**JURISDICTION**

Vivencio filed a petition for certiorari with the Supreme Court alleging that the decision rendered by the Sharia District Court is void for lack of jurisdiction over the subject matter. He asserts that he is a Christian which means that the Sharia District Court does not have any jurisdiction to rule on the matter. The Supreme Court ruled that Article 143 of the Muslim Code would reveal that Sharia courts has jurisdiction over real actions when the parties are both Muslims. The fact that the Sharia courts have concurrent jurisdiction with the regular courts in cases of actions involving real property means that jurisdiction may only be exercised by the said courts when the action involves parties who are both Muslims. In cases where one of the parties is a non-muslim, the Shariah Courts cannot exercise jurisdiction over it. It would immediately divest the Shariah court jurisdiction over the subject matter. **VIVENCIO B. VILLAGRACIA vs. FIFTH (5th) SHARI'A DISTRICT COURT and ROLDAN E. MALA, represented by his father HadjiKalam T. Mala, G.R. No. 188832, April 23, 2014, J. Leonen**

Petitioners were correct when they argued that upon Macaria Berot’s death, her legal personality ceased, and she could no longer be impleaded as respondent in the foreclosure suit. It is also true that her death opened to her heirs the succession of her estate, which in this case was an intestate succession. However, it can be gleaned from the records of the case that petitioners did not object when the estate of Macaria was impleaded as respondent in the foreclosure case. Petitioners did not object either when the original Complaint was amended and respondent impleaded him as the administrator of Macaria’s estate, in addition to his being impleaded as an individual respondent in the case. Thus, the trial and appellate courts were correct in ruling that, indeed, petitioners impliedly waived any objection to the trial court’s exercise of jurisdiction over their persons at the inception of the case. **SPOUSES RODOLFO BEROT AND LILIA BEROT vs. FELIPE C. SIAPNO, G.R. No. 188944, July 9, 2014, CJ. Sereno**

Generally, the court should only look into the facts alleged in the complaint to determine whether a suit is within its jurisdiction. There may be instances, however, when a rigid application of this rule may result in defeating substantial justice or in prejudice to a party’s substantial right. In Marcopper Mining Corp. vs. Garcia, [the Court] allowed the RTC to consider, in addition to the complaint, other pleadings submitted by the parties in deciding whether or not the complaint should be dismissed for lack of cause of action. In Guaranteed Homes, Inc. vs. Heirs of Valdez, et al., [the Court] held that the factual allegations in a complaint should be considered in tandem with the statements and inscriptions on the documents attached to it as annexes or integral parts.

In the present case, [the Court finds] reason not to strictly apply the above-mentioned general rule, and to consider the facts contained in the Declaration of Real Property attached to the complaint in determining whether the RTC had jurisdiction over the Esperanza’s case. A mere reference to the attached document could facially resolve the question on jurisdiction and would have rendered lengthy litigation on this point unnecessary. **ESPERANZA TUMPAG, SUBSTITUTED BY HER SON, PABLITO TUMPAG BELNAS, JR. vs. SAMUEL TUMPAG, G.R. No. 199133, September 29, 2014, J. Brion**

The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted from their jurisdiction. The violation of a party’s right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction. **APO CEMENT CORPORATION vs. MINGSON MINING INDUSTRIES CORPORATION G.R. No. 206728, November 12, 2014, J. Perlas-Bernabe**

The Court reiterates its ruling in Crespo v. Mogul stating that, “[t]he rule therefore in this jurisdiction is that once a complaint or information is filed in Court any disposition of the case as its dismissal or the conviction or acquittal of the accused rests in the sound discretion of the Court. Although the fiscal retains the direction and control of the prosecution of criminal cases even while the case is already in Court he cannot impose his opinion on the trial court. The Court is the best and sole judge on what to do with the case before it. The determination of the case is within its exclusive jurisdiction and competence. A motion to dismiss the case filed by the fiscal should be addressed to the Court who has the option to grant or deny the same. It does not matter if this is done before or after the arraignment of the accused or that the motion was filed after a reinvestigation or upon instructions of the Secretary of Justice who reviewed the records of the investigation.”

The Voluntary Arbitrator has no competence to rule on the taxability of the gas allowance and on the propriety of the withholding of tax. These issues are clearly tax matters, and do not involve labor disputes. To be exact, they involve tax issues within a labor relations setting as they pertain to questions of law on the application of Section 33 (A) of the NIRC. They do not require the application of the Labor Code or the interpretation of the MOA and/or company personnel policies. The company and the union cannot agree or compromise on the taxability of the gas allowance. Taxation is the State’s inherent power; its imposition cannot be subject to the will of the parties. **HONDA CARS PHILIPPINES, INC., vs. HONDA CARS TECHNICAL SPECIALIST AND SUPERVISORS UNION, G.R. No. 204142, November 19, 2014, J. Brion**

The Court of Appeals has jurisdiction over orders, directives and decisions of the Office of the Ombudsman in administrative disciplinary cases only. It cannot, therefore, review the orders, directives or decisions of the Office of the Ombudsman in criminal or non-administrative cases.

Bunag-Cabacungan's contention that the phrase "in all other cases" has removed the distinction between administrative and criminal cases of the Ombudsman is ludicrous. It must be stressed that the above-quoted Section 7 is provided under Rule III, which deals with the procedure in administrative cases. When Administrative Order No. 07 was amended by Administrative Order No. 17, Section 7 was retained in Rule III. It is another rule, Rule II, which provides for the procedure in criminal cases. Thus, the phrase "in all other cases" still refers to administrative cases, not criminal cases, where the sanctions imposed are different from those enumerated in Section 7. It is important to note that the petition filed by Bunag-Cabacungan in CA-G.R. SP No. 86630 assailed only the "administrative decision" rendered against her by the OMB for Luzon. **FELICIANO B. DUYON, SUBSTITUTED BY HIS CHILDREN vs. THE FORMER SPECIAL FOURTH DIVISION OF THE COURT OF APPEALS AND ELEONOR P. BUNAG-CABACUNGAN, G.R. No. 172218, November 26, 2014, J. Leonardo-De Castro**

In subsequent cases, the Court clarified that Crespo does not bar the Justice Secretary from reviewing the findings of the investigating prosecutor in the exercise of his power of control over his subordinates. The Justice Secretary is merely advised, as far as practicable, to refrain from entertaining a petition for review of the prosecutor's finding when the Information is already filed in court. In other words, the power or authority of the Justice Secretary to review the prosecutor's findings subsists even after the Information is filed in court. The court, however, is not bound by the Resolution of the Justice Secretary, but must evaluate it before proceeding with the trial. While the ruling of the Justice Secretary is persuasive, it is not binding on courts. **ORTIGAS & COMPANY LIMITED PARTNERSHIP VS. JUDGE TIRSO VELASCO AND DOLORES V. MOLINA/DOLORES V. MOLINA VS. HON. PRESIDING JUDGE OF RTC, QUEZON CITY, BR. 105 AND MANILA BANKING CORPORATION/DOLORES V. MOLINA VS. THE HONORABLE COURT OF APPEALS AND EPIMACO ORETA/THE MANILA BANKING CORPORATION AND ALBERTO V. REYES VS. DOLORES V. MOLINA AND HON. MARCIANO BACALLA, ETC. G.R. No. 109645/G.R. No. 112564/G.R. No. 128422/G.R. No. 128911. January 21, 2015, J. Leonen**

**CIVIL PROCEDURE**

**CAUSE OF ACTIONS**

A cause of action is a formal statement of the operative facts that give rise to a remedial right. The question of whether the complaint states a cause of action is determined by its averments regarding the acts committed by the defendant. Thus it "must contain a concise statement of the ultimate or essential facts constituting the plaintiff’s cause of action." Failure to make a sufficient allegation of a cause of action in the complaint "warrants its dismissal." A perusal of the complaint would show that aside from the fact that respondent spouses had mortgaged the property subject herein to respondent bank, there is no other allegation of an act or omission on the part of respondent Bank in violation of a right of petitioner. The RTC is, therefore, correct in dismissing the case for failure to state cause of action. **EMILIANO S. SAMSON vs. SPOUSES JOSE and GUILLERMINA GABOR, TANAY RURAL BANK, INC., and REGISTER OF DEEDS OF MORONG, RIZAL G.R. No. 182970, July 23, 2014, J. Peralta**

The petitioner Lourdes Suites filed a complaint for collection of sum of money against the respondent Noemi Binaro. After the presentation of the evidence, the Metropolitan Trial Court found that there is lack of cause of action against Binaro as there was an insufficiency of evidence presented by Lourdes Suites against Binaro. Hence, it dismissed the complaint. After the presentation of the evidence, the Metropolitan Trial Court found that there is lack of cause of action against Binaro as there was an insufficiency of evidence presented by Lourdes Suites against Binaro. Hence, it dismissed the complaint. The Supreme Court ruled that failure to state a cause of actionand lack of cause of action are really different from each other. On the one hand, failure to state a cause of action refers to the insufficiency of the pleading, and is a ground for dismissal under Rule 16 ofthe Rules of Court. On the other hand, lack of cause [of] action refers to a situation where the evidence does not prove the cause of action alleged inthe pleading. **LOURDES SUITES (Crown Hotel Management Corporation) vs. NOEMI BINARO G.R. No. 204729, August 6, 2014, J. Carpio**

Pag-IBIG requested the intervention of the trial court through a letter on the alleged anomalous auction sale conducted. The Court ruled that the trial court did not acquire jurisdiction over the case since no proper initiatory pleading was filed. Said letter could not in any way be considered as a pleading. Also, no docket fees were paid before the trial court. Rule 141 of the Rules of Court mandates that “upon the filing of the pleading or other application which initiates an action or proceeding, the fees prescribed shall be paid in full.” **EDUARDO D. MONSANTO, DECOROSO D. MONSANTO, SR., and REV. FR. PASCUAL D. MONSANTO, JR. vs. LEONCIO LIM and LORENZO DE GUZMAN G.R. No.178911, September 17, 2014, J. Del Castillo**

A complaint states a cause of action if it sufficiently avers the existence of the three (3) essential elements of a cause of action, namely: (a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (b) an obligation on the part of the named defendant to respect or not to violate such right; and (c) an act or omission on the part of the named defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages. If the allegations of the complaint do not state the concurrence of these elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action. It is well to point out that the plaintiff’s cause of action should not merely be "stated" but, importantly, the statement thereof should be "sufficient." This is why the elementary test in a motion to dismiss on such ground is whether or not the complaint alleges facts which if true would justify the relief demanded. As a corollary, it has been held that only ultimate facts and not legal conclusions or evidentiary facts are considered for purposes of applying the test. This is consistent with Section 1, Rule 8 of the Rules of Court which states that the complaint need only allege the ultimate facts or the essential facts constituting the plaintiff’s cause of action. A fact is essential if they cannot be stricken out without leaving the statement of the cause of action inadequate. Since the inquiry is into the sufficiency, not the veracity, of the material allegations, it follows that the analysis should be confined to the four corners of the complaint, and no other. **ELIZA ZUNIGA-SANTOS,\* represented by her Attorney-in Fact, NYMPHA Z. SALES vs.** **MARIA DIVINA GRACIA SANTOS-GRAN\*\* and REGISTER OF DEEDS OF MARIKINA CITY G.R. No. 197380, October 8, 2014, J. Perlas-Bernabe**

For an action to quiet title to prosper, two indispensable requisites must be present, namely: "(1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy." Petitioners’ lack of equitable title denies them the standing to institute a case for quieting of title. **RESIDENTS OF LOWER ATAB & TEACHERS' VILLAGE, STO. TOMAS PROPER BARANGAY, BAGUIO CITY, represented by BEATRICE T. PULAS, CRISTINA A. LAPP AO. MICHAEL MADIGUID, FLORENCIO MABUDYANG and FERNANDO DOSALIN vs. STA. MONICA INDUSTRIAL & DEVELOPMENT CORPORATION, G.R. No. 198878, October 15, 2014, J. Del Castillo**

A complaint is said to assert a sufficient cause of action if, admitting what appears solely on its face to be correct, the plaintiff would be entitled to the relief prayed for. Accordingly, if the allegations furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed, regardless of the defenses that may be averred by the defendants. Petitioners are pushing the case too far ahead of its limits. They are themselves determining that the issue is whether the properties of the corporation can be included in the inventory of the estate of the decedent when the only question to be resolved in a demurrer to evidence is whether based on the evidence, respondents, as already well put in the prior Chua Suy Phen case, have a right to share in the ownership of the corporation. **CAPITOL SAWMILL CORPORATION and COLUMBIA WOOD INDUSTRIES CORPORATION vs. CONCEPCION CHUA GAW, ANGELO CHUA GAW, JOHN BARRY CHUA GAW, LEONARD BRANDON CHUA GAW and JULITA C. CHUA G.R. No. 187843, June 9, 2014, J. PEREZ**

When a party states the circumstances in the complaint of dispossession of a property through force, intimidation and threat, the nature of the case shall be that of forcible entry. It is the allegations in the complaint that determines the nature of the case. **HOMER C. JAVIER, REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN, SUSAN G. CANENCIA vs. SUSAN LUMONTAD G.R. No. 203760, December 3, 2014, J. Perlas-Bernabe**

The nature of the cause of action is determined by the facts alleged in the complaint. Three essential elements must be shown to establish a cause of action. In this case, the legal rights of the petitioner Bank and the correlative legal duty of LCDC have not been sufficiently established in view of the failure of the Bank's evidence to show the provisions and conditions that govern its legal relationship. **METROPOLITAN BANK AND TRUST COMPANY vs. LEY CONSTRUCTION AND DEVELOPMENT CORPORATION, G.R. No.185590, December 03, 2014, J. Leonardo-De Castro**

**PARTIES TO A CIVIL ACTION**

The RTC issued an order denying the petitioners’ motion for leave to lititgate as indigents. Petitioners argue that respondent judge did not conduct the proper hearing as prescribed under Section 21, Rule 3 of the Rules of Court. They claim that private respondents neither submitted evidence nor were they required by respondent judge to submit evidence in support of their motions on the issue of indigency of petitioners. The Supreme Court ruled that the hearing requirement, contrary to petitioners’ claim, was complied with during the hearings on the motions to dismiss filed by respondents. In said hearings, petitioners’ counsel was present and they were given the opportunity to prove their indigency. Clearly, their non-payment of docket fees is one of the grounds raised by respondents in their motions to dismiss and the hearings on the motions were indeed the perfect opportunity for petitioners to prove that they are entitled to be treated as indigent litigants and thus exempted from the payment of docket fees as initially found by the Executive Judge. **FELIPE JHONNY A. FRIAS, JR. AND HEIRS OF ROGELIO B. VENERACION vs. THE HONORABLE EDWIN D. SORONGON, ASSISTING JUDGE, BRANCH 211, REGIONAL TRIAL COURT, MANDALUYONG CITY; FIRST ASIA REALTY DEVELOPMENT CORPORATION AND/OR SM PRIME HOLDINGS, INC., AND ORTIGAS & COMPANY LIMITED PARTNERSHIP G.R. No. 184827, February 11, 2015, J. Villarama**

Olympia is a separate being, or at least should be treated as one distinct from the personalities of its owners, partners or even directors.  Under the doctrine of processual presumption, this Court has to presume that Hong Kong laws is the same as that of the Philippines particularly with respect to the legal characterization of Olympia’s legal status as an artificial person.  Elementary is the rule that under Philippine corporate and partnership laws, a corporation or a partnership possesses a personality separate from that of its incorporators or partners.  Olympia should, thus, be accorded the status of an artificial being at least for the purpose of this controversy.

On that basis, Olympia’s interest should be detached from those of directors Paragas, Lobrin, Datoy, and even David. Individual directors interests are merely indirect, contingent and inchoate. Because Olympia’s involvement in the compromise was not the same as that of the other parties who were, in the first place, never part of it, the compromise agreement could not have the force and effect of a judgment binding upon the litigants, specifically Datoy and Paragas. Conversely, the judicially approved withdrawal of the claims on the basis of that compromise could not be given effect for such agreement did not concern the parties in the civil case. **DAVID M. DAVID** **vs.** **FEDERICO M. PARAGAS, JR.** **G.R. No. 176973, February 25, 2015, J. Mendoza**

With regard to actions for partition, the Rules of Court requires that all persons interested in the property shall be joined as defendants. The Court ruled that the co-heirs to the subject property are indispensable parties. The Court also held that the CA erred in ordering the dismissal of the complaint on account of Santiago’s failure to implead all the indispensable parties in his complaint. In instances of non-joinder of indispensable parties, the proper remedy is to implead them and not to dismiss the case. The non-joinder of indispensable parties is not a ground for the dismissal of an action. **MA. ELENA R. DIVINAGRACIA, as Administratrix of the ESTATE OF THE LATE SANTIAGO C. DIVINAGRACIA vs. CORONACION PARILLA, CELESTIAL NOBLEZA, CECILIA LELINA, CELEDONIO NOBLEZA, and MAUDE NOBLEZA** **G.R. No. 196750, March 11, 2015, J. Perlas-Bernabe**

An indispensable party is one who has an interest in the controversy or subject matter and in whose absence there cannot be a determination between the parties already before the court which is effective, complete or equitable. Such that, when the facilities of a corporation, including its nationwide franchise, had been transferred to another corporation by operation of law during the time of the alleged delinquency, the former cannot be ordered to pay as it is not the proper party to the case. In this case, the transferees are certainly the indispensable parties to the case that must be necessarily included before it may properly go forward. **NATIONAL POWER CORPORATION vs. PROVINCIAL GOVERNMENT OF BATAAN, SANGGUNIANG PANLALAWIGAN OF BATAAN, PASTOR B. VICHUACO (IN HIS OFFICIAL CAPACITY AS PROVINCIAL TREASURER OF BATAAN) and THE REGISTER OF DEEDS OF THE PROVINCE OF BATAAN G.R. No. 180654, April 21, 2014, J. Abad**

It should be borne in mind that the action for revival of judgment is a totally separate and distinct case from the original civil case for partition. As explained in Saligumba v. Palanog, “An action for revival of judgment is no more than a procedural means of securing the execution of a previous judgment which has become dormant after the passage of five years without it being executed upon motion of the prevailing party. It isnot intended to re-open any issue affecting the merits of the judgment debtor's case nor the propriety or correctness of the first judgment. An action for revival of judgment is a new and independent action, different and distinct fromeither the recovery of property case or the reconstitution case [in this case, the original action for partition], wherein the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered.”With the foregoing in mind, it is understandable that there would be instances where the parties in the original case and in the subsequent action for revival of judgment would not be exactly the same. The mere fact that the names appearing as parties in the complaint for revival of judgment are different from the names of the parties in the original case would not necessarily mean that they are not the real parties-in-interest. What is important is that, as provided in Section 1, Rule 3 of the Rules of Court, they are "the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit." Definitely, as the prevailing parties in the previous case for partition, the plaintiffs in the case for revival of judgment would be benefited by the enforcement of the decision in the partition case. **PETRONIO CLIDORO, et al., vs.** **AUGUSTO JALMANZAR, et al.** **G.R. No. 176598, July 9, 2014, J. Peralta**

Under our procedural rules, “a case is dismissible for lack of personality to sue upon proof that the plaintiff is not the real party-in-interest, hence grounded on failure to state a cause of action.” In this case, the corporation that initiated the complaint for B.P. 22 is different from the corporation that filed the memorandum at the RTC and the petition for review before the CA. The RTC Decision absolving petitioner from civil liability has attained finality, since no appeal was interposed by a real party-in-interest. **GERVE MAGALLANES vs. PALMER ASIA, INC. G.R. No. 205179, July 18, 2014, J. Carpio**

Under Section 1, Rule 45 of the Rules of Court, only real parties-in-interest who participated in the litigation of the case before the CA can avail of an appeal by certiorari. The Secretary of Labor is not the real party-in-interest vested with personality to file the present petitions. A real party-in-interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. As thus defined, the real parties-in-interest in these cases would have been PALCEA-SUPER and PJWU-SUPER. It would have been their duty to appear and defend the ruling of the Secretary of Labor for they are the ones who were interested that the same be sustained. As to the Secretary of Labor, she was impleaded in the Petitions for Certiorari filed before the CA as a nominal party because one of the issues involved therein was whether she committed an error of jurisdiction. But that does not make her a real party-in-interest or vests her with authority to appeal the Decisions of the CA in case it reverses her ruling. **REPUBLIC OF THE PHILIPPINES vs. NAMBOKU PEAK, INC. G.R. No. 169745, July 18, 2014, J. Del Castillo**

The petitioner Association of Flood Victims and its representative Jaime Hernandez filed a petition for certiorari and mandamus before the court assailing Resolution No. 12-0859. The Supreme Court ruled that under Sections 1 and 2 of Rule 3 of the Rules of Court, only natural and juridical persons or entities authorized by law may be parties to a civil action, which must be prosecuted and defended by a real party-in-interest. A real party-in-interest is the person who stands benefitted or injured to the outcome of the case or is entitled to the avails of the suit. Moreover, under Section 4, Rule 8 of the Rules of Court the facts showing the capacity of a party to sue or be sued or the authority of the party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. **ASSOCIATION OF FLOOD VICTIMS and JAIME AGUILAR HERNANDEZvs.COMMISSION ON ELECTIONS, ALAY BUHAY COMMUNITY DEVELOPMENT FOUNDATION, INC., and WESLIE TING GATCHALIAN G.R. No. 203775, August 5, 2014, J. Carpio**

Verily, where a transfer of interest was effected before the commencement of the suit – as in this case – the transferee must necessarily be the plaintiff (or defendant, as the case may be) as it is he who stands to be benefited or injured by the judgment in the suit. Thus, on the supposition that they were the case’s plaintiffs, Sps. Nazal should bear the obligation imputed by the RTC upon Tito to diligently and expeditiously prosecute the action within a reasonable length of time. The RTC, however, pointed out that Sps. Nazal failed in this regard. **MAJESTIC FINANCE AND INVESTMENT CO., INC.,** **vs.** **JOSE D. TITO** & **ORNELIO MENDOZA and PAULINA CRUZ** **vs.** **JOSE NAZAL and ROSITA NAZAL** **G.R. No. 197442, October 22, 2014**, **J. Estela Perlas-Bernabe**

The fact that one of the respondents did not file their answer to the complaint does not divest the court of jurisdiction. So long as the case has been prosecuted against the indispensable parties, the court retains its jurisdiction. **ANNIE GERONIMO, SUSAN GERONIMO and SILVERLAND ALLIANCE CHRISTIAN CHURCH vs. SPS. ESTELA C. CALDERON and RODOLFO T. CALDERON G.R. No. 201781, December 10, 2014, J. Villarama Jr.**

**INDISPENSABLE PARTY**

The Court reiterated that  an indispensable party is a party-in-interest without whom no final determination can be had of an action, and who shall be joined either as plaintiffs or defendants. The joinder of indispensable parties is mandatory. The presence of indispensable parties is necessary to vest the court with jurisdiction, which is “the authority to hear and determine a cause, the right to act in a case.”

Considering that David was asking for judicial determination of his rights in Olympia, it is without a doubt, an indispensable party as it stands to be injured or benefited by the outcome of the main proceeding. It has such an interest in the controversy that a final decree would necessarily affect its rights.  Not having been impleaded, Olympia cannot be prejudiced by any judgment where its interests and properties are adjudicated in favor of another even if the latter is a beneficial owner. It cannot be said either to have consented to the judicial approval of the compromise, much less waived substantial rights, because it was never a party in the proceedings. **DAVID M. DAVID** **vs.** **FEDERICO M. PARAGAS, JR., G.R. No. 176973, February 25, 2015, J. Mendoza**

**VENUE**

Briones filed a complaint directly assailing the validity of the subject contracts, claiming forgery in their execution. However, Cash Asia filed a Motion to Dismiss on the ground of improper venue. In this regard, Cash Asia pointed out the venue stipulation in the subject contracts which is Malati Cityand as such, Briones’s complaint should be dismissed for having been filed in the City of Manila.  The Court ruled that a complaint directly assailing the validity of the written instrument itself should not be bound by the exclusive venue stipulation contained therein and should be filed in accordance with the general rules on venue. **VIRGILIO C. BRIONES vs. COURT OF APPEALS and CASH ASIA CREDIT CORPORATION** **G.R. No. 204444, January 14, 2015, J. Perlas-Bernabe**

Lozada filed an application and confirmation of title over a parcel of land before RTC of Makati. The application was approved by the said court. Within a year from the issuance of the aforementioned decree, Bracewell filed a nullification of the degree before RTC Las Piñas which was given by the said court. Lozada questioned the jurisdiction of RTC Las Piñas in cognizing the matter. In upholding the jurisdiction of RTC Las Piñas, the Supreme Court ruled that jurisdiction over an application for land registration is still vested on the CFI (now, RTC) of the province or city where the land is situated. Since the land is situated in Las Piñas, it is proper that the cancellation of the decree was filed before RTC Las Piñas. **NICOMEDES J. LOZADA vs. EULALIA BRACEWELL, EDDIE BRACEWELL, ESTELLITA BRACEWELL, JAMES BRACEWELL, EDWIN BRACEWELL, BRACEWELL, JOHN ERIC BRACEWELL, and HEIRS OF GEORGE BRACEWELL** **G.R. No. 179155, April 2, 2014, J. Perlas-Bernabe**

**PLEADINGS**

**Allegations in the Pleadings and Counterclaims**

Petitioners filed counterclaim against respondents. However, the latter alleged that the dismissal of the main action results to the dismissal of the counterclaims. The Court ruled that as the rule now stands, the nature of the counterclaim notwithstanding, the dismissal of the complaint does not ipso jure result in the dismissal of the counterclaim, and the latter may remain for independent adjudication of the court, provided that such counterclaim, states a sufficient cause of action and does not labor under any infirmity that may warrant its outright dismissal. Stated differently, the jurisdiction of the court over the counterclaim that appears to be valid on its face, including the grant of any relief thereunder, is not abated by the dismissal of the main action. The court’s authority to proceed with the disposition of the counterclaim independent of the main action is premised on the fact that the counterclaim, on its own, raises a novel question which may be aptly adjudicated by the court based on its own merits and evidentiary support. **VIRGINIA S. DIO and H.S. EQUITIES, LTD vs. SUBIC BAY MARINE EXPLORATORIUM, INC., represented by its Chairman and Chief Executive Officer, TIMOTHY DESMOND G.R. No. 189532, June 11, 2014, J. Perez**

The jurisdiction of a court over the subject matter of a particular action is determined by the plaintiff’s allegations in the complaint and the principal relief he seeks in the light of the law that apportions the jurisdiction of courts. In this case, TRY Foundation is actually seeking to recover the possession and ownership of the subject property from PWCTUI and not merely the cancellation of PWCTUI’s TCT. As such, recovery of possession and ownership of the subject property cannot be settled by filing a mere petition for cancellation of title under Section 108 of P.D. No. 1529. **PHILIPPINE WOMAN’S CHRISTIAN TEMPERANCE UNION, INC. vs. TEODORO R. YANGCO 2ND AND 3RD GENERATION HEIRS FOUNDATION, INC. G.R. No. 199595, April 2, 2014, J. Reyes**

Under the 1997 Rules of Civil Procedure, it is now explicitly provided that the dismissal of the complaint due to failure of the plaintiff to prosecute his case is "without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action." Since petitioner’s counterclaim is compulsory in nature and its cause of action survives that of the dismissal of respondent’s complaint, then it should be resolved based on its own merits and evidentiary support. **AIDA PADILLA vs. GLOBE ASIATIQUE REALTY HOLDINGS CORPORATION, FILMAL REALTY CORPORATION, DELFIN S. LEE and DEXTER L. LEE G.R. No. 207376,  August 6, 2014, J. Villarama, Jr.**

Where the plaintiff does not prove her alleged tolerance of the defendant's occupation, the possession is deemed illegal from the beginning. Hence, the action for unlawful detainer is an improper remedy. But the action cannot be considered as one for forcible entry without any allegation in the complaint that the entry of the defendant was by means of force, intimidation, threats, strategy or stealth. **FE U. QUIJANO vs.** **ATTY. DARYLL A. AMANTE** **G.R. No. 164277, October 8, 2014, J. Bersamin**

In an earlier ruling, the Court had stated that a pleading should state the ultimate facts essential to the rights of action or defense asserted, as distinguished from mere conclusions of fact, or conclusions of law. General allegations that a contract is valid or legal, or is just, fair, and reasonable, are mere conclusions of law. Likewise, allegations that a contract is void, voidable, invalid, illegal, ultra vires, or against public policy, without stating facts showing its invalidity, are mere conclusions of law. Hence, when the petitioner merely stated a legal conclusion, he amended complaint presented no sufficient allegation upon which the Court could grant the relief petitioner prayed for. **ELIZA ZUNIGA-SANTOS,\* represented by her Attorney-in Fact, NYMPHA Z. SALES vs. MARIA DIVINA GRACIA SANTOS-GRAN\*\* and REGISTER OF DEEDS OF MARIKINA CITY G.R. No. 197380, October 8, 2014, J. PERLAS-BERNABE**

Respondents, including the plaintiff, filed for joint dismissal of the case. It was granted by the RTC, dismissing also the petitioner’s counterclaim and cross-claim. The Court ruled that petitioner’s preference to have his counterclaim prosecuted in the same action is valid and in accordance with Section 2, Rule 17 of the Rules of Court. A dismissal of an action is different from a mere dismissal of the complaint. Since only the complaint and not the action is dismissed, the defendant in spite of said dismissal may still prosecute his counterclaim in the same action. **LIM TECK CHUAN vs. SERAFIN UY and LEOPOLDA CECILIO, LIM SING CHAN @ HENRY LIM G.R. No. 155701, March 11, 2015, J. Reyes**

**VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING**

The main issue of this case is whether or not there is poper verification of the complaint. Contrary to Uniwide’s claim, the records of the case show that the petition’s verification page contains Trajano’s competent evidence of identity, specifically, Passport No. XX041470. Trajano’s failure to furnish Uniwide a copy of the petition containing his competent evidence of identity is a minor error that this Court may and chooses to brush aside in the interest of substantial justice. This Court has, in proper instances, relaxed the application of the Rules of Procedure when the party has shown substantial compliance with it. In these cases, The court have held that the rules of procedure should not be applied in a very technical sense when it defeats the purpose for which it had been enacted, i.e., to ensure the orderly, just and speedy dispensation of cases **JUAN TRAJANO a.k.a. JOHNNY TRAJANO vs.** **UNIWIDE SALES WAREHOUSE CLUB** **G.R. No. 190253, June 11, 2014, J. Brion**

To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of litis pendentia are present, or whether a final judgment in one case will amount to res judicata in another; otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought. In turn, prior judgment or res judicata bars a subsequent case when the following requisites concur: (1) the former judgment is final; (2) it is rendered by a court having jurisdiction over the subject matter and the parties; (3) it is a judgment or an order on the merits; (4) there is — between the first and the second actions — identity of parties, of subject matter, and of causes of action. As to the third requisite, it has been settled that the dismissal for failure to state a cause of action may very well be considered a judgment on the merits and, thereby, operate as res judicata on a subsequent case. **ABOITIZ EQUITY VENTURES, INC., vs. VICTOR S. CHIONGBIAN, BENJAMIN D. GOTHONG, and CARLOS A. GOTHONG LINES, INC. (CAGLI) G.R. No.197530, July 9, 2014, J. Leonen**

Sisters Lourdes and Cecilia filed a petition to recover possession of a land. However, only Lourdes was the signatory in the verification and certification against forum shopping. Norma questioned the propriety of the petition. The Court then ruled that where the petitioners are immediate relatives, who share a common interest in the property subject of the action, the fact that only one of the petitioners executed the verification or certification of forum shopping will not deter the court from proceeding with the action. **LOURDES C. FERNANDEZ vs. NORMA VILLEGAS and any person acting in her behalf including her family G.R. No. 200191, August 20, 2014, J. Perlas-Bernabe**

There is no question that Ferro Chemicals, Inc. committed forum shopping when it filed an appeal before the Court of Appeals and a petition for certiorari before the SC assailing the same trial court decision. The test for determining the existence of forum shopping is whether the elements of litis pendentia are present, or whether a final judgment in one case amounts to res judicata in another. Thus, there is forum shopping when the following elements are present: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount tores judicata in the action under consideration; said requisites are also constitutive of the requisites for auter action pendant or lis pendens. **ANTONIO M. GARCIA vs. FERRO CHEMICALS, INC.,** **G.R.**No. **172505, October 01, 2014, J. Leonen**

The submission of an SPA authorizing an attorney-in-fact to sign the verification and certification against forum-shopping in behalf of the principal party is considered as substantial compliance with the Rules. At the very least, the SPA should have granted the attorneys-in-fact the power and authority to institute civil and criminal actions which would necessarily include the signing of the verification and certification against forum-shopping. Hence, there is lack of authority to sign the verification and certification of non-forum shopping in the petition filed before the Court of Appeals when the SPA reveals that the powers conferred to attorneys-in-fact only pertain to administrative matters. **ZARSONA MEDICAL CLINIC vs.** **PHILIPPINE HEALTH INSURANCE CORPORATION** **G.R. No. 191225, October 13, 2014, J. Perez**

When there has been a final and executory ruling by the Court, petitioner filing an action for quieting of title constitutes deliberate forum shopping. Forum shopping consists of the following elements:

1. identity of parties, or at least such parties as represent the same interests in both actions;
2. identity of rights asserted and relief prayed for, the relief being founded on the same facts; and
3. the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.

All the elements of forum shopping are present in this case. The parties in G.R. No. 112564 and this case are the same: Molina and TMBC. **ORTIGAS & COMPANY LIMITED PARTNERSHIP** **vs.** **JUDGE TIRSO VELASCO AND DOLORES V. MOLINA, G.R. No. 109645, January 21, 2015, J. Leonen**

There is forum shopping when as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another. The Rules of Court mandates petitioner to submit a Certification Against Forum Shopping and promptly inform the court about the pendency of any similar action or proceeding before other courts or tribunals. Failure to comply with the rule is a sufficient ground for the dismissal of the petition. **STRONGHOLD INSURANCE COMPANY, INC. vs. SPOUSES RUNE AND LEA STROEM G.R. No. 204689, January 21, 2015, J. Leonen**

**FILING AND SERVICE OF PLEADINGS**

When the complainant declared a certain address as its business address in its complaint before the RTC, and that there is dearth of evidence to show that it had since changed its address or had moved out, appellant cannot be faulted for adopting the said address in serving a copy of its certiorari petition in light of the requirement under Sections 3 and 4, Rule 46 of the Rules.It must also be noted that in ordinary civil cases, a conditional appearance to object to a trial court’s jurisdiction over the person of the defendant may be made when said party specifically objects to the service of summons, which is an issuance directed by the court, not the complainant. If the defendant, however, enters a special appearance but grounds the same on the service of the complainant’s initiatory pleading to him, then that would not be considered as an objection to the court’s jurisdiction over his person. It must be underscored that the service of the initiatory pleading has nothing to do with how courts acquire jurisdiction over the person of the defendant in an ordinary civil action. Rather, it is the propriety of the trial court’s service of summons – same as the CA’s service of its resolution indicating its initial action on the certiorari petition – which remains material to the matter of the court’s acquisition jurisdiction over the defendant’s/respondents’ person. Hence, the Court observes that jurisdiction over the person of respondent had already been acquired by the CA through its voluntary appearance by virtue of the Manifestation, filed by its counsel, who, as the records would show, had consistently represented Diamond before the proceedings in the court a quo and even before this Court. **REICON REALTY BUILDERS CORPORATION vs. DIAMOND DRAGON REALTY AND MANAGEMENT, INC., G.R. No. 204796, February 04, 2015, J. Perlas-Bernabe**

Rule 13, Section 2 of the Rules of Court states in part that “if any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court." In the case at bar, Atty. Pilapil was furnished a copy of the motion for execution which states that the trial court rendered a decision, yet petitioner's counsel filed no opposition. At that time, he did not file any motion asserting that he was not furnished a copy of the Decision.  It was only when his client informed him of the Writ of Execution did petitioner's counsel file an Urgent Motion to Vacate the Writ of Execution on the ground that he did not receive a copy of the RTC decision. The receipt of Atty. Pilapil of a copy of the motion for execution amounts to effective official notice of the Regional Trial Court Decision albeit he was not furnished a copy of the Decision. **NESTOR BRACERO vs. RODULFO ARCELO AND THE HEIRS OF VICTORIANO MONISIT G.R. No. 212496, March 18, 2015, J. Leonen**

**PAYMENT OF DOCKET FEES**

The Court may only grant liberal application of technical rules to the party seeking the same only on meritorious grounds and upon proof. The full payment of docket fees is mandatory to perfect an appeal and the rules on payment may only be relaxed after the party has proven that a valid ground exists to warrant the liberal application of the rules, otherwise, the appeal shall be dismissed despite payment of a substantial amount **ALONZO GIPA, IMELDA MARO LLANO, JUANITO LUDOVICE, VIRGILIO GOJIT, DEMAR BIT ANGCOR, FELIPE MONTALBAN AND DAISY M. PLACER vs.** **SOUTHERN LUZON INSTITUTE AS REPRESENTED BY ITS VICE-PRESIDENT FOR OPERATIONS AND CORPORATE SECRETARY, RUBEN G. ASUNCION** **G.R. No.177425, June 18, 2014, J. Del Castillo**

**SUMMONS**

Cathay Metal argued that Laguna West was sufficiently served with summons and a copy of its petition for cancellation of annotations because it allegedly sent these documents to Laguna West's official address as registered with the Cooperative Development Authority. Cathay Metal further argued that the Rules of Procedure cannot trump the Cooperative Code with respect to notices because the Cooperative Code is substantive law, as opposed to the Rules of Procedure, which pertains only to matters of procedure. The Court ruled that the Cooperative Code provisions may govern matters relating to cooperatives’ activities as administered by the Cooperative Development Authority. However, they are not procedural rules that will govern court processes. A Cooperative Code provision requiring cooperatives to have an official address to which all notices and communications shall be sent cannot take the place of the rules on summons under the Rules of Court concerning a court proceeding. **CATHAY METAL CORPORATION vs. LAGUNA WEST MULTI-PURPOSE COOPERATIVE, INC., G.R. No. 172204, July 10, 2014, J. Leonen**

In actions in personam such as ejectment, the court acquires jurisdiction over the person of the defendant through personal or substituted service of summons. Before substituted service of summons is resorted to, the parties must: (a) indicate the impossibility of personal service of summons within a reasonable time; (b) specify the efforts exerted to locate the defendant; and (c) state that the summons was served upon a person of sufficient age and discretion who is residing in the address, or who is in charge of the office or regular place of business of the defendant. The readily acceptable conclusion in this case is that the process server at once resorted to substituted service of summons without exerting enough effort to personally serve summons on respondents. In the case at bar, the Returns contained mere general statements that efforts at personal service were made. Not having specified the details of the attendant circumstances or of the efforts exerted to serve the summons, there was a failure to comply strictly with all the requirements of substituted service, and as a result the service of summons is rendered ineffective. **PRUDENTIAL BANK (now Bank of the Philippine Islands) as the duly appointed ADMINISTRATOR OF THE ESTATE OF JULIANA DIEZ VDA. DE GABRIEL** **vs.** **AMADOR A. MAGDAMIT, JR., on his behalf and as substituted heir (son) of AMADOR MAGDAMIT, SR., and AMELIA F. MAGDAMIT, as substituted heir (Widow) of AMADOR MAGDAMIT, SR.** **G.R. No. 183795, November 12, 2014**, **J. Perez**

Regardless of the type of action — whether it is in personam, in rem or quasi in rem — the preferred mode of service of summons is personal service.  To avail themselves of substituted service, courts must rely on a detailed enumeration of the sheriff’s actions and a showing that the defendant cannot be served despite diligent and reasonable efforts.  The sheriff’s return, which contains these details, is entitled to a presumption of regularity, and on this basis, the court may allow substituted service.  Should the sheriff’s return be wanting of these details, substituted service will be irregular if no other evidence of the efforts to serve summons was presented. Failure to serve summons will mean that the court failed to acquire jurisdiction over the person of the defendant.  However, the filing of a motion for new trial or reconsideration is tantamount to voluntary appearance. **AURORA N. DE PEDRO** **vs.** **ROMASAN DEVELOPMENT CORPORATION G.R. No. 194751, November 26, 2014**, **J.** **Leonen**

Personal service of summons has nothing to do with the location where summons is served. A defendant’s address is inconsequential. Rule 14, Section 6 of the 1997 Rules of Civil Procedure is clear in what it requires: personally handing the summons to the defendant. What is determinative of the validity of personal service is, therefore, the person of the defendant, not the locus of service. **SPOUSES BENEDICT and SANDRA MANUE vs. RAMON ONG G.R. No. 205249, October 15, 2014, J. Leonen**

Substituted service of summons require that the process server should first make several attempts on personal service. "Several attempts" means at least three (3) tries, preferably on at least two different dates. In addition, the sheriff must cite why such efforts were unsuccessful. The date and time of the attempts on personal service, the inquiries made to locate the defendant, the name/s of the occupants of the alleged residence or house of defendant and all other acts done, though futile, to serve the summons on defendant must be specified in the Return to justify substituted service. These matters must be clearly and specifically described in the Return of Summons. Thus, where the server’s return utterly lacks sufficient detail of the attempts undertaken by the process server to personally serve the summons on Ong, a defendant in a case for nullity of marriage; that the return did not describe in detail the person who received the summons, on behalf of Ong, and that her husband, the respondent, failed to indicate any portion of the records which would describe the specific attempts to personally serve the summons, then the substituted service was invalid and the court did not acquire jurisdiction over the person of Ong. Co cannot rely on the presumption of regularity on the part of the process server when, like in the instant case, it is patent that the sheriff's or server's return is defective. **YUK LING ONG vs. BENJAMIN T. CO G.R. No. 206653, February 25, 2015, J. Mendoza**

**MOTIONS**

The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion. There is substantial compliance with the foregoing Rule if a copy of the said motion for reconsideration was furnished to the counsel of the adverse party. **CESAR V. AREZA and LOLITA B. AREZA vs.** **EXPRESS SAVINGS BANK, INC. and MICHAEL POTENCIANO G.R. No. 176697, September 10, 2014, J. Perez**

In every written motion, the three-day notice rule for hearing is not absolute. The purpose of the rule on hearing is to safeguard the adverse party’s right to due process. Thus, if the adverse party was given a reasonable opportunity to study the motion and oppose it, then strict compliance with the three-day notice rule may be dispensed with. Under Section 1 of Rule 45 of the Rules of Court, petitions for review by certiorari "shall raise only questions of law." A question of fact exists when there is a doubt as to the truth of certain facts, and it can only be resolved through a reexamination of the body of evidence. Probable cause is dependent largely on the opinion and findings of the judge who conducted the examination and who had the opportunity to question the applicant and his witnesses. For this reason, the findings of the judge deserve great weight. In the instant case, when the court a quo ordered petitioners to submit their comment on the motion to quash, it was, in effect, giving petitioners their day in court. Thus, while the three-day notice rule was not strictly observed, its purpose was still satisfied when respondent judge did not immediately rule on the motion giving petitioners the opportunity to study and oppose the arguments stated in the motion. **MICROSOFT CORPORATION and ADOBE SYSTEMS INCORPORATED vs. SAMIR FARAJALLAH, VIRGILIO D.C. HERCE, RACHEL P. FOLLOSCO, JESUSITO G. MORALLOS, and MA. GERALDINE S. GARCIA (directors and officers of NEW FIELDS (ASIA PACIFIC), INC.) G.R. No. 205800, September 10, 2014**, **Acting C.J Carpio**

The motion to quash the search warrant which the accused may file shall be governed by the omnibus motion rule, provided, however, that objections not available, existent or known during the proceedings for the quashal of the warrant may be raised in the hearing of the motion to suppress. Obviously, the issue of the defect in the application was available and existent at the time of filing of the motion to quash. **PILIPINAS SHELL PETROLEUM CORPORATION AND PETRON CORPORATION vs. ROMARS INTERNATIONAL GASES CORPORATION G.R. No. 189669, February 16, 2015, J. Peralta**

**DISMISSAL OF ACTIONS**

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Thus, if during the pendency of a petition in the Supreme Court challenging the CA’s issuance of a writ of preliminary injunction in a case for patent infringement, the RTC dismissed the main case but the CA ruled that the respondent is guilty of patent infringement, the issue before the Supreme Court is moot because the CA decision makes permanent the assailed preliminary injunction. Further, the Supreme Court will not tackle the merits of the case as it is premature. **SAHAR INTERNATIONAL TRADING, INC. vs. WARNER LAMBERT CO., LLC and PFIZER, INC. G.R. No. 194872, June 9, 2014, J. Perlas-Bernabe**

The Court previously ruled that an issue becomes moot and academic when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value. In such cases, there is no actual substantial relief to which the plaintiff would be entitled to and which would be negated by the dismissal of the complaint. However, a case should not be dismissed simply because one of the issues raised therein had become moot and academic by the onset of a supervening event, whether intended or incidental, if there are other causes which need to be resolved after trial. When a case is dismissed without the other substantive issues in the case having been resolved would be tantamount to a denial of the right of the plaintiff to due process.

In this case, it reveals that Erlinda did not only pray that BCCC be enjoined from denying her access to the cottage and be directed to provide water and electricity thereon, but she also sought to be indemnified in actual, moral and exemplary damages because her proprietary right was violated by the respondents when they denied her of beneficial use of the property. In such a case, the Court should not have dismissed the complaint and should have proceeded to trial in order to determine the propriety of the remaining claims. **ERLINDA K. ILUSORIO vs. BAGUIO COUNTRY CLUB CORPORATION and ANTHONY R. DE LEON, G.R. No. 179571, July 2, 2014, J. Perez**

In this case, for the RTC to exercise jurisdiction, the assessed value of the subject property must exceed PhP20,000.00. Since petitioners failed to allege in their Complaint the assessed value of the subject property, the CA correctly dismissed the complaint as petitioners failed to establish that the RTC had jurisdiction over it. In fact, since the assessed value of the property was not alleged, it cannot be determined which trial court had original and exclusive jurisdiction over the case.

Furthermore, contrary to the claim of petitioners, the issue of lack of jurisdiction was raised by respondents in their Appellant's Brief. And the fact that it was raised for the first time on appeal is of no moment. Under Sec. 1, Rule 9 of the Revised Rules of Court, defenses not pleaded either in a motion to dismiss or in the answer are deemed waived, except for lack of jurisdiction, litis pendentia, res judicata, and prescription, which must be apparent from the pleadings or the evidence on record. In other words, the defense of lack of jurisdiction over the subject matter may be raised at any stage of the proceedings, even for the first time on appeal. In fact, the court may motu proprio dismiss a complaint at any time when it appears from the pleadings or the evidence on record that lack of jurisdiction exists. **HEIRS OF TELESFORO JULAO, NAMELY, ANITA VDA. DE ENRIQUEZ, SONIA J. TOLENTINO AND RODERICK JULAO vs. SPOUSES ALEJANDRO AND MORENITA DE JESUS, G.R. No. 176020, September 29, 2014, J. Del Castillo**

Rule 17 of the Rules of Civil Procedure governs dismissals of actions at the instance of the plaintiff. Hence, the "two-dismissal rule" under Rule 17, Section 1 of the Rules of Civil Procedure will not apply if the prior dismissal was done at the instance of the defendant. **RAMON CHING AND POWING PROPERTIES, INC. vs.** **JOSEPH CHENG, JAIME CHENG, MERCEDES IGNE AND LUCINA SANTOS G.R. No. 175507, October 8, 2014, J. Leonen**

The Court of Appeals reversed and set aside the decision of the RTC dismissing the complaint filed by the respondents due to failure to prosecute. The petitioner contends that the Court of Appeals erred in reversing the said decision. The Supreme Court ruled that relief is accorded to the client who suffered by reason of the lawyer’s palpable mistake or negligence and where the interest of justice so requires. The Court finds that respondents would be deprived of the opportunity to prove the legitimacy of their claims if the RTC’s dismissal of the case – on a procedural technicality at that, which was clearly caused by the palpable negligence of their counsel – is sustained. **DIANA YAP-CO, Petitioner vs. SPOUSES WILLIAM T. UY AND ESTER GO-UY, G.R. No. 209295, February 11, 2015, J. Perlas-Bernabe**

**PRE-TRIAL**

Contending that the RTC was correct in dismissing the case for failure of respondent to prosecute his case, petitioner filed the instant petition praying that the decision of the CA be set aside. The SC however ruled that respondent had the option to move for pre-trial and if he fails to do so as he did, the branch clerk of court had the duty to have the case set for pre-trial. The Court emphasizes that in the absence of a pattern or scheme to delay the disposition of the case or a wanton failure to observe the mandatory requirement of the rules on the part of the plaintiff, as in the case at bar, courts should decide to dispense with rather than wield their authority to dismiss. **AUGUSTO C. SOLIMAN vs. JUANITO C. FERNANDEZ, IN HIS CAPACITY AS RECEIVER OF SMC PNEUMATICS (PHILS.), INC. G.R. No. 176652, June 4, 2014, J. Perez**

The pattern of delay the pre-trial of the instant case is quite evident from the foregoing. Parañaque Kings clearly trifled with the mandatory character of a pre-trial, which is a procedural device intended to clarify and limit the basic issues raised by the parties and to take the trial of cases out of the realm of surprise and maneuvering. More significantly, a pre-trial has been institutionalized as the answer to the clarion call for the speedy disposition of cases. Hailed as the most important procedural innovation in Anglo-Saxon justice in the nineteenth century, it paves the way for a less cluttered trial and resolution of the case. It is, thus, mandatory for the trial court to conduct pre-trial in civil cases in order to realize the paramount objective of simplifying; abbreviating, and expediting trial. **PARAÑAQUE KINGS ENTERPRISES, INC. vs. CATALINA L. SANTOS, REPRESENTED BY HER ATTORNEY-IN-FACT, LUZ B. PROTACIO AND DAVID R. RAYMUNDO G.R. No. 194638, July 2, 2014, J. Perlas-Bernabe**

Counsel for Metropolitan Bank and Trust Company failed to produce written authorization to represent her client during the pre-trial. The Trial Court rendered Metropolitan in default. In affirming the decision of the Trial Court, the Supreme Court held that where a party may not himself be present at the pretrial, and another person substitutes for him, or his lawyer undertakes to appear not only as an attorney but in substitution of the client’s person, it is imperative for that representative of the lawyer to have “special authority” to make such substantive agreements as only the client otherwise has capacity to make. **ABSOLUTE MANAGEMENT CORPORATION vs.  METROPOLITAN BANK AND TRUST COMPANY G.R. No. 190277, July 23, 2014, J. Villarama, Jr.,**

During pre-trial, if the absent party is the plaintiff, then his case shall be dismissed. If it is the defendant who fails to appear, then the plaintiff is allowed to present his evidence ex parte and the court shall render judgment on the basis thereof. In the case at bench, the petitioners failed to attend the pre-trial conference. They did not even give any excuse for their non-appearance. Thus, the MCTC properly allowed respondent to present evidence ex parte. Thus, the Court can only consider the evidence on record offered by respondent. The petitioners lost their right to present their evidence during the trial and, a fortiori, on appeal due to their disregard of the mandatory attendance in the pre-trial conference. **NEIL B. AGUILAR AND RUBEN CALIMBAS vs.**  **LIGHTBRINGERS CREDIT COOPERATIVE G.R. No. 209605, January 12, 2015, J. Mendoza**

On the procedural aspect, the Court reiterates the rule that the failure to attend the pre-trial conference does not result in the default of an absent party. Under the 1997 Rules of Civil Procedure, a defendant is only declared in default if he fails to file his Answer within the reglementary period.On the other hand, if a defendant fails to attend the pre-trial conference, the plaintiff can present his evidence ex parte.There is no dispute that Spouses Salvador and their counsel failed to attend the pre-trial conference set on February 4, 2005 despite proper notice. Spouses Salvador aver that their non-attendance was due to the fault of their counsel as he forgot to update his calendar. This excuse smacks of carelessness, and indifference to the pre-trial stage. It simply cannot be considered as a justifiable excuse by the Court. As a result of their inattentiveness, Spouses Salvador could no longer present any evidence in their favor. **SPOUSES ROLANDO AND HERMINIA SALVADOR vs. SPOUSES ROGELIO AND ELIZABETH RABAJA AND ROSARIO GONZALES,  G.R. No. 199990, February 04, 2015, J. Mendoza**

**INTERVENTION**

Intervention is never an independent action, but is ancillary and supplemental to the existing litigation. Its purpose is not to obstruct nor unnecessarily delay the placid operation of the machinery of trial, but merely to afford one not an original party, yet having a certain right or interest in the pending case, the opportunity to appear and be joined so he could assert or protect such right or interests. In this case, Pulgar does not contest the RTC's dismissal of Civil Case No. 0587-M for lack of jurisdiction, but oddly maintains his intervention by asking in this appeal a review of the correctness of the subject realty tax assessment. This recourse, the Court, however, finds to be improper since the RTC's lack of jurisdiction over the main case necessarily resulted in the dismissal of his intervention. **FRUMENCIO E. PULGAR vs. THE REGIONAL TRIAL COURT OF MAUBAN, QUEZON, BRANCH 64, QUEZON POWER (PHILIPPINES) LIMITED, CO., PROVINCE OF QUEZON, and DEPARTMENT OF FINANCE G.R. No. 157583, September 10, 2014, J. PERLAS-BERNABE**

**MODES OF DISCOVERY**

Cameron Granville filed a motion for reconsideration of the Court’s April 10, 2013 decision. Cameron Granville posited that the motion for production was filed out of time and that the rule on parole evidence is applicable. However, the Court ruled that the availment of a motion for production, as one of the modes of discovery, is not limited to the pre-trial stage. Rule 27 does not provide for any time frame within which the discovery mode of production or inspection of documents can be utilized. The rule only requires leave of court "upon due application and a showing of due cause." **EAGLE RIDGE DEVELOPMENT CORPORATION, MARCELO N. NAVAL and CRISPIN I. OBEN vs. CAMERON GRANVILLE 3 ASSET MANAGEMENT, INC. G.R. No. 204700, November 24, 2014, J. Leonen**

**JUDGEMENTS AND FINAL ORDERS**

**Immutability of Final and Executory Judgments, Compromise Agreements, Interlocutory Orders, Dispositive Portion of the Judgment, Judgment on the Pleadings, Summary Judgments, Res Judicata**

**Immutability of Final and Executory Judgments**

It is well- settled that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. In this case, the Court concurs with the CA’s view that the Assailed Order had already become final and executory at the time when the NHA sought to have it reconsidered before the court a quo. As evidenced by the registry return receipt on record, the NHA however, moved for reconsideration therefrom only on March 11, 1999, or more than four (4) months from notice. As the motion was filed way beyond the 15-day reglementary period prescribed therefor, the court a quo’s judgment had already lapsed into finality. **NATIONAL HOUSING AUTHORITY VS COURT OF APPEALS, BERNABE NOBLE ET, AL G.R. No. 173802, April 7, 2014, J. PERLAS-BERNABE**

For a judgment to constitute res judicata, the following requisites must concur: (a) the former judgment was final; (b) the court that rendered it had jurisdiction over the subject matter and the parties; (c) the judgment was based on the merits; and (d) between the first and the second actions, there was an identity of parties, subject matters, and causes of action. In the case at bar, the present action arose from a case for quieting of title where the plaintiff must show or prove legal or equitable title to or interest in the property which is the subject-matter of the action. On the other hand, the administrative proceedings before the DENR and now the OP, were instituted on behalf of the Director of Lands, in order to investigate any allegation of irregularity in securing a patent and the corresponding title to a public land under Section 91 of the Public Land Act. While there is identity of parties and subject matter between the instant case and the matter before the DENR and later the OP, the causes of action are not the same. **CHARLIE LIM vs. SPOUSES DANILO LIGON and GENEROSA VITUG-LIGON G.R. No. 183589, June 25, 2014, J. Villarama**

Section 19, Rule 70 of the Rules of Court provides for the immediate execution of judgment in favor of the plaintiff in ejectment cases, which can only be stayed if the defendant perfects an appeal, files a supersedeas bond, and makes periodic deposit of rental or other reasonable compensation for the use and occupancy of the subject premises during the pendency of the appeal. These requirements are mandatory and concurrent, without which execution will issue as a matter of right. **REMEDIOS M. MAULEON vs. LOLINA MORAN PORTER represented by ERVIN C. MORAN G.R. No. 203288, July 18, 2014, J. Perlas-Bernabe**

Well-entrenched in jurisprudence is the rule that factual findings of the trial court, especially when affirmed by the appellate court, are accorded the highest degree of respect and considered conclusive between the parties, save for the following exceptional and meritorious circumstances: (1) when the factual findings of the appellate court and the trial court are contradictory; (2) when the findings of the trial court are grounded entirely on speculation, surmises or conjectures; (3) when the lower court’s inference from its factual findings is manifestly mistaken, absurd or impossible; (4) when there is grave abuse of discretion in the appreciation of facts; (5) when the findings of the appellate court go beyond the issues of the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (6) when there is a misappreciation of facts; (7) when the findings of fact are themselves conflicting; and (8) when the findings of fact are conclusions without mention of the specific evidence on which they are based, are premised on the absence of evidence, or are contradicted by evidence on record.

In the instant case, there is an absence of any record to otherwise prove FSI’s neglect in the fulfillment of its obligations under the contract, this Court shall refrain from reversing the findings of the courts below, which are fully supported by and deducible from, the evidence on record. Indeed, FBI failed to present any evidence to justify its refusal to pay FSI for the works it was contracted to perform. As such, Supreme Court does not see any reason to deviate from the assailed rulings. **FEDERAL BUILDERS, INC. vs. FOUNDATION SPECIALISTS, INC. G.R. No. 194507, September 8, 2014, J. Peralta**

A decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and whether it will be made by the court that rendered it or by the highest court of the land.  There are, however, exceptions to the general rule, namely: (1) the correction of clerical errors; (2) the so-called nunc pro tuncentries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable. In this case, the clarification made by Secretary Pangandaman in his February 2, 2006 Order falls under the fourth exception. **RENATO L. DELFINO, SR. (Deceased), Represented by his Heirs, namely: GRACIA DELFINO, GREGORIO A. DELFINO; MA. ISABEL A. DELFINO, RENATO A. DELFINO, JR., MA. REGINA DELFINO ROSELLA, MA. GRACIA A. DELFINO, MARIANO A. DELFINO, MA. LUISA DELFINO GREGORIO and REV. FR. GABRIELA. DELFINO vs.** **AVELINO K. ANASAO and ANGEL K. ANASAO (Deceased and represented by his sole heir, SIXTO C. ANASAO)** **G.R. No. 197486, September 10, 2014, J. Villarama, Jr.**

Club Filipino, Inc. argued that the court prematurely issued the Entry of Judgment because it still had to resolve the Supplemental Motion for Reconsideration and argued that that the NLRC’s Resolution of the issue constituted res judicata. For the Court to entertain second Motions for Reconsideration, the second Motions must present “extraordinarily persuasive reasons and only upon express leave first obtained.” Once leave to file is granted, the second Motion for Reconsideration is no longer prohibited. **CLUB FILIPINO, INC. and ATTY. ROBERTO F. DE LEON vs.** **BENJAMIN BAUTISTA, et.al** **G.R. No. 168406, January 14, 2015, J. Leonen**

FAJ Construction's claim that res judicata cannot apply has no merit. The Court has repeatedly said that minute resolutions dismissing the actions filed before it constitute actual adjudications on the merits. They are the result of thorough deliberation among the members of the Court. When the Court does not find any reversible error in the decision of the CA and denies the petition, there is no need for the Court to fully explain its denial, since it already means that it agrees with and adopts the findings and conclusions of the CA. **FAJ CONSTRUCTION & DEVELOPMENT CORPORATION vs. SUSAN M. SAULOG March 25, 2015, G.R. No. 200759, J. Del Castillo**

**COMPROMISE AGREEMENTS**

Respondents entered into compromise agreement with the petitioner. It attained finality. However, petitioner questioned its validity. The court ruled that a judgment on compromise agreement is a judgment on the merits. It has the effect of res judicata, and is immediately final and executory unless set aside because of falsity or vices of consent. The doctrine of immutability of judgments bars courts from modifying decisions that have already attained finality, even if the purpose of the modification is to correct errors of fact or law. **NESTOR T. GADRINAB vs. NORAT. SALAMANCA, ANTONIO TALAO AND ELENA LOPEZ G.R. No. 194560, June 11, 2014, J. Leonen**

A compromise agreement is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced. It contemplates mutual concessions and mutual gains to avoid the expenses of litigation; or when litigation has already begun, to end it because of the uncertainty of the result. Its validity is dependent upon the fulfillment of the requisites and principles of contracts dictated by law; and its terms and conditions must not be contrary to law, morals, good customs, public policy, and public order. When given judicial approval, a compromise agreement becomes more than a contract binding upon the parties. Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment. It is immediately executory and not appealable, except for vices of consent or forgery. The nonfulfillment of its terms and conditions justifies the issuance of a writ of execution; in such an instance, execution becomes a ministerial duty of the court. **METRO MANILA SHOPPING MECCA CORP., SHOEMART, INC., SM PRIME HOLDINGS, INC., STAR APPLIANCES CENTER, SUPER VALUE, INC., ACE HARDWARE PHILIPPINES, INC., HEAL TH AND BEAUTY, INC., JOLLIMART PHILS. CORP., and SURPLUS MARKETING CORPORATION, vs MS. LIBERTY M. TOLEDO G.R. No. 190818, November 10, 2014, J. Perlas-Bernabe**

**INTERLOCUTORY ORDER vs. FINAL ORDER OR JUDGMENT**

An order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is “interlocutory,” e.g., an order denying a motion to dismiss under Rule 16 of the Rules x x x Unlike a “final” judgment or order, which is appealable, an “interlocutory” order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case. The RTC Order denying respondents' special and affirmative defenses contained in their answer is no doubt interlocutory since it did not finally dispose of the case but will proceed for the reception of the parties' respective evidence to determine the rights and obligations of each other. **HEIRS OF TIMBANG DAROMIMBANG DIMAAMPAO vs. ATTY. ABDULLAH ALUG, et al., G.R. No. 198223, February 18, 2015, J. Peralta**

**DISPOSITIVE PORTION OF THE JUDGMENT**

A look at the dispositive portion of the decision in CA-G.R. SP No. 97196 would lead us to reasonably conclude that the grant of authority to sell is still good and valid. The October 31, 2006 Omnibus Order of the testate court in so far as it authorizes the sale of the three properties in question was not declared by the Court of Appeals, as null and void. It is axiomatic that it is the dispositive portion of the decision that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations. This Court agree with the CA that the permanent injunction issued under the said decision, as explicitly stated in its fallo, pertained only to the order upholding the grant of letters of administration to and taking of an oath of administration by Silverio, Jr., as otherwise the CA would have expressly set aside as well the directive in the same Omnibus Order allowing the sale of the subject properties. **RICARDO C. SILVERIO, SR. vs. RICARDO S. SILVERIO, JR., CITRINE HOLDINGS, INC., MONICA P. OCAMPO and ZEE2 RESOURCES, INC. G.R. Nos. 208828-29, August 13, 2014, J. Villarama**

The rule is that in case of ambiguity or uncertainty in the dispositive portion of a decision, the body of the decision may be scanned for guidance in construing the judgment. The Court’s silence as to the payment of the legal interests in the dispositive portion of the decision is not tantamount to its deletion or reversal. If such was the intention, it should have also expressly declared its deletion together with its express mandate to remove the award of liquidated damages to UPSI. **UPSI PROPERTY HOLDINGS, INC.** **vs.** **DIESEL CONSTRUCTION CO., INC. G.R. No. 200250, August 06, 2014, J. Mendoza**

**JUDGMENT ON THE PLEADINGS**

The issue in this case is whether or not judgment on the pleading is proper. The court ruled that Judgment on the pleadings is proper when an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party’s pleading. An answer fails to tender an issue if it does not comply with the requirements of a specific denial as set out in Sections 8 and 10, Rule 8 of the 1997 Rules of Civil Procedure, resulting in the admission of the material allegations of the adverse party’s pleadings. **ASIAN CONSTRUCTION AND DEVELOPMENT CORPORATION, vs.** **SANNAEDLE CO., LTD. G.R. No. 181676, June 11, 2014, J. Peralta**

Judgment on the pleadings is proper where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party’s pleading. An answer would “fail to tender an issue” if it does not deny the material allegations in the complaint or admits said material allegations of the adverse party’s pleadings by confessing the truthfulness thereof and/or omitting to deal with them at all. Now, if an answer does in fact specifically deny the material averments of the complaint and/or asserts affirmative defenses (allegations of new matter which, while admitting the material allegations of the complaint expressly or impliedly, would nevertheless prevent or bar recovery by the plaintiff), a judgment on the pleadings would naturally be improper. **TEOFILO B. ADOLFO vs. FE T. ADOLFO G.R. No. 201427, March 18, 2015, J. Del Castillo**.

**SUMMARY JUDGMENT**

A judgment on the pleadings is a judgment on the facts as pleaded, and is based exclusively upon the allegations appearing in the pleadings of the parties and the accompanying annexes.  It is settled that the trial court has the discretion to grant a motion for judgment on the pleadings filed by a party if there is no controverted matter in the case after the answer is filed. A genuine issue of fact is that which requires the presentation of evidence, as distinguished from a sham, fictitious, contrived or false issue. Under Rule 35, on Summary Judgments, the petitioner had recourse to move for summary judgment, wherein it could have adduced supporting evidence to justify its action on the parties’ lease, but it did not do so. **COMGLASCO CORPORATION/AGUILA GLASS** **vs.** **SANTOS CAR CHECK CENTER CORPORATION** **G.R. No. 202989, March 25, 2015, J. Reyes**

When a party moves for summary judgment, this is premised on the assumption that a scrutiny of the facts will disclose that the issues presented need not be tried either because these are patently devoid of substance or that there is no genuine issue as to any pertinent fact. A judgment on the motion must be “rendered forthwith if the pleadings, supporting affidavits, depositions, and admissions on file show that, except as to the amount of damages, there is no genuine issue and that the moving party is entitled to a judgment as a matter of law. A prudent examination of the evidence on record yields to no other conclusion that there exists a genuine issue of fact as raised in both petitions. Hence, the Sandiganbayan erred in granting the motion for summary judgment. **YKR CORPORATION, MA. TERESA J. YULO-GOMEZ, JOSE ENRIQUE J. YULO, MA. ANTONIAJ. YULO-LOYZAGA, JOSE MANUEL J. YULO, MA. CARMEN J. YULO and JOSE MARIAJ. YULO vs. PHILIPPINE AGRI-BUSINESS CENTER CORPORATION G.R. No. 191838, October 20, 2014, J, VIllarama, Jr.**

Trial is the judicial examination and determination of the issues between the parties to the action. During trial, parties present their respective evidence of their claims and defenses. Parties to an action have the right "to a plenary trial of the case" to ensure that they were given a right to fully present evidence on their respective claims. However, there are instances when trial may be dispensed with. Under Rule 35 of the 1997 Rules of Civil Procedure, a trial court may dispense with trial and proceed to decide a case if from the pleadings, affidavits, depositions, and other papers on file, there is no genuine issue as to any material fact. In such a case, the judgment issued is called a summary judgment. **OLIVAREZ REALTY CORPORATION and DR. PABLO R. OLIVAREZ vs. BENJAMIN CASTILLO G.R. No. 196251, July 9, 2014, J. Leonen**

**RES JUDICATA**

Res judicata has two concepts. The first is bar by prior judgment under Rule 39, Section 47(b), and the second is conclusiveness of judgment under Rule 39, Section 47(c). Jurisprudence taught us well that res judicata under the first concept or as a bar against the prosecution of a second action exists when there is identity of parties, subject matter and cause of action in the first and second actions. The judgment in the first action is final as to the claim or demand in controversy, including the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose and of all matters that could have been adjudged in that case. The case at hand satisfies the essential requisites of res judicata under the first concept. The RTC is therefore correct in dismissing the case on the ground of res judicata. **EMILIANO S. SAMSON vs. SPOUSES JOSE and GUILLERMINA GABOR, TANAY RURAL BANK, INC., and REGISTER OF DEEDS OF MORONG, RIZA G.R. No. 182970, July 23, 2014, J. Peralta**

MTC rendered a decision, which dismissed the complaint for forcible entry filed by the Dionisios. Thereafter, the complaint for recovery of possession filed by them on the ground of res judicata. The Court ruled that a judgment rendered in a forcible entry case will not bar an action between the same parties respecting title or ownership because between a case for forcible entry and an accion reinvindicatoria, there is no identity of causes of action. Such determination does not bind the title or affect the ownership of the land; neither is it conclusive of the facts therein found in a case between the same parties upon a different cause of action involving possession. **SPOUSES MARIO OCAMPO and CARMELITA F. OCAMPO vs. HEIRS OF BERNARDINO U. DIONISIO, represented by ARTEMIO SJ. DIONISIO G.R. No. 191101, October 1, 2014, J. Reyes**

The principle of res judicata is applicable either by way of "bar by prior judgment" or by "conclusiveness of judgment." Here, Salvador's defense was res judicata by conclusiveness of judgment. Contrary to Salvador's contention ,however, there appears to be no identity of issues and facts in the two administrative cases. The first case involved facts necessary to resolve the issue of whether or not Salvador falsified her PDS. The second one involved facts necessary to resolve the issue of whether or not Salvador was convicted of a crime involving moral turpitude. Falsification was the main issue in the first case, while it was no longer an issue in the second case. The only fact to consider in the second administrative complaint is the fact of conviction of a crime involving moral turpitude. It must be borne in mind that both administrative complaints were based on different grounds. The grounds were separate and distinct from each other and entailed different sets of facts. **CECILIA PAGADUAN vs. CIVIL SERVICE COMMISSION et al G.R. No. 206379, November 19, 2014, J. Mendoza**

**The respondent filed two separate complaints of unlawful detainer against the petitioner. The first case was dismissed by MCTC Compostela Valley Branch upon a finding that the contract oflease was simulated. The respondent against filed another unlawful detainer case this time with MCTC Davao. The petitioner contends that the case filed is already barred by prior judgment. The Supreme Court ruled that there is a bar by prior judgment where there is identity of parties, subject matter, and causes of action between the first case where the judgment was rendered and the second case that is sought to be barred. There is conclusiveness of judgment, on the other hand, where there is identity of parties in the first and second cases, but no identity of causes of action. Tested against the foregoing, the Court rules that res judicata, in the concept of bar by prior judgment, applies in this case. ROBERT AND NENITA DE LEON vs**. **GILBERT AND ANALYN DELA LLANA** **G.R. No. 212277, February 11, 2015, J. Perlas-Bernabe**

**DECISIONS OF ADMINISTRATIVE BODIES**

It is an oft-repeated rule that findings of administrative agencies are generally accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to abuse of discretion or lack of jurisdiction. The findings of facts must be respected, so long as they are supported by substantial evidence even if not overwhelming or preponderant. However, there are cases that warrant a departure from said rule after an exhaustive review of the records. In the case at bar, while recantation is frowned upon and hardly given much weight in the determination of a case, an Affidavit is still a notarized document which carries in its favor the presumption of regularity with respect to its due execution, and that there must be clear, convincing and more than merely preponderant evidence to contradict the same. **ZARSONA MEDICAL CLINIC vs.** **PHILIPPINE HEALTH INSURANCE CORPORATION** **G.R. No. 191225, October 13, 2014, J. Perez**

Via petition for review on certiorari under Rule 45 of the Rules of Court, the petitioner questions the transfer of the management of the water work system to GMAWD done by the NHA. The Supreme Court ruled that well-entrenched is the rule in our jurisprudence that administrative decisions are entitled to great weight and respect and will not be interfered with by the courts. Courts will not interfere in matters which are addressed to the sound discretion of the government agency entrusted with regulation of activities coming under its special and technical training and knowledge, for the exercise of administrative discretion is a policy decision and a matter that is best discharged by the concerned government agency and not by the courts. **GENERAL MARIANO ALVAREZ SERVICES COOPERATIVE, INC. (GEMASCO)** **vs**. **NATIONAL HOUSING AUTHORITY (NHA) AND GENERAL MARIANO ALVAREZ WATER DISTRICT (GMAWD)G.R. No. 175417, February 09, 2015, J. Peralta**

**POST-JUDGMENT REMEDIES**

**Motion for Reconsideration, Appeals, Relief from Judgment, Annulment of Judgment, Execution**

**MOTION FOR RECONSIDERATION**

The denial of a motion for reconsideration signifies that the grounds relied upon have been found, upon due deliberation, to be without merit, as not being of sufficient weight to warrant a modification of the judgment or final order. It means not only that the grounds relied upon are lacking in merit but also that any other, not so raised, is deemed waived and may no longer be set up in a subsequent motion or application to overturn the judgment; and this is true, whatever may be the title given to such motion or application, whether it be “second motion for reconsideration” or “motion for clarification” or “plea for due process” or “prayer for a second look,” or “motion to defer, or set aside, entry of judgment,” **SOCIAL JUSTICE SOCIETY (SJS) OFFICERS, NAMELY, SAMSON S. ALCANTARA, AND VLADIMIR ALARIQUE T. CABIGAO** **vs.** **ALFREDO S. LIM, IN HIS CAPACITY AS MAYOR OF THE CITY OF MANILA**, **G.R. No. 187836, March 10, 2015, J. Perez**

**PETITION FOR RELIEF FROM JUDGMENT**

The city government thru its handling attorney filed its motion for reconsideration which was opposed by Maramba on the ground that the motion for reconsideration was not set for hearing. The Court has indeed held time and time again that, under Sections 4 and 5 of Rule 15 of the Rules of Court, mandatory is the notice requirement in a motion, which is rendered defective by failure to comply with the requirement. As a rule, a motion without a notice of hearing is considered pro forma and does not affect the reglementary period for the appeal or the filing of the requisite pleading. **CITY OF DAGUPAN vs. ESTER F. MARAMBA, represented by her ATTORNEY-IN-FACT JOHNNY FERRER, G.R. No. 174411, July 2, 2014, J. Leonen**

**APPEALS**

**Modes of Appeal. Period to Appeal. and Death Pending Appeal**

**MODES OF APPEALS**

Moleta filed a case against Consigna, the Municipal Treasurer of General Luna, Surigao del Norte, for the violation of AntiGraft and Corrupt Practices and Estafa before the Sandiganbayan. Sandiganbayan found Consigna guilty, hence, she filed a petition for review under Rule 45. The Supreme Court ruled that the petition was timely filed, because it was filed within 15 days from notice of judgement. However, the grounds raised by the petitioner were jurisdictional errors purportedly committed by the Sandiganbayan i.e., whether or not the court a quo committed grave abuse of discretion, is the proper subject of a Petition for Certiorari under Rule 65. **SILVERINA E. CONSIGNA vs. PEOPLE OF THE PHILIPPINES, THE HON. SANDIGANBAYAN (THIRD DIVISION), and EMERLINA MOLETA G.R. Nos. 17575051, April 2, 2014, J. Perez**

In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case? **EUGENE S. ARABIT, EDGARDO C. SADSAD, LOWELL C. FUNTANOZ, GERARDO F. PUNZALAN, FREDDIE M. MENDOZA, EMILIO B. BELEN, VIOLETA C. DIUMANO and MB FINANCE EMPLOYEES ASSOCIATION FFW CHAPTER (FEDERATION OF FREE WORKERS) vs. JARDINE PACIFIC FINANCE, INC. (FORMERLY MB FINANCE) G.R. No. 181719, April 21, 2014, J. Brion**

The RTC denied the notice of appeal filed the petitioners. The CA affirmed. Petitioners’ sole contention is that the RTC’s denial of their Notice of Appeal contravenes the ruling in Neypes v. Court of Appeals, which grants an aggrieved party a fresh period of 15 days from receipt of the denial of a motion for new trial or motion for reconsideration within which to file the notice of appeal. The Supreme Court ruled that the doctrine of finality of judgment dictates that, at the risk of occasional errors, judgments or orders must become final at some point in time. In Neypes, the Supreme Court, in order to standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, declared that an aggrieved party has a fresh period of 15 days counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration, within which to file the notice of appeal in the RTC. **HEIRS OF FRANCISCO BIHAG, NAMELY: ALEJANDRA BIHAG, NICOMEDES B. BIHAG, VERONICA B. ACOSTA, SUSANA B. MINOZA, PAULINO B. BIHAG, DANILO B. BIHAG, TIMOTEO B. BIHAG JR., EDILBERTO B. BIHAG, JOSEPHINE B. MINOZA, and MA. FEB. ARDITA vs. HEIRS OF NICASIO BATHAN, NAMELY: PRIMITIVA BATHAN and DUMININA B. GAMALIER G.R. No. 181949, April 23, 2014, J. Del Castillo**

The CA correctly ordered that De Leon's appellant's brief be stricken off the records. De Leon’s motion for time praying for an additional 10 days to file his motion for partial reconsideration is validly denied by the RTC, since such motion is a transgression of the mandatory prohibition on the filing of a motion for extension to file a motion for reconsideration. Doctrinally-entrenched is that the right to appeal is a statutory right and the one who seeks to avail that right must comply with the statute or rules. The perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence, failure to perfect the same renders the judgment final and executory. **GREGORIO DE LEON, DOING BUSINESS AS G.D.L. MARKETING vs. HERCULES AGRO INDUSTRIAL CORPORATION AND/OR JESUS CHUA AND RUMI RUNGIS MILK G.R. No. 183239, June 02, 2014, J. Peralta**

It is well-settled that findings of fact of quasi-judicial agencies such as the Civil Service Commission are generally accorded respect and even finality by this Court and the Supreme Court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their consideration. In order to overcome the validity of these Resolutions, Barcelona must present evidence to prove that the evidence relied on by the CSC was unsubstantial. In this case, this Court rule that the findings of fact and conclusions of the CSC have passed the test of substantiality. Barcelona claims that only the issues raised by the parties may be resolved by the Court. Barcelona is mistaken. An appeal throws the entire case open for review. An appeal, once accepted by this Court, throws the entire case open to review, and that this Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case. **EDILBERTO L. BARCELONA vs. DAN JOEL LIM and RICHARD TAN G.R. No. 189171, June 3, 2014, CJ. Sereno**

Sara Lee Philippines wanted to appeal an adverse ruling of the Labor Arbiter. However, due to the large amount of the appeal bond, it requested that the same be reduced. The laborers opposed the said motion. On review, the Supreme Court held that the Court did relax the rule respecting the bond requirement to perfect appeal in cases where: (1) there was substantial compliance with the Rules, (2) surrounding facts and circumstances constitute meritorious grounds to reduce the bond, (3) a liberal interpretation of the requirement of an appeal bond would serve the desired objective of resolving controversies on the merits, or (4) the appellants, at the very least, exhibited their willingness and/or good faith by posting a partial bond during the reglementary period. Clearly therefore, the Rules only allow the filing of a motion to reduce bond on two (2) conditions: (1) that there is meritorious ground and (2) a bond in a reasonable amount is posted. Compliance with the two conditions stops the running of the period to perfect an appeal provided that they are complied within the 10-day reglementary period. **SARA LEE PHILIPPINES, INC. vs. EMILINDA D. MACATLANG, ET AL. G.R. No. 180147, 180149, 180150, 180319 & 180685 June 4, 2014, J. Perez**

The present rule is that a government party is a "party adversely affected" for purposes of appeal provided that the government party that has a right to appeal must be the office or agency prosecuting the case. The grant of the right to appeal in administrative cases is not new. In Republic Act No. 2260 or the Civil Service Law of 1959, appeals "by the respondent" were allowed on "the decision of the Commissioner of Civil Service rendered in an administrative case involving discipline of subordinate officers and employees." Thus, LRTA had standing to appeal the modification by the Civil Service Commission of its decision. **LIGHT RAIL TRANSIT AUTHORITY, represented by its Administrator MELQUIADES A. ROBLES vs.** **AURORA A. SALVAÑA G.R. No. 192074, June 10, 2014, J. Leonen**

It is axiomatic that a party who does not appeal or file a petition for certiorari is not entitled to any affirmative relief. An appellee who is not an appellant may assign errors in his brief where his purpose is to maintain the judgment but he cannot seek modification or reversal of the judgment or claim affirmative relief unless he has also appealed. Thus, for failure of respondent to assail the validity of her dismissal, such ruling is no longer in issue. **IMMACULATE CONCEPCION ACADEMY/DR. JOSE PAULO E. CAMPOS vs. EVELYN E. CAMILON G.R. No. 188035, July 2, 2014, J. Villarama, Jr.**

As correctly pointed out by the respondents, a review of the instant petition under Rule 45 is not a matter of right but of sound judicial discretion and will be granted only when there are special and important reasons therefor. Moreover, a petition for review under Rule 45 covers questions of law only. The jurisdiction of the Supreme Court in cases brought before it from the CA via Rule 45 of the 1997 Rules of Civil Procedure is generally limited to reviewing errors of law. [The] Court is not a trier of facts. In the exercise of its power of review, the findings of fact of the CA are conclusive and binding and consequently, it is not our function to analyze or weigh evidence all over again. [The] Court finds that no special and important reasons exist to warrant a thorough review of the assailed CA Decision. Quite the contrary, the Court is satisfied with and can simply rely on the findings of the DARAB Urdaneta, DARAB Quezon City and the CA – as well as the very admission of the petitioners themselves – to the effect that respondents fulfilled all the requirements under the agrarian laws in order to become entitled to their EPs; that Felicisimo voluntarily surrendered and abandoned the subject property in favor of his creditors, who took over the land and tilled the same until 1987; that Felicisimo migrated to the U.S.A. and became a naturalized American citizen; that in 1991, respondents were illegally dispossessed of their landholdings through force and intimidation by the petitioners after Felicisimo returned from abroad; and that as between petitioners and respondents, the latter are legally entitled to the subject property. These identical findings are not only entitled to great respect, but even finality. For petitioners to question these identical findings is to raise a question of fact. **MARIANO JOSE, FELICISIMO JOSE, DECEASED, SUBSTITUTED BY HIS CHILDREN MARIANO JOSE, CAMILO JOSE, TIBURCIA JOSE, FERMINA JOSE, AND VICTORIA JOSE vs. ERNESTO M. NOVIDA, RODOLFO PALAYPAY, JR., ALEX M. BELARMINO, RODRIGO LIBED, LEONARDO L. LIBED, BERNARDO B. BELARMINO, BENJAMIN G. ACOSTA, MODESTO A. ORLANDA, WARLITO B. MEJIA, MAMERTO B. BELARMINO, MARCELO O. DELFIN AND HEIRS OF LUCINO A. ESTEBAN, REPRESENTED BY CRESENCIA M. VDA. ESTEBAN G.R. No. 177374, July 2, 2014, J. Del Castillo**

Ombudsman’s decision imposing the penalty of removal shall be executed as a matter of course and shall not be stopped by an appeal thereto. An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal. A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. **THE OFFICE OF THE OMBUDSMAN vs. ALEX M. VALENCERINA G.R. No. 178343, July 14, 2014, J. Perlas-Bernabe**

It is doctrinally entrenched that appeal is not a constitutional right, but a mere statutory privilege. Hence, parties who seek to avail themselves of it must comply with the statutes or rules allowing it. The rule is that failure to file or perfect an appeal within the reglementary period will make the judgment final and executory by operation of law. Filing of an appeal beyond the reglementary period may, under meritorious cases, be excused if the barring of the appeal would be inequitable and unjust in light of certain circumstances therein. **ESTRELLA D. S. BAÑEZ vs. SOCIAL SECURITY SYSTEM and DE LA SALLE UNIVERSITY G.R. No. 189574, July 18, 2014, J. Perez**

The jurisdiction of the Supreme Court (SC) in cases brought before it from the Court of Appeals (CA) via Rule 45 of the 1997 Rules of Civil Procedure is generally limited to reviewing errors of law. This principle applies with greater force in labor cases, where this Court has consistently held that findings of fact of the NLRC are accorded great respect and even finality, especially if they coincide with those of the Labor Arbiter and are supported by substantial evidence. Judicial review by the SC does not extend to a reevaluation of the sufficiency of the evidence upon which the proper labor tribunal has based its determination. Factual issues are beyond the scope of the SC’s authority to review on certiorari. **ROSE HANA ANGELES, doing business under the name and style of LAS MARIAS GRILL AND RESTAURANT, and ZENAIDA ANGELES, doing business under the name and style of CAFÉ TERIA BAR AND RESTAURANT vs. FERDINAND M. BUCAD, CHARLESTON A. REYNANTE, BERNADINE B. ROAQUIN, MARLON A. OMPOY, RUBEN N. LAROZA, EVANGELINE B. BUMACOD, WILMA CAINGLES, BRIAN OGARIO, EVELYN A. BASTAN, ANACLITO A. BASTAN, MA. GINA BENITEZ, HERMINIO AGSAOAY, NORBERTO BALLASTEROS, DEMETRIO L. BERDIN, JR., JOEL DUCUSIN, JOVY R. BALATA and MARIBEL ROAQUIN G.R. No. 196249, July 21, 2014, J. Del Castillo**

Rosemarie Esmarialino filed an application for the Employees’ Compensation Death Benefits before the SSS. She contends there is a causal connection between Leukemia to her late husband’s job as a security guard. SSS denied her claim. Such denial was affirmed by ECC and CA. Hence, Rosemarie filed petition for review under Rule 45 before the Supreme Court. In ruling that the case does not fall within the ambit of Rule 45 the Court held that Rule 45 limits merely to the review of questions of law raised against the assailed CA decision. In this case, the issues are beyond the ambit of a petition filed under Rule 45 of the Rules of Court since they are factual in nature, essentially revolving on the alleged increased risk for Edwin to contract leukemia as a result of hardships incidental to his employment as a security guard. **ROSEMARIE ESMARIALINO vs. EMPLOYEES’ COMPENSATION COMMISSION, SOCIAL SECURITY SYSTEM and JIMENEZ PROTECTIVE and SECURITY AGENCY** **G.R. No. 192352, July 23, 2014, J. Reyes**

There is a question of law when the doubt or difference arises as to what the law is on certain state of facts and which does not call for an existence of the probative value of the evidence presented by the parties-litigants. In a case involving a question of law, the resolution of the issue rests solely on what the law provides on the given set of circumstances. In the instant case, petitioner appealed the Order of the trial court which dismissed his complaint for improper venue, lack of cause of action, and res judicata. Dismissals based on these grounds do not involve a review of the facts of the case but merely the application of the law, specifically in this case, Rule 16 of the Revised Rules of Civil Procedure. Considering, therefore, that the subject appeal raised only questions of law, the CA committed no error in dismissing the same. **EMILIANO S. SAMSON vs. SPOUSES JOSE and GUILLERMINA GABOR, TANAY RURAL BANK, INC., and REGISTER OF DEEDS OF MORONG, RIZAL G.R. No. 182970, July 23, 2014, J. Peralta**

Certiorari is not a substitute for a lost appeal. The petition should have been brought under Rule 45 in a petition for review on certiorari. Appeals from judgments or final orders or resolutions of the CA should be made through a verified petition for review on certiorari under Rule 45. In this case, Olongapo City questioned the July 6, 2005 decision and the January 3, 2006 resolution of the CA which declared as null and void the writ of execution issued by the trial court. Since the CA’s pronouncement completely disposed of the case and the issues raised by the parties, it was the proper subject of a Rule 45 petition. It was already a final order that resolved the subject matter in its entirety, leaving nothing else to be done. **OLONGAPO CITY vs. SUBIC WATER AND SEWERAGE CO., INC. G.R. No. 171626, August 6, 2014, J. Brion**

The question of existence of bad faith is a factual issue, and the same may not be raised in a petition for review on certiorari under Rule 45, where only questions of law may be entertained. Thus, a corporation who instituted a suit for damages which the trial court and the CA dismissed cannot question such dismissal before the Supreme Court under Rule 45 when the factual findings of the lower courts point out that the suit had all the marks of malicious prosecution. **MEYR ENTERPRISES CORPORATION vs. ROLANDO CORDERO G.R. No. 197336, September 3, 2014, J. Del Castillo**

When an accused appeals from the sentence of the trial court, he waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the appellant. **PEOPLE OF THE PHILIPPINES vs. REYNALDO TORRES, JAY TORRES, BOBBY TORRES @ ROBERTO TORRES y NAVA, and RONNIE TORRES, G.R. No. 189850, September 22, 2014, J. Del Castillo**

Petitioners ask (1) whether Balmores’ failure to implead PPC in his action with the [RTC] was fatal; (2) whether the [CA] correctly characterized respondent Balmores’ action as a derivative suit; (3) whether the [CAs’] appointment of a management committee was proper; and (4) whether the CA may exercise the power to appoint a management committee. These are questions of law that may be determined without looking into the evidence presented. The question of whether the conclusion drawn by the [CA] from a set of facts is correct is a question of law, cognizable by this court. Petitioners, therefore, properly filed a petition for review under Rule 45. **ALFREDO L. VILLAMOR, JR. vs. JOHN S. UMALE, IN SUBSTITUTION OF HERNANDO F. BALMORES G.R. No. 172843, RODIVAL E. REYES, HANS M. PALMA AND DOROTEO M. PANGILINAN vs. HERNANDO F. BALMORES G.R. No. 172881, September 24, 2014, J. Leonen**

In this case, a special law, R.A. No. 7394, likewise expressly provided for immediate judicial relief from decisions of the DTI Secretary by filing a petition for certiorari with the “proper court.” Hence, PGA should have elevated the case directly to the CA through a petition for certiorari.

In filing a petition for certiorari before the CA, raising the issue of the OP’s lack of jurisdiction, Moran, Jr. thus availed of the proper remedy. **EMMANUEL B. MORAN, JR. (DECEASED), SUBSTITUTED BY HIS WIDOW, CONCORDIA V. MORAN *vs.* OFFICE OF THE PRESIDENT OF THE PHILIPPINES, AS REPRESENTED BY THE HONORABLE EXECUTIVE SECRETARY EDUARDO R. ERMITA AND PGA CARS, INC., G.R. No. 192957, September 29, 2014, J. Villarama, Jr.**

An appeal directly filed to the Supreme Court from the Court of Tax Appeals division must be dismissed for failure to comply with the procedure on appeal. It must be emphasized that an appeal is neither a natural nor a constitutional right, but is merely statutory. The implication of its statutory character is that the party who intends to appeal must always comply with the procedures and rules governing appeals; or else, the right of appeal may be lost or squandered. Neither is the right to appeal a component of due process. It is a mere statutory privilege and may be exercised only in the manner prescribed by, and in accordance with, the provisions of law. **DUTY FREE PHILIPPINES vs.** **BUREAU OF INTERNAL REVENUE, represented by Hon. Anselmo G. Adriano, Acting Regional Director, Revenue Region No. 8, Makati City** **G.R. No. 197228, October 8, 2014, CJ. Sereno**

The service and filing of pleadings by courier service, as made by the respondent to the petitioners, is a mode not provided in the Rules. Realizing its mistake, PDB re-filed and re-sent the omnibus motion by registered mail, which is the proper mode of service under the circumstances. By then, however, the 15-day period had expired. PDB’s Notice of Appeal, which was filed only on September 7, 2006, was tardy; it had only up to August 1, 2006 within which to file the same. The trial court therefore acted regularly in denying PDB’s notice of appeal. **GEORGE PIDLIP P. PALILEO and JOSE DE LA CRUZ vs.** **PLANTERS DEVELOPMENT BANK** **G.R. No. 193650, October 8, 2014**, **J. Del Castillo**

Appeals from decisions in administrative disciplinary cases of the Office of the Ombudsman should be taken to the CA by way of petition for review under Rule 43 of the 1997 Rules of Civil Procedure, as amended. Rule 43 which prescribes the manner of appeal from quasi-judicial agencies, such as the Ombudsman, was formulated precisely to provide for a uniform rule of appellate procedure for quasi-judicial agencies. Thus, certiorari under Rule 65 will not lie, as appeal under Rule 43 is an adequate remedy in the ordinary course of law. **THE HONORABLE OFFICE OF THE OMBUDSMAN vs. LEOVIGILDO DELOS REYES, JR. G.R. No. 208976, October 13, 2014, J. Leonen**

Under Rule 43 of the Rules of Court, an appeal from the awards, judgments, final orders or resolutions, authorized by any quasi-judicial agency such as the Office of the President, in the exercise of its quasi judicial functions shall be filed to the CA within a period of fifteen (15) days from notice of, publication or denial of a motion for new trial or reconsideration. The appeal may involve questions of fact, of law, or mixed questions of fact and law. A direct resort to this Court, however, may be allowed in cases where only questions of law are raised. In the present petition, the petitioners raised valid questions of law that warranted the direct recourse to this Court. **DANILO ALMERO, TERESITA ALAGON, CELIA BULASO, LUDY RAMADA, REGINA GEGREMOSA, ISIDRO LAZARTE, THELMA EMBARQUE, FELIPE LAZARTE, GUILERMA LAZARTE, DULCESIMA BENIMELE vs. HEIRS OF MIGUEL PACQUING, as represented by LINDA PACQUING FADRILAN G.R. No. 199008, November 19, 2014, J. Brion**

Parties cannot raise before the Supreme Court factual issues which they did not raise before the trial court as it is the latter which has jurisdiction to hear evidence to support the petitioners’ claim. Thus, if the validity of a notarized deed of sale was assailed by the heirs of the seller on the ground that the seller’s signature was forged, they cannot allege before the Supreme Court that that when Angel sold the subject land to Regina, he was not yet the owner of the land and had no right to transfer or convey the property. **HEIRS OF SPOUSES ANGEL LIWAGON AND FRANCESA DUMALAGAN, et al. vs. HEIRS OF SPOUSES DEMETRIO LIWAGON AND REGINA LIWAGON G.R. No. 193117, November 26, 2014, J. Villarama, Jr.**

Fresh Period Rule under Neypes did not apply to the petition for certiorari under Rule 64 of the Rules of Court. The reglementary periods under Rule 42 and Rule 64 are different. In the former, the aggrieved party is allowed 15 days to file the petition for review from receipt of the assailed decision or final order, or from receipt of the denial of a motion for new trial or reconsideration. In the latter, the petition is filed within 30 days from notice of the judgment or final order or resolution sought to be reviewed. Fortune filed its motion for reconsideration on January 14, 2013, which was 31 days after receiving the assailed decision of the COA on December 14, 2012. Pursuant to Section 3 of Rule 64, it had only five days from receipt of the denial of its motion for reconsideration to file the petition. Considering that it received the notice of the denial on July 14, 2014, it had only until July 19, 2014 to file the petition. However, it filed the petition on August 13, 2014, which was 25 days too late. **FORTUNE LIFE INSURANCE COMPANY, INC. vs. COMMISSION ON AUDIT (COA) PROPER; COA REGIONAL OFFICE NO. VI-WESTERN VISAYAS; AUDIT GROUP LGS-B, PROVINCE OF ANTIQUE; AND PROVINCIAL GOVERNMENT OF ANTIQUE G.R. No. 213525, January 27, 2015, J. Bersamin**

The main issue in this case is whether or not CA committed a serious reversible error in dismissing the petition for certiorari on the basis of a strict application of Section 3, Rule 46 of the 1997 Rules of Civil Procedure, as amended, on the attachment of clearly legible duplicate original/certified true copy of the judgment, order, resolution or ruling subject thereof. The court ruled that While it is true that when an appeal is filed, the approval of a notice of appeal is a ministerial duty of the court or tribunal which rendered the decision, it is required, however, that said appeal must have been filed on time. It bears reiterating that appeal is not a constitutional right, but a mere statutory privilege. Thus, parties who seek to avail themselves of it must comply with the statutes or rules allowing it. **NARCISO ZAPANTA, EDILBERTO CAPULONG AND CLARITA CAPULONG,  vs. CO KING KI AS REPRESENTED BY HIS ATTORNEY-IN-FACT WILLIAM CO G.R. No. 191694, December 03, 2014, J. Villarama Jr.**

Thus, the question in the case at bench is whether or not the petitioners attached the sufficient pleadings and material portions of the records in their petition for review. The Court rules that the petition was in substantial compliance with the requirements. The assignment of error in the petition for review clearly raises questions of fact as the petitioners assail the appreciation of evidence by the MCTC and the RTC. Thus, aside from the decisions and orders of the [courts a quo], the petitioners should attach pertinent portions of the records such as the testimony of the sole witness of [Lightbringers], the copies of the cash disbursement vouchers and the PNB checks presented by [Lightbringers] in the [trial court]. In the petition for review, the petitioners attached [Lightbringers’] complaints before the [trial court] which contained the photocopies of the cash disbursement vouchers and PNB checks. These should be considered as ample compliance with Sec. 2, Rule 42 of the Rules of Court. **NEIL B. AGUILAR AND RUBEN CALIMBAS vs. LIGHTBRINGERS CREDIT COOPERATIVE G.R. No. 209605, January 12, 2015, J. Mendoza**

In this case, Laguesma received the decision of the COA on October 16, 2007. It filed a motion for reconsideration on November 6, 2007, or after 21 days. It received notice of the denial of its motion on November 20, 2008. The receipt of this notice gave Laguesma nine (9) days, or until November 29, 2008, to file a petition for certiorari. Since November 29, 2008 fell on a Saturday, Laguesma could still have filed on the next working day, or on December 1, 2008. It, however, filed the petition on December 19, 2008, which was well beyond the reglementary period.

This petition could have been dismissed outright for being filed out of time. This court, however, recognizes that there are certain exceptions that allow a relaxation of the procedural rules. xxx.

Considering that the issues in this case involve the right of Laguesma to receive due compensation on the one hand and respondents’ duty to prevent the unauthorized disbursement of public funds on the other, a relaxation of the technical rules is in order. **THE LAW FIRM OF LAGUESMA MAGSALIN CONSULTA AND GASTARDO vs. THE COMMISSION ON AUDIT AND/OR REYNALDO A. VILLAR AND JUANITO G. ESPINO, JR. IN THEIR CAPACITIES AS CHAIRMAN AND COMMISSIONER, RESPECTIVELY, G.R. No. 185544, January 13, 2015, J. Leonen**

The period to appeal decisions of the HLURB Board of Commissioners is fifteen (15) days from receipt thereof pursuant to Section 15 of PD No. 957 and Section 2 of PD No. 1344 which are special laws that provide an exception to Section 1 of Administrative Order No. 18. Concomitantly, Section 1 of Administrative Order No. 18 provides that the time during which a motion for reconsideration has been pending with the ministry or agency concerned shall be deducted from the period for appeal. Swire received the HLURB Board Resolution denying its Motion for Reconsideration on July 23, 2007 and filed its appeal only on August 7, 2007. Consequently therefore, Swire had only four days from July 23, 2007, or until July 27, 2007, within which to file its appeal to the OP as the filing of the motion for reconsideration merely suspended the running of the 15-day period. Thus, while there may be exceptions for the relaxation of technical rules principally geared to attain the ends of justice, Swire’s fatuous belief that it had a fresh 15-day period to elevate an appeal with the OP is not the kind of exceptional circumstance that merits relaxation. **SWIRE REALTY DEVELOPMENT CORPORATION vs. JAYNE YU** **G.R. No. 207133, March 09, 2015, J. PERALTA**

The denial of a motion for reconsideration signifies that the grounds relied upon have been found, upon due deliberation, to be without merit, as not being of sufficient weight to warrant a modification of the judgment or final order. It means not only that the grounds relied upon are lacking in merit but also that any other, not so raised, is deemed waived and may no longer be set up in a subsequent motion or application to overturn the judgment; and this is true, whatever may be the title given to such motion or application, whether it be “second motion for reconsideration” or “motion for clarification” or “plea for due process” or “prayer for a second look,” or “motion to defer, or set aside, entry of judgment,” **SOCIAL JUSTICE SOCIETY (SJS) OFFICERS**  **vs.** **MAYOR ALFREDO S. LIM, et al.,, March 10, 2015**, **G.R. No. 187916,**

Ledesma filed an amended petition and contended that his receipt on March 24, 2010 (and not the receipt on March 15, 2010 by Atty. Abellana), is the reckoning date of the 60-day reglementary period within which to file the petition. When a party to a suit appears by counsel, service of every judgment and all orders of the court must be sent to the counsel. This is so because notice to counsel is an effective notice to the client, while notice to the client and not his counsel is not notice in law. Receipt of notice by the counsel of record is the reckoning point of the reglementary period. **WATERFRONT CEBU CITY CASINO HOTEL, INC. and MARCO PROTACIO vs. ILDEBRANDO LEDESMA G.R. No. 197556, March 25, 2015, J. Villarama, Jr.**

**PERIOD TO APPEAL**

In appeals cognized by the Office of the President, the time during which a motion for reconsideration has been pending with the Ministry/agency concerned shall be deducted from the period for appeal. **SPOUSES TEODORICO and PACITA ROSETE *vs.* FELIX and/or MARIETTA BRIONES, SPOUSES JOSE and REMEDIOS ROSETE, AND NEORIMSE and FELICITAS CORPUZ, G.R. No. 176121, September 22, 2014, J. Del Castillo**

A counsel’s failure to perfect an appeal within the reglementary period is simple negligence. It is not one as gross, palpable, and reckless as to deprive a party of its day in court. Hence, we will not override the finality and immutability of a judgment based only on the simple negligence of a party’s counsel. **K&GMINING CORPORATION vs. ACOJE MINING COMPANY, INCORPORATED and ZAMBALES CHROMITE MINING COMPANY, INCORPORATED G.R. No. 188364, February 11, 2015, J. Reyes**

**DEATH PENDING APPEAL**

Ordinarily, both the civil and criminal liabilities are extinguished upon the death of the accused pending appeal of his conviction by the lower courts. However, a violation of Republic Act No. 9165 does not entail any civil liability. Hence, no civil liability needs extinguishment. **PEOPLE OF THE PHILIPPINES vs. ALFREDO MORALES Y LAM G.R. No. 206832, January 21, 2015, J. Perez**

**EXECUTION, SATISFACTION AND EFFECTS OF JUDGMENTS**

Spouses Eserjose instituted a complaint for the release of mortgage and payment for moral and exemplary damages against Allied Banking Corporation . The Regional Trial Court rendered judgment in their favor. The spouses then became the highest bidder of the property levied by the sheriff. However, by way of certiorari, Allied Banking Corporation was able to secure a favorable judgment with the Supreme Court. The Court reduced the amount of damages awarded to the spouses from Php 8M to Php 4M. This being the case ABC filed a motion to nullify the sale and. However, the RTC denied the motion. The Supreme Court ruled that pursuant to Sec. 5 of Rule 39 of the Rules of Court, where the executed judgment is reversed totally or partially, or annulled, on appeal or otherwise, the trial court may, on motion, issue such orders of restitution or reparation of damages as equity and justice may warrant under the circumstances. **SPS. DAVID ESERJOSE and ZENAIDA ESERJOSE**vs.**ALLIED BANKING CORPORATION and PACITA UY G.R. No. 180105, April 23, 2014, J. Abad**

Gumaru informed the SC that the judgment award has been satisfied in full. Jacinto does not dispute this claim, in which case, the labor case is now deemed ended. “It is axiomatic that after a judgment has been fully satisfied, the case is deemed terminated once and for all. And when a judgment has been satisfied, it passes beyond review, satisfaction being the last act and the end of the proceedings, and payment or satisfaction of the obligation thereby established produces permanent and irrevocable discharge; hence, a judgment debtor who acquiesces to and voluntarily complies with the judgment is estopped from taking an appeal therefrom. With the development in the case, the instant Petition is rendered moot and academic. The satisfaction of the judgment in full has placed the case beyond the Court’s review. **JOSELITO MA. P. JACINTO (FORMERLY PRESIDENT OFF. JACINTO GROUP, INC.) vs. EDGARDO GUMARU, JR. G.R. No. 191906, June 02, 2014, J. Del Castillo**

Villasenor and others were charged for violations of the Code of Conduct of Public Officials. Pending the resolution of their motions filed in court, the City Mayor of Quezon City enforced the decision of the Ombudsman. Villasenor contested the execution of the decision even though a motion is still pending. The Court herein ruled that decisions of the Ombudsman are executory pending appeal. Moreover, since there is no vested right in a public office, the retroactive application of the AO does not prejudice the rights of the accused. **GERARDO R. VILLASEÑOR AND RODEL A. MESA vs. OMBUDSMAN AND HON. HERBERT BAUTISTA, City Mayor, Quezon City G.R. No. 202303, June 4, 2014, J. Mendoza**

Section 21, Rule 70 provides that the judgment of the RTC in ejectment cases appealed to it shall be immediately executory and can be enforced despite the perfection of an appeal to a higher court. To avoid such immediate execution, the defendant may appeal said judgment to the CA and therein apply for a writ of preliminary injunction. In this case, the decisions of the MTCC, of the RTC, and of the CA, unanimously recognized the right of the ATO to possession of the property and the corresponding obligation of Miaque to immediately vacate the subject premises. This means that the MTCC, the RTC, and the Court of Appeals all ruled that Miaque does not have any right to continue in possession of the said premises. It is therefore puzzling how the Court of Appeals justified its issuance of the writ of preliminary injunction with the sweeping statement that Miaque "appears to have a clear legal right to hold on to the premises leased by him from ATO at least until such time when he shall have been duly ejected therefrom by a writ of execution of judgment caused to be issued by the MTCC. **AIR TRANSPORTATION OFFICE (ATO) vs. HON. COURT OF APPEALS (NINETEENTH DIVISION) and BERNIE G. MIAQUE G.R. No. 173616, June 25, 2014, J. De Castro**

Following duties of a sheriff: first, to give notice of the writ and demand that the judgment obligor and all persons claiming under him vacate the property within three (3) days; second, to enforce the writ by removing the judgment obligor and all persons claiming under the latter; third, to remove the latter’s personal belongings in the property as well as destroy, demolish or remove the improvements constructed thereon upon special court order; and fourth, to execute and make a return on the writ within 30 days from receipt of the writ and every 30 days thereafter until it is satisfied in full or until its effectivity expires. In the present case, the Court finds that Sheriff Pagunsan was remiss in performing his mandated duties. To recall, the Writ of Execution was issued by the RTC on February 4, 2009. Sheriff Pagunsan served the Writ on February 11, 2009, giving the defendants three (3) days or until February 14, 2009 within which to voluntary vacate the premises. However, there was no showing that the writ had been fully implemented or the property delivered to the complainant on February 14, 2009. In fact, the records would show that Sheriff Pagunsan did not return to the premises on the said date or any date thereafter; nor made any personal follow-ups from the defendants. In short, no other action was undertaken by Sheriff Pagunsan to implement the writ of execution. Court employees should be wary when assisting persons dealing with the courts and their cases. While they are not totally prohibited from rendering aid to others, they should see to it that the assistance, albeit involving acts unrelated to their official functions, does not in any way compromise the public’s trust in the justice system. In the present case, by getting personally involved in the writ’s implementation, Calibuso transgressed the strict norm of conduct prescribed for court employees, that is, to avoid any impression of impropriety, misdeed or misdemeanor not only in the performance of his duty but also in conducting himself outside or beyond his duties. **FLORA P. HOLASCA, vs.**
**ANSELMO P. PAGUNSAN, JR., Sheriff IV, Regional Trial Court, Branch 20, Imus, Cavite,** **OFFICE OF THE COURT ADMINISTRATOR (OCA),**  **vs.** **FRANCISCO J. CALIBUSO, JR., Clerk of Court III, Municipal Trial Court in Cities, Branch 1, Cavite City,** **A.M. No. P-14-3198   & A.M. No. P-14-3199**, **July 23, 2014, J. Brion**

As a general rule, an ejectment suit cannot be abated or suspended by the mere filing before the regional trial court (R TC) of another action raising ownership of the property as an issue. As an exception, however, unlawful detainer actions may be suspended even on appeal, on considerations of equity, such as when the demolition of petitioners' house would result from the enforcement of the municipal circuit trial court (MCTC) judgment. In the case at bar, if the ejectment case is allowed to proceed without awaiting the result of the DENR Protests, then a situation might arise where the existing structures thereon would have to be demolished. On the other hand, if Spouses Labino’s position, as to be affirmed by the DENR, is further upheld with finality by the courts, then it would mean that Lazaro had no right to occupy or take possession of the subject lots, which thus negates his right to institute and maintain the ejectment case. **SPOUSES MAURICIO M. TABINO and LEONILA DELA CRUZ-TABINO** **vs.** **LAZARO M. TABINO G.R. No. 196219, July 30, 2014, J. Del Castillo**

The only portion of the decision that may be the subject of execution is that which is ordained or decreed in the dispositive portion. Whatever may be found in the body of the decision can only be considered as part of the reasons or conclusions of the court and serve only as guides to determine the ratio decidendi. Thus, when the decretal portion of the RTC’s 2005 Decision particularly stating that NPC shall have the lawful right to enter, take possession and acquire easement of right-of way over the affected portions of respondents’ properties upon the payment of just compensation, any order executing the trial court’s Decision should be based on such dispositive portion. **NATIONAL POWER CORPORATION vs. FELICISIMO TARCELO and HEIRS OF COMIA SANTOS G.R. No. 198139, September 8, 2014, J. Del Castillo**

A judgment unenforced within 10 years after its finality shall be barred. However an exception is when a registered owner of land cannot invoke the protection accorded by the Statute of Limitations when he derived his right from misrepresentation. **JUANITO G. CAMPIT vs. ISIDRA B. GRIPA, PEDRO BARDIAGA, AND SEVERINO BARDIAGA, REPRESENTED BY HIS SON, ROLANDO BARDIAGA G.R. No. 195443, September 17, 2014, J. Brion**

The execution of a judgment pending appeal is an exception to the general rule that only a final judgment may be executed; hence, under Section 2, Rule 39 of the Rules of Court (Rules), the existence of "good reasons" for the immediate execution of a judgment is an indispensable requirement as this is what confers discretionary power on a court to issue a writ of execution pending appeal. Good reasons consist of compelling circumstances justifying immediate execution, lest judgment becomes illusory, that is, the prevailing party’s chances for recovery on execution from the judgment debtor are altogether nullified. The "good reason" yardstick imports a superior circumstance demanding urgency that will outweigh injury or damage to the adverse party and one such "good reason" that has been held to justify discretionary execution is the imminent danger of insolvency of the defeated party. The factual findings that NSSC is under a state of rehabilitation and had ceased business operations, taken together with the information that NSSC President and General Manager Orimaco had permanently left the country with his family, constitute such superior circumstances that demand urgency in the execution of the October 31, 2007 Decision because respondents now run the risk of its non-satisfaction by the time the appeal is decided with finality. **CENTENNIAL GUARANTEE ASSURANCE CORPORATION vs.** **UNIVERSAL MOTORS CORPORATION, RODRIGO T. JANEO, JR., GERARDO GELLE, NISSAN CAGAYAN DE ORO DISTRIBUTORS, INC., JEFFERSON U. ROLIDA, and PETER YAP** **G.R. No. 189358, October 8, 2014, J. Perlas-Bernabe**

The sheriff should demand from the judgment obligor the immediate payment in cash, certified bank check or any other mode of payment acceptable to the judgment obligee. If the judgment obligor cannot pay by these methods immediately or at once, he can exercise his option to choose which of his property can be levied upon. If he does not exercise this option immediately or when he is absent or cannot be located, he waives such right, and the sheriff can now first levy his personal properties, if any, and then the real properties if the personal properties are insufficient to answer for the judgment. **ATTY. RICO PAOLO R. QUICHO, representing Bank of Commerce vs. BIENVENIDO S. REYES, JR., Sheriff IV, Branch 98, Regional Trial Court, Quezon City A.M. No. P-14-3246, October 15, 2014, J. Mendoza**

The garnishment of property operates as an attachment and fastens upon the property a lien by which the property is brought under the jurisdiction of the court issuing the writ.  It is brought into custodia legis, under the sole control of such court. When the proceeds of fire insurance policy numbers F-114-07402 and F-114-07525 were placed under custodia legis of Branch 3 of the RTC of Manila in Civil Case No. 93-65442, they were placed under the sole control of such court beyond the interference of all other co-ordinate courts.  We have held that property attached or garnished by a court falls into the custodia legis of that court for the purposes of that civil case only.  Any relief against such attachment and the execution and issuance of a writ of possession that ensued subsequently could be disposed of only in that case. In the case at bar, therefore, the order to deposit the proceeds of fire insurance policy numbers F-114-07402 and F-114-07525 brought the amount garnished into the custodia legis of the court issuing said order, that is, the RTC of Manila, Branch 3, beyond the interference of all other co-ordinate courts, such as the RTC of Manila, Branch 14.  **SOLIDBANK CORPORATION** **vs.** **GOYU & SONS, INC., GO SONG HIAP, BETTY CHIU SUK YING, NG CHING KWOK, YEUNG SHUK HING, AND THEIR RESPECTIVE SPOUSES, AND MALAYAN INSURANCE COMPANY, INC.,** **G.R. No. 142983, November 26, 2014**, **J. Leonardo-De Castro**

Generally, the filing and pendency of a petition for review with the CA or certiorari with the Supreme Court shall not stop the execution of the final decision of the Commission unless the Court issues a restraining order or an injunction. However, judicial courtesy dictates that Commission should suspend its proceedings and await the CA’s resolution of the petition for review. **CONRADO B. NICART JR., as PROVINCIAL GOVERNOR OF LGU-EASTERN SAMAR vs. MA. JOSEFINA C. TITONG and JOSELITO M. ABRUGAR SR. G.R. No. 207682, December 10, 2014, J. Velasco Jr.**

“The judgment in the mandamus petition sought to be enforced in the case at bar only declared valid the auction sale where Sia bought the subject lots, and accordingly ordered the City Treasurer to issue a Final Bill of Sale to Sia. Since the said judgment did not order that the possession of the subject lots be vested unto Sia, the trial court substantially varied the terms of the aforesaid judgment – and thus, exceeded its authority in enforcing the same – when it issued the corresponding writs of possession and demolition to vest unto Sia the possession of the subject lots. It is well-settled that orders pertaining to execution of judgments must substantially conform to the dispositive portion of the decision sought to be executed. As such, it may not vary, or go beyond, the terms of the judgment it seeks to enforce. Where the execution is not in harmony with the judgment which gives it life and exceeds it, it has no validity. Had the Sia pursued an action for ejectment or reconveyance, the issuance of writs of possession and demolition would have been proper; but not in a special civil action for mandamus, as in this case.” **EDMUND SIA vs. WILFREDO ARCENAS, FERNANDO LOPEZ, AND PABLO RAFANAN, G.R. Nos. 209672-74, January 14, 2015, J. Perlas-Bernabe**

In an action for enforcement of foreign judgment, the Court has limited review over the decision rendered by the foreign tribunal. The Philippine courts cannot pass upon the merits of the case pursuant to the incorporation clause of the Constitution, unless there is proof of want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact. **BANK OF THE PHILIPPINE ISLANDS SECURITIES CORPORATION vs. EDGARDO V. GUEVARA G.R. No. 167052, March 11, 2015, J. Leonardo-De Castro**

**PETITION FOR RELIEF FROM JUDGMENT**

A petition for relief from judgment must be filed within 60 days after petitioner learns of the judgment, final order, or proceeding and within six (6) months from entry of judgment or final order. The double period required under Section 3, Rule 38 is jurisdictional and should be strictly complied with. A petition for relief of judgment filed beyond the reglementary period is dismissed outright. Under Section 1, Rule 38 of the 1997 Rules of Civil Procedure, a petition for relief from judgment may be filed on the ground of fraud, accident, mistake, or excusable negligence. A motion for reconsideration is required before a petition for certiorari is filed to grant the court which rendered the assailed judgment or order an opportunity to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case. In this case, petitioners had until July 9, 2010 to file a notice of appeal, considering that their former counsel received a copy of the order denying their motion for reconsideration of the trial court’s decision on June 24, 2010. Since petitioners filed their notice of appeal only on August 11, 2010, the trial court correctly denied the notice of appeal for having been filed out of time. Even if we assume that petitioners filed their petition for relief from judgment within the reglementary period, petitioners failed to prove that their former counsel’s failure to file a timely notice of appeal was due to a mistake or excusable negligence. **JULIET VITUG MADARANG and ROMEO BARTOLOME, represented by his attorneys-in-fact and acting in their personal capacities, RODOLFO and RUBY BARTOLOME vs. SPOUSES JESUS D. MORALES and CAROLINA N. MORALES G.R. No. 199283, June 9, 2014, J. Leonen**

A party filing a petition for relief from judgment must strictly comply with two (2) regle-mentary periods: first, the petition must be filed within sixty (60) days from knowledge of the judgment, order or other proceeding to be set aside; and second, within a fixed period of six (6) months from entry of such judgment, order or other proceeding.

Strict compliance with these periods is required because a petition for relief from judg-ment is a final act of liberality on the part of the State, which remedy cannot be allowed to erode any further the fundamental principle that a judgment, order or proceeding must, at some definite time, attain finality in order to put an end to litigation.

In the present case, [Contreras’] counsel received a copy of the RTC’s decision dated September 13, 1993 on September 15, 1993. Thus, the petition for relief from judgment should have been filed on or before November 14, 1993. However, the records showed that the petition was filed only on December 15, 1993, or ninety-one (91) days later. **PHILIPPINE AMANAH BANK (NOW AL-AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES, ALSO KNOWN AS ISLAMIC BANK) vs. EVANGELISTA CONTRERAS, G.R. No. 173168, September 29, 2014, J. Brion**

**ANNULMENT OF JUDGMENT**

The Court agrees with the CA that LRA was not estopped from assailing the RTC Decision because it never attained finality for being null and void, having been rendered by a court without jurisdiction over the reconstitution proceedings. **VERGEL PAULINO AND CIREMIA PAULINO vs. COURT OF APPEALS AND REPUBLIC OF THE PHILIPPINES, represented by the ADMINISTRATOR of the LAND REGISTRATION AUTHORITY G.R. No. 205065, June 4, 2014, J. Mendoza**

It is settled that the negligence and mistakes of the counsel are binding on the client. It is only in cases involving gross or palpable negligence of the counsel or where the interests of justice so require, when relief is accorded to a client who has suffered thereby. Furthermore, for a claim of a counsel's gross negligence to prosper, nothing short of clear abandonment of the client's cause must be shown and it should not be accompanied by the client's own negligence or malice. It is a correlative duty of clients to be in contact with their counsel from time to time to inform themselves of the status of their case especially, when what is at stake is their liberty. Hence, diligence is required not only from lawyers but also from their clients. As such, the failure of the lawyer to communicate with his clients for nearly three years and to inform them about the status of their case, does not amount to abandonment that qualifies as gross negligence. If at all, the omission is only an act of simple negligence, and not gross negligence that would warrant the annulment of the proceedings below. The Rules of Court require that every written motion be set for hearing by the movant, except those motions which the court may act upon without prejudicing the rights of the adverse party. The notice of hearing must be addressed and served to all parties at least three days before the hearing and must specify the time and date of the hearing of the motion. Hence, a motion which does not meet the aforesaid requirements is considered pro forma; it is nothing but a worthless piece of paper which the clerk has no right to receive and the court has no authority to act upon. As such, the failure of the movant to comply renders his motion fatally defective and hence, properly dismissible. **PEDRO G. RESURRECCION, JOSEPH COMETA and CRISEFORO LITERA TO, JR. vs.** **PEOPLE OF THE PHILIPPINES** **G.R. No. 192866, July 9, 2014, J. Brion**

The general rule is that a final and executory judgment can no longer be disturbed, altered, or modified in any respect, and that nothing further can be done but to execute it. A final and executory decision may, however, be invalidated via a Petition for Relief or a Petition to Annul the same under Rules 38 or 47, respectively, of the Rules of Court. Rule 47 of the Rules of Court is a remedy granted only under exceptional circumstances where a party, without fault on his part, has failed to avail of the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies. The same petition is not available as a substitute for a remedy which was lost due to the party’s own neglect in promptly availing of the same. There is here no attempted substitution; annulment of judgment is the only remedy available to petitioner. Requisite elements for the filing of a petition for annulment of judgment on the grounds of extrinsic fraud, lack of jurisdiction, and want of due process, are present in this case All the requisite elements for the filing of a petition for annulment of judgment on the grounds of extrinsic fraud, lack of jurisdiction, and want of due process, are present in this case. It should be stressed that Genato instituted the case before the CA precisely to seek relief from the declaration of nullity of TCT No. 33341, which had been issued without first giving Genato an opportunity to be heard. The petition need not categorically state the exact words extrinsic fraud; rather, the allegations in the petition should be so crafted to easily point out the ground on which it was based. The allegations in the petition filed with the CA sufficiently identify the ground upon which the petition was based - extrinsic fraud. The allegations clearly charged the RTC and respondent with depriving Genato of the opportunity to oppose the auction sale and the cancellation of her title and ventilate her side. This allegation, if true, constitutes extrinsic fraud. **GENATO INVESTMENTS, INC.,** **vs. HON. JUDGE OSCAR P. BARRIE~TOS et al. G.R. No. 207443, July 23, 2014**, **J. Jose Portugal Perez**

The policy of the law is clear. In order to maintain harmony, there must be a showing of notice and consent. This cannot be defeated by mere procedural devices. In all instances where it appears that a spouse attempts to adopt a child out of wedlock, the other spouse and other legitimate children must be personally notified through personal service of summons. It is not enough that they be deemed notified through constructive service. **ROSARIO MATA CASTRO and JOANNE BENEDICTA CHARISSIMA M: CASTRO, A.KA.: "MARIA SOCORRO M. CASTRO" and "JAYROSE M. CASTRO," vs. JOSE, MARIA, JED, LEMUEL, GREGORIO, and ANA MARIA REGINA GREGORIO G.R. No. 188801, October 15, 2014, J. Leonen**

**PROVISIONAL REMEDIES**

**Preliminary Injunction, Attachment, Status Quo Order**

**PRELIMINARY INJUNCTION**

The main action for injunction is distinct from the provisional or ancillary remedy of preliminary injunction which cannot exist except only as part or an incident of an independent action or proceeding. As a matter of course, in an action for injunction, the auxiliary remedy of preliminary injunction, whether prohibitory or mandatory, may issue. Under the law, the main action for injunction seeks a judgment embodying a final injunction which is distinct from, and should not be confused with, the provisional remedy of preliminary injunction, the sole object of which is to preserve the status quo until the merits can be heard. A preliminary injunction is granted at any stage of an action or proceeding prior to the judgment or final order. It persists until it is dissolved or until the termination of the action without the court issuing a final injunction. The, SC therefore, ruled that the CA did not commit any error in treating Jadewell’s Petition for Certiorari as an original action for injunction. **SANGGUNIANG PANLUNGSOD NG BAGUIO CITY vs. JADEWELL PARKING SYSTEMS CORPORATION G.R. No. 160025, April 23, 2014, CJ. Sereno**

The conditions for the issuance of the injunctive writ are: (a) that the right to be protected exists prima facie; (b) that the act sought to be enjoined is violative of that right; and (c) that there is an urgent and paramount necessity for the writ to prevent serious damage. Under the circumstances averred in the complaint, the issuance of the writ of preliminary injunction upon the application of the spouses Borbon was improper. They had admittedly constituted the real estate and chattel mortgages to secure the performance of their loan obligation to the BPI, and, as such, they were fully aware of the consequences on their rights in the properties given as collaterals should the loan secured be unpaid. **BANK OF THE PHILIPPINE ISLANDS vs. HON. JUDGE AGAPITO L. HONTANOSAS, JR., REGIONAL TRIAL COURT, BRANCH 16, CEBU CITY, SILVERIO BORBON, SPOUSES XERXES AND ERLINDA FACULTAD, AND XM FACULTAD & DEVELOPMENT CORPORATION G.R. No. 157163, June 25, 2014, J. Bersamin**

Talo-ot Port, where LCMC operate their facility, is a national infrastructure project. The Certificate of Registration and Permit to Operate granted by the CPA is premised on a contract for a national infrastructure project contemplated by R.A. No. 6957, as amended by R.A. No. 7718, the termination or rescission of which cannot be validly enjoined by an injunctive writ issued by a lower court pursuant to R.A. No. 8975. **LCMC CEBU MINING CORP ET AL. vs. CEBU PORT AUTHORITY ET AL., G.R. No. 201284, November 19, 2014, J. Reyes**

In a prayer for preliminary injunction, the plaintiff is not required to submit conclusive and complete evidence. He is only required to show that he has an ostensible right to the final relief prayed land.

In this case, the petitioners have adequately shown their entitlement to a preliminary injunction. First, the relief demanded consists in restraining the execution of the RTC decision ordering their ejectment from the disputed land. Second, their ejectment from the land from which they derive their source of livelihood would work injustice to the petitioners. Finally, the execution of the RTC decision is probably in violation of the rights of the petitioners, tending to render the MTC judgment dismissing the forcible entry cases ineffectual. **SATURNINO NOVECIO, et al., vs. HON. RODRIGO F. LIM, JR. et al.,G.R. No. 193809, March 23, 2015, J. Brion**

**ATTACHMENT**

Attachment is defined as a provisional remedy by which the property of an adverse party is taken into legal custody, either at the commencement of an action or at any time thereafter, as a security for the satisfaction of any judgment that may be recovered by the plaintiff or any proper party. Being merely ancillary to a principal proceeding, the attachment must fail if the suit itself cannot be maintained as the purpose of the writ can no longer be justified. The attachment itself cannot be the subject of a separate action independent of the principal action because the attachment was only an incident of such action. In this case, with the RTC’s loss of jurisdiction over the Civil Case No. Q-05-53699 necessarily comes its loss of jurisdiction over all matters merely ancillary thereto. **NORTHERN ISLANDS, CO., INC.** **vs.** **SPOUSES DENNIS AND CHERYLINGARCIA G.R. No. 203240, March 18, 2015, J. Perlas-Bernabe**

**STATUS QUO ORDER**

A status quo order is merely intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy, not to provide mandatory or injunctive relief. In this case, it cannot be applied when the respondent was already removed prior to the filing of the case. The directive to reinstate respondent to her former position as school director and curriculum administrator is a command directing the undoing of an act already consummated which is the exclusive province of prohibitory or mandatory injunctive relief and not of a status quo order. **BRO. BERNARD OCA, et al., vs. LAURITA CUSTODIO G.R. No. 174996, December 03, 2014, J. Leonardo-De Castro**

**ALTERNATIVE DISPUTE RESOLUTION**

Disputes do not go to arbitration unless and until the parties have agreed to abide by the arbitrator’s decision. Necessarily, a contract is required for arbitration to take place and to be binding. The provision to submit to arbitration any dispute arising therefrom and the relationship of the parties is part of that contract. As a rule, contracts are respected as the law between the contracting parties and produce effect as between them, their assigns and heirs. Only those parties who have agreed to submit a controversy to arbitration who, as against each other, may be compelled to submit to arbitration. **ABOITIZ TRANSPORT SYSTEM CORPORATION and ABOITIZ SHIPPING CORPORATION vs. CARLOS A. GOTHONG LINES, INC. and VICTOR S. CHIONGBIAN, G.R. No. 198226, July 18, 2014, J. Perlas-Bernabe**

While there is jurisprudential authority stating that "a clerical error in the judgment appealed from may be corrected by the appellate court," the application of that rule cannot be made in this case considering that the CIAC Rules provides for a specific procedure to deal with particular errors involving "an evident miscalculation of figures, a typographical or arithmetical error. While the CA correctly affirmed in full the CIAC Arbitral Tribunal’s factual determinations, it improperly modified the amount of the award in favor of AIC, which modification did not observe the proper procedure for the correction of an evident miscalculation of figures in the arbitral award. Section 17.1 of the CIAC Rules mandates the filing of a motion for the foregoing purpose within fifteen (15) days from receipt thereof. Failure to file said motion would consequently render the award final and executory under Section 18. 1 of the same rules. **NATIONAL TRANSMISSION CORPORATION** **vs.** **ALPHAOMEGA INTEGRATED CORPORATION, G.R. No. 184295, July 30, 2014, J. Perlas- Bernabe**

While it appears that the Special ADR Rules remain silent on the procedure for the execution of a confirmed arbitral award, it is the Court’s considered view that the Rules’ procedural mechanisms cover not only aspects of confirmation but necessarily extend to a confirmed award’s execution in light of the doctrine of necessary implication which states that every statutory grant of power, right or privilege is deemed to include all incidental power, right or privilege.

As the Court sees it, execution is but a necessary incident to the Court’s confirmation of an arbitral award. To construe it otherwise would result in an absurd situation whereby the confirming court previously applying the Special ADR Rules in its confirmation of the arbitral award would later shift to the regular Rules of Procedure come execution. Irrefragably, a court’s power to confirm a judgment award under the Special ADR Rules should be deemed to include the power to order its execution for such is but a collateral and subsidiary consequence that may be fairly and logically inferred from the statutory grant to regional trial courts of the power to confirm domestic arbitral awards. **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) *vs.* UNITED PLANNERS CONSULTANTS, INC. (UPCI), G.R. No. 212081, February 23, 2015, J. Perlas-Bernabe**

**SPECIAL CIVIL ACTIONS**

**DECLARATORY RELIEF**

Declaratory relief is defined as an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute; and for a declaration of his rights and duties thereunder. The only issue that may be raised in such a petition is the question of construction or validity of provisions in an instrument or statute. As such, in the same manner that court decisions cannot be the proper subjects of such petition, decisions of quasi-judicial agencies cannot also be its subject for the simple reason that if a party is not agreeable to a decision either on questions of law or of fact, it may avail of the various remedies provided by the Rules of Court. In view of the foregoing, the decision of the BSP Monetary Board, in the exercise of its quasi-judicial powers or functions, cannot be a proper subject matter for such petition. **THE HONORABLE MONETARY BOARD AND GAIL U. FULE, DIRECTOR, SUPERVISION AND EXAMINATION DEPARTMENT II, AND BANGKO SENTRAL NG PILIPINAS vs. PHILIPPINE VETERANS BANK G.R. No. 189571, January 21, 2015, J. Peralta**

**EMINENT DOMAIN**

When the National Power Corporation filed an expropriation case and the same was subsequently dismissed due to failure to prosecute, it is as if no complaint for expropriation was filed. As a result the NPC is considered to have violated procedural requirements, and hence, waived the usual procedure prescribed in Rule 67, including the appointment of commissioners to ascertain just compensation. Thus, the RTC should have fixed the value of the property for the purposes of just compensation at the time NPC took possession of the same in 1990, and not at the time of the filing of the complaint for compensation and damages in 1994 or its fair market value in 1995. **NATIONAL POWER CORPORATION vs. LUIS SAMAR and MAGDALENA SAMAR G.R. No. 197329, September 8, 2014, J. Del Castillo**

The determination of just compensation is a judicial function; hence, courts cannot be unduly restricted in their determination thereof. To do so would deprive the courts of their judicial prerogatives and reduce them to the bureaucratic function of inputting data and arriving at the valuation. While the courts should be mindful of the different formulae created by the DAR in arriving at just compensation, they are not strictly bound to adhere thereto if the situations before them do not warrant it. Thus, the RTC is advised that while it should be mindful of the different formulae created by the DAR in arriving at just compensation, it is not strictly bound to adhere thereto if the situations before it do not warrant their application. **LAND BANK OF THE PHILIPPINES vs.** **HEIRS OF JESUS ALSUA, REPRESENTED BY BIBIANO C. SABINO** **G.R. No. 211351, February 04, 2015, J. Perlas- Bernabe**

**EXPROPRIATION**

In the present case, NAPOCOR admits that the expropriation of the land in question is no longer necessary for public use. Had that admission been made in the trial court the case should have been dismissed there. It now appearing positively, by resolution of [NAPOCOR], that the expropriation is not necessary for public use, the action should be dismissed even without a motion... The moment it appears in whatever stage of the proceedings that the expro-priation is not for a public use the complaint should be dismissed and all the parties thereto should be relieved from further annoyance or litigation. **REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE NATIONAL POWER CORPORATION vs. HEIRS OF SATURNINO Q. BORBON, AND COURT OF APPEALS, G.R. No. 165354, January 12, 2015, J. Bersamin**

**FORECLOSURE OF REAL ESTATE MORTGAGE**

The spouses mortgaged their property to PNB as security for their loan. Since they were unable to pay, it was foreclosed and PNB was the highest bidder. PNB filed for writ of possession which was held in abeyance by Judge Venadas, Sr. The Court ruled that the judge committed grave abuse of discretion. Once the one-year redemption period has lapsed from the foreclosure sale and once title is consolidated under the name of the purchaser, the issuance of the writ of possession becomes ministerial on the part of the court. The alleged invalidity of the sale of PNB to Atty. Garay is not a ground to defer the issuance of the Writ of Possession. **SPOUSES REYNALDO AND HILLY G. SOMBILON vs. ATTY. REY FERDINAND GARAY AND PHILIPPINE NATIONAL BANK G.R. No. 179914, June 16, 2014, J. Del Castillo ATTY. REY FERDINAND T. GARAY vs. JUDGE ROLANDO S. VENADAS, SR. A.M. No. RTJ-06-2000, June 16, 2014, J. Del Castillo**

Under Section 33, Rule 39 of the Rules of Court, which is made applicable to extrajudicial foreclosures of real estate mortgages, the possession of the property shall be given to the purchaser or last redemptioner unless a third party is actually holding the property in a capacity adverse to the judgment obligor. It contemplates a situation in which a third party holds the property by adverse title or right, such as that of a co-owner, tenant or usufructuary, who possesses the property in his own right, and is not merely the successor or transferee of the right of possession of another co-owner or the owner of the property. **HELEN CABLING assisted by her husband ARIEL CABLING *vs.* JOSELIN TAN LUMAPAS as represented by NORY ABELLANES, G.R. No. 196950, June 18, 2014, J. Brion**

It is a well-established rule that the issuance of a writ of possession to a purchaser in a public auction is a ministerial function of the court, which cannot be enjoined or restrained, even by the filing of a civil case for the declaration of nullity of the foreclosure and consequent auction sale. Once title to the property has been consolidated in the buyer’s name upon failure of the mortgagor to redeem the property within the one-year redemption period, the writ of possession becomes a matter of right belonging to the buyer. Its right to possession has then ripened into the right of a confirmed absolute owner and the issuance of the writ becomes a ministerial function that does not admit of the exercise of the court’s discretion. Moreover, a petition for a writ of possession is ex parte and summary in nature. As one brought for the benefit of one party only and without notice by the court to any person adverse of interest, it is a judicial proceeding wherein relief is granted without giving the person against whom the relief is sought an opportunity to be heard. Since the judge to whom the application for writ of possession is filed need not look into the validity of the mortgage or the manner of its foreclosure, it has been ruled that the ministerial duty of the trial court does not become discretionary upon the filing of a complaint questioning the mortgage. **JUANITO M. GOPIA vs METROPOLITAN BANK AND TRUST CO. G.R. No. 188931, July 28, 2014, J. Peralta**

Petitioner filed the instant petition questioning the decision of the CA holding that an ex-parte petition for the issuance of a writ of possession was not the proper remedy for the petitioner. The SC, though agreed with the CA, held that petitioner is not without recourse. The remedy of a writ of possession is a remedy that is available to a mortgagee-purchaser for him to acquire possession of the foreclosed property from the mortgagor. It is made available to a subsequent purchaser only after hearing and after determining that the subject property is still in the possession of the mortgagor. Unlike if the purchaser is the mortgagee or a third party during the redemption period, a writ of possession may issue ex-parte or without hearing. Thus, petitioner being a third party who acquired the property after the redemption period, a hearing must be conducted to determine whether possession over the subject property is still with the mortgagor. If the property is in the possession of the mortgagor, a writ of possession could thus be issued. Otherwise, the remedy of a writ of possession is no longer available to petitioner, but he can wrest possession over the property through an ordinary action of ejectment. **FE H. OKABE vs. ERNESTO A. SATURNINO G.R. No. 196040, August 26, 2014, J. Peralta**

In the Notice of Sheriff’s Sale, the name “Guellerma Malabanan rep. by her AIF David M. Castro” appeared as mortgagor while the amount of mortgaged indebtedness is P96,870.20 but the mortgagors are Spouses Castro and the amount must be P100,000. The mistakes and omissions referred to in the above-cited ruling which would invalidate notice pertain to those which: 1) are calculated to deter or mislead bidders, 2) to depreciate the value of the property, or 3) to prevent it from bringing a fair price. With jurisprudence as the measure, the errors pointed out by the spouses appear to be harmless. **BANK OF THE PHILIPPINE ISLANDS (formerly Prudential Bank) vs*.*  SPOUSES DAVID M. CASTRO and CONSUELO B. CASTRO, G.R. No. 195272, January 14, 2015, J. Perez**

**FORCIBLE ENTRY AND UNLAWFUL DETAINER**

**FORCIBLE ENTRY**

As a result of the finality of the judgment in the ejectment case, Spouses Ligon were evicted from the subject property. They filed a complaint against defendant Lim for Quieting of Title and Recovery of Possession to restore them to their possession of the subject property. The legal limitation, despite the finality of the ruling in the ejectment case, is that the concept of possession or prior possession which was established in favor of defendant’s predecessors-in-interest in the ejectment case pertained merely to possession de facto, and not possession de jure. The favorable judgment in favor of defendant’s predecessors-in-interest cannot therefore bar an action between the same parties with respect to who has title to the land in question. **CHARLIE LIM vs. SPOUSES DANILO LIGON and GENEROSA VITUG-LIGON G.R. No. 183589, June 25, 2014, J. Villarama**

To justify an action for unlawful detainer, it is essential that the plaintiff’s supposed acts of tolerance must have been present right from the start of the possession which is later sought to be recovered. Otherwise, if the possession was unlawful from the start, an action for unlawful detainer would be an improper remedy. In the instant case, the allegations in the complaint do not contain any averment of fact that would substantiate petitioners’ claim that they permitted or tolerated the occupation of the property by respondents. The complaint contains only bare allegations that "respondents without any color of title whatsoever occupies the land in question by building their house in the said land thereby depriving petitioners the possession thereof." Nothing has been said on how respondents’ entry was effected or how and when dispossession started. **AMADA C. ZACARIA vs. VICTORIA ANACAY, EDNA ANACAY, CYNTHIAANACAYGUISIC, ANGELITO ANACAY, JERMIL ISRAEL, JIMMY ROY ISRAEL G.R. No. 202354, September 24, 2014, J. Villarama**

An allegation of tenancy before the MTC does not automatically deprive the court of its jurisdiction. The material averments in the complaint determine the jurisdiction of a court. A court does not lose jurisdiction over an ejectment suit by the simple expedient of a party raising as a defense therein the alleged existence of a tenancy relationship between the parties. The court continues to have the authority to hear and evaluate the evidence, precisely to determine whether or not it has jurisdiction, and, if, after hearing, tenancy is shown to exist, it shall dismiss the case for lack of jurisdiction. **IRENE D. OFILADA vs. SPS. RUBEN AND MIRAFLOR ANDAL G.R. No. 192270, January 26, 2015, J. Del Castillo**

Section 1, Rule 70 of the Rules of Court, requires that in actions for forcible entry, it must be alleged that the complainant was deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, and that the action was filed anytime within one year from the time the unlawful deprivation of possession took place. As such, the complainant must allege and prove prior physical possession (in the concept of possession de facto, or actual or material possession and not one flowing out of ownership) of the property in litigation until he or she was deprived thereof by the defendant. In this regard, it has been settled that tax declarations and realty tax payments are not conclusive proofs of possession. They are merely good indicia of possession in the concept of owner based on the presumption that no one in one’s right mind would be paying taxes for a property that is not in one’s actual or constructive possession. **MARCELA M. DELA CRUZ vs. ANTONIO Q. HERMANO AND HIS WIFE REMEDIOS HERMANO G.R. No. 160914, March 25, 2015, C.J. Sereno**

**UNLAWFUL DETAINER**

Dominga filed unlawful detainer case against Stop and Save. However, CA dismissed the case on the ground that the latter filed annulment of the lease agreement and constitutes as litis pendencia. The court ruled that unlawful detainer is not the same as annulment of contract. In the unlawful detainer suit, the issue is who between the parties has a better right to physical possession over the property or possession de facto and the principal relief prayed for is for Stop and Save to vacate the property for failure to pay the rent. In contrast, in the annulment of lease contract, the issue is the validity of the lease contract. **DOMINGA B. QUITO, vs. STOP & SAVE CORPORATION, as represented by GREGORY DAVID DICKENSON, as its Chairman, and JULIETA BUAN-DICKENSON, as its President, ROBERTO BUAN, HENRY CO, ANGELINA LUMOTAN, RODEL PINEDA and ROSE CALMA, G.R. No. 186657, June 11, 2014, J. Brion**

Petitioner filed unlawful detainer against respondents who were the assigned caretakers. They declared the subject lot under their name for tax purposes and applied for titling with the DENR when they learned it was public land. Upon learning of their acts, petitioner demanded them to vacate but they refused. The Court granted the petition, holding that petitioner has the better right of possession de facto over the subject lot and that the spouses’ stay on the subject lot was only made possible through the mere tolerance of the petitioner. **BONIFACIO PIEDAD, represented by MARIA INSPIRACION PIEDAD-DANAO vs. SPOUSES VICTORIO GURIEZA and EMETERIA M. GURIEZA G.R. No. 207525, June 18, 2014, J. Perlas-Bernabe**

Contending that it is obliged to pay back rentals only from the time the demand to vacate was served upon it and not from the time it began occupying the disputed premises, Pro-Guard Security Services Corporation (Pro- Guard) sought recourse to the Court. The Supreme Court held that the date of unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate. **PRO-GUARD SECURITY SERVICES CORPORATION vs. TORMILREALTY AND DEVELOPMENT CORPORATION, G.R. No. 176341, July 07, 2014, J. Del Castillo**

The subject of the action is for unlawful detainer, thus cognizable by a first level court or the Municipal Trial Court (MTC). Since the case was filed with the RTC, a second level court, the RTC’s decision is void for lack of jurisdiction over the case. The proceedings before a court without jurisdiction, including its decision, are null and void. It then follows that the appeal brought before the appellate court, as well as the decisions or resolutions promulgated in accordance with said appeal, is without force and effect. **INOCENCIA TAGALOG vs. MARIA LIM VDA. DE GONZALEZ, GAUDENCIA L. BUAGAS, RANULFO Y. LIM, DON L. CALVO, SUSAN C. SANTIAGO, DINA C. ARANAS, and RUFINA C. RAMIREZ G.R. No. 201286, July 18, 2014, J. Carpio**

Failure to pay the rent must precede termination of the contract due to nonpayment of rent. It therefore follows that the cause of action for unlawful detainer must necessarily arise before the termination of the contract and not the other way around. **SPOUSES ALEJANDRO MANZANILLA and REMEDIOS VELASCO vs. WATERFIELDS INDUSTRIES CORPORATION G.R. No.177484, July 18, 2014, J. Del Castillo**

A boundary dispute must be resolved in the context of accion reivindicatoria, not an ejectment case. The boundary dispute is not about possession, but encroachment, that is, whether the property claimed by the defendant formed part of the plaintiff’s property. A boundary dispute cannot be settled summarily under Rule 70 of the Rules of Court, the proceedings under which are limited to unlawful detainer and forcible entry. In unlawful detainer, the defendant unlawfully withholds the possession of the premises upon the expiration or termination of his right to hold such possession under any contract, express or implied. The defendant’s possession was lawful at the beginning, becoming unlawful only because of the expiration or termination of his right of possession. In forcible entry, the possession of the defendant is illegal from the very beginning, and the issue centers on which between the plaintiff and the defendant had the prior possession de facto. **RUBEN MANALANG, CARLOS MANALANG, CONCEPCION GONZALES AND LUIS MANALANG** **vs.** **BIENVENIDO AND MERCEDES BACANI G.R. No. 156995, January 12, 2015, J. Bersamin**

**CERTIORARI, PROHIBITION AND MANDAMUS**

The trial court’s denial of the motion to dismiss is not a license for Tin Guan to file a Rule 65 petition before the CA. An order denying a motion to dismiss cannot be the subject of a petition for certiorari as Tin Guan still has an adequate remedy before the trial court – i.e., to file an answer and to subsequently appeal the case if he loses the case. As exceptions, it may avail of a petition for certiorari if the ground raised in the motion to dismiss is lack of jurisdiction over the person of the Tin Guan or over the subject matter. Under the Rules of Court, entry of judgment may only be made if no appeal or motion for reconsideration was timely filed. In the proceedings before the CA, if a motion for reconsideration is timely filed by the proper party, execution of the CA’s judgment or final resolution shall be stayed.  This rule is applicable even to proceedings before the Supreme Court, as provided in Section 4, Rule 56 of the Rules of Court. In the present case, Tung Ho timely filed its motion for reconsideration with the CA and seasonably appealed the CA’s rulings with the Court through the present petition (G.R. No. 182153). To now recognize the finality of the Resolution of Ting Guan petition (G.R. No. 176110) based on its entry of judgment and to allow it to foreclose the present meritorious petition of Tung Ho, would of course cause unfair and unjustified injury to Tung Ho. **TUNG HO STEEL ENTERPRISES CORPORATION** **vs.** **TING GUAN TRADING CORPORATION G.R. No. 182153, April 7, 2014, J. Arturo D. Brion**

The petition for certiorari shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion. However, the 60-day period may be extended under any of the circumstances. In the instant case, the Order of RTC was received by private complainants on 14 October 2010. Then the Petition for Certiorari was filed one day after the 60-day reglementary period for filing the Petition for Certiorari, in violation of Section 4, Rule 65 of the 1997 Rules of Civil Procedure, since the letter evidencing that the OSG received the documents erroneously stated that the deadline for filing was 14 December 2010, instead of 13 December 2010. However, looking back at the records, since private complainants had to transmit documents to the OSG. It clearly shows that they were able to do so promptly. On 30 November 2010, counsel for private complainants submitted to the Office of the Prosecutor General the draft petition for certiorari, the verification and certification against forum shopping, the original copies containing the signatures of the private prosecutors, and the certified copies of the annexes. These documents were received by the OSG on 3 December 2010 only. Given the circumstances, Court holds that the CA-Cebu should have applied the rules liberally and excused the belated filing. **PEOPLE OF THE PHILIPPINES** **vs.** **VICENTE R. ESPINOSA and LINDSEY BUENAVISTA G.R. No. 199070, April 7, 2014, J.** **Antonio T. Carpio**

A resort to the remedy of mandamus is improper if the standard modes of procedure and forms of remedy are still available and capable of affording relief. So that when the COA still retained its primary jurisdiction to adjudicate money claim, petitioners should have filed a petition for certiorari with this Court pursuant to Section 50 of P.D. No. 1445. Hence, the COA's refusal to act did not leave the petitioners without any remedy at all. Since remedy is still available to petitioner, mandamus cannot be sustained. **STAR SPECIAL WATCHMAN AND DETECTIVE AGENCY, INC., CELSO A. FERNANDEZ and MANUEL V. FERNANDEZ vs. PUERTO PRINCESA CITY, MAYOR EDWARD HAGEDORN and CITY COUNCIL OF PUERTO PRINCESA CITY, G.R. No. 181792, April 21, 2014, J. Mendoza**

Section 1, Rule 65 of the Rules of Court provides that a petition for certiorari may only be filed when there is no plain, speedy, and adequate remedy in the course of law. In this case, the records amply show that Bancommerce’s action fell within the recognized exceptions to the need to file a motion for reconsideration before filing a petition for certiorari. The Sheriff forcibly levied on Bancommerce’s Lipa Branch cash on hand amounting to ~~P~~1,520,000.00 and deposited the same with the Landbank. He also seized the bank’s computers, printers, and monitors, causing the temporary cessation of its banking operations in that branch and putting the bank in an unwarranted danger of a run. Clearly, Bancommerce had valid justifications for skipping the technical requirement of a motion for reconsideration. **BANK OF COMMERCE vs. RADIO PHILIPPINES NETWORK, INC., ET. AL. G.R. No. 195615, April 21, 2014, J. Abad**

Since the OSG filed its petition for certiorari under Rule 65 on behalf of the People 112 days from receipt of the dismissal order by the city prosecutor of Parañaque, the petition was filed out of time. The order of dismissal is thus beyond appellate review. **P/C INSP. LAWRENCE B. CAJIPE, P/C INSP. JOELL. MENDOZA, P/C INSP. GERARDO B. BALATUCAN, PO3 JOLITO P. MAMANAO, JR., P03 FERNANDO REYS. GAPUZ, PO2 EDUARDO G. BLANCO, PO2 EDWIN SANTOS and PO1 JOSIL REY I. LUCENA** vs. **PEOPLE OF THE PHILIPPINES G.R. No. 203605 , April 23, 2014, J. Abad**

With respect to the Court, however, 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 or 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. This application is expressly authorized by the text of the second paragraph of Section 1, [Article VII of the 1987 Constitution]. Thus, petitions for certiorari and prohibition are appropriate remedies to raise constitu-tional issues and to review and/or prohibit or nullify the acts of legislative and executive officials. Necessarily, in discharging its duty under [the subject constitutional duty] to set right and undo any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, the Court is not at all precluded from making the inquiry provided the challenge was properly brought by interested or affected parties. The Court has been thereby entrusted expressly or by necessary implication with both the duty and the obligation of determining, in appropriate cases, the validity of any assailed legislative or executive action. This entrustment is consistent with the republican system of checks and balances. **MARIA CAROLINA P. ARAULLO, CHAIRPERSON, BAGONG ALYANSANG MAKABAYAN ET. AL. VS. BENIGNO SIMEON C. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES ET. AL. G.R. No. 209287 (Consolidated), July 01, 2014, J. Bersamin**

The Court already ruled in numerous cases, beginning with the very early case of Castaño vs. Lobingier, that the power to administer justice conferred upon judges of the Regional Trial Courts, formerly Courts of First Instance (CFI), can only be exercised within the limits of their respective districts, outside of which they have no jurisdiction whatsoever. Applying previous legislation similar to [Section 21] of BP 129 and its complementary provision, i.e., Section 4, Rule 65 of the Rules, the Court held in said case that the CFI of Leyte had no power to issue writs of injunction and certiorari against the Justice of Peace of Manila, as the same was outside the territorial boundaries of the issuing court. Also, in Samar Mining Co., Inc. v. Arnado, a petition for certiorari and prohibition with preliminary injunction was filed in the CFI of Manila to question the authority of the Regional Administrator and Labor Attorney of the Department of Labor in Cebu City to hear a complaint for sickness compensation in Catbalogan, Samar and to enjoin said respondents from conducting further proceedings thereat. The Court affirmed the dismissal of the case on the ground of improper venue, holding that the CFI of Manila had no authority to issue writs of injunction, certiorari, and prohibition affecting persons outside its territorial boundaries. Further, in both Cudiamat vs. Torres (Cudiamat) and National Waterworks and Sewerage Authority v. Reyes (NAWASA), the losing bidders succeeded in securing an injunctive writ from the CFI of Rizal in order to restrain, in Cudiamat, the implementation of an award on a public bidding for the supply of a police call and signal box system for the City of Manila, and, in NAWASA, the conduct of the public bidding for the supply of steel pipes for its Manila and Suburbs Waterworks Project. The Court held in both cases that the injunction issued by the CFI of Rizal purporting to restrain acts outside the [P]rovince of Rizal was null and void for want of jurisdiction. Undoubtedly, applying the aforementioned precepts and pronouncements to the instant case, the writ of prohibition issued by the Manila RTC in order to restrain acts beyond the bounds of the territorial limits of its jurisdiction (i.e., in Iligan City) is null and void. **LAND BANK OF THE PHILIPPINES vs. ATLANTA INDUSTRIES, INC. G.R. No. 193796, July 2, 2014, J. Perlas-Bernabe**

The Petition for Certiorari should have been filed within 60 days from notice of the denial of the Motion for Reconsideration of the assailed Order. Section 4, Rule 65 of the Rules of Court provides that a special civil action for certiorari should be instituted within 60 days from notice of the judgment, order, or resolution, or from the notice of the denial of the motion for reconsideration of the judgment, order, or resolution being assailed. The 60-day period, however, is inextendible to avoid any unreasonable delay, which would violate the constitutional rights of parties to a speedy disposition of their cases. Thus, strict compliance of this rule is mandatory and imperative. But like all rules, the 60-day limitation may be relaxed "for the most persuasive of reasons," which must be sufficiently shown by the party invoking liberality. Furthermore, in the absence of a motion for reconsideration, the Petition for Certiorari should have been dismissed. Jurisprudence consistently holds that the filing of a motion for reconsideration is a prerequisite to the institution of a petition for certiorari. Although this rule is subject to certain exceptions, none of which is present in this case. The Court must emphasize that while litigation is not a game of technicalities, this does not mean that procedural rules may be ignored at will or that their non-observance may be dismissed simply because it may prejudice a party’s substantial rights. Mere invocations of substantial justice and liberality are not enough for the court to suspend procedural rules. Again, except only for the most compelling or persuasive reasons, procedural rules must be followed to facilitate the orderly administration of justice. **PHILIPPINE LONG DISTANCE TELEPHONE COMPANY vs.** **MILLARD R. OCAMPO, CIPRIANO REY R. HIPOLITO, ERIC F. MERJILLA AND JOSE R. CARANDANG** **G.R. No. 163999, July 9, 2014, J. Del Castillo**

A Petition for Certiorari will prosper if the following rules will be observed: 1) the applicant must allege with certainty that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law, or when any of those are present, allege facts showing that any existing remedy is impossible or unavailing, or that will excuse him for not having availed himself of such remedy; 2) he must also show that the party against whom it is being sought acted in grave abuse of discretion as to amount to lack of jurisdiction; and 3) the hierarchy of courts must be respected. However, it cannot be resorted to when then the lower court acquired jurisdiction over the case and the person of the petitioners for any perceived error in its interpretation of the law and its assessment of evidence would only be considered an error of judgment and not of jurisdiction. Hence, such is correctible by appeal and not by certiorari. **JAY CANDELARIA and ERIC BASIT vs. REGIONAL TRIAL COURT, BRANCH 42, CITY OF SAN FERNANDO; (Pampanga) represented by its Presiding Judge HON. MARIA AMIFAITH S. FIDER-REYES, OFFICE OF THE PROVINCIAL PROSECUTOR, CITY OF SAN FERNANDO, PAMPANGA and ALLIED DOMECQ PHILIPPINES, INC.**

**G.R. No.173861, July 14, 2014, J. Del Castillo**

The appellate court acted within its sound discretion when it re-evaluated the NLRC’s factual findings and substituted the latter’s own judgment. It is settled that under Section 9 of Batas Pambansa Blg.129, as amended by Republic Act No. 7902, the CA, pursuant to the exercise of its original jurisdiction over petitions for certiorari, is specifically given the power to pass upon the evidence, if and when necessary, to resolve factual issues. **WESLEYAN UNIVERSITY PHILIPPINES vs. NOWELLA REYES G.R. No. 208321, July 30, 2014, J. Velasco, Jr.**

Festin then filed a Protest Ad Cautelam against Villarosa alleging that there were various irregularities that transpired during the election. The Regional Trial Court rendered a decision in favor of Villarosa and declared him to be the winner of the elections and thus entitled to assume office. The Comelec Special Division issued an order granting Felins prayer for Preliminary Injunction. With this, Villarosa filed a petition for certiorari under Rule 65 with the Supreme Court. The Court ruled that in the instructive case of Ambil v. Commission on Elections, the court has interpreted the provision to limit the remedy of certiorari against final orders, rulings and decisions of the COMELEC en banc rendered in the exercise of its adjudicatory or quasi-judicial powers. Certiorari will not generally lie against an order, ruling,or decision of a COMELEC division for being premature, taking into account the availability of the plain, speedy and adequate remedy of a motion for reconsideration. As elucidated in the case, Rule 65, Section 1, 1997 Rules of Civil Procedure, as amended, requires that there be no appeal, plain, speedy and adequate remedy in the ordinary course of law. A motion for reconsideration is a plain and adequate remedy provided by law. Failure to abide by this procedural requirement constitutes a ground for dismissal of the petition. **JOSE TAPALES VILLAROSA vs. ROMULO DE MESA FESTIN and COMMISSION ON ELECTIONS G.R. No. 212953, August 5, 2014, J. Velasco, JR.**

Section 2 (d), Rule 42 of the Rules of Court requires the petition for review to be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, and the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. The failure of the petitioner to comply with the requirement shall be a sufficient ground for the dismissal of the petition for review. **JUANITO MAGSINO vs. ELENA DE OCAMPO and RAMON GUICO G.R. No. 166944, August 18, 2014, J. Bersamin**

The well-established rule is that the motion for reconsideration is an indispensable condition before an aggrieved party can resort to the special civil action for certiorari under Rule 65 of the Rules of Court. The rule is not absolute, however, considering that jurisprudence has laid down exceptions to the requirement for the filing of a petition for certiorari without first filing a motion for reconsideration, namely: (a) where the order is a patent nullity, as where the court a quo has no jurisdiction; (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question, and any further delay would prejudice the interests of the Government, or of the petitioner, or the subject matter of the petition is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where the petitioner was deprived of due process, and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent, and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceeding was ex parte or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or public interest is involved. A perusal of the circumstances of the case shows that none of the foregoing exceptions was applicable herein. Hence, Causing should have filed the motion for reconsideration, especially because there was nothing in the COMELEC Rules of Procedure that precluded the filing of the motion for reconsideration in election offense cases. **ELSIE S. CAUSING** **vs.** **COMMISSION ON ELECTIONS AND HERNAN D. BIRON, SR.** **G.R. No. 199139, September 9, 2014, J. Bersamin**

Respondent moved for reconsideration which the NLRC denied in a Resolution. Atty. Borromeo, respondent’s counsel, was duly notified of the said resolution. The respondent filed a petition for certiorari before the CA 25 days after the period to file such petition has lapsed. He reasoned that his counsel has been relieved of his duties long before and that he was not notified of such resolution. The Court ruled that the CA did not acquire jurisdiction. Under Section 4, Rule 65 of the Rules of Court, an aggrieved party has 60 days from receipt of the assailed decision, order or resolution within which to file a petition for certiorari. Well-settled rule that if a litigant is represented by counsel, notices of all kinds, including court orders and decisions, must be served on said counsel, and notice to him is considered notice to his client. **ATTY. FORTUNATO PAGDANGANAN, JR., ATTY. ABIGAIL D. SUAREZ, and EUGENIO A. VILLANUEVA vs. FLORENTINO P. SARMIENTO G.R. No. 206555, September 17, 2014, J. Perlas-Bernabe**

The Court finds 680 Home’s resort to a certiorari petition rather dubious. After receiving on February 25, 2013 a copy of the CA decision, 680 Home filed neither a motion for reconsideration thereof nor an appeal therefrom. Instead, it waited 58 days after receiving the assailed decision on April 24, 2013 to institute a certiorari proceeding. Although the petition was filed within the 60-day period to institute a certiorari proceeding, the long delay negates 680 Home’s claimed urgency of its cause and indicates that it resorted to the present petition for certiorari as a substitute for its lost appeal. **680 HOME APPLIANCES, INC. vs. THE HONORABLE COURT OF APPEALS, THE HONORABLE MARY ANNE CORPUS-MANALAC, IN HER CAPACITY AS THE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 141, ATTY. ENGRACIO ESCASINAS, JR., IN HIS CAPACITY AS THE EX-OFFICIO SHERIFF/CLERK OF COURT VII, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MAKATI CITY, FIRST SOVEREIGN ASSET MANAGEMENT (SPV-AMC), INC., AND ALDANCO MERLMAR, INC., G.R. No. 206599, September 29, 2014, J. Brion**

The CA fell into a trap when it ruled that a mayor, an officer from the executive depart-ment, exercises an executive function whenever he issues an Executive Order. This is tad too presumptive for it is the nature of the act to be performed, rather than of the office, board, or body which performs it, that determines whether or not a particular act is a discharge of judicial or quasi-judicial functions. The first requirement for certiorari is satisfied if the officers act judicially in making their decision, whatever may be their public character.

It is not essential that the challenged proceedings should be strictly and technically judicial, in the sense in which that word is used when applied to courts of justice, but it is sufficient if they are quasi-judicial. To contrast, a party is said to be exercising a judicial function where he has the power to determine what the law is and what legal rights of the parties are, and then undertakes to determine these questions and adjudicate upon the rights of the parties, whereas quasi-judicial function is “a term which applies to the actions, discretion, etc., of public administrative officers or bodies xxx required to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action and to exercise discretion of a judicial nature.”

In the case at bench, the assailed EO 10 was issued upon the [mayor’s] finding that Boracay West Cove’s construction, expansion, and operation of its hotel in Malay, Aklan is illegal. Such a finding of illegality required the respondent mayor’s exercise of quasi-judicial functions, against which the special writ of certiorari may lie. **CRISOSTOMO B. AQUINO vs. MUNICIPALITY OF MALAY, AKLAN, REPRESENTED BY HON. MAYOR JOHN P. YAP, SANGGUNIANG BAYAN OF MALAY, AKLAN, REPRESENTED BY HON. EZEL FLORES, DANTE PASUGUIRON, ROWEN AGUIRRE, WILBEC GELITO, JUPITER GALLENERO, OFFICE OF THE MUNICIPAL ENGINEER, OFFICE OF THE MUNICIPAL TREASURER, BORACAY PNP CHIEF, BORACAY FOUNDATION INC., REPRESENTED BY NENETTE GRAF, MUNICIPAL AUXILIARY POLICE, AND JOHN AND JANE DOES, G.R. No. 211356, September 29, 2014, J. Velasco, Jr.**

The general rule is that a motion for reconsideration is a condition sine qua non before a petition for certiorari may lie, its purpose being to grant an opportunity for the court a quo to correct any error attributed to it by a re-examination of the legal and factual circumstances of the case. However, the rule is not absolute and jurisprudence has laid down the following exceptions when the filing of a petition for certiorari is proper notwithstanding the failure to file a motion for reconsideration.

Forum shopping is committed by a party who, having received an adverse judgment in one forum, seeks another opinion in another court, other than by appeal or special civil action of certiorari.

In the instant case, the Court cannot but agree with petitioner Republic that this case falls within the abovementioned exceptions, to wit: (a) where the order is a patent nullity, as where the court a quo has no jurisdiction; (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the petition is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (i) where the issue raised is one purely of law or public interest is involved.

The questions raised in the certiorari proceedings are the same as those already raised and passed upon in the lower court; hence, filing a motion for reconsideration would be useless and serve no practical purpose. Further, records show that petitioner Republic timely filed its motion for extension of time to file a petition on March 2, 2011. The petition, however, was not docketed because the required fees were not paid based on petitioner’s belief that it is exempt therefrom. Nonetheless, payment was immediately made the following day, March 3, 2011. The tardiness of petitioner is excusable since no significant period of time elapsed. **REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE NATIONAL IRRIGATION ADMINISTRATION vs. SPOUSES ROGELIO LAZO AND DOLORES LAZ** **G.R. No. 195594, September 29, 2014, J. Peralta**

For certiorari to prosper, the following requisites must concur: (1) the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law. In this case, Court finds no abuse of discretion, grave or simple in nature, committed by the CA in dismissing the petitioners’ certiorari petition for being the wrong mode of appeal. The CA’s dismissal of the certiorari petition is, in fact, well-supported by law and jurisprudence. The Court previously held that Rule 43 of the Rules of Court shall govern the procedure for judicial review of decisions, orders, or resolutions of the DAR Secretary, and that an appeal taken to the Supreme Court or the CA by the wrong or inappropriate mode shall be dismissed. **HEIRS OF JULIO SOBREMONTE and FELIPA LABAPIS SOBREMONTE, vs.** **COURT OF APPEALS, et al.,**  **G.R. No. 206234, October 22, 2014**, **J. Brion**

To justify the grant of the extraordinary remedy of certiorari, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon it. In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, inter alia, its findings and conclusions are not supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. The onus probandi falls on the seafarer to establish his claim for disability benefits by the requisite quantum of evidence to justify the grant of relief. Guided by the foregoing considerations, the Court finds that the CA committed reversible error in granting Hipe’s certiorari petition since the NLRC did not gravely abuse its discretion in dismissing the complaint for permanent disability benefits for Hipe’s failure to establish his claim through substantial evidence. **BAHIA SHIPPING SERVICES, INC., FRED OLSEN CRUISE LINE, and MS. CYNTHIA C. MENDOZA vs. JOEL P. HIPE, JR. G.R. No. 204699, November 12, 2014, J. Perlas- Bernabe**

Jurisdiction over the issue of the constitutionality of the OWWA Omnibus Policies is a question of law, as issuance was done in the exercise of their quasi-legislative and administrative functions within the confines of the granting law. Hence, contrary to the lower court’s contention, certiorari under Rule 65 is not the proper remedy in the instant case. Thus, the RTC had jurisdiction over the controversy and it was erroneous for it to dismiss the complaint outright. **PHILIPPINE MIGRANTS WATCH, INC., et al. vs. OVERSEAS WORKERS WELFARE ADMINISTRATION, et al. G.R. No. 166923, November 26, 2014, J. Peralta**

Bureau of Immigration ordered deportation of petitioner. The Secretary of Justice affirmed the order. Petitioner filed petition for certiorari before the CA which was denied. It revolves on his denial of the acts of misrepresentation. The Court affirmed the factual matters already established. The Bureau is the agency that can best determine whether petitioner violated certain provisions of the Immigration Act. Courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies. **TZE SUN WONG vs. KENNY WONG G .R. No. 180364, December 03, 2014, J. Perlas-Bernabe**

RTC issued a writ of execution to which respondent sheriff has reported that it has been fully implemented. Two years after, petitioner filed for another issuance of writ of execution which has been denied. Petitioner filed an action for mandamus to compel the RTC to issue such. The Court dismissed the petition. A writ of mandamus is employed to compel the performance, when refused, of a ministerial duty which is that which an officer or tribunal in obedience to the mandate of legal authority, without regard to or the exercise of his or its own judgment upon the propriety or impropriety of the act done. The writ of execution has already been implemented. The proper remedy is to cite the disobedient party in contempt. **ANTONIO MARTINEZ vs. HON. RONALDO B. MARTIN, Presiding Judge and ROLANDO PALMARES, Deputy Sheriff, both of the Regional Trial Court of Antipolo City, Branch 73, and NATALIA REALTY, INC. G.R. No. 203022, December 03, 2014, J. Perlas-Bernabe**

The OMB contends that the CA should have dismissed Rigor’s Petition for Certiorari for being an improper remedy. Appeals from decisions in administrative disciplinary cases of the OMB should be taken to the CA via a Petition for Review under Rule 43 of the Rules of Court. Rule 43 prescribes the manner of appeal from quasi-judicial agencies, such as the OMB, and was formu-lated precisely to provide for a uniform rule of appellate procedure for quasi-judicial agencies. Rigor, in support of his petition for certiorari, argues that there was no other plain, speedy, and adequate legal remedy available to him. But it is settled that certiorari under Rule 65 will not lie, as appeal under Rule 43 is an adequate remedy in the ordinary course of law. The remedies of appeal and certiorari are mutually exclusive and not alternative or successive. **HON. ORLANDO C. CASIMIRO, IN HIS CAPACITY AS ACTING OMBUDSMAN, OFFICE OF THE OMBUDSMAN; HON. ROGELIO L. SINGSON, IN HIS CAPACITY AS DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS SECRETARY vs. JOSEFINO N. RIGOR G.R. No. 206661, December 10, 2014, J. Peralta**

Certiorari, being an extraordinary remedy, is granted only under the conditions defined by the Rules of Court. The conditions are that: (1) the respondent tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (2) there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. In other words, power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law. **SAINT MARY CRUSADE TO ALLEVIATE POVERTY OF BRETHREN FOUNDATION, INC vs. HON. TEODORO T. RIEL G.R. No. 176508, January 12, 2015, J. Bersamin**

When petitioners, a Diocese and its Bishop posted tarpaulins in front of the cathedral which aimed to dissuade voters from electing candidates who supported the RH Law, and the COMELEC twice ordered the latter to dismantle the tarpaulin for violation of its regulation which imposed a size limit on campaign materials, the petitioners may directly file a Rule 65 Petition with the Supreme Court without need for a ruling from the COMELEC En Banc, as the petitioners are not candidates in the elections but is asserting their right to free speech, and the COMELEC acts not in its quasi-judicial function but in its regulatory function. In addition, the doctrine of hierarchy of courts is not violated, as the case falls under the exceptions thereto. The petitioners also did not violate the principle of exhaustion of administrative remedies, as the same yields in order to protect this fundamental right. Even if it applies, the case falls under the exceptions to the doctrine; namely: it involves a legal question and the application of the doctrine would be unreasonable. Finally, the case is about COMELEC’s breach of the petitioners’ fundamental right of expression of matters relating to election. Such a violation is grave abuse of discretion; thus the constitutionality of COMELEC’s orders are within the Supreme Court’s power to review under Rule 65. **DIOCESE OF BACOLOD, REPRESENTED BY THE MOST REV. BISHOP VICENTE M. NAVARRA and THE BISHOP HIMSELF IN HIS PERSONAL CAPACITY vs. COMMISSION OF ELECTIONS AND THE ELECTION OFFICER OF BACOLOD CITY, ATTY. MAVIL V. MAJARUCON G.R. No. 205728, January 21, 2015, J. Leonen**

As can be gleaned from both the Rules of Procedure of the Office of the Ombudsman and the Rules of Court, the respondent is required to be furnished a copy of the complaint and the supporting affidavits and documents. Clearly, these pertain to affidavits of the complainant and his witnesses, not the affidavits of the co-respondent. As such, no grave abuse of discretion can thus be attributed to the Ombudsman for the issuance of an order denying the request of the respondent to be furnished copies of counter-affidavits of his co-respondents. Also, as a general rule, a motion for reconsideration is mandatory before the filing of a petition for certiorari. Absent any compelling reason to justify non-compliance, a petition for certiorari will not lie. All the more, it will lie only if there is no appeal or any other plain, speedy and adequate remedy available in the ordinary course of law. Thus, a failure to avail of the opportunity to be heard due to the respondent’s own fault cannot in any way be construed as a violation of due process by the Ombudsman, much less of grave abuse of discretion. Finally, a respondent’s claim that his rights were violated cannot be given credence when he flouts the rules himself by resorting to simultaneous remedies by filing Petition for Certiorari alleging violation of due process by the Ombudsman even as his Motion for Reconsideration raising the very same issue remained pending with the Ombudsman. **SENATOR JINGGOY EJERCITO ESTRADA vs. BERSAMIN, OFFICE OF THE OMBUDSMAN, FIELD INVESTIGATION OFFICE, OFFICE OF THE OMBUDSMAN, NATIONAL BUREAU OF INVESTIGATION AND ATTY. LEVITO D. BALIGOD, G.R. Nos. 212140-41, January 21, 2015, J. Carpio**

Complaints against the petitioner were taken in a meeting of the Commission on Human Rights. A Show Cause Order was issued against petitioner. Questioning its validity, petitioner filed petition for certiorari. The Court dismissed it and ruled that there was no grave abuse of discretion. Special civil action for certiorari is available only when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess or its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. Respondents, as Chairperson and Members of the CHR, did not engage in judicial or quasi-judicial functions. They did not adjudicate the rights and obligations of the contending parties but simply undertook to initiate the investigation. **CECILIA RACHEL V. QUISUMBING vs. LORETTA ANN P. ROSALES, MA. VICTORIA V. CARDONA and NORBERTO DELA CRUZ, in their capacities as Chairperson and Members, respectively, of the COMMISSION ON HUMAN RIGHTS G.R. No. 209283, March 11, 2015, J. Brion**

**CONTEMPT**

The pendency of a special civil action for certiorari instituted in relation to a pending case does not stay the proceedings therein in the absence of a writ of preliminary injunction or temporary restraining order. Rule 65, Section 7 of the 1997 Rules makes this clear: x x x The petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case. **RICARDO C. SILVERIO, SR. and LORNA CILLAN-SILVERIO vs. RICARDO S. SILVERIO, JR. G.R. No. 186589, July 18, 2014, J. Del Castillo**

The Court cannot see why the petition questioning the dropping of De Guzman as co-defendant was patently without merit. Davao City was of the firm and sincere belief that he had a hand in the reconveyance of the subject property to the Heirs. The use of the word "may" in the last sentence of the second paragraph or Section 8, Rule 65, indicates that the assessment of treble costs is not automatic or mandatory. Although the court is afforded judicial discretion in imposing treble costs, there remains a need to show that it is sound and with basis that is taking all the pertinent circumstances into due consideration. In the case at bench, the imposition of treble costs was not explained at all. As the CA never justified it, the imposition should be stricken off. **CITY OF DAVAO vs. COURT OF APPEALS and BENJAMIN C. DE GUZMAN G.R. No. 200538, August 13, 2014, J. Mendoza**

Elisa Angeles alleged that respondents committed contempt for defying the order of the trial court to elevate the records of her case to the Court of Appeals. The court ruled that Contrary to Elisa Angeles allegations, the records show that respondents were merely implementing the orders issued by the trial court in Civil Case No. 69213 and that no stay order was issued against the enforcement of the subject writ of execution.  There is no sufficient showing of acts committed by respondents which may constitute contempt, such as among others, refusing to obey [a] lawful order of the court or act of disrespect to the dignity of the court which tends to hamper the orderly proceedings and lessen its efficiency. **ELISA ANGELES vs**. **HON. COURT OF APPEALS, OFFICER-IN-CHARGE MARILOU C. MARTIN, DEPUTY SHERIFF JOSELITO SP ASTORGA, MARCO BOCO, AND JOHN DOES, REGIONAL TRIAL COURT OF PASIG, BRANCH 268 G.R. No. 178733, September 15, 2014, J. Del Castillo**

A criminal contempt involves a conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect. Civil contempt on the other hand, consists in failing to do something ordered to be done by a court in a civil action for the benefit of the opposing party therein and is, therefore, an offense against the party in whose behalf the violated order is made. **CASTILLEJOS CONSUMNERS ASSOCIATION, INC. (CASCONA) vs. JOSE S. DOMINGUEZ, ET AL. G.R. No. 189949, March 25, 2015, J. Mendoza**

**SPECIAL PROCEEDINGS**

**SETTLEMENT OF ESTATE OF DECEASED PERSONS**

The trial court cannot make a declaration of heirship in the civil action for the reason that such a declaration can only be made in a special proceeding. The case at bar is an action for annulment of title, reconveyance with damages, a civil action, whereas matters which involve the settlement and distribution of the estate of a deceased person as well as filiation and heirship partake of the nature of a special proceeding, which requires the application of specific rules as provided for in the Rules of Court. With both parties claiming to be the heirs of Severo Basbas, it is but proper to thresh out this issue in a special proceeding, since Crispiniano and respondent Ricardo seeks to establish his status as one of the heirs entitled to the property in dispute. **HEIRS OF VALENTIN BASBAS et al vs.** **RICARDO BASBAS as represented by EUGENIO BASBAS,** **G.R. No. 188773, September 10, 2014, J. Perez**

No distribution shall be allowed until payment of the obligations above mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs. In this case, the settlement of Jose, Sr.’s estate is not yet through and complete albeit it is at the liquidation, partition and distribution stage. From all of the foregoing, it is apparent that the intestate proceedings involving Jose, Sr.’s estate still requires a regular administrator to finally settle the estate and distribute remaining assets to the heirs of the decedent. **MARCELO INVESTMENT AND MANAGEMENT CORPORATION, AND THE HEIRS OF EDWARD T. MARCELO, NAMELY, KATHERINE J. MARCELO, ANNA MELINDA J. MARCELO REVILLA, AND JOHN STEVEN J. MARCELO** **vs.** **JOSE T. MARCELO, JR.**, **G.R. No. 209651, November 26, 2014, J. Perez**

**WRIT OF HABEAS CORPUS**

Considering that the writ is made enforceable within a judicial region, petitions for the issuance of the writ of habeas corpus, whether they be filed under Rule 102 of the Rules of Court or pursuant to Section 20 of A.M. No. 030404SC, may therefore be filed with any of the proper RTCs within the judicial region where enforcement thereof is sought. As regards petitioner’s assertion that the summons was improperly served, suffice it to state that service of summons, to begin with, is not required in a habeas corpus petition, be it under Rule 102 of the Rules of Court or A.M. No. 030404SC. As held in Saulo v. Cruz, 105 Phil. 315 (1959), a writ of habeas corpus plays a role somewhat comparable to a summons, in ordinary civil actions, in that, by service of said writ, the court acquires jurisdiction over the person of the respondent. **MA. HAZELINA A. TUJAN-MILITANTE vs RAQUEL CADA-DEAPARA G.R. No. 210636, July 28, 2014, J. Velasco, Jr**

**WRIT OF HABEAS DATA**

Even assuming that the photos in issue are visible only to the sanctioned students’ Facebook friends, respondent STC can hardly be taken to task for the perceived privacy invasion since it was the minors’ Facebook friends who showed the pictures to Tigol. Respondents were mere recipients of what were posted. They did not resort to any unlawful means of gathering the information as it was voluntarily given to them by persons who had legitimate access to the said posts. Clearly, the fault, if any, lies with the friends of the minors. Curiously enough, however, neither the minors nor their parents imputed any violation of privacy against the students who showed the images to Escudero.

Furthermore, petitioners failed to prove their contention that respondents reproduced and broadcasted the photographs. In fact, what petitioners attributed to respondents as an act of offensive disclosure was no, more than the actuality that respondents appended said photographs in their memorandum submitted to the trial court in connection… These are not tantamount to a violation of the minor’s informational privacy rights, contrary to petitioners’ assertion. **RHONDA AVE S. VIVARES AND SPS. MARGARITA AND DAVID SUZARA vs. ST. THERESA’S COLLEGE, MYLENE RHEZA T. ESCUDERO, AND JOHN DOES, G.R. No. 202666, September 29, 2014, J. Velasco, Jr.**

A Habeas Data Petition is dismissible if it fails to adequately show that there exists a nexus between the right to privacy on the one hand, and the right to life, liberty or security on the other. Moreover, it is equally dismissible if it is not supported by substantial evidence showing an actual or threatened violation of the right to privacy in life, liberty or security of the victim. **DR. JOY MARGATE LEE vs. P/SUPT. NERI A. ILAGA G.R. No. 203254, October 08, 2014, J. Perlas-Bernabe**

**WRIT OF AMPARO**

Ma. Christina YusayCaram then filed a petition for the issuance of writ of amparo before the Regional Trial Court in order to compel the DSWD (Department of Social Welfare and Development) to produce and give back to her infant Julian. The DSWD and the Office of the Solicitor General opposed the motion contending that the remedy availed of by Christina is wrong- the proper remedy is to file a civil action and not a petition for the issuance of writ of amparo. The Supreme Court ruled that [t]he AmparoRule was intended to address the intractable problem of "extralegal killings" and "enforced disappearances," its coverage, in its present form, is confined to these two instances or 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, "enforced disappearances" are "attended by the following characteristics: an arrest, detention or abduction of a person by a government official or organized groupsor private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such persons outside the protection of law. **Infant JULIAN YUSA Y CARAM, represented by his mother, MA. CHRISTINA YUSAY CARAM vs. Atty. MARIJOY D. SEGUI, Atty. SALLY D. ESCUTIN, VILMA B. CABRERA, and CELIA C. YANGCO G.R. No. 193652, August 5, 2014, J. Villarama**

**CANCELLATION OR CORRECTION OF ENTRIES IN THE CIVIL REGISTRY**

Substantial errors in a civil registry may be corrected and the true facts established provided the parties aggrieved by the error avail themselves of the appropriate adversary proceedings. Thus, correcting the entry on Onde’s birth certificate that his parents were married on December 23, 1983 in Bicol to "not married" is a substantial correction requiring adversarial proceedings. Said correction is substantial as it will affect his legitimacy and convert him from a legitimate child to an illegitimate one. **FRANCLER P. ONDE vs. THE OFFICE OF THE LOCAL CIVIL REGISTRATION OF LAS PIÑAS CITY** **G.R. No. 197174, September 10, 2014, J. VILLARAMA, JR.**

**CRIMINAL PROCEDURE**

**JURISDICTION OF CRIMINAL COURTS**

The information charged Antonio Garcia with violation of Article 318 of the Revised Penal Code, which is punishable by arresto mayor, or imprisonment for a period of one (1) month and one (1) day to six (6) months. When the information was filed on September 3, 1990, the law in force was Batas Pambansa Blg. 129 before it was amended by Republic Act No. 7691. Under Section 32 of Batas Pambansa Blg. 129, the Metropolitan Trial Court had jurisdiction over the case. **ANTONIO M. GARCIA vs. FERRO CHEMICALS, INC.,** **G.R. No. 172505, October 01, 2014, J. Leonen**

**CONTROL OF PROSECUTION**

Founded on the power of supervision and control over his subordinates, the Secretary of Justice did not act with grave abuse of discretion when he took cognizance of BBB’s letter and treated it as a petition for review from the provincial prosecutor’s resolution. **DEPARTMENT OF JUSTICE** **vs**. **TEODULO NANO ALAON G.R. No. 189596, April 23, 2014, J. Perez**

RTC dismissed the criminal cases, ruling that the Go and Dela Rosa’s right to speedy trial was violated as they were compelled to wait for five (5) years without the prosecution completing its presentation of evidence due to its neglect. In their petition for certiorari before the CA, respondents failed to implead the People of the Philippines as a party thereto. Because of this, the petition was obviously defective. As provided in Section 5, Rule 110 of the Revised Rules of Criminal Procedure, all criminal actions are prosecuted under the direction and control of the public prosecutor. Therefore, it behooved the respondents herein to implead the People of the Philippines as respondent in the CA case to enable the Solicitor General to comment on the petition. **PEOPLE OF THE PHILIPPINES vs. JOSE C. GO and AIDA C. DELA ROSA G.R. No. 201644, September 24, 2014, J. Perlas-Bernabe**

**SUFFICIENCY OF COMPLAINT OR INFORMATION**

It is true that the gravamen of the crime of estafa under Article 315, paragraph 1, subparagraph (b) of the RPC is the appropriation or conversion of money or property received to the prejudice of the owner and that the time of occurrence is not a material ingredient of the crime, hence, the exclusion of the period and the wrong date of the occurrence of the crime, as reflected in the Information, do not make the latter fatally defective. Therefore, Corpuz’s argument that the Information filed against him is formally defective because the Information does not contain the period when the pieces of jewelry were supposed to be returned and that the date when the crime occurred was different from the one testified to by private complainant Tangcoy is untenable. **LITO CORPUZ vs. PEOPLE OF THE PHILIPPINES G.R. No. 180016, April 29, 2014, J. Peralta**

The inclusion of the phrase "wearing masks and/or other forms of disguise" in the information does not violate the constitutional rights of appellants Feliciano. Every aggravating circumstance being alleged must be stated in the information. Failure to state an aggravating circumstance, even if duly proven at trial, will not be appreciated as such. It was, therefore, incumbent on the prosecution to state the aggravating circumstance of "wearing masks and/or other forms of disguise" in the information in order for all the evidence, introduced to that effect, to be admissible by the trial court. **PEOPLE OF THE PHILIPPINES vs. DANILO FELICIANO, JR. et al G.R. No. 196735, May 5, 2014, J. Leonen**

In crimes where the date of commission is not a material element, like murder, it is not necessary to allege such date with absolute specificity or certainty in the information. The Rules of Court merely requires, for the sake of properly informing an accused, that the date of commission be approximated. As such, the allegation in an information of a date of commission different from the one eventually established during the trial would not, as a rule, be considered as an error fatal to prosecution. In such cases, the erroneous allegation in the information is just deemed supplanted by the evidence presented during the trial or may even be corrected by a formal amendment of the information.

However, variance in the date of commission of the offense as alleged in the information and as established in evidence becomes fatal when such discrepancy is so great that it induces the perception that the information and the evidence are no longer pertaining to one and the same offense. In this event, the defective allegation in the information is not deemed supplanted by the evidence nor can it be amended but must be struck down for being violative of the right of the accused to be informed of the specific charge against him. **PEOPLE OF THE PHILIPPINES vs. RAEL DELFIN G.R. No. 201572, July 9, 2014, J. Perez**

As a general rule, a complaint or information must charge only one offense, otherwise, the same is defective. The rationale behind this rule prohibiting duplicitous complaints or informations is to give the accused the necessary knowledge of the charge against him and enable him to sufficiently prepare for his defense.  The State should not heap upon the accused two or more charges which might confuse him in his defense. Non-compliance with this rule is a ground for quashing the duplicitous complaint or information under Rule 117 of the Rules on Criminal Procedure and the accused may raise the same in a motion to quash before he enters his plea, otherwise, the defect is deemed waived. The accused herein, however, cannot avail of this defense simply because they did not file a motion to quash questioning the validity of the Information during their arraignment.  Thus, they are deemed to have waived their right to question the same.  Also, where the allegations of the acts imputed to the accused are merely different counts specifying the acts of perpetration of the same crime, as in the instant case, there is no duplicity to speak of. **PEOPLE OF THE PHILIPPINES AND AAA** **vs.** **COURT OF APPEALS, 21ST DIVISION, MINDANAO STATION, RAYMUND CARAMPATANA, JOEFHEL OPORTO, AND MOISES ALQUIZOLA** **G.R. No. 183652, February 25, 2015, J. Peralta**

**DESIGNATION OF OFFENSE**

Moleta filed a case against Consigna, the Municipal Treasurer of General Luna, Surigao del Norte, for the violation of AntiGraft and Corrupt Practices and Estafa before the Sandiganbayan. Cosigna argued that the Sandiganbayan has no jurisdiction because the crime as charged did not specify the provision of law allegedly violated, i.e., the specific type of Estafa. In that issue, the Supreme Court ruled that what is controlling is not the title of the complaint, nor the designation of the offense charge or the particular law or part thereof allegedly violated but the description of the crime charged and the particular facts therein recited. **SILVERINA E. CONSIGNA vs. PEOPLE OF THE PHILIPPINES, THE HON. SANDIGANBAYAN (THIRD DIVISION), and EMERLINA MOLETA
G.R. Nos. 17575051, April 2, 2014, J. Perez**

**AMENDMENT OR SUBSTITUTION OF COMPLAINT OR INFORMATION**

Dr. Joel Mendez was charged with tax evasion. However, the prosecutor filed amended complaint which changed the date of the commission of the offense. The court ruled that amendments that do not charge another offense different from that charged in the original one; or do not alter the prosecution's theory of the case so as to cause surprise to the accused and affect the form of defense he has or will assume are considered merely as formal amendments. **DR. JOEL C. MENDEZ vs.** **PEOPLE OF THE PHILIPPINES and COURT OF TAX APPEALS** **G.R. No. 179962, June 11, 2014, J. Brion**

**INTERVENTION OF OFFENDED PARTY**

Sec. 16 of Rule 110 of the Revised Rules of Criminal Procedure expressly allows an offended party to intervene by counsel in the prosecution of the offense for the recovery of civil liability where the civil action for the recovery of civil liability arising from the offense charged is instituted with the criminal action. The civil action shall be deemed instituted with the criminal action, except when the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action. In this case, the CA found no such waiver from or reservation made by Chan. The fact that Chan, who was already based abroad, had secured the services of an attorney in the Philippines reveals her willingness and interest to participate in the prosecution of the bigamy case and to recover civil liability from the petitioners. Thus, the RTC should have allowed, and should not have disqualified, Atty. Atencia from intervening in the bigamy case as Chan, being the offended party, is afforded by law the right to participate through counsel in the prosecution of the offense with respect to the civil aspect of the case. **LEONARDO A. VILLALON AND ERLINDA TALDE-VILLALON vs. AMELIA CHAN** **G.R. No. 196508, September 24, 2014, J. Brion**

**RULE ON IMPLIED INSTITUTION OF CIVIL ACTION WITH CRIMINAL ACTION**

Section 16 of Rule 110 of the Revised Rules of Criminal Procedure expressly allows an offended party to intervene by counsel in the prosecution of the offense for the recovery of civil liability where the civil action for the recovery of civil liability arising from the offense charged is instituted with the criminal action. The civil action shall be deemed instituted with the criminal action, except when the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action. The fact that the respondent, who was already based abroad, had secured the services of an attorney in the Philippines reveals her willingness and interest to participate in the prosecution of the bigamy case and to recover civil liability from the petitioners. **LEONARDO A. VILLALON AND ERLINDA TALDE-VILLALON vs. AMELIA CHAN, G.R. No. 196508, September 24, 2014, J. Brion**

**WHEN CIVIL ACTION MAY PROCEED INDEPENDENTLY**

Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the actor omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may be proved by preponderance of evidence only. However, even if respondent was acquitted because the prosecution failed to prove his guilt beyond reasonable doubt, his guilt was not proven by preponderance of evidence that would make him liable to civil liability. **CRISTINA B. CASTILLO vs. PHILLIP R. SALVADOR G.R. No. 191240, July 30, 2014, J. Peralta**

**EFFECT OF DEATH OF THE ACCUSED OR CONVICT ON CIVIL ACTION**

It is clear that the death of the accused Dr. Ynzon pending appeal of his conviction extinguishes his criminal liability. However, the recovery of civil liability subsists as the same is not based on delict but by contract and the reckless imprudence he was guilty of under Article 365 of the Revised Penal Code. For this reason, a separate civil action may be enforced either against the executor/administrator or the estate of the accused, depending on the source of obligation upon which the same is based, and in accordance with Section 4, Rule 111 of the Rules on Criminal Procedure. **Dr. Antonio P. Cabugao and Dr. Clenio Ynzon vs. People of the Philippines and Spouses Roldolfo M. Palma and Rosario F. Palma G.R. No. 163879, July 30, 2014, J. Peralta**

**NATURE OF RIGHT OF PRELIMINARY INVESTIGATION**

Agdeppa’s assertion that he had been denied due process is misplaced, bearing in mind that the rights to be informed of the charges, to file a comment to the complaint, and to participate in the preliminary investigation, belong to Junia. Clearly, the right to preliminary investigation is a component of the right of the respondent/accused to substantive due process. A complainant cannot insist that a preliminary investigation be held when the complaint was dismissed outright because of palpable lack of merit. It goes against the very nature and purpose of preliminary investigation to still drag the respondent/accused through the rigors of such an investigation so as to aid the complainant in substantiating an accusation/charge that is evidently baseless from the very beginning. **RODOLFO M. AGDEPPA vs. HONORABLE OFFICE OF THE OMBUDSMAN et al G.R. No. 146376, April 23, 2014, J. Leonardo-De Castro**

**PURPOSES OF PRELIMINARY INVESTIGATION**

The preliminary investigation is not yet a trial on the merits, for its only purpose is to determine whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof. The scope of the investigation does not approximate that of a trial before the court; hence, what is required is only that the evidence be sufficient to establish probable cause that the accused committed the crime charged, not that all reasonable doubt of the guilt of the accused be removed. As the MTC and RTC rightly held, the presentation of the medical certificates to prove the duration of the victims’ need for medical attendance or of their incapacity should take place only at the trial, not before or during the preliminary investigation. **GODOFREDO ENRILE AND DR. FREDERICK ENRILE, vs.** **HON. DANILO A. MANALASTAS G.R. No. 166414, October 22, 2014, J. Lucas P. Bersamin**

**WHO MAY CONDUCT DETERMINATION OF EXISTENCE OF PROBABLE CAUSE**

While the determination of probable cause charge a person of a crime is the sole function of the prosecutor, the trial court may, in the prosecution of one’s fundamental right to liberty, dismiss the case, if upon a personal assessment of the evidence, it finds that the evidence does not establish probable cause. Hence, while the information filed by the Prosecutor was valid, Judge Umali still had the discretion to make her own finding of whether probable cause existed to order the arrest of the accused and proceed with trial. **ALFREDO C. MENDOZA vs. PEOPLE OF THE PHILIPPINES AND JUNO CARS, INC. G.R. No. 197293, April 21, 2014, J. Leonen**

Probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt and definitely not on evidence establishing absolute certainty of guilt. It implies probability of guilt and requires more than bare suspicion but less than evidence which would justify conviction. However, Agdeppa’s accusations were mere suspicions that do not support a finding of probable cause to criminally charge Jarlos-Martin, Laurezo, and Junia under Section 3(a), (e), (f), and (j) of Republic Act No. 3019 **RODOLFO M. AGDEPPA vs. HONORABLE OFFICE OF THE OMBUDSMAN et al G.R. No. 146376, April 23, 2014, J. Leonardo-De Castro**

A person who induced another to invest his money to a corporation which does not exist or dissolved shall be liable for estafa. And when the said corporation was made to solicit from the public, the offense shall be syndicated estafa. **MA. GRACIA HAO and DANNY HAO vs. PEOPLE OF THE PHILIPPINES G.R. No. 183345, September 17, 2014, J. Brion**

It must be stressed that in our criminal justice system, the public prosecutor exercises a wide latitude of discretion in determining whether a criminal case should be filed in court, and the courts must respect the exercise of such discretion when the information filed against the person charged is valid on its face, and that no manifest error or grave abuse of discretion can be imputed to the public prosecutor. In this case, there is no question that the Information filed against the respondents was sufficient to hold them liable for the crime of Theft because it was compliant with Section 6, Rule 110 of the Rules of Court. Moreover, a review of the resolutions of the MCTC, the Provincial Prosecutor, the RTC, and the CA shows that there is substantial basis to support finding of probable cause against the respondents. Hence, as the Information was valid on its face and there was no manifest error or arbitrariness on the part of the MCTC and the Provincial Prosecutor, the RTC and the CA erred when they overturned the finding of probable cause against the respondents. **THE PEOPLE OF THE PHILIPPINES** **vs.** **ENGR. RODOLFO YECYEC ET AL.** **G.R. No. 183551, November 12, 2014, J. Mendoza**

Respondents assailed the Ombudsman’s finding of probable cause and the filing of plunder case against the them. People maintains that the preliminary investigation conducted by the Office of the Ombudsman is an executive, not a judicial function.  As such, it asserts that respondent Sandiganbayan should have given deference to the finding and determination of probable cause in their preliminary investigation.  People is correct. It is well settled that courts do not interfere with the discretion of the Ombudsman to determine the presence or absence of probable cause believing that a crime has been committed and that the accused is probably guilty thereof necessitating the filing of the corresponding information with the appropriate courts. This rule is based not only on respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. **PEOPLE OF THE PHILIPPINES vs. MAXIMO A. BORJE, JR. et al. G.R. No. 170046, December 10, 2014, J. Peralta**

The OMB, in this case, found probable cause which would warrant the filing of an information against respondents. For purposes of filing a criminal information, probable cause has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondents are probably guilty thereof. It is such set of facts and circumstances which would lead a reasonably discreet and prudent man to believe that the offense charged in the Information, or any offense included therein, has been committed by the person sought to be arrested. A finding of probable cause needs only to rest on evidence showing that more likely than not a crime has been committed and was committed by the suspect. It need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt. Thus, unless it is shown that the OMB’s finding of probable cause was done in a capricious and whimsical exercise of judgment evidencing a clear case of grave abuse of discretion amounting to lack or excess of jurisdiction, the Court will not interfere with the same. **PEOPLE OF THE PHILIPPINES vs. MAXIMO A. BORJE, JR. ET. AL. G.R. No. 170046, December 10, 2014, J. Peralta**

**ARREST**

Any irregularity attending the arrest of an accused should be timely raised in a motion to quash the Information at any time before arraignment, failing which, he is deemed to have waived his right to question the regularity of his arrest. **PEOPLE OF THE PHILIPPINES vs. RAFAEL CUNANAN Y DAVID ALIAS “PAENG PUTOL” G.R. No. 198024, March 16, 2015, J. Del Castillo**

**ARREST WITHOUT WARRANT, WHEN LAWFUL**

For a warrantless arrest of an accused caught in flagrante delicto under paragraph (a) of the afore-quoted Rule, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer. In this case, the arrest of appellantwas effected under paragraph (a) or what is termed "in flagrante delicto." For a warrantless arrest of an accused caught in flagrante delictounder paragraph (a) of the afore-quoted Rule, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer. **PEOPLE OF THE PHILIPPINE, vs.** **REYMAN ENDAYA y LAIG** **G.R. No. 205741, July 23, 2014**, **J. Perez**

A buy-bust operation is a form of entrapment which in recent years has been accepted as a valid and effective mode of apprehending drug pushers. In such an instance, the violator is caught in flagrante delicto and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime. Hence, a warrant of arrest is not needed to make a valid buy-bust operation. **PEOPLE OF THE PHILIPPINES** **vs.** **EDWARD ADRIANO y SALES** **G.R. No. 208169, October 8, 2014, J. Perez**

The probable cause to justify warrantless arrest ordinarily signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged, or an actual belief or reasonable ground of suspicion, based on actual facts. In light of the discussion above on the developments of Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure and our jurisprudence on the matter, we hold that the following must be present for a valid warrantless arrest: 1) the crime should have been just committed; and 2) the arresting officer's exercise of discretion is limited by the standard of probable cause to be determined from the facts and circumstances within his personal knowledge. The requirement of the existence of probable cause objectifies the reasonableness of the warrantless arrest for purposes of compliance with the Constitutional mandate against unreasonable arrests. Hence, for purposes of resolving the issue on the validity of the warrantless arrest of the present petitioners, the question to be resolved is whether the requirements for a valid warrantless arrest under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure were complied with, namely: 1) has the crime just been committed when they were arrested? 2) did the arresting officer have personal knowledge of facts and circumstances that the petitioners committed the crime? and 3) based on these facts and circumstances that the arresting officer possessed at the time of the petitioners' arrest, would a reasonably discreet and prudent person believe that the attempted murder of Atty. Generoso was committed by the petitioners? We rule in the affirmative. **JOEY M. PESTILLOS, DWIGHT MACAPANAS, ET AL vs. MORENO GENEROSO AND PEOPLE OF THE PHILIPPINES G.R. No. 182601, November 10, 2014, J. Brion**

A waiver of an illegal arrest, however, is not a waiver of an illegal search. While the accused has already waived his right to contest the legality of his arrest, he is not deemed to have equally waived his right to contest the legality of the search. **DANILO VILLANUEVA y ALCARAZ vs. PEOPLE OF THE PHILIPPINES G.R. No. 199042, November 17, 2014, CJ. Sereno**

An accused cannot assail any irregularity in the manner of his arrest after arraignment. Objections to a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be manifested prior to entering his plea. Otherwise, the objection is deemed waived. **PEOPLE OF THE PHILIPPINES vs. ROMMEL ARAZA y SAGUN, G.R. No. 190623, November 17, 2014, J. Del Castillo**

**NATURE OF BAIL**

Brita asserts that the grant of bail bolsters his claim that the evidence of the prosecution is not strong enough to prove his guilt. The Court is not convinced. "A grant of bail does not prevent the trial court, as the trier of facts, from making a final assessment of the evidence after full trial on the merits." It is not an uncommon occurrence that an accused person granted bail is convicted in due course. **PEOPLE OF THE PHILIPPINES vs. MELCHOR D. BRITA G.R. No. 191260, November 24, 2014, J. Del Castillo**

**RIGHTS OF THE ACCUSED**

The Court of Appeals affirmed the decision of the RTC denying in due course its appeal with respect to the criminal aspect of the case which is estafa. The basis of the ruling is that the dismissal of the RTC is based on failure of the prosecution to prosecute. Bonsubre contends that the CA erred in renderings such decision because there was a compromise agreement entered into. The Supreme Court ruled that at the outset, it must be borne in mind that a dismissal grounded on the denial of the right of the accused to speedy trial has the effect of acquittal that would bar the further prosecution of the accused for the same offense. **ATTY. SEGUNDO B. BONSUBRE, JR.vs. ERWIN YERRO, ERICO YERRO AND RITCHIE YERRO, G.R. No. 205952, February 11, 2015, J. Perlas-Bernabe**

 **ARRAIGNMENT AND PLEA**

Arraignment was suspended pending the resolution of the Motion for Reconsideration before the DOJ. However, the lapse of almost 1 year and 7 months warranted the application of the limitation of the period for suspending arraignment. While the pendency of a petition for review is a ground for suspension of the arraignment, the aforecited provision limits the deferment of the arraignment to a period of 60 days reckoned from the filing of the petition with the reviewing office. It follows, therefore, that after the expiration of said period, the trial court is bound to arraign the accused or to deny the motion to defer arraignment. **FELILIBETH AGUINALDO and BENJAMIN PEREZ vs. REYNALDO P. VENTUS and JOJO B. JOSON, G.R. No. 176033, March 11, 2015, J. Peralta**

 **MOTION TO QUASH**

It is clearly provided by the Rules of Criminal Procedure that if the motion to quash is based on an alleged defect in the information which can be cured by amendment, the court shall order the amendment to be made. In the present case, the RTC judge outrightly dismissed the cases without giving the prosecution an opportunity to amend the defect in the Informations. Thus, the RTC and the CA, by not giving the State the opportunity to present its evidence in court or to amend the Informations, have effectively curtailed the State's right to due process. **PEOPLE OF THE PHILIPPINES vs. AQUILINO ANDRADE, ROMAN LACAP, YONG FUNG YUEN, RICKY YU, VICENTE SY, ALVIN SO, ROMUALDO MIRANDA, SINDAO MELIBAS, SATURNINO LIWANAG, ROBERTO MEDINA and RAMON NAVARRO, G.R. No. 187000, November 24, 2014, J. Peralta**

**SSPEEDY TRIAL**

Speedy trial is a relative term and necessarily a flexible concept. In determining whether the accused's right to speedy trial was violated, the delay should be considered in view of the entirety of the proceedings. The factors to balance are the following: (a) duration of the delay; (b) reason therefor; (c) assertion of the right or failure to assert it; and (d) prejudice caused by such delay. Surely, mere mathematical reckoning of the time involved would not suffice as the realities of everyday life must be regarded in judicial proceedings which, after all, do not exist in a vacuum, and that particular regard must be given to the facts and circumstances peculiar to each case. While the Court recognizes the accused's right to speedy trial and adheres to a policy of speedy administration of justice, we cannot deprive the State of a reasonable opportunity to fairly prosecute criminals. Unjustified postponements which prolong the trial for an unreasonable length of time are what offend the right of the accused to speedy trial. **WILLIAM CO a.k.a. XU QUING HE vs. NEW PROSPERITY PLASTIC PRODUCTS, represented by ELIZABETH UY G.R. No. 183994, June 30, 2014, J. Peralta**

**DOUBLE JEOPARDY**

Double jeopardy shall not attach when the court that declared the revival of the case has no jurisdiction to the same. When the court does not have jurisdiction over the case, all subsequent issuances or decisions of the said court related to the pending case shall be null and void. **CESAR T. QUIAMBAO and ERIC C. PILAPIL vs. PEOPLE OF THE PHILIPPINES, ADERITO YUJUICO and BONIFACIO C. SUMBILLA, G.R. No. 185267, September 17, 2014, J. Brion**

**EFFECTS OF DISCHARGE OF ACCUSED TO BECOME STATE WITNESS**

When an accused did not have any direct participation with the killing of the victim, he may be discharged as a state witness. The basis of the phrase “not most guilty” is the participation of the person in the commission of the crime and not the penalty imposed such that a person with direct participation shall be considered as the most guilty. **MANUEL J. JIMENEZ, JR. vs. PEOPLE OF THE PHILIPPINES, G.R. No. 209195, September 17, 2014**

**DEMURRER TO EVIDENCE**

Respondents were charged with a criminal complaint for estafa through falsification of documents. After the prosecution presented its evidence, the respondents filed a motion for leave to file demurer to evidence alleging that the prosecution failed to prove by evidence that the crime was committed by the respondents. The prosecution contends that the trial court gravely abused its discretion when it granted the motion for demurer to evidence filed by the respondents. The Court ruled thatthe power of courts to grant demurrer in criminal cases should be exercised with great caution, because not only the rights of the accused - but those of the offended party and the public interest as well - are involved. Once granted, the accused is acquitted and the offended party may be left with no recourse. Thus, in the resolution of demurrers, judges must act with utmost circumspection and must engage in intelligent deliberation and reflection, drawing on their experience, the law and jurisprudence, and delicately evaluating the evidence on hand. **PEOPLE OF THE PHILIPPINES vs. JOSE C. GO, AIDA C. DELA ROSA, and FELECITAS D. NECOMEDES, G.R. No. 191015, August 6, 2014, J. Del Castillo**

Accused's Demurrer to Evidence, the ruling is an adjudication on the merits of the case which is tantamount to an acquittal and may no longer be appealed. The current scenario, however, is an exception to the general rule. The demurrer to evidence was premature because it was filed before the prosecution rested its case. The RTC had not yet ruled on the admissibility of the formal offer of evidence of the prosecution when Magleo filed her demurrer to evidence. Hence, Judge Quinagoran had legal basis to overturn the order granting the demurrer to evidence as there was no proper acquittal. **ESTHER P. MAGLEO vs. PRESIDING JUDGE ROWENA DE JUAN-QUINAGORAN and BRANCH CLERK OF COURT ATTY. ADONIS LAURE, BOTH OF BRANCH 166, REGIONAL TRIAL COURT, PASIG CITY, A.M. No. RTJ-12-2336, November 12, 2014, J. Mendoza**

**PROMULGATION OF JUDGMENT**

Section 6, Rule 120, of the Rules of Court provides that it is incumbent upon the accused to appear on the scheduled date of promulgation, because it determines the availability of their possible remedies against the judgment of conviction. When the accused fail to present themselves at the promulgation of the judgment of conviction, they lose the remedies of filing a motion for a new trial or reconsideration (Rule 121) and an appeal from the judgment of conviction (Rule 122). It is among the rules of procedure which the Supreme Court is competent to adopt pursuant to its rule-making power under Article VIII, Section 5(5) of the Constitution. As such, said rules do not take away, repeal or alter the right to file a motion for reconsideration as said right still exists. The Supreme Court merely laid down the rules on promulgation of a judgment of conviction done in absentia in cases when the accused fails to surrender and explain his absence within 15 days from promulgation. Clearly, the said provision does not take away substantive rights; it merely provides the manner through which an existing right may be implemented. Hence, it does not take away per se the right of the convicted accused to avail of the remedies under the Rules. It is the failure of the accused to appear without justifiable cause on the scheduled date of promulgation of the judgment of conviction that forfeits their right to avail themselves of the remedies against the judgment. Moreover, it also provides the remedy by which the accused who were absent during the promulgation may reverse the forfeiture of the remedies available to them against the judgment of conviction. **REYNALDO H. JAYLO, WILLIAM VALENZONA AND ANTONIO G. HABALO** **vs. SANDIGANBAYAN (FIRST DIVISION), PEOPLE OF THE PHILIPPINES AND HEIRS OF COL. ROLANDO DE GUZMAN, FRANCO CALANOG AND AVELINO MANGUERA**, **G.R. Nos. 183152-54, January 21, 2015, C. J. Sereno**

**APPEAL**

The right to prosecute criminal cases pertains exclusively to the People, which is therefore the proper party to bring the appeal through the representation of the OSG. Hence, being mere private complainants, they lacked the legal personality to appeal the dismissal of such criminal case. It must, however, be clarifiedthat it is without prejudice to their filing of the appropriate action to preserve their interests but only with respect to the civil aspect. **PEOPLE OF THE PHILIPPINES, MALAYAN INSURANCE COMPANY, INC. and HELEN Y. DEE** **vs. PHILIP PICCIO et al G.R. No. 193681, August 6, 2014, J. Perlas-Bernabe**

An appeal in a criminal case opens the entire case for review on any question including one not raised by the parties, and the accused waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate. Thus, when petitioners appealed the trial court’s judgment of conviction for Less Serious Physical Injuries, they are deemed to have abandoned their right to invoke the prohibition on double jeopardy since it becomes the duty of the appellate court to correct errors as may be found in the assailed judgment. Petitioners could not have been placed twice in jeopardy when the CA set aside the ruling of the RTC by finding them guilty of Violation of Domicile as charged in the Information instead of Less Serious Physical Injuries. **EDIGARDO GEROCHE, et al. vs. PEOPLE OF THE PHILIPPINES, G.R. No. 179080, November 26, 2014, J. Peralta**

The Regional Trial Court (RTC) dismissed the appeal by the accused on the ground of his failure to submit his memorandum on appeal. The failure to file the memorandum on appeal is a ground for the RTC to dismiss the appeal only in civil cases. The same rule does not apply in criminal cases, because Section 9(c), supra, imposes on the RTC the duty to decide the appeal “on the basis of the entire record of the case and of such memoranda or briefs as may have been filed" upon the submission of the appellate memoranda or briefs, or upon the expiration of the period to file the same. **JOSE "PEPE" SANICO vs. PEOPLE OF THE PHILIPPINES, G.R. No. 198753, March 25, 2015, J. Bersamin**

**NATURE OF SEARCH WARRANT**

An application for a search warrant is a “special criminal process,” rather than a criminal action. Proceedings for applications of search warrants are not criminal in nature and thus, the rule that venue is jurisdictional does not apply thereto. Evidently, the issue of whether the application should have been filed in RTC-Iriga City or RTC-Naga, is not one involving jurisdiction because, the power to issue a special criminal process is inherent in all courts. **PILIPINAS SHELL PETROLEUM CORPORATION AND PETRON CORPORATION vs. ROMARS INTERNATIONAL GASES CORPORATION, G.R. No. 189669, February 16, 2015, J. Peralta**

**APPLICATION FOR SEARCH WARRANT, WHERE FILED**

Section 12, Chapter V of A.M. No. 03-8-02-SC allows the Manila and Quezon City RTCs to issue warrants to be served in places outside their territorial jurisdiction for as long as the parameters under the said section have been complied with, as in this case. As in ordinary search warrant applications, they "shall particularly describe therein the places to be searched and/or the property or things to be seized as prescribed in the Rules of Court." "The Executive Judges of these RTCs and, whenever they are on official leave of absence or are not physically present in the station, the Vice-Executive Judges" are authorized to act on such applications and "shall issue the warrants, if justified, which may be served in places outside the territorial jurisdiction of the said courts." The Court observes that all the above-stated requirements were complied with in this case. As the records would show, the search warrant application was filed before the Manila-RTC by the PNP and was endorsed by its head, PNP Chief Jesus Ame Versosa, particularly describing the place to be searched and the things to be seized in connection with the heinous crime of Murder. Finding probable cause therefor, Judge Peralta, in his capacity as 2nd Vice-Executive Judge, issued Search Warrant which, as the rules state, may be served in places outside the territorial jurisdiction of the said RTC. **RETIRED SP04 BIENVENIDO LAUD vs. PEOPLE OF THE PHILIPPINES et al, G.R. No. 199032, November 19, 2014, Per Curiam**

**SEARCH NCIDENTAL TO LAWFUL ARREST**

It is important to note that the presumption that official duty has been regularly performed, and the corresponding testimony of the arresting officers on the buy­bust transaction, can only be overcome through clear and convincing evidence showing either of two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive. **PEOPLE OF THE PHILIPPINES vs. DENNIS E. TANCINCO, G.R. No. 200598, June 18. 2014, J. Perez**

The accused cannot claim that the evidence obtained from a search conducted incident to an arrest is inadmissible because it is violative of the plain view doctrine. The plain view doctrine only applies to cases where the arresting officer is not searching for evidence against the accused, but nonetheless inadvertently comes across an incriminating object. **PEOPLE OF THE PHILIPPINES** **vs.** **MEDARIO CALANTIAO y DIMALANTA**, **G.R. No. 203984, June 18, 2014, J. Leonardo-De Castro**

**EVIDENCE**

**BEST EVIDENCE RULE**

In Country Bankers Insurance Corporation v. Lagman, the Court set down the requirements before a party may present secondary evidence to prove the contents of the original document whenever the original copy has been lost: Before a party is allowed to adduce secondary evidence to prove the contents of the original, the offeror must prove the following: (1) the existence or due execution of the original; (2) the loss and destruction of the original or the reason for its non-production in court; and (3) on the part of the offeror, the absence of bad faith to which the unavailability of the original can be attributed. The correct order of proof is as follows: existence, execution, loss, and contents. In the instant case, the CA correctly ruled that the above requisites are present. Both the CA and the RTC gave credence to the testimony of Peregrino that the original Contract in the possession of Monark has been lost and that diligent efforts were exerted to find the same but to no avail. Such testimony has remained uncontroverted. As has been repeatedly held by this Court, "findings of facts and assessment of credibility of witnesses are matters best left to the trial court. Hence, the Court will respect the evaluation of the trial court on the credibility of Peregrino. MCMP, to note, contends that the Contract presented by Monark is not the contract that they entered into. Yet, it has failed to present a copy of the Contract even despite the request of the trial court for it to produce its copy of the Contract. Normal business practice dictates that MCMP should have asked for and retained a copy of their agreement. **MCMP CONSTRUCTION CORP vs. MONARK EQUIPMENT CORP., G.R. No. 201001 November 10, 2014, J. Velasco Jr.**

**CIRCUMSTANTIAL EVIDENCE**

“Circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.” In this case, it is beyond doubt that all the circumstances taken together point to the singular conclusion that appellant Solano, to the exclusion of all others, committed the crime. As found by the trial court and affirmed by the appellate court, the victim was last seen in the presence of the appellant Solano. Edwin Jr. saw appellant Solano chasing the victim. Nestor also saw appellant Solano dragging the motionless body of “AAA.” The body of the victim was eventually found buried in the mud near the place where she was last seen with Solano. Solano admitted holding a grudge against the family of “AAA” because he believes that a relative of “AAA” had raped his sister. The autopsy report showed that “AAA” was raped and strangled. Likewise, Solano could not ascribe any ill–motive on the part of prosecution witnesses Edwin Jr., Edwin Sr. and Nestor whom he even considered as friends. **PEOPLE OF THE PHILIPPINES vs. WILFREDO SOLANO, JR.Y GECITA G.R. No. 199871, June 02, 2014, J. Del Castillo**

Although based on the evidence adduced by both parties, no direct evidence points to Almojuela as the one who stabbed Quejong. A finding of guilt is still possible despite the absence of direct evidence. Conviction based on circumstantial evidence may result if sufficient circumstances, proven and taken together, create an unbroken chain leading to the reasonable conclusion that the accused, to the exclusion of all others, was the author of the crime. **ALBERTO ALMOJUELA y VILLANUEVA vs. PEOPLE OF THE PHILIPPINES G.R. No. 183202, June 2, 2014, J. Brion**

Under the Doctrine of Independently Relevant Statement, if the purpose of placing the statement on the record is merely to establish the fact that the statement, or the tenor of such statement, was made. Regardless of the truth or falsity of a statement, when what is relevant is the fact that such statement has been made, the hearsay rule does not apply and the statement may be shown. Thus, the statement of an NBI Agent that a witness confided to him that the latter heard the accused in a murder case tell the other suspect that “ayoko nang abutin pa ng bukas yang si [victim]”, while they were armed with firearms and boarding a car, is independently relevant and proves what the witness heard, and not the truthfulness or falsity of the statement.

Conviction based on circumstantial evidence can be upheld provided that the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person. Thus, the court may convict the accused in a murder case on the basis of the 1.) independently relevant statement of the NBI Agent that a witness heard the accused utter statements as to the killing of the victim, 2.) the getaway vehicle was properly identified by the previous owner, 3.) the statement of the medico-legal officer that high-powered firearms were used in the killing of the victim, and 4.) the escape from detention of the accused. **JOSE ESPINELI a.k.a. DANILO ESPINELI vs. PEOPLE OF THE PHILIPPINES** **G.R. No. 179535, June 9, 2014, J. Del Castillo**

Circumstantial evidence is sufficient to sustain a conviction if (i) there is more than one circumstance; (ii) the facts from which the inference is derived are proven; and (iii) the combination of all circumstances is such as to produce conviction beyond reasonable doubt. While no prosecution witness has actually seen the commission of the crime, it has been settled that direct evidence of the crime is not the only matrix from which a trial court may draw its conclusion and finding of guilt. The lack of direct evidence does not ipso facto bar the finding of guilt against the appellant. As long as the prosecution establishes accused’s participation in the crime through credible and sufficient circumstantial evidence that leads to the inescapable conclusion that he committed the imputed crime, the latter should be convicted. **PEOPLE OF THE PHILIPPINES** **vs.** **BENJIE CONSORTE y FRANCO** **G.R. No. 194068, July 9, 2014, J. Perez**

Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference. It consists of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. **PEOPLE OF THE PHILIPPINES vs. EX-MAYOR CARLOS ESTONILO, SR., MAYOR REINARIO “REY” ESTONILO, EDELBRANDO ESTONILO A.K.A. “EDEL ESTONILO,” EUTIQUIANO ITCOBANES A.K.A. “NONONG ITCOBANES,” NONOY ESTONILO-AT LARGE, TITING BOOC-AT LARGE, GALI ITCOBANES-AT LARGE, ORLANDO TAGALOG MATERDAM A.K.A. “NEGRO MATERDAM,” AND CALVIN DELA CRUZ A.K.A. “BULLDOG DELA CRUZ” G.R. No. 201565, October 13, 2014, J. Leonardo-De Castro**

A driver who is in-charge for the delivery of diesel to a client shall be liable for qualified theft when he fails to return the vehicle to the office and the product itself was not delivered to the client. Circumstantial evidence, as an exception, may prove the guilt of the accused when there are multiple circumstances which were given. **MEL CARPIZO CANDELARIA vs. PEOPLE OF THE PHILIPPINES G.R. No. 209386, December 8, 2014, J. Perlas-Bernabe**

The prosecution has the task of establishing the guilt of the accused, relying on the strength of its own evidence, and not banking on the weakness of the defense of an accused. **NILO MACAYAN JR. y MALANA vs. PEOPLE OF THE PHILIPPINES G.R. No. 175842, March 18, 2015, J. Leonen**

**BURDEN OF PROOF AND PRESUMPTION**

The presumption of regularity obtains only when nothing in the records suggests that the law enforcers involved deviated from the standard conduct of official duty as provided for in the law. But where the official act in question is irregular on its face, an adverse presumption arises as a matter of course. Thus, when it is clear that the police officers were remiss in showing that they preserved the chain of custody when they failed to present the testimony of the inspector who had the only keys to the evidence locker where the sachet of shabu was kept, the presumption of regularity shall not apply. **PEOPLE OF THE PHILIPPINES vs. MARLON ABETONG y ENDRADO G.R. No. 209785, June 4, 2014, J. Velasco, Jr.**

It is a settled rule that, as in other civil cases, the burden of proof rests upon the party who, as determined by the pleadings or the nature of the case, asserts an affirmative issue. Contentions must be proved by competent evidence and reliance must be had on the strength of the party’s own evidence and not upon the weakness of the opponent’s defense. This principle holds true especially when the latter has had no opportunity to present evidence because of a default order, as in the present case. The petitioner is not automatically entitled to the relief prayed for. The pieces of documents presented by BDO are not only self-serving but are not supported by sufficient and credible evidence. BDO failed to meet its burden of proving its claims by preponderance of evidence. **BANCO DE ORO UNIBANK, INC. vs. SPOUSES ENRIQUE GABRIEL LOCSIN and MA. GERALDINE R. LOCSIN G.R. No. 190445, July 23, 2014, J. Peralta**

This Court stress that the presumption of regularity in the performance of official duty obtains only when there is no deviation from the regular performance of duty. Where the official act in question is irregular on its face, no presumption of regularity can arise. The presumption obtains only where nothing in the records is suggestive of the fact that the law enforcers involved deviated from the standard conduct of official duty as provided for in the law. This Court also find it highly unusual that the police would allow a civilian walk-in informant like Armando to transact with Casabuena on his own. **PEOPLE OF THE PHILIPPINES vs. ROSALINDA CASABUENA G.R. No. 186455, November 19, 2014, J. Brion**

By law, a notarial document is entitled to full faith and credit upon its face. It enjoys the presumption of regularity and is a prima facie evidence of the facts stated therein – which may only be overcome by evidence that is clear, convincing and more than merely preponderant. Without such evidence, the presumption must be upheld. Thus, if the validity of a notarized deed of sale is being assailed by the heirs of the seller on the ground that the seller’s signature was forged, the testimony of one of the heirs to that effect, absent any clear and convincing evidence to corroborate the claim will not be enough to overcome the presumption of validity. **HEIRS OF SPOUSES ANGEL LIWAGON AND FRANCESA DUMALAGAN, et al. vs. HEIRS OF SPOUSES DEMETRIO LIWAGON AND REGINA LIWAGON G.R. No. 193117, November 26, 2014, J. Villarama, Jr.**

The RTC and the Court of Appeals ruled that the Gepulle-Garbo failed to prove the fact of forgery. The Supreme Court ruled that as a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence, the burden of proof lies on the party alleging forgery. One who alleges forgery has the burden to establish his case by a preponderance of evidence, or evidence which is of greater weight or more convincing than that which is offered in opposition to it. The fact of forgery can only be established by a comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is theorized to have been forged. **BETTY GEPULLE-GARBO, REPRESENTED BY ATTORNEY-IN-FACT, MINDA G. ROSALES(NOW REPRESENTED BY HER NEW ATTORNEY-IN-FACT, GARY LLOYD G. ROSALES) vs. SPOUSES VICTOREY ANTONIO GARABATO AND JOSEPHINE S. GARABATO G.R. No. 200013, January 14, 2015, J. Villarama**

To sustain a conviction based on circumstantial evidence, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of the others, as the guilty person. The circumstantial evidence must exclude the possibility that some other person has committed the crime. Unfortunately, in the case at bar, the Supreme Court finds that the prosecution failed to present sufficient circumstantial evidence to convict the Zabala of the offense charged. We find that the pieces of evidence presented before the trial court fail to provide a sufficient combination of circumstances, as to produce a conviction beyond reasonable doubt. **KYLE ANTHONY ZABALA vs. PEOPLE OF THE PHILIPPINES G.R. No. 210760, January 26, 2015, J. Velasco, Jr.**

**WEIGHT AND SUFFICIENCY**

It has been held, time and again, that alibi, as a defense, is inherently weak and crumbles in light of positive identification by truthful witnesses. It should be noted that for alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission. As testified by Lujeco, he was at the public market of Don Carlos, Bukidnon. Undoubtedly, it was not impossible for him to be at the crime scene. **PEOPLE OF THE PHILIPPINES vs. ANTONIO LUJECO G.R. No. 198059, April 7, 2014, J. Del Castillo**

In administrative proceedings, the quantum of proof required to establish a respondent’s malfeasance is not proof beyond reasonable doubt but substantial evidence, i.e., that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required. Faced with conflicting versions of complainant and respondent, the Court gives more weight to the allegations and testimony of the complainant and her witnesses who testified clearly and consistently before the Investigating Judge. In the instant case, the strongest corroborative evidence to support complainant Emilie’s allegations was the exchange of text messages between her and respondent Pecaña regarding the dinner meeting. These text messages were admitted by respondent Pecaña. **EMILIE SISON-BARIAS vs.** **JUDGE MARINO E. RUBIA, REGIONAL TRIAL COURT [RTC], BRANCH 24, BIÑAN, LAGUNA and EILEEN A. PECAÑA, DATA ENCODER II, RTC, OFFICE OF THE CLERK OF COURT, BIÑAN, LAGUNA A.M. No. RTJ-14-2388, June 10, 2014**

There is no reason to doubt Jerry and Mario’s identification of the appellants considering that (1) Jerry was just six meters away from them; (2) the moon was bright and Jerry was familiar with all the accused as most of them are his relatives; and (3) Mario knows Jojo ever since he was small. Besides, time- tested is the rule that between the positive assertions of prosecution witnesses and the negative averments of the accused, the former undisputedly deserve more credence and are entitled to greater evidentiary weight. Anent the respective alibis interposed by appellants, suffice it to say that alibi cannot prevail over the positive identification of a credible witness. **PEOPLE OF THE PHILIPPINES vs JOJO SUMILHIG, ET AL G.R. No. 178115, July 28, 2014, J. Del Castillo**

In administrative cases against lawyers, the quantum of proof required is preponderance of evidence. When the complainant adduced preponderant evidence that his signature was indeed forged in an affidavit which the respondent notarized and submitted to the COMELEC, respondent should be held administratively liable for his action. **DOMADO DISOMIMBA SULTAN vs.** **ATTY. CASAN MACABANDING** **A.C. No. 7919, October 8, 2014, J. Reyes**

The term “reasonable doubt” is not equivalent to the phrase “the act from which criminal responsibility may arise did not at all exist.” Although both have the force of acquittal, the latter provides connotes that the accused have not committed the offense. **ANTONIO DALURAYA vs. MARLA OLIVA G.R. No. 210148, December 08, 2014, J. Perlas-Bernabe**

**JUDICIAL NOTICE**

It is well settled that foreign laws do not prove themselves in our jurisdiction and our courts are not authorized to take judicial notice of them. To prove a foreign law, the party invoking it must present a copy thereof and comply with Sections 24 and 25 of Rule 132 of the Revised Rules of Court. Under the rules of private international law, a foreign law must be properly pleaded and proved as a fact. In the absence of pleading and proof, the laws of the foreign country or state will be presumed to be the same as our local or domestic law. This is known as processual presumption. While the foreign law was properly pleaded in the case at bar, it was, however, proven not in the manner provided by Section 24, Rule 132 of the Revised Rules of Court. While a photocopy of the foreign statute relied upon by the court a quo to relieve the common carrier from liability, was presented as evidence during the trial, the same however was not accompanied by the required attestation and certification. **NEDLLOYD LIJNEN B.V. ROTTERDAM AND THE EAST ASIATIC CO., LTD. vs. GLOW LAKS ENTERPRISES, LTD. G.R. No. 156330, November 19, 2014, J. Perez**

**CHAIN OF CUSTODY**

Noncompliance with the Chain of Custody Rule under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. What is essential is ‘the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. **PEOPLE OF THE PHILIPPINES vs. NOEL PRAJES and ALIPA MALA G.R. No. 206770, April 2, 2014, J. Reyes**

Crucial in proving chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused. Marking after seizure is the starting point in the custodial link; hence, it is vital that the seized contraband be immediately marked because succeeding handlers of the specimens will use the markings as reference. The records in the present case do not show that the police marked the seized plastic sachet immediately upon confiscation, or at the police station. Notably, the members of the buy-bust team did not also mention that they marked the seized plastic sachet in their Joint Affidavit of Arrest. **PEOPLE OF THE PHILIPPINES vs. SONNY SABDULA y AMANDA G.R. No. 184758, April 21, 2014, J. Brion**

Chain of Custody Rule – Non-compliance with Section 21 of Article II of Republic Act (R.A.) No. 9165, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence.

Under Section 3 of Rule 128 of the Rules of Court, evidence is admissible when it is relevant to the issue and is not excluded by the law or these rules. For evidence to be inadmissible, there should be a law or rule which forbids its reception. If there is no such law or rule, the evidence must be admitted subject only to the evidentiary weight that will accorded it by the courts.

In this case, testimonial and documentary evidence show that the poseur-buyer, PO2 Aseboque, marked the seized illegal drug at the crime scene with his initials "REA". At the same place, he also prepared an Acknowledgment Receipt of the items seized from the accused-appellant whose refusal to sign was duly noted in the same document. The alleged discrepancy between the testimony of P02 Aseboque that he placed the marking REA on the seized item, the forensic chemist's report stating that the specimen was marked "R.E.A." and the absence of any such, description in the Spot Report of P02 Castillo did not cause a gap in the chain of custody. **PEOPLE OF THE PHILIPPINES** **vs. NENITA GAMATA y VALDEZ** **G.R. No. 205202, June 9, 2014, J. Reyes**

Bulotano was charged with illegal possession of drugs. However he alleged that the integrity and evidentiary value of the confiscated items were not maintained because the chain of custody rule was not followed. The court ruled negatively. In the prosecution of a case for sale of illegal drugs punishable under Section 5, Artic1e II of Republic Act No. 9165, noncompliance with the procedure set forth in Section 21 of the law is not necessarily fatal as to render an accused's arrest illegal or the items confiscated from him inadmissible as evidence of his guilt, if, nonetheless, the integrity and evidentiary value of the confiscated items is preserved, there will yet be basis for the establishment of the guilt of the accused. **PEOPLE OF THE PHILIPPINES vs**. **VIVIAN BULOTANO y AMANTE** **G.R. No. 190177, June 11, 2014, J. Perez**

PO3 Galvez positively testified that he marked the ten (10) plastic sachets containing marijuana and the pieces of white paper while still in the place where the accused-appellant was arrested, and in the presence of the latter. The accused-appellant lamented that the evidence seized were not photographed and inventoried in the presence of a member of the media, a representative from the DOJ, and an elective government official. While this factual allegation is admitted, the Court stresses that what Section 21 of the IRR of R.A. No. 9165 requires is "substantial" and not necessarily "perfect adherence," as long as it can be proven that the integrity and the evidentiary value of the seized items are preserved as the same would be utilized in the determination of the guilt or innocence of the accused. **PEOPLE OF THE PHILIPPINES vs. GIL SALVIDAR y GARLAN G.R. No. 207664, June 25, 2014, J. Reyes**

Edano was acquitted because the shabu purportedly seized from him is inadmissible in evidence for being the proverbial fruit of the poisonous tree. Corollarily, the prosecution's failure to comply with Section 21, Article II of R.A. No. 9165, and with the chain of custody requirement of this Act, compromised the identity of the item seized, leading to the failure to adequately prove the corpus delicti of the crime charged.  Although the Court has recognized that minor deviations from the procedures under R.A. No. 9165 would not automatically exonerate an accused, the Court have also declared that when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. No. 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. **PEOPLE OF THE PHILIPPINES vs. OLIVER RENATO EDANO y EBDANE, G.R. No. 188133, July 07, 2014, J. Brion**

The chain of custody requirement performs the function of ensuring that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed. To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence. The facts in the case persuasively proved that the three plastic sachets of ephedrine presented in court were the same items seized from the Villarta and Cabiles during the buy-bust operation. The integrity and evidentiary value thereof were duly preserved. **PEOPLE OF THE PHILIPPINES vs. RAMONITO VILLARTA Y RIVERA and ALLAN ARMENTA Y CABILES G.R. No. 205610, July 30, 2014, J. Perez**

The failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated in the presence of representatives from the media and the DOJ pursuant to said guidelines does not automatically render appellant’s arrest illegal or the item seized from him inadmissible. A proviso was added in the implementing rules that "non-compliance with 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 of and custody over said items. **PEOPLE OF THE PHILIPPINES vs. ALFREDO CERDON y SANCHEZ G.R. No. 201111, August 6, 2014, J. Perez**

To be able to create a first link in the chain of custody, what is required is that the marking be made in the presence of the accused and upon immediate confiscation. "Immediate confiscation" has no exact definition. Thus, in People v. Gum-Oyen, testimony that included the marking of the seized items at the police station and in the presence of the accused was sufficient in showing compliance with the rules on chain of custody. Marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team. **PEOPLE OF THE PHILIPPINES vs. EDUARDO BALAQUIOT y BALDERAMA G.R. No. 206366, August 13, 2014, J. Perez**

Mere possession of a prohibited drug constitutes prima facie evidence of knowledge or animus possidendi sufficient to convict an accused in the absence of any satisfactory explanation. Also, it is worthy to mention that failure to strictly comply with the prescribed procedures in the inventory of seized drugs does not render the arrest of the accused Bontuyan illegal or the item seized/confiscated from him inadmissible. The essential thing to consider is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.” Here, there was substantial compliance with the law and the integrity of the seized items from accused appellant was preserved. **PEOPLE OF THE PHILIPPINES vs.** **DEMOSTHENES BONTUYAN G.R. No. 206912, September 10, 2014, J. Perez**

Section 21 of R.A. No. 9165 deals with the procedure for the custody and disposition of confiscated, seized or surrendered dangerous drugs. As provided for in its Implementing Rules and pointed out by the Court in a long line of cases, non-compliance therewith does not invalidate the seizure or render the arrest of the accused illegal or the items seized from him as inadmissible as long as the integrity and evidentiary value of the seized items are preserved. This can be made if the prosecution will be successful in establishing an unbroken chain of custody of the seized item from the time of seizure/confiscation to receipt by the forensic laboratory to safekeeping up to presentation in court. **PEOPLE OF THE PHILIPPINES** **vs.** **EDWARD ADRIANO y SALES** **G.R. No. 208169, October 8, 2014, J. Perez**

"Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Record shows that while the identities of the seller and the buyer and the consummation of the transaction involving the sale of illegal drug have been proven by the prosecution, this Court, nonetheless, finds the prosecution evidence to be deficient for failure to adequately show the essential links in the chain of custody, particularly how the four sticks of handrolled marijuana cigarettes subject of the sale transaction came into the hands of PO3 Lawas, Jr. from the trusted informant, who was the designated poseur-buyer. Going to the crime of illegal possession of marijuana, the records do not contain any physical inventory report or photograph of the confiscated items. Even the lone prosecution witness never stated in his testimony that he or any member of the buy-bust team had conducted a physical inventory or taken pictures of the items. Although PO3 Lawas, Jr. testified that the seized drugs subject of the illegal possession case had been marked, nowhere can it be found that the marking thereof was done in the presence of Lagahit or any third-party representatives. **PEOPLE OF THE PHILIPPINES** **vs.** **CHARVE JOHN LAGAHIT G.R. No. 200877, November 12, 2014, J. Perez**

When an accused raises the issue of non-compliance by the police officers with [Sec. 21 of the IRR of R.A. No. 9165] particularly the lack of physical inventory of the seized specimen and the non-taking of photograph thereof on appeal after the CA rendered a decision, the Court must uphold his conviction. [Cabrera] should have raised the said issue before the trial court. Truly, objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of an objection. Without such objection, he cannot raise the question for the first time on appeal. **PEOPLE OF THE PHILIPPINES vs. EDWIN CABRERA, G.R. No. 190175, November 12, 2014, J. Del Castillo**

The Court finds that the prosecution was able to show the unbroken chain of custody/possession of the seized item from the moment the sale was consummated, until it was tested in the crime laboratory, and up to the time it was offered in evidence. Clearly, its integrity and evidentiary value have not been compromised at any stage. **PEOPLE OF THE PHILIPPINES vs. MELCHOR D. BRITA G.R. No. 191260, November 24, 2014, J. Del Castillo**

The most important factor is the preservation of the integrity and the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused. As long as the evidentiary value and integrity of the illegal drug are properly preserved, strict compliance of the requisites under Section 21 of RA 9165 may be disregarded. Though there were deviations from the required procedure, i.e., making physical inventory and taking of photograph of the seized item, still, the integrity and evidentiary value of the dangerous drug seized from appellants were duly proven by the prosecution to have been properly preserved; its identity, quantity and quality remained untarnished. **PEOPLE OF THE PHILIPPINES** **vs.** **DATSGANDAWALI y GAPAS and NOL PAGALAD y ANAS G.R. No. 193385, December 1, 2014, J. Del Castillo**

Sebastian was charged of illegal sale of drugs. He argued that failure to mention the place where the three plastic sachets of shabu were marked constitutes a gap in the chain of custody of evidence. The court ruled that even if there was no statement as to where the markings were made, what is important is that the seized specimen never left the custody of PO3 Bongon until he turned over the same to SPO1 Antonio and that thereafter, the chain of custody was shown to be unbroken. Indeed, the integrity and evidentiary value of the seized shabu is shown to have been properly preserved and the crucial links in the chain of custody unbroken. **PEOPLE OF THE PHILIPPINES** **vs.** **VENERANDO DELA CRUZ Y SEBASTIAN** **G.R. No. 193670, December 03, 2014, J. Del Castillo**

The fact that the apprehending team in this case did not strictly comply with the procedural requirements of Section 21(1), Article II of R.A. No. 9165 does not necessarily render appellants’ arrest illegal or the items seized from them inadmissible in evidence. RA 9165 and its subsequent Implementing Rules and Regulations (IRR) do not require strict compliance as to the chain of custody rule. The Court has emphasized that what is essential is “the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. **PEOPLE OF THE PHILIPPINES vs. JERIC PAVIA AND JUAN BUENDIA, G.R. No. 202687, January 14, 2015, J. Perez**

Non-compliance with the above-mentioned requirements is not fatal. Non-compliance with Section 21 of the IRR does not make the items seized inadmissible. What is imperative is “the preservation of the integrity and the evidential value of the seized items as the same would be utilized in the determination of the guilt or innocence of the accused.” **MANUEL R. PORTUGUEZ vs. PEOPLE OF THE PHILIPPINES G.R. No. 194499, January 14, 2015, J. Villarama**

In this case, the chain of custody can be easily established through the following link: (1) PO1 Condez marked the seized four sachets handed to him by appellant with RCC 1 to RCC 4; (2) a request for laboratory examination of the seized items marked RCC 1 to RCC 4 was signed by Police Superintendent Glenn Dichosa Dela Torre; (3) the request and the marked items seized, which were personally delivered by PO1 Condez and PO2 Virtudazo, were received by the PNP Crime Laboratory; (4) Chemistry Report No. D-106-200235 confirmed that the marked items seized from appellant were methamphetamine hydrochloride; and (5) the marked items were offered in evidence.

Hence, it is clear that the integrity and the evidentiary value of the seized drugs were preserved.  This Court, therefore, finds no reason to overturn the findings of the RTC that the drugs seized from appellant were the same ones presented during trial.  Accordingly, it is but logical to conclude that the chain of custody of the illicit drugs seized from appellant remains unbroken, contrary to the assertions of appellant. **PEOPLE OF THE PHILIPPINES vs. RAKIM MINANGA Y DUMANSAL G.R. No. 202837, January 21, 2015, J. Villarama, Jr.**

In the prosecution of illegal sale, what is essential is to prove that the transaction or sale actually took place, coupled with the presentation in court of evidence of the corpus delicti. The consummation of sale is perfected the moment the buyer receives the drug from the seller. In this case, the prosecution failed to prove that the four sachets which tested positive for shabu and eventually presented in court were the same ones confiscated by the police officers due to its non-marking at the place where the buy-bust operation was committed at the police station. This non- marking violated the measures defined under Section 21(1) of Republic Act No. 9165 and Section 21(a) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9165 which are also known as the Rule on Chain of Custody. **PEOPLE OF THE PHILIPPINES vs.** **SANDER DACUMA Y LUNSOD** **G.R. No. 205889, February 04, 2015, J. Perez**

The initial link in the chain of custody starts with the seizure of the plastic sachets from appellant and their marking by the apprehending officer.  “Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband is immediately marked because succeeding handlers of the specimens will use the markings as reference.  The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed at the end of criminal proceedings, obviating switching, ‘planting,’ or contamination of evidence. A review of the records, however, reveals that the confiscated sachets subject of the illegal sale of shabu were not marked.  PO2 Martirez, himself, admitted that he did not put any markings on the two plastic sachets that were handed to him by Borlagdan after the latter’s purchase of the same from appellant.  While he mentioned that the police investigator to whom he turned over the items wrote something down or made some initials thereon, he nevertheless could not remember who wrote the initials.And albeit later, PO2 Martirez identified the police investigator as SPO1 Desuasido, the latter, however, when called to the witness stand, did not testify that he made any markings on the said sachets or, at the very least, that he received the same from PO2 Martirez.  His testimony merely focused on the fact that he prepared the affidavit of a certain Baltazar. Clearly, the absence of markings creates an uncertainty that the two sachets seized during the buy-bust operation were part of the five sachets submitted to the police crime laboratory.  The prosecution’s evidence failed to establish the marking of the two sachets of shabu subject of this case, which is the first link in the chain of custody and which would have shown that the shabu presented in evidence was the same specimen bought from appellant during the buy-bust operation.  The lack of certainty therefore on a crucial element of the crime i.e., the identity of the corpus delicti, warrants the reversal of the judgment of conviction. **PEOPLE OF THE PHILIPPINES *vs.* JOMAR BUTIAL, G.R. No. 192785, February 04, 2015, J. Del Castillo**

The Court of Appeals affirmed the decision of the RTC convicting the accused for illegal sale of dangerous drugs in violation of Section 5 or RA 9165. It is the contention of the accused that her conviction is not warranted because of the failure of the police officer to observe the procedure outlined in Section 21 of RA 9165 otherwise known as the chain of custody rule. The Supreme Court ruled that non-compliance with the procedure outlined therein does not make the conviction of the accused invalid. It can be easily understood from a cursory reading of the implementing rules that the crucial factor is the preservation of the integrity and the evidentiary value of the seized items since they will be used to determine the guilt or innocence of the accused. **PEOPLE OF THE PHILIPPINES** **vs**. **GLORIA NEPOMUCENO Y PEDRAZA, G.R. No. 194999, February 09, 2015, J. Del Castillo**

Appellant questions the decision of the CA finding that the integrity and evidentiary value of the confiscated items had been safeguarded notwithstanding the Prosecution’s failure to comply with the requirements prescribed under Sec. 21 of RA 9165. The SC ruled that for failure of the buy-bust team to observe the procedures laid down by Republic Act No. 9165 and its IRR, appellant should be acquitted. The marking of the seized drugs or other related items immediately upon seizure from the accused is crucial in proving the chain of custody because it is the starting point in the custodial link. The marking upon seizure serves a two-fold function, the first being to give to succeeding handlers of the specimens a reference, and the second being to separate the marked evidence from the corpus of all other similar or related evidence from the time of seizure from the accused until their disposition at the end of criminal proceedings, thereby obviating switching, "planting," or contamination of evidence. This requirement of marking as laid down by the law was not complied with. **PEOPLE OF THE PHILIPPINES vs. BEVERLY ALAGARME y CITOY G.R. No. 184789, February 23, 2015, J. Bersamin**

 The break in chain of custody does not ipso facto render the evidence presented by the prosecution as inadmissible. There must be substantial and convincing proof from the defense for the Court to consider the inadmissibility of the evidence. **PEOPLE OF THE PHILIPPINES vs. BRIAN MERCADO Y SARMIENTO G.R. No. 207988, March 11, 2015, J. Perez**

In drug cases, the chain of custody rule only calls for substantial compliance, hence, prosecution must establish the chain of custody to prove the guilt of the accused, otherwise, he must be exonerated. **PEOPLE OF THE PHILIPPINES vs. RECTO ANGNGAO Y MAKAY and ROBERT CARLIN Y PECDASEN G.R. No. 189296, March 11, 2015, J. Bersamin**

There were other indicia of non-conformity with the requirements. It is beyond dispute, for one, that no photograph was taken of the recovered items for documentation purposes. It was also not shown why, despite the requirement of the law itself, no representative from the media, from the DOJ, or any elective official was present to serve as a witness during the arrest. It is true that Sec. 21 of the IRR of R.A. No. 9165 only requires a substantial compliance with the requirements of markings and photographing instead of an absolute or literal compliance. Hence, an accused can still be held guilty provided that a justifiable ground for excusing the non-compliance with the requirements has been satisfactorily established by the Prosecution.

Such justifiable ground is wanting here. The buy-bust team tendered no explanation for the non-compliance. They were required to render sufficient reasons for their non-compliance during the trial; otherwise, the persons they charged would be acquitted on the ground of reasonable doubt. Yet, they even seemed unaware that such requirements existed at all. The Court is aghast at their dismissive treatment of the requirements. **PEOPLE OF THE PHILIPPINES vs. RECTO ANGNGAO AND ROBERT CARLIN G.R. No. 189296, March 11, 2015, J. Bersamin**

**DOCUMENTARY EVIDENCE**

CSFL filed a complaint for collection of sum of money against TKI. CSFL, through its witness, identified several sales invoices and order slips it issued as evidence of its transactions with TKI. The latter objected pointing out that the documents being presented were mere photocopies Section 4(b), Rule 130 of the Rules of Court reads: “When a document is in two or more copies executed at or about the same time, with identical contents, all such copies are equally regarded as originals.” In the case at bar, Chiu convincingly explained that CSFL usually prepared two (2) copies of invoices for a particular transaction, giving one copy to a client and retaining the other copy. The evidence presented were duplicate originals of invoices and order slips, and not mere photocopies.

**CAPITAL SHOES FACTORY, LTD. vs. TRAVELER KIDS, INC. G.R. No. 200065, September 24, 2014, J. Mendoza**

In Bartolome vs. Intermediate Appellate Court, the Court ruled that the requirement of proper custody was met when the ancient document in question was presented in court by the proper custodian thereof who is an heir of the person who would naturally keep it. In this case however, the Court finds that Simplicia also failed to prove her filiation to Vicente and Benita. She merely presented a baptismal certificate which has long been held “as evidence only to prove the administration of the sacrament on the dates therein specified, but not the veracity of the declarations therein stated with respect to her kinsfolk. “The same is conclusive only of the baptism administered, according to the rites of the Catholic Church, by the priest who baptized subject child, but it does not prove the veracity of the declarations and statements contained in the certificate concerning the relationship of the person baptized.” As such, Simplicia cannot be considered as an heir, in whose custody the marriage contract is expected to be found. It bears reiteration that Simplicia testified that the marriage contract was given to her by Benita but that Simplicia cannot make out the contents of said document because she cannot read and write. **SIMPLICIA CERCADO-SIGA AND LIGAYA CERCADO-BELISON vs. VICENTE CERCADO, JR., MANUELA C. ARABIT, LOLITA C. BASCO, MARIA C. ARALAR AND VIOLETA C. BINADAS G.R. No. 185374, March 11, 2015, J. Perez**

**PAROLE EVIDENCE**

Contrary to the claim of the respondents, it is not error for the trial court to rely on parol evidence, i.e., the oral testimonies of witnesses Simeon Juan Tong and Jose Juan Tong, to arrive at the conclusion that an implied resulting trust exists. Because an implied trust is neither dependent upon an express agreement nor required to be evidenced by writing, Article 1457 of our Civil Code authorizes the admission of parol evidence to prove their existence. Parol evidence that is required to establish the existence of an implied trust necessarily has to be trustworthy and it cannot rest on loose, equivocal or indefinite declarations. **JOSE JUAN TONG, ET AL.** **vs.** **GO TIAT KUN, ET AL.** **G.R. No. 196023, April 21, 2014**, **J.** **Reyes**

The failure of the Deed of Absolute Sale to express the true intent and agreement of the contracting parties was clearly put in issue in the present case. The RTC is justified to apply the exceptions provided in the second paragraph of Sec. 9, Rule 130 to ascertain the true intent of the parties, which shall prevail over the letter of the document. That said, considering that the Deed of Absolute Sale has been shown to be void for being absolutely simulated, petitioners are not precluded from presenting evidence to modify, explain or add to the terms of the written agreement. **AVELINA ABARIENTOS REBUSQUILLO [substituted by her heirs, except Emelinda R. Gualvez] and SALVADOR A. OROSCO, vs. SPS. DOMINGO and EMELINDA REBUSQUILLO GUALVEZ and the CITY ASSESSOR OF LEGAZPI CITY G.R. No. 204029, June 4, 2014, J. Velasco, Jr.**

**TESTIMONIAL EVIDENCE**

It appears that not all the requisites of a dying declaration are present. From the records, no questions relative to the second requisite was propounded to Januario. It does not appear that the declarant was under the consciousness of his impending death when he made the statements. The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in point of fact that renders a dying declaration admissible. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending. Thus, the utterances made by Januario could not be considered as a dying declaration.

The test of admissibility of evidence as a part of the res gestae is, therefore, whether the act, declaration, or exclamation, is so interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negates any premeditation or purpose to manufacture testimony.

When Januario gave the identity of the assailants to SPO3 Mendoza, he was referring to a startling occurrence which is the stabbing by appellant and his co-accused. At that time, Januario and the witness were in the vehicle that would bring him to the hospital, and thus, had no time to contrive his identification of the assailant. His utterance about appellant and his co-accused having stabbed him, in answer to the question of SPO3 Mendoza, was made in spontaneity and only in reaction to the startling occurrence. Definitely, the statement is relevant because it identified the accused as the authors of the crime. Verily, the killing of Januario, perpetrated by appellant, is adequately proven by the prosecution. **PEOPLE OF THE PHILIPPINES vs.** **SONNY GATARIN y CABALLERO "JAY-R" and EDUARDO QUISAYAS G.R. No. 198022, April 7, 2014, J. Peralta**

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. **PEOPLE OF THE PHILIPPINES vs. MILAN ROXAS Y AGUILUZ G.R. No. 200793, June 4, 2014, J. Leonardo-De Castro**

In cases of rape, the testimony of the victim alone may be sufficient to obtain a conviction. However, this is not true to all rape cases as the Supreme Court may consider other circumstances and evidence present in the case such as behavior of the victim and her family during and after the incident, the intent of the accused to flee and the medico legal report submitted. **PEOPLE OF THE PHILIPPINES** **vs.** **JAYSON CRUZ y TECSON** **G.R. No. 194234, June 18, 2014, J. Reyes**

**RES GESTAE**

There is no doubt that a sudden attack on a group peacefully eating lunch on a school campus is a startling occurrence. Considering that the statements of the bystanders were made immediately after the startling occurrence, they are, in fact, admissible as evidence given in res gestae. **PEOPLE OF THE PHILIPPINES vs. DANILO FELICIANO, JR. et al G.R. No. 196735, May 5, 2014, J. Leonen**

Res gestae means the “things done.” It refers to those exclamations and statements made by either the participants, victims, or spectators to a crime immediately before, during, or immediately after the commission of the crime, when the circumstances are such that the statements were made as a spontaneous reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement.” There are then three essential requisites to admit evidence as part of the res gestae, namely: (1) that the principal act, the res gestae, be a startling occurrence; (2) the statements were made before the declarant had the time to contrive or devise a falsehood; and (3) that the statements must concern the occurrence in question and its immediate attending circumstances.

In this case, AAA’s statements to the barangay tanod and the police do not qualify as part of res gestae in view of the missing element of spontaneity and the lapse of an appreciable time between the rape and the declarations which afforded her sufficient opportunity for reflection. **PEOPLE OF THE PHILIPPINES** **vs.** **ANECITO ESTIBAL Y CALUNGSAG** **G.R. No. 208749, November 26, 2014, J. Reyes**

**CREDIBILITY OF A WITNESS**

It is settled that the assessment of the credibility of witnesses is within the province and expertise of the trial court. In this case, we find no cogent reason to depart from the findings of the trial court. The court below categorically found that Relecita had no ill motive to testify against appellant. She has no reason to impute on him the heinous crime of murder had she not witnessed the actual killing of the victim. Similarly, the appellate court found Relecita to have positively identified the appellant as the perpetrator of the crime. Also, the failure of Relecita to warn the victim of the appellant’s impending attack should not be taken against her. Neither should it be taken as a blemish to her credibility. **PEOPLE OF THE PHILIPPINES vs. FRANCISCO ABAIGAR G.R. No. 199442, April 7, 2014, J. DEL CASTILLO**

Contending that the inconsistencies in the testimony of the complainant destroyed her credibility as a witness, the appellant argues that the RTC and the CA erred in finding guilty of the crime of rape. The SC however ruled that inconsistencies and discrepancies in details which are irrelevant to the elements of the crime are not grounds for acquittal. As long as the inaccuracies concern only minor matters, the same do not affect the credibility of witnesses. Truth-telling witnesses are not always expected to give error-free testimonies considering the lapse of time and treachery of human memory. Inaccuracies may even suggest that the witnesses are telling the truth and have not been rehearsed. **PEOPLE OF THE PHILIPPINES vs. DEMOCRITO PARAS G.R. No. 192912, June 4, 2014, J. Leonardo-De Castro**

For having admitted that they harbored ill feelings against respondent, the latter contends that the credibility of the witnesses has been affected, thus, respondent alleges that the testimonies of the witnesses should have been disregarded by the lower court. The SC however ruled that jurisprudence instructs that when the credibility of a witness is of primordial consideration, as in this case, the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect if not conclusive effect. This is because the trial court has had the unique opportunity to observe the demeanor of a witness and was in the best position to discern whether they were telling the truth. **PEOPLE OF THE PHILIPPINES vs. RENATO DELA CRUZ G.R. No. 192820, June 4, 2014, J. Leonardo-De Castro**

A few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair their credibility. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility, because they discount the possibility of their being rehearsed. **PEOPLE OF THE PHILIPPINES vs. RODOLFO P. FERNANDEZ, NELSON E. TOBIAS and FRANK R. BAAY G.R. No. 193478, June 23, 2014, CJ. Sereno**

Contending that the inconsistencies in the testimony of the witness affected her credibility as such, the accused-appellant filed the instant petition arguing that the prosecution failed to prove his guilt beyond reasonable doubt. The SC ruled that due to its intimate nature, rape is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim’s credibility becomes the primordial consideration. It is settled that when the victim’s testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof. Inconsistencies in the victim’s testimony do not impair her credibility, especially if the inconsistencies refer to trivial matters that do not alter the essential fact of the commission of rape. The trial court’s assessment of the witnesses’ credibility is given great weight and is even conclusive and binding. In the case at bar, the trial court found the testimony of AAA to be clear, candid, and straightforward, one which could not be considered as a common child’s tale. **PEOPLE OF THE PHILIPPINES vs.** **PORFERIO BALINO alias "Toto"** **G.R. No. 194833, July 2, 2014, J. Perez**

Where the issue is one of credibility of witnesses, and in this case their testimonies as well, the findings of the trial court are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case. Moreover, in cases involving violations of the Dangerous Drugs Act of 2002, as amended, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. **PEOPLE OF THE PHILIPPINES vs. JOY ALCALA y NOVILLA G.R. No. 201725, July 18, 2014, J. Perez**

AAA’s mental condition may have prevented her from delving into the specifics of the assault in her testimony almost three years later, unlike the way she narrated the same when she was asked at the barangay outpost merely minutes after the incident. However, as we have ruled in a litany of cases, when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed. Youth and, as is more applicable in the case at bar, immaturity are generally badges of truth. Furthermore, the report of PC/Insp. Chua that the findings of the physical examination were consistent with recent sexual intercourse, provide additional corroboration to the testimonies of AAA and BBB. It should be noted that this report was stipulated upon by the prosecution and the defense. **PEOPLE OF THE PHILIPPINES vs. LEONARDO CATAYTAY Y SILVANO G.R. No. 196315, July 28, 2014, J. Leonardo- De Castro**

The respondent questions the credibility of the NBI officer as expert witness as the said officer was not expert in Arabic Language. The Court explains that a handwriting expert does not have to be a linguist at the same time. To be credible, a handwriting expert need not be familiar with the language used in the document subject of his examination. The nature of his examination involves the study and comparison of strokes, the depth and pressure points of the alleged forgery, as compared to the specimen or original handwriting or signatures. **DOMADO DISOMIMBA SULTAN vs.** **ATTY. CASAN MACABANDING** **A.C. No. 7919, October 8, 2014, J. Reyes**

**OFFER AND OBJECTION**

It is the duty of each contending party to lay before the court the facts in issue–fully and fairly; i.e., to present to the court all the material and relevant facts known to him, suppressing or concealing nothing, nor preventing another party, by clever and adroit manipulation of the technical rules of pleading and evidence, from also presenting all the facts within his knowledge. Republic’s failure to offer a plausible explanation for its concealment of the main bulk of its exhibits even when it was under a directive to produce them and even as the defendants were consistently objecting to the presentation of the concealed documents gives rise to a reasonable inference that the Republic, at the very outset, had no intention whatsoever of complying with the directive of this Court. **REPUBLIC OF THE PHILIPPINES vs. SANDIGANBAYAN, BIENVENIDO R. TANTOCO, JR., DOMINADOR R. SANTIAGO, FERDINAND E. MARCOS, IMELDA MARCOS, BIENVENIDO R. TANTOCO, SR., GLICERIA R. TANTOCO, AND MARIA LOURDES TANTOCO–PINEDA G.R. No. 188881, April 21, 2014, J. Sereno**

The established doctrine is that when a party failed to interpose a timely objection to evidence at the time they were offered in evidence, such objection shall be considered as waived. According to Corpuz, the CA erred in affirming the ruling of the trial court, admitting in evidence a receipt dated May 2, 1991 marked as Exhibit "A" and its submarkings, although the same was merely a photocopy, thus, violating the best evidence rule. However, the records show that Corpuz never objected to the admissibility of the said evidence at the time it was identified, marked and testified upon in court by private complainant. The CA also correctly pointed out that Corpuz also failed to raise an objection in his Comment to the prosecution's formal offer of evidence and even admitted having signed the said receipt. **LITO CORPUZ vs. PEOPLE OF THE PHILIPPINES G.R. No. 180016, April 29, 2014, J. Peralta**

Pursuant to Section 34, Rule 132 of the Rules of Court, the RTC as the trial court could consider only the evidence that had been formally offered; towards that end, the offering party must specify the purpose for which the evidence was being offered. In the case at bar, The RTC could not take the declaration of Villas into consideration because Villas’ extra-judicial sworn statement containing the declaration had not been offered and admitted as evidence by either side. The CA stressed that only evidence that was formally offered and made part of the records could be considered; and that in any event, the supposed contradiction between the extra-judicial sworn statement and the court testimony should be resolved in favor of the latter. **EMERITU C. BARUT vs. PEOPLE OF THE PHILIPPINES G.R. No. 167454, September 24, 2014, J. Bersamin**

Section 34 of Rule 132 of our Rules on Evidence provides that the court cannot consider any evidence that has not been formally offered. This rule, however, admits of an exception. The Court, in the appropriate cases, has relaxed the formal-offer rule and allowed evidence not formally offered to be admitted. Jurisprudence enumerated the requirements so that evidence, not previously offered, can be admitted, namely: first, the evidence must have been duly identified by testimony duly recorded and, second, the evidence must have been incorporated in the records of the case. In the present case, we find that the requisites for the relaxation of the formal-offer rule are present. As it is correctly observed, Godofredo identified the Certification to File an Action during his cross-examination. Although the Certification was not formally offered in evidence, it was marked as Exhibit “1” and attached to the records of the case. **FEDERICO SABAY vs. PEOPLE OF THE PHILIPPINES G.R. No. 192150, October 01, 2014, J. Brion**

**Rules of Procedure for Environmental Cases (A.M. No. 09-6-8-SC)**

**WRIT OF KALIKASAN**

Under Section 1 of Rule 7, the following requisites must be present to avail of this extraordinary remedy: (1) there is an actual or threatened violation of the constitutional right to a balanced and healthful ecology; (2) the actual or threatened violation arises from an unlawful act or omission of a public official or employee, or private individual or entity; and (3) the actual or threatened violation involves or will lead to an environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces. The Rules do not define the exact nature or degree of environmental damage but only that it must be sufficiently grave, in terms of the territorial scope of such damage, so as tocall for the grant of this extraordinary remedy. The gravity of environmental damage sufficient to grant the writ is, thus, to be decided on a case-to-case basis. Hence, we sustain the appellate court’s findings that the Casiño Group failed to establish the alleged grave environmental damage which will be caused by the construction and operation of the power plant. **HON. JESUS P. PAJE, in his capacity as SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL REOURCES vs. HON. TEODORO A. CASINO, ET AL, G.R. No. 207257, February 3, 2015, J. Del Castillo**