said Motion.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012, as a result some cases*

						were left unattended."
11	18-24-L	Pp. vs. Wilfredo Absin	9-3-18	Order dated 3-26-19, dismissing the instant case due to the manifestation of the complainant that she and her accused husband have already patched things up.	There is nothing in the case records which shows that the public prosecutor was made to Comment on the said Manifestation prior to the *motu proprio* dismissal of the instant case by the subject court.	*". . . [T]he undersigned is of the humble belief that there is no need to issue order (sic) directing the public prosecutor to comment since the public prosecutor interposed no objection despite being notified of the manifestation of the complainant."*
12	18-006-V	Pp. vs. Teodoro Andraque	1-25-18	Order dated 5-7-19, conducting the arraignment of the accused with Criminal Case No. 18-005-V.	There is nothing in the case records to show that accused Teodoro Andraque was arraigned. It was only accused Sixto Andraque who was arraigned for Criminal Case No. 18-005-V.	*". . . [B]oth accused were duly arraigned, however, my staff failed to properly stitch the case folders. The pleadings, orders and resolutions in the case folders are loosely inserted and as a result the certificate of arraignment of one accused was detached from the record during audit. The records are intact now."*
13-14	FC-04-10-G and FC-042-G	Pp. vs. Rady Alcala	3-25-04	Court of Appeals Decision dated 7-11-11, remanding the	It can be gleaned from the flow of the proceedings that there was	*"[T]he delay in the resolutions and decisions was due*

				instant cases to the subject court for the reception of the prosecution's evidence. The said Court of Appeals decision was received by the subject court on 3-1-12. Order dated 9-13-18, resetting the hearing on the said cases on 3-14-19, after the same were remanded to the subject court. Order dated 3-14-19, setting the instant cases for the continuation of the initial trial on 8-15-19.	inordinate delay by the subject court to comply with the Court of Appeals directive, and set the instant cases for hearing after it received the appellate court's decision on 1 March 2012, taking more than six (6) years before it issued the Order dated 13 September 2018, setting the hearing on 14 March 2019.	*to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012, as a result some cases were left unattended."*
15	12-023-G	Pp. vs. Cerelo Ferolino Tejares	2-22-12	Prosecution's Formal Offer of Exhibits was received on 6-30-17. Order dated 11-16-17, directing the defense to file its Comment on the said Formal Offer of Exhibits within 5 days.	It can be gleaned from the flow of the proceedings that there was no compliance by the defense on the subject court's Order to file its Comment on the Prosecution's Formal Offer of Exhibits.	*". . . [T]he repetitive act of the court was due to the negligence of my staff who failed to attach the orders, resolutions, pleadings, immediately and properly."*

				However, no Comment was submitted. Order dated 8-1-18, admitting the said Formal Offer of Exhibits. Order dated 11-15-18, directing the defense to again file its Comment on the said Formal Offer of Exhibits within 5 days. Order dated 5-16-19, stating that, *"The State in this case having already rested its case and filed its FOE, the defense intimated to the court that he is filing his comments to the FOE. Reset this case to 10-29-19."*	Consequently, on 1 August 2018, the subject court admitted the Prosecution's Formal Offer of Exhibits, sans the Comment of the defense. However, the subject court still continued to reiterate its directive for the defense to file its Comment in the ensuing Orders dated 15 November 2018 and 16 May 2019, notwithstanding its ruling on the said Formal Offer of Exhibits. Such a repetitive act contributes largely to the further delay in the litigation of the instant case.	
16	11-008-C	Pp. vs. Juvy Renejani, et al.	2-2-11	Prosecution's Formal Offer of Exhibits was filed on 10-26-16. Order dated 11-10-16, admitting the said Formal Offer of	Based on the Order dated 10 November 2016, the defense has not filed its Comment on the Formal Offer of Exhibits of the prosecution. Notwithstanding, the said Formal	*". . . [T]he repetitive act of the court was due to the negligence of my staff who failed to attach the orders, resolutions, pleadings,*

				Exhibits despite the failure of the defense to file its Comment thereon. Order dated 11-29-17, directing the defense to file its Comment on the said Formal Offer of Exhibits.	Offer of Exhibits was admitted. However, the subject court still continued to reiterate its directive for the defense to file its Comment in the ensuing Order dated 29 November 2017, despite its previous ruling on the said Formal Offer of Exhibits. Such a repetitive act contributes largely to the further delay in the litigation of the instant case.	*immediately and properly."*
17	16-087-C	Pp. vs. Narciso Omboy, et al.	5-11-16	Motion to Dismiss with an Affidavit of Desistance was filed on 8-5-16. Order dated 9-20-17, denying the said Motion on the basis of the Manifestation of the prosecutor that he can probably secure the conviction of the accused.	There was inordinate delay of over one (1) year and three (3) months in resolving the said Motion which is way beyond the reglementary period to resolve the same.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*
18	00-024-G	Pp. vs. Ranulfa Alpas	4-3-00	Order dated 7-26-06, archiving the instant case for the reason that the accused had jumped bail.	The reason adduced in archiving the instant case, as stated in the Order dated 26 July 2006, is not among	*". . . [T]he court wanted to afford accused full opportunity to be heard thus the subject court opted to*

				Order dated 4-26-11, setting the Pre-Trial Conference on 3-31-11, and the Pre-Trial on 6-19-11. Notice of Hearing dated 1-15-16.	those allowed under OCA Circular No. 89-2004 dated 12 August 2004.[43] The case of an accused who jumped bail may only be archived if she/he is not yet arraigned and can no longer be arrested by the bondsman. This, however, is not the situation in the instant case since prior to its archiving, the accused was already arraigned on 3 April 2000. The subject court should have conducted a trial in *absentia* which is allowed under Sec. 14 (2), Article III of the 1987 Constitution, which provides that *"after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable."*	*archive the case pending arrest of the accused instead of having trial in absentia."*

[43] Reiteration of the Guidelines in the Archiving of Cases.

					Moreover, the instant case has become dormant for about five (5) years, there being no movement in the proceedings therein from the issuance of the Order dated 26 April 2011, setting the Pre-Trial Conference on 31 March 2011 and the Pre-Trial on 19 June 2011, to the issuance of the Notice of Hearing dated 15 January 2016.	
19	FC-17-48-G	Pp. vs. Ailita Herebit	10-30-17	Order dated 10-18-18, directing the handling prosecutor to reinvestigate the propriety of releasing the accused when the offense charged is considered to be non-bailable. Motion to Expunge the Record on Arraignment (for reinvestigation purposes) filed on 11-5-18. Order dated 12-12-18, granting the said Motion,	The case records do not show that the subject court afforded the defense the opportunity to file its corresponding Comment/s relative to the said motions.	*"… [I]t can be seen from the record of the case that defense was copy furnished, however, despite being copy furnished the defense filed no comment. Thus, to expedite the proceedings, the court resolved the motions within the prescribed period."*

				and directing the public prosecutor to conduct the reinvestigation. Motion to Admit Amended Information filed on 2-14-19. Order dated 2-27-19, granting the said Motion.		
20	17-070-C	Pp. vs. Romulo Tan	7-1-17	Motion to Allow the Accused to Plea Bargain was filed on 8-13-18. Order dated 11-14-18, stating that, *"considering that there is a standing motion for plea bargaining and considering further that the conflict between the Supreme Court Circular and Department of Justice Circular with respect to Sec. 5 is still to be resolved, reset this case to March 20, 2019 at*	As of the date of the judicial audit, the resolution on the instant Motion is already delayed for a year because the subject court deferred its ruling on the same until the said conflict is finally resolved. However, the said Order is devoid of any information regarding how the said conflict will be resolved and by whom, or if there is a pending case on the matter before the Supreme Court for resolution. Notwithstanding, it bears to emphasize that judges are bound to observe the following OCA Circulars relative	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition of the public prosecutors. The undersigned is of the humble belief that consent of the public prosecutor is an essential requisite* *in plea bargaining. There would be no plea bargaining agreement if the public prosecutor does not agree with the proposed plea."*

				8:30 in the morning."	to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[44] dated 4 May 2018, OCA Circular No. 80-2019[45] dated 30 May 2019, and OCA Circular No. 104-2019[46] dated 5 July 2019, in resolving issues regarding plea bargaining in drugs cases. Specifically, OCA Circular No. 80-2019 unequivocally enunciates that judges are bound to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled since judges are	

[44] *Supra.*

[45] *Supra.*

[46] *Supra.*

					"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government." (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.	
21-22	09-002-L and 09-003-L	Pp. vs. Dave Clark Rife	1-27-09	Order dated 4-18-18, directing the defense counsel to comply with all the requirements for plea bargaining so that the court can act on his manifestation that the accused intends to plea bargain. Order dated 11-13-18, resetting the	With regard to the Order dated 13 November 2018, reference is made to OCA Circular No. 80-2019[47] dated 30 May 2019, mandating judges to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition of the public prosecutors. The undersigned is of the humble belief that consent of the public prosecutor is an essential*

[47] *Ibid.*

				hearing on the instant cases on 3-12-19, pending the resolution by the Supreme Court on the conflict between the SC Circular and DOJ Memorandum. Order dated 1-14-19, directing the accused to report to the Negros Oriental Provincial Crime Laboratory in Dumaguete City for drug dependency examination.	is made to effectively weaken the drug campaign of the government, then the same should be overruled since judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, it is incumbent upon the subject court to act accordingly on the pending Motion to Plea Bargain. However, there is nothing in the case records which shows that accused filed any Motion to Plea Bargain. Regardless, the subject court issued the	*requisite* *in plea bargaining. There would be no plea bargaining agreement if the public prosecutor does not agree with the proposed plea."*

					Order dated 4 September 2018, directing the accused to undergo drug dependency examination despite the absence of any corresponding Motion to Plea Bargain.	
23	14-141-G	Pp. vs. Roy Sereno	8-7-14	Prosecution's Formal Offer of Exhibits for the Petition for Bail was filed on 6-25-15. Order dated 4-28-16, admitting the said Formal Offer of Exhibits, and submitting for resolution the Petition for Bail (defense waived the presentation of its evidence). Motion for Reconsideration on the Order dated 4-28-16 was received on 6-3-16, regarding the proper marking of exhibits on the formal offer. Order dated 6-10-16, granting the said Motion for	There was inordinate delay of almost one (1) year in the issuance of the ruling on the prosecution's Formal Offer of Exhibits. Likewise, there was also inordinate delay of close to a year in resolving the Petition for Bail which was submitted for resolution on 28 April 2016, but was only decided on 20 March 2017.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012, as a result some cases were left unattended."*

				Reconsidera-tion. Order dated 3-20-17, denying the Motion for Bail.		
24	19-123-C	Pp. vs. Jannelo Bulandres	6-19-19	Motion to Release Impounded Motorcycle to its Registered Owner was filed on 7-26-16. Order dated 7-29-19, granting the said Motion.	There was inordinate delay of three (3) years in resolving the said Motion.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologi-cally and orderly arranged by my staff after the strong quake in 2012, as a result some cases were left unattended."*
25-26	04-051-G and 04-052-G	Pp. vs. Vicente Vergara	6-24-04	Motion for Reduction of Bail (from P200,000.00 to P100,000.00) was filed on 9-24-04. Order dated 12-2-04, denying the said Motion. A copy of the said Order was personally received on 12-10-04 by Atty. Jasper Adrian P. Cadelina, counsel of record	Upon perusal of the case records, it reveals that the public prosecutor on record was public prosecutor Ethyl B. Eleccion who was the one furnished a copy of the Motion for Reduction of Bail that she received on 2 December 2004. She was also the public prosecutor during the arraignment of the accused, as	*". . . [T]he grant of the reduction of bail bond was due to the constitutional rights (sic) of the accused against excessive bail. The 'no objection' of the public prosecutor indicates assent."*

				of the accused. Accused's Motion for Reconsideration on the Order dated 12-2-04 was filed on 3-21-05. Order dated 3-22-05, granting the said Motion for Reconsideration. Opposition to the Motion for Reconsideration was filed by public prosecutor Eleccion on 4-8-05. Motion for Further Reduction of Bail (from P100,000.00 to P60,000.00) was filed on 8-11-05. Order dated 10-11-05, granting the said Motion.	well as during the conduct of the Pre-Trial and the initial trial. However, in resolving the said Motion for Reduction of Bail, the said public prosecutor was not required by the subject court to submit her Comment/ Opposition thereon. Interestingly, in the hearing on the said Motion for Reconsideration on 22 March 2005, public prosecutor Eleccion was not present. In her stead was public prosecutor Macarieto I. Trayvilla, in a *"special appearance,"* who interposed no objection on the said Motion for Reconsideration. Ironically, on 8 April 2005, prosecutor Eleccion filed her Opposition to the said Motion for Reconsideration but the same was unacted upon by the subject court since it resolved with	

					apparent haste the pending incident on 22 March 2005, a day after it was filed.	
27	16-174-C	Pp. vs. Michael Villarante	9-2-16	The Minutes of the Hearing dated 15 August 2018 states that, *"regarding the plea bargain, the State is opposed to it. Said incident is denied."* Order dated 10-3-18, denying the Motion for Reconsidera-tion to the Order denying the Motion to Plea Bargain filed on 8-24-18.	Evidently, the subject court merely relied on the objection or opposition of the public prosecutor in denying the said Motion for Reconsideration, without even considering the grounds and arguments propounded therein. It should be emphasized that OCA Circular No. 80-2019[48] mandates judges to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled since judges are *"constitutionally bound to settle actual*	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition of the public prosecutors. The undersigned is of the humble belief that consent of the public prosecutor is an essential requisite in plea bargaining. There would be no plea bargaining agreement if the public prosecutor does not agree with the proposed plea."*

[48] *Supra.*

					controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government." (underscoring provided)	
28	09-033-C	Pp. vs. Vannie Baluran	6-30-00	Date of the initial trial on 3-30-11. Order dated 3-20-19, resetting the trial on 9-18-19.	There were apparent inordinate delays in the hearings of the instant case, considering that no hearings were conducted from 4 November 2015 to 20 March 2019, or for a period of more than three (3) years, due to innumerable postponements.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*
29	18-031-V	Pp. vs. Jolito Montemayor	3-27-18	Motion to Plea Bargain was filed on 11-7-18. Order dated 11-6-18, stating that, *"considering that there is a standing*	As of the date of the judicial audit, the said Motion remains unresolved and the instant case is considered as dormant, there being no further setting therein or action done by	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition*

				motion for plea bargaining and considering further that the conflict of the Supreme Court Circular and DOJ Circular with respect to Sec. 5 is still subjudice, action in this case is held in abeyance."	the subject court on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea-bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[49] dated 4 May 2018, OCA Circular No. 80-2019[50] dated 30 May 2019, and OCA Circular No. 104-2019[51] dated 5 July 2019, in resolving issues regarding plea bargaining in drugs cases. Moreover, as enunciated in OCA Circular No. 80-2019, judges are bound to exercise	*of the public prosecutors. The undersigned is of the humble belief that consent of the public prosecutor is an essential requisite in plea bargaining. There would be no plea bargaining agreement if the public prosecutor does not agree with the proposed plea."*

[49] *Supra.*

[50] *Supra.*

[51] *Supra.*

					their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled since judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright. It should also be noted that the	

					Order dated 6 November 2018, holding the proceedings in the instant case in abeyance due to the filing of the Motion to Plea Bargain, was issued a day earlier than the filing of the said Motion to Plea Bargain which was only submitted a day after, or on 7 November 2018.	
30-32	18-021-L to 18-023-L	Pp. vs. Larry Sampero	3-19-18	Order dated 11-6-18, holding in abeyance the proceedings in the instant cases pending the resolution by the Supreme Court of the conflict between the SC Circular and DOJ Circular on the plea bargaining guidelines.	As of the date of the judicial audit, the instant case is deemed as dormant, there being no further setting or action done by the subject court thereon on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea-bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No.	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition of the public prosecutors. The undersigned is of the humble belief that consent of the public prosecutor is an essential requisite in plea bargaining. There would be no plea bargaining agreement if the public prosecutor does not agree with the proposed plea."*

					90-2018[52] dated 4 May 2018, OCA Circular No. 80-2019[53] dated 30 May 2019, and OCA Circular No. 104-2019[54] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. As enunciated in OCA Circular No. 80-2019, judges are mandated to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled since judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable.*	

[52] *Ibid.*

[53] *Ibid.*

[54] *Supra.*

					Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government." (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.	
33	18-050-V	Pp. vs. Anthony Wendell Tarugo	6-8-18	Motion for Plea Bargaining was filed on 11-7-18. Order dated 11-6-18, stating that, *"considering that there is a standing motion for plea bargaining and considering further that the conflict between the Supreme Court Circular and DOJ Circular with respect to Sec. 5 is still subjudice, the action on this case is held in abeyance."*	As of the date of the judicial audit, the said Motion remains unresolved and the instant case is considered as dormant, there being no further setting therein or action done by the subject court thereon on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea-bargaining in drugs cases. It bears emphasizing that judges are bound to observe the following	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition of the public prosecutors. The undersigned is of the humble belief that consent of the public prosecutor is an essential requisite in plea bargaining. There would be no plea bargaining agreement if the public prosecutor*

					OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[55] dated 4 May 2018, OCA Circular No. 80-2019[56] dated 30 May 2019, and OCA Circular No. 104-2019[57] dated 5 July 2019, in resolving issues regarding plea-bargaining in drugs cases. As enunciated in OCA Circular No. 80-2019, judges are mandated to exercise their judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled since judges are *"constitutionally bound to*	*does not agree with the proposed plea."*

[55] *Ibid.*

[56] *Ibid.*

[57] *Ibid.*

					settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government." (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.	
34-35	15-001-L and 15-002-L	Pp. vs. Rando Dacillo Benlot	1-5-15	Motion to Plea Bargain was filed on 11-7-18. Order dated 11-6-18, holding in abeyance the resolution on the said Motion due to the conflict between the guidelines under the SC Circular and the DOJ Circular with respect to Sec. 5, R.A. 9165.	As of the date of the judicial audit, the said Motion remains unresolved and the instant case is considered as dormant, there being no further setting therein or action done by the subject court thereon on account of the conflict between the Supreme Court Circular and the DOJ Memorandum as regards the plea bargaining in drugs cases. It bears	*". . . [T]he motion to allow the accused to Plea Bargain was not acted upon by the court due to the vehement opposition of the public prosecutors. The under-signed is of the humble belief that consent of the public prosecutor is an essential requisite in plea bargaining. There would be no plea*

					emphasizing that judges are bound to observe the following OCA Circulars relative to the Adoption of Plea Bargaining Framework in Drugs Cases: OCA Circular No. 90-2018[58] dated 4 May 2018, OCA Circular No. 80-2019[59] dated 30 May 2019, and OCA Circular No. 104-2019[60] dated 5 July 2019, in resolving issues regarding plea bargaining in drugs cases. As enunciated in OCA Circular No. 80-2019, judges are mandated to exercise its judicial discretion in resolving objections to the plea bargaining in drugs cases. However, if the said objection is made to effectively weaken the drug campaign of the government, then the same should be overruled since	*bargaining agreement if the public prosecutor does not agree with the proposed plea."*

[58] *Ibid.*

[59] *Ibid.*

[60] *Ibid.*

					judges are *"constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government."* (underscoring provided) Hence, the said Order is misplaced, and the subject court should have resolved the pending incident outright.	
36-37	19-110-V and 19-111-V	Pp. vs. Tonny Laguido	3-3-19	Warrant of Arrest dated 6-4-19. Commitment Order dated 6-4-19.	It should be noted that the subject court still issued an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 4 June 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant cases.	*". . . [I]t is the practice of my Clerk of Court to attach a Warrant of Arrest in every criminal case records although the accused was already arrested."*

					In instances such as this, the subject court needed only to issue a Commitment Order.	
38	19-115-V	Pp. vs. Richie Dale Ramirez	6-13-19	Warrant of Arrest dated 6-3-19. Commitment Order dated 6-13-19. Order dated 6-14-19, directing the release of the accused after he posted bail.	It should be noted that the subject court still issued an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 3 June 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant case. In instances such as this, the subject court needed only to issue a Commitment Order.	*". . . [I]t is the practice of my Clerk of Court to attach a Warrant of Arrest in every criminal case records although the accused was already arrested."*
39-40	19-089-C and 19-090-C	Pp. vs. Jumenick Maquiling	4-17-19	Warrant of Arrest dated 4-22-19. Commitment Order dated 4-22-19.	It should be noted that the subject court still issued an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 22 April 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant cases.	*". . . [I]t is the practice of my Clerk of Court to attach a Warrant of Arrest in every criminal case records although the accused was already arrested."*

					In instances such as this, the subject court needed only to issue a Commitment Order.	
41	19-116-V	Pp. vs. Joseph Rojo	6-13-19	Warrant of Arrest dated 6-13-19. Commitment Order dated 6-13-19. Order dated 6-14-19, directing the release of the accused after posting bail.	It should be noted that the subject court still issued an Order directing the issuance of a Warrant of Arrest, which in this case was issued on 13 June 2019, notwithstanding the fact that the accused was already in custody at the time of the filing of the instant case. In instances such as this, the subject court needed only to issue a Commitment Order.	*"... [I]t is the practice of my Clerk of Court to attach a Warrant of Arrest in every criminal case records although the accused was already arrested."*
Civil Cases						
No.	**Case No.**	**Title**	**Date Filed**	**Court Action**	**Observation(s)/ Finding(s)**	**Comment/s by Judge Trinidad**
42	FC-02-03-G	Hyacinth Escutin vs. Ric Richard Liclican (for Voiding of Marriage)	3-21-02	Decision dated 9-1-07, declaring the marriage void.	There was an Answer filed on 6 June 2002, but the respondent did not appear during the trial, notwithstanding the fact that he only resides in Dumaguete City.	No Comment from Judge Trinidad on the subject audit findings.

					Moreover, there is no copy of the Notice of Appearance of the Office of the Solicitor General on record, which is tantamount to the absence of authority of the public prosecutor to represent the State in the instant case. Finally, no Pre-Trial was conducted therein, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[61] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	
43	FC-11-04-G	Sps. Nicasio Tabilon and Norelie Germunda vs. Jackeline Enero and the LCR of Numancia, Aklan (for Annulment of Marriage)	10-14-11	Decision dated 7-9-17, granting the annulment of marriage.	The decision was fairly swift, given that the instant case was submitted for decision on 6 June 2017 and was decided on 6 July 2017, or approximately only one (1) month thereafter. Moreover, no Pre-Trial was	No Comment from Judge Trinidad on the subject audit findings.

[61] *Supra.*

					conducted since the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[62] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	
44	FC-95-9-G	Edith Saraña vs. Reinaldo Saraña (for Voiding of Marriage)	6-27-95	Decision dated 2-11-16, declaring the marriage void.	There is no Order on record stating that the instant case is submitted for decision. However, the Memorandum of plaintiff was submitted on 5 May 2011. Hence, the instant case is deemed submitted for decision on 5 May 2011, based on Administrative Circular No. 28,[63] which states that, *"the case shall be considered submitted for*	No Comment from Judge Trinidad on the subject audit findings.

[62] *Ibid.*

[63] *Supra.*

					decision upon the filing of the last memorandum or the expiration of the period to do so, whichever is earlier." Accordingly, the decision on 11 February 2016 was already delayed given that the decision should have been rendered on or before 3 August 2011, or within ninety (90) days after the submission of the instant case for decision on 5 May 2011. Moreover, no Pre-Trial was conducted since the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[64] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	

[64] *Supra.*

45	FC-10-02-G	Monique Jennifer Lim-Sarabia vs. Lloyd Dexter Sarabia (for Nullity of Marriage)	10-1-10	Decision dated 6-29-17, declaring the marriage void.	The instant case was submitted for decision on 14 March 2016, but it was only decided on 29 June 2017, or approximately one (1) year and three (3) months thereafter. Hence, there was inordinate delay in rendering the said decision. Moreover, no Pre-Trial was conducted since the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[65] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	No Comment from Judge Trinidad on the subject audit findings.
46	FC-02-02-G	Joel Sy vs. Celerina Osorio Sy (for Declara-tion of	3-15-02	Decision dated 4-29-16, nullifying the marriage.	The instant case was submitted for decision on 18 September 2012, although in the Order dated	No Comment from Judge Trinidad on the subject audit findings.

[65] *Ibid.*

		Absolute Nullity of Marriage)			12 November 2012, the Office of the Solicitor General was given time to file its Comment on the said petition. But there is no compliance therewith on record even as of the date of the judicial audit. Regardless, the instant case was decided, but only after approximately three (3) years and five (5) months. Hence, there was inordinate delay in rendering the said decision.	
47	FC-06-03-G	Sarah De Guia vs. Michael de Guia (for Declara-tion of Absolute Nullity of Marriage)	5-2-06	Decision dated 7-25-07, declaring the marriage void.	The proceedings in the instant case is exceptionally fast compared to the other cases, given that from the time it was filed on 4 May 2006, the instant case was decided only after one (1) year and two (2) months. Moreover, there is no Order on record to show that the instant case was submitted for decision. It	No Comment from Judge Trinidad on the subject audit findings.

					was decided on 25 July 2007, a month after the petitioner filed her Formal Offer of Exhibits on 18 June 2007. Relative thereto, there is also no Order on record to show that the Formal Offer of Exhibits filed by petitioner was resolved by the subject court. Finally, no Pre-Trial was conducted since the instant case was immediately set for the presentation of evidence *ex-parte*, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[66] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	
48	FC-02-01-G	Yvette Martinez vs. Joseph Francis Martinez (for	3-1-02	Decision dated 6-15-06, granting the annulment of marriage.	No Notice of Appearance by the Office of the Solicitor General on record, absent which, it cannot be	No Comment from Judge Trinidad on the subject audit findings.

[66] *Ibid.*

		Annulment of Marriage)			presumed that the public prosecutor is properly deputized to appear for the State in the proceedings therein.	
49	FC-02-06-V	Teodor Calderon Baradi vs. Cherelyn Batilo-Baradi (for Annulment of Marriage)	7-11-02	Decision dated 6-30-08, granting the annulment of marriage.	No Order on record submitting the instant case for decision, but the last Memorandum was filed by petitioner on 3 May 2007. Hence, the instant case was deemed submitted for decision on 3 May 2007, following Administrative Circular No. 28[67] which states that, *"the case shall be considered submitted for decision upon the filing of the last memorandum or the expiration of the period to do so, whichever is earlier."* Accordingly, the decision on 30 June 2008 was already delayed since it should have been rendered on or before 1 August 2007.	No Comment from Judge Trinidad on the subject audit findings.

[67] Submission of Memoranda dated July 3, 1989.

					Therefore, there was inordinate delay in deciding the instant case.	
50	FC-06-01-V	Trinidad Ejercito Canomay vs. Uldarico Canomay (for Annulment of Marriage)	1-10-06	Decision dated 6-23-08, granting the said annulment of marriage.	There is no Return on the Summons dated 7 February 2006 on record. Moreover, the instant case was submitted for decision on 22 August 2007 and should have been decided on or before 20 November 2007. Hence, the decision rendered on 23 June 2008 was already delayed as it was rendered beyond the reglementary period to decide.	No Comment from Judge Trinidad on the subject audit findings.
51	FC-06-04-G	Charlow Vargas vs. Oscar Vargas (for Annulment of Marriage)	5-30-06	Decision dated 6-8-15, granting the said annulment of marriage.	There is no Order on record that the instant case was submitted for decision. However, petitioner's Formal Offer of Exhibits was filed on 20 November 2010, but nothing in the record shows that the subject court ruled on the same. Nevertheless, it can be inferred that upon the submission of the said Formal Offer	No Comment from Judge Trinidad on the subject audit findings.

					of Exhibits by the petitioner, the latter rested its case. Hence, instant case was deemed submitted for decision on 20 November 2010, and the same should have been decided on or before 18 February 2011. Accordingly, the decision on 8 June 2015 was already delayed as it was rendered beyond the reglementary period to decide. Moreover, no Pre-Trial was conducted, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[68] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	
52	FC-17-04-C	Nelly Estrada vs. Joemon Estrada (for Declaration of	9-18-17	The Return on Summons dated 10-10-17 states that, *"the respondent is now in Manila with no address*	The Order dated 30 May 2018 of the subject court, directing the petitioner to publish the Summons and	*"… [W]ith all due respect the Rule provides that when the whereabouts of respondent is unknown as*

[68] *Supra.*

		Absolute Nullity of Marriage)		*given for almost two (2) years now."* *Ex Parte* Motion to Serve Summons either by substituted service or by publication was filed on 4-16-18. Order dated 5-30-18, stating that, *"the Sheriff is hereby directed to serve the Summons thru substituted service, should the same be futile, let the Summons and petition and the Order be published in a newspaper of general circulation in the Province of Negros Oriental and its component cities once a week for 3 consecutive weeks."* (underscoring provided) Publication in the Dumaguete Star Informer on 22 and 29 July, and on 5 August 2018.	the Order in a newspaper of general circulation in Negros Oriental and its component cities, runs counter to the specific provision under Sec. 6 (1) of A.M. No. 02-11-10-SC[69] which provides that, *"Where the respondent cannot be located at his given address or his whereabouts are unknown and cannot be ascertained by diligent inquiry, service of summons may, by leave of court, be effected upon him by publication once a week for two consecutive weeks in a newspaper of general circulation in the Philippines and in such places as the court may order."* (underscoring provided) The need to comply with the above-quoted provision is mandatory, and with more reason in the instant	*in this case, service may be effected upon him by publication in a newspaper of general circulation in such place as the court may order."*

[69] *Ibid.*

					case since the respondent is known to have resided in Manila for the last two (2) years.	
53	FC-16-03-C	Jay Dayondon vs. Charrie Dayondon (for Annulment of Marriage)	3-14-16	Answer was filed on 7-12-16. Order dated 12-6-17, stating that, *"when this case was called for Pre-Trial, petitioner and counsel appeared. There was no appearance on the part of the respondent and counsel. Considering the attendant circumstances, petitioner is given ten days to file his legal opinion. In the meantime, this case is held in abeyance."*	The instant case has not been acted upon since December 2017 after the issuance of the Order dated 6 December 2017. However, the rationale of the said Order runs counter with Sec. 13 (b) of A.M. No. 02-11-10-SC[70] which states that, *"if the respondent has filed his answer but fails to appear, the court shall proceed with the pre-trial and require the public prosecutor to investigate the non-appearance of the respondent and submit within fifteen days thereafter a report to the court stating whether his non-appearance is due to any collusion between the parties. If there is no collusion, the court*	*"… [T]his case was left unattended and not acted upon because of the heavy caseloads in the subject court and the case folders were not orderly arranged."*

[70] *Ibid.*

					shall require the public prosecutor to intervene for the State during the trial on the merits to prevent suppression or fabrication of evidence."	
54	FC-18-05-G	Nathaniel Villaher-mosa vs. Mary Ann Villahermosa (for Declaration of Nullity of Marriage)	5-23-18	Order dated 7-18-19, directing the petitioner to amend the petition for being defective, there being no specific address of the respondent in the said Petition.	The said Petition should have been dismissed in accordance with par. d of OCA Circular No. 63 2019[71] dated 17 April 2019, stating that, *"the failure of the petitioner to comply with the residency requirement shall be a ground for the immediate dismissal of the petition, without prejudice to the refiling of the petition in the proper venue."*	*". . . [T]he petitioner in the instant case has complied with the residency requirement, however, the court finds slight clerical error as to his specific address and it would be too harsh to dismiss the case, thus the court allowed the petitioner to amend his petition."*
55	FC-17-07-G	Marjorie Salvador vs. Bryan Roy Salvador (for Declaration of Nullity of Marriage)	11-24-17	Order dated 2-7-19 states that, *"considering that the investigation report is already in, after marking the exhibits today, set this case for trial proper on 3-28-19 at 8:30 in the morning."*	It is evident from the Order dated 7 February 2019 that there was no Pre-Trial conducted since the proceedings therein was immediately set for initial trial after the filing of the No Collusion Report.	*". . . [T]hese cases were decided faster than other cases because my staff failed to chronologi-cally and orderly arrange the case folders. The undersigned (Judge) decides the case as to how*

[71] *Supra.*

					This practice contravenes the succinct provision of Sec. 11 (1) of A.M. No. 02-11-10-SC[72] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases. Moreover, it has been observed that the address of the petitioner, as indicated in the said petition, is incomplete as it only states *"Poblacion, Guihulngan City, Negros Oriental,"* without the house number or the street name. There is also no address indicated in the Verification of the said Petition. However, in the Barangay Certification dated 1 February 2019, to prove the residency of the petitioner, which was submitted over one (1) year	*it was being arranged by the Clerk of Court."*

[72] *Supra.*

					after the said Petition was filed, the indicated address of the petitioner is Roxas St., Poblacion, Guihulngan City, Negros Oriental. It can then be inferred that it was only after over one (1) year following the filing of the said Petition that the petitioner resided in the address indicated in the Barangay Certification.	
56	FC-15-05-G	Alvin Mendoza Tomesa vs. Jenilyn Masa Paguio Tomesa (for Declaration of Nullity of Marriage)	8-26-15	Decision dated 4-19-18, granting the nullity of marriage.	The instant case was decided faster than the other cases given that the Formal Offer of Exhibits of the petitioner was only filed on 5 March 2018, and over a month thereafter, the instant case was decided.	*". . . [T]hese cases were decided faster than other cases because my staff failed to chronologically and orderly arrange the case folders. The undersigned (Judge) decides the case as to how it was being arranged by the Clerk of Court."*
57	FC-12-01-G	Ronard M. Susas vs. Robie A. Susas (for Declaration of Absolute	4-25-12	Summons dated 4-25-12 was duly served per Return that was filed on 5-9-12.	From the time the Return on the Summons was filed on 9 May 2012, there was an inordinate delay of more than six (6) years	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the*

		Nullity of Marriage)		The Notice of Appearance of the Office of the Solicitor General was filed on 6-6-12. Order dated 9-6-18, directing the public prosecutor to conduct an investigation whether or not collusion exists between the parties.	before the subject court acted on the instant case, and issued the Order dated 6 September 2018. The latter Order is also the last issued by the subject court, and no further action has been done since then.	*case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*
58	FC-06-06-C	Junrose Silvano vs. Celso Silvano (for Declaration of Nullity of Marriage)	8-10-06	Order dated 9-3-13, issued by then APJ Bahonsua, directing the parties to submit their respective Memoranda. Respondent's Memorandum was filed on 3-30-14, but there is no Memorandum from the petitioner on record. Decision dated 11-18-15, granting the nullity of marriage.	Based on A.O. No. 95-2013 dated 6 May 2013, the designation of Judge Mario O. Trinidad as assisting judge of Br. 61, RTC, Bogo City, Cebu, pursuant to A.O. No. 137-2012 dated 17 July 2012, was revoked on even date. Consequently, he was expected thereafter to re-assume as the presiding judge of the subject court. Evidently, there was delay in deciding the instant case since approximately more than two (2) years have elapsed from	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*

					the time Judge Trinidad should have re-assumed as the presiding judge of the subject court to the time that he decided the instant case.	
59	FC-18-06-V	Janet Sabanal-Arigo vs. AM Arigo (for Declaration of Nullity of Marriage)	8-16-18	The address of the petitioner, as indicated in the petition, is Poblacion, Vallehermoso, Negros Oriental. In the Verification Certification of Non-Forum Shopping therein, the stated address of petitioner is Tandayag Sur, Amlan, Negros Oriental. The Sheriff's Return on the Summons dated 9-17-18 (no date of receipt) states that, *"on 30th day of August, the undersigned tried to serve a copy of Summons with Respondent and annexes attached thereto issued by the Regional Trial Court, Branch 64,*	It can be noted that the address of petitioner in the said Petition is not complete there being no indication of the house number and street name. Moreover, the address indicated in the Verification is different from the one stated in the body of the Petition. However, in the Amended Judicial Affidavit of petitioner Janet Sabanal Arigo, which was filed on 21 March 2019, it is indicated that she is *"a resident of Amlan, Negros Oriental."* The Municipality of Amlan, Negros Oriental, is outside the jurisdiction of the City of Guihulngan, Negros Oriental, since it is within	No Comment from Judge Trinidad on the subject audit findings.

				Guihulngan City on the above-entitled case upon respondent AM C. Arigo with given address at Tandayag, Amlan, Negros Oriental. However, the house was closed and no person was inside the house. As per information by the neighbor, no one occupies the house." (underscoring supplied) It further discloses that, *"on 14th day of September 2018, the undersigned went back at the given address. A certain Honeylyn C. Sabanal, 24 years of age were (sic) there, who claimed to be Petitioner's [Sister-in-law].* *As per information, respondent is not leaving (sic) in that*	the territorial jurisdiction of Tanjay City, Negros Oriental. A further verification revealed that the same parties have a pending Petition for the same cause of action before Br. 43, RTC, Tanjay City, Negros Oriental (currently stationed in Dumaguete City), denominated as Spec. Proc. No. 453,[73] that was filed earlier on 21 November 2013. In the said Petition, the stated address of both parties is Tandayag, Amlan, Negros Oriental, and the same address was also reflected in the petitioner's Judicial Affidavit that was filed on 4 May 2017 for the afore-mentioned case. On 30 July 2018, the petitioner filed a Notice to Withdraw	

[73] *Janet D. Sabanal-Arigo vs. AM C. Arigo*, for Declaration of Nullity of Marriage.

				<u>house anymore</u>. *Hence, substituted service is resorted to her who signed and acknowledged the receipts thereof."* (underscoring provided)	Petition, but the same remains unacted upon to date by Br. 43, RTC, Tanjay City, Negros Oriental. Meanwhile, the Sheriff's Return on the Summons dated 17 September 2018 categorically states that the respondent no longer resides in the said address, yet substituted service was still resorted to, and that the Summons was declared to have been duly served. Finally, no Pre-Trial was conducted therein, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC,[74] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	
60	FC-17-02-C	Flonisa Aragon Mindac	2-14-17	Order dated 6-27-19, resetting the	No Pre-Trial was conducted therein, in contravention	No Comment from Judge Trinidad on the

[74] *Ibid.*

		vs. Mark Besin Amarante (for Declaration of Nullity of Marriage)		initial trial on 10-3-19.	of Sec. 11 (1) of A.M. No. 02-11-10-SC,[75] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	subject audit findings.
61	FC-18-02-C	Robengie D. Rogano vs. Jeany Per Rogano	3-13-18	Return on Summons was submitted on 4-25-18, stating that it was unserved because respondent no longer resides at their ancestral home for almost three (3) years, and she is now in Manila working as a lady guard. Her aunt Nenita Dela Cuesta, does not know her present address. Motion for Leave to Serve Summons with copy of Petition by way of publication in accordance with Section	The Order dated 4 June 2018, directing the petitioner to publish the Summons and the Order in a newspaper of general circulation in Negros Oriental and its component cities, runs counter to the specific provision under Sec. 6 (1) of A.M. No. 02-11-10-SC,[76] which provides that, "*where the respondent cannot be located at his given address or his whereabouts are unknown and cannot be ascertained by diligent inquiry, service of summons may, by leave of court, be effected upon him by*	*". . . [T]hese cases were decided faster than other cases because my staff failed to chronologically and orderly arrange the case folders. The undersigned (Judge) decides the case as to how it was being arranged by the Clerk of Court."*

[75] *Ibid.*

[76] *Ibid.*

				14, Rule 14, New Rules of Court dated 5-11-18 (no date of receipt). Order dated 6-4-18, directing the petitioner to publish a copy of the Petition and the Order in a newspaper of general circulation in the Province of Negros Oriental and its component cities once a week for three (3) consecutive weeks. The same were published on 29 July, 5 August and on 12 August 2018 in the Dumaguete Star Informer.	*publication once a week for two consecutive weeks in a newspaper of general circulation in the Philippines and in such places as the court may order.*" (underscoring provided) The need to comply with the above-quoted provision is mandatory, and with more reason in the instant case given that the respondent is already based in Manila for the last three (3) years.	
62	FC-18-01-G	Francis Eusebio vs. Roxane L. Eusebio (for declaring the marriage void)	3-8-18	Decision dated 11-28-18, declaring the marriage void.	It should be noted that the instant case was decided exceptionally fast as compared to the other cases with similar cause of action, given that the same was submitted for decision on 22 November 2018, and six (6) days thereafter,	"*. . . [T]hese cases were decided faster than other cases because my staff failed to chronologically and orderly arrange the case folders. The undersigned (Judge) decides the*

					the same was decided. Moreover, no Pre-Trial was conducted, in contravention of Sec. 11 (1) of A.M. No. 02-11-10-SC, [77] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages cases.	*case as to how it was being arranged by the Clerk of Court."*
63	FC-17-05-G	Eduardo Cordova vs. Marites Cordova (for the declaration of nullity of marriage)	9-25-17	Motion to Set Pre-Trial was filed on 12-14-17. Motion to Set Pre-Trial was filed on 11-22-18. Order dated 6-18-19, stating that, *"upon Motion of the petitioner, set this case for trial proper to September 17, 2019 at 8:00 o'clock in the morning."*	Inspite of the said Motions, which are still pending and unresolved as of the date of the judicial audit, the subject court proceeded to set the case for trial proper, without first conducting the Pre-Trial. Such act contravenes Sec. 11 (1) of A.M. No. 02-11-10-SC, [78] which provides that Pre-Trial is mandatory in Declaration of Absolute Nullity of Void Marriages and Annulment	No Comment from Judge Trinidad on the subject audit findings.

[77] *Ibid.*

[78] *Ibid.*

					of Voidable Marriages cases.	
64	FC-14-02-V	Guillermo Laguda vs. Karen Balo-an (for Declaration of Nullity of Marriage)	12-19-14	Motion to Dismiss was filed on 3-6-15 due to improper venue on the ground that the petitioner is a resident of Dumaguete City, and that two (2) other cases were previously filed based on the same cause of action in Br. 58, RTC, San Carlos City, Negros Occidental, on 7-24-13, that was eventually dismissed for improper venue, having been established therein that the petitioner is a resident of Dumaguete City and not of San Carlos City, and in Br. 63, RTC, Bayawan City, on 9-11-14 which was also dismissed for lack of jurisdiction on the ground that petitioner is a resident of Camanjac, Dumaguete City.	It should be noted that the holding in abeyance of the proceedings in the instant case is improper considering that the Court of Appeals has not issued a TRO to suspend the proceedings. Moreover, in the hearing on 12 November 2015, wherein the Motion to Dismiss was denied, the reception of petitioner's evidence proceeded despite the absence of the movant who was not properly notified based on the transcript of stenographic notes, disclosing that there was no return on the Subpoena sent to her. In effect, the latter was not afforded due process inasmuch as she was deprived of the opportunity to cross-examine the witness presented during the said hearing.	*"… [T]he case was being held in abeyance pending resolution of the application for TRO before the Court of Appeals."*

				Order dated 11-12-15, denying the said Motion to Dismiss after hearing was conducted thereon. Motion for Reconsideration on the Order dated 11-12-15 was filed on 5-5-16. Order dated 11-3-17, denying the said Motion for Reconsideration. Petition for Certiorari before the Court of Appeals, assailing the Orders dated 11-12-15 and 11-3-17, and praying for a Preliminary Injunction and/or TRO. Court of Appeals Resolution dated 4-19-18, directing the private respondent (petitioner in the instant case) to file his Comment. No ruling on the		

				prayer for TRO was issued. Order dated 9-13-18, holding the proceedings in the instant case in abeyance, there being a petition for Certiorari.		
Special Proceedings						
No.	**Case No.**	**Title**	**Date Filed**	**Court Action**	**Observation(s)/ Finding(s)**	**Comment/s of Judge Trinidad**
65	18-03-G	In the Matter of Change of Name from Jamila Brillanes to Jamila Mubarak Munasir Ali Billanes Al-Ghayathin in the Certificate of Live Birth Elisa O. Billanes, petitioner vs. Local Civil Registrar, Bacolod City	6-11-18	Decision dated 10-9-18, granting the instant Petition.	The instant case was filed on 18 June 2018, and it was decided on 9 October 2018, or approximately after only four (4) months. Likewise, in the said Petition, the address of the petitioner is incomplete since it was merely mentioned that she is a *"resident of Guihulngan City, Negros Oriental, for more than 3 years."* There is also no address indicated in the Verification therein.	*". . . [T]hese cases were decided faster than other cases because my staff failed to chronologically and orderly arrange the case folders. The undersigned (Judge) decides the case as to how it was being arranged by the Clerk of Court."*
66	FC-18-03-G	In the Matter of Adoption of Minor Queenzy	4-2-18	Order dated 6-4-18, directing the party to submit Formal Offer of	It is readily apparent that the instant case was decided exceptionally fast	*". . . [T]hese cases were decided faster than other cases because*

		Zyra Que Anthony Thimoth Clarke, consented by spouse Jethel Alilling Que Clarke, petitioner		Exhibits within 10 days after the Comment of the State; thereafter, the instant case was submitted for decision. State's Comment provides, among others, that the case study should be submitted first before the subject court decides on the instant case. Case study was filed on 7-13-18. Decision dated 7-16-18, granting the adoption.	as compared to other cases with similar cause of action, considering that the same was decided after only three (3) days from the filing of the case study as prayed for in the Comment of the State.	*my staff failed to chronologically and orderly arrange the case folders. The undersigned (Judge) decides the case as to how it was being arranged by the Clerk of Court."*
67-68	15-01-L and 15-02-L	Correction of Entry on the Date of Birth in the Marriage Record of Danilo Aguilar Bebelone	3-30-15	Order dated 2-16-17, submitting the instant cases for decision. Decision dated 2-21-18, granting the said Petition.	There was inordinate delay in deciding the instant case, given that over one (1) year had elapsed from the time the same was submitted for decision until the time that it was decided.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*

69	11-02-C	Change of First Name and Correction of Entry of Sex of Stephen Feliciano	1-31-11 (Amended Petition was filed on 5-17-17)	Order dated 8-1-18, submitting the instant case for decision. Decision dated 8-14-19, granting the said Petition.	Nothing in the case records would show that the mandatory requirement of publication was complied with as regards the Amended Petition. Furthermore, there was inordinate delay of almost a year from the time the instant case was submitted for decision until the time that it was decided.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*
70	FC-13-01-G	In the Matter of Adoption of Vera Christine Martinez Vergara Sps. Rojan and Rosalie Postrano-Vergara, petitioners	2-4-13	Order dated 2-7-19, submitting the instant case for decision. Decision dated 7-15-19, granting the said Petition.	There was inordinate delay from the time the instant case was submitted for decision until the time that it was decided.	*"[T]he delay in the resolutions and decisions was due to heavy caseloads, and the case records were not chronologically and orderly arranged by my staff after the strong quake in 2012 as a result some cases were left unattended."*
71	FC-17-01-V	Ronz Ivan Pagar Escribano vs. Helen Dickenson	2-7-17	Order dated 7-17-19, submitting the instant case for decision.	The instant case was decided exceptionally fast as compared to other cases with similar cause of	*". . . [T]hese cases were decided faster than other cases because my staff failed*

				Decision dated 7-25-19, granting the said petition.	action, considering that the decision was rendered only six (6) days after the same was submitted for decision.	*to chronologically and orderly arrange the case folders. The undersigned (Judge) decides the case as to how it was being arranged by the Clerk of Court."*

In sum, Judge Trinidad failed to resolve two (2) cases within the required period and pending incidents that were already submitted for resolution in forty-six (46) cases.[79] The respective resolutions of the said pending incidents were overdue for almost a year to over nine (9) years from the time that the same were submitted for resolution.

Judge Mario Trinidad failed to decide a civil case and a special proceedings case within the reglementary period as prescribed by law. In Civil Case No. FC-11-03-G,[80] the subject court issued an Order dated February 6, 2017, admitting the Formal Offer of Exhibits of petitioner, and submitting the instant case for decision. Hence, following the ninety (90)-day period provided by law to decide cases, the instant case should have been decided on or before May 7, 2017. The said decision was already overdue for more than two (2) years as of the date of the judicial audit, and yet no decision has been rendered by the subject court on the instant case to date.

As for Special Proceedings Case No. FC-14-03-G,[81] the same was submitted for decision on November 27, 2017 per the subject court's Order of even date. Given the ninety (90)-day period

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[79] *Rollo*, pp. 2-19.

[80] Titled *"Mary Grace Lostan-Aguilos v. Giovie Aguilos."*

[81] *Adoption and Cancellation of Simulated Birth Record, Sps. Fernando and Rossini C. Villasor, petitioners.*

to decide the instant case, the subject court should have decided the same not later than February 25, 2018. Hence, as of the date of the judicial audit, the said decision was already overdue for more than one (1) year, and to date, there is no showing that the said case has already been decided.

Thus, in its Memorandum[82] dated June 8, 2020, addressed to the Chief Justice Diosdado M. Peralta, the OCA recommended that the subject judicial audit report be re-docketed as a regular administrative matter, and retired Presiding Judge Mario O. Trinidad be found guilty of gross ignorance of the law or procedure, undue delay in rendering decisions and in resolving pending incidents already submitted for resolution, and simple misconduct, and be meted the penalty of fine in the amount of one million pesos (₱1,000,000.00), to be deducted from the proceeds of his retirement benefits.

The OCA pointed out that Judge Trinidad failed to give any justifiable reason for the delay. Among these reasons are the burgeoning caseload of the subject court, which he claims already reached almost 2,000 cases; his temporary detail to other courts sometime in 2008 due to an attempt on his life; the earthquake that struck Guihulngan City in 2012 resulting in the collapse of the Hall of Justice thereat and the consequential disarray of the case records which, he alleged, was attributed to the failure of the court staff to chronologically and orderly arrange them thereafter, thereby causing the affected cases to be overlooked; the cancelled hearings in 2014 after a grenade was lobbed at his house, and the escalating encounters between the New People's Army and the Philippine National Police, resulting in the rampant killings in the area that made litigants, their witnesses, and the counsels, including the public prosecutors, skip hearings for fear of their lives, necessitating the resetting of the scheduled hearings.

The OCA further stressed that these events that allegedly caused the delay would not hold water as two (2) cases which decisions were already overdue were only submitted for decision

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[82] *Rollo*, pp. 1-171.

on February 6, 2017 and November 27, 2017, respectively. However, the records of the Office of the Court Administrator show that he was detailed to other courts as early as 2008,[83] then in 2011,[84] in 2012[85] and up until 2013[86] only. As for the incident where a grenade was thrown at his house, this happened in 2014, and the resulting cancellation of court proceedings was only for a few days.

As to his assertion that hearings were also cancelled in 2017 because of the absence of the parties and counsels due to the altercation between the New People's Army and the Philippine National Police, still this will not justify the delay because by this time, the cases were already submitted for decision, hence, the hearings were already terminated. Clearly, these events which took place prior to the submission of the subject cases for decision, could not have possibly hindered him from timely rendering the said decisions.

RULING

After a perusal of the records, the Court concurs with the findings and recommendations of the OCA.

The foregoing are undisputed facts as they are based court records. The irregularities speak for themselves and require no in-depth discussion. In effect, the evidence against Judge

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[83] Per Administrative Order No. 169-2008 dated December 4, 2008, Judge Trinidad was designated as the Acting Presiding Judge of Branch 46, Regional Trial Court, Larena, Siquijor.

[84] Per Administrative Order No. 108-2011 dated July 20, 2011, Judge Trinidad was designated as Assisting Judge (full time) of Branch 53, Regional Trial Court, Lapu-Lapu City, Cebu.

[85] Per Administrative Order No. 137-2012 dated September 17, 2012, Judge Trinidad was designated as Assisting Judge (full time) of Branch 61, Regional Trial Court, Bogo City, Cebu, and his designation as Assisting Judge of Branch 53, Regional Trial Court, Lapu-Lapu City, Cebu, was revoked.

[86] Per Administrative Order No. 95-2013 dated May 6, 2013, revoking the designation of Judge Trinidad as Assisting Judge of Branch 61, Regional Trial Court, Bogo City, Cebu, pursuant to Administrative Order No. 137-2012 dated July 17, 2012.

Trinidad, speaks of his infractions as to justify the application of the doctrine of *res ipsa loquitur*.

This is not the first time that the principle has been applied in administrative cases. In a number of cases, the Court applies the *res ipsa loquitur* principle in removing judicial officers and personnel from office. As can be gathered from the cases decided in this jurisdiction, *res ipsa loquitur* has been defined as the "the thing speaks for itself" and "the fact speaks for itself."[87] It is even asserted that there is no more need for any further investigation."[88]

On the charge of Undue Delay in Rendering Decisions and Resolutions of Pending Incidents, and Gross Inefficiency.

The Constitution expressly provides that all lower courts should decide or resolve cases or matters within three months from the date of submission.[89] Section 5, Canon 6 of the New Code of Judicial Conduct[90] likewise provides:

> Sec. 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness.

Accordingly, this Court has laid down certain guidelines to ensure the compliance with this mandate. More particularly, Supreme Court Administrative Circular No. 13-87[91] provides:

> 3. Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts.

Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate

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[87] *People v. Hon. Valenzuela, et al.*, 220 Phil. 385 (1985) and *Padilla v. Dizon*, A.C. No. 3086, May 3, 1989, 158 SCRA 127.

[88] See *Sy v. Mongcupa*, 335 Phil. 182, 187 (1997).

[89] Section 15, Article VIII, Constitution.

[90] A.M. No. 03-05-01-SC, June 1, 2004.

[91] Dated July 1, 1987.

courts while all other lower courts are given a period of three months to do so.

Supreme Court Administrative Circular No. 1-88[92] further states:

6.1 All Presiding Judges must endeavor to act promptly on all motions and interlocutory matters pending before their courts.

Given the foregoing rules, the Court cannot overstress its policy on prompt disposition or resolution of cases. Delay in the disposition of cases is a major culprit in the erosion of public faith and confidence in the judicial system, as judges have the sworn duty to administer justice without undue delay. Thus, judges have been constantly reminded to strictly adhere to the rule on the speedy disposition of cases and observe the periods prescribed by the Constitution for deciding cases, which is three months from the filing of the last pleading, brief or memorandum for lower courts. To further impress upon judges such mandate, the Court has issued guidelines (Administrative Circular No. 3-99 dated January 15, 1999) that would ensure the speedy disposition of cases and has therein reminded judges to scrupulously observe the periods prescribed in the Constitution.[93]

In the instant case, we have considered the justifications and explanations proffered by Judge Trinidad, however, while they may be recognized as true and reasonable, they are not sufficient to exonerate him from liability. Indeed, as the OCA noted, Judge Trinidad's explanations cannot exculpate him from his administrative liability for undue delay in deciding the two (2) cases and in resolving the pending incidents for resolution in forty-six (46) cases. The inordinate delay was not just in terms of days or months, but delay in terms of years. Aside from the said undecided cases and unresolved incidents, there were, as of the date of the judicial audit, eighty-four (84) pending incidents that remained to be resolved;[94] forty-one (41) cases which were

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[92] Dated January 28, 1988.

[93] *Bancil v. Judge Reyes*, 791 Phil. 401, 407-408 (2016).

[94] *Rollo*, pp. 19-31.

considered as dormant, there being no further action and/or further setting thereon;[95] and the absence of hearings in some criminal cases for one (1) to two (2) years.

We are also aware of the heavy case load of trial courts, as well as the different circumstances or situations that judges may encounter during trial, thus, the Court has allowed reasonable extensions of time needed to decide cases, but such extensions must first be requested from the Court. Whenever a judge cannot decide a case promptly, all he has to do is to ask the Court for a reasonable extension of time to resolve it. However, there is no showing that Judge Trinidad requested for any extension of time within which to decide the said civil cases and the said pending incidents for resolution. A judge cannot by himself choose to prolong the period for deciding cases beyond that authorized by law.[96]

The rules and jurisprudence are clear on the matter of delay. Failure to decide cases and other matters within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanction against the erring magistrate. Judges must decide cases and resolve matters with dispatch because any delay in the administration of justice deprives litigants of their right to a speedy disposition of their case and undermines the people's faith in the judiciary. Indeed, justice delayed is justice denied.[97]

Delay in rendering decisions and resolutions of pending incidents already submitted for resolution is a serious violation of Section 15,[98] Article VIII of the Constitution, and a blatant

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[95] *Id.* at 31-39.

[96] *Re: Cases Submitted for Decision Before Hon. Baluma*, 717 Phil. 11, 17 (2013).

[97] *Miano v. Aguilar*, 782 Phil. 33, 42 (2016).

[98] *"All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts."*

violation of Rule 3.05[99] of the Code of Judicial Conduct and Section 5,[100] Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary, which require judge to dispose of court businesses promptly.

On the charge of Gross Ignorance of the Law

The audit report shows that in Criminal Case No. 00-024-G,[101] the accused, who was released on bail, was arraigned on April 3, 2000. Thereafter, she jumped bail, prompting the subject court to issue the Order dated July 26, 2006, archiving the instant case for the reason that the accused had jumped bail. In his defense, Judge Trinidad stated that the reason for archiving the instant case was because *"the court wanted to afford accused full opportunity to be heard thus the subject court opted to archive the case pending arrest of the accused instead of having trial in absentia."*

However, under OCA Circular No. 89-2004[102] dated August 12, 2004, a case may only be archived if the accused jumped

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[99] Rule 3.05 — A judge shall dispose of the court's business promptly and decide cases within the required periods.

[100] Sec. 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

[101] *People of the Philippines v. Ranulfa Alpas.*

[102] Reiteration of the Guidelines in the Archiving of Cases.

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a) A criminal case may be archived only if after the issuance of the warrant of arrest, the accused remains at large for six (6) months from the delivery of the warrant to the proper peace officer x x x;
b) The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently, or to undergo trial, and he has to be committed to a mental hospital;
c) A valid prejudicial question in a civil action is invoked during the pendency of the criminal case unless the civil and the criminal cases are consolidated;
d) An interlocutory order or incident in the criminal case is elevated to, and is pending resolution/decision for an indefinite period before a higher court which has issued a temporary restraining order or writ of preliminary injunction; and
e) When the accused has jumped bail **before arraignment** and cannot be arrested by the bondsman. (Emphasis supplied)

bail before arraignment and she/he cannot be arrested by the bondsman. In the instant case, the accused was already arraigned prior to jumping bail, hence, Judge Trinidad should have conducted trial *in absentia*, in accordance with Section 14 (2), Article III of the 1987 Constitution, which provides that, *"after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable."* As a consequence thereof, the instant case was dormant for five (5) years following the archiving, to the prejudice of the State and the offended party.

Also, in Civil Case No. FC-17-04-C,[103] for Declaration of Absolute Nullity of Marriage, the Return on the Summons dated October 10, 2017 provided that *"the respondent is now in Manila with no address given for almost two (2) years now."* Petitioner filed an *Ex-Parte* Motion to Serve Summons Either by Substituted Service or by Publication on April 16, 2018, which Judge Trinidad granted in the Order dated May 30, 2018, stating that *"the Sheriff is hereby directed to serve the Summons thru substituted service, should the same be futile, let the Summons and petition and the Order be published in a newspaper of general circulation in the Province of Negros Oriental and its component cities once a week for 3 consecutive weeks."* The publication of the Summons, Petition and the said Order appeared in the *Dumaguete Star Informer* on July 22 and 29, and on August 5, 2018.

The audit report showed that the same procedure was repeated in Civil Case No. FC-18-02-C,[104] for Annulment of Marriage, where the Return on the Summons, which was submitted on April 25, 2018, stated that it was unserved since respondent no longer resided in their ancestral home for almost three (3) years, and that she has been living in Manila where she works as a lady guard. Petitioner filed a Motion for Leave to Serve Summons with a Copy of the Petition by way of Publication on May 11, 2018. Accordingly, Judge Trinidad issued the Order dated June

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[103] *Nelly Estrada v. Joemon Estrada.*

[104] *Robengie D. Rogano v. Jeany Per Rogano.*

4, 2018, directing the petitioner to publish a copy of the Petition and the Order in a newspaper of general circulation in the Province of Negros Oriental and its component cities once a week for three (3) consecutive weeks. The same were published on July 29, August 5 and August 12, 2018 in the *Dumaguete Star Informer*.

Again, Judge Trinidad justified the said orders by elucidating that *"the Rule provides that when the whereabouts of respondent is unknown as in this case, service may be effected upon him by publication in a newspaper of general circulation in such place as the court may order."* However, the provision relied upon by Judge Trinidad, which pertains to extraterritorial service under Section 15,[105] Rule 14 of the Rules of Court, is misplaced since the subject cases involved nullity and annulment of marriages, respectively. As such, the applicable provision is that provided under Section 6 (1) of A.M. No. 02-11-10-SC, which emphatically states that *"[w]here the respondent cannot be located at his given address or his whereabouts are unknown and cannot be ascertained by diligent inquiry, service of summons may, by leave of court, be effected upon him by publication once a week for two consecutive weeks* ***in a newspaper of general circulation in the Philippines and in such places as the court may order.*** *In addition, a copy of the summons shall be served on the respondent at his last known address by registered mail or any other means the court may deem sufficient."*[106] Thus,

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[105] **Sec. 15.** Extraterritorial service. — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient." [Underscoring provided]

[106] Emphasis supplied.

the publication should not only be made in a newspaper of general circulation in such places as the court may order, but also in a newspaper of general circulation in the Philippines. More so, in the cases considering that the respective Returns on the Summons provided that both respondents are already residing in Manila.

Judge Trinidad likewise failed to direct the petitioners to comply with the additional requirement of serving summons on the respondents at their respective last known addresses by registered mail or by other means the subject court deemed sufficient.

Anent Civil Case No. FC-18-05-G,[107] for Declaration of Nullity of Marriage, Judge Trinidad issued the Order dated July 18, 2019, directing the petitioner to amend the petition for being defective, there being no specific address of the respondent therein. The judicial audit team flagged the said order as improper since the appropriate action should have been to dismiss the instant case without prejudice, for failure to prove residency. Judge Trinidad explained that the instant case was not outrightly dismissed because *"[petitioner] has complied with the residency requirement, however, the court finds slight clerical error as to his specific address and it would be too harsh to dismiss the cases, thus the court allowed the petitioner to amend his petition."*

However, in the Supreme Court Resolution dated October 2, 2018 in A.M. No. 02-11-10-SC *(Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages)* and in A.M. No. 02-11-11-SC *(Re: Rule on Legal Separation)*, approving the Proposed Guidelines to Validate Compliance with the Jurisdictional Requirement Set Forth in A.M. No. 02-11-10-SC, it provides that the petition shall immediately be dismissed if the petitioner fails to comply with the residency requirements, namely, failure to state the complete address of the parties in the petition (*i.e.*, house number, street, *purok*/village/subdivision, barangay, zone, town, city, and province), and the submission of the three (3) supporting

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[107] *Nathaniel Villahermosa v. Mary Ann Villahermosa.*

documents that are enumerated under paragraph (a) of the said resolution. Clearly, the verified petition is dismissible on its face for not being compliant with the residency requirement.

Moreover, the audit team reported that in a number of cases[108] involving annulment and nullity of marriages, where majority of said petitions were granted, Judge Trinidad failed to conduct of pre-trial, a mandatory stage of the proceedings as explicitly directed under Section 2,[109] Rule 18 of the Rules of Court and under Section 11 (1) of A.M. No. 02-11-10-SC.[110] Notably, Judge Trinidad did not offer any explanation as regards his failure to comply with the mandatory requirement of setting the subject cases for pre-trial.

In Criminal Case Nos. 19-110-V and 19-111-V;[111] 19-115-V;[112] 19-089-C and 19-090-C;[113] and 19-116-V,[114] it has been

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[108] Civil Case Nos. FC-02-03-G, *Hyacinth Escutin v. Ric Richard Liclican* (Decision dated 1 September 2007, declaring the marriage void); FC-11-04-G, *Sps. Nicasio Tabilon and Norelie Germunda v. Jackeline Enero and the LCR of Numancia, Aklan* (Decision dated July 9, 2017, granting the annulment of marriage); FC-95-9-G, *Edith Saraña v. Reinaldo Saraña* (Decision dated February 11, 2016, declaring the marriage void); FC-10-02-G, *Monique Jennifer Lim-Sarabia v. Lloyd Dexter Sarabia* (Decision dated June 29, 2017, declaring the marriage void); FC-06-03-G, *Sarah De Guia v. Michael De Guia* (Decision dated 25 July 2007, declaring the marriage void); FC-06-01-G, *Trinidad Ejercito Canomay v. Uldarico Canomay* (Decision dated June 23, 2008, granting the annulment of marriage); FC-06-04-G, *Charlow Vargas v. Oscar Vargas* (Decision dated June 8, 2015, granting the annulment of marriage); FC-17-07-G, *Marjorie Salvador v. Bryan Roy Salvador*; FC-18-06-V, *Janet Sabanal-Arigo v. AM Arigo*; FC-17-02-C, *Flonisa Aragon Mindac v. Mark Besin Amarante*; FC-17-05-G, *Eduardo Cordova v. Marites Cordova*; and FC-18-01-C, *Francis Eusebio v. Roxane L. Eusebio* (Decision dated November 28, 2018, declaring the marriage void).

[109] **Sec. 2.** *Nature and purpose.* — The pre-trial is mandatory. x x x

[110] *Supra.*

[111] *People of the Philippines v. Tonny Laguido.*

[112] *People of the Philippines v. Richie Dale Ramirez.*

[113] *People of the Philippines v. Jumenick Maquiling.*

[114] *People of the Philippines v. Joseph Rojo.*

observed that the subject court still issued orders directing the issuance of a warrant of arrest notwithstanding the fact that the respective accused were already in custody at the time of the filing of the instant cases. For these, Judge Trinidad explained that it has been the practice of his branch clerk of court to attach a warrant of arrest in every criminal case record although the accused were already arrested at the time of the filing of the Informations.

However, said practice does not conform with the explicit provision in Section 5 of Rule 112 of the Rules of Court, that *"[i]f the [judge] finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested . . . when the complaint or information was filed pursuant to Section 6 of this Rule."*

Likewise, in Criminal Case Nos. 03-014-G and 03-015-G,[115] accused's application for bail was granted per Order dated February 27, 2006. However, on appeal to the Court of Appeals, the latter, in its Resolution[116] dated June 25, 2008, directed the subject court to order the arrest and detention of the accused, and to cancel his bail. A copy of the said resolution was received by the subject court on July 10, 2008. Thereafter, the Petition for Review[117] filed by accused before the First Division of the Supreme Court was denied in the Resolution dated October 20, 2010, a copy of which was received by the subject court sometime in May 2011. Notwithstanding, records reveal that Judge Trinidad failed to comply with and implement the directive of the Court of Appeals. At the time of the judicial audit, the accused remained released on bail as there was no record that Judge Trinidad revoked his bail and issued a warrant for his arrest.

In Criminal Case Nos. FC-04-10-G and FC-04-042-G,[118] the Court of Appeals rendered a Decision dated July 11, 2011, remanding the instant cases to the subject court for the reception

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[115] *People of the Philippines v. Sgt. Honofre Cabrera*.

[116] In CA-G.R. SP No. 01919.

[117] Denominated as G.R. No. 192919.

[118] *People of the Philippines v. Rady Alcala*.

of the prosecution's evidence. A copy of the said decision was received by the subject court on March 1, 2012. However, the same was only acted upon by Judge Trinidad after more than six (6) years, when he issued the Order dated September 13, 2018, resetting the hearing of the instant cases on March 14, 2019. As of the date of the judicial audit, the case was still on the initial trial stage of the proceedings.

For his defense, Judge Trinidad again invoked the excuse of having a heavy caseload in the subject court and the disorderly management of the case records for not promptly acting on the cited directives of the appellate court.

Judging by the foregoing, the Court can only conclude that the actuations of Judge Trinidad were not only gross ignorance of the law, but also grave abuse of discretion as well as defiance to the lawful directives/orders of the appellate courts. Indeed, as OCA observed, Judge Trinidad repeatedly failed to apply even the very basic of laws, rules and procedures, which he cannot feign ignorance of, given his stature as a presiding judge of the second level court for fifteen (15) years.

No less than the Code of Judicial Conduct mandates that a judge shall be faithful to the laws and maintain professional competence. Indeed, competence is a mark of a good judge. A judge must be acquainted with legal norms and precepts as well as with procedural rules. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the duty to be proficient in the law. Unfamiliarity with the Rules of Court is a sign of incompetence. Basic rules of procedure must be at the palm of a judge's hands.[119]

Though not every judicial error bespeaks ignorance of the law or of the rules, and that, when committed in good faith, does not warrant administrative sanction, the rule applies only in cases within the parameters of tolerable misjudgment. When the law or the rule is so elementary, not to be aware of it or to

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[119] *State Prosecutor Comilang, et al. v. Judge Belen*, 689 Phil. 134, 146 (2012).

act as if one does not know it constitutes gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court proficiency in the law, and the duty to maintain professional competence at all times. When a judge displays an utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. A judge is expected to keep abreast of the developments and amendments thereto, as well as of prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.[120]

In the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action. However, the assailed judicial acts must not be in gross violation of clearly established law or procedure, which every judge must be familiar with. Every magistrate presiding over a court of law must have the basic rules at the palm of his hands and maintain professional competence at all times. Thus, Judge Trinidad's actuations cannot be considered as mere error of judgment that can be easily excused. Obstinate disregard of basic and established rule of law or procedure amounts to inexcusable abuse of authority and gross ignorance of the law.[121]

PENALTY

The administration of justice demands that those who don judicial robes be able to comply fully and faithfully with the task set before them. As frontline officials of the judiciary, judges should, at all times, act with efficiency and with probity. They are duty-bound not only to be faithful to the law, but likewise to maintain professional competence. The pursuit of excellence must be their guiding principle. This is the least that judges can do to sustain the trust and confidence which the public reposed on them and the institution they represent.[122]

In the instant case, the judicial audit revealed that there were many cases that were undecided notwithstanding the lapse of

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[120] *Sunico v. Judge Gutierrez*, 806 Phil. 94, 109 (2017).

[121] *Id.* at 110.

[122] *OCA v. Former Judge Leonida*, 654 Phil. 668, 678 (2011).

the 90-day reglementary period within which they should be disposed, apart from those that have remained dormant or unacted upon for several years. There was inordinate delay in deciding two (2) cases and pending incidents for resolution in forty-six (46) cases. Aside from the said undecided cases and unresolved incidents, there were, as of the date of the judicial audit, eighty-four (84) pending incidents that remained to be resolved;[123] forty-one (41) cases which were considered as dormant;[124] and the absence of hearings in some criminal cases for one (1) to two (2) years. In the absence of an extension of time within which to decide these cases, Judge Trinidad's failure to diligently perform his judicial duties is simply inexcusable. Failure to decide cases and other matters within the reglementary period constitutes *gross inefficiency* and warrants the imposition of administrative sanction against the erring magistrate.[125]

Thus, in *Re: Cases Submitted for Decision before Hon. Emuslan*,[126] the Court imposed a fine of Fifty Thousand Pesos (₱50,000.00) on Judge Emuslan for gross inefficiency due to his failure to decide forty-three (43) cases and pending incidents before he retired. All cases and incidents had been submitted for decision or resolution, and the reglementary period to decide or resolve the cases or incidents had already lapsed on the date of his retirement.

In *OCA v. Judge Quilatan*,[127] citing *Re: Cases Submitted for Decision Before Hon. Bayani Isamu Y. Ilano, Former Judge, Regional Trial Court, Branch 71, Antipolo City*, the Court imposed a fine of Fifty Thousand Pesos (₱50,000.00) on Judge Quilatan for his failure to decide within the reglementary period

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[123] *Rollo*, pp. 19-31.

[124] *Id.* at 31-39.

[125] *Rubin, et al. v. Judge Corpus-Cabochan*, 715 Phil. 318, 334 (2013); *OCA v. Judge Santos*, 697 Phil. 292, 299 (2012); *Re: Cases Submitted for Decision before Hon. Emuslan*, 630 Phil. 269, 272 (2010); *Report on the Judicial Audit Conducted in the RTC, Branch 22, Kabacan, North Cotabato*, 468 Phil. 338, 345 (2004).

[126] 630 Phil. 269 (2010).

[127] A.M. No. MTJ-09-1745, September 27, 2010, 631 SCRA 425, 429.

thirty-four (34) cases submitted for decision prior to his date of retirement.

Again, in *OCA v. Retired Judge Guillermo Andaya*,[128] the Court imposed a fine of Fifty Thousand Pesos (₱50,000.00) on Judge Andaya for his failure to decide forty-five (45) cases submitted for decision within the reglementary period.

Meanwhile, gross ignorance of the law is a serious charge under Section 8, Rule 140 of the Rules of Court. Justices and judges found guilty of these charges may be penalized by any of the following:

> 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
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> 2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
>
> 3. A fine of more than ₱20,000.00 but not exceeding ₱40,000.00.[129]

Further, in A.M. No. RTJ-15-2436 dated July 18, 2016, Judge Trinidad was found guilty of conduct unbecoming a judge and fined with a stern warning that a repetition of the same or similar offenses shall be dealt with more severely.[130]

Considering Judge Trinidad's previous administrative sanction, the number of cases/incidents left undecided and the lack of any plausible explanation for such failure to decide within the reglementary period constituting gross inefficiency, his violations of Court resolutions and directives constituting gross ignorance of the law, the most severe penalty should be imposed upon Judge Trinidad.

However, considering his compulsory retirement on January 19, 2020, the penalty of dismissal from service can no longer

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[128] 712 Phil. 33 (2013).

[129] Rules of Court, Rule 140, Sec. 11 (A).

[130] *Rollo*, p. 171.

be imposed. Nevertheless, cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against him at the time that he was still in the public service.[131] Thus, in *lieu* of the penalty of dismissal from the service for his gross inefficiency and gross ignorance of the law, We, instead, impose the accessory penalties of dismissal from the service, *i.e.*, forfeiture of retirement benefits, **except** accrued leave credits, and disqualification from re-employment in any branch or service of the government, including government-owned and controlled corporations.

Finally, let this be a reminder to all the incumbent judges that the Court has adopted rules, circulars, and guidelines for judges to follow in order to expedite the resolution of cases. These are intended to render fair, just and swift justice to give meaning to the very purpose of the existence of the Court as dispenser of justice. In this regard, even with Judge Trinidad's retirement, it did not stop the Court from imposing the proper penalty to those found to be in discord with the Court's policies.

WHEREFORE, the Court finds respondent Judge Mario O. Trinidad, then Presiding Judge of Branch 64, Regional Trial Court, Guihulngan City, Negros Oriental, **GUILTY** of Gross Inefficiency and Gross Ignorance of the Law. In *lieu* of dismissal from the service which the Court can no longer impose, Judge Trinidad's retirement benefits are instead declared **FORFEITED** as penalty for his offenses, except accrued leave credits. He is, likewise, barred from re-employment in any branch or instrumentality of government, including government-owned or controlled corporations.

This Resolution is immediately executory.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

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[131] See *OCA v. Grageda*, 706 Phil. 15, 21 (2013).

EN BANC

[A.M. No. P-16-3578. September 1, 2020]
[Formerly A.M. No. 14-6-203-RTC]

LYDIA C. COMPETENTE and DIGNA TERRADO, *Complainants*, *v*. **CLERK III MA. ROSARIO A. NACION, REGIONAL TRIAL COURT (RTC), BRANCH 22, MALOLOS CITY, BULACAN,** *Respondent*.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; ONCE JURISDICTION IN AN ADMINISTRATIVE PROCEEDING HAS ATTACHED, THE SAME IS NOT LOST BY THE MERE FACT THAT THE PUBLIC OFFICIAL OR EMPLOYEE WAS NO LONGER IN OFFICE DURING THE PENDENCY OF THE CASE; CASE AT BAR. — At the outset, while respondent was ordered to be dropped from the rolls "effective May 2, 2014" and the instant complaint was filed only on May 26, 2014 or 24 days after respondent was retroactively dropped from the rolls, the Court notes that jurisdiction over the instant administrative complaint has already attached considering that respondent was deemed a *de facto* employee of the Court when the written-complaint was filed on May 26, 2014.

For one, the Resolution which ordered the dropping of respondent from the rolls was issued only on March 18, 2015. For another, the records of the case clearly show that respondent was still active in the plantilla records at the time that the instant complaint was filed.

"Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. *However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case."* Consequently, the supervening Resolution

retroactively dropping respondent from the rolls is not reason to exculpate her from administrative liability.

2. ID.; ID.; COURT PERSONNEL; CODE OF CONDUCT FOR COURT PERSONNEL; PROHIBITION AGAINST SOLICITING OR ACCEPTING ANY GIFT, FAVOR, OR BENEFIT. — The Code of Conduct for Court Personnel (the Code), *inter alia*, provides that court personnel serve as sentinels of justice. Hence, any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary and the people's confidence in it.

Section 2, Canon I of the Code prohibits court personnel from soliciting or accepting "any gift, favor or benefit shall influence their official actions."

On the other hand, Section 2(e), Canon III of the Code commands court personnel to never "solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties."

3. ID.; ID.; ID.; ID.; ID.; GRAVE MISCONDUCT, DEFINITION AND PENALTY THEREFOR; RECEIVING MONEY FROM LITIGANTS CONSTITUTES GROSS MISCONDUCT; CASE AT BAR. — Grave Misconduct is defined as "a serious transgression of some established and definite rule of action (such as unlawful behavior or gross negligence by the public officer or employee) that tends to threaten the very existence of the system of administration of justice an official or employee serves." It is a grave offense punishable by dismissal for the first offense.

. . .

As found by the OCA, respondent admitted that she received the amount of ₱20,500.00 from complainants so that she could pay the required bond for the accused at the Office of the Clerk of Court. Furthermore, respondent also confessed that she was not able to return the exact amount of ₱20,500.00 upon demand by the complaints despite her failure to process the bail bond.

It is well-settled in our jurisdiction that the court personnel's sole act of receiving money from litigants, whatever the reason may be, constitutes grave misconduct, and no matter how nominal the amount involved is, such act erodes the respect for law and the courts.

4. ID.; ID.; REVISED UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE; ADMINISTRATIVE DISABILITIES INHERENT IN THE PENALTY OF DISMISSAL; CASE AT BAR. — Under Section 58(a), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service on the Administrative disabilities inherent in certain penalties, the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government, unless otherwise provided in the decision.

. . .

It is true that when the present administrative case was filed before the OCA, through the 3rd Indorsement of EJ Arcega, respondent was no longer an employee of the judiciary as she was dropped from the rolls effective May 2, 2014. However, this fact, as correctly held by the OCA, does not render the present complaint moot.

Following the ruling in *Pagano v. Nazarro, Jr.*, even if dismissal from service may no longer be imposed on the respondent, there are other penalties which may be imposed on her, namely, the disqualification to hold any government office and the forfeiture of benefits.

R E S O L U T I O N

INTING, *J.*:

For resolution is the written-complaint[1] dated May 26, 2014 filed by Lydia C. Competente (Competente) and Digna C. Terrado (Terrado) (collectively, complainants) against Ma. Rosario A. Nacion (respondent), Clerk III of Branch 22, Regional Trial Court (RTC) of Malolos City, Bulacan for violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act.

The Antecedents

In the 3rd Indorsement[2] dated June 16, 2014, Executive Judge Ma. Theresa V. Mendoza-Arcega (EJ Arcega) of RTC Malolos

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[1] *Rollo*, pp. 9-10.

[2] *Id.* at 1.

City, Bulacan transmitted to the Office of the Court Administrator (OCA) for appropriate action the 2nd Endorsement[3] dated June 11, 2014 of Presiding Judge Grace V. Ruiz (Judge Ruiz) of the RTC relative to the Incident Report[4] dated May 27, 2014 prepared by Branch Clerk of Court Eddielyn L. Gatdula (BCC Gatdula).

In the Incident Report, BCC Gatdula narrated that on March 6, 2014, when a commitment order was issued in Criminal Case No. 965-M-2014 entitled *People of the Philippines v. Aldie Terrado y Cope*, respondent offered to Competente and Terrado, the live-in partner and mother of Aldie C. Terrado (accused), respectively, her assistance in securing bail for the accused. Respondent represented herself to complainants as the clerk-in-charge of criminal cases whose function is to secure and/or assist the accused in securing bail which includes receiving cash bonds.[5]

On May 14, 2014, complainants filed a Motion to Reduce Bond,[6] which the respondent received. On May 16, 2014, complainants entrusted to respondent the amount of ₱20,500.00 representing 50% of the bail recommended.[7] However, despite having received the amount of ₱20,500.00 for the cash bond, respondent failed to secure the release of the accused. Respondent explained that it was because the RTC had not yet granted their Motion to Reduce Bond. Consequently, complainants brought the matter to the attention of BCC Gatdula who, in turn, referred it to Presiding Judge Grace V. Ruiz (Judge Ruiz). Thus, Judge Ruiz explained to complainants that she could not have acted on their Motion to Reduce Bond because there was no motion on file. With that, Competente showed to Judge Ruiz a copy of their motion which was stamped "received" and a mimeographed paper evidencing respondent's receipt of ₱20,500.00. Thereafter,

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[3] *Id.* at 3.

[4] *Id.* at 5-7.

[5] *Id.* at 5.

[6] *Id.* at 12-13.

[7] *Id.* at 14.

Judge Ruiz instructed BCC Gatdula to prepare an order granting the subject motion based on the copy presented to her by complainants, and to assist complainants in formalizing their complaints against respondent. Subsequently, Judge Ruiz brought the matter to the attention of EJ Arcega.[8]

During the meeting called by Judge Ruiz in her office, Terrado demanded respondent to return the ₱20,500.00 since she needed it to post the required bail. Respondent said that the amount would be returned the following day. However, respondent did not make good her promise as she only gave ₱10,500.00 to complainants. Initially, Competente refused to receive the amount tendered as it was not the exact amount that they demanded from respondent. Later on, Competente accepted the amount of ₱10,500.00 on the condition that respondent would execute a letter-receipt evidencing the amount paid.[9]

In compliance with the Memorandum[10] dated May 27, 2014 issued by EJ Arcega directing respondent to comment on the allegations, respondent submitted a letter[11] dated June 6, 2014 manifesting that she had no intention to defraud complainants.[12]

Meanwhile, in the Resolution[13] dated March 18, 2015 in A.M. No. 15-01-26-RTC, the Court, Third Division, dropped respondent from the rolls effective May 2, 2014. The resolution was based on the Report dated December 10, 2014 of the Office of the Court Administrator (OCA) which found that respondent had not been submitting her Daily Time Records and had been absent without approved leave since May 2, 2014.[14]

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[8] *Id.* at 57-58.

[9] *Id.* at 58.

[10] *Id.* at 21.

[11] *Id*. at 22-23.

[12] *Id.* at 23.

[13] *Id.* at 30-31.

[14] *Id.* at 30.

Report and Recommendation of the OCA

The OCA, in its Report and Recommendation[15] dated August 1, 2016, found respondent guilty of Grave Misconduct and declared that respondent would have been dismissed from the service had she not been earlier dropped from the rolls pursuant to A.M. No. 15-01-26-RTC. The OCA instead recommended that: (a) respondent's civil service eligibility be cancelled; (b) her retirement and other benefits, except accrued leave credits, be forfeited; and (c) that she be perpetually disqualified from reemployment in the government agency as well as in government-owned and -controlled corporations.[16]

In the Resolution[17] dated October 10, 2016, the Court resolved to:

1. NOTE the complaint filed by Lydia C. Competente and Digna Terrado against respondent Rosario A. Nacion, Clerk III, Regional Trial Court (RTC), Br. 22, Malolos City, Bulacan for violation of R.A. No. 3019 or the Anti-Graft and Corrupt Practices Act, and the Incident Report dated 11 June 2014 by Atty. Eddielyn L. Gatdula, Branch Clerk of Court, RTC, Br. 22, Malolos City, Bulacan;

2. RE-DOCKET the instant complaint against respondent Ma. Rosario A. Nacion, Clerk III, RTC, Br. 22, Malolos City, Bulacan as a regular administrative matter; and

3. REQUIRE the parties to MANIFEST to this Court whether they are willing to submit this matter for resolution on the basis of the pleadings filed within ten (10) days from notice.[18]

In a Resolution[19] dated June 19, 2017, the Court resolved to deem as served the Resolution dated October 10, 2016 sent to complainants and await respondent's manifestation. In the

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[15] *Id.* at 57-61; signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino.

[16] *Id.* at 61.

[17] *Id.* at 62-63.

[18] *Id.* at 62.

[19] *Id.* at 70-71.

Resolution[20] dated January 31, 2018, the Court resolved to require BCC Gatdula to furnish the Court with the correct and current address of respondent.

In compliance with the Resolution dated January 31, 2018, Nestor S. Dela Rosa, Jr., Officer-in-Charge of the RTC submitted a letter[21] dated June 4, 2018 stating that he is not in a position to either ascertain or verify the complete and current address of respondent considering that per available records, the latter is locally known to be a resident of Pinagpala St., Tonsuya, 1473, Malabon City. However, per respondent's January 12, 2012 Personal Data Sheet, it appears that she has another address, which is at B13 L3 Belmont Parc Vill., Caypombo, Sta. Maria, Bulacan.[22]

The Issue before the Court

The primordial issue for the Court's resolution is whether respondent is guilty of Grave Misconduct.

The Court's Ruling

At the outset, while respondent was ordered to be dropped from the rolls "effective May 2, 2014"[23] and the instant complaint was filed only on May 26, 2014 or 24 days after respondent was retroactively dropped from the rolls, the Court notes that jurisdiction over the instant administrative complaint has already attached considering that respondent was deemed a *de facto* employee of the Court when the written-complaint was filed on May 26, 2014.

For one, the Resolution which ordered the dropping of respondent from the rolls was issued only on March 18, 2015.[24] For another, the records of the case clearly show that respondent

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[20] *Id.* at 76-77.

[21] *Id.* at 78.

[22] *Id.*

[23] See Third Division, Court's Resolution dated March 18, 2015, *id.* at 30-31.

[24] *Id.*

was still active in the plantilla records at the time that the instant complaint was filed.[25]

"Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. *However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case*."[26] Consequently, the supervening Resolution retroactively dropping respondent from the rolls is not a reason to exculpate her from administrative liability.

The Code of Conduct for Court Personnel[27] (the Code), *inter alia*, provides that court personnel serve as sentinels of justice. Hence, any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary and the people's confidence in it.

Section 2, Canon I of the Code prohibits court personnel from soliciting or accepting "any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions."

On the other hand, Section 2 (e), Canon III of the Code commands court personnel to never "solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties."

In light of the foregoing, the Court concurs with the OCA's recommendation that respondent be held guilty of Grave Misconduct.

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[25] *Id.* at 47.

[26] *Office of the Court Administrator v. Grageda*, 706 Phil. 15, 21 (2013). Citations omitted.

[27] Administrative Matter No. 03-06-13-SC.

Grave Misconduct is defined as "a serious transgression of some established and definite rule of action (such as unlawful behavior or gross negligence by the public officer or employee) that tends to threaten the very existence of the system of administration of justice an official or employee serves."[28] It is a grave offense punishable by dismissal for the first offense.

Under Section 58 (a), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service on the administrative disabilities inherent in certain penalties, the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government, unless otherwise provided in the decision.[29]

As found by the OCA, respondent admitted that she received the amount of ₱20,500.00 from complainants so that she could pay the required bond for the accused at the Office of the Clerk of Court. Furthermore, respondent also confessed that she was not able to return the exact amount of ₱20,500.00 upon demand by the complainants despite her failure to process the bail bond.[30]

It is well-settled in our jurisdiction that the court personnel's sole act of receiving money from litigants, whatever the reason may be, constitutes grave misconduct,[31] and no matter how nominal the amount involved is, such act erodes the respect for law and the courts.[32]

It is true that when the present administrative case was filed before the OCA, through the 3rd Indorsement[33] of EJ Arcega,

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[28] *Ramos v. Limeta*, 650 Phil. 243, 248 (2010), citing *Fernandez, Jr. v. Gatan*, 474 Phil. 21, 26 (2004).

[29] *Concerned Citizen v. Catena*, 714 Phil. 114, 124 (2013).

[30] *Rollo*, p. 59.

[31] *Villahermosa, Sr., et al. v. Sarcia, et al.*, 726 Phil. 408, 416 (2014).

[32] *Rodriguez v. Eugenio*, 550 Phil. 78, 94 (2007), citing *Office of the Court Administrator v. Gaticales*, A.M. No. MTJ-91-528, May 8, 1992, 208 SCRA 508, 515 and *Office of the Court Administrator v. Barron*, 358 Phil. 12, 28 (1998).

[33] *Rollo*, p. 1.

respondent was no longer an employee of the judiciary as she was dropped from the rolls effective May 2, 2014. However, this fact, as correctly held by the OCA, does not render the present complaint moot.

Following the ruling in *Pagano v. Nazarro, Jr.*,[34] even if dismissal from service may no longer be imposed on the respondent, there are other penalties which may be imposed on her, namely, the disqualification to hold any government office and the forfeiture of benefits.

WHEREFORE, the Court **ADOPTS** the Report and Recommendation of the Office of the Court Administrator. Accordingly, respondent Ma. Rosario A. Nacion, Clerk III, Branch 22, Regional Trial Court of Malolos City, Bulacan is found **GUILTY** of Grave Misconduct and would have been meted the penalty of dismissal from the service had she not been earlier dropped from the rolls effective May 2, 2014 pursuant to the Resolution dated March 18, 2015 in A.M. No. 15-01-26-RTC. Consequently, her civil service eligibility is hereby **CANCELLED**, her retirement and other benefits, except accrued leave credits, are hereby **FORFEITED**, and she is **PERPETUALLY DISQUALIFIED** from reemployment in any government agency or instrumentality, including any government-owned and -controlled corporation.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Zalameda, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

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[34] 560 Phil. 96 (2007).

EN BANC

[G.R. No. 225366. September 1, 2020]

STAR SPECIAL CORPORATE SECURITY MANAGEMENT, INC. (formerly STAR SPECIAL WATCHMAN & DETECTIVE AGENCY, INC.) herein represented by EDGARDO C. SORIANO, the HEIRS OF CELSO A. FERNANDEZ and MANUEL V. FERNANDEZ for himself and for the HEIRS, *Petitioners*, *v.* **COMMISSION ON AUDIT, PUERTO PRINCESA CITY and HON. LUCILO R. BAYRON in his capacity as City Mayor and THE MEMBERS OF THE SANGGUNIANG PANLUNGSOD,** *Respondents*.

SYLLABUS

1. REMEDIAL LAW; JUDGMENTS; DOCTRINE OF FINALITY OR IMMUTABILITY OF JUDGMENT. — Under the doctrine of immutability of judgment, a decision, once final, can no longer be altered. As held in *FGU Insurance Corp. v. Regional Trial Court of Makati City, Branch 66*: Under the doctrine of finality [or] immutability of judgment, 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 and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.

2. POLITICAL LAW; CONSTITUTIONAL COMMISSIONS; COMMISSION ON AUDIT (COA); THE JURISDICTION OF THE COA DOES NOT INCLUDE THE APPELLATE POWER TO REVIEW, REVISE, REVERSE, OR MODIFY JUDGMENTS AND ORDERS OF LOWER COURTS. — The Commission on Audit has no jurisdiction to modify, much less nullify, a final judgment of the Regional Trial Court. It is not a court; neither is it a part of the judicial system. It is an independent constitutional body possessed of administrative or quasi-judicial functions in relation to its general audit power.

x x x [T]his jurisdiction of the Commission on Audit does not include the appellate power to review, revise, reverse, or modify judgments and orders of lower courts. The Constitution vests the power of judicial review only in this Court and in such lower courts as the law may establish.

3. ID.; CONSTITUTIONAL LAW; JUDICIAL DEPARTMENT; DECISIONS AND RESOLUTIONS OF THE COA ARE SUBJECT TO THE SUPREME COURT'S EXPANDED POWER OF JUDICIAL REVIEW; CASE AT BAR. — Decisions and resolutions of the Commission on Audit are subject to the Court's judicial power. Article VIII, Section 1 of the 1987 Constitution provides for the expanded jurisdiction of the Court, "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." x x x Morever, Article IX-A, Section 7 of the 1987 Constitution, provides that "[u]nless 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[.]" Here this Court finds that the Commission on Audit's decision of disallowing petitioners' claim to enforce a final and executory judgment of the Regional Trial Court was tainted with grave abuse of discretion.

APPEARANCES OF COUNSEL

Soriano and Telebrico Law Offices for petitioners.
The Solicitor General for respondents.
The City Legal Officer for respondent City Government of Puerto Princesa.

D E C I S I O N

LEONEN, *J.*:

The Commission on Audit has no jurisdiction to reverse and set aside a final judgment of the Regional Trial Court.

This Court resolves a Petition for *Certiorari*[1] assailing the Decision[2] and Resolution[3] of the Commission on Audit, which denied the claim against Puerto Princesa City (Puerto Princesa) made by Star Special Corporate Security Management, Inc. (Star Special), represented by Edgardo C. Soriano, the heirs of Celso A. Fernandez (Celso), and Manuel V. Hernandez (Manuel) for himself and for the Heirs, (collectively, Star Special, et al.), for the balance of the just compensation for a parcel of land utilized as a road right-of-way, as adjudged in the final and executory decision of the Regional Trial Court of Quezon City.

Star Special Corporate Security Management, Inc. (formerly Star Special Watchman and Detective Agency, Inc.), Celso A. Fernandez, and Manuel V. Fernandez, were the owners of a parcel of land with an area of 5,942 square meters, more or less, and covered by Transfer Certificate of Title No. 13680 issued by the Registry of Deeds of Puerto Princesa City, Palawan.[4]

Star Special, Celso, and Manuel's property was used as a road right-of-way when the national government established a military camp, known as Western Command, in Puerto Princesa. Thus, Star Special, et al. filed before the Regional Trial Court of Quezon City a complaint for just compensation (Civil Case No. Q-90-4930) against Puerto Princesa, Mayor Edward Hagedorn, and the City Council of Puerto Princesa.[5]

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[1] *Rollo*, pp. 3-25. Filed under Rule 64, in relation to Rule 65, of the 1997 Rules of Civil Procedure.

[2] Id. at 73-77. The Decision No. 2012-113 dated July 17, 2012 was signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza of the Commission on Audit, Quezon City, Philippines.

[3] Id. at 78-88. The Resolution dated May 31, 2016 was signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Tabia and Isabel D. Agito of the Commission on Audit, Quezon City, Philippines.

[4] Id. at 73.

[5] Id.

On July 22, 1993, the Regional Trial Court rendered a Decision[6] in favor of Star Special, et al. The dispositive portion of the Decision reads:

> WHEREFORE, judgment is hereby rendered ordering the defendant Puerto Princesa City to pay plaintiffs as follows:
>
> The amount of One Thousand Five Hundred Pesos (₱1,500.00) per square meter on their land covered by Transfer Certificate of Title No. 13680 of the Register of Deeds of Puerto Princesa City, measuring 5,942 square meters with interest at twelve (12%) percent from March 12, 1990, date of the filing of the complaint, and after payment, the Register of Deeds of Puerto Princesa City is ordered to cancel Transfer Certificate of Title No. 13680 in the names of the plaintiffs and another one be issued in the name of Puerto Princesa City, after payment of the corresponding fees; ₱2,000.00 monthly rental from 1986 until the whole value of the land has been fully paid; damages and attorney's fees are dismissed; and counterclaim of the defendant is likewise dismissed for lack of merit.
>
> With costs against the defendant.
>
> SO ORDERED.[7]

The total money judgment amounted to ₱16,930,892.97 as of October 1995. However, sometime in November 1995, Celso and Puerto Princesa's legal counsel, Atty. Agustin Rocamora, verbally agreed to reduce the money judgment from ₱16,930,892.97 to ₱12,000,000.00, on the condition that the City would pay the amount of ₱2 million in February 1996 and, thereafter, ₱1 million monthly until fully paid. The ₱1 million monthly payment was further reduced to ₱500,000.00.[8]

Pursuant to their verbal agreement, Puerto Princesa initially appropriated the amount of ₱2 million, representing the initial

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[6] Id. at 27-37. The Decision was penned by Judge Percival Mandap Lopez of Branch 78, Regional Trial Court, Quezon City.

[7] Id. at 37.

[8] *Star Special Watchman and Detective Agency, Inc., et al. v. Puerto Princesa City, et al.*, 733 Phil. 62, 67-68 (2014) [Per J. Mendoza, Third Division].

payment. Check No. 049646 dated January 30, 1996 for ₱2 million was then issued in the name of Celso, which he also received on February 6, 1996.[9]

On May 10, 1996, Celso wrote a letter to Puerto Princesa, asking payment for the months of March, April, and May of 1996. He also requested the respondents to enact a continuing resolution for the ₱500,000.00 monthly payment until the remaining balance of ₱10 million was fully paid. Otherwise, Star Special would set aside their verbal agreement within the first week of June 1996.[10]

Thereafter, through Sangguniang Panlungsod Resolution No. 292-96, approved on August 6, 1996, Puerto Princesa authorized the release of ₱500,000.00 monthly as payment for Star Special's claim.[11]

Subsequently, checks were issued to Star Special, which was received by Celso on October 23, 1997, detailed as follows:

Check No.	Date Issued	Amount
049646	02/06/96	P2,000,000.00
18278355	09/10/96	1,000,000.00
21562399	11/05/96	1,000,000.00
4205501	01/31/97	2,000,000.00
22977614	05/15/97	2,000,000.00
22986270	05/26/97	1,500,000.00
22299190	06/24/97	500,000.00
22992012	07/27/97	500,000.00
22992130	08/29/97	500,000.00
25531/62	09/25/97	500,000.00
25535244	10/23/97	500,000.00[12]

[9] Id. at 68.

[10] Id.

[11] *Rollo*, p. 79. Commission on Audit Decision dated May 31, 2016.

[12] Id.

On November 27, 2001, which marked the fourth year since the balance of ₱12,000,000.00 was fully paid, Star Special, et al. filed another Complaint before the Regional Trial Court of Quezon City to recover the balance of the original money judgment of ₱16,930,892.97. The Complaint was docketed as Civil Case No. Q-01-45668 and raffled to Branch 223.[13]

Puerto Princesa then filed its answer, asserting that claimants had already been paid in full.[14] During trial, Puerto Princesa failed to appear on the scheduled hearing dates for the presentation of its evidence.[15] Hence, in a June 5, 2003 Order, the trial court considered Puerto Princesa to have waived the presentation of its evidence, and the case was deemed submitted for resolution.[16]

Puerto Princesa received notice of the June 5, 2003 Order on June 18, 2003. More than a month thereafter, Puerto Princesa filed a Motion for Reconsideration; but it was denied by the trial court for having been filed out of time.[17]

Thereafter, judgment was rendered based on the evidence adduced by Star Special, et al.[18] The trial court found that the compromise agreement did not novate Puerto Princesa's obligation under the July 22, 1993 Decision, because the terms laid down by Star Special, et al. for the purported agreement to materialize were never complied with by Puerto Princesa.[19]

The trial court also rejected Puerto Princesa's allegation that Star Special, et al. was "estopped from pursuing its claim[.]"[20] It found satisfactory Celso's explanation that the title was given

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[13] Id. at 79.

[14] Id. at 39.

[15] Id. at 74.

[16] Id. at 40.

[17] Id. at 40-41.

[18] Id. at 41.

[19] Id. at 42.

[20] Id.

to Puerto Princesa, upon the latter's request, to enable it to annotate a *lis pendens* afterwards, considering that Puerto Princesa had already made considerable payments on the property.[21]

Furthermore, the trial court rejected Puerto Princesa's claim of laches, ruling that Star Special, et al.'s complaint was still well within the 10-year prescriptive period under Article 1144 (3) of the New Civil Code.[22] At any rate, the trial court was convinced that Star Special, et al. had sufficiently established its claims.[23]

The dispositive portion of the Regional Trial Court's November 18, 2003 Decision[24] reads:

> **WHEREFORE**, premises considered, defendant Puerto Princesa City is hereby ordered to pay the plaintiffs Star Special Watchman and Detective Agency, Inc., Celso A. Fernandez and Manuel V. Fernandez, the following:
>
> 1. The amount of ten million six hundred fifteen thousand five hundred sixty-nine pesos and sixty-three centavos (₱10,615,569.63), representing the defendants[‘] unpaid balance under the July 22, 2003 Decision, with twelve percent (12%) interest *per annum*, as pegged in the said Decision, from November 27, 2001, the date of the judicial demand in the form of the filing of the present Complaint; and
>
> 2. Three hundred eighty thousand pesos (₱380,000.00), and the rentals of two thousand pesos (₱2,000.00) monthly from November 2001, until full payment of the amount stated in No. 1 hereof.
>
> Plaintiffs' claim for attorney's fees is **DENIED** [for] lack of basis.
>
> Costs against the defendant.
>
> **SO ORDERED.**[25] (Emphasis in the original)

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[21] Id. at 44.

[22] Id.

[23] Id.

[24] Id. at 38-46. The Decision was penned by Presiding Judge Ramon A. Cruz.

[25] Id. at 45-46.

The November 18, 2003 Decision became final and executory on January 20, 2004.[26] A Writ of Execution[27] was then issued by the trial court on February 10, 2005.

When Puerto Princesa did not comply with its obligations, Star Special, et al. filed two (2) motions to: "(1) order the Land Bank of the Philippines to deliver the garnished account of Puerto Princesa City; and/or (2) order the City Council of Puerto Princesa City to appropriate funds for the payment of the money judgment[.]"[28]

In an October 27, 2005 Order,[29] the Regional Trial Court, Branch 223, Quezon City denied the motions on the ground that "no appropriation ordinance has been enacted and approved by the City Government of Puerto Princesa[.]"[30] The Regional Trial Court, however, stated that Puerto Princesa must still honor its obligation and that Star Special, et al. was entitled to a full and just compensation. Hence, the trial court ordered Puerto Princesa to comply with the November 18, 2003 Decision and to immediately pay Star Special the sums of money ordered therein.[31]

Through a May 7, 2007 Letter, Star Special, et al. requested the Commission on Audit to order Puerto Princesa to pay them the amount adjudged in the November 18, 2003 Decision.[32] This was followed by a formal claim on July 13, 2007, praying that the Commission on Audit issue an order "directing respondents to appropriate/allocate the necessary funds for the full satisfaction of the said decision including the corresponding interests and rentals[,] which as of June 26, 2007 amounted to ₱21,235,894.41."[33]

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[26] Id. at 47-48. Certificate of Finality.

[27] Id. at 49-50.

[28] Id. at 51.

[29] Id. at 51-52.

[30] Id. at 52.

[31] Id.

[32] Id. at 53.

[33] *Star Special Watchman and Detective Agency, Inc., et al. v. Puerto Princesa City, et al.*, 733 Phil. 62, 71 (2014) [Per J. Mendoza, Third Division].

On July 17, 2007, Director Roy L. Ursal (Director Ursal) of then Legal and Adjudication Office of the Commission on Audit wrote a Letter[34] to Celso, informing him that the Commission on Audit could not act upon his request because it had no jurisdiction over the matter as the case was "already in the execution stage[.]"

Through an August 27, 2007 Letter, Puerto Princesa asked for the reconsideration of the July 17, 2007 Letter and sought the Commission's interference pursuant to Supreme Court Administrative Circular No. 10-2000, as implemented by COA Circular No. 2001-002 dated July 31, 2001. In his March 28, 2008 reply, Director Salvador P. Isiderio from the Legal and Adjudication Sector of the Commission on Audit reiterated the earlier stand of Director Ursal.[35]

Star Special, et al. then filed a Petition for Mandamus before this Court, seeking to enforce the judgment award of the November 18, 2003 Decision.[36] The petition was docketed as G.R. No. 181792.

In a Decision[37] promulgated on April 21, 2014, the Third Division of this Court denied the Petition for Mandamus. This Court held that: (1) under Presidential Decree No. 1445, the Commission on Audit has the primary jurisdiction to settle all debts and claims due from the Government, or any of its subdivisions, agencies, and instrumentalities; and (2) this power can be exercised even if a court's decision in a case had already become final and executory, and even after the issuance of a writ of execution.[38] The Decision disposed as follows:

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[34] *Rollo*, p. 53.

[35] Id. at 80.

[36] *Star Special Watchman and Detective Agency, Inc., et al. v. Puerto Princesa City, et al.*, 733 Phil. 62, 65 (2014) [Per J. Mendoza, Third Division].

[37] Id.

[38] Id. at 81.

WHEREFORE, the petition for *mandamus* is **DENIED**. Petitioners are enjoined to refile its claim with the Commission on Audit pursuant to P.D. No. 1445.

SO ORDERED.[39] (Emphasis in the original)

Meanwhile, on July 17, 2012, the Commission on Audit rendered a Decision[40] denying Star Special, et al.'s formal claim.[41] The Commission on Audit found that Puerto Princesa had already paid and settled their obligation to the claimants as to the amount agreed upon. Moreover, the claimants cannot be allowed to renege on their verbal agreement by claiming that the original amount/money judgment was not paid or settled.[42] According to the Commission on Audit, Star Special, et al. have shown their approval and adoption of the agreement by their acceptance and retention of the payments.[43]

Star Special, et al. then filed a motion for reconsideration on August 24, 2012.[44] However, on November 24, 2015, they withdrew their motion for reconsideration in view of this Court's April 21, 2014 Decision in G.R. No. 181792. They, instead, filed a second formal claim in order to collect and recover Puerto Princesa's alleged outstanding obligation.[45]

The Commission on Audit rendered a May 31, 2016 Resolution,[46] the dispositive portion of which reads:

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[39] Id. at 84.

[40] *Rollo*, pp. 73-76. Decision No. 2012-113 was signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza.

[41] Id. at 74.

[42] Id. at 75.

[43] Id. at 76.

[44] Id. at 78.

[45] Id. at 82.

[46] Id. at 78-87. The Resolution was signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Tabia and Isabel D. Agito.

WHEREFORE, premises considered, the August 23, 2012 motion for reconsideration and the motion to withdraw the same are hereby **DENIED** for lack of merit. Accordingly, COA Decision No. 2012-113 dated July 17, 2012 is hereby **AFFIRMED with FINALITY**.[47] (Emphasis in the original)

Hence, this Petition was filed.

Petitioners contend that the balance of respondent Puerto Princesa's obligation had long been established in the final and executory November 18, 2003 Decision of the Regional Trial Court.[48] Hence, the Commission on Audit violated the doctrines on immutability of judgment[49] and *res judicata*[50] when it issued a contrary ruling and denied petitioners' claim.

On the other hand, respondent Commission on Audit argues that petitioners' money claims against the local government unit falls under its primary jurisdiction. Hence, the November 18, 2003 Decision of the Regional Trial Court is void. The Commission on Audit further contends that the doctrines on res judicata, law of the case, and immutability of judgment do not apply.[51]

Respondent Puerto Princesa, for its part, argues that "[c]onsidering that the [Commission on Audit] has the authority to determine the propriety of money claims against the Government, its factual determination establishing full payment of the obligation . . . should be accorded great weight and finality."[52]

In their Reply[53] to the Comment of respondent Commission on Audit, petitioners assert that: (1) respondent Puerto Princesa

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[47] Id. at 87.

[48] Id. at 17-18.

[49] Id. at 19.

[50] Id. at 20.

[51] Id. at 111-112. Comment of COA.

[52] Id. at 241.

[53] Id. at 189-199.

is estopped from assailing the jurisdiction of the Regional Trial Court;[54] (2) they acquired vested rights upon the finality of the November 18, 2003 Decision of the Regional Trial Court; and (3) exhaustion of administrative remedies does not apply as the issues raised were purely legal.[55]

The sole issue to be resolved by this Court is whether or not respondent Commission on Audit gravely abused its discretion when it denied petitioners' money claim against respondent Puerto Princesa, considering the finality of the November 18, 2003 Decision of the Regional Trial Court.

This Court grants the petition.

I

The November 18, 2003 Decision of the Regional Trial Court, Branch 223, Quezon City established respondent Puerto Princesa's unpaid balance of the original money judgment (of ₱16,930,892.97, under the July 22, 1993 Decision). Respondent Puerto Princesa failed to appeal within the period prescribed in the Rules of Court, and the November 18, 2003 Decision attained finality in January 2004.

However, respondent Commission on Audit, in denying petitioners' money claim to enforce the November 18, 2003 Decision, held:

> The records of the case show that the claimants and the [City Government of Puerto Princesa] entered into a verbal agreement or extra-judicial compromise agreement reducing the claim to ₱12,000,000.00 from ₱16,930,892.97. This is shown in the letter dated May 10, 1996 of Atty. Celso A. Fernandez to City Mayor Edward S. Hagedorn. Pursuant to such agreement, the [City Government of Puerto Princesa] complied and paid its obligation to Star Special Watchman and Detective Agency, Inc., per Certification dated July 29, 2002, issued by then Puerto Princesa City Treasurer Rogelio L. Hitosis. . .
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> . . .

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[54] Id. at 190-191.

[55] Id. at 192.

Clearly, the [City Government of Puerto Princesa] already paid and settled its obligation to the claimants as to the amount agreed upon. Hence, claimants may not now *[sic]* be allowed to renege in their agreement or contract by claiming that the original amount/ money judgment was not paid or settled by the [City Government of Puerto Princesa].[56]

The Commission on Audit, in effect, reversed and set aside the final and executory decision of the Regional Trial Court, in violation of the doctrine of immutability of judgment.

Under the doctrine of immutability of judgment, a decision, once final, can no longer be altered. As held in *FGU Insurance Corp. v. Regional Trial Court of Makati City, Branch 66*:[57]

Under the doctrine of finality [or] immutability of judgment, 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 and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.[58]

In *Osmeña v. Commission on Audit*,[59] the Commission on Audit disallowed the amount of ₱30,000 appropriated by the City of Cebu relative to a compromise agreement executed in the civil case for damages filed against it, which compromise agreement was embodied in a judgment of the Regional Trial Court. This Court held that the disallowance was tainted with grave abuse of discretion. Thus:

Obviously, respondent refused to take account of the foregoing legal principles in relation to the antecedents of the provision in the supplemental budget of the City for payment of ₱30,000.00. It failed to realize that payment thereof was part of the consideration, not merely for the settlement of a claim, but for the settlement of an

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[56] Id. at 75.

[57] 659 Phil. 117 (2011) [Per J. Mendoza, Second Division].

[58] Id. at 123.

[59] 308 Phil. 487 (1994) [Per C.J. Narvasa, *En Banc*].

actual controversy, and constituted one of the "reciprocal concessions" which the law considers "the very heart and life of every compromise[.]" By making reciprocal concessions, the parties in Civil Case No. 4275 of the Regional Trial Court of Cebu City (Branch 23) put an end to the action in a manner acceptable to all of them. The City thus eliminated the contingency of being made to assume heavier liability in said suit for damages instituted against it in connection with its operation and management of the Cebu City Medical Center, activities being undertaken by it in its proprietary (as distinguished from its government) functions and in accordance with which it may be held liable ex contractu or ex delicto, for the negligent performance of its corporate, proprietary or business functions.

It is noteworthy that the compromise in question was approved by, and embodied in the judgment of, the Court, which pronounced it "to be in conformity with law, morals and public policy" and enjoined the parties "to comply strictly with the terms and conditions thereof."

This judicial compromise is conclusive and binding on all the parties, including the City of Cebu. It is enforceable by execution, as above stressed. There was no reason whatever to object to it, much less disallow any disbursement therein stipulated. It should have been approved as a matter of course.[60] (Citations omitted, emphasis supplied)

Similarly, respondent Puerto Princesa's outstanding balance was already adjudged in the November 18, 2003 Decision of the Regional Trial Court, which had acquired finality. Thus, respondent Commission on Audit should have approved petitioner's claim as a matter of course.

II

The Commission on Audit has no jurisdiction to modify, much less nullify, a final judgment of the Regional Trial Court. It is not a court; neither is it a part of the judicial system. It is an independent constitutional body[61] possessed of administrative or quasi-judicial functions in relation to its general audit power.[62]

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[60] Id. at 498.

[61] J. Brion, Concurring and Dissenting opinion in *Technical Education and Skills Development Authority v. Commission on Audit*, 729 Phil. 60 (2014) [Per J. Carpio, En Banc].

[62] *Uy v. Commission on Audit*, 385 Phil. 324 (2000) [Per J. Puno, *En Banc*].

Section 2, Article IX-D of the Constitution mandates the Commission on Audit, as the "guardian of public funds and properties[,]"[63] to perform the following duties:

> [E]xamine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the government, or any of its subdivisions, agencies, or instrumentalities, to wit:[64]

Furthermore:

> [P]romulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.[65]

The Commission on Audit exercises its powers in accordance with certain principles[66] and state policies to assure that

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[63] *Miralles v. Commission on Audit*, 818 Phil. 380, 389 (2017) [Per J. Bersamin, En Banc].

[64] CONST., Art. IX-D, Sec. 2 (1).

[65] CONST., Art. IX-D, Sec. 2 (2).

[66] Presidential Decree No. 1445 (1978), Government Auditing Code of the Philippines, Sec. 4 provides:
SECTION 4. *Fundamental principles.* — Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:
(1) No money shall be paid out of any public treasury of depository except in pursuance of an appropriation law or other specific statutory authority.
(2) Government funds or property shall be spent or used solely for public purposes.
(3) Trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received.
(4) Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency.
(5) Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials.
(6) Claims against government funds shall be supported with complete documentation.
(7) All laws and regulations applicable to financial transactions shall be faithfully adhered to.

government funds "[are] managed, expended or utilized in accordance with law and regulations, and safeguarded against loss or wastage through illegal or improper disposition."[67]

Included in the Commission on Audit's general audit jurisdiction is the authority to examine, audit, and settle "all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities."[68] Consequently, court-adjudicated money claims against the government must be separately brought before the Commission on Audit for their satisfaction.[69]

In *Roxas v. Republic Real Estate Corp.*,[70] this Court sustained the Court of Appeals in nullifying the writ of execution issued by the Regional Trial Court over government funds for payment of reclamation work done by Republic Real Estate Corporation. This Court then discussed the process for pursuing a money claim against the government, thus:

> The case is premature. The money claim against the Republic should have been first brought before the Commission on Audit.
>
> The Writ of Execution and Sheriff De Jesus' Notice [of Execution] violate this Court's Administrative Circular No. 10-2000 and Commission on Audit Circular No. 2001-002, which govern the issuance of writs of execution to satisfy money judgments against government.
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> Administrative Circular No. 10-2000 dated October 25, 2000 orders all judges of lower courts to observe utmost caution, prudence, and

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(8) Generally accepted principles and practices of accounting as well as of sound management and fiscal administration shall be observed, provided that they do not contravene existing laws and regulations.

[67] Presidential Decree No. 1445 (1978), Sec. 2.

[68] Presidential Decree No. 1445 (1978), Sec. 26; and *Metropolitan Manila Development Authority v. D.M. Consunji, Inc.*, G.R. No. 222423, February 20, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64985> [Per J. Carpio, Second Division].

[69] *Republic v. National Labor Relations Commission*, G.R. No. 174747, March 9, 2016 [Per J. Leonen, Second Division].

[70] 786 Phil. 163 (2016) [Per J. Leonen, *En Banc*].

judiciousness in the issuance of writs of execution to satisfy money judgments against government agencies. This Court has emphasized that:

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> [I]t is settled jurisprudence that upon determination of State liability, the prosecution, enforcement or satisfaction thereof must still be pursued *in accordance with the rules and procedures laid down in Presidential Decree No. 1445*, otherwise known as the Government Auditing Code of the Philippines . . . *All money claims against the Government must first be filed with the Commission on Audit which must act upon it within sixty days.* Rejection of the claim will authorize the claimant to elevate the matter to the Supreme Court on *certiorari* and in effect sue the State thereby (Presidential Decree No. 1445, Sections 49-50). (Emphasis supplied)

For its part, Commission on Audit Circular No. 2001-002 dated July 31, 2001 requires the following to observe this Court's Administrative Circular No. 10-2000: department heads; bureau, agency, and office chiefs; managing heads of government-owned and/or controlled corporations; local chief executives; assistant commissioners, directors, officers-in-charge, and auditors of the Commission on Audit; and all others concerned.

Chapter 4, Section 11 of Executive Order No. 292 gives the Commission on Audit the power and mandate to settle all government accounts. Thus, the finding that government is liable in a suit to which it consented does not translate to enforcement of the judgment by execution.

As a rule, public funds may not be disbursed absent an appropriation of law or other specific statutory authority. Commonwealth Act No. 327, as amended by Presidential Decree No. 1445, requires that all money claims against government must first be filed before the Commission on Audit, which, in turn, must act upon them within 60 days.

Only when the Commission on Audit rejects the claim can the claimant elevate the matter to this Court on *certiorari* and, in effect, sue the state. *Carabao, Inc. v. Agricultural Productivity Commission* has settled that "claimants have to prosecute their money claims against the Government under Commonwealth Act 327 . . . and that the conditions provided in Commonwealth Act 327 for filing money claims against the Government must be strictly observed."

In *Star Special Watchman and Detective Agency, Inc. v. Puerto Princesa City*:

> Under Commonwealth Act No. 327, as amended by Section 26 of P.D. No. 1445, it is the Commission on Audit which has primary jurisdiction to examine, audit and settle "all debts and claims of any sort" due from or owing the Government or any of its subdivisions, agencies and instrumentalities, including government-owned or controlled corporations and their subsidiaries[.]
>
> [Republic Real Estate Corporation's] procedural shortcut must be rejected. Any allowance or disallowance of its money claims is for the Commission on Audit to decide, subject only to [Republic Real Estate Corporation's] remedy of appeal via a petition for *certiorari* before this Court.[71] (Citations omitted, emphasis in the original)

It is true that this Court has, time and again, upheld the Commission on Audit's primary jurisdiction over money claims against the government.[72] However, this jurisdiction of the Commission on Audit does not include the appellate power to review, revise, reverse, or modify judgments and orders of lower courts. The Constitution vests the power of judicial review only in this Court and in such lower courts as the law may establish.[73]

Notably, in cases where the primary jurisdiction of the Commission on Audit was recognized, the doctrine was properly

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[71] Id. at 188-192.

[72] *Metropolitan Manila Development Authority v. D.M. Consunji, Inc.*, G.R. No. 222423, February 20, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64985> [Per J. Carpio, Second Division]; *Province of Aklan v. Jody King Construction and Development Corp.*, 722 Phil. 315 (2013); and *Euro-Med Laboratories, Phil., Inc. v. Province of Batangas*, 527 Phil. 623 (2006) [Per J. Corona, Second Division].

[73] CONST., Art. VIII, Sec. 1 states:
SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

or opportunely raised by the government agency or local government unit.

In *Euro-Med Laboratories Phil., Inc. v. Province of Batangas*,[74] the Province of Batangas filed a motion to dismiss the complaint after petitioner had presented its evidence, on the ground that the primary jurisdiction over petitioner's money claim was lodged with the Commission on Audit. Finding the motion to dismiss to be well-taken, the Regional Trial Court dismissed the complaint. Thereafter, the Province of Batangas, assailed the dismissal before this Court through a petition for review on certiorari.

The Court held that it is the Commission on Audit, and not the Regional Trial Court, that has primary jurisdiction to pass upon petitioner's money claim against respondent local government unit. Such jurisdiction may not be waived by the parties' failure to argue the issue or by their active participation in the proceedings. Thus, this Court ruled:

> This case is one over which the doctrine of primary jurisdiction clearly held sway for although petitioner's collection suit for ₱487,662.80 was within the jurisdiction of the RTC, the circumstances surrounding petitioner's claim brought it clearly within the ambit of the [Commission on Audit's] jurisdiction.
>
> First, petitioner was seeking the enforcement of a claim for a certain amount of money against a local government unit. This brought the case within the [Commission on Audit's] domain to pass upon money claims against the government or any subdivision thereof under Section 26 of the Government Auditing Code of the Philippines:
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> > The authority and powers of the Commission [on Audit] shall extend to and comprehend all matters relating to . . . the examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies, and instrumentalities[.]
>
> The scope of the [Commission on Audit's] authority to take cognizance of claims is circumscribed, however, by an unbroken line of cases holding statutes of similar import to mean only liquidated

[74] 527 Phil. 623 (2006) [Per J. Corona, Second Division].

claims, or those determined or readily determinable from vouchers, invoices, and such other papers within reach of accounting officers. Petitioner's claim was for a fixed amount and although respondent took issue with the accuracy of petitioner's summation of its accountabilities, the amount thereof was readily determinable from the receipts, invoices and other documents. Thus, the claim was well within the [Commission on Audit's] jurisdiction under the Government Auditing Code of the Philippines.[75] (Citations omitted)

In *The Province of Aklan v. Jody King Construction and Development Corp.*,[76] petitioner local government unit assailed the Regional Trial Court's denial of its notice of appeal through a petition for certiorari before the Court of Appeals. Among other issues it raised was the Commission on Audit's primary jurisdiction over the money claim. The Court of Appeals dismissed the petition for certiorari, ruling that petitioner was estopped from invoking the doctrine. This Court then reversed the Court of Appeals and held that a collection suit against a local government unit must be brought first to the Commission on Audit; otherwise, all the proceedings in the trial court are void. Thus:

Respondent's collection suit being directed against a local government unit, such money claim should have been first brought to the [Commission on Audit]. Hence, the RTC should have suspended the proceedings and refer the filing of the claim before the [Commission on Audit]. Moreover, petitioner is not estopped from raising the issue of jurisdiction even after the denial of its notice of appeal and before the [Court of Appeals].

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The doctrine of primary jurisdiction does not warrant a court to arrogate unto itself authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence. All the proceedings of the court in violation of the doctrine and all orders and decisions rendered thereby are null and void.[77] (Citations omitted)

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[75] Id. at 627-628.

[76] 722 Phil. 315 (2013) [Per J. Villarama, Jr., First Division].

[77] Province of Aklan v. Jody King Construction and Development Corp.,

Metropolitan Manila Development Authority v. D.M. Consunji, Inc.,[78] involved a complaint for sum of money based on *quantum meruit*, with damages, filed before the Regional Trial Court. The Metropolitan Manila Development Authority, in its Answer, asserted that the money claim should be filed before the Commission on Audit. On respondent's motion, the Regional Trial Court rendered a judgment on the pleadings against the Metropolitan Manila Development Authority. The Court of Appeals affirmed the Regional Trial Court. Upon a petition for review, this Court set aside the Court of Appeals' decision and ordered that "[the contractor's] money claim against petitioner based on *quantum meruit* should be filed with the Commission on Audit."[79]

In this case, this Court agrees with petitioner that respondent Puerto Princesa is barred by laches from impugning the jurisdiction of the Regional Trial Court. "[L]aches has been defined as the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence could or should have been done earlier."[80]

Respondent Puerto Princesa neither objected to the Regional Trial Court's jurisdiction nor invoked the doctrine of primary jurisdiction of the Commission on Audit over the money claim. On the contrary, respondent Puerto Princesa actively participated in the proceedings before the Regional Trial Court.[81] Even after the November 18, 2003 Decision attained finality, respondent Puerto Princesa did not avail of the remedies under the Rules of Court to assail the Regional Trial Court's jurisdiction.

G.R. Nos. 197592 & 202623, [November 27, 2013], 722 Phil. 315-330 [Per J. Villarama, Jr., First Division] Id. at 327-328.

[78] G.R. No. 222423, February 20, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64985> [Per J. Carpio, Second Division].

[79] Id.

[80] *Buisan v. Commission on Audit*, 804 Phil. 679, 690 (2017) [Per J. Reyes, En Banc], citing *Akang v. Municipality of Isulan*, 712 Phil. 420, 439 (2013) [Per J. Reyes, First Division].

[81] *Rollo*, p. 21.

Rule 47 of the Rules of Court governs the annulment by the Court of Appeals, of judgments of the Regional Trial Court "for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner."[82] A petition for annulment of judgment may be filed "on the grounds of extrinsic fraud and lack of jurisdiction."[83]

In *Alaban v. Court of Appeals*,[84] this Court discussed the nature and purpose of petitions for annulment of judgment:

> An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered. The purpose of such action is to have the final and executory judgment set aside so that there will be a renewal of litigation. It is resorted to in cases where the ordinary remedies of new trial, appeal, petition for relief from judgment, or other appropriate remedies are no longer available through no fault of the petitioner, and is based on only two grounds: extrinsic fraud, and lack of jurisdiction or denial of due process. A person need not be a party to the judgment sought to be annulled, and it is only essential that he can prove his allegation that the judgment was obtained by the use of fraud and collusion and he would be adversely affected thereby.[85] (Citations omitted)

Respondent Puerto Princesa did not avail itself of this remedy. By the time respondent Commission on Audit filed before this Court its Comment on the Petition for Certiorari, claiming that the November 18, 2003 Decision is void for lack of jurisdiction of the Regional Trial Court, estoppel by laches had already set in.

Verily, the doctrine of primary jurisdiction and its corollary, "the doctrine of exhaustion of administrative remedies . . . are not ironclad rules."[86] An exception to these rules is where there

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[82] RULES OF COURT, Rule 47, Sec. 1.

[83] RULES OF COURT, Rule 47, Sec. 2.

[84] 507 Phil. 682, 694 (2005) [Per J. Tinga, Second Division].

[85] Id.

[86] *Vigilar v. Aquino*, 654 Phil. 755 (2011) [Per J. Sereno, *En Banc*].

is estoppel on the part of the party invoking the doctrine.[87] Respondent Commission on Audit could no longer assail the jurisdiction of the Regional Trial Court, indirectly or collaterally, by way of its Comment here after respondent Puerto Princesa had effectively lost its right to question the validity of the November 18, 2003 Decision.

Again, the settled doctrine is that *"final judgments may no longer be reviewed or in any way modified directly or indirectly by a higher court, not even by [this Court], much less by any other official, branch or department of Government."*[88]

We are not unaware of *Binga Hydroelectric Plant, Inc. v. COA*,[89] where this Court sustained the Commission on Audit's denial of a money claim based on a Compromise Agreement that was approved by the Court of Appeals. This Court in that case, held in part:

> [T]he [Commission on Audit] did not gravely abuse its discretion in making such recommendation, even if it went against a final and executory judgment of an appellate court . . . the finality of the [Court of Appeals'] judgment does not preclude the [Commission on Audit] from ruling on the validity and veracity of the claims.

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[87] *Republic v. Lacap*, 546 Phil. 87, 97-98 (2007) [Per J. Austria Martinez, Third Division] enumerates the following exceptions:
(a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c) where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (d) where the amount involved is relatively small so as to make the rule impractical and oppressive; (e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (f) where judicial intervention is urgent; (g) when its application may cause great and irreparable damage; (h) where the controverted acts violate due process; (i) when the issue of non-exhaustion of administrative remedies has been rendered moot; (j) when there is no other plain, speedy and adequate remedy; (k) when strong public interest is involved; and, (l) in *quo warranto* proceedings[.] (Citations omitted)

[88] *Uy v. Commission on Audit*, 385 Phil. 324, 337-338 (2000) [Per J. Puno, En Banc].

[89] G.R. No. 218721, July 10, 2018, 871 SCRA 492 [Per J. Jardeleza, En Banc].

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Concomitantly, the duty to examine, audit, and settle claims means deciding whether to allow or disallow the same. This duty involves more than the simple expedient of affirming or granting the claim on the basis that it has already been validated by the courts. To limit it would render the power and duty of the [Commission on Audit] meaningless[.][90] (Citations omitted)

The foregoing ruling, nonetheless, must be read in its context. In that case, the petition for certiorari was denied primarily because it was filed out of time. This Court found no compelling reason to relax the procedural rules. For one, petitioner did not explain its failure to comply with the rules. Moreover, this Court found no grievous error committed by the Commission on Audit. This Court held that the Commission on Audit was correct in pointing out that the Compromise Agreement, as approved by the Office of the Solicitor General, is null and void because the power to compromise the claims in that case was lodged exclusively with Congress, pursuant to Section 20 (1), Ch. IV, Subtitle B, Title I, Book V of Executive Order No. 292.

The factual milieu in this case is different. Respondent Puerto Princesa is barred by laches by its failure to assail the Regional Trial Court's jurisdiction within a reasonable time. The November 18, 2003 Decision had long attained finality. Respondent Commission on Audit's action, therefore, in reversing the November 18, 2003 Decision constitutes a breach of its constitutional competence. It acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

III

Decisions and resolutions of the Commission on Audit are subject to the Court's judicial power.[91] Article VIII, Section 1 of the 1987 Constitution provides for the expanded jurisdiction of the Court, "to determine whether or not there has been a

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[90] Id. at 504-506.

[91] *City of General Santos v. Commission on Audit*, 733 Phil. 687 (2014) [Per J. Leonen, En Banc].

grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." Grave abuse of discretion has been defined as:

> [S]uch capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law[.][92] (Citation omitted)

Moreover, Article IX-A, Section 7 of the 1987 Constitution, provides that "[u]nless 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[.]"

Here, this Court finds that the Commission on Audit's decision of disallowing petitioners' claim to enforce a final and executory judgment of the Regional Trial Court was tainted with grave abuse of discretion.

WHEREFORE, the Petition is **GRANTED**. The July 17, 2012 Decision No. 2012-113 and May 31, 2016 Resolution of the Commission on Audit are **NULLIFIED** and **SET ASIDE**. The Commission on Audit is **ORDERED** to allow petitioners' claim for the payment of the judgment award under the November 18, 2003 Decision in Civil Case No. Q-01-45668 of Branch 223 of the Regional Trial Court of Quezon City.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Baltazar-Padilla, J., on leave.

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[92] Id. at 697 citing *Development Bank of the Philippines v. Commission on Audit*, 530 Phil. 271, 278 (2006) [Per J. Puno, En Banc].

EN BANC

[G.R. No. 230524. September 1, 2020]

ATTY. NORBERTO DABILBIL CABIBIHAN, *Petitioner*, *v.* **DIOSDADO JOSE M. ALLADO, as ADMINISTRATOR of the METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS), and REYNALDO A. VILLAR, as CHAIRPERSON of the COMMISSION ON AUDIT (COA),** *Respondents*.

SYLLABUS

POLITICAL LAW: COMMISSION ON AUDIT; COA PERSONNEL ARE PROSCRIBED FROM RECEIVING OR ACCEPTING SALARIES, ALLOWANCES, AND OTHER EMOLUMENTS FROM ANY GOVERNMENT ENTITY INCLUDING GOVERNMENT OWNED AND CONTROLLED CORPORATIONS. — On July 1, 1989, Republic Act (R.A.) No. 6758 otherwise known as "*An Act Prescribing a Revised Compensation and Position Classification System in the Government and For Other Purposes*" took effect. It standardizes the salary rates of government officials and employees and applies to "all positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government, including government-owned or controlled corporations and government financial institutions." x x x On September 22, 1999, COA issued Memorandum No. 99-066 implementing R.A. 6758 and restating the policy against the receipt by auditing personnel of honorarium, allowance, bonus or other emolument as a form of fringe benefit or additional compensation. Verily, COA personnel are proscribed from receiving or accepting salaries, allowances, and other emoluments from any government entity including government owned and controlled corporations.

APPEARANCES OF COUNSEL

J.A. Grapilon Law Office for petitioner.
The Solicitor General for public respondent Commision on Audit.
Office of the Government Corporate Counsel for respondent MWSS.

D E C I S I O N

REYES, J. JR., *J.*:

The present Petition for Review on *Certiorari*[1] seeks to reverse and set aside, or modify the May 31, 2016 Decision[2] and February 27, 2017 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP Nos. 138034 and 138084, which affirmed the August 26, 2014 Decision No. 140682[4] and October 28, 2014 Resolution No. 1401550[5] of the Civil Service Commission (CSC).

The Facts

This administrative case stemmed from a Letter dated June 2, 2008 written by respondent Diosdado Jose M. Allado (Allado), then MWSS Administrator, addressed to former COA Chairman Reynaldo A. Villar (Chairman Villar). In said letter, Allado brought to Chairman Villar's attention the existence of several unrecorded checks relating to the cash advances (CA) of MWSS Supervising Cashier Iris Mendoza (Mendoza), which were allegedly used to pay for the bonuses and other benefits of COA-MWSS personnel.[6] Allado described the same as a "virtual bribery" and requested for the replacement of then State Auditor (SA) V Atty. Norberto D. Cabibihan (petitioner) and his entire staff.[7]

Consequently, pursuant to Office Order No. 2009-528 dated July 21, 2009 issued by Chairman Villar, a team from the Fraud

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[1] *Rollo*, pp. 28-57.

[2] Penned by Associate Justice Pedro B. Corales with Associate Justices Sesinando E. Villon and Rodil V. Zalameda (now a member of the Court), concurring; *rollo*, pp. 596-616.

[3] *Id.* at 642-644.

[4] Signed by Chairman Francisco T. Duque III and Commissioners Nieves L. Osorio and Robert S. Martinez; *rollo*, pp. 236-254.

[5] *Id.* at 474-484.

[6] *Id.* at 118.

[7] *Id.*

Audit and Investigation Office, Legal Services Sector (FAIO-LSS) of the COA conducted a fact-finding investigation.[8] The team submitted its Investigation Report[9] dated 24 June 2010 summarized[10] as follows:

Name	Acts Committed	Amount	Offenses Charged
1. [Petitioner]	1. Receiving and/or directing his staff to receive unauthorized allowances from the cash advances of [Mendoza]	₱9,182,038.00	Grave Misconduct, Serious Dishonesty, Conduct Prejudicial to the Best Interest of the Service and Violation of Reasonable Office Rules and Regulations
	2. Availing of the Car Assistance Plan of the MWSS Employees Welfare Fund ([CAP-]MEWF)	₱1,200,000.00	
	3. Receiving Bids and Awards Committee honoraria	₱27,000.00	
	4. Availing of the MWSS Housing Project	₱419,005.40 (excluding house construction amounting to ₱393,936.65	
2. Efren D. Ayson	1. Receiving unauthorized allowances from cash advances of [Mendoza]	₱388,326.00	Grave Misconduct and Violation of Reasonable Office Rules and Regulations
	2. Availing of the [CAP-MEWF]	₱500,000.00	

[8] *Id.*

[9] Submitted by Special Investigator IV Maribel U. De Vera and State Auditor II Emerlinda C. Feliciano, and reviewed by Attorney VI Alexander B. Juliano; *id.* at 58-70.

[10] *Id.* at 242-244.

3. Lilia V. Ronquillo	1. Receiving unauthorized allowances from the cash advances of [Mendoza] 2. Availing of the [CAP-MEWF]	₱656,566.00 ₱600,000.00	Grave Misconduct and Violation of Reasonable Office Rules and Regulations
4. Vilma A. Tiongson	1. Receiving unauthorized allowances from the cash advances of [Mendoza] 2. Availing of the [CAP-MEWF]	₱1,448,745.00 ₱600,000.00	Grave Misconduct and Violation of Reasonable Office Rules and Regulations
5. Pacita Velasquez	1. Receiving unauthorized allowances from the cash advances of [Mendoza] 2. Receiving Benefits and/or bonuses from MWSS covering the period 1999 to 2003 3. Availing of the [CAP-MEWF]	₱630,000.00 ₱93,627.50 ₱500,000.00	Grave Misconduct and Violation of Reasonable Office Rules and Regulations
6. Godofredo Villegas	1. Availing of the [CAP-MEWF]	₱600,000.00	Grave Misconduct and Violation of Reasonable Office Rules and Regulations

Subsequently, Chairman Villar issued separate Letter Charges to petitioner and other COA-MWSS personnel. The relevant portions of the Letter[11] dated July 30, 2010, wherein petitioner was formally charged, is reproduced hereunder:

Dear [Petitioner]:

The result of the investigation by the Team from the Fraud FAIO[-LSS] on the complaint against you and COA-MWSS staff disclosed that you committed the following reprehensible actions:

1. Receiving and/or directing your staff to receive unauthorized allowances from the cash advances [CAs] of [Mendoza] in the total amount of ₱9,182,038.00;

[11] *Id.* at 71-72.

2. Availing of the [CAP-MEWF] amounting to ₱1,200,000.00;

3. Receiving Bids and Awards Committee honoraria in the total amount of ₱27,000.00; and

4. Availing of the MWSS Housing Project valued at ₱419,005.40 excluding house construction amounting to ₱393,936.65.

x x x x x x x x x

WHEREFORE, you are hereby formally charged x x x and required to submit x x x your answer in writing and under oath, within five (5) days from receipt hereof[.]

x x x x x x x x x

Very truly yours,

(sgd.)
REYNALDO A. VILLAR
Chairman

In his Answer,[12] petitioner claimed that there was complete dearth of evidence to incriminate him and that the administrative case was a form of harassment and a mere retaliatory response to his audit findings against MWSS.

The COA Ruling

In a Decision No. 2013-001[13] dated January 29, 2013, the COA resolved 12 consolidated administrative cases including that of petitioner's which was docketed as Adm. Case No. 2010-033. The decretal portion of which reads:

WHEREFORE, this Commission hereby finds [petitioner] **GUILTY** of Grave Misconduct, Serious Dishonesty, Conduct Prejudicial to the Best Interest of the Service, and Violation of Reasonable Office Rules and Regulations. Accordingly, and in view of his retirement from the service, the penalties of forfeiture of retirement benefits, cancellation of eligibility, and perpetual disqualification from holding public office are meted upon him. He shall likewise refund the amounts

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[12] *Id.* at 73-86.

[13] Signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza, *id.* at 117-146.

he received from the CAs of [Mendoza], the BAC honorarium, and the amount paid by the MEWF for his car loan.

x x x x x x x x x[14]

The COA ruled that the allegations against petitioner were duly proven by substantial evidence.

First, no less than Mendoza herself admitted that (*i*) the proceeds of her CAs were for, and were actually handed to, COA-MWSS personnel; and (*ii*) she was aware of the possibility of her being criminally liable for knowingly acceding to or taking part in the irregular transactions. Mendoza likewise disclosed that she kept the Acknowledgment Receipts (AR) which were signed by COA-MWSS personnel who received the proceeds of her CAs, as well as Indices of Payments. The COA opined that while admittedly ARs are private documents, the same are admissible in evidence as Mendoza herself prepared them and authenticated them during the hearing. Moreover, Mendoza's straightforward declarations ascertained that petitioner was among the COA-MWSS personnel who illegally received bonuses and benefits.

Second, petitioner's defense that he was paying 100% of the purchase price of the vehicle under the CAP-MEWF was belied by his own documentary evidence. Petitioner's Car Loan Contract indicated that the total purchase price of ₱1,200,000.00 would be paid in equal monthly amortization over a period of 48 months, this means that he must be paying at least ₱25,000.00/ month. However, the 12 post-dated checks issued by petitioner for payment of the monthly amortization were only for ₱10,000.00 each. Thus, the COA was convinced that petitioner was only paying 40% of the purchase price of the vehicle and had benefited from the MEWF to the extent of 60% of the total cost of the car.

Third, there were three certified Philippine National Bank (PNB) checks for ₱9,000.00 each made payable to petitioner which supports the allegation that he indeed received BAC honoraria.

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[14] *Id.* at 144.

Fourth, it was sufficiently established that petitioner was the original awardee of Lot Nos. 11 and 12 in the MWSS Housing Project in La Mesa Dam notwithstanding the subsequent transfer to a certain Vicente Elefante (Elefante).

Fifth, the COA ruled that petitioner was likewise guilty of Serious Dishonesty for borrowing documents pertaining to his CAP-MEWF loan and never returning the same as evidenced by a Log Book entry on December 19, 2006 with a notation "not returned to the DV."

Petitioner filed a Motion for Reconsideration[15] but the COA, in its Resolution[16] dated October 2, 2013, affirmed with finality its Decision No. 2013-001.

The CSC Ruling

Upon appeal, the CSC found that the charge of Serious Dishonesty was not fully substantiated considering that: (1) the notation on the log book that was presented as evidence to show the alleged borrowing and failing to return the car loan documents contained no trace of petitioner's signature thereon; and (2) said act was not particularly alleged in the formal charge issued to petitioner. Moreover, the CSC ruled that as to the total amount of ₱9,182,038.00 which all the COA-MWSS purportedly received, the prosecution likewise failed to adequately provide a link that petitioner received the same. Accordingly, the CSC modified the COA decision, *viz.*:

WHEREFORE, the Appeals of [petitioner] x x x are **DISMISSED** for lack of merit. Accordingly, the Decision x x x rendered by the [COA] x x x is **AFFIRMED with MODIFICATION**, in the sense that he is only liable for the offenses of Grave Misconduct, Conduct Prejudicial to the Best Interest of the Service and Violation of Reasonable Office Rules and Regulations. In addition, he is ordered to refund only the amount he received as BAC Honorarium in the amount of P27,000.00 and the amount paid by the [MEWF] for his car loan to the extent of the fringe benefit of ₱720,000.00 except the

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[15] *Id.* at 147-167.

[16] *Id.* at 168-171.

amount of ₱9,182,038.00 which was not substantiated. In view of his retirement from the service, however, the penalty of dismissal from the service is deemed imposed. [Petitioner] is also ordered to refund the amount received from the [CAs] of [Mendoza] amount to ₱694,659.00.

x x x x x x x x x[17]

Thereafter, in its Resolution[18] dated October 28, 2014, the CSC partly granted the Motion for Reconsideration filed by petitioner and recalled the directive requiring the latter to refund the amount he received from the CA of Mendoza in the amount of ₱694,659.00. The CSC clarified that the prosecution failed to prove that, indeed, petitioner received any of the unauthorized allowances from the CAs of Mendoza.

The CA Ruling

In the herein assailed Decision, the CA "failed to see any plausible reason to depart from the conclusions of the CSC"[19] and thus held:

WHEREFORE, the instant petitions for review are **DENIED**. The August 26, 2014 Decision No. 140682 and October 28, 2014 Resolution No. 1401550 of the [CSC] are hereby **AFFIRMED**.

SO ORDERED.[20]

Petitioner's Motion for Reconsideration[21] was denied in a Resolution[22] dated February 27, 2017.

Hence, this petition.

Our Ruling

The petition fails on the merits.

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[17] *Id.* at 253.

[18] *Supra* note 5.

[19] *Rollo*, p. 610.

[20] *Id.* at 616.

[21] *Id.* at 619-629.

[22] *Id.* at 642-644.

As early as January 9, 1989, the prohibition of the grant of fringe benefits to COA personnel assigned in national, local, and corporate sectors was enunciated in COA Memorandum No. 89-584.

On July 1, 1989, Republic Act (R.A.) No. 6758 otherwise known as *"An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes"* took effect. It standardizes the salary rates of government officials and employees and applies to "all positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government, including government-owned or controlled corporations and government financial institutions."[23] Section 18 of R.A. No. 6758 provides:

Section 18. ***Additional Compensation of Commission on Audit Personnel and of Other Agencies***. — In order to preserve the independence and integrity of the Commission on Audit (COA), its officials and employees are prohibited from receiving salaries, honoraria, bonuses, allowances or other emoluments from any government entity, local government unit, and government-owned and controlled corporations, and government financial institution, except those compensation paid directly be the COA out of its appropriations and contributions.

Government entities, including government-owned or controlled corporations including financial institutions and local government units are hereby prohibited from assessing or billing other government entities, government-owned or controlled corporations including financial institutions or local government units for services rendered by its officials and employees as part of their regular functions for purposes of paying additional compensation to said officials and employees.

On September 22, 1999, COA issued Memorandum No. 99-066 implementing R.A. 6758 and restating the policy against the receipt by auditing personnel of honorarium, allowance, bonus or other emolument as a form of fringe benefit or additional compensation.

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[23] Section 4, R.A. No. 6758; See also *Mendoza v. COA*, 717 Phil. 491, 524 (2013).

Verily, COA personnel are proscribed from receiving or accepting salaries, allowances, and other emoluments from any government entity including government owned and controlled corporations.

In *Villareña v. COA*,[24] where it was argued that Section 18 of R.A. No. 6758 violates the equal protection clause under the Constitution, the Court ruled that the said clause does not preclude classification of individuals who may be accorded different treatment under the law as long as the classification is reasonable and not arbitrary, *viz.*:

> Indeed, there are valid reasons to treat COA officials differently from other national government officials. The primary function of an auditor is to prevent irregular, unnecessary, excessive or extravagant expenditures of government funds. To be able properly to perform their constitutional mandate, COA officials need to be insulated from unwarranted influences, so that they can act with independence and integrity. As extensively discussed in *Tejada v. Domingo*, the prohibition under Section 18 of Republic Act No. 6758 was designed precisely to serve this purpose. The removal of the temptation and enticement the extra emoluments may provide is designed to be an effective way of vigorously and aggressively enforcing the Constitutional provision mandating the COA to prevent or disallow irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.
>
> Stated otherwise, the COA personnel who have nothing to look forward to or expect from their assigned offices in terms of extra benefits, would have no reason to accord special treatment to the latter by closing their eyes to irregular or unlawful expenditures or use of funds or property, or conducting a perfunctory audit. The law realizes that such extra benefits could diminish the personnel's seriousness and dedication in the pursuit of their assigned tasks, affect their impartiality and provide a continuing temptation to ingratiate themselves to the government entity, local government unit, government-owned and controlled corporations and government financial institutions, as the case may be. In the end then, they would become ineffective auditors.

Definitely, petitioner, a State Auditor at the time material to the case, was disqualified from receiving or availing of MWSS benefits.

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[24] 455 Phil. 908 (2003).

Petitioner insists that: (1) his availment of the CAP-MEWF was done in good faith; (2) he did not receive any BAC honoraria; and (3) he did not "receive" the MWSS Housing Project as contemplated by, or within the meaning, and in violation, of Section 18 of R.A. No. 6758.[25]

One. In availing himself of the CAP-MEWF, no amount of good faith can be attributed to petitioner. Good faith necessitates honesty of intention, free from any knowledge of circumstances that ought to have prompted him to undertake an inquiry.[26] In *Office of the Ombudsman v. Brillantes*,[27] the Court explained:

> In common usage, the term good faith is ordinarily used to describe that state of mind denoting honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious. In short, good faith is actually a question of intention. Although this is something internal, a person's intention can be ascertained by relying not on his own protestations of good faith, which is self-serving, but on evidence of his conduct and outward acts. (citations omitted)

And, as the CSC correctly stated, petitioner's claim of good faith is belied by his being a lawyer and knowing fully well that he is benefited in the amount of ₱720,000.00 without any consideration.[28] To recall, the total amount of the car loan, as stipulated in petitioner's Car Loan Contract,[29] was ₱1,200,000.00 to be paid in equal monthly installments for a period of 48 months. But, upon review of the documentary evidence specifically, the 12 post-dated checks issued by petitioner, both the COA and CSC found that petitioner paid only ₱10,000.00 for his monthly amortization or the equivalent of 40% of the

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[25] *Rollo*, p. 11.

[26] *Re: Valderoso*, 781 Phil. 22 (2016).

[27] 796 Phil. 162 (2016).

[28] *Rollo*, p. 249.

[29] *Id.* at 727-730.

total purchase price (i.e., ₱480,000.00).[30] Thus, the Court is convinced that petitioner could not have been in good faith when he availed of the CAP-MEWF.

Second. Anent petitioner's receipt of BAC honoraria, let it first be noted that Sections 13[31] and 15[32] of R.A. No. 9184[33] clearly tells us that representatives from COA sit only as observers and only members of the BAC are entitled to honoraria. Evidently, petitioner was not entitled to a remuneration from the BAC yet, he was able to pocket said allowance. The Court concurs with the finding of the CA, to wit:

> Equally telling are the PNB Check Nos. 202818, 021048, and 021275 recorded in the MWSS Claims Control and Check Register and payable to the order of [petitioner] which point to no other conclusion that he actually received BAC Honorarium of ₱9,000.00 for the months of March, June, and July 2006 or a total of P27,000.00. Contrary to [petitioner]'s postulate that payment of the checks [was] never proven, the dorsal portion of PNB Check No. [021048] shows the written words: "NORBERTO CABIBIHAN; COA, MWSS, QC; and Acct. No. 1697-0137-13" followed by machined printed numerical figures in the words "Land Bank of the Philippines." Hence, it was incumbent upon [petitioner] to show that Acct. No. 1697-0137-13 does not belong to

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[30] ₱10,000.00 x 48 months.

[31] **Section 13**. *Observers*. — To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the Commission on Audit, at least two (2) observers to sit in its proceedings, one (1) from a duly recognized private group in a sector or discipline relevant to the procurement at hand, and the other from a non-government organization: Provided, however, That they do not have any direct or indirect interest in the contract to be bid out. The observers should be duly registered with the Securities and Exchange Commission and should meet the criteria for observers as set forth in the IRR.

[32] **Section 15**. *Honoraria of BAC Members*. — The Procuring Entity may grant payment of honoraria to the BAC members in an amount not to exceed twenty five percent (25%) of their respective basic monthly salary subject to availability of funds. For this purpose, the Department of Budget and Management (DBM) shall promulgate the necessary guidelines.

[33] AN ACT PROVIDING FOR THE MODERNIZATION, STANDARDIZATION AND REGULATION OF THE PROCUREMENT ACTIVITIES OF THE GOVERNMENT AND FOR OTHER PURPOSES.

him rather than for the COA or CSC to prove the ownership of the same. Similarly, on the dorsal portions of PNB Check Nos. 202818 and [021275] are signatures that find semblance to [petitioner]'s signature on his motion for reconsideration of the COA's January 29, 2013 Decision No. 2013-001 and on the PNB checks he issued for the monthly amortization of his car loan.[34]

Third. The Court, as did the CA, finds that petitioner was, in fact, an awardee of the MWSS Housing Project located in La Mesa Heights, Greater Lagro, Novaliches, Quezon City. The following documentary evidence confirms petitioner's ownership thereof: 1) List of Lot Awardees indicating that petitioner was awarded Lot Nos. 11 and 12; 2) Demand Letter dated September 7, 2005 requiring petitioner to settle his obligation as an awardee in the amount of ₱419,005.40; and 3) Official Receipt dated April 7, 2010 showing that petitioner paid ₱146,000 as payment for the said lots. Granting that petitioner already conveyed ownership to Elefante, the Court agrees that such "act is considered as an afterthought knowing that he will eventually face charges as a consequence of his act"[35] and only "bolsters the fact that [petitioner] was the actual original awardee of the two (2) lots in the MWSS Housing Project."[36]

In the case of *Galindo v. COA*,[37] which is an offshoot of the same FAIO-LSS investigation involving petitioner, the Court opined that the pieces of evidence presented before the COA, such as the CAs, accompanied by the testimony of Mendoza herself, as well as the Indices of Payments and the car loan contracts, were substantial enough to establish Annaliza J. Galindo's and Evelinda P. Pinto's receipt of the disallowed amounts and thus, justify the finding of their administrative liability.

Also, in *Nacion v. COA*,[38] Atty. Janet D. Nacion (Nacion) was found guilty of grave misconduct and violation of reasonable

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[34] *Id.* at 612.

[35] *Rollo*, p. 251.

[36] *Id.* at 611.

[37] 803 Phil. 65 (2017).

[38] 756 Phil. 62 (2015).

rules and regulations for receiving prohibited benefits and allowances from MWSS in the total amount of ₱73,542.00 from 1999-2003; availing of the MWSS Housing Project and Multi-Purpose Loan Program — Car Loan. The Court held therein that:

> Nacion's availment of the housing and car programs was undisputed. She claimed though to have availed of these benefits upon an honest belief that she was not prohibited from doing so. Her alleged good faith, nonetheless, could not support exoneration.
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> x x x x x x x x x
>
> An observance of the prohibition is mandatory given its purpose *vis-à-vis* the roles which COA personnel are required to perform. Given their mandate to look after compliance with laws and standards in the handling of funds by the government agencies where they are assigned to, COA personnel must prevent any act that may influence them in the discharge of their duties. In the present case, the receipt of the subject benefits and allowances was evidently in violation of the prohibition under the aforequoted Section 18. Nacion should have been wary of her actions and the prohibitions pertinent to her functions, especially as they affected the expenditure of MWSS funds which she was duty-bound to eventually examine.

All told, the Court holds that petitioner's guilt in the present administrative case has been substantially proven.

WHEREFORE, the petition is **DENIED**. The assailed May 31, 2016 Decision and February 27, 2017 Resolution of the Court of Appeals (CA) in CA-G.R. SP Nos. 138034 are **AFFIRMED**.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Lopez, Delos Santos, and *Gaerlan, JJ.*, concur.

Zalameda, J., no part.

Baltazar-Padilla, J., on sick leave.

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Petition for review on certiorari to the Supreme Court under Rule 45 — As a rule, only questions of law are entertained in Petition for Review under Rule 45, and only in exceptional circumstances has the Court entertained questions of facts. (Magalona *v.* People, G.R. No. 229332, Aug. 27, 2020) p. 116

— Even if the question be considered as one of fact, this case falls within one of the recognized exceptions to the general rule that this Court is not a trier of facts considering that the findings of the CA are contrary to those of the RTC. (Heirs of Isabelo Cudal, Sr., Represented by Libertad Cudal, *et al. v.* Spouses Suguitan, Jr., G.R. No. 244405, Aug. 27, 2020) p. 347

— Factual issues are beyond the ambit of the court's jurisdiction in a petition for review on *certiorari*, as it is not the court's task to go over the proofs presented below to ascertain if they were appreciated and weighed correctly, most especially when the trial court and the appellate court speak as one in their findings and conclusions. (The Commoner Lending Corporation, represented by Ma. Nory Alcala *v.* Spouses Villanueva, G.R. No. 235260, Aug. 27, 2020) p. 243

— It may resolve the case on the merits instead of remanding the case to the Court of Appeals in order to prevent further delay in its disposition and for purposes of economy and expediency; it is within the plenary power of the Supreme Court to review matters even those not raised on appeal if it finds that their consideration is necessary in arriving at a just disposition of the case. (Mascariñas *v.* BPI Family Savings Bank, Inc., G.R. No. 228138, Aug, 27, 2020) p. 76

— The Court may review factual issues if any of the following is present: (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

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 respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on records. (Salabe *v.* Social Security Commission, *et al.*, G.R. No. 223018, Aug. 27, 2020) p. 29

Question of fact — 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 relevance of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation." (Magalona *v.* People, G.R. No. 229332, Aug. 27, 2020) p. 116

ARSON LAW (P.D. NO. 1613)

Elements — The elements of the crime are: (a) there is intentional burning; and (b) what is intentionally burned is an inhabited house or dwelling; in *People v. Gil*, appellant therein was convicted of the crime of arson with homicide for willfully setting fire to a residential house by pouring kerosene on a mattress and igniting it with a lighter, directly and immediately causing the death of the person occupying the same. (People *v.* Soria, G.R. No. 248372, Aug. 27, 2020) p. 387

ATTORNEYS

Criminal, civil and administrative disciplinary actions against lawyers — The independency of criminal, civil, and administrative cases from one another, irrespective of the similarity or overlap of facts, stems from the basic and fundamental differences of these types of proceedings in terms of purpose, parties-litigants involved, and evidentiary thresholds; these key foundational distinctions constitute the rationale as to why a disposition in one case would not affect the other; to briefly recount: (1)

administrative case against a lawyer, preponderant evidence is necessary which means that the evidence adduced by one side is superior to or has greater weight than that of the other. (*Vda. de* Francisco *v.* Real, A.C. No. 12689 [Formerly CBD Case No. 14-4459], Sept 1, 2020) p. 546

— Well-settled is the rule in our jurisdiction that disbarment ought to be meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court and that the Court will not disbar a lawyer where a lesser penalty will suffice to accomplish the desired end; the Court does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender. (*Id.*)

Duties — In no case shall an attorney allow a client to perpetrate fraud upon a person or commit any act which shall prejudice the administration of justice. (Tiongson *v.* Flores, A.C. No. 12424, Sept. 1, 2020) p. 533

— 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; the nature of that relationship is, therefore, one of trust and confidence of the highest degree. (Laurel *v.* Delute, A.C. No. 12298, Sept. 1, 2020) p. 474

— Jurisprudence explains that once a lawyer agrees to handle a case, he is required to undertake the task with zeal, care, and utmost devotion; on the other hand, a lawyer is expected to maintain, at all times, a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether or not he accepts it for a fee. (*Id.*)

Liability of — A lawyer's act of issuing worthless checks, punishable under Batas Pambansa Blg. 22, constitutes serious misconduct; the issuance of checks which were later dishonored for having been drawn against a closed

— The Court ruled that failure to pay debts constitutes violation of Rule 1.01 of the CPR, because it is willful in character and implies a wrongful intent; it is not considered a mere error in judgment. (*Vda. de* Francisco *v.* Real, A.C. No. 12689 [Formerly CBD Case No. 14-4459], Sept 1, 2020) p. 545

— The Court's power to discipline members of the Bar through administrative disciplinary proceedings is not beholden to the acts and decisions of private complainants, who are merely witnesses thereto. (Laurel *v.* Delute, A.C. No. 12298, Sept. 1, 2020) p. 474

CERTIORARI

Petition for — In labor cases, the Court of Appeals is empowered to evaluate the materiality and significance of the evidence alleged to have been capriciously, whimsically, or arbitrarily disregarded by the National Labor Relations Commission (NLRC) in relation to all other evidence on record; the Supreme Court is not precluded from reviewing the factual issues when there are conflicting findings by the Court of Appeals, the NLRC and the Labor Arbiter. (Maryville Manila, Inc. *v.* Espinosa, G.R. No. 229372, Aug. 27, 2020) p. 127

— In *Thenamaris Philippines, Inc. v. Court of Appeals*, the Court clarified that while a petition for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration, the period may be extended subject to the court's sound discretion; for this purpose, one should be able to provide a reasonable or meritorious explanation for his or her failure to comply with the sixty-day period. (Mascariñas *v.* BPI Family Savings Bank, Inc., G.R. No. 228138, Aug, 27, 2020) p. 76

— While a judgment of acquittal may be assailed by the People through a petition for *certiorari* under Rule 65 without placing the accused in double jeopardy, however, it must be established that the court *a quo* acted without jurisdiction or grave abuse of discretion amounting to

of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former. (*Id*.)

CRIMINAL PROCEDURE

Demurrer to evidence — A demurrer to evidence is defined as an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue; the party demurring challenges the sufficiency of the whole evidence to sustain a verdict. (JCLV Realty & Development Corporation *v.* Mangali, G.R. No. 236618, Aug. 27, 2020) p. 267

Double jeopardy — It attaches when the following elements concur: (1) the accused is charged under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) the accused is convicted or acquitted, or the case is dismissed without his/her consent; here, all the elements are present. (JCLV Realty & Development Corporation *v.* Mangali, G.R. No. 236618, Aug. 27, 2020) p. 267

DAMAGES

Attorney's fees — Article 111 of the Labor Code states that attorney's fees equivalent to 10% of the amount of wages recovered may be assessed on the culpable party. (Monsanto Philippines, Inc. *vs.* National Labor Relations Commission, *et al.*, G.R. Nos. 230609-10, Aug, 27, 2020) p. 161

Exemplary Damages — Exemplary damages are recoverable when the dismissal was done in a wanton, oppressive, or malevolent manner. (Monsanto Philippines, Inc. *vs.* National Labor Relations Commission, *et al.*, G.R. Nos. 230609-10, Aug, 27, 2020) p. 161

Moral damages — Moral damages are recoverable when the dismissal of an employee is attended by bad faith or fraud or constitutes an act oppressive to labor, or is

clear and unambiguous, they must be taken and understood in their plain, ordinary and popular sense; this is consistent with the cardinal rule of interpretation that "if the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control." (Integrated Micro Electronics, Inc. *v.* Standard Insurance Co., Inc., G.R. No. 210302, Aug. 27, 2020) p. 9

INTERVENTION

Complaint for — In general, an independent controversy cannot be injected into a suit by intervention, hence, such intervention will not be allowed where it would enlarge the issues in the action and expand the scope of the remedies; it is not proper where there are certain facts giving the intervenor's case an aspect peculiar to himself and differentiating it clearly from that of the original parties; the proper course is for the would-be intervenor to litigate his claim in a separate suit. (Tirol *v.* Nolasco, G.R. No. 230103, Aug. 27, 2020) p. 146

— Intervention is not intended to change the nature and character of the action itself, or to stop or delay the placid operation of the machinery of the trial; the remedy of intervention is not proper where it will have the effect of retarding the principal suit or delaying the trial of the action. (*Id.*)

— It can be readily seen that intervention is not a matter of right, but is left to the trial court's sound discretion; the trial court must not only determine if the requisite legal interest is present, but also take into consideration the delay and the consequent prejudice to the original parties that the intervention will cause. (*Id.*)

— The Court in *Ongco v. Dalisay* described intervention as a remedy, as follows: Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein for a certain purpose: to enable the third party to protect or preserve

— When the law or the rule is so elementary, not to be aware of it constitutes gross ignorance of the law; though not every judicial error bespeaks ignorance of the law or of the rules, and that, when committed in good faith, does not warrant administrative sanction, the rule applies only in cases within the parameters of tolerable misjudgment. (Re: Judicial Audit Conducted on Br. 64, RTC, Guihulngan City, Negros Oriental, Presided by Hon. Mario O. Trinidad, A.M. No. 20-07-96-RTC, Sept. 1, 2020) p. 633

— When there is persistent disregard of well-known rules, judges not only become liable for gross ignorance of the law, they commit gross misconduct as well, as the mistake can no longer be regarded as a mere error of judgment, but purely motivated by wrongful intent. (Re: Report on the Judicial Audit Conducted in Br. 24, RTC, Cabugao, Ilocos Sur, Under Hon. Raphiel F. Alzate, as Acting Presiding Judge, A.M. No. 19-01-15-RTC, Sept. 1, 2020) p. 571

Gross inefficiency — Failure to decide cases and other matters within the reglementary period constitutes gross inefficiency and violations of the Constitution and the Code of Judicial Conduct, which warrants the imposition of an administrative sanction against the erring magistrate; judges must decide cases and resolve matters with dispatch because any delay in the administration of justice deprives litigants of their right to a speedy disposition of their case and undermines the people's faith in the judiciary. (Re: Judicial Audit Conducted on Br. 64, RTC, Guihulngan City, Negros Oriental, Presided by Hon. Mario O. Trinidad, A.M. No. 20-07-96-RTC, Sept. 1, 2020) p. 633

Gross misconduct — A judge's complete disregard of the glaring irregularities and non-compliance of the rules, and who mindlessly proceeded with the court proceeding, breeds a suspicion that he has personal interest in those cases before him; a judge's unusual interest in the cases before him, not only displayed his utter lack of competence and probity, but also makes him liable for Gross

— Judges must uphold the integrity of the judiciary, avoid impropriety in all activities, and perform their duties honestly and diligently; in *Dela Cruz v. Judge Bersamin*, this Court underscored the need to show not only the fact of propriety but the appearance of propriety itself; it held that the standard of morality and decency required is exacting so much so that a judge should avoid impropriety and the appearance of impropriety in all his activities. (*Id*.)

Undue delay in rendering decision — Request for extension of time to resolve cases; judges cannot by themselves choose to prolong the period for deciding cases beyond that authorized by law, for whenever they cannot decide a case promptly, they can ask the court for a reasonable extension of time to resolve it. (Re: Judicial Audit Conducted on Br. 64, RTC, Guihulngan City, Negros Oriental, Presided by Hon. Mario O. Trinidad, A.M. No. 20-07-96-RTC, Sept. 1, 2020) p. 633

JUDGMENTS

Dispositive portion — It is settled that where there is a conflict between the dispositive part and the opinion of the court contained in the text or body of the decision, the former must prevail over the latter on the theory that the dispositive portion is the final order, while the opinion is merely a statement ordering nothing. (BBB *v.* People, G.R. No. 249307, Aug. 27, 2020) p. 417

— *Light Rail Transit Authority v. Court of Appeals* declares that "it is the dispositive part of the judgment that actually settles and declares the rights and obligations of the parties, finally, definitively, and authoritatively, notwithstanding the existence of inconsistent statements in the body that may tend to confuse"; it must be borne in mind "that execution must conform to that ordained or decreed in the dispositive part of the decision; consequently, where the order of execution is not in harmony with and exceeds the judgment which gives it life, the order has *pro-tanto* no validity." (BBB *s.* People, G.R. No. 249307, Aug. 27, 2020) p. 417

JUDICIAL REVIEW

Power of — Article VIII, Section 1 of the 1987 Constitution provides for the expanded jurisdiction of the Court, to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government; Article IX-A, Section 7 of the 1987 Constitution, provides that 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. (Star Special Corporate Security Management, Inc. (formerly Star Special Watchman & Detective Agency, Inc.) herein represented by Edgardo C. Soriano, *et al. v.* Commission on Audit, Puerto Princesa City, *et al.*, G.R. No. 225366, Sept. 1, 2020) p. 821

JURISDICTION

Jurisdiction over the subject matter — It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists; when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to dismiss the action. (Velasquez, Jr. *v.* Lisondra Land Incorporated, Represented by Edwin L. Lisondra, G.R. No. 231290, Aug. 27, 2020) p. 184

— Jurisdiction is defined as the power and authority to hear, try, and decide a case; in order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter. (*Id*.)

— Prior to *Tijam,* this Court already came up with an edifying rule in *People v. Casiano* on when jurisdiction by *estoppel* applies and when it does not: the operation of the principle of *estoppel* on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not; if it had no jurisdiction, but the case

was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction, for the same "must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel"; however, if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position, that the lower court had jurisdiction. (*Id*.)

— The cases of *Spouses Martinez v. De la Merced, Marquez v. Secretary of Labor, Ducat v. Court of Appeals, Bayoca v. Nogales*, *Spouses Jimenez v. Patricia Inc.*, and *Centeno v. Centeno* all adhered to the doctrine that a party's active participation in the actual proceedings before a court without jurisdiction will bar him from assailing such lack of jurisdiction; on the other hand, the cases of *Dy v. National Labor Relations Commission, De Rossi v. National Labor Relations Commission* and *Union Motors Corp. v. National Labor Relations Commission* buttressed the rule that jurisdiction is conferred by law and lack of jurisdiction may be questioned at any time even on appeal. (*Id*.)

— The defense of lack of jurisdiction may be waived by *estoppel* but considering that the law apportioned the jurisdiction of courts and tribunals for the orderly administration of justice, the doctrine of *estoppel* must be applied with great care and only when strong equitable considerations are present. (*Id*.)

— The notion that the defense of lack of jurisdiction may be waived by estoppel on the party invoking it most prominently emerged in *Tijam v. Sibonghanoy* where the Supreme Court held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. (*Id*.)

JUVENILE JUSTICE AND WELFARE ACT OF 2006 (R.A. NO. 9344)

Application of — Section 40 of R.A. 9344 provides that the same extends only until the child in conflict with the law reaches the maximum age of twenty-one (21) years old; in extending the application of R.A. No. 9344 to give meaning to the legislative intent of the said law, we ruled in *People v. Jacinto*, as cited in *People v. Ancajas*, that the promotion of the welfare of a child in conflict with the law should extend even to one who has exceeded the age limit of twenty-one (21) years, so long as he/she committed the crime when he/she was still a child. (BBB *v.* People, G.R. No. 249307, Aug. 27, 2020) p. 417

LABOR-ONLY CONTRACTING

Elements — Section 5 of DOLE Order No. 18-02 prohibits labor-only contracting and defines it as an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and any of the following elements are present: 1) The contractor or subcontractor does not have substantial capital or investment which relates to the job, work or service to be performed and the employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; or 2) the contractor does not exercise the right to control over the performance of the work of the contractual employee. (Monsanto Philippines, Inc. *v.* National Labor Relations Commission, *et al.*, G.R. Nos. 230609-10, Aug, 27, 2020) p. 161

LABOR RELATIONS

Employer-employee relationship — The Court has consistently ruled that there is no hard and fast rule designed to establish the elements of an employer-employee relationship; some forms of evidence that have accepted to establish the elements include, but are not limited to, identification cards, cash vouchers, social security

ripened into a practice; "*practice*" or "*custom*" is not a source of a legally demandable or enforceable right. (*Id*.)

LACHES

Elements — The elements of laches are as follows: (1) conduct on the part of the defendant, or of one under whom claims, giving rise to the situation of which complaint is made an[d] for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred. (Heirs of Isabelo Cudal, Sr., Represented by Libertad Cudal, *et al. v.* Spouses Suguitan, Jr., G.R. No. 244405, Aug. 27, 2020) p. 347

— The four elements of the equitable defense of laches as held by the Court in *Go Chi Gun v. Co Cho* are: (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred. (Republic *v.* Sundiam, *et al*, G.R. No. 236381, Aug. 27, 2020) p. 254

Principle of — In a general sense, laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier. (Republic *v.* Sundiam, *et al*, G.R. No. 236381, Aug. 27, 2020) p. 254

if he received the check pursuant to this purpose; otherwise, he is not a holder in due course. (Metropolitan Bank & Trust Co. *v.* Junnel's Marketing Corporation, *et al.*, G.R. No. 232044, Aug. 27, 2020) p. 211

Liability of the drawee bank in unauthorized payment of checks — It is settled that the collecting bank which reimbursed the drawee bank may in turn seek reimbursement from the persons who caused the checks to be deposited and received the unauthorized payments. (Metropolitan Bank & Trust Co. *v.* Junnel's Marketing Corporation, *et al.*, G.R. No. 232044, Aug. 27, 2020) p. 211

— The drawee bank, or the bank on which a check is drawn, is bound by its contractual obligation to its client, the drawer, to pay the check only to the payee or to the payee's order; the drawee bank is duty-bound to follow strictly the instructions of its client, which is reflected on the face of, and by the terms of, the check. (*Id.*)

— The drawee bank, which merely relied upon the guarantee of the collecting bank, may seek reimbursement from the latter; a collecting bank is an endorser that assumes all the warranties under Section 66 of the Negotiable Intruments Law; the collecting bank, being the last endorser, is liable even if the previous endorsements were forged. (*Id.*)

— When the drawee bank pays a person other than the named payee on the check, the drawee bank violates its contractual obligation to its client; it shall be held liable for the amount charged to the drawer's account. (*Id.*)

Warranty of an indorser — A collecting bank where a check is deposited, and which endorses the check upon presentment with the drawee bank, is an endorser; under Section 66 of the Negotiable Instruments Law, an endorser warrants: (1) that the instrument is genuine and in all respects what it purports to be; (2) that the endorser has good title to it; (3) that all prior parties had capacity to contract; and (4) that the instrument is, at the time of

PLEADINGS

Answer — The rule is that the answer should be admitted when it is filed before a declaration of default provided there is no showing that defendant intends to delay the proceedings and no prejudice is caused to the plaintiff. (Vitarich Corporation *v.* Dagmil, G.R. No. 217138, Aug. 27, 2020) p. 18

— We have enunciated in *Sablas v. Sablas* the principle that it is within the sound discretion of the trial court to permit the defendant to file his answer and to be heard on the merits even after the reglementary period for filing the responsive pleading expires. (*Id*.)

PHILIPPINE NURSING LAW (R.A. NO. 877)

Application of — Under Section 16 of R.A. No. 877 as amended, any person who practices nursing in the Philippines, unless exempt, must possess a valid certificate of registration; violation of this provision amounts to illegal practice of the nursing profession. (Civil Service Commission *v.* Rodriguez, G.R. No. 248255, Aug. 27, 2020) p. 364

PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION-STANDARD EMPLOYMENT CONTRACT (POEA-SEC)

Disability benefits — If the seafarer suffers from an illness or injury during the term of the contract, the process in Section 20(A) applies; the employer is obliged to continue to pay the seafarer's wages, and to cover the cost of treatment and medical repatriation, if needed; after medical repatriation, the seafarer has the duty to report to the company-designated physician within three days upon his return; the employer shall then pay sickness allowance while the seafarer is being treated. (Maryville Manila, Inc. *v.* Espinosa, G.R. No. 229372, Aug. 27, 2020) p. 127

— In resolving claims for disability benefits, it is imperative to integrate the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) with every agreement between a seafarer and his employer; in *Ventis Maritime Corporation v. Salenga*,

the following acts or omissions have been treated as such: misappropriation of public funds; abandonment of office; failure to report back to work without prior notice; failure to safekeep public records and property; making false entries in public documents (*i.e.* PDS); falsification of court orders; a judge's act of brandishing a gun, and threatening the complainants during a traffic altercation, among others. (Civil Service Commission *v.* Rodriguez, G.R. No. 248255, Aug. 27, 2020) p. 364

Dishonesty — Dishonesty is defined as "intentionally making a false statement on any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, appointment, or registration; it is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue, and integrity." (Civil Service Commission *v.* Rodriguez, G.R. No. 248255, Aug. 27, 2020) p. 364

— Dishonesty need not be committed in the course of the performance of duty by the person charged; the rationale is that if a government officer or employee is *dishonest* or is guilty of oppression *or grave misconduct*, even if said defects of character are not connected with his or her office, they affect his or her right to continue public service. (*Id*.)

Grave misconduct — Defined as a serious transgression of some established and definite rule of action (such as unlawful behavior or gross negligence by the public officer or employee) that tends to threaten the very existence of the system of administration of justice an official or employee serves; it is well-settled in our jurisdiction that the court personnel's sole act of receiving money from litigants, whatever the reason may be, constitutes grave misconduct, and no matter how nominal the amount involved is, such act erodes the respect for law and the courts. (Competente, *et al. v.* Clerk III Ma. Rosario A. Nacion, RTC, Br. 22, Malolos City, Bulacan, A.M. No. P-16-3578 [Formerly A.M. No. 14-6-203-RTC], Sept. 1, 2020) p. 812

SEARCHES AND SEIZURES

Exclusionary rule — Section 2, Article III of the Constitution ordains the right of the people against unreasonable searches and seizures by the government; fortifying such right is the exclusionary principle adopted in Section 3(b), Article III of the Constitution; the principle renders any evidence obtained through unreasonable search or seizure as inadmissible for any purpose in any proceeding. (Pilapil, Jr. *v.* Co, G.R. No. 228608, Aug. 27, 2020) p. 88

Plain view doctrine — In *Miclat, Jr. v. People*, we identified the three (3) requisites that must concur in order to validly invoke the doctrine, to wit: The "plain view" doctrine applies when the following requisites concur: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure. (Pilapil, Jr. *v.* Co, G.R. No. 228608, Aug. 27, 2020) p. 88

— In order to satisfy the third requisite of the plain view doctrine, it must be established that the seized item on the basis of the attending facts and surrounding circumstances reasonably appeared, to the officer who made the seizure, as a contraband or an evidence of a crime. (*Id*.)

— The first requisite of the plain view doctrine assumes that the law enforcement officer has "a prior justification for an intrusion or is in a position from which he can view a particular area"; this means that the officer who made the warrantless seizure must have been in a lawful position when he discovered the target contraband or evidence in plain view. (*Id*.)

— Under the plain view doctrine, objects falling within the plain view of a law enforcement officer, who has a

Jurisdiction — In the settlement of a deceased's estate, Section 1, Rule 73 of the Rules of Court provides: "The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts." (Tirol *v.* Nolasco, G.R. No. 230103, Aug. 27, 2020) p. 146

SOCIAL SECURITY ACT OF 1954 (R.A. NO. 1161), AS AMENDED

Application of — Failure to comply with the reportorial requirements does not result in the automatic cancellation of the membership of the covered employee. (Salabe *v.* Social Security Commission, *et al.*, G.R. No. 223018, Aug. 27, 2020) p. 29

— R.A. No. 1161 did not expressly cover self-employed individuals; Section 11, however, allows a person previously employed to continue paying contributions in order to retain his or her benefits as a member; the eligibility requirements for retirement benefits are set forth under Section 12-B of the law, as amended; to be eligible for retirement benefits, it must be established that (a) she is a covered employee, (b) paid at least 120 contributions prior to the semester of her retirement, (c) has reached the age of 60, and (d) is not receiving monthly compensation of at least ₱300.00. (*Id*.)

— The cancellation of membership and retirement pension of a member before according her an opportunity to be heard on her eligibility is a deprivation of due process. (*Id*.)

SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION AND DISCRIMINATION ACT (R.A. NO. 7610)

Application of — R.A. No. 7610 was enacted in order to protect children from abuse, exploitation, and discrimination by adults and not by persons who are also children themselves; Section 5 of R.A. No. 7610 expressly states that a child is deemed to be sexually abused when coerced or influenced by an adult, syndicate, or group. (BBB *v.* People, G.R. No. 249307, Aug. 27, 2020) p. 417

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