LANDMARK CASES

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LANDMARK CASES

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ANGKLA: ANG PARTIDO NG MGA PILIPINONG MARINO, INC. (ANGKLA), and SERBISYO SA BAYAN PARTY (SBP) *v.* **COMMISSION ON ELECTIONS, *et al.***
G.R. No. 246816, 15 September 2020, *EN BANC* (Lazaro Javier, *J.*)

DOCTRINE OF THE CASE

Section 5(1), Article VI of the 1987 Constitution mandates that the party-list system shall compose twenty percent (20%) of the total membership in the House of Representatives. But the matter on how party-lists should qualify for a seat is left to the wisdom of the legislature.

The BANAT formula mirrors the textual progression of Section 11(b) of the law. The formula withstood the test of time and the Court is offered no cogent reason to depart therefrom.

FACTS

In these twin Petitions for *Certiorari* and Prohibition, and for Intervention, *ANGKLA: Ang Partido Ng Mga Pilipinong Marino, Inc.,* (ANGKLA) and *Serbisyo sa Bayan* Party (SBP) assail the constitutionality of Section 11(b), Republic Act No. 7941 (R.A. No. 7941) insofar as it provides that those garnering more than two percent (2%) of the votes cast for the party-list system shall be entitled to additional seats in proportion to their total number of votes.

They assert that the allocation of additional seats in proportion to a party-list's "total number of votes" results in the double-counting of votes in favor of the two-percenters. The same votes which guarantee the two-percenters a seat in the first round of seat allocation are again considered in the second round. The proviso purportedly violates the equal protection clause, hence, is unconstitutional.

ISSUE

Is Section 11(b), R.A. No. 7941 allocating additional seats to party-lists in portion to their total number of votes unconstitutional?

RULING

NO. Section 5(1), Article VI of the 1987 Constitution mandates that the party-list system shall compose twenty percent (20%) of the total membership in the House of Representatives. But the matter on how party-lists should qualify for a seat is left to the wisdom of the legislature.

Pursuant to this constitutional directive, Congress enacted R.A. No. 7941, setting forth the parameters for electing party-lists and the manner of allocating seats to them. The features of R.A. No. 7941 preclude the allocation of seats based solely on absolute proportionality:

> (a) To bar any single party-list party, organization or coalition from dominating the party-list system; and
>
> (b) To ensure maximization of the allotment of 20% of seats in the House of Representatives to party-list representatives.

As finally settled in the landmark case of *BANAT*, Section 11(b) of R.A. No. 7941 is to be applied, thus:

> **Round 1:**
>
> (a) The participating parties, organizations or coalitions shall be ranked from highest to lowest based on the number of votes they each garnered in the party-list election.
>
> (b) Each of those receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to and guaranteed one seat each.
>
> Rationale: The statute references a two-percent (2%) threshold. The one-seat guarantee based on this arithmetical computation gives substance to this threshold.
>
> **Round 2, Part 1:**
>
> (a) The percentage of votes garnered by each of the parties, organizations, and coalitions is multiplied by the remaining available seats after Round 1. All party-list participants shall participate in this round regardless of the percentage of votes they garnered.

(b) The party-list participants shall be entitled to additional seats based on the product arrived at in (a). The whole integer of the product corresponds to a party's share in the remaining available seats. Fractional seats shall not be awarded.

Rationale: This formula gives flesh to the proportionality rule in relation to the total number of votes obtained by each of the participating party, organization, or coalition.

(c) A party-list shall be awarded no more than two (2) additional seats.

Rationale: The three-seat cap in the statute is to be observed.

Round 2, Part 2:

(a) The party-list party, organization or coalition next in rank shall be allocated one additional seat each until all available seats are completely distributed.

Rationale: This algorithm endeavors to complete the 20% composition for party-list representation in the House of Representatives.

The BANAT formula mirrors the textual progression of Section 11(b) of the law. The formula withstood the test of time and the Court is offered no cogent reason to depart therefrom.

IN THE MATTER OF THE PETITION FOR WRIT OF AMPARO AND WRIT OF HABEAS CORPUS IN FAVOR OF ALICIA JASPER S. LUCENA;
RELISSA SANTOS LUCENA AND FRANCIS B. LUCENA *v.* SARAH ELAGO, *et al.*
G.R. No. 252120, 15 September 2020, *EN BANC* (Peralta, *C.J.*)

DOCTRINE OF THE CASE

The remedy of amparo, in its present formulation, is confined merely to instances of "extralegal killings" or "enforced disappearances" and to threats thereof. Here, there is not much issue that AJ's situation does not qualify either as an actual or threatened enforced disappearance or extralegal killing. AJ is not missing. Her whereabouts are determinable.

The Rules of Court envisions the writ of habeas corpus as a remedy applicable to cases of illegal confinement or detention where a person is deprived of his or her liberty, or where the rightful custody of any person is withheld from the person entitled thereto. In this case, there was never any accusation that the Anakbayan employed violence, force or threat against AJ that would have influenced her in deciding to stay with the Anakbayan.

FACTS

Relissa Santos Lucena and Francis B. Lucena (Spouses Lucena) are the parents of Alicia Jasper S. Lucena (AJ) — a 19-year old Grade 11 student at the Far Eastern University (FEU). AJ was enticed to join the FEU Chapter of *Anakbayan* — a youth organization supposedly advocating ideals of national democracy.

On July 10, 2019, AJ left the family home for the third time and never came back. She has since dropped out from FEU. Seeking mainly to regain custody of AJ, Spouses Lucena instituted the present petition for the issuance of the writs of *amparo* and *habeas corpus*.

ISSUES

(1) Was Spouses Lucena's plea for the issuance of a writ of *amparo* proper?

(2) Was Spouses Lucena's plea for the issuance of a writ of *habeas corpus* proper?

RULING

(1) **NO.** The remedy of *amparo*, in its present formulation, is confined merely to instances of "extralegal killings" or "enforced disappearances" and to threats thereof.

"Extralegal killings" are killings committed without due process of law, *i.e.*, without legal safeguards or judicial proceedings. On the other hand, the elements constituting "enforced disappearance," are enumerated as follows:

> (a) That there be an arrest, detention, abduction or any form of deprivation of liberty;
>
> (b) That it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;
>
> (c) That it be followed by the State or political organization's refusal to acknowledge or give information on the fate or whereabouts of the person subject of the *Amparo* petition; and
>
> (d) That the intention for such refusal is to remove the subject person from the protection of the law for a prolonged period of time.

Here, there is not much issue that AJ's situation does not qualify either as an actual or threatened enforced disappearance or extralegal killing. AJ is not missing. Her whereabouts are determinable. By all accounts, she is staying with the *Anakbayan* and its officers which, at least insofar as AJ's case is concerned, are not agents or organizations acting on behalf of the State. Indeed, against these facts, Spouses Lucena's invocation of the remedy of *amparo* cannot pass.

(2) **NO.** The Rules of Court envisions the writ of *habeas corpus* as a remedy applicable to cases of illegal confinement or detention where a person is deprived of his or her liberty, or where the rightful custody of any person is withheld from the person entitled thereto.

In this case, Spouses Lucena failed to make out a case that AJ is being detained or is being kept by the *Anakbayan* against her free will. To start, there was never any accusation that the *Anakbayan* employed violence, force or threat against AJ that would have influenced her in deciding to stay with the *Anakbayan*.

It also cannot be said that Spouses Lucena were being excluded from their rightful custody over the person of AJ. As it was established, AJ has already reached the age of majority and is, thus, legally emancipated. This meant the termination of the Spouses Lucena's parental authority — which includes their custodial rights — over the person and property of AJ.

As she has already attained the age of majority, AJ — at least in the eyes of the State — has earned the right to make independent choices with respect to the places where she wants to stay, as well as to the persons whose company she wants to keep. Such choices, so long as they do not violate any law or any other persons' rights, have to be respected and let alone, lest the Court trample upon AJ's personal liberty — the very freedom supposed to be protected by the writs of *amparo* and *habeas corpus*.

MARIO M. MADERA *et al.* *v.*
COMMISSION ON AUDIT (COA) and COA REGIONAL OFFICE NO. VIII
G.R. No. 244128, 08 September 2020, *EN BANC* (Caguioa, *J.*)

DOCTRINE OF THE CASE

The Supreme Court pronounces the rules on return:

> *1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.*
>
> *2. If a Notice of Disallowance is upheld, the rules on return are as follows:*
>
> *(a) Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.*
>
> *(b) Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.*
>
> *(c) Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.*
>
> *(d) The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other bona fide exceptions as it may determine on a case-to-case basis.*

Examined under the rubric of the rules above, the Court holds that those who were the approving and certifying officers need not refund the disallowed amounts inasmuch as they had acted in good faith. They disbursed the subject allowances in the honest belief that the amounts given were due to the recipients and the latter accepted the same with gratitude, confident that they richly deserve such reward.

FACTS

In December 2013, the Municipality of Mondragon, Northern Samar (the Municipality) passed and approved a *Sangguniang Bayan* (SB) Ordinance and four SB Resolutions, granting various allowances to its officials and employees. These allowances are:

(a) Economic Crisis Assistance (ECA);
(b) Monetary Augmentation of Municipal Agency (MAMA);
(c) Agricultural Crisis Assistance (ACA); and
(d) Mitigation Allowance to Municipal Employees (MAME).

On post-audit, the Audit Team Leader (ATL) and the Supervising Auditor (SA) of the Municipality issued Notices of Disallowance (NDs) on the grounds, among others, that the grants violated Section 12 of Republic Act No. 6758 (R.A. No. 6758) or the Salary Standardization Law (SSL) as regards the consolidation of allowances and compensation, and that the services rendered thereunder are not considered as government service.

Mario Madera, *et al.* (Madera, *et al.*) filed their appeal with the Commission on Audit (COA) Regional Director (RD), arguing that the grant of additional allowances to the employees is allowed by R.A. No. 7160 or the Local Government Code (LGC). Hence, the LGC actually repealed Section 12 of R.A. No. 6758 because the former law allows the municipality to grant additional allowances/financial assistance should its finances allow.

In a Decision, the RD affirmed the NDs. According to the RD, while it may be true that the subject allowances were not among those included in the list of authorized allowances and they may be granted if there is sufficient legal basis, the appropriation ordinance is not sufficient to become the legal basis.

The COA affirmed the ruling of the COA Regional Office, with modification in that the officials and employees who unwittingly received the disallowed benefits or allowances are not held liable for their reimbursement since they are recipient-payees in good faith.

ISSUE

Did the COA commit grave abuse of discretion in affirming the NDs?

RULING

NO. The Court upholds the NDs against the subject allowances, finding no grave abuse of discretion on the part of the COA in affirming the disallowance. The Court recognizes that the jurisprudence regarding the refund of disallowed amounts by the COA is evolving, at times conflicting, and is primarily dealt with on a case-to-case basis. The discussions made in this petition, however, have made it apparent that there is now a need to harmonize the various rulings of the Court. For this reason, the Court takes this opportunity to lay down the rules that would be applied henceforth in determining the liability to return disallowed amounts, guided by applicable laws and rules as well as the current state of jurisprudence.

(a) The statutory bases for the liability of approving and certifying officers and payees for illegal expenditures;

It is well-settled that administrative, civil, or even criminal liability, as the case may be, may attach to persons responsible for unlawful expenditures, as a wrongful act or omission of a public officer.

Sections 38 and 39, Chapter 9, Book I of the Administrative Code of 1987 cover the civil liability of officers for acts done in the performance of official duties. By the very language of these provisions, the liability for unlawful expenditures is civil. Nonetheless, since these provisions are situated in Chapter 9, Book I of the Administrative Code of 1987 entitled "General Principles Governing Public Officers," the liability is inextricably linked with the administrative law sphere. Thus, the civil liability provided under these provisions is hinged on the fact that the public officers performed his official duties with bad faith, malice, or gross negligence.

(b) The badges of good faith in determining the liability of approving and certifying officers;

To ensure that public officers who have in their favor the unrebutted presumption of good faith and regularity in the performance of official duty, or those who can show that the circumstances of their case prove that they acted in good faith and with diligence, the Court adopts Associate Justice Marvic M.V.F. Leonen's (Justice Leonen) proposed circumstances or badges for the

determination of whether an authorizing officer exercised the diligence of a good father of a family:

> (a) Certificates of Availability of Funds pursuant to Section 40 of the Administrative Code;
> (b) In-house or Department of Justice legal opinion;
> (c) That there is no precedent disallowing a similar case in jurisprudence;
> (d) That it is traditionally practiced within the agency and no prior disallowance has been issued; or
> (e) With regard the question of law, that there is a reasonable textual interpretation on its legality.

Thus, to the extent that these badges of good faith and diligence are applicable to both approving and certifying officers, these should be considered before holding these officers, whose participation in the disallowed transaction was in the performance of their official duties, liable. The presence of any of these factors in a case may tend to uphold the presumption of good faith in the performance of official functions accorded to the officers involved, which must always be examined relative to the circumstances attending therein.

(c) The body of jurisprudence which inequitably absolve responsible persons from liability to return based on good faith;

The history of the rule evinces that the original formulation of the "good faith rule" excusing the return by payees based on good faith was not intended to be at the expense of approving and/or certifying officers. The application of this judge made rule of excusing the payees and then placing upon the officers the responsibility to refund amounts they did not personally receive, commits an inadvertent injustice.

(d) The nature of the payees' participation and their liability for return and the acceptable exceptions as regards the liability to return disallowed amounts on the bases of unjust enrichment and solutio indebiti;

Being civil in nature, the liability of officers and payees for unlawful expenditures provided in the Administrative Code of 1987 will have to be consistent with civil law principles such as *solutio indebiti* and unjust enrichment. To be sure, the application of the principles of unjust enrichment and *solutio indebiti*

in disallowed benefits cases does not contravene the law on the general liability for unlawful expenditures. With the liability for unlawful expenditures properly understood, payees who receive undue payment, regardless of good faith, are liable for the return of the amounts they received.

Notably, in situations where officers are covered by Section 38 of the Administrative Code of 1987 either by presumption or by proof of having acted in good faith, in the regular performance of their official duties, and with the diligence of a good father of a family, payees remain liable for the disallowed amount unless the Court excuses the return. For the same reason, any amounts allowed to be retained by payees shall reduce the solidary liability of officers found to have acted in bad faith, malice, and gross negligence. In this regard, Justice Bernabe coins the term "net disallowed amount" to refer to the total disallowed amount minus the amounts excused to be returned by the payees. The net disallowed amount shall be solidarily shared by the approving/authorizing officers who were clearly shown to have acted in bad faith, with malice, or were grossly negligent.

To a certain extent, payees always do have an indirect "involvement" and "participation" in the transaction where the benefits they received are disallowed because the accounting recognition of the release of funds and their mere receipt thereof results in the debit against government funds in the agency's account and a credit in the payees' favor. Notably, when the COA includes payees as persons liable in an ND, the nature of their participation is stated as "received payment."

Consistent with this, "the amount of damage or loss [suffered by] the government [in the disallowed transaction]," another determinant of liability, is also indirectly attributable to payees by their mere receipt of the disallowed funds. This is because the loss incurred by the government stated in the ND as the disallowed amount corresponds to the amounts received by the payees. Thus, cogent with the application of civil law principles on unjust enrichment and *solutio indebiti*, the return by payees primarily rests upon this conception of a payee's undue receipt of amounts as recognized within the government auditing framework. In this regard, it bears repeating that the extent of liability of a payee who is a passive recipient is only with respect to the transaction where he participated or was involved in, *i.e.*, only to the extent of the amount that he unduly received.

The exception to payee liability is when he shows that he is, as a matter of fact or law, actually entitled to what he received, thus removing his situation from Section 16.1.5 of the RRSA and the application of the principle of *solutio indebiti*. This includes payees who can show that the amounts received were granted in consideration for services actually rendered. In such situations, it cannot be said that any undue payment was made. Thus, the government incurs no loss in making the payment that would warrant the issuance of a disallowance. Neither payees nor approving and certifying officers can be held civilly liable for the amounts so paid, despite any irregularity or procedural mistakes that may have attended the grant and disbursement.

The Court accepts the arguments raised by Madera, *et al.* as badges of good faith.

First, a review of the SB Resolutions and Ordinance used as basis for the grant of the subject allowances shows that these were primarily intended as financial assistance to municipal employees in view of the increase of cost on prime commodities, shortage of agricultural products, and the vulnerability of their municipality to calamities and disasters. Notably, these subject allowances were granted after the onslaught of typhoon Yolanda which greatly affected the Municipality. While noble intention is not enough to declare the allowances as valid, it nevertheless supports Madera, *et al.*'s claim of good faith.

Second, that these additional allowances had been customarily granted over the years and there was no previous disallowance issued by the COA against these allowances further bolster petitioners' claim of good faith. Indeed, while it is true that this customary scheme does not ripen into valid allowances, it is equally true that in all those years that the additional allowances had been granted, the COA did not issue any ND against these grants, thereby leading Madera, *et al.* to believe that these allowances were lawful.

Third, Madera, *et al.* relied on the Resolutions and Ordinance of the *Sangguniang Bayan* which have not been invalidated; hence, it was within their duty to execute these issuances in the absence of any contrary holding by the *Sangguniang Panlalawigan* or the COA. They were of the belief, albeit mistakenly, that these Resolutions and Ordinance were sufficient legal bases for the grant of the allowances especially since the LGC empowers the *Sangguniang Bayan* to approve ordinances and pass resolutions concerning allowances.

Thus, petitioners-approving and certifying officers are shielded from civil liability for the disallowance under Section 38 of the Administrative Code of 1987.

As for the payees, the Court notes that the COA Proper already excused their return; hence, they no longer appealed. In any case, while they are ordinarily liable to return for having unduly received the amounts validly disallowed by COA, the return was properly excused not because of their good faith but because it will cause undue prejudice to require them to return amounts that were given as financial assistance and meant to tide them over during a natural disaster.

RE: LETTER OF MRS. MA. CRISTINA ROCO CORONA REQUESTING THE GRANT OF RETIREMENT AND OTHER BENEFITS TO THE LATE FORMER CHIEF JUSTICE RENATO C. CORONA AND HER CLAIM FOR SURVIVORSHIP PENSION AS HIS WIFE UNDER REPUBLIC ACT NO. 9946
A.M. No. 20-07-10-SC, 12 January 2021 (Hernando, *J.*)

DOCTRINE OF THE CASE

An impeached public officer whose civil, criminal, or administrative liability was not judicially established may be considered involuntarily retired from service and is entitled to retirement benefits. Retirement is deemed involuntary when one's profession is terminated for reasons outside the control and discretion of the worker. Impeachment resulting in removal from holding office falls under the column on involuntary retirement.

Thus, until his liability under the law is so established before the courts of law, retirement eligibility and benefits have properly accrued to Chief Justice Corona when he was removed by impeachment on May 29, 2012. There being no such determination of liability, his entitlement thereto subsisted.

FACTS

Renato Coronado Corona (Corona) was the Chief Justice of the Philippines for eight years after his appointment on May 12, 2010 until being indicted through an impeachment by the House of Representatives pursuant to Section 2, Article VI of the 1987 Constitution. The grounds of his impeachment were betrayal of public trust, culpable violation of the Constitution, and graft and corruption.

Senate declared Corona unfit to hold the position and removed him from office because of non-declaration of Statement of Assets, Liabilities, and Net Worth (SALN). Because of the stress from trial, Corona's health quickly deteriorated leading to his death in 2016. The pending criminal cases on graft and corruption were all dismissed.

His widow, Mrs. Ma. Cristina Roco Corona (Mrs. Corona), asserted that the Senate judgment be voided for insufficiency and non-compliance with Section 14, Art. VIII of the Constitution because the impeachment merely stripped him of his political capacity as Chief Justice. Hence, she prayed for the retirement benefits and other gratuities provided for under R.A. No. 9946, and survivorship pension under Admin. Circ. No. 81-2010.

ISSUE

Should the retirement benefits, other gratuities, and survivorship pension be accorded to Mrs. Corona as the spouse of the late Chief Justice Corona despite the latter's ouster by impeachment?

RULING

YES. The Court grants the plea of Corona's widow. The effects of a judgment on an impeachment complaint extend no further than to removal from office and disqualification from holding any public office. Since the Constitution expressly limited the nature of impeachment, its effects must consequently and necessarily be confined within the constitutional limits. Impeachment proceedings are entirely separate, distinct, and independent from any other actionable wrong or cause of action a party may have against the impeached officer, even if such wrong or cause of action may have a colorable connection to the grounds for which the officer have been impeached.

An impeached public officer whose civil, criminal, or administrative liability was not judicially established may be considered involuntarily retired from service. Retirement is the termination of one's employment or career, especially upon reaching a certain age or for health reasons. To retire is to withdraw from one's position or occupation, or to conclude one's active working life or professional career. Retirement is deemed involuntary when one's profession is terminated for reasons outside the control and discretion of the worker. Impeachment resulting in removal from holding office falls under the column on involuntary retirement.

After the judgment of impeachment was announced on May 29, 2012, tax evasion charges, criminal cases for perjury, administrative complaints for violation of the R.A. No. 6713 of the Code of Conduct of Ethical Standards for Public Officials and Employees, and a civil case for forfeiture were slapped against Chief Justice Corona in 2014. These charges, however, were terminated upon his demise. The Court deems Chief Justice Corona to have been involuntarily retired from public service due to the peculiar circumstances surrounding his removal by impeachment, without forfeiture of his retirement benefits and other allowances.

Notably, from the time the impeachment court rendered its judgment, there has been no law that commands the automatic cancellation of post-employment benefits and other privileges pertaining to the impeached official. Considering the

foregoing, the Supreme Court holds that Chief Justice Corona was involuntarily retired by virtue of his conviction arising from impeachment.

This is where equity comes in. Under the prevailing circumstances, the fairer and more equitable treatment of the present claim for post-employment privileges is to first consider Chief Justice Corona as involuntarily retired, rather than to dismiss it outright without citing any legal basis.

An impeached public officer whose civil, criminal, or administrative liability was not judicially established is entitled to the retirement benefits provided under R.A. Nos. 9946 and 8291. The former Chief Justice can never be deemed to have retired at the age of 70, nor can he be considered as resigned by reason of any permanent disability, as his separation from service was not in any way effected through resignation.

Section 1 of R.A. No. 9946 yields two instances of retirement available to a magistrate — first, a compulsory retirement at 70 years old; and second, an optional retirement upon reaching 60 years of age. The following legal requisites must concur for the optional retirement of a magistrate and the consequent entitlement to the benefits under R.A. No. 9946:

(a) That the retiree be a magistrate, *i.e.*, a Justice of the Supreme Court, the Court of Appeals, the Sandiganbayan, or of the Court of Tax Appeals, or a judge of the trial courts, Shari'a court, or of any other judicial court;

(b) That the retiring magistrate has rendered at least 15 years of service in the judiciary, in any other branch of the government, or in both;

(c) That the retiring magistrate be at least 60 years of age at the time of retirement; and

(d) That the last 3 years of public service by the retiring magistrate be continuously rendered in the Judiciary.

The requirements are straightforward and have all been satisfactorily complied with by the late Chief Justice. However, whether criminal, civil, or administrative, no court imposed any such liability upon the late Chief Justice. Impeachment is only preparatory to liability. Since a removal by impeachment

does not explicitly provide for forfeiture as a consequence thereof, as opposed to a criminal conviction carrying the penalty of perpetual or absolute disqualification, an impeached official, like former Chief Justice Corona, cannot be deprived of his retirement benefits on the sole ground of his removal. Such forfeiture could have been imposed upon criminal conviction which, however, was pre-empted by his death. Viewing it from another angle, a judgment of liability in a separate legal proceeding is a resolutory condition after a verdict of ouster by impeachment has been rendered, in that the impeached official retains all the post- employment privileges already earned unless otherwise declared by the competent tribunals.

Until his liability under the law is so established before the courts of law, retirement eligibility and benefits have properly accrued to Chief Justice Corona when he was removed by impeachment on May 29, 2012. There being no such determination of liability, his entitlement thereto subsisted.

LABOR LAW

LBC EXPRESS-VIS, INC. *v.* MONICA C. PALCO
G.R. No. 217101, 12 February 2020, *THIRD DIVISION* (Leonen, *J.*)

DOCTRINE OF THE CASE

Batucan cannot be considered to have been acting on LBC's behalf when he sexually harassed Palco. Thus, Palco cannot base her illegal dismissal complaint against LBC solely on Batucan's acts.

However, even if LBC had no participation in the sexual harassment, it had been informed of the incident. Despite this, it failed to take immediate action on Palco's complaint. LBC's delay in acting on the case showed its insensibility, indifference, and disregard for its employees' security and welfare. This indifference to complaints of sexual harassment victims is a ground for constructive dismissal. Here, it cannot be denied that Palco was compelled to leave her employment because of the hostile and offensive work environment created and reinforced by Batucan and LBC. She was thus clearly constructively dismissed.

FACTS

Monica C. Palco (Palco) started working for LBC Express-Vis, Inc. (LBC) as a customer associate in its Gaisano Danao Branch (LBC Danao). While employed at LBC, Palco had initially noticed that the Branch's Team Leader and Officer-in-Charge, Arturo A. Batucan (Batucan) would often flirt with her, which made her uncomfortable. Later, Batucan started sexually harassing her. The final straw happened when Batucan sneaked in on Palco while she was in a corner counting money. Palco was caught by surprise and exclaimed, "*Kuyawa nako nimo sir, oy!*" (You scared me, sir!) Batucan then held her on her hips and attempted to kiss her lips. However, Palco was able to shield herself.

Palco reported the incident to the LBC Head Office. Sensing that management did not immediately act on her complaint, Palco resigned. She asserted that she was forced to quit since she no longer felt safe at work. Thereafter, Palco filed a Complaint for Illegal Dismissal against the company. Palco likewise filed a Complaint for sexual harassment before the Danao City Prosecutor's Office.

The Labor Arbiter (LA) ruled in favor of Palco. The National Labor Relations Commission (NLRC) affirmed with modification the LA's decision but

reduced the amount of moral damages to P50,000.00. The Court of Appeals (CA) affirmed the NLRC decision. Thus, LBC filed this petition, arguing that it should not be held for constructive dismissal because it was Batucan who committed the acts subject of Palco's complaint.

ISSUE

Should LBC be held liable for constructive dismissal?

RULING

YES. Constructive dismissal occurs when an employer has made an employee's working conditions of environment harsh, hostile, and unfavorable, such that the employee feels obliged to resign from his or her employment.

One of the ways by which a hostile or offensive work environment is created is through the sexual harassment of an employee. According to Section 3 of the Republic Act No. 7877, otherwise known as the Anti-Sexual Harassment Act, workplace sexual harassment occurs when a supervisor, or agent of an employer, or any other person who has authority over another in a work environment, imposes sexual favors on another, which creates in an intimidating, hostile, or offensive environment for the latter. The gravamen of the offense is not the violation of the employee's sexuality but the abuse of power by the employer.

In this case, Batucan's acts were sexually suggestive. He held Palco's hand, put his hand on her lap and shoulder, and attempted to kiss her. These acts are not only inappropriate, but are offensive and invasive enough to result in an unsafe work environment for Palco.

LBC's argument that it was not the company, but Batucan, that created the hostile work environment fails to persuade. At the very least, Batucan held a supervisory position, which made him part of the managerial staff. Batucan was Palco's team leader and officer-in-charge in LBC Danao. Nonetheless, Batucan cannot be deemed to have acted on LBC's behalf in committing the acts of sexual harassment. It cannot be assumed that all the illegal acts of managerial staff are authorized or sanctioned by the company, especially when it is committed in the manager's personal capacity.

The distinction between the employer and an erring managerial officer is likewise present in sexual harassment cases. Under Section 5 of the Anti-Sexual Harassment Act, the employer is only solidarily liable for damages with the perpetrator in case an act of sexual harassment was reported, and *it did not take immediate action on the matter*.

This provision thus illustrates that the employer must first be informed of the acts of the erring managerial officer before it can be held liable for the latter's acts. Conversely, if the employer has been informed of the acts of its managerial staff, and does not contest or question it, it is deemed to have authorized or be complicit to the acts of its erring employee.

In this case, Batucan cannot be considered to have been acting on LBC's behalf when he sexually harassed Palco. Thus, Palco cannot base her illegal dismissal complaint against LBC *solely* on Batucan's acts.

However, even if LBC had no participation in the sexual harassment, it had been informed of the incident. Despite this, it failed to take immediate action on Palco's complaint. LBC's delay in acting on the case showed its insensibility, indifference, and disregard for its employees' security and welfare. This indifference to complaints of sexual harassment victims is a ground for constructive dismissal. Here, it cannot be denied that Palco was compelled to leave her employment because of the hostile and offensive work environment created and reinforced by Batucan and LBC. She was thus clearly constructively dismissed.

PEOPLE OF THE PHILIPPINES *v.* ANTONIO M. TALAUE
G.R. No. 248652, 12 January 2021, *FIRST DIVISION* (Peralta, *C.J.*)

DOCTRINE OF THE CASE

Section 52 (g) of the GSIS Act of 1997 penalizes the heads of the offices of the national government, its political subdivisions, branches, agencies and instrumentalities, including government-owned or controlled corporations and government financial institutions, and the personnel of such offices who are involved in the collection of premium contributions, loan amortization and other accounts due the GSIS, who fail, refuse, or delay the payment, turnover, remittance or delivery of such accounts to the GSIS within thirty (30) days from the time the same have become due and demandable.

A municipality is a political subdivision of the national government. Talaue, as Municipal Mayor of Sto. Tomas, Isabela, is unquestionably the head of office of the said Municipality as the chief executive officer thereof. As head of office, he, as well as other employees involved in the collection of contributions due the GSIS, are responsible for the prompt and timely payment and/or remittance of the said premiums to the GSIS.

FACTS

An Information was filed by the GSIS against Antonio M. Talaue (Talaue) and his co-accused, Efren C. Guiyab (Guiyab) and Florante A. Galasinao (Galasinao) for the violation of Section 52 (g) in relation to Section 6 (b) of Republic Act No. 8291 (R.A. No. 8291). Talaue is the Municipal Mayor, Guiyab is the Municipal Treasurer, and Galasinao is the Municipal Accountant of Sto. Tomas, Isabela.

During the trial, the prosecution presented Araceli Santos (Santos), the Branch Manager of GSIS, Cauayan, Isabela Branch. Santos found that the municipal government failed to remit the total amount of P22,436,546.10, inclusive of interests. She also testified that the head of the agency, the treasurer, and the accountant are the persons with legal obligation to remit the contributions to the GSIS. Furthermore, Santos averred that Talaue should be held responsible since the notices and demand letters were addressed to the municipality via the mayor. With ample notice, Talaue should explain his failure to remit the GSIS contributions.

Talaue argued that he had instructed Guiyab to plan for the payment of the municipality's regular remittances, including the GSIS, as the Department of

Budget and Management (DBM) no longer withheld the funds and made the remittances for them starting 1997. However, Guiyab stated that the municipality is running short of funds due to other legitimate expenditures because it was the end of the year, and that they thought that the DBM was the one responsible for withholding and paying on the municipality's behalf the necessary remittances to the GSIS.

While the case was pending, Talaue allegedly told Guiyab to start paying the GSIS. He claimed that funds were allocated for that purpose, and payments were made to the GSIS. He also mentioned that the parties entered in a MOA, and the court issued a Decision approving the MOA. Thus, Talaue argued that he cannot be criminally liable due to the MOA treating the municipality's obligation into a loan; to be paid on a scheduled basis and subject to the reconciliation of accounts and data.

The Sandiganbayan acquitted Galasinao but found Talaue guilty beyond reasonable doubt of the crime charged. Thus, the present petition to the Court.

ISSUE

Is Talaue guilty beyond reasonable doubt of Sec. 52(g) in relation to Sec. 6(b) of R.A. No. 8291?

RULING

YES. Section 52 (g) of the GSIS Act of 1997 penalizes the heads of the offices of the national government, its political subdivisions, branches, agencies and instrumentalities, including government-owned or controlled corporations and government financial institutions, and the personnel of such offices who are involved in the collection of premium contributions, loan amortization and other accounts due the GSIS, who *fail*, *refuse*, or *delay* the payment, turnover, remittance or delivery of such accounts to the GSIS within thirty (30) days from the time the same have become due and demandable.

A municipality is a political subdivision of the national government. Talaue, as Municipal Mayor of Sto. Tomas, Isabela, is unquestionably the head of office of the said Municipality as the chief executive officer thereof. As head of office, he, as well as other employees involved in the collection of contributions due the GSIS, are responsible for the prompt and timely payment and/or remittance of the said premiums to the GSIS.

The task of ensuring the remittance of accounts due the GSIS is, therefore, as much a burden and responsibility of the mayor as it is the burden and responsibility of those personnel who are involved in the collection of premium contributions. Congress purposely included heads of office in the list of those liable in order to create a sense of urgency on their part and deter them from passing the blame to their subordinates. Further, their liability is construed as waiver of the State of its immunity from suit. Just as the principle of state immunity from suit rests on reasons of public policy, so does waiver thereof in cases of violation of Section 52 (g).

As municipal mayor, Section 444 (a) of the Local Government Code of 1991 commands appellant not only to exercise such powers and perform such duties and functions as provided by said Code, but also such duties as may be imposed upon him by other laws, which certainly includes his responsibility under the GSIS Act of 1997. Further, Section 444 (b) (1) (x) of said Code obligates him to ensure that all executive officials and employees of the municipality faithfully discharge their duties and functions as provided by law and said Code, and to cause the institution of administrative or judicial proceedings against any official or employee of the municipality who may have committed an offense in the performance of his official duties.

If Talaue truly believed that it was primarily the municipal treasurer's responsibility to remit the contributions of the municipality to the GSIS and that said treasurer was remiss in his duties, he should have caused the institution of administrative or judicial proceedings against him. He did not. More importantly, the fact that premium contributions remained unremitted from 1997 to 2004 should have alerted him, prompted him to make further inquiries, and employ a more stringent and hands-on approach considering that he is made principally liable by the law as head of the municipality.

BISHOP SHINJI AMARI of ABIKO BAPTIST CHURCH, *et al.* *v.* RICARDO R. VILLAFLOR, JR.
G.R. No. 224521, 17 February 2020, *THIRD DIVISION* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

An ecclesiastical affair is 'one that concerns doctrine, creed, or form of worship of the church, or the adoption and enforcement within a religious association of needful laws and regulations for the government of the membership, and the power of excluding from such associations those deemed unworthy of membership.' Based on this definition, an ecclesiastical affair involves the relationship between the church and its members and relates to matters of faith, religious doctrines, worship, and governance of the congregation.

Secular matters, on the other hand, have no relation whatsoever with the practice of faith, worship, or doctrines of the church.

To the mind of the Court, the exclusion of membership from Abiko Baptist Church in Japan and the cancellation of ABA recommendation as a national missionary are ecclesiastical matters which this jurisdiction will not touch upon. These matters are exclusively determined by the church in accordance with the standards they have set. The Court cannot meddle in these affairs since the church has the discretion to choose members who live up to their religious standards. The ABA recommendation as a national missionary is likewise discretionary upon the church since it is a matter of governance of congregation.

FACTS

The controversy stemmed from the Letter where Ricardo R. Villaflor, Jr. (Villaflor) was informed of his removal as a missionary of the Abiko Baptist Church, cancellation of his American Baptist Association (ABA) recommendation as a national missionary, and exclusion of his membership in the Abiko Baptist Church in Japan. Consequently, Villaflor filed a complaint, claiming that he was illegally dismissed from his work as missionary/minister.

The Labor Arbiter (LA) found Villaflor's dismissal illegal. The LA held that it has jurisdiction over the matter considering that Villaflor was appointed as instructor of Missionary Baptist Institute and Seminary (MBIS).

On appeal, the National Labor Relations Commission (NLRC) dismissed the complaint on the ground of lack of jurisdiction.

The Court of Appeals (CA) ruled that both the LA and NLRC had jurisdiction over the matter.

ISSUE

Was Villaflor illegally dismissed despite the fact that the dispute involves an ecclesiastical affair?

RULING

NO. While the State is prohibited from interfering in purely ecclesiastical affairs, the Church is likewise barred from meddling in purely secular matters.

In this case, there were three (3) acts which were decided upon by the Abiko Baptist Church against Villaflor, to wit:

(a) Removal as a missionary of Abiko Baptist Church;
(b) Cancellation of the ABA recommendation as a national missionary; and
(c) Exclusion of membership from Abiko Baptist Church in Japan.

To the mind of the Court, the exclusion of membership from Abiko Baptist Church in Japan and the cancellation of ABA recommendation as a national missionary are ecclesiastical matters which this jurisdiction will not touch upon. These matters are exclusively determined by the church in accordance with the standards they have set. The Court cannot meddle in these affairs since the church has the discretion to choose members who live up to their religious standards. The ABA recommendation as a national missionary is likewise discretionary upon the church since it is a matter of governance of congregation.

The Court is left to determine whether Villaflor's removal as a missionary of Abiko Baptist Church is an ecclesiastical affair. Indeed, the matter of terminating an employee, which is purely secular in nature, is different from the ecclesiastical act of expelling a member from the religious congregation.

In order to settle the issue, it is imperative to determine the existence of an employer-employee relationship. Unfortunately, Villaflor failed to prove his own affirmative allegation in accordance with the four-fold test, to wit:

(a) The selection and engagement of the employee;
(b) The payment of wages;

(c) The power of dismissal; and
(d) The power to control the employee's conduct.

First, the evidence presented – the Appointment Paper – refers to Villaflor's appointment as an instructor; but, to emphasize, Villaflor was removed as a missionary of Abiko Baptist Church, not as an instructor of MBIS.

Second, there is no concrete evidence of the alleged monthly compensation of Villaflor. Absent any clear indication that the amount respondent was allegedly receiving came from BSAABC or MBIS, or at the very least that ABA, Abiko Baptist Church of Japan, and BSAABC and MBIS are one and the same, the Court cannot concretely establish the payment of wages.

Third, the Court finds that dismissal is inherent in religious congregations as they have the power to discipline their members, but this alone cannot establish employer-employee relationship.

Lastly, there is no power of control. Other than the Appointment Paper (as an instructor), no other evidence was adduced by Villaflor to show an employer-employee relationship.

CIVIL LAW

DR. NIXON L. TREYES *v.* **ANTONIO L. LARLAR, *et al.***
G.R. No. 232579, 08 September 2020, *EN BANC* (Caguioa, *J.*)

DOCTRINE OF THE CASE

Subject to the required proof, without any need of prior judicial determination, Larlar, et al., siblings of Rosie, by operation of law, are entitled to one-half of the inheritance of the decedent. Thus, in filing their Complaint, they do not seek to have their right as intestate heirs established, for the simple reason that it is the law that already establishes that right. What they seek is the enforcement and protection of the right granted to them under Article 1001 in relation to Article 777 of the Civil Code by asking for the nullification of the Affidavits of Self-Adjudication that disregard and violate their right as intestate heirs.

Unless there is a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the compulsory or intestate heirs may commence an ordinary civil action to declare the nullity of a deed or instrument, and for recovery of property, or any other action in the enforcement of their ownership rights acquired by virtue of succession, without the necessity of a prior and separate judicial declaration of their status as such.

FACTS

Rosie Larlar Treyes (Rosie), the wife of Dr. Nixon Treyes (Dr. Nixon), died without any children and without a will. Rosie left behind seven siblings, Antonio, Emilio, Heddy, Rene, Celeste, Judy, and Yvonne (Larlar, *et al.*). At the time of her death, Rosie owned fourteen (14) real estate properties with Dr. Nixon as conjugal properties. Subsequently, Dr. Nixon executed two Affidavits of Self-Adjudication, transferring the estate of Rosie unto himself, claiming that he was the sole heir.

Hence, Larlar, *et al.* filed before the Regional Trial Court (RTC) a Complaint for annulment of the Affidavits, cancellation of TCTs, reconveyance of ownership and possession, partition, and damages.

Dr. Nixon filed a Motion to Dismiss on the ground, among others, of lack of jurisdiction over the subject matter and, corollarily, lack of real parties in interest. The RTC denied the Omnibus Motion, prompting Treyes to file before the Court of Appeals (CA) a petition for *Certiorari* under Rule 65. The CA, however, denied the same. Hence, the instant petition.

ISSUE

Is a prior determination of the status as a legal or compulsory heir in a separate special proceeding a prerequisite to an ordinary civil action for recovery of ownership and possession of property?

RULING

NO. That Larlar, *et al.* do not really seek in their Complaint the establishment of their rights as intestate heirs but, rather, the enforcement of their rights already granted by law as intestate heirs finds basis in Article 777 of the Civil Code, which states that "the rights of succession are transmitted from the moment of the death of the decedent."

The operation of Article 777 occurs at the very moment of the decedent's death — the transmission by succession occurs at the precise moment of death and, therefore, the heir is legally deemed to have acquired ownership of his/her share in the inheritance at that very moment, "and not at the time of declaration of heirs, or partition, or distribution."

Hence, the Court has held that the "title or rights to a deceased person's property are immediately passed to his or her heirs upon death. The heirs' rights become vested without need for them to be declared 'heirs.'" In fact, in partition cases, even before the property is judicially partitioned, the heirs are already deemed co-owners of the property. Thus, the heirs are deemed real parties in interest without a prior separate judicial determination of their heirship.

The Civil Code identifies certain relatives who are deemed compulsory heirs and intestate heirs. They refer to relatives that become heirs by virtue of compulsory succession or intestate succession, as the case may be, by operation of law. Here, subject to the required proof, without any need of prior judicial determination, Larlar, *et al.*, siblings of Rosie, by operation of law, are entitled to one-half of the inheritance of the decedent. Thus, in filing their Complaint, they do not seek to have their right as intestate heirs established, for the simple reason that it is the law that already establishes that right. What they seek is the enforcement and protection of the right granted to them under Article 1001 in relation to Article 777 of the Civil Code by asking for the nullification of the Affidavits of Self-Adjudication that disregard and violate their right as intestate heirs.

To delay the enforcement of such rights until heirship is determined with finality in a separate special proceeding would run counter to Article 777 of the Civil Code which recognizes the vesting of such rights immediately — without a moment's interruption — upon the death of the decedent.

Moreover, jurisprudence supports the institution of an ordinary civil action by legal heirs arising out of a right based on succession without the necessity of a previous and separate judicial declaration of their status as such.

Henceforth, the rule is: unless there is a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the compulsory or intestate heirs may commence an ordinary civil action to declare the nullity of a deed or instrument, and for recovery of property, or any other action in the enforcement of their ownership rights acquired by virtue of succession, without the necessity of a prior and separate judicial declaration of their status as such.

TAXATION LAW

IN THE MATTER OF DECLARATORY RELIEF ON THE VALIDITY OF BIR REVENUE MEMORANDUM CIRCULAR NO. 65-2012 "CLARIFYING THE TAXABILITY OF ASSOCIATION DUES, MEMBERSHIP FEES AND OTHER ASSESSMENTS/CHARGES COLLECTED BY CONDOMINIUM CORPORATIONS"
G.R. No. 215801, 15 January 2020, *FIRST DIVISION* (Lazaro-Javier, *J.*)

DOCTRINE OF THE CASE

RMC No. 65-2012 is invalid. In fine, the collection of association dues, membership fees, and other assessments/charges is purely for the benefit of the condominium owners. It is a necessary incident to the purpose to effectively oversee, maintain, or even improve the common areas of the condominium as well as its governance.

Membership fees, assessment dues, and other fees of similar nature only constitute contributions to and/or replenishment of the funds for the maintenance and operations of the facilities offered by recreational clubs to their exclusive members. They represent funds "held in trust" by these clubs to defray their operating and general costs and hence, only constitute infusion of capital.

FACTS

The First E-Bank (First E-Bank) filed a petition for declaratory relief seeking to declare invalid Revenue Memorandum Circular No. 65-2012 (RMC No. 65-2012). First E-Bank sought to clarify the taxability of association dues, membership fees, and other assessments/charges collected by condominium corporations as such collections were being charged by Income Tax and Value Added Tax (VAT) by the questioned memorandum circular. They claim exemption for payment of the taxes.

The Regional Trial Court (RTC) held that the petition for declaratory relief is proper but that there was nothing wrong with RMC No. 65-2012 as it was only an interpretation of the existing tax law. Upon appeal to the Court of Appeals (CA), it dismissed the petition for lack of jurisdiction.

ISSUES

(1) Is a petition for declaratory relief proper for the purpose of invalidating RMC No. 65-2012?

(2) Did the CA validly dismiss the twin appeals on ground of lack of jurisdiction?

(3) Is RMC No. 65-2012 valid?

RULING

(1) **NO.** A petition for declaratory relief is not the proper remedy for invalidating RMC No. 65-2012. The Court ruled that *Certiorari* or prohibition, not declaratory relief, is the proper remedy to assail the validity or constitutionality of executive issuances.

The remedies of *Certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *Certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions, but also to set right, undo, and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions." Thus, petitions for *certiorari* and prohibition are the proper remedies where an action of the legislative branch is seriously alleged to have infringed the Constitution.

RMC No. 65-2012 has far-reaching ramifications among condominium corporations which have proliferated throughout the country. For numerous Filipino families, professionals, and students have, for quite some time now, opted for condominium living as their new way of life. The matter of whether indeed the contributions of unit owners solely intended for maintenance and upkeep of the common areas of the condominium building are taxable is imbued with public interest. Suffice it to state that taxes, being the lifeblood of the government, occupy a high place in the hierarchy of State priorities, hence, all questions pertaining to their validity must be promptly addressed with the least procedural obstruction.

(2) **NO.** The Court of Appeals is incorrect. While the above statute confers on the CTA jurisdiction to resolve tax disputes in general, this does not include cases where the constitutionality of a law or rule is challenged. Where what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency

contravenes the law or the constitution is within the jurisdiction of the regular courts.

(3) **YES.** RMC No. 65-2012 is invalid. In fine, the collection of association dues, membership fees, and other assessments/charges is purely for the benefit of the condominium owners. It is a necessary incident to the purpose to effectively oversee, maintain, or even improve the common areas of the condominium as well as its governance.

Membership fees, assessment dues, and other fees of similar nature only constitute contributions to and/or replenishment of the funds for the maintenance and operations of the facilities offered by recreational clubs to their exclusive members. They represent funds "held in trust" by these clubs to defray their operating and general costs and hence, only constitute infusion of capital.

Case law provides that in order to constitute "income," there must be realized "gain." Clearly, because of the nature of membership fees and assessment dues as funds inherently dedicated for the maintenance, preservation, and upkeep of the clubs' general operations and facilities, nothing is to be gained from their collection.

This stands in contrast to the tees received by recreational clubs coming from their income-generating facilities, such as bars, restaurants, and food concessionaires, or from income-generating activities, like the renting out of sports equipment, services, and other accommodations. In these latter examples, regardless of the purpose of the fees' eventual use, gain is already realized from the moment they are collected because capital maintenance, preservation or upkeep is not their predetermined purpose.

As such, recreational clubs are generally free to use these fees for whatever purpose they desire and thus, considered as unencumbered "fruits" coming from a business transaction.

COMMISSIONER OF INTERNAL REVENUE *v.*
DEUTSCHE KNOWLEDGE SERVICES PTE. LTD.
G.R. No. 234445, 15 July 2020, *SECOND DIVISION* (Inting, *J.*)

DOCTRINE OF THE CASE

A claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon certain requisites which include that the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated. Conversely, one of the requisites for a zero-rated sale is that the services are rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed.

In this case, DKS is entitled to tax refund or credit of excess input VAT attributable to zero-rated sales only to the extent of the sales proven to be derived from foreign affiliates-clients. To be considered as foreign affiliates-clients, each entity must be supported, at the very least, by both SEC certificate of non-registration of corporation/partnership and certificate/articles of foreign incorporation/association.

FACTS

Deutsche Knowledge Services Pte. Ltd. (DKS) is the Philippine branch of a multinational company organized and existing under the laws of Singapore. The branch is licensed to operate as a regional operating headquarters in the Philippines that provides the following services to DKS's foreign affiliates/related parties, its foreign affiliates-clients: "general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; training and personnel management; logistic services; product development; technical support and maintenance; data processing and communication; and business development." Also, DKS is a value-added tax (VAT)-registered enterprise.

By virtue of several Intra-Group Services Agreements, DKS rendered qualifying services to its foreign affiliates-clients, from which it generated service revenues.

In 2011, DKS filed with the Bureau of Internal Revenue (BIR) an Application for Tax Refund/Credit. DKS declared that its sales of services to foreign affiliates-clients are zero-rated sales for VAT purposes. Thus, it sought to

refund the amount representing unutilized input VAT attributable to zero-rated sales.

Alleging that the Commissioner of Internal Revenue (CIR) had not acted upon their administrative claim, DKS filed a petition for review before the Court of Tax Appeals (CTA).

The CTA 2nd Division partially granted DKS' petition, ruling, among others, that to be considered as a non-resident foreign corporation (NRFC), each entity must be supported, at the very least, by both Securities and Exchange Commission (SEC) certificate of non-registration of corporation/partnership and certificate/articles of foreign incorporation/association. In this case, DKS established the NRFC status of only 15 foreign affiliates-clients. Thus, only sales to these 15 entities were proven to be derived from foreign affiliates-clients, the amount of which is the only extent that may be granted as a refund or credit of the excess input VAT.

On appeal, the CTA *En Banc* affirmed the CTA Division's ratiocinations, but found that DKS established the NRFC status of only 11 foreign affiliates-clients.

In filing a Petition for Review on *Certiorari*, the CIR claimed that DKS' judicial claim was filed prematurely, and that it failed to prove that its clients are foreign corporations doing business outside the Philippines.

ISSUES

(1) Was DKS' judicial claim filed prematurely?

(2) Was the CTA Division and *En Banc* correct in ruling that an entity, to be considered as an NRFC, must be supported by SEC certificate of non-registration of corporation/partnership and certificate/articles of foreign incorporation/association?

(3) Was DKS entitled to tax refund/credit?

RULING

(1) **NO.** Section 112 (C) of the National Internal Revenue Code of 1997 (Tax Code) gives the CIR 120 days from the date of submission of complete documents (date of completion) supporting the application for credit or refund excess input VAT attributable to zero-rated sales to resolve the administrative

claim. If it remains unresolved after this period, the law allows the taxpayer to appeal the unacted claims to the CTA within 30 days from the expiration of the 120-day period (120 and 30-day periods).

CIR cannot claim that the 120 and 30-day periods did not begin to run on the ground that DKS failed to submit the complete documents when it filed its administrative claim. The tax authorities had the full opportunity to opine on the issue of documentary completeness while DKS's claim was pending before them.

However, there was no action on the claim on the administrative level. Its belated response to the present claim only brings to light that the BIR had been remiss in their duties to duly notify the claimant to submit additional documentary requirements and to timely resolve their claim. The CIR cannot now fault DKS for proceeding to court for the appropriate remedial action on the claim they ignored.

(2) **YES.** The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.

The SEC Certifications of Non-Registration show that their affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are prima facie evidence that their clients are not engaged in trade or business in the Philippines.

(3) **YES.** However, DKS was entitled to tax refund/credit to the extent of the sales proven to be derived from foreign affiliates-clients. Sales of those qualifying services rendered by DKS to its foreign affiliates-clients, shall be zero-rated pursuant to Section 108(B)(2) of the Tax Code if the following conditions are met:

First, the seller is VAT-registered;

Second, the services are rendered "to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed;" and

Third, the services are "paid for in acceptable foreign currency and accounted for in accordance with *Bangko Sentral ng Pilipinas* rules and regulations."

Conversely, under Section 4.112-1(a) of Revenue Regulations No. 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites:

(a) the taxpayer must be VAT-registered;

(b) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated;

(c) the claim must be filed within two years after the close of the taxable quarter when such sales were made; and

(d) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

MANILA ELECTRIC COMPANY *v.* CITY OF MUNTINLUPA and NELIA A. BARLIS
G.R. No. 198529, 09 February 2021, *EN BANC* (Hernando *J.*)

DOCTRINE OF THE CASE

The case of Legaspi v. City of Cebu explains the two tests in determining the validity of an ordinance, i.e., the Formal Test and the Substantive Test. The Formal Test requires the determination of whether the ordinance was enacted within the corporate powers of the LGU, and whether the same was passed pursuant to the procedure laid down by law. The Substantive Test primarily assesses the reasonableness and fairness of the ordinance and significantly its compliance with the Constitution and existing statutes.

The Court held that MO 93-35, particularly Section 25 thereof, has failed to meet the requirements of a valid ordinance. Applying the Formal Test, the passage of the subject ordinance was beyond the corporate powers of the then Municipality of Muntinlupa, hence, ultra vires. Based on the Substantive Test, the same section deviated from the express provision of R.A. No. 7160 as it was evidently passed beyond the powers of a municipality. MO 93-35 was passed by the Sangguniang Bayan of the Municipality of Muntinlupa and took effect on January 01, 1994. This is plainly ultra vires considering the clear and categorical provisions of Section 142 in relation to Sections 134, 137, and 151 of R.A. No. 7160 vesting to the provinces and cities the power to impose, levy, and collect a franchise tax. Muntinlupa being then a municipality had no power or authority to enact the subject franchise tax ordinance.

FACTS

Manila Electric Company (Meralco) is a public utility corporation duly organized and existing under Philippine laws. Pursuant to Republic Act No. 9209 (R.A. No. 9209), the statute granting its franchise, Meralco is enfranchised to construct, operate and maintain a distribution system for the conveyance of electricity in the cities and municipalities in the NCR, among others. On the flip side, the City of Muntinlupa is a local government unit that has been converted from a municipality into a highly urbanized city by virtue of Republic Act No. 7926 (R.A. No. 7926).

On January 01, 1994, MO 93-35 or the Revenue Code of the Municipality of Muntinlupa took effect. Section 25 thereof imposed a franchise tax on private persons or corporations operating public utilities within its territorial jurisdiction. Subsequently, R.A. No. 7926 was enacted and approved on March 01, 1995 which

converted the Municipality of Muntinlupa into a highly urbanized city, now the City of Muntinlupa.

On June 28, 1999, Nelia Barlis, the City Treasurer of Muntinlupa, sent a letter to Meralco demanding payment of the franchise tax it owed to Muntinlupa from 1992 to 1999 pursuant to Section 25 of MO 93-35 and paragraph 7 of the Bureau of Local Government Finance Circular No. 20-98.

Meralco did not pay such, and it ignored the August 2001 and September 2001 demand letters for payment of the franchise tax. It then instituted a Petition With Prayer for a Writ of Preliminary Injunction before the Regional Trial Court (RTC) to declare Section 25 of MO 93-35 as null and void for being contrary to law, unjust and confiscatory. Meralco maintained that municipalities are not endowed with the authority to impose a franchise tax, which power exclusively belongs to provinces and cities pursuant to R.A. No. 7160.

The City of Muntinlupa argues that Section 137 of R.A. No.7160 and Articles 227 and 237 of its Implementing Rules and Regulations allow the imposition of a franchise tax by a local government unity.

The RTC ruled in favor of Meralco. The Court of Appeals (CA) modified the decision of the RTC and held that while municipalities have no authority to levy and collect a franchise tax due to the *ultra vires* nature of Section 25 of MO 93-35, such was cured of its legal infirmities when the Municipality of Muntinlupa was converted into a highly urbanized city by virtue of its Charter in 1995. However, it held that the curative effect applies prospectively, hence the obligation to pay franchise tax begins only from March 01, 1995, the date when the Charter of Muntinlupa City was enacted. Hence this instant petition.

ISSUES

(1) Is Section 25 of MO 93-35 valid?

(2) Did Section 56 of the Charter of Muntinlupa City cure the infirmity of Section 25 of MO 93-35?

RULING

(1) **NO.** Section 25 of MO 93-35 is null and void for being *ultra vires*. The case of *Legaspi v. City of Cebu* explains the two tests in determining the validity of an ordinance, i.e., the Formal Test and the Substantive Test. The Formal Test

requires the determination of whether the ordinance was enacted within the corporate powers of the LGU, and whether the same was passed pursuant to the procedure laid down by law. The Substantive Test primarily assesses the reasonableness and fairness of the ordinance and significantly its compliance with the Constitution and existing statutes.

The Court held that MO 93-35, particularly Section 25 thereof, has failed to meet the requirements of a valid ordinance. Applying the Formal Test, the passage of the subject ordinance was beyond the corporate powers of the then Municipality of Muntinlupa, hence, *ultra vires*.

Based on the Substantive Test, the same section deviated from the express provision of R.A. No. 7160 as it was evidently passed beyond the powers of a municipality. MO 93-35 was passed by the Sangguniang Bayan of the Municipality of Muntinlupa and took effect on January 1, 1994. This is plainly *ultra vires* considering the clear and categorical provisions of Section 142 in relation to Sections 134, 137, and 151 of R.A. No. 7160 vesting to the provinces and cities the power to impose, levy, and collect a franchise tax. Muntinlupa being then a municipality had no power or authority to enact the subject franchise tax ordinance.

Municipalities may only levy taxes not otherwise levied by the provinces. Section 137 of R.A. No. 7160 particularly provides that provinces may impose a franchise tax on businesses granted with a franchise to operate. Since provinces have been vested with the power to levy a franchise tax, it follows that municipalities, pursuant to Section 142 of R.A. No. 7160, could no longer levy it. Therefore, Section 25 of MO 93-35 which was enacted when Muntinlupa was still a municipality and which imposed a franchise tax on public utility corporations within its territorial jurisdiction, is ultra vires for being violative of Section 142 of RA 7160.

Based on the foregoing, the then Municipality of Muntinlupa acted without authority in passing Section 25 of MO 93-35. It is null and void for being *ultra vires*.

(2) **NO.** Section 56 of the Charter of Muntinlupa City has no curative effect on Section 25 of MO 93-35, the latter being null and void.

The Court held that an ordinance which is incompatible with an existing law or statute is ultra vires, hence, null and void. Therefore, Muntinlupa City cannot hinge its imposition and collection of a franchise tax on the null and void provision of Section 25 of MO 93-35. Moreover, Section 56 of the Charter of Muntinlupa City cannot breathe life into the invalid Section 25 of MO 93-35. Section 56 of the transitory provision of the Charter of Muntinlupa City contemplates only those ordinances that are valid and legally existing at the time of its enactment.

COMMERCIAL LAW

ZUNECA PHARMACEUTICAL, AKRAM ARAIN AND/OR VENUS ARAIN, M.D., AND STYLE OF ZUNECA PHARMACEUTICAL *v.* NATRAPHARM, INC.
G.R. No. 211850, 08 September 2020, *EN BANC* (Caguioa, *J.*)

DOCTRINE OF THE CASE

While Natrapharm is the owner of the "ZYNAPSE" mark, this does not, however, automatically mean that its complaint against Zuneca should be granted. This is because Sec. 159.1 of the IP Code clearly contemplates that a prior user in good faith may continue to use its mark even after the registration of the mark by the first-to-file registrant in good faith, subject to the condition that any transfer or assignment of the mark by the prior user in good faith should be made together with the enterprise or business or with that part of his enterprise or business in which the mark is used. The mark cannot be transferred independently of the enterprise and business using it.

From the provision itself, it can be gleaned that while the law recognizes the right of the prior user in good faith to the continuous use of its mark for its enterprise or business, it also respects the rights of the registered owner of the mark by preventing any future use by the transferee or assignee that is not in conformity with Section 159.1 of the IP Code.

FACTS

Natrapharm, Inc. (Natrapharm) filed with the Regional Trial Court (RTC) a Complaint against Zuneca Pharmaceutical, Akram Arain and/or Venus Arain, M.D., and Style of Zuneca Pharmaceutical (Zuneca) for Injunction, Trademark Infringement, Damages, and Destruction, alleging that Zuneca's "ZYNAPS" is confusingly similar to its registered trademark "ZYNAPSE" and the resulting likelihood of confusion is dangerous because the marks cover medical drugs intended for different types of illnesses.

In its Answer, Zuneca claims that as the prior user, it had already owned the "ZYNAPS" mark prior to Natrapharm's registration of its confusingly similar mark, thus, its rights prevail over the rights of Natrapharm.

The RTC ruled that the first filer in good faith defeats a first user in good faith who did not file any application for registration. Hence, Natrapharm, as the first registrant, had trademark rights over "ZYNAPSE" and it may prevent others,

including Zuneca, from registering an identical or confusingly similar mark. Moreover, the RTC ruled that there was insufficient evidence that Natrapharm had registered the mark "ZYNAPSE" in bad faith. Further, following the use of the dominancy test, the RTC likewise observed that "ZYNAPS" was confusingly similar to "ZYNAPSE." To protect the public from the disastrous effects of erroneous prescription and mistaken dispensation, the confusion between the two drugs must be eliminated.

On appeal, the Court of Appeals (CA) affirmed the Decision of the RTC. Hence, the instant petition for review on *Certiorari*.

ISSUES

(1) How is ownership over a trademark acquired?

(2) Assuming that both parties owned their respective marks, do the rights of the first-to-file registrant Natrapharm defeat the rights of the prior user Zuneca?

(3) If so, should Zuneca be held liable for trademark infringement?

RULING

(1) Upon the effectivity of the IP Code on 01 January 1998, the manner of acquiring ownership of trademarks is acquired through registration, as expressed in Section 122 of the IP Code. To clarify, while it is the fact of registration which confers ownership of the mark and enables the owner thereof to exercise the rights expressed in Section 147 of the IP Code, the first-to-file rule nevertheless prioritizes the first filer of the trademark application and operates to prevent any subsequent applicants from registering marks described under Section 123.1 (d) of the IP Code.

Reading together Sections 122 and 123.1 (d) of the IP Code, a registered mark or a mark with an earlier filing or priority date generally bars the future registration of — and the future acquisition of rights in — an identical or a confusingly similar mark, in respect of the same or closely-related goods or services, if the resemblance will likely deceive or cause confusion.

At present, prior use no longer determines the acquisition of ownership of a mark. To emphasize, for marks that are first used and/or registered after the effectivity of the IP Code, ownership is no longer dependent on the fact of prior

use in light of the adoption of the first-to-file rule and the rule that ownership is acquired through registration.

(2) **NO.** The presence of bad faith alone renders void the trademark registrations. Accordingly, it follows as a matter of consequence that a mark registered in bad faith shall be cancelled by the IPO or the courts, as the case may be, after the appropriate proceedings.

This concept of bad faith, however, does not only exist in registrations. To the mind of the Court, the definition of bad faith as knowledge of prior creation, use, and/or registration by another of an identical or similar trademark is also applicable in the use of trademarks without the benefit of registration. Accordingly, such bad faith use is also appropriately punished in the IP Code as can be seen in its unfair competition provisions. It is apparent, therefore, that the law intends to deter registrations and use of trademarks in bad faith.

Concurrent with these aims, the law also protects prior registration and prior use of trademarks in good faith. Being the first-to-file registrant in good faith allows the registrant to acquire all the rights in a mark. This can be seen in Section 122 vis-à-vis the cancellation provision in Section 155.1 of the IP Code. Reading these two provisions together, it is clear that when there are no grounds for cancellation — especially the registration being obtained in bad faith or contrary to the provisions of the IP Code, which render the registration void — the first-to-file registrant acquires all the rights in a mark. In the same vein, prior users in good faith are also protected in the sense that they will not be made liable for trademark infringement even if they are using a mark that was subsequently registered by another person. This is expressed in Section 159.1 of the IP Code.

At this point, it is important to highlight that the following facts were no longer questioned by both parties:

(a) Natrapharm is the registrant of the "ZYNAPSE" mark which was registered with the IPO on September 24, 2007;

(b) Zuneca has been using the "ZYNAPS" brand as early as 2004; and

(c) "ZYNAPSE" and "ZYNAPS" are confusingly similar and both are used for medicines.

In light of these settled facts, it is clear that Natrapharm is the first-to-file registrant of "ZYNAPSE." Zuneca, on the other hand, is a prior user in good faith of a confusingly similar mark, "ZYNAPS." What remains contentious is Natrapharm's good or bad faith as Zuneca contends that the mark was registered in bad faith by Natrapharm.

The rule is that when the registration was not obtained in bad faith or contrary to the provisions of the IP Code, the first-to-file registrant in good faith acquires all the rights in a mark. Here, Natrapharm was not shown to have been in bad faith. Thus, it is considered to have acquired all the rights of a trademark owner under the IP Code upon the registration of the "ZYNAPSE" mark.

(3) **NO.** While Natrapharm is the owner of the "ZYNAPSE" mark, this does not, however, automatically mean that its complaint against Zuneca should be granted. This is because Sec. 159.1 of the IP Code clearly contemplates that a prior user in good faith may continue to use its mark even after the registration of the mark by the first-to-file registrant in good faith, subject to the condition that any transfer or assignment of the mark by the prior user in good faith should be made together with the enterprise or business or with that part of his enterprise or business in which the mark is used. The mark cannot be transferred independently of the enterprise and business using it.

In any event, the application of Section 159.1 of the IP Code necessarily results in at least two entities — the unregistered prior user in good faith or their assignee or transferee, on one hand; and the first-to-file registrant in good faith on the other — concurrently using identical or confusingly similar marks in the market, even if there is likelihood of confusion. While this situation may not be ideal, the Court is constrained to apply Section 159.1 of the IP Code as written.

To further reduce therefore, if not totally eliminate, the likelihood of switching in this case, the Court hereby orders the parties to prominently state on the packaging of their respective products, in plain language understandable by people with no medical background or training, the medical conditions that their respective drugs are supposed to treat or alleviate and a warning indicating what "ZYNAPS" is not supposed to treat and what "ZYNAPSE" is not supposed to treat, given the likelihood of confusion between the two.

CRIMINAL LAW

JOSE ROMEO C. ESCANDOR *v.* PEOPLE OF THE PHILIPPINES
G.R. No. 211962, 06 July 2020, *THIRD DIVISION* (Leonen, *J.*)

DOCTRINE OF THE CASE

The Safe Spaces Act does not undo or abandon the definition of sexual harassment under the Anti-Sexual Harassment Law of 1995. The gravamen of the offenses punished under the Safe Spaces Act is the act of sexually harassing a person on the basis of the his/her sexual orientation, gender identity and/or expression, while that of the offense punished under the Anti-Sexual Harassment Act of 1995 is abuse of one's authority, influence or moral ascendancy so as to enable the sexual harassment of a subordinate.

FACTS

Jose Romeo Escandor (Escandor), the Regional Director of the National Economic and Development Authority (NEDA) Region 7, Cebu City, was charged with violating Republic Act (R.A.) No. 7877 otherwise known as the Anti-Sexual Harassment Act of 1995. It was alleged that Escandor made a series of unwelcome sexual advances or verbal or physical behavior of sexual nature, and demand, solicit, and request sexual favors from Mrs. Cindy Sheila Cobarde-Gamallo (Gamallo), then a Contractual Employee of the NEDA, and Escandor's subordinate, thereby exercising authority, influence or moral ascendancy over Gamallo in her working place.

The Sandiganbayan found Escandor guilty of sexual harassment.

ISSUE

Was Escandor's guilt for sexual harassment under R.A. No. 7877 established beyond reasonable doubt?

RULING

YES. Sexual harassment as defined and penalized under Republic Act No. 7877 requires three elements for an accused to be convicted:

> (a) that the employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person has authority, influence, or moral ascendancy over another;

> (b) the authority, influence, or moral ascendancy exists in a work-related, training-related, or education-related environment, and
>
> (c) the employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who has authority, influence, or moral-ascendancy over another makes a demand, request, or requirement of a sexual favor.

The key elements which distinguish sexual harassment, as penalized by R.A. No. 7877, from other chastity-related and vexatious offenses are: first, its setting and second, the person who may commit it.

In addition to R.A. No. 7877, Congress has since enacted Republic Act No. 11313, otherwise known as the Safe Spaces Act. Signed into law on July 15, 2019, it penalizes gender-based sexual harassment, and is founded on, among others, the recognition that "both men and women must have equality, security and safety not only in private, but also on the streets, public spaces, online, workplaces and educational and training institutions." The Safe Spaces Act expands the concept of discrimination and protects persons of diverse sexual orientation, gender identity and/or expression. It thus recognizes gender-based sexual harassment as including, among others, "misogynistic, transphobic, homophobic and sexist slurs."

The Safe Spaces Act does not undo or abandon the definition of sexual harassment under the Anti-Sexual Harassment Law of 1995. The gravamen of the offenses punished under the Safe Spaces Act is the act of sexually harassing a person on the basis of the his/her sexual orientation, gender identity and/or expression, while that of the offense punished under the Anti-Sexual Harassment Act of 1995 is the abuse of one's authority, influence, or moral ascendancy so as to enable the sexual harassment of a subordinate.

All the elements of sexual harassment, as penalized by R.A. No. 7877, are present in this case.

On the first requisite, it is clear that Escandor had authority over Gamallo. He was the Regional Director of the National Economic and Development Authority Region 7, while Gamallo was a contractual employee in that

office. Escandor's authority also existed in a work-related environment; thereby satisfying the second requisite for sexual harassment.

While the third requisite calls for a "demand, request, or requirement of a sexual favor," Court has held in *Domingo v. Rayala* that it is not necessary that these be articulated in a categorical oral or written statement. It may be discerned from the acts of the offender. Here, Gamallo testified to several acts of sexual harassment committed by Escandor. Among these were grabbing her hand, kissing, engaging in improper conversations, touching her thigh, giving her gifts, telling her that "she was the kind of girl he really wants," asking her out on dates, and sending her text and Winpop messages telling her that he missed her, that she looked beautiful, and that he loved her. All these acts undoubtedly amount to a request for sexual favors.

At the core of sexual harassment in the workplace is power exercised by a superior over a subordinate. The power emanates from how the superior can remove or disadvantage the subordinate should the latter refuse the superior's sexual advances. Thus, sexual harassment is committed when the sexual favor is made as a condition in the hiring of the victim or the grant of benefits thereto; or when the sexual act results in an intimidating, hostile, or offensive environment for the employee.

In this case, Gamallo stated that the acts of Escandor made her feel "disrespected," "humiliated and cheap," "uneasy," and "frightened." She could also not concentrate on work, could not sleep, and found herself "staring into empty space." When she disabled her Winpop messaging because of Escandor's inappropriate messages, she was threatened that she will be deleted from the National Economic and Development Authority meeting list. Villamor, Tagalog and Manuel, who all testified for Gamallo, tried to protect her from Escandor. Villamor and Tagalog made sure that whenever Escandor called for Gamallo, either of them would go with her. Manuel even had to relay the incidents to the National Economic and Development Authority Deputy Director-General. Undoubtedly, Escandor's acts resulted in an intimidating, hostile, and offensive environment for Gamallo.

There is no time period within which a victim is expected to complain about sexual harassment. The time to do so may vary depending upon the needs, circumstances, and more importantly, the emotional threshold of the employee.

There is, strictly speaking, no fixed period within which an alleged victim of sexual harassment may file a complaint, although it does not mean that he or she is at liberty to file one anytime she or he wants to. Surely, any delay in filing a complaint must be justifiable or reasonable as not to cast doubt on its merits."

Neither has prescription set in by the time Gamallo filed her Complaint Affidavit on September 04, 2004. Escandor's acts of sexual harassment persisted until December 2003, the end of Gamallo's employment with the National Economic and Development Authority Region 7. By the time she filed her Complaint-Affidavit, only about nine (9) months had lapsed. This is well within the three (3) years permitted by Section 7 of R.A. No. 7877 within which an action under the same statute may be pursued.

DEVIE ANN ISAGA FUERTES *v.* THE SENATE OF THE PHILIPPINES, HOUSE OF REPRESENTATIVES, DEPARTMENT OF JUSTICE (DOJ), *et al.*
G.R. No. 208162, 07 January 2020, *EN BANC* (Leonen, *J.*)

DOCTRINE OF THE CASE

The Court has upheld the constitutionality of disputable presumptions in criminal laws. Here, Fuertes fails to show that a logical relation between the fact proved — presence of a person during the hazing — and the ultimate fact presumed — their participation in the hazing as a principal — is lacking. Neither has it been shown how Section 14 of the Anti-Hazing Law does away with the requirement that the prosecution must prove the participation of the accused in the hazing beyond reasonable doubt.

FACTS

Devie Ann Isaga Fuertes (Fuertes) is among the 46 accused charged with violating the Anti-Hazing Law, or Republic Act (R.A.) No. 8049, for the death of Chester Paolo Abracia (Abracia) due to injuries he allegedly sustained during the initiation rites of the *Tau Gamma Phi* Fraternity. Fuertes is a member of the fraternity's sister sorority, *Tau Gamma Sigma*, and was allegedly present at the premises during the initiation rites. She was then 17 years old and was a student of Manuel S. Enverga University Foundation.

Fuertes filed a Petition for *Certiorari* before the Court. At the time, she had not yet been arraigned and was at large. Fuertes claims that Sections 3 and 4 of the Anti-Hazing Law are unconstitutional.

ISSUES

(1) Is paragraph 4 of Section 14 of the Anti-Hazing Law unconstitutional on the ground that it dispenses with the constitutional presumption of innocence?

(2) Does Section 14 violate the *res inter alios acta* rule?

(3) Does Anti-Hazing Law impose cruel and unusual punishments?

(4) Are Sections 5 and 14 of the Anti-Hazing Law bills of attainder for immediately punishing members of a particular group as principals or co-conspirators regardless of actual knowledge or participation in the crime?

RULING

(1) **NO.** The Court has upheld the constitutionality of disputable presumptions in criminal laws. Here, Fuertes fails to show that a logical relation

between the fact proved — presence of a person during the hazing — and the ultimate fact presumed — their participation in the hazing as a principal — is lacking. Neither has it been shown how Section 14 of the Anti-Hazing Law does away with the requirement that the prosecution must prove the participation of the accused in the hazing beyond reasonable doubt.

Those group members who do not actually perform the hazing ritual, but who by their presence incite or exacerbate the violence being committed, may be principals either by inducement or by indispensable cooperation.

(2) **NO.** *Res inter alios acta* provides that a party's rights generally cannot be prejudiced by another's act, declaration, or omission. However, in a conspiracy, the act of one is the act of all, rendering all conspirators as co-principals "regardless of the extent and character of their participation." Under Rule 130, Section 30 of the Rules of Court, an exception to the *res inter alios acta* rule is an admission by a conspirator relating to the conspiracy.

As noted in *Dungo v. People*, hazing often involves a conspiracy among those involved, be it in the planning stage, the inducement of the victim, or in the participation in the actual initiation rites. The rule on *res inter alios acta*, then, does not apply.

(3) **NO.** Article III, Section 19(1) of the 1987 Constitution had generally been aimed at the "form or character of the punishment rather than its severity in respect of duration or amount," such as "those inflicted at the whipping post, or in the pillory, burning at the stake, breaking on the wheel, disemboweling, and the like." It is thus directed against "extreme corporeal or psychological punishment that strips the individual of their humanity."

In line with this, the Court has found that the penalty of life imprisonment or *reclusion perpetua* does not violate the prohibition. Even the death penalty in itself was not considered cruel, degrading, or inhuman. Nonetheless, the Court has found that penalties like fines or imprisonment may be cruel, degrading, or inhuman when they are "flagrantly and plainly oppressive and wholly disproportionate to the nature of the offense as to shock the moral sense of the community." However, if the severe penalty has a legitimate purpose, then the punishment is proportionate and the prohibition is not violated.

Fuertes here fails to show how the penalties imposed under the Anti-Hazing Law would be cruel, degrading, or inhuman punishment, when they are similar to those imposed for the same offenses under the Revised Penal Code, albeit a degree higher.

To emphasize, the Anti-Hazing Law aims to prevent organizations from making hazing a requirement for admission. The increased penalties imposed on those who participate in hazing is the country's response to a reprehensible phenomenon that persists in schools and institutions. The Anti-Hazing Law seeks to punish the conspiracy of silence and secrecy, tantamount to impunity, that would otherwise shroud the crimes committed.

(4) **NO.** Anti-Hazing Law is not a bill of attainder. For a law to be considered a bill of attainder, it must be shown to contain all of the following: "a specification of certain individuals or a group of individuals, the imposition of a punishment, penal or otherwise, and the lack of judicial trial." The most essential of these elements is the complete exclusion of the courts from the determination of guilt and imposable penalty.

Here, the mere filing of an Information against Fuertes and her fellow sorority members is not a finding of their guilt of the crime charged. Contrary to her claim, Fuertes is not being charged merely because she is a member of the *Tau Gamma Sigma* Sorority, but because she is allegedly a principal by direct participation in the hazing that led to Abracia's death. As stated, these are matters for the trial court to decide. The prosecution must still prove the offense, and the accused's participation in it, beyond reasonable doubt. Fuertes, in turn, may present her defenses to the allegations.

IN RE: IN THE MATTER OF THE ISSUANCE OF A WRIT OF HABEAS CORPUS OF INMATES RAYMUNDO REYES AND VINCENT B. EVANGELISTA, duly represented by ATTY. RUBEE RUTH C. CAGASCA-EVANGELISTA, in her capacity as wife of VINCENT B. EVANGELISTA AND COUNSEL OF BOTH INMATES

v.

BuCor CHIEF GERALD BANTAG, in his capacity as DIRECTOR GENERAL OF BUREAU OF CORRECTIONS OF NEW BILIBID PRISON, BUREAU OF CORRECTIONS AND ALL THOSE PERSONS IN CUSTODY OF THE INMATES RAYMUNDO REYES AND VINCENT B. EVANGELISTA

G.R. No. 251954, 10 June 2020, *THIRD DIVISION* (Zalameda, *J.*)

DOCTRINE OF THE CASE

Sec. 2 Rule IV of the 2019 Revised IRR of R.A. No. 10592, as amended, provides that the following shall not be entitled to any GCTA during serving of sentence:

(a) Recidivists;
(b) Habitual delinquents;
(c) Escapees; and
(d) PDL convicted of heinous crimes.

In this case, Reyes and Evangelista, who were found guilty of illegal sale of dangerous drugs exceeding 200 grams, have committed a heinous crime.

FACTS

Atty. Rubee Ruth C. Cagasca-Evangelista (Atty. Cagasca-Evangelista) alleges that inmates Raymundo Reyes (Reyes) and Vincent B. Evangelista (Evangelista), her husband, were convicted on December 14, 2001 for violation of Section 15, Art. III of R.A. No. 6425, as amended, for the illegal sale of 974.12 grams of *shabu*, acting in conspiracy with one another, and were sentenced to suffer the penalty of *reclusion perpetua* and to pay the amount of Php 500,000.00 each. The penalty was in accordance with the amendment introduced by R.A. No. 7659, which increased the penalty of imprisonment for illegal sale of drugs from 6 years and 1 day to 12 years, to *reclusion perpetua* to death for 200 grams or more of shabu. The Court affirmed the conviction on September 27, 2007.

More than a decade after the affirmation of said conviction, Atty. Cagasca-Evangelista claims that with the abolition of the death penalty, and the repeal of the death penalty in R.A. No. 7659 as a consequence, the penalty for illegal sale of drugs should be reverted to that originally imposed in R.A. No. 6425.

In addition, Atty. Cagasca-Evangelista insists that Reyes and Evangelista have already served 19 years and 2 months, or more than 18 years if the benefit of Good Conduct Time Allowance (GCTA) under R.A. No. 10592 was to be considered. With the benefit of the GCTA, which may be applied retroactively, Reyes and Evangelista have already served more than the required sentence imposed by law.

ISSUE

Should Reyes and Evangelista be discharged from imprisonment?

RULING

NO. On the issue of the applicability of R.A. No. 10592, Section 2, Rule IV of the 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592, "An Act Amending Articles 29, 94, 97, 98, and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code," (2019 IRR), issued by the Department of Justice (DOJ) and the Department of the Interior and Local Government (DILG), provides:

> Section 2. *GCTA During Service of Sentence.* - The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of R.A. No. 10592.

The following shall not be entitled to any GCTA during service of sentence:

> (a) Recidivists;
> (b) Habitual delinquents;
> (c) Escapees; and
> (d) PDL convicted of heinous crimes.

It is clear from the afore-quoted provision that PDLs convicted of heinous crimes shall not be entitled to GCTA.

Reyes and Evangelista, who were found guilty of illegal sale of dangerous drugs exceeding 200 grams, have committed a heinous crime. This is in consonance with R.A. No. 7659, which includes the distribution or sale of dangerous drugs as heinous for being a grievous, odious and hateful offense and which, by reason of its inherent or manifest wickedness, viciousness, atrocity and perversity is repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society.

Rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, such as the 2019 IRR issued by the DOJ and the DILG, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same.

Accordingly, the writ cannot be issued and the discharge of Reyes and Evangelista from imprisonment should not be authorized.

PEOPLE OF THE PHILIPPINES *v.* ZZZ
G.R. No. 229209, 12 February 2020, *THIRD DIVISION* (Leonen, *J.*)

DOCTRINE OF THE CASE

Thus, in Amarela, the accused was acquitted because the victim's account was improbable and marred by inconsistencies, regardless of the existing preconception that a Filipino woman's honor would prevent her from lying about her ordeal.

Likewise, in People v. Perez, the victim had openly expressed infatuation for her assailant prior to being abused, contrary to the fictional Maria Clara stereotype. However, the victim's digression from this stereotype neither diminished the heinousness of what was done to her. Nor did it detract from her credibility, as her testimony was independently believable and sufficiently corroborated by other evidence adduced by the prosecution.

Here, AAA's account of having been attacked by accused-appellant was sufficiently corroborated by Barangay Captain Lotec's testimony that he saw AAA "pale and trembling." Such description is based on his personal knowledge, having actually observed and spoken to AAA regarding her ordeal. This, taken with the prosecution's other corroborating evidence and AAA's straightforward identification of accused-appellant as the perpetrator, makes AAA's testimony sufficiently credible-independent of her perceived propensity for truthfulness based on gender stereotypes.

FACTS

AAA testified that she lived together with ZZZ, who was her grandfather, while her mother and other siblings lived separately. According to AAA, the incident happened sometime in December 2010, before Christmas. She had been weeding grass near their house prior; it was when she went home, she recalled, that her grandfather raped her. ZZZ placed himself on top of her and kissed her lips and genitals. Then, when he had already undressed her, he turned her sideways and inserted his penis into her vagina. Finally, when the ordeal was over, AAA left the house, went to the forest, and there slept. When AAA tried to come home the following day, ZZZ allegedly attacked her with a bolo. She was allegedly able to parry ZZZ's attacks, allowing her to run and seek help from Manuel Lotec, the *Barangay Captain.*

Although she could only recall the December 2010 incident, AAA testified that such incidents where ZZZ raped her would often happen. She was not cross-examined by the defense.

For the defense, only ZZZ was presented as witness. He denied the accusation that he raped his granddaughter, claiming that his advanced age has long made him incapable of having an erection.

After trial, the Regional Trial Court (RTC) rendered a Decision finding ZZZ guilty beyond reasonable doubt of raping AAA.

ZZZ appealed to the Court of Appeals (CA). He questioned AAA's credibility, particularly because her account of having parried his alleged hacking at her with a bolo, without sustaining any injury, was supposedly unbelievable. CA, however, affirmed the trial court's findings and declared ZZZ guilty beyond reasonable doubt of rape. However, it modified the damages imposed. Hence, this appeal.

ISSUE

Was the prosecution able to prove beyond reasonable doubt the guilt of ZZZ for the crime of rape?

RULING

YES. As the lower courts found, ZZZ had carnal knowledge of AAA without her consent and by using his moral ascendancy over her as her grandfather and father figure. While ZZZ attempts to cast doubt on the credibility of the prosecution's witnesses, the settled rule is that the trial court's determination of witness credibility will not be disturbed on appeal unless significant matters have been overlooked.

Here, the RTC found AAA's testimony credible and sufficiently corroborated. These findings were then affirmed by the CA, which found AAA to be unwavering in "the material points of her testimony." Therefore, the lower courts' findings on AAA's credibility should be upheld, more so in view of accused-appellant's failure to raise any cogent reason for reversal.

Accused-appellant also assails AAA's credibility on her testimony that he attempted to kill her. He claims that it was dubious how AAA sustained no physical injuries if he really did attack her with a bladed weapon. These matters, however, are irrelevant to the crime charged and do not deserve consideration.

Nonetheless, at this juncture, the Court takes the opportunity to reify contemporary standards in rape cases. In assessing AAA's credibility, the CA held that "it is against human nature for a young girl to fabricate a story that would expose herself as well as her family to a lifetime of shame" - effectively reiterating an outdated standard for assessing witness credibility.

Here, AAA's account of having been attacked by ZZZ was sufficiently corroborated by Barangay Captain Lotec's testimony that he saw AAA "pale and trembling." Such description is based on his personal knowledge, having actually observed and spoken to AAA regarding her ordeal. This, taken with the prosecution's other corroborating evidence and AAA's straightforward identification of ZZZ as the perpetrator, makes AAA's testimony sufficiently credible – independent of her perceived propensity for truthfulness based on gender stereotypes.

Finally, ZZZ attempts to cast doubt on his conviction by arguing that his advanced age made erection – and thus, sex – impossible. This argument is unmeritorious. The lower courts correctly held that impotence must be proven with certainty in order to overcome the presumption of potency.

The CA did not find any reason to overturn the trial court's findings, and neither does the Supreme Court.

PEOPLE OF THE PHILIPPINES *v.* SAMIAH S. ABDULAH
G.R. Nos. 243941, 11 March 2020, *THIRD DIVISION* (Leonen, *J.*)

DOCTRINE OF THE CASE

The physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures. Noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

The Court denounced the prosecution's reasoning that the target area was a "notorious Muslim community" to justify non-compliance with Section 21. Islamophobia, the hatred against the Islamic community, can never be a valid reason to justify an officer's failure to comply with Section 21. No form of religious discrimination can be countenanced to justify the prosecution's failure to comply with the law.

FACTS

A confidential informant reported to the District Anti-Illegal Drug of Eastern Police District that two girls were selling illegal drugs in Tumana, Marikina City. A buy-bust team was formed with PO3 Temporal as the poseur-buyer. On November 21, 2014, the buy-bust team went to the target area where they saw Abdulah and a child in conflict with law identified as "EB". Abdulah approached PO3 Temporal and inquired about his order. PO3 Temporal handed her the marked P500 bill, which she passed to EB. In turn, EB placed the money in a sling bag and retrieved from it a small plastic sachet containing white crystalline substance, which she handed to PO3 Temporal.

Thereafter, PO3 Temporal introduced himself as a police officer and arrested Abdulah and EB. Another officer frisked the girls while PO3 Temporal seized the sling bag and recovered the buy-bust money and another sachet containing white crystalline substance.

Believing that the area was unsafe for being a "Muslim Area," the team proceeded to the barangay hall where they marked, inventories, and photographed the seized items. The proceeding was witnessed by *Barangay Tanod* Garcia, *Barangay Kagawad* delos Santos, Abdulah, and EB.

Subsequently, Abdulah and EB were charged with violating Section 5, R.A. No. 9165. The Regional Trial Court (RTC) convicted Abdulah and EB of the crime charged. Abdulah appealed arguing that the apprehending officers' failure to comply with Section 21 of RA No. 9165. She noted that the inventory and photographs were taken only at the *barangay* hall, without the presence of representatives from the media and the National Prosecution Service. However, the Court of Appeals(CA) sustained the RTC's ruling.

ISSUE

Is Abdulah guilty of selling dangerous drugs?

RULING

NO. Section 21 of R.A. No. 9165 provides that the apprehending team shall immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the of the accused, or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media.

The physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures.

Non-compliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

The marking of the seized drugs was not done immediately after Abdulah's arrest. PO3 Temporal revealed that the team decided to mark and inventory the items at the *barangay* hall after deeming the target are to be unsafe, it being "a Muslim area." The prosecution's attempt to justify the delay in marking and inventorying the items is too weak, if not callous, a reason to validate the police officers' non-compliance with the chain of custody requirements. The Court denounced the prosecution's reasoning that the target area was a "notorious Muslim community" to justify non-compliance with Section 21. Islamophobia, the hatred against the Islamic community, can never be a valid reason to justify an

officer's failure to comply with Section 21. No form of religious discrimination can be countenanced to justify the prosecution's failure to comply with the law.

Another glaring failure was the absence of representatives from the media and the National Prosecution Service during the physical inventory and photographing of the seized items. The prosecution gave no excuse to justify their absence, either. Yet, worse, the prosecution did not even show that the police officers exerted any effort to call in these representatives. The officers had sufficient time to secure their presence, since a surveillance operation had been conducted prior to the buy-bust operation. By then, the necessary arrangements could have been made.

JAIME ARAZA y JARUPAY *v.* PEOPLE OF THE PHILIPPINES
G.R. No. 247429, 08 September 2020, *FIRST DIVISION* (Peralta, *C.J.*)

DOCTRINE OF THE CASE

Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party. R.A. No. 9262 does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser. Rather, the law only requires emotional anguish and mental suffering to be proven. To establish emotional anguish and mental suffering, jurisprudence only requires that the testimony of the victim to be presented in court, as such experiences are personal to this party.

The prosecution has established Araza's guilt beyond reasonable doubt by proving that he committed psychological violence upon his wife by committing marital infidelity. AAA's testimony was strong and credible. She was able to confirm that Araza was living with another woman.

FACTS

AAA testified that she and Jaime Araza (Araza) were married in 1989. She had no marital issues with Araza until he went to Zamboanga City for their networking business.

One day, she received a text message that her husband is having an affair with their best friend. After confirming such fact, she instituted a complaint for Concubinage. The case was subsequently amicably settled after Araza and his mistress committed themselves never to see each other again. Thereafter, Araza again lived with AAA. However, Araza left AAA without saying a word.

An investigation revealed that Araza left to live with his mistress. As a matter of fact, three children were born out of their cohabitation. The truth caused AAA emotional and psychological suffering. At present, she is taking anti-depressant and sleeping pills to cope.

These events led to the filing of an Information against Araza for violation of Section 5(i) of Republic Act No. 9262 (R.A. No. 9262) or the Anti-Violence Against Women and Their Children Act of 2004.

In its Decision, the Regional Trial Court (RTC) found that all the elements of the crime of violence against women were satisfied. On appeal, the Court of Appeals (CA) echoed the RTC's factual findings and conclusions. Hence, this petition.

ISSUE

Did Araza commit psychological violence upon his wife AAA by committing marital infidelity?

RULING

YES. The elements of violation of Section 5(i) of R.A. No. 9262 are the following:

(a) The offended party is a woman and/or her child or children;

(b) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;

(c) The offender causes on the woman and/or child mental or emotional anguish; and

(d) the anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar acts or omissions.

Psychological violence is an indispensable element of violation of Section 5(i) of R.A. No. 9262. Equally essential is the element of emotional anguish and mental suffering, which are personal to the complainant.

Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party. R.A. No. 9262 does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser. Rather, the law only requires emotional anguish and mental suffering to

be proven. To establish emotional anguish and mental suffering, jurisprudence only requires that the testimony of the victim to be presented in court, as such experiences are personal to this party.

In order to establish psychological violence, proof of the commission of any of the acts enumerated in Section 5(i) or similar of such acts, is necessary. The prosecution has established Araza's guilt beyond reasonable doubt by proving that he committed psychological violence upon his wife by committing marital infidelity. AAA's testimony was strong and credible. She was able to confirm that Araza was living with another woman.

Marital infidelity, which is a form of psychological violence, is the proximate cause of AAA's emotional anguish and mental suffering, to the point that even her health condition was adversely affected. The prosecution was able to prove the case of AAA. While Araza denied that he committed marital infidelity against AAA, he would later on admit that that he left his wife AAA to live with his mistress, and that he was fully aware that AAA suffered emotionally and psychologically because of his decision.

REMEDIAL LAW

MIGDONIO RACCA and MIAM GRACE DIANNE RACCA *v.*
MARIA LOLITA A. ECHAGUE
G.R. No. 237133, 20 January 2021, *SECOND DIVISION* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

Under Section 3, publication of the notice of hearing shall be done upon the delivery of the will, or filing of the petition for allowance of the will in the court having jurisdiction. On the other hand, personal notice under Section 4 shall be served to the designated or known heirs, legatees and devisees, and the executor or co-executor, at their residence, if such are known.

Here, the notice sent to Migdonio and Miam fell short of the procedural requirements laid down by Section 4.

FACTS

Maria Lolita A. Echague (Echague) filed a Petition for the allowance of the will of the late Amparo Ferido Racca (Amparo) and issuance of letters testamentary in her favor. She averred that Amparo executed a notarial will before her death and bequeathed an undivided portion of a parcel of land in favor of her grandnephew Migdon Chris Laurence Ferido (Migdon). She also named Migdonio Racca (Migdonio) and Miam Grace Dianne Ferido Racca (Miam), Amparo's husband and daughter, respectively, as Amparo's known heirs.

The hearing for the petition proceeded but Migdonio and Miam failed to appear, hence, they were declared in default. Subsequently, Migdonio and Miam filed a Motion to Lift Order of General Default on the ground of excusable negligence. They alleged that Migdonio received a copy of the Notice of Hearing only two days before the scheduled hearing. Since Migdonio is already 78 years old, and not in perfect health, he could not immediately act on the notice within such a short period of time.

Miam, on the other hand, did not receive any notice. Due to their ignorance of procedural rules and financial constraints, they were not immediately able to secure a counsel to represent their interest. They also manifested in the motion that Amparo was mentally incapable to make a will based on the medical certificate issued by her attending physician.

The Regional Trial Court (RTC) released an Order denying the motion. It held that the jurisdictional requirements of publication and posting of notices had been substantially complied with. A Motion for Reconsideration was then filed but the RTC denied the same. Hence, the present appeal by *Certiorari* under Rule 45.

ISSUE

Are Migdonio and Miam still entitled to notice under Section 4 of Rule 76 despite the publication of the notice of hearing?

RULING

YES. Notice to the designated and known heirs, devisees and legatees under Section 4, Rule 76 of the Rules of Court is mandatory. Publication of notice of hearing is not sufficient when the places of residence of the heirs, legatees and devisees are known.

Notable that Sections 3 and 4 prescribe two (2) modes of notification of the hearing:

(a) by publication in a newspaper of general circulation or the Official Gazette; and

(b) by personal notice to the designated or known heirs, legatees and devisees.

Under Section 3, publication of the notice of hearing shall be done upon the delivery of the will, or filing of the petition for allowance of the will in the court having jurisdiction. On the other hand, personal notice under Section 4 shall be served to the designated or known heirs, legatees and devisees, and the executor or co-executor, at their residence, if such are known.

It should be stressed that the rule on personal notice was instituted in Section 4 to safeguard the right to due process of unsuspecting heirs, legatees, or devisees who, without their knowledge, were being excluded from participating in a proceeding which may affect their right to succeed in the estate.

Here, Miam was indicated as a known heir of Amparo in the petition filed by Echague. While her status as a compulsory heir may still be subject to confirmation, the petition, on its face, had already informed the probate court of

the existence of Miam as one of Amparo's heirs. The petition also provided Miam's residence. By Echague's own averments, Miam is entitled to the notice of hearing under Section 4.

As regards the notice sent to Migdonio, the Court also finds that the same fell short of the procedural requirements laid down by Section 4. There was no evidence that the notice of hearing addressed to him was deposited in the post office at least 20 days before June 21, 2017. Even if it were assumed that the notice of hearing was personally served to Migdonio, the same cannot be said to be substantial compliance.

Based on records, Migdonio received a copy of the notice on June 19, 2017 or two (2) days prior to the hearing. This is short of the 10-day period fixed by Section 4. Hence, the notice served to Migdonio did not satisfy the requirement provided by Section 4.

Moreover, the Court cannot expect Migdonio, an ailing 78-year-old who is not knowledgeable of legal procedures, to intelligently and promptly act upon receipt of the notice of hearing.

GINA VILLA GOMEZ *v.* PEOPLE OF THE PHILIPPINES
G.R. No. 216824, 10 November 2020, *SECOND DIVISION* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

The handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. 3(d), Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city, or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If, at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.

Henceforth, all previous doctrines laid down by the Court, holding that the lack of signature and approval of the provincial, city, or chief state prosecutor on the face of the Information shall divest the court of jurisdiction over the person of the accused and the subject matter in a criminal action, are hereby abandoned.

FACTS

An Information for corruption of public officials under Article 212 of the Revised Penal Code was filed with the Regional Trial Court (RTC) against Gina Villa Gomez (Gomez). It was certified by Assistant City Prosecutor Rainald C. Paggao (ACP Paggao).

The RTC issued an Order, without any motion from either Gomez or the Prosecution, perfunctorily dismissing the criminal case because ACP Paggao had no authority to prosecute the case as the Information he filed does not contain the signature or any indication of approval from City Prosecutor Feliciano Aspi (City Prosecutor Aspi) himself; and ACP Paggao's lack of authority to file the Information is "a jurisdictional defect that cannot be cured." Aggrieved, the Prosecution filed a Motion for Reconsideration which the RTC denied.

Unsated, the Prosecution, through the Office of the Solicitor General (OSG), filed a Petition for *Certiorari* under Rule 65 with the Court of Appeals (CA). CA rendered a Decision that granted the Petition for *Certiorari* and held that the records show that the OCP's September 21, 2010 Resolution was indeed signed by City Prosecutor Aspi himself. Gomez filed a Motion for Reconsideration which the CA denied. Hence, this present Petition for Review on *Certiorari.*

ISSUE

Should the Information be quashed on the ground of absence of jurisdiction relative to ACP Paggao's failure to secure a prior written authority or stamped approval from City Prosecutor Aspi to file the same pleading?

RULING

NO. Under Section 3(d) of Rule 117 of the Rules of Court, that the officer who filed the information had no authority to do so is a ground for the quashal of an Information. Correlatively, Section 9 of Rule 117 is clear that an accused must move for the quashal of the Information before entering his or her plea during the arraignment. Failure to file a motion to quash the Information before pleading in an arraignment shall be deemed a waiver on the part of the accused to raise the grounds in Sec. 3, except if the grounds are based on paragraphs (a), (b), (g), and (i) of Sec. 3:

> (a) that the facts charged do not constitute an offense;
> (b) that the court trying the case has no jurisdiction over the offense charged;
> (c) that the criminal action or liability has been extinguished; and
> (d) that the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent,

Nevertheless, the prevailing jurisprudence is of the view that paragraph (d) of Sec. 3, that the officer who filed the Information had no authority to do so, also cannot be waived by the accused like those in paragraphs (a), (b), (g) and (i).

It was first held in *Villa v. Ibañez* (*Villa*) that "It is a valid information signed by a competent officer which, among other requisites, confers jurisdiction on the court over the person of the accused and the subject matter of the accusation. In consonance with this view, an infirmity of the nature noted in the information [cannot] be cured by silence, acquiescence, or even by express consent."

The same ruling was reinforced in *People v. Garfin* (*Garfin*) which was further supplemented by the rulings in *Turingan v. Garfin* (*Turingan*) and *Tolentino v. Paqueo, Jr.* (*Tolentino*) where the Court declared that an Information filed by an investigating prosecutor without prior written authority or approval of the provincial, city, or chief state prosecutor (or the Ombudsman or his deputy)

constitutes a jurisdictional defect which cannot be cured and waived by the accused.

Furthermore, the Court in *Quisay v. People* (*Quisay*) also reinforced the doctrines established in *Villa, Garfin, Turingan,* and *Tolentino* by unequivocally maintaining that "the filing of an Information by an officer without the requisite authority to file the same constitutes a jurisdictional infirmity which cannot be cured by silence, waiver, acquiescence, or even by express consent"; and "such ground may be raised at any stage of the proceedings." It also added that resolutions issued by an investigating prosecutor finding probable cause to indict an accused of some crime charged cannot be considered as "prior written authority or approval of the provincial or city prosecutor."

Finally, the Court in *Maximo v. Villapando, Jr.* (*Maximo*) finally institutionalized Villa when it categorically declared that:

> (a) an Information, when required by law to be filed by a public prosecuting officer, cannot be filed by another;
> (b) the court does not acquire jurisdiction over the case because there is a defect in the Information; and
> (c) there is no point in proceeding under a defective Information that could never be the basis of a valid conviction.

As deduced from the aforementioned rulings, it now becomes sensible to conclude that the following reasons first laid down in Villa have been the Court's *raison d'être* of why an officer's lack of authority in filing an Information is considered a jurisdictional infirmity, to wit:

> (a) Lack of jurisdiction over the person of the accused; and
> (b) Lack of jurisdiction over the subject matter or nature of the offense.

In view of the aforementioned observation, the Court deems it inevitably necessary to revisit the aforementioned doctrines laid down in *Villa, Garfin, Turingan, Tolentino, Quisay, Maximo* and other rulings of similar import on account of this glaring realization:

Lack of prior written authority or approval on the face of the Information by the prosecuting officers authorized to approve and sign the same has nothing to do with a trial court's acquisition of jurisdiction in a criminal case.

For a clearer understanding, the Court now finds it necessary to dissect the relationship between the concepts relative to jurisdiction and the handling prosecutor's authority to file an Information.

Jurisdiction in General

In a broad and loose sense, it is the authority of law to act officially in a particular matter in hand. In a refined sense, it is "the power and authority of a court [or quasi-judicial tribunal] to hear, try, and decide a case."

Relatedly, the concept of jurisdiction has several aspects, namely:

(a) jurisdiction over the subject matter;
(b) jurisdiction over the parties;
(c) jurisdiction over the issues of the case; and
(d) in cases involving property, jurisdiction over the res or the thing which is the subject of the litigation.

Additionally, a court must also acquire jurisdiction over the remedy in order for it to exercise its powers validly and with binding effect. As to the acquisition of jurisdiction in criminal cases, there are three (3) important requisites which should be satisfied, to wit:

(a) the court must have jurisdiction over the subject matter;
(b) the court must have jurisdiction over the territory where the offense was committed;
(c) the court must have jurisdiction over the person of the accused.

In the case at hand, the relevant aspects of jurisdiction being disputed are:

(a) over the subject matter or, in criminal cases, over the nature of the offense charged;
(b) over the parties, or in criminal cases, over the person of the accused.

At this juncture, the Court will now proceed to determine how these aspects of jurisdiction are supposedly affected by the handling prosecutor's authority to sign and file an Information.

Jurisdiction Over the Subject Matter or Nature of the Offense

As applied to criminal cases, jurisdiction over a given crime is vested by law upon a particular court and may not be conferred thereto by the parties involved in the offense. More importantly, jurisdiction over an offense cannot be conferred to a court by the accused through an express waiver or otherwise. Here, a trial court's jurisdiction is determined by the allegations in the Complaint or Information and not by the result of proof. These allegations pertain to ultimate facts constituting elements of the crime charged. Such recital of ultimate facts apprises the accused of the nature and cause of the accusation against him or her.

Clearly, the authority of the officer in filing an Information has nothing to do with the ultimate facts which describe the charges against the accused. The issue on whether or not the handling prosecutor secured the necessary authority from his or her superior before filing the Information does not affect or change the cause of the accusation or nature of the crime being attributed to the accused. The nature and cause of the accusation remain the same with or without such required authority.

In fact, existing jurisprudence even allows the Prosecution to amend an Information alleging facts which do not constitute an offense just to make it line up with the nature of the accusation.

Viewed from a different angle, the law conferring a court with jurisdiction over a specific offense does not cease to operate in cases where there is lack of authority on the part of the officer or handling prosecutor filing an Information. As such, the authority of an officer filing the Information is irrelevant in relation to a trial court's power or authority to take cognizance of a criminal case according to its nature as it is determined by law. Therefore, absence of authority or prior approval of the handling prosecutor from the city or provincial prosecutor cannot be considered as among the grounds for the quashal of an Information which is non-waivable.

Jurisdiction Over the Person of the Accused

Jurisdiction over the person of the accused is acquired upon his or her:

(a) arrest or apprehension, with or without a warrant; or
(b) voluntary appearance or submission to the jurisdiction of the court.

Akin to the foregoing discussions on the trial court's acquisition of jurisdiction over the subject matter, the authority of an officer or handling prosecutor in the filing of an Information also has nothing to do with the voluntary appearance or validity of the arrest of the accused. Voluntary appearance entirely depends on the volition of the accused, while the validity of an arrest strictly depends on the apprehending officers' compliance with constitutional and statutory safeguards in its execution.

Therefore, a handling prosecutor's lack of prior authority or approval from the provincial, city, or chief state prosecutor in the filing of an Information may be waived by the accused if not raised as a ground in a motion to quash before entering a plea.

A Handling Prosecutor's Legal Standing and Authority to Appear

In criminal cases, the filing of a Complaint or Information in court initiates a criminal action. Such act of filing signifies that the handling prosecutor has entered his or her appearance on behalf of the People of the Philippines and is presumably clothed with ample authority from the agency concerned such as the Department of Justice or the Office of the Ombudsman. However, the appearance of a handling prosecutor, in the form of filing an Information against the accused, is conditioned by Sec. 4 of Rule 112 of the Rules of Court (which was based on Sec. 1 of Republic Act No. 5180). Thus, it provides:

> No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

However, Sec. 1 of R.A. No. 5180 (as embodied in Sec. 4 of Rule 112) merely provides the guidelines on how handling prosecutors, who are subordinates to the provincial, city, or chief state prosecutor, should proceed in

formally charging a person imputed with a crime before the courts. It neither provides for the power or authority of courts to take cognizance of criminal cases filed before them nor imposes a condition on the acquisition or exercise of such power or authority to try or hear the criminal case. Instead, it simply imposes a duty on investigating prosecutors to first secure a "prior authority or approval" from the provincial, city, or chief state prosecutor before filing an Information with the courts.

In effect, the operative consequence of filing an Information without prior written authority or approval from the provincial, city or chief state prosecutor is that the handling prosecutor's representation as counsel for the State may not be recognized by the trial court as sanctioned by the procedural rules enforced by the Court pursuant to its constitutional power to promulgate rules on pleading, practice, and procedure.

All told, the handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. 3(d), Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If, at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.

Moreover, both the State and the accused are entitled to the constitutional guarantee of due process — especially when the most contentious of issues involve jurisdictional matters. A denial of such guarantee against any of the parties of the case amounts to grave abuse of discretion.

Henceforth, all previous doctrines laid down by the Court, holding that the lack of signature and approval of the provincial, city or chief state prosecutor on the face of the Information shall divest the court of jurisdiction over the person of the accused and the subject matter in a criminal action, are hereby abandoned.

It is sufficient for the validity of the Information or Complaint, as the case may be, that the Resolution of the investigating prosecutor recommending for the filing of the same in court bears the imprimatur of the provincial, city or chief

state prosecutor whose approval is required by Sec. 1 of R.A. No. 5180 and is adopted under Sec. 4, Rule 112 of the Rules of Court.

NURULLAJE SAYRE y MALAMPAD @ "INOL" *v.* HON. DAX GONZAGA XENOS, *et al.*
G.R. Nos. 244413, 244415-16, 18 February 2020, *EN BANC* (Carandang, *J.*)

DOCTRINE OF THE CASE

The DOJ Circular No. 27 provision pertaining to acceptable plea bargain for Section 5 of R.A. No. 9165 did not violate the rule-making authority of the Court. DOJ Circular No. 27 merely serves as an internal guideline for prosecutors to observe before they may give their consent to proposed plea bargains.

While A.M. No. 18-03-16-SC is a rule of procedure established pursuant to the rule-a plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court.

FACTS

Nurullaje Sayre (Sayre) was charged with violation of Sections 5, 11, and 12, Article II of Republic Act No. 9165 (R.A. No. 9165), in three separate Informations. Sayre filed a Motion for Approval of Plea-Bargaining Proposal with Modification, proposing to plea bargain the charge of Illegal Sale of Dangerous Drugs to the lower offense of Possession of Paraphernalia for Dangerous Drugs under Section 12 in accordance with the guidelines provided by the Supreme Court in Office of the Court Administrator (OCA) Circular No. 90-2018.

City Prosecutor Jennifer Namoc-Yasol (City Prosecutor Namoc-Yasol) filed a Comment and Counter-Proposal, arguing that they are bound by Department of Justice (DOJ) Circular No. 27, rejecting Sayre's plea bargain from Illegal Sale of Dangerous Drugs to Possession of Drug Paraphernalia, and insisting that "any plea bargaining outside the DOJ circular is not acceptable."

In an Order, the Regional Trial Court (RTC) denied Sayre's Motion to Plea Bargain and set the case for Pre-Trial. His Motion for Reconsideration having been denied, Sayre filed the present petition for *Certiorari* and prohibition.

ISSUE

Is the provision in DOJ Circular No. 27 unconstitutional for contravening OCA Circular No. 90-2018, a procedural rule issued pursuant to the Supreme Court's rule-making power?

RULING

NO. Plea bargaining has been defined as "a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval." There is a give-and-take negotiation common in plea bargaining. The essence of the agreement is that both the prosecution and the defense make concessions to avoid potential losses. Properly administered, plea bargaining is to be encouraged because the chief virtues of the system — speed, economy, and finality — can benefit the accused, the offended party, the prosecution, and the court.

The DOJ Circular No. 27 provision pertaining to acceptable plea bargain for Section 5 of R.A. No. 9165 did not violate the rule-making authority of the Court. DOJ Circular No. 27 merely serves as an internal guideline for prosecutors to observe before they may give their consent to proposed plea bargains.

While A.M. No. 18-03-16-SC is a rule of procedure established pursuant to the rule-making power of the Supreme Court under Section 5(5), Article VIII of the 1987 Constitution, a plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court.

Section 2, Rule 116 of the Rules of Court expressly states that "at arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged."

The use of the word "may" signifies that the trial court has discretion whether to allow the accused to make a plea of guilty to a lesser offense. Moreover, plea bargaining requires the consent of the accused, offended party, and the prosecutor. It is also essential that the lesser offense is necessarily included in the offense charged.

Taking into consideration the requirements in pleading guilty to a lesser offense, the Court finds it proper to treat the refusal of the prosecution to adopt the acceptable plea bargain for the charge of Illegal Sale of Dangerous Drugs provided in A.M. No. 18-03-16-SC as a continuing objection that should be resolved by the RTC. This harmonizes the constitutional provision on the rule making power of the Court under the Constitution and the nature of plea

bargaining in Dangerous Drugs cases. DOJ Circular No. 27 did not repeal, alter, or modify the Plea Bargaining Framework in A.M. No. 18-03-16-SC.

PEOPLE OF THE PHILIPPINES *v.* BRENDO P. PAGAL a.k.a "DINDO"
G.R. No. 241257, 29 September 2020, *EN BANC* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

It is evident that the trial court failed miserably to comply with the duties imposed by the 2000 Revised Rules. As regards the first duty, the trial court failed to conduct a searching inquiry to determine the voluntariness and full comprehension by Brendo of his plea of guilty. The Court scanned the records of the case to see compliance with the said duty. The search, however, was in vain. The records are barren of any proceeding where the trial court gauged the mindset of Brendo when he pleaded guilty. There is no transcript of stenographic notes which would reveal what actually took place, what words were spoken, what warnings were given, if a translation was made and the manner by which it was made, and whether or not the guidelines for a searching inquiry were duly observed. Brendo's plea of guilt is therefore improvident.

What compounded the RTC's strenuous oversight is the fact that the trial court penalized Brendo of the crime charged despite failure of the prosecution to present evidence of his guilt. This is in direct contravention of the mandate of the second duty stated in Sec. 3, Rule 116 of the 2000 Revised Rules. In this regard, the Court agrees with the CA that Brendo's guilt for the crime of murder was not proven beyond reasonable doubt. It is beyond cavil that the prosecution did not present any witness, despite being given four (4) separate hearing dates to do so. Thus, the RTC's conviction of Brendo relied solely on his improvident plea of guilty.

Lastly, as regard the third requisite, the October 5, 2011 Order of the RTC stated that Brendo, despite the non-reception of prosecution's evidence, opted not to present any evidence in his behalf." It would appear that Brendo waived his right to present evidence under Sec. 3, Rule 116 of the 2000 Revised Rules. However, the same Order and the records of the case are bereft of any showing that the trial court complied with the guidelines promulgated by the Court in People v. Bodoso. Such cavalier attitude of the trial court to the Rules of Court and existing jurisprudence leaves much to be desired.

FACTS

Brendo P. Pagal (Brendo) was indicted under an Information charging him of the crime of murder. During his arraignment, he pleaded guilty to the crime charged. The Regional Trial Court (RTC) found the plea to be voluntary and with full understanding of its consequences. Thus, it directed the prosecution to present evidence to prove the guilt of Brendo and to determine the exact degree

of his culpability in accordance with Section 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure (2000 Revised Rules).

The RTC found Brendo guilty beyond reasonable doubt based solely on his plea of guilty. It stated that Brendo maintained his plea despite being apprised that he will be sentenced and imprisoned on the basis thereof.

Brendo appealed the RTC Order to the Court of Appeals (CA) on the ground that the RTC erred in convicting him of the crime charged solely on the basis of the latter's plea of guilt and despite the failure of the prosecution to prove his guilt beyond reasonable doubt. The CA held that the RTC failed to comply with the requirements of Section 3, Rule 116 regarding the treatment of a plea of guilty to a capital offense, particularly the conduct of a searching inquiry into Brendo's voluntariness and full comprehension of the consequences of his plea.

Also, the CA observed that the prosecution's evidence was insufficient to sustain a judgment of conviction independent of the plea of guilty. The CA noted that the prosecution did not present any evidence; thus, it remanded the case to the RTC. Hence, this recourse.

ISSUES

(1) Did the RTC err in convicting Brendo on the sole basis of his guilty plea despite the failure of the prosecution to prove his guilt beyond reasonable doubt?

(2) Is it correct for the case to be remanded to the trial court for further proceedings so that the trial court may comply with the requirements of Sec. 3, Rule 116?

RULING

(1) **YES.** It must be noted that murder remains a capital offense despite the proscription against the imposition of death as a punishment. Thus, when Brendo pleaded guilty during his arraignment, he pleaded to a capital offense. For this, Sec. 3, Rule 116 of the 2000 Revised Rules is relevant since it provides that when the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability.

The 2000 Revised Rules retained the salient points of the 1985 amendment. Hence, at present, the three (3)-fold duty of the trial court in instances where the accused pleads guilty to a capital offense is as follows:

(a) conduct a searching inquiry;
(b) require the prosecution to prove the accused's guilt and precise degree of culpability;
(c) allow the accused to present evidence on his behalf.

The present rules formalized the requirement of the conduct of a searching inquiry as to the accused's voluntariness and full comprehension of the consequences of his plea. Further, it made mandatory the reception of evidence in cases where the accused pleads guilty to a capital offense. Most importantly, the present rules require that the prosecution prove beyond reasonable doubt the guilt of the accused. Evidently, starting with the 1985 Rules, the accused may no longer be convicted for a capital offense on the sole basis of his plea of guilty.

The duty of conducting a searching inquiry means more than informing cursorily the accused that he faces a jail term but also, the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony. The searching inquiry of the trial court must be focused on:

(a) the voluntariness of the plea, and
(b) the full comprehension of the consequences of the plea.

It likewise compels the judge to content himself reasonably that the accused has not been coerced or placed under a state of duress - and that his guilty plea has not therefore been given improvidently - either by actual threats of physical harm from malevolent quarters or simply because of his, the judge's, intimidating robes.

Further, a searching inquiry must also expound on the events that actually took place during the arraignment, the words spoken and the warnings given, with special attention to the age of the accused, his educational attainment and socio-economic status as well as the manner of his arrest and detention, the provision of counsel in his behalf during the custodial and preliminary investigations, and the opportunity of his defense counsel to confer with him.

Lastly, the trial court must explain the essential elements of the crime he was charged with and its respective penalties and civil liabilities, and also direct a series of questions to defense counsel to determine whether he has conferred with the accused and has completely explained to him the meaning of a plea of guilty. This formula is mandatory and absent any showing that it was followed, a searching inquiry cannot be said to have been undertaken.

Corollary to this duty, a plea of guilty to a capital offense without the benefit of a searching inquiry or an ineffectual inquiry, as required by Sec. 3, Rule 116 of the 2000 Revised Rules, results to an improvident plea of guilty. It has been held that failure to comply with the said formula constitutes a violation of the accused's fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.

The duty to require the prosecution to still prove the guilt of the accused and the precise degree of his culpability is that the plea of guilt alone can never be sufficient to produce guilt beyond reasonable doubt. It must be remembered that a plea of guilty is only a supporting evidence or secondary basis for a finding of culpability, the main proof being the evidence presented by the prosecution to prove the accused's guilt beyond reasonable doubt. Once an accused charged with a capital offense enters a plea of guilty, a regular trial shall be conducted just the same as if no such plea was entered. The court cannot, and should not, relieve the prosecution of its duty to prove the guilt of the accused and the precise degree of his culpability by the requisite quantum of evidence.

The duty of giving the accused a reasonable opportunity to present evidence is to allow the accused to present exculpatory or mitigating evidence on his behalf in order to properly calibrate the correct imposable penalty. This duty, however, does not mean that the trial court can compel the accused to present evidence. Of course, the court cannot force the accused to present evidence when there is none. The accused is free to waive his right to present evidence if he so desires.

Applying the foregoing principles in this case, it is evident that the trial court failed miserably to comply with the duties imposed by the 2000 Revised Rules. As regards the first duty, the trial court failed to conduct a searching inquiry to determine the voluntariness and full comprehension by Brendo of his plea of guilty. The Court scanned the records of the case to see compliance with the said

duty. The search, however, was in vain. The records are barren of any proceeding where the trial court gauged the mindset of Brendo when he pleaded guilty. There is no transcript of stenographic notes which would reveal what actually took place, what words were spoken, what warnings were given, if a translation was made and the manner by which it was made, and whether or not the guidelines for a searching inquiry were duly observed. Brendo's plea of guilt is therefore improvident.

What compounded the RTC's strenuous oversight is the fact that the trial court penalized Brendo of the crime charged despite failure of the prosecution to present evidence of his guilt. This is in direct contravention of the mandate of the second duty stated in Sec. 3, Rule 116 of the 2000 Revised Rules. In this regard, the Court agrees with the CA that Brendo's guilt for the crime of murder was not proven beyond reasonable doubt. It is beyond cavil that the prosecution did not present any witness, despite being given four (4) separate hearing dates to do so. Thus, the RTC's conviction of Brendo relied solely on his improvident plea of guilty.

Lastly, as regard the third requisite, the October 5, 2011 Order of the RTC stated that Brendo, despite the non-reception of prosecution's evidence, opted not to present any evidence in his behalf." It would appear that Brendo waived his right to present evidence under Sec. 3, Rule 116 of the 2000 Revised Rules. However, the same Order and the records of the case are bereft of any showing that the trial court complied with the guidelines promulgated by the Court in *People v. Bodoso*. Such cavalier attitude of the trial court to the Rules of Court and existing jurisprudence leaves much to be desired.

(2) **NO.** The conviction of the accused simply depends on whether the plea of guilty to a capital offense was improvident or not. An indubitable admission of guilt automatically results to a conviction. Otherwise, a conviction on the basis of an improvident plea of guilt, on appeal, would be set aside and the case would be remanded for presentation of evidence. An exception to this is when, despite the existence of an improvident plea, a conviction will not be disturbed when the prosecution presented sufficient evidence during trial to prove the guilt of the accused beyond reasonable doubt. The existing rules, however, shifted the focus from the nature of the plea to whether evidence was presented during the trial to prove the guilt of the accused.

The plea of guilty of an accused cannot stand in place of the evidence that must be presented and is called for by Sec. 3 of Rule 116. Trial courts should no longer assume that a plea of guilty includes an admission of the attending circumstances alleged in the information as they are now required to demand that the prosecution prove the exact liability of the accused. The requirements of Sec. 3 would become idle and fruitless if we were to allow conclusions of criminal liability and aggravating circumstances on the dubious strength of a presumptive rule. As it stands, the conviction of the accused shall be based principally on the evidence presented by the prosecution. The improvident plea of guilty by the accused becomes secondary.

Accordingly, convictions involving improvident pleas are affirmed if the same are supported by proof beyond reasonable doubt. Otherwise, the conviction is set aside and the case remanded for further proceedings when the conviction is predicated solely on the basis of the improvident plea of guilt, meaning that the prosecution was unable to prove the accused's guilt beyond reasonable doubt. "Further proceedings" usually entail re-arraignment and reception of evidence from both the prosecution and the defense in compliance with Sec. 3, Rule 116. Jurisprudence has developed in such a way that cases are remanded back to the trial court for re-arraignment and re-trial when undue prejudice was brought about by the improvident plea of guilty.

In this case, the Court cannot sustain the conviction as there is nothing in the records that would show Brendo's guilt. Neither is it just to remand the case. This is not a situation where the prosecution was wholly deprived of the opportunity to perform its duties under the 2000 Revised Rules to warrant a remand. In this case, the prosecution was already given a reasonable opportunity to prove its case against Brendo. Regrettably, the State squandered its chances to the detriment of Brendo. If anything, the State, given its vast resources and awesome powers, cannot be allowed to vex an accused with criminal prosecution more than once. The State should, first and foremost, exercise fairness.

For the guidance of the bench and the bar, the Court adopts the following guidelines concerning pleas of guilty to capital offenses:

1. AT THE TRIAL STAGE. When the accused makes a plea of guilty to a capital offense, the trial court must strictly abide by the provisions of Sec. 3, Rule 116 of the 2000 Revised Rules of

Criminal Procedure. In particular, it must afford the prosecution an opportunity to present evidence as to the guilt of the accused and the precise degree of his culpability. Failure to comply with these mandates constitute grave abuse of discretion.

(a) In case the plea of guilty to a capital offense is supported by proof beyond reasonable doubt, the trial court shall enter a judgment of conviction.

(b) In case the prosecution presents evidence but fails to prove the accused's guilt beyond reasonable doubt, the trial court shall enter a judgment of acquittal in favor of the accused.

(c) In case the prosecution fails to present any evidence despite opportunity to do so, the trial court shall enter a judgment of acquittal in favor of the accused.

(d) In the above instance, the trial court shall require the prosecution to explain in writing within ten (10) days from receipt its failure to present evidence. Any instance of collusion between the prosecution and the accused shall be dealt with to the full extent of the law.

2. AT THE APPEAL STAGE:

(a) When the accused is convicted of a capital offense on the basis of his plea of guilty, whether improvident or not, and proof beyond reasonable doubt was established, the judgment of conviction shall be sustained.

(b) When the accused is convicted of a capital offense solely on the basis of his plea of guilty, whether improvident or not, without proof beyond reasonable doubt because the prosecution was not given an opportunity to present its evidence, or was given the opportunity to present evidence but the improvident plea of guilt resulted to an undue prejudice to either the prosecution or the accused,

the judgment of conviction shall be set aside and the case remanded for re-arraignment and for reception of evidence pursuant to Sec. 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure.

(c) When the accused is ·convicted of a capital offense solely on the basis of a plea of guilty, whether improvident or not, without proof beyond reasonable doubt because the prosecution failed to prove the accused's guilt despite opportunity to do so, the judgment of conviction shall be set aside and the accused acquitted.

Said guidelines shall be applied prospectively.

DRS. REYNALDO ANG and SUSAN CUCIO-ANG *v.*
ROSITA DE VENECIA, ANGEL MARGARITO D. CARAMAT, JR., *et al.*
G.R. No. 217151, 12 February 2020, *SECOND DIVISION* (Reyes, A. Jr., *J.*)

DOCTRINE OF THE CASE

The CIAC was formed to resolve disputes involving transactions and business relationships within the construction industry; and it is for this reason that Section 4 prescribes that the CIAC shall only have jurisdiction over "disputes arising from, or connected with, contracts entered into by pa1ties involved in construction in the Philippines". The foregoing phrase limits the jurisdiction of the CIAC not only as to subject matter jurisdiction but also as to jurisdiction over the parties.

Thus, it is erroneous to consider a suit for damages caused by construction activities on an adjoining parcel of land as a "dispute arising from or connected with a construction contract", simply because an adjoining owner is not a party to a construction contract.

FACTS

Reynaldo Ang and Susan Cucio-Ang (Spouses Ang) own a two-storey residential house and lot. In 2008, their neighbor, Angel Caramat, Jr. (Caramat) started construction on a five-storey commercial building on the adjoining lot.

A year later, Spouses Ang noticed cracks in their walls and misalignment of their gate and several doors in their house. Suspecting that these were due to Caramat's construction works, Spouses Ang hired an architect to survey their house. The architect reported that the foundation of their house moved as the foundation of the five-storey building being constructed by Caramat required much deeper excavation compared to their house.

The matter was referred to the *barangay*, and a mediation hearing was conducted. Unsatisfied, Spouses Ang sought barangay mediation again but Caramat's contractor, MC Soto Construction (MC Soto), refused to conduct additional repairs, asserting that the damage was caused by the weakness in the house's foundation. Another attempt at mediation failed, prompting Spouses Ang to seek help from the City Engineer of Makati.

The City Engineer issued a formal demand letter ordering Caramat and MC Soto to comply with the requirements of the National Building Code to no avail.

Without any action from Caramat and Soto, Spouses Ang obtained a certification to file action from the *barangay*.

After their final demand went unheeded, Spouses Ang filed a Complaint in the Regional Trial Court (RTC). However, during the pendency of the case, Office of the Court Administrator (OCA) Circular No. 111-2014 was promulgated where it stated that all trial courts shall dismiss all pending cases involving construction disputes for referral to the Construction Industry Arbitration Commission (CIAC). The RTC, unaware of the full scope of CIAC's jurisdiction, suspended the proceedings, dismissed the case and referred it to the CIAC.

ISSUES

(1) Does the CIAC have jurisdiction over an ordinary civil case for damages filed by a non-party to a construction contract?

(2) Did the trial court err in dismissing the suit and in referring the same to the CIAC?

RULING

(1) **NO.** The jurisdiction of the CIAC is provided in Section 4 of Executive Order No. 1008, or the Construction Industry Arbitration Law. For the Board to acquire jurisdiction, the parties to a dispute must agree to submit the same to voluntary arbitration. This provision lays down three requisites for acquisition of jurisdiction by the CIAC:

First, a dispute arising from or connected with a construction contract;

Second, such contract must have been entered into by parties involved in construction in the Philippines; and

Third, an agreement by the parties to submit their dispute to arbitration.

Given the allegations in Spouses Ang's complaint and the issues raised in their petition before the Court, the foregoing requisites obviously do not apply for the simple reason that there is no construction contract between the Spouses Ang and Caramat. The Spouses Ang's cause of action does not proceed from any construction contract or any accessory contract thereto but from the alleged damage inflicted upon their property by virtue of their neighbor's construction

activities. Moreover, the spouses did not agree, and even rejected the referral of the dispute to the CIAC.

(2) **NO.** It is clear that the OCA Circular No. 111-2014 does not operate to *ipso facto* dismiss all construction disputes pending before the RTC; but instead directs all presiding judges to issue orders dismissing such suits.

Section 1, Rule 45 of the Rules of Court authorizes direct resort from the Regional Trial Courts to the Court on pure questions of law. The present petition does not raise any factual question. The petition poses a sole question: "which tribunal has jurisdiction over the suit for damages filed by the spouses Ang?" This question does not involve any determination or finding of truth or falsehood of the factual allegations raised by the Spouses Ang; but instead concerns the applicability of the construction arbitration laws to the suit filed by the spouses. Direct resort to the Court is therefore justified.

Both the trial court and De Venecia, *et al.* further justify CIAC jurisdiction over the case at bar by citing the construction tribunal's expertise in handling factual circumstances involving construction matters. Such justification loses sight of the fact that a trial court's main function is passing upon questions of fact. Time and again, the Court has held that factual matters are best ventilated before the trial court, as it has the power to receive and evaluate evidence first-hand. That the dispute at bar involves technical matters does not automatically divest the trial court of its jurisdiction.

PEOPLE OF THE PHILIPPINES *v.* JERRY SAPLA
G.R. No. 244045, 16 June 2020, *EN BANC* (Caguioa, *J.*)

DOCTRINE OF THE CASE

Law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion. To be sure, information coming from a complete and anonymous stranger, without the police officers undertaking even a semblance of verification, on their own, cannot reasonably produce probable cause that warrants the conduct of an intrusive search.

With the glaring absence of probable cause that justifies an intrusive warrantless search, considering that the police officers failed to rely on their personal knowledge and depended solely on an unverified and anonymous tip, the warrantless search conducted on Sapla was an invalid and unlawful search of a moving vehicle.

FACTS

An Information was filed against Jerry Sapla (Sapla) for violating Section 5, Article II of R.A. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

On 10 January 2014, an officer on duty at the Regional Public Safety Battalion (RPSB) office received a phone call from a concerned citizen, who informed the officer that a certain male individual would be transporting marijuana from Kalinga and into the Province of Isabela. At around 1:00 in the afternoon, the RPSB hotline received a text message describing the clothes of the man transporting the marijuana, and the plate number of the passenger jeepney. Because of this tip, a joint checkpoint was strategically organized at the Talaca command post.

The passenger jeepney then arrived at around 1:20 in the afternoon, wherein the police officers at the Talaca checkpoint flagged down the said vehicle and told its driver to park on the side of the road. The police officer asked Sapla if he was the owner of the blue sack in front of him, which the latter answered in the affirmative. The said officers then requested Sapla to open the blue sack. After Sapla opened the sack, PO3 Labbutan and PO2 Mabiasan saw four (4) bricks of suspected dried marijuana leaves, wrapped in newspaper and an old calendar.

PO3 Labbutan subsequently arrested Sapla, informed him of the cause of his arrest and his constitutional rights in the Ilocano dialect. PO2 Mabiasan further searched Sapla and found one (1) LG cellular phone unit. Thereafter, PO2 Mabiasan seized the four (4) bricks of suspected dried marijuana leaves and brought them to their office at the Talaca detachment for proper markings.

At the said office, PO2 Mabiasan personally turned over the seized items to the investigator of the case, PO2 Oman, for custody, safekeeping and proper disposition. The initial examination revealed that the seized specimens with a total net weight of 3,9563.111 grams, yielded positive results for the presence of marijuana, a dangerous drug.

The Regional Trial Court (RTC) rendered a decision convicting Sapla for violating Section 5 of R.A. 9165. The Court of Appeals (CA) affirmed the conviction of the lower court. The CA found that although the search and seizure conducted on Sapla was without a search warrant, the same was lawful as it was a valid warrantless search of a moving vehicle. The CA held that the essential requisite of probable cause was present, justifying the warrantless search and seizure.

ISSUES

(1) Is there valid search and seizure conducted by the police officers?

(2) Does the mere reception of a text message from an anonymous person suffice to create probable cause that enables the authorities to conduct an extensive and intrusive search without a search warrant?

(3) Can the marijuana gathered in the search and seizure be used as evidence against Sapla?

RULING

(1) **NO.** The Court finds error in the CA's holding that the search conducted in the instant case is a search of a moving vehicle. The situation presented in the instant case cannot be considered as a search of a moving vehicle.

In *People v. Comprado*, the Court held that the search conducted "could not be classified as a search of a moving vehicle. In this particular type of search, the vehicle is the target and not a specific person." The Court added that "in search of a moving vehicle, the vehicle was intentionally used as a means to transport

illegal items. It is worthy to note that the information relayed to the police officers was that a passenger of that particular bus was carrying marijuana such that when the police officers boarded the bus, they searched the bag of the person matching the description given by their informant and not the cargo or contents of the said bus."

Applying the foregoing to the instant case, it cannot be seriously disputed that the target of the search conducted was not the passenger jeepney boarded by Sapla nor the cargo or contents of the said vehicle. The target of the search was the person who matched the description given by the person who called the RPSB Hotline, *i.e.*, the person wearing a collared white shirt with green stripes, a red ball cap, and carrying a blue sack. Therefore, the search conducted in the instant case cannot be characterized as a search of a moving vehicle.

(2) **NO.** The Court has already held with unequivocal clarity that in situations involving warrantless searches and seizures, "law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion."

In the instant case, the police merely adopted the unverified and unsubstantiated suspicion of another person, *i.e.*, the person who sent the text through the RPSB Hotline. Apart from the information passed on to them, the police simply had no reason to reasonably believe that the passenger vehicle contained an item, article, or object which by law is subject to seizure and destruction.

What further militates against the finding that there was sufficient probable cause on the part of the police to conduct an intrusive search is the fact that the information regarding the description of the person alleged to be transporting illegal drugs, *i.e.*, wearing a collared white shirt with green stripes, red ball cap, and carrying a blue sack, was relayed merely through a text message from a completely anonymous person. The police did not even endeavor to inquire how this stranger gathered the information. The authorities did not even ascertain in any manner whether the information coming from the complete stranger was credible. After receiving this anonymous text message, without giving any second thought, the police accepted the unverified information as gospel truth and immediately proceeded in establishing the checkpoint. To be sure, information coming from a

complete and anonymous stranger, without the police officers undertaking even a semblance of verification, on their own, cannot reasonably produce probable cause that warrants the conduct of an intrusive search.

In fact, as borne from the cross-examination of PO3 Mabiasan, the authorities did not even personally receive and examine the anonymous text message. The contents of the text message were only relayed to them by a duty guard, whose identity the police could not even recall. The information received through text message was not only hearsay evidence; it is double hearsay.

Therefore, with the glaring absence of probable cause that justifies an intrusive warrantless search, considering that the police officers failed to rely on their personal knowledge and depended solely on an unverified and anonymous tip, the warrantless search conducted on Sapla was an invalid and unlawful search of a moving vehicle.

(3) **NO.** According to Article III, Section 3 (2) of the Constitution, any evidence obtained in violation of the right against unreasonable searches and seizures shall be inadmissible for any purpose in any proceeding.

Known as the exclusionary rule, "evidence obtained and confiscated on the occasion of such unreasonable searches and seizures is deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding."

Therefore, with the inadmissibility of the confiscated marijuana bricks, there is no more need for the Court to discuss the other issues surrounding the apprehension of Sapla, particularly the gaps in the chain of custody of the alleged seized marijuana bricks, which likewise renders the same inadmissible.

The prosecution is left with no evidence left to support the conviction of Sapla. Consequently, Sapla is acquitted of the crime charged.

LEGAL & JUDICIAL ETHICS

FERDINAND "BONGBONG" R. MARCOS, JR. *v.*
MARIA LEONOR "LENI DAANG MATUWID" G. ROBREDO
PET Case No. 005, 17 November 2020, *RESOLUTION* (*Per Curiam*)

DOCTRINE OF THE CASE

None of Marcos' and the Solicitor General's arguments cited a clear ground to warrant Justice Leonen's inhibition under the Rules. There were no prior proceedings where he may have participated. He had no professional engagement with, pecuniary interest relative to, or relation within the sixth degree of consanguinity or affinity to any of the parties or their counsels.

Marcos urges Justice Leonen to voluntarily inhibit. However, a movant seeking the inhibition of a magistrate is duty-bound to present clear and convincing evidence of bias to justify such request. Marcos failed to do so.

FACTS

Marcos Ferdinand "Bongbong" R. Marcos, Jr. (Marcos) filed a "Strong Manifestation with Extremely Urgent Omnibus Motion for the: I. Inhibition of Associate Justice Mario Victor F. Leonen (Justice Leonen); II. Re-raffle of this Election Protest; III. Resolution of all the Pending Incidents in the Above Entitled Case." He alleged that since October 2019, the protest has "remained in limbo."

To bolster his point, Marcos underscores Justice Leonen's dissenting opinion in *Ocampo v. Enriquez,* or the Marcos burial case, which supposedly shows Justice Leonen's bias and partiality against Marcos' family. Additionally, Marcos surmises that this protest is the "perfect venue for Justice Leonen to exact vengeance." He narrates that when Justice Leonen was the country's Chief Peace Negotiator, Marcos, who was then the head of the Senate Committee on Local Governments, blocked the creation of the Bangsamoro Juridical Entity, which Justice Leonen envisioned and worked for.

Marcos also draws attention to a news article written by a certain Jomar Canlas (Canlas), which stated that Justice Leonen circulated his 25-page Reflections back in July 10, 2017, recommending the dismissal of this protest, thereby showing his prejudgment.

Marcos claims the delay in the resolution of this election protest, which hardly moved from the time Justice Leonen took over as ponente and was marked by "one deferment after another through a series of resets and 'call-against'" clearly showed Justice Leonen's bias and partiality.

Moreover, Marcos avers that the referral of certain matters to the Office of the Solicitor General (OSG) and the Commission on Elections (COMELEC) only a year after the protest was raffled to Justice Leonen, showed the latter's ignorance of the law as referral to these offices should have been done the moment the protest was raffled to him. As such, this only served to further delay its resolution.

Marcos underscores that delaying the resolution of this election protest is against public policy because it "disregards the sanctity of votes and the popular choice of the people." He cites Republic Act (R.A.) No. 1793 which requires for an election protest to be decided within twenty (20) months after it is filed, as the standard for the expeditious resolution of election protests.

Claiming to act as the People's Tribune, the Office of the Solicitor General, led by General Jose C. Calida (Solicitor General) similarly moves for Justice Leonen's inhibition for the best interest of the State and the People. He avers that the expeditious resolution of the protest will finally reveal the real winner in the vice-presidential elections.

ISSUE

Should Justice Leonen inhibit from the election protest?

RULING

NO. Rule 8, Section 1 of the Internal Rules of the Supreme Court is clear:

> RULE 8
>
> *Inhibition and Substitution of Members of the Court*
>
> SECTION 1. Grounds for Inhibition. - A Member of the Court shall inhibit himself or herself from participating in the resolution of the case for any of these and similar reasons:
>
> (a) The Member of the Court was the ponente of the decision or participated in the proceedings in the appellate or trial court;

> (b) The Member of the Court was counsel, partner or member of a law firm that is or was the counsel in the case subject to Section 3(c) of this rule;
>
> (c) The Member of the Court or his or her spouse, parent or child is pecuniarily interested in the case;
>
> (d) the Member of the Court is related to either party in the case within the sixth degree of consanguinity or affinity, or to an attorney or any member of a law firm who is counsel of record in the case within the fourth degree of consanguinity or affinity;
>
> (e) The Member of the Court was executor, administrator, guardian or trustee in the case; and
>
> (f) the Member of the Court was an official or is the spouse of an official or former official of a government agency or private entity that is a party to the case, and the Justice or his or her spouse has reviewed or acted on any matter relating to the case.
>
> A Member of the Court may in the exercise of his or her sound discretion, inhibit himself or herself for a just or valid reason other than any of those mentioned above.

None of Marcos and the Solicitor General's arguments cited a clear ground to warrant Justice Leonen's inhibition under the Rules. There were no prior proceedings where he may have participated. He had no professional engagement with, pecuniary interest relative to, or relation within the sixth degree of consanguinity or affinity to any of the parties or their counsels.

Marcos urges Justice Leonen to voluntarily inhibit. However, a movant seeking the inhibition of a magistrate is duty-bound to present clear and convincing evidence of bias to justify such request. Marcos failed to do so.

Alleging delay in this case, Marcos cited R.A. No. 1793, Section 3, which provides that the Presidential Electoral Tribunal shall decide the contest within twenty months after it is filed.

The provision which Marcos cited is no longer good law. Administrative Matter No. 10-4-29-SC, otherwise known as The 2010 Rules of the Presidential Electoral Tribunal governs this Tribunal's proceedings. Rule 67 thereof provides that "in rendering its decision, the Tribunal shall follow the procedure prescribed for the Supreme Court in Sections 13 and 14, Article VIII of the Constitution." There is no rule requiring that an election protest should be decided within twenty (20) months or twelve (12) months. The allegation of undue delay is severely unfounded.

Marcos' claims that Justice Leonen lobbied for the dismissal of his protest is belied by this Tribunal's October 15, 2019 Resolution which released the results of the revision and appreciation of ballots from Marcos's pilot provinces. The final tally showed an increase of Robredo's lead over Marcos.

Despite the results of the revision and appreciation process, Justice Leonen did not vote for the immediate dismissal of this protest. Instead, he joined the majority in directing the parties to file their respective memoranda on the results and on Marcos' Third Cause of Action to protect the parties' right to due process. Clearly, Justice Leonen's votes in the present case do not support Marcos's narrative of a partial and vengeful magistrate who had already prejudged Marcos and his entire family.

Marcos and the Solicitor General's ground to inhibit Justice Leonen for dissenting in *Ocampo v. Enriquez* fails to persuade.

First, Marcos is not President Marcos. They are two different people. All the quoted portions of Justice Leonen's opinion which are allegedly biased against President Marcos are irrelevant here.

Second, when Justice Leonen analyzed the arguments, weighed the evidence, and arrived at a conclusion in that case, he was not exhibiting bias. Rather, he was exercising his judicial function. To put in elementary terms, he was simply doing his job. In the same manner, when the other Justices voted for the majority, they were not exhibiting bias but merely exercising their judicial functions.

Justice Leonen's description of President Marcos' regime and its effect on the nation was based on law, history, and jurisprudence. The Supreme Court has

repeatedly described the Marcos regime as authoritarian referred to "the Marcoses and their cronies"; acknowledged the illegal wealth the Marcoses stashed away which the government has been attempting to recover, and noted the suffering the Marcos regime had wrought on the Filipino people. Moreover, the assessment in Justice Leonen's dissenting opinion is supported not only by jurisprudence, but by Republic Act No. 10368, or the Human Rights Victims Reparation and Recognition Act of 2013.

To move for the inhibition of a justice because of a perceived notion of bias or partiality against a party based on past decisions would not hold water. Ironically, it was Marcos himself who gave evidence of Justice Leonen's impartiality when he cited a case where Justice Leonen voted for members of the Marcos family.

Drafts yet to be voted on are confidential because they merely form part of the internal deliberations of the Supreme Court, and may later change. They may be adopted by the Member-in-Charge, ripen to a concurring or dissenting opinion, or withdrawn altogether. Until the members of the Court vote on a matter, a position in a draft is temporary. Therefore, drafts for the Court's deliberations should not be taken against any Justice who, again, is simply doing his or her job.

Certain information "contained in the records of cases before the Supreme Court are considered confidential and exempt from disclosure." Court deliberations are generally considered to be privileged communication, making it one of the exceptions to the constitutional right to information. Unauthorized disclosure, sharing, publication, or use of confidential documents or any of its contents is classified as a grave offense.

The Tribunal could have proceeded to the issuance of show cause orders against the Solicitor General and Canlas for procuring, aiding and encouraging the leakage of sensitive and confidential materials. However, in order that this Tribunal may be in a better position to focus on the merits of the issues raised by the parties in this already contentious case, the Tribunal for now sees fit to remind the parties that the deliberative process privilege enjoys absolute confidentiality and exhorts them to accord it respect.