

# RECENT JURISPRUDENCE ON REMEDIAL LAW\*

## I. CIVIL PROCEDURE

### A. *Llorente v. Star City Pty Limited*<sup>1</sup>

Star City Pty Limited (“Star City”) is an Australian corporation which operates a casino in its home country. Llorente is a patron of the casino in Australia; he is also a holder of an account in Equitable PCI Bank (“EPB”). Star City filed before the Regional Trial Court (“RTC”) a complaint for the collection of sum of money against Llorente, alleging this action to be based on an “isolated transaction.” Llorente negotiated two bank drafts in order to play in the casino’s Premium Program. Star City checked the status of the drafts with EPB, and the latter confirming that these drafts were sufficiently funded. Later on, Star City deposited the two bank drafts but was informed of a stop payment order. As a result, Star City demanded that Llorente make good his payment obligations. However, Llorente refused to pay. Additionally, Star City also asked EPB for a settlement agreement; the latter denied the same on the ground that it was Llorente himself who requested for the stop payment order, hence removing any liability on its part.

In Llorente’s answer to the complaint, he prayed that the case be dismissed on the ground of Star City’s lack of legal capacity to sue. He argued that for Star City to have the capacity to sue based on the rule on isolated transaction, the subject matter of the complaint should have occurred in the Philippines. EPB also filed its answer, raising the defense that Star City has no cause of action against it because there is no privity of contract between them.

The Supreme Court held that there is no merit in Llorente’s allegation that the RTC has no jurisdiction over the subject matter; neither is it correct to argue that Star City has no legal capacity to sue in Philippine courts. The law is clear—a foreign corporation that is not engaged in business in the Philippines may file an action in Philippine courts for an isolated transaction. Such isolated transaction must be disclosed by the party in the complaint or initiatory pleading because this fact is an essential element

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\* *Cite as Recent Jurisprudence on Remedial Law*, 93 PHIL. L.J. 1354, [page cited] (2020).

<sup>1</sup> *Llorente v. Star City Pty Ltd.*, G.R. No. 212050, Jan. 15, 2020.

of the plaintiff's capacity to sue. In other words, the fact of isolated transaction must be affirmatively pleaded. Therefore, Star City has the legal personality to sue since it sufficiently alleged the same.

Moreover, the Supreme Court added that Llorente pleaded an affirmative relief for damages in his answer. This is contrary to his position that Star City has no capacity to sue because his prayer for affirmative relief effectively admits of the existence of such capacity. As regards the jurisdiction of the RTC, since the amount involved is above PHP 400,000 then this case falls squarely within the jurisdiction of said court.

As regards Star City's allegation that EPB should not be absolved, the Supreme Court found merit in this argument. It held that under the Negotiable Instruments Law, while the maker is primarily liable, the drawer and endorser are secondarily liable. Hence, Star City may enforce payment against all liable parties. However, while EPB is liable, its liability is primary and not merely secondary because of the stop payment order that Llorente issued against the drafts. There was no legal basis for solidary liability since the same was not expressly agreed upon. Llorente and EPB are both individually and primarily liable as endorser and drawer, respectively. Star City may then proceed to collect damages against both, either simultaneously or alternatively, provided that Star City cannot recover more than the damages awarded by the Court.

## II. CRIMINAL PROCEDURE

### A. *People v. Padua*<sup>2</sup>

In February 2009, the police conducted a buy-bust operation in Upper Sucat, Purok 1 Highway to catch respondent Padua for his alleged possession and sale of illegal drugs. In the buy-bust operation, Padua handed a plastic sachet to the police who took the same and paid the former with the buy-bust money. At that moment, the policeman lighted a cigarette—the signal that the transaction had been consummated. The other team members immediately approached Padua and arrested him.

The plastic sachet which contained a white crystalline substance was handed over to the police. After bringing Padua to the police station, they conducted an inventory of the item seized, took a picture of the sachet, and

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<sup>2</sup> *People v. Padua*, G.R. No. 239781, Feb. 5, 2020.

placed the necessary markings thereon. It was then brought to a crime laboratory and was tested positive for the presence of methamphetamine hydrochloride (“shabu”).

According to Padua, the police handed him a document at the station and asked him to sign the same. The police told him it was merely for blotter purposes, but not believing the police, he refused to sign. As a result, he was punched by an officer and was forced to sign the said letter. He further narrated that he was asked by the police officers to pay them PHP 20,000 to settle the matter amongst themselves. Padua’s family, however, could not raise the money. Both the RTC and the Court of Appeals found Padua guilty of violating Republic Act (R.A.) No. 9165.<sup>3</sup>

The Supreme Court found the said rulings erroneous. It held that the lower courts erred in declaring that Padua’s guilt was beyond reasonable doubt and in proclaiming that the seized drug was preserved and its integrity uncompromised.

It is a well-settled principle that the State bears the burden of proving the *corpus delicti* or the body of the crime (in this case, the dangerous drug). Therefore, compliance with the chain of custody rule is crucial. This rule is indispensable, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite to make a finding of guilt. The general rule is that strict compliance with the procedures laid down in Section 21 of R.A. No. 9165 is required to ensure that rights of the accused are safeguarded.<sup>4</sup> The exception to this rule is expressed as follows:

The immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the

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<sup>3</sup> Comprehensive Dangerous Drugs Act of 2002.

<sup>4</sup> Sec. 21 requires that:

1. the seized items be inventoried and photographed immediately after seizure or confiscation
2. the physical inventory and photographing must be done in the presence of:
  - a. the accused or his/her representative or counsel,
  - b. an elected public official,
  - c. a representative from the media, and
  - d. a representative from the Department of (DOJ).

witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.<sup>5</sup>

However, the present case does not fall under the abovementioned exception. In this case, the physical inventory and photograph of the seized item were not done at the place of the arrest, but only at the police station. Moreover, the absence of the witnesses required by law—an elected public official, representative of the Department of Justice, and the media—to witness the physical inventory and photograph of the seized items is glaring. In fact, their signatures did not appear on the inventory receipt. Hence, it cannot be denied that serious breach of the mandatory procedures required by law in the conduct of buy-bust operations were committed by the police. Therefore, the decision of the Court of Appeals (“CA”) was reversed and set aside. Padua was acquitted on reasonable doubt and was ordered immediately released from detention.

### III. EVIDENCE

#### *A. Spouses Coronel v. Quesada*<sup>6</sup>

Petitioners Spouses Coronel filed a complaint for annulment of deeds, cancellation of transfer certificate of title (“TCT”), recovery of possession, and reconveyance with preliminary injunction and damages against Quesada. They alleged that they are the rightful owners of a parcel of land in Tarlac City. They maintained that they permitted their relative, Catalina Hernando, to construct a house on the lot and be the caretaker of the property; they also left the title and other relevant documents in the latter’s care. Sometime later, Catalina fell ill, and her granddaughter Mina Delos Reyes mortgaged the property without the spouses’ consent. They learned from the Register of Deeds (“RD”) that a deed of donation was filed with the office, showing that they donated the property in favor of Delos Reyes, who then sold the property to respondent Quesada. They denied ever executing said deed, alleging that such document, as well as the deed of absolute sale, was falsified.

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<sup>5</sup> People v. Lim, G.R. No. 231989, Sept. 4, 2018. *See also* People v. Mola, G.R. No. 226481, Apr. 18, 2018.

<sup>6</sup> G.R. No. 237465, Oct. 7, 2019.

In her defense, Quesada asserted that she was a purchaser in good faith. She maintained that the Spouses Coronel donated the property to Delos Reyes, who then obtained a loan from a bank secured by a mortgage over the property. When the property was foreclosed, Quesada helped Delos Reyes in redeeming the property. Later on, the latter sold the to Quesada through a deed of absolute sale.

The RTC and the CA granted Quesada's motion to dismiss on a demurrer to evidence. This decision was affirmed by the Supreme Court, which proceeded to emphasize the rules anent ascertaining the authenticity of signatures in evidentiary proceedings despite stating how the issue on the forgery of the spouses' signature was a question of fact. The Court emphasized that "forgery cannot be presumed and must be proved by clear, positive and convincing evidence, thus, the burden of proof lies on the party alleging forgery. One who alleges forgery has the burden to establish his/her case by a preponderance of evidence."<sup>7</sup>

The Court ruled that the Spouses Coronel should have proceeded with an examination of the signature specimens before the trial court. In so doing, the process would have yielded "an accurate examination to determine forgery should dwell on both the differences and similarities in the questioned signatures."<sup>8</sup> This is founded on the following rationale:

There are two main questions, or difficulties, that confront the examiner of an alleged forgery. *The first of thesis to determine how much and to what extent genuine writing will diverge from a certain type, and the second is how and to what extent will a more or less skillful forgery be likely to succeed and be likely to fail in embodying the essential characteristics of a genuine writing.* Here we have the very heart of the problem, for, at least in some measure, a forgery will be like the genuine writing, and there is also always bound to be some variation in the different examples of genuine writing by the same writer. *Incorrect reasoning infers forgery from any variation or infers genuineness from any resemblance.*

The process of identification, therefore, must include the determination of the extent, kind, and significance of this resemblance as well as of the variation. It then becomes necessary to determine whether the variation is due to the operation of a different personality, or is only the expected and inevitable variation found in the genuine writing of the same writer. It is also necessary to decide whether the resemblance is the result of a more

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<sup>7</sup> *Gepulle-Garbo v. Spouses Garabato*, 750 Phil. 846, 855 (2015).

<sup>8</sup> *Cesar v. Sandiganbayan*, 219 Phil. 87, 106 (1985).

or less skillful imitation, or is the habitual and characteristic resemblance which naturally appears in a genuine writing. *When these two questions are correctly answered the whole problem of identification is solved.*<sup>9</sup>

#### IV. SPECIAL PROCEEDINGS

##### A. *Tadeo-Matias v. Republic of the Philippines*<sup>10</sup>

Petitioner Estrellita Tadeo-Matias filed before the RTC a petition for the declaration of presumptive death of her husband, Wilfredo Matias. She alleged that he was a member of the Philippine Constabulary and never came back from his duty nor made any form of communication after being assigned in Arayat, Pampanga in 1979. The petition was filed solely for the purpose of claiming the benefits under Presidential Decree 1638,<sup>11</sup> one of the requirements of which is proof of death or a declaration of presumptive death.

The Supreme Court found the ruling of the RTC erroneous when the latter granted the petition and declared Wilfredo presumptively dead under Article 41 of the Family Code,<sup>12</sup> thereby giving the impression that the suit was filed pursuant to said provision. A reading of Article 41 will show that the presumption of death thereon is only for the purpose of contracting a valid subsequent marriage under said law. Petitioner was clearly relying on the presumption of death under either Article 390 or Article 391 of the Civil Code,<sup>13</sup> and not for the purpose of remarriage.

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<sup>9</sup> *Cesar v. Sandiganbayan*, citing ALBERT OSBORN, *THE PROBLEM OF PROOF* 481-482 (1922). (Emphasis supplied.)

<sup>10</sup> *Tadeo-Matias v. Republic*, G.R. No. 230741, Apr. 25, 2018.

<sup>11</sup> The AFP Military Personnel Retirement and Separation Decree of 1979.

<sup>12</sup> Art. 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

<sup>13</sup> Art. 390. After an absence of seven years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all purposes, except for those of succession.

The RTC committed a graver error when it failed to dismiss the petition outright for the reason that the petition—the sole objective of which is to declare a person presumptively dead under the Civil Code—is not a viable suit in our jurisdiction, and “no court has any authority to take cognizance of the same.” While a rule creating a presumption of death may be invoked in any action or proceeding, it cannot be the lone subject of an independent action or proceeding, as held in *In re: Petition for the Presumption of Death of Nicolai Szatraw*.<sup>14</sup> A presumption is already established by law, and a judicial pronouncement to such effect will only result in a prima facie presumption that is still disputable.

Verily, under prevailing case law, courts are without any authority to take cognizance of a petition that—like the one filed by the petitioner in the present case—only seeks to have a person declared presumptively dead under the Civil Code. Such a petition is not authorized by law as it actually presents no actual controversy that a court could decide.

### **B. *Agcaoili, Jr. v. Fariñas***<sup>15</sup>

Petitioners, collectively known as “Ilocos 6,” were all employees of the Provincial Government of Ilocos Norte. Together with their co-petitioner, Maria Imelda “Imee” Marcos, they filed a petition for habeas corpus.<sup>16</sup> This was in relation to a house resolution directing the conduct of an inquiry in aid of legislation on the alleged illegal use by the Provincial Government of Ilocos Norte of its share of the excise taxes on locally manufactured cigarettes. The omnibus petition filed before the Court of Appeals, prayed that the Supreme Court assume jurisdiction over the it,

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The absentee shall not be presumed dead for the purpose of opening his succession till after an absence of ten years. If he disappeared after the age of seventy-five years, an absence of five years shall be sufficient in order that his succession may be opened.

Art. 391. The following shall be presumed dead for all purposes, including the division of the estate among the heirs:

(1) A person on board a vessel lost during a sea voyage, or an aeroplane which is missing, who has not been heard of for four years since the loss of the vessel or aeroplane;

(2) A person in the armed forces who has taken part in war, and has been missing for four years;

(3) A person who has been in danger of death under other circumstances and his existence has not been known for four years.

<sup>14</sup> *In re: Petition for the Presumption of Death of Nicolai Szatraw*, G.R. No. L-1780, Aug. 31, 1948.

<sup>15</sup> *Agcaoili, Jr. v. Fariñas*, G.R. No. 232395, July 3, 2018.

<sup>16</sup> RULES OF COURT, Rule 102, § 1.

averring that the habeas corpus petition may be transferred to the Court by virtue of its authority to exercise jurisdiction over all courts, and based on its inherent power to protect the judiciary and prevent a miscarriage of justice.

The Supreme Court ruled against the petitioners, dismissing the omnibus petition on the ground of mootness. Considering that the writ of *habeas corpus* is a speedy and effectual remedy to relieve persons from unlawful restraint, the petitioners' subsequent release from detention necessitates the denial of their petition. This is consistent with the ruling in *Duque v. Capt. Vinarao*, which provides that "where the subject person had already been released from the custody complained of, the petition for habeas corpus then still pending was considered already moot and academic and should be dismissed." Consequently, the denial of the petition is also justified by the fact that their petition before the CA had already been terminated.

Nevertheless, the Court deemed it proper to decide on the issue. The Court, through Justice Tijam, emphasized that although it exercises administrative supervision over lower courts, this does not equate to the power to usurp jurisdiction already acquired by lower courts. It is true that the Supreme Court, the Court of Appeals, and the RTC enjoy concurrent jurisdiction over petitions for habeas corpus, but since the instant petition was filed before the Court of Appeals, said court has acquired jurisdiction over the petition, to the exclusion of all others, including the Supreme Court. The Court emphasized that "[m]ere concurrency of jurisdiction does not afford the parties absolute freedom to choose the court to which the petition shall be filed."