

## COMMENTS

# THE LEGAL PHILOSOPHY OF CHIEF JUSTICE PARAS

The doctrine of judicial supremacy which has echoed through these years in the memorable words of Chief Justice Marshall—that the lawmakers may enact the law, but the law is still what the judges say it is—has been responsible, more than anything else, for the growing interest in the study of the legal philosophies of the men who comprise any court of last resort.

For indeed a familiarity with and understanding of the prejudices, biases, obsessions and idiosyncracies of the minds that make up the court more or less serve as safe guideposts for laymen and lawyers alike in the choice of values or in formulating reasonable hopes and expectations whenever they are confronted by situations that demand judicial intervention. Since these philosophies can be gleaned principally from the judges' decisions, nowhere does the above observation attain a greater ring of truth than in jurisdictions where, like the Philippines, *stare decisis* is held in high esteem and even regarded with reverence and awe, and where justices cast slow, deliberate glances twice before they take to the unbeaten trail.

The case of Ricardo Paras, the chief justice of the Supreme Court, provides a good example. The parties in one of the most recent controversial cases elevated to the high tribunal—*Ocampo et al v. The Secretary of Justice et al*<sup>1</sup>—could readily have guessed what stand the Chief Justice would take and could have fashioned the arguments to present had they been familiar with his judicial philosophy. For it is an undeniable fact that, although the pen of Chief Justice Paras may not exude exceptional brilliance, anyone who reads his decisions cannot but notice that they were written by a conformist mind whose main passion is to uphold, whenever it is possible, stability and order. When he is assailed by doubts upon being confronted by two alternatives—one upholding the power of government and the other limiting it—his choice of values unmistakably leads him to be partial to the former. Faced by a plea to hold a law unconstitutional, he would think twice before declaring it so, unless the grounds for assailing its validity are doubly and unequivocally clear.

In *Ocampo v. Secretary of Justice*,<sup>2</sup> petitioners lost their positions in the judiciary because of a law<sup>3</sup> abolishing the positions of judges-at-large and cadastral judges. The legal situation created by the law was:

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<sup>1</sup> G.R. No. L-7910, Jan. 18, 1955.

<sup>2</sup> *Supra*.

<sup>3</sup> R.A. 1186, effective June 19, 1954, amending the Judiciary Act of 1948 (R.A. 296).

should the court uphold the right of Congress to abolish courts inferior to the Supreme Court, in accordance with a power implied from sections 1 and 2 of article VIII of the Constitution, even if such an abolition would infringe upon the judges' right to "hold office during good behavior, until they reach the age of 70 years, or become incapacitated to discharge the duties of their office," in accordance with section 9 of the same article?

Chief Justice Paras answered in the affirmative and, with the vote of three others,<sup>4</sup> succeeded in stopping the majority of seven justices from holding the law unconstitutional.<sup>5</sup> His reasoning may sound naive to some,<sup>6</sup> or specious to others,<sup>7</sup> but his opinion that "it is not for us to judge the wisdom of the framers of our Constitution in granting Congress legislative power with reference to the establishment of courts inferior to the Supreme Court" betrays his unfailing desire to see one independent branch of the government respect the judgment of another branch with which it is co-extensive, co-equal and co-important.

He displayed this same attitude in *Summers v. Ozaeta*<sup>8</sup> and in *Krivenko v. Register of Deeds*.<sup>9</sup> In the *Summers* case, he said that, although he was aware of the fact that the Constitution guarantees the right of members of the Supreme Court and judges of inferior courts to hold office during good behavior until they reach the age of 70 years or become incapacitated to discharge the duties of their office,<sup>10</sup> the right is waivable and once it is waived in order to accept a new appointment, a disapproval of such new appointment by the Commission on Appointments should be respected and should work to deprive the judge of the office the right to which he had waived. In the *Krivenko* case, he fulminated

<sup>4</sup> Justices Padilla, Labrador and Alex. Reyes.

<sup>5</sup> Sec. 9, Judiciary Act of 1948 (R.A. 296).

<sup>6</sup> In answer to Chief Justice Paras's claim that, "after all there can be no surer guaranty for a true administration of justice than the God-given character and fitness of those appointed to the Bench," Justice Montemayor, in his dissenting opinion, answered:

"We could admire such ingeniousness and naivete, but the framers of the Constitution, less naive and more practical minded, apparently thought otherwise, and believing that judicial honesty and courage were not enough, proceeded to safeguard a judicial office, with security of judicial tenure during good behavior, the very thing which we are endeavoring to uphold and protect against what we believe is a legislative interference and invasion."

<sup>7</sup> To the claim of Chief Justice Paras that, "moreover, if the petitioners were really intentionally eased out for being 'undesirable,' no provision for the payment of any gratuity would have been provided, because removal for cause is never rewarded," it can be said that it is possible that the conscience of the lawmakers, bothered by a thought that they were violating the Constitution in their desire to weed out the "undesirables" hit upon the gratuity plan in order to conceal their true motives under a mask of benevolence and assuage the woes that would fall upon the victims of injustice."

<sup>8</sup> G.R. No. L-1534, Oct. 25, 1948.

<sup>9</sup> 44 O.G. 471 (1947).

<sup>10</sup> Sec. 9, Art. VIII; See conc. op. of Justices Pablo, Perfecto and Pablo in *Tavors v. Gavina and Arclaga*, G.R. No. L-1257, Oct. 30, 1947.

against what he called an irregular procedure adopted by the majority of the court in acting upon the case, notwithstanding the fact that the appellant State, represented by the Solicitor General, had filed a motion withdrawing its appeal, just because the majority were propelled by the fear that such a withdrawal of appeal, if granted might open the way to further violations of the Constitution.

"I cannot accept the shallow excuse of the majority that the denial of the motion for withdrawal was prompted by the fear that 'our indifference of today might signify a permanent offense to the Constitution,' because it carries the rather immodest implication that this Court has a monopoly of the virtue of upholding and enforcing, or supplying any deficiency in, the Constitution."

In chiding the majority on this point, Justice Paras said that "what is most regrettable is the implication that the Department of Justice, as a part of the Executive Department, cannot be as patriotic and able as this Court in defending the Constitution." He continued:

His passionate reluctance to disturb the existing order was reflected in his earlier decisions. In a case<sup>11</sup> which he decided in 1951, he refused to hold as unconstitutional a zoning ordinance of the municipal council of Lucena, Quezon, which, to the appellants, was clearly aimed at alien owners of lumber yards. But in justifying the ordinance as a legitimate exercise of the police power of the state for the benefit and protection of the inhabitants, he did not seize upon the opportunity of discoursing with extravagant flourishes on the basis of his decision, as most justices placed under similar circumstances are wont to do. It is characteristic of his aversion to needless verbosity and florid oratory that, for him, it was enough that he cited the syllabus of a ruling case.<sup>12</sup>

The State's interest in the welfare of the inhabitants to him is so all-pervading that it would justify the government's taking a hand even if it might mean interference in the freedom of contract.<sup>13</sup> To justify such an approach, he expressed adherence to a United States Supreme Court opinion that, "where the parties do not stand upon an equality, or where the public health demands that one party to the contract shall be protected against himself," the State has the right to intervene, for "the whole is no greater than the sum of all the parts, and where the individual health, safety and welfare are sacrificed or neglected, the State must suffer."<sup>14</sup>

In his eagerness to justify acts of government and government officials, Chief Justice Paras would not hesitate to condone the loss of the life of an innocent person if he believes that in the process the struc-

<sup>11</sup> *People v. de Guzman*, G.R. No. L-2772, Sept. 29, 1951.

<sup>12</sup> *Tan Chat v. Iloilo*, 60 Phil. 465 (1934).

<sup>13</sup> *Leyte Land Transportation Co., Inc. v. Leyte Farmers and Laborers Union*, G.R. No. L-1377, May 12, 1948.

<sup>14</sup> *West Coast Hotel Company v. Parrish*, 300 U.S. 379, 394, 81 L. Ed. 703, 710 (1937), quoting *Holden v. Hardy*, 169 U.S. 366, 42 L. Ed. 780 (1898).

ture of government and the basis of order would at the same time be strengthened.<sup>15</sup> Thus in the case of *People v. Oasis*,<sup>16</sup> he dissented from a decision of the majority which convicted the officers of law who had been accused of murder because they killed an innocent man whom they had mistaken for the notorious gangster they were ordered to get—dead or alive. Breaking away from his self-imposed rule against indulging in rhetorics, he gave vent to unusual prose common only in oratory in order to propound his ideas in the following paragraph:

"The theory of the prosecution has acquired some plausibility, though quite psychological or sentimental, in view only of the fact that it was not Balagtas (the notorious bandit) who was actually killed, but an 'innocent man . . . while he was deeply asleep.' Anybody's heart will be profoundly grieved by the tragedy, but in time will be consoled by the realization that the life of Serapio Tecson was not vainly sacrificed, for the incident will always serve as a loud warning to any one desiring to follow in the footsteps of Anselmo Balagtas that in due time the duly constituted authorities will, upon proper order, enforce the summary forfeiture of his life."

Heroic as these words are, such display of bombast seems futile when ranged side by side with the majority opinion of the then Chief Justice Moran, which indicated a greater respect for innocent human life. Said Chief Justice Moran:

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<sup>15</sup> That does not mean, however, that he has complete disregard for life. For he values it. He made this patent in the case of *People v. Vilo* (G.R. No. L-1656, Jan. 7, 1949). Defendant Vilo was found guilty by the Supreme Court of having committed treason in 1944, with two proven aggravating circumstances which would have called for a death sentence. The problem that confronted the members of the court was: should Article 47 of the Revised Penal Code or Sec. 9 of the Judiciary Act of 1948 (R.A. 296) be applied in the determination of how many justices' votes are necessary in order to make justify the imposition of the death sentence? Article 47 required a unanimous vote, but Sec. 9 of the Judiciary Act required only the concurrence of eight justices in order that a death sentence may be meted out. Should the Judiciary Act, which was approved on June 17, 1948, be given retroactive effect so that the vote of only eight justices would be enough to send the defendant to his doom? Or should the rigid requirement of unanimity be the rule?

A majority of the justices of the court was for retroactivity of the new law, since the matter referring to the number of justices necessary for the imposition of the death penalty is merely one of procedure, and that unanimity was previously required in view merely of the small composition of the court—a reason which had since ceased to exist because the number of justices has been increased from eight to eleven.

Justice Paras disagreed with majority and in so doing expounded his article of faith in the human life. He wrote:

"The new law should not be given retroactive effect if it is not to be *ex post facto*. The requisite number provided in Art. 47 correspondingly accorded the accused a substantive right. It is plain, and therefore easy to see, that there can be no more substantive legal provision than that which determines the question whether or not an accused will be sentenced to death. Article 47 required unanimity in order to give the assurance that, when a death sentence is meted out, there can absolutely be no room for any doubt as to the propriety of the penalty, implied from the absence of any dissent."

<sup>16</sup> 74 Phil. 257 (1943).

"Notoriety rightly supplies a basis for redoubled official alertness and vigilance; it can never justify precipitate action at the cost of human life. Where as here, the precipitate action of the appellants has cost an innocent life and there exist no circumstances whatsoever to warrant action of such character in the mind of a reasonably prudent man, condemnation—not condonation—should be the rule; otherwise we would offer a premium to crime in the shelter of official actuation."<sup>17</sup>

Chief Justice Paras's consuming passion for order would certainly seem strange at first blush, especially if one were to consider that his father, after whom he was named, was a revolutionary figure, a member of the Malolos Congress and one of the signers of the first Philippine Constitution. But a cursory glance at the jurist's past would show nothing strange in that. When Ricardo Paras was born on February 17, 1891, in Boac, Marinduque, the silver spoon was quite within his grasp. His father, a prominent planter, and his mother, the former Andrea Mercader, belonged to prominent families in that province. When he was graduated from the Manila High School in 1909, three years had barely passed since his father ended a five-year term as governor of Marinduque and Tayabas, which at that time were embraced in one political subdivision.

The story of his career is a series of successes upon another. He enrolled at the college of law of the University of the Philippines, from which he graduated in 1913 with the bachelor of laws degree. After graduation he practised his profession, making a brief sidetrip to politics when he was elected to the House of Representatives from 1919 to 1922, until he was appointed in 1925 as judge of the Court of First Instance. He served successively in that court in Samar, Ilocos Sur and Abra, and Pangasinan, until 1936 when he was named associate justice of the Court of Appeals. In 1940 he started presiding over the said court. On July 9, 1941, he was elevated to the Supreme Court, along with Manuel V. Moran who later was to become chief justice of that tribunal. March 16, 1951 marks the culmination of Ricardo Paras's career. On that day, he assumed the chief magistracy of the Supreme Court.<sup>18</sup>

The greatest test of a man's worth is how well he can adapt himself to the changing times. Chief Justice Paras seems to have survived the test. Although he grew up amidst wealth and plenty, he has shown that he is alive to the changing social tempo.

He can sympathize with labor, so long as labor's demands are not unreasonable. In *Dee C. Chuan and Sons v. Court of Industrial Relations*,<sup>19</sup> he upheld the right of workers to strike for the purpose of ob-

<sup>17</sup> *Ibid*, at p. 262.

<sup>18</sup> Acknowledgment is due Miss Fe S. Bordador, for the biographical material used in this article.

<sup>19</sup> G.R. No. L-2548, Jan. 28, 1950.

taining from the management the concessions awarded them by the court. He gave the stamp of approval to the Court of Industrial Relations' exercise of a wide latitude of action and judgment "with a view to settling industrial disputes conformably to the intents and purposes of its organic law," whenever the laborers are compelled to work under conditions and terms dictated by the employer.<sup>20</sup> He has no compunctions about extending the intendment of the law if by so doing he would raise the standard of the working class. In *Leyte Land Transportation Company v. Leyte Farmers' and Laborers' Union*,<sup>21</sup> he swayed the court into taking account for the first time the high cost of living as a factor for determining the reasonableness of any salary or wage increase. The Court of Industrial Relations Act provided that "in the hearing, investigation and determination of any question or controversy and in exercising any duties and power under this Act, the Court shall act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms"<sup>22</sup> and that, in the fixing of minimum wages for a given industry or in a given locality, the court "would give the workmen a just compensation for their labor and an adequate income to meet the essential necessities of civilized life, and at the same time allow capital a fair return on its investments."<sup>23</sup> Relying on these provisions, Chief Justice Paras enlarged the scope of the court's power by allowing it to take into consideration the high cost of living obtaining in any locality.

In the same case, he conceded to the workers the right to vacation and sick leaves, for in the long run, he said, such concessions would redound to the benefit of capital. Quoting American authority,<sup>24</sup> he asserted that when there is an assurance of holidays and vacations, workers take up their tasks with greater efficiency and tend to sustain their productiveness for longer periods.

Chief Justice Paras went all out again, in one of his later decisions,<sup>25</sup> for the workingman by ruling that, even if a bonus is not demandable because it does not form part of the wage, salary or compensation of the employee, the same may nevertheless be granted on equitable considerations.<sup>26</sup> To the management claim that no valid obligation to pay the bonus could arise, because there was no consideration therefor, he said it was sufficient to state that "any extra concession granted by the employer to his employee or laborer is necessarily pre-

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<sup>20</sup> *Sunripe Coconut Products Company v. Court of Industrial Relations*, G.R. No. L-2009, April 30, 1949.

<sup>21</sup> *Supra*, note 14.

<sup>22</sup> C.A. 103, sec. 20.

<sup>23</sup> C.A. 103, sec. 5.

<sup>24</sup> WATKINS AND DODD, *LABOR PROBLEMS* (1940) 330-331.

<sup>25</sup> *H. E. Heacock v. National Labor Union*, G.R. No. L-5577, July 1, 1954.

<sup>26</sup> *Philippine Education Company v. Court of Industrial Relations*, G.R. No. L-5103, Dec. 24, 1952.

mised on the need of improving the latter's working conditions to the highest possible level, in return only for the efficient service and loyalty expected from the employee or laborer."

Two decisions of Chief Justice Paras—one penned during the war and the other immediately after liberation—show particularly his social consciousness. In *Bacolod-Murcia v. Philippine National Bank*,<sup>27</sup> plaintiff wanted to compel defendant to resell a lot. This lot was owned previously by G, predecessor in interest of R. G had signed a contract promising to sell the lot to plaintiff so that the latter could use it for building quarters and setting up a playground for its workers. When R acquired the lot from G, however, R sold the property to defendant bank with a right of redemption. The action was filed by the plaintiff to compel defendant to sell the lot, in accordance with the agreement G had signed in plaintiff's favor. Interpreting an isolated clause in the contract between plaintiff and G, the majority of the court decided in favor of defendant bank. The then Justice Paras wrote a vigorous dissenting opinion.<sup>28</sup> "Let us not forget," he wrote, "that the laborers instrumental in accomplishing the aims of the plaintiff are entitled to share in the resulting benefits, if only in the form of better quarters and playground. I find in this case a real opportunity for ministering social justice."

His concurring opinion in *People v. Jose*<sup>29</sup> cannot fail to hide his awareness of social conflict. Jose had been convicted of violation of the food control law during the Japanese occupation. The Japanese occupation government granted him a conditional pardon. After occupation, he was charged with violating the pardon by committing qualified theft. The majority decision, written by Justice Feria, acquitted him of the last charge on the ground that he was not convicted by a court of the Commonwealth of the Philippines and that proceedings during the occupation were "repugnant to and derogatory of the constitutional rights of every accused under the Constitution of the Philippines; and hence there could have been no violation of pardon." Justice Paras concurred in the result, but upon another ground. He urged the court to take a realistic view of the circumstances at the time when defendant Jose was first convicted.

At the outset, he said, the prosecution of offenders was a plausible attempt to curb food control violations during the emergency period. Conditions, however, had culminated to such a climax that there had been serious scarcity of food supplies and consequent starvation. He went on to say:

"The instinct of self-preservation and necessity knew no law at the time, so much so that further arrests and prosecutions were not

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<sup>27</sup> 74 Phil. 675 (1944).

<sup>28</sup> *Ibid.*, at p. 685.

<sup>29</sup> 75 Phil. 612, 624 (1945).

made in spite of rampant violation of the regulations. Indeed, we may take judicial notice of the fact that even the authorities had then violated said regulations by purchasing commodities over and above the ceiling prices fixed by them. Under a realistic view of these circumstances, I would consider the alleged conditional pardon granted to the petitioners as having become absolute and therefore beyond purview of Art. 159 of the Revised Penal Code."

Chief Justice Paras does not belong to any particular school of legal philosophy. He can take the sociological approach, or the realistic, or the historical, or the natural law, or the analytical—depending on which would best satisfy the greatest hopes and expectations.

In deciding the case of *People v. Fortuno*,<sup>30</sup> he probed into the reason and philosophy behind the law. Defendant there appealed a conviction from the Justice of the Peace court to the Court of First Instance and in the latter pleaded guilty, asking at the same time that such plea be considered a mitigating circumstance.

Chief Justice Paras refused to grant him such benefit of mitigating circumstance, saying that a contrary rule would open the door to cases wherein the defendant would intentionally abstain from pleading guilty in the Justice of the Peace or Municipal Court in the hope of being acquitted and, upon conviction and on appeal to the Court of First Instance, would plead guilty merely for the purpose of enjoying the benefit of such mitigating circumstance. In such cases, he observed, the spontaneous willingness on the part of the defendant to admit the commission of the offense charged, the very thing rewarded by the mitigating circumstance in question, is entirely absent. Amplifying the philosophy behind such rule, he said:

"The reason for the mitigating circumstance of the plea of guilty is that it reveals to a certain extent an act of repentance, a moral disposition favorable for the defendant's reform and submission to the statute being to encourage such repentance which not only ennobles the soul and tends to avoid recidivism but also saves the Government from the expenses of a trial and the judicial and executive offices from much trouble."

It is characteristic of Chief Justice Paras to apply the principle of equity whenever a strict interpretation of the law would result in injustice. In *Arejola v. Cayetano*,<sup>31</sup> he granted relief to the plaintiff-appellant from being declared in default with regards to defendant-appellee's counterclaim, for failure to answer the counterclaim within ten days from the time he was supposed to have received the first notice from the post office of a registered letter containing the defendant's answer. Chief Justice Paras took into consideration the fact that the appellant was a poor man unschooled in the circuitous byways of the law. Citing

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<sup>30</sup> 73 Phil. 579 (1942).

<sup>31</sup> G.R. No. L-6673, Sept. 8, 1954.

the fact that the appellant had signed the complaint, unassisted by counsel, the court held that "it is fair to suppose that said appellant, without the knowledge and experience of a lawyer, could not have anticipated the filing of the counterclaim or known how to guard against being declared in default."<sup>32</sup> In his dissenting opinion in *Vasquez v. de Borja*,<sup>33</sup> he refused to allow the defendant "to profit by his own wrong under the protective cover of the corporate existence of the company he represented," in the interest of "simple justice" and to avoid multiplicity of suits.

Although he takes refuge at time in equity, he is not above requiring litigants to follow the law strictly. In *Bass v. de la Rama*,<sup>34</sup> he dissented from a majority decision written by Justice Ozaeta, wherein the court set a new rule that the operative act in registration under the Torrens system is the notation on the certificate of title and not the notation on the book of entry. Whereas, Justice Ozaeta laid stress on harmonizing several provisions of the Public Land Act, Justice Paras's dissent advocated strict construction of one provision only and such provision provides that the basis should be the notation on the book of entry and not the notation on the certificate of title.<sup>35</sup>

Again in *Porkan v. Navarro*,<sup>36</sup> Chief Justice Paras waved aside a contention of a defendant that when the law provided for the nullity of conveyances made by non-Christian tribes without the approval of proper authorities, the situation contemplated was that where contracts were entered into by a non-Christian, on the one hand, and a Christian, on the other hand; not when both parties are non-Christians. He disposed of this claim with the statement that "the lawmakers did not choose to make any distinction, and we are not authorized to supply the deficiency."

The use of an ambiguous phrase in the notice of a tax sale was sufficient for Chief Justice Paras to hold as invalid the conveyance of the property under such a proceeding. In *Cabrera v. Provincial Treasurer of Tayabas*,<sup>37</sup> the notice of auction of the property of a delinquent taxpayer provided that the tax sale shall be held "on December

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<sup>32</sup> In the case of *Pialago v. Generosa*, 73 Phil. 654 (1942), however, Justice Paras gave a decision contrary to the *Arejola v. Cayetano* case, notwithstanding the fact that both cases involved similar neglect. In the *Pialago* case, the lower court declared the appellant in default in an ejectment case because he failed to claim a registered notice from the post office notwithstanding the fact that he was thrice informed thereof by the postmaster. "This failure," Justice Paras wrote, "does not constitute excusable neglect as will warrant reopening of the case. It is such kind of neglect or inaction that gave life to the provision that service by registered mail is complete and effective if the addressee fails to claim his mail from the post office within five days from the date of first notice of the postmaster, at the expiration of such time."

<sup>33</sup> 74 Phil. 560, 569 (1944).

<sup>34</sup> 73 Phil. 682 (1942).

<sup>35</sup> *Ibid.*, at p. 687.

<sup>36</sup> 73 Phil. 698 (1942).

<sup>37</sup> 75 Phil. 780 (1946).

15, 1940, at 9 a.m. and every day thereafter, at the same place and hour until all the properties shall have been sold to the highest bidder." Such a notice, Chief Justice Paras said, rendered the tax sale void because the law was not followed strictly. To the reminder interposed by the State that tax officials would greatly be inconvenienced by following the law strictly, he answered:

"We will not venture to disagree, but it is believed that the officers who are ever solicitous in protecting private proprietary rights, shall have helped, to the same extent in maintaining the solid foundation of the Government which they seek to serve and of which they themselves are a part."

To Chief Justice Paras, there is no sense in injecting into the letter of the law a meaning which was far from the minds of the legislators when they drafted it. Thus in the *Nava v. Gatmaitan*, *Hernandez v. Montesa* and *Angeles v. Abaya* cases,<sup>38</sup> he refused to consider the claim that the suspension of the privilege of the writ of habeas corpus necessarily affected the right to bail of every accused covered by such suspension. "We are not insensitive to the proposition that the very nature of the crime of rebellion suggests the likelihood that a person accused thereof will jump his bail," he said. "The remedy, however, is unfortunately not in the hands of the court. The lawmakers or the framers of the Constitution should have made the offense capital or unbailable."

In his dissent in *Krivenko v. Register of Deeds*,<sup>39</sup> he objected to the majority's interpretation of the phrase "private agricultural lands" as referring even to private residential lots, and in so doing called for a strict construction of the word of the law thus—

"I do not question or doubt the nationalistic spirit permeating the Constitution, but I will not permit myself to be blinded by any sentimental feelings or conjectural considerations to such a degree as to attribute to any of its provisions a construction not justified by or beyond what the plain written words purport to convey."

There was one case, though, where Chief Justice Paras, in his obsession to follow the law to the letter, seemed to have defeated the cause of justice.

In *Hodges v. Yulo*,<sup>40</sup> defendant-appellant Felix Yulo, as attorney in fact for his in-laws, Paz and Carlota Sales, obtained a loan from Hodges in the amount of ₱28,000 on March 27, 1926. Out of the ₱28,000, he returned the sum of ₱19,118.29 to Hodges in payment of a loan evidenced by two promissory notes signed by Yulo in favor of Hodges and which matured on November 20, 1920 and December 7, 1920, respectively, plus the first instalment of the price of a certain property bought by Yulo from Hodges.

<sup>38</sup> G.R. Nos. L-4866, 4964, and 5102, Oct. 11, 1951.

<sup>39</sup> *Supra* note 9.

<sup>40</sup> G.R. No. L-4809, Oct. 18, 1948.

The ₱28,000 loan which Yulo obtained from Hodges was secured by a mortgage on the land of Yulo's principals. Upon the breach of the contract of loan, Hodges foreclosed the mortgage. Hodges lost in the lower court, but upon appeal on October 21, 1936, Hodges obtained from the Supreme Court a favorable judgment and the Salas sisters were ordered to pay Hodges only the amount which inured to their benefit (₱17,811.71), to the exclusion of the ₱10,188.29 (which Yulo had used to apply to his personal debt to Hodges).

On April 16, 1938, Hodges brought action against Yulo for the ₱10,188.29, but the lower court gave judgment only for ₱8,188.29, leaving out the sum of ₱2,000 on the ground that it was a usurious interest. Yulo appealed, asking that the lower court's decision be reversed on the ground that Hodges's action had prescribed. The defense of prescription was based on the fact that the two promissory notes matured in 1920 and Hodges should have sued upon the notes within ten years from the date of maturity.<sup>41</sup> Yulo had another defense: even supposing that Hodges's right of action was renewed on March 27, 1926 (when the notes were paid out of the ₱28,000 loan), Hodges's action would still have prescribed because it was not brought within ten years from that date.<sup>42</sup>

Justice Paras rendered judgment in favor of Yulo on the ground of prescription, not under the provisions relied upon by the defendant-appellant, but under another section which provided:

"If, in an action commenced, or attempted to be commenced, in due time, a judgment for the plaintiff be reversed, or if the plaintiff fails otherwise that upon the merits, and the time limited for the commencement of such action has, at the date of such reversal or failure, expired, the plaintiff, or, if he die and the cause of action survive, his representatives may commence a new action within one year after such date and this provision shall apply to any claim arrested in any pleading by a defendant."<sup>43</sup>

Under this provision, Hodges should have commenced action against Yulo within one year from October 21, 1936 (the date the Supreme Court promulgated the decision denying Hodges's claim against the Salas sisters upon the ₱28,000, for the ₱10,188.29 applied by Yulo to his debt to Hodges). Instead the action was filed on April 16, 1938. The action clearly had prescribed, Justice Paras ruled.

A dissent by Justice Tuason clearly pointed out the apparent defect in Justice Paras's decision. The dissent explained that Yulo, by his own conduct, led the plaintiff to believe that the ₱10,188.29 debt was paid for. Hodges beyond doubt assumed in entire good faith that the defendant's debt had been extinguished by the liquidation. There was, in

<sup>41</sup> Code of Civil Procedure (Act 190), sec. 43.

<sup>42</sup> Act 190, sec. 50.

<sup>43</sup> Act 190, sec. 49.

other words, an honest mistake on the part of Hodges, induced by Yulo's acquiescence if not by his positive and active assurance. Hodges's mistake was not a mistake of law; it was a mistake of fact—the fact of the defendant's authority to use the loan he was to obtain, to pay off his personal obligation.

Furthermore, Justice Tuason pointed out, the payment of Yulo's debt out of the proceeds of the loan he obtained from Hodges did not involve an interpretation of the terms of the power of attorney given him by the Salas sisters. The defendant's authority to dispose of the money after he secured the loan was alien to and distinct from his authority to borrow money. If the defendant had applied the money to satisfy an obligation in favor of another creditor, or squandered it for purposes of his own, his action would not have been any different from his payment of his debt to the plaintiff. What Yulo did with the proceeds of the loan was no concern of Hodges; it was the affair of the agent and his principals.

Is it fair or good law to allow Yulo to assert the Statute of Limitations, charging Hodges with neglect when he himself had induced, fraudulently or through negligence, the delay? No, said Justice Tuason.<sup>44</sup> If the plaintiff's contention is to be accepted, the period should have started to run from the date of promulgation of the decision on Oct. 21, 1936, and the filing of the present suit was well within that period. On the other hand, Justice Tuason said, if defendant's contention is to be accepted it is serious error for the court to rest its decision on a point which has not even been raised by either of the parties. This is supported by section 5 of the Rules of Court, which prohibits the appellate court from considering any question aside from those stated in the assignment of errors and properly argued in the appellant's brief.<sup>45</sup>

In applying the analytical approach for the solution of a problem, Chief Justice Paras came out with a neat piece of reasoning in the case of *People v. Mendoza*.<sup>46</sup> Arturo Mendoza married his first wife in 1936. In 1941, while his first marriage was still subsisting, he married for the second time. The first wife died in 1943. He married again in 1949. Defendant was prosecuted for bigamy on the basis of his marriage in 1949.

Chief Justice Paras disposed of the matter in a matter of seconds, figuratively speaking. He explained that Mendoza's second marriage was null and void from its performance, because his marriage to the first wife was still subsisting. When he married in 1949, the marriage with the first wife had long ceased on account of death; hence, the 1949 marriage was legal.

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<sup>44</sup> *Kentland Coal & Coke Company v. Elswick*, 167 Ky., 593; 181 S.W., 181, 182, 183. (1916).

<sup>45</sup> *Tan Me Mio v. Collector of Customs*, 34 Phil. 944 (1916).

<sup>46</sup> G.R. No. L-1877, Sept. 28, 1954.

One case Chief Justice Paras decided on point of policy was the *Filipinas Compañia de Seguros v. Christern, Huenefeld and Co., Inc.*<sup>47</sup> He reversed a Court of Appeals ruling to the effect that, according to American and English cases, a corporation is a citizen of the country or state by and under the law of which it was created or organized. By ruling that such a holding had lost its force in view of the latest decision of the Supreme Court of the United States,<sup>48</sup> in which it was adopted the control test: that the corporation's nationality is determined by the nationality of the individuals controlling it.

Although there are cases where Chief Justice Paras ruled in favor of the State when its governmental actions collided with the interests of certain individuals,<sup>49</sup> or shown how little he valued an innocent life in the interest of a mistaken desire for order,<sup>50</sup> he has to his credit several decisions which certainly indicate a high regard for civil liberties.

The privacy of dwelling is one of these. In *People v. Uy Almada*,<sup>51</sup> defendants were charged with qualified trespass to dwelling for trying to demolish and "repair" the house of Honorata Limpo, gaining entry to the house by means of two ladders which they placed against the front wall and forthwith removing some boards and iron sheets that served to cover the front side.

"Alleged ownership is immaterial," Justice Paras held, "for even supposing that the house belonged to the appellant, that fact alone did not authorize him to do anything with or enter the house against the will of its actual occupant. He could have invoked the aid of the court for the exercise or protection of his alleged proprietary rights. What is intended to be protected and preserved by the law is the privacy of one's own dwelling and (for some exceptions) criminal intent inheres in the unwelcome visit of a trespasser."

The need for a free press is not lost to him, either. In the case of *Quisumbing v. Lopez*,<sup>52</sup> the plaintiff filed action for recovery of damages caused by what he called a libelous publication. The libelous publication was a news story about a raid by agents of the National Bureau of Investigation of three business offices, one of which was owned by plaintiff. The story's caption read: "NBI men raid offices of 3 city usurers." The story itself, although not identifying the men in the three offices as usurers, called them money-lenders, and its context was found by the Court of Appeals to be fair, impartial and true report of official or public proceeding authorized by law. Chief Justice Paras held:

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<sup>47</sup> G.R. No. L-2294, May 25, 1951.

<sup>48</sup> *Clark v. Uebersee Finanz Korporation*, Dec. 8, 1947, 92 L. Ed. advance opinions, No. 4, pp. 148-153.

<sup>49</sup> See discussions under notes 2 to 17.

<sup>50</sup> *People v. Oanis*, *supra*, note 16.

<sup>51</sup> CA-G.R. No. L-507, May 27, 1948.

<sup>52</sup> G.R. No. L-6465, Jan. 31, 1955.

"Every citizen of course has the right to enjoy a good name and reputation, but we do not consider that the respondents, under the circumstances of this case, had violated said right or abused the freedom of the press. The newspapers should be given such leeway and tolerance as to enable them to courageously and effectively perform their important role in our democracy."

Chief Justice Paras's opinion in *Nava v. Gatmaitan, Hernandez v. Montesa* and *Angeles v. Abaya*<sup>52</sup> stands high as a monument to his respect for individual liberty, even if the latter happens to be accused of a crime against the State. In these cases, he sustained what to constitutionalists is an unquestionable principle: that the right to bail is apart and separate from the privilege of the writ of habeas corpus.

Here, Chief Justice Paras insisted that the privilege of the writ of habeas corpus and the right to bail which are both guaranteed under the Bill of Rights of the Constitution are separate and co-equal.<sup>53</sup> If the intention of the framers of the Constitution was that the suspension of the privilege of the writ of habeas corpus carries or implies the suspension of the right to bail, they would have very easily provided that all persons shall before conviction be bailable by sufficient sureties, except those charged with capital offenses when evidence of guilt is strong and except when the privilege of the writ of habeas corpus is suspended. Quoting a well-known authority,<sup>54</sup> he asserted that the Constitution limited the suspension to only one great right, leaving the rest to remain forever inviolable.

By what reasoning did Chief Justice Paras support this view? He explained that the privilege of the writ of habeas corpus was suspended on October 22, 1950 for two purposes: (1) it was desirable for the prosecuting officials to have sufficient time to investigate and file the necessary charges in court; and (2) to exempt from liability a public officer or employee who shall detain any person for some legal ground but who shall fail to deliver such person to the proper authorities within the period of six hours, for otherwise they would suffer the penalties provided in the Revised Penal Code.<sup>55</sup> In other words, the effect of the proclamation suspending the privilege of the writ of habeas corpus was that any person detained thereunder has no right to have the cause of his detention examined and determined by a court of justice through a writ of habeas corpus.

But after a person covered by the proclamation has been formally indicted in court by the filing against him of an information charging rebellion with multiple murder, arson and robberies, may he be entitled to bail?<sup>56</sup> Chief Justice Paras's answer was in the affirmative, with the

<sup>52</sup> *Supra*, note 38.

<sup>53</sup> Art. III, sec. 1 (14), (16).

<sup>54</sup> *Ex parte Milligan*, 4 Wall. 2, 18 L. Ed. 297 (1866).

<sup>55</sup> Art. 125, R.P.C.

<sup>56</sup> Art. III, sec. 1 (16), Const. of the Phil.

qualification that this would not be true if the accused is charged with a capital offense when evidence of guilt is strong. This is so, he maintained, because under the Constitution "all persons shall before conviction be bailable by sufficient sureties," with certain exceptions as aforementioned.

When the court, therefore, passes upon the petitions to bail and grants the same in proper cases, it does not, in his opinion, inquire into the cause of their detention which is plainly and by virtue of commitments issued by the court upon filing of the informations for rebellion with multiple murder, arson and robberies. The court, therefore, cannot be said to be interfering in an act of the executive, for it cannot be seriously contended that, after the filing of the information, the accused continues to be under detention as a result of an executive commitment and still covered by the suspension of the privilege of the writ of habeas corpus. To say so, he continued, would make the suspension operate as a judgment of conviction, in violation of the constitutional mandate that no person shall be held to answer for a criminal offense without due process of law.<sup>57</sup>

To the claim that the grant of bail to persons covered by the suspension of the privilege would amount to letting loose the accused who might again be free to pursue their subversive activities against the State, Chief Justice Paras had one telling answer:

" . . . It should be borne in mind that if the worse comes to the worst—to the extent that the security of the State is in fact imperiled and the regular constitutional processes can no longer be observed with general safety to the people—the President is authorized by the constitution<sup>58</sup> to "place the Philippines or any part thereof under martial law."

The question on the right of an individual to liberty confronted Justice Paras in *Raquiza v. Bradford*.<sup>59</sup> Petitioners were held by the commanding officer of the United States army on the suspicion that they had engaged in espionage activities for the enemy. The court denied their petition for habeas corpus. In Justice Ozaeta's dissent,<sup>60</sup> with which Justice Paras concurred, it was held that there is no law placing members of the army beyond the power and jurisdiction of civil courts in matters affecting civil rights, for the right to due process of law is more than a prerogative. "It is an immanent and inalienable right of every man, woman and child, which can not be dispensed with or brushed aside either in time of war or in time of peace."

And yet, in the case of *Reyes v. Crisologo*,<sup>61</sup> we see Justice Paras

<sup>57</sup> Art. III, sec. 1 (15). "The laws which protect the liberties of the whole people must not be violated or set aside in order to inflict, even upon the guilty, unauthorized though merited justice. *Ex parte Milligan, supra*."

<sup>58</sup> Art. VII, sec. 10, par. 2.

<sup>59</sup> 75 Phil. 50 (1945).

<sup>60</sup> *Ibid*, at p. 63.

<sup>61</sup> 75 Phil. 225 (1945).

denying the writ of habeas corpus to the petitioner who was being held by the provost marshal of the Philippine Army's military police. This apparent inconsistency Justice Paras explained, however. He said:

"While this Court will not hesitate to grant without fear or favor, in clear cases of illegal confinement, the writ of habeas corpus, it will be cautious and slow in interfering with official acts of another agency of the government in the absence of a showing that they are patently violative of the law or the Constitution."<sup>62</sup>

In *Teehankee v. Rovira*,<sup>63</sup> we again see Justice Paras, along with Justice Gregorio Perfecto, concurring in Justice Ozaeta's opinion which supported the majority's view that the petitioner was entitled to bail but which dissented from the majority's stand because the court failed to enforce and give practical effect to the said constitutional provision allowing bail to "all persons," whether charged or not.

A study of the decisions of the present Chief Justice of the Supreme Court will indicate how religiously Chief Justice Paras follows the advice he loves to impart to every member of the Bench and Bar: a knowledge of the true, real, and important facts of the case is most needed in the study of a particular case; after that, application of the law would be easy.

LUIS R. MAURICIO

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## THE LEGAL PHILOSOPHY OF JUSTICE PADILLA

One of the pillars of the Philippine Supreme Court is Mr. Justice Sabino Padilla.

The seventh child of Dr. Nicanor Padilla and Isabel Bibby, Mr. Justice Sabino Padilla was born on August 21, 1894 in San Miguel, Manila. He started his schooling in the Sampaloc Primary School, where his sister, Aurora Padilla de Cañiza, was then the principal teacher. The rest of his primary education he received from San Beda College. He completed his secondary course at Ateneo de Manila, where he also obtained his Bachelor of Arts degree in March, 1911. In June of the same year he took up law in the University of the Philippines.

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<sup>62</sup> Justice Ozaeta differentiates the cases by saying that in the *Raquizza* case, there was want of due process which is not wanting in the *Crisologo* case. But Justice Perfecto, who also dissented in the *Raquizza* case, said in the *Crisologo* case that the two cases were cut out of the same cloth and were "substantially identical." He added: "The victims suffered detention without any complaint filed against them, without due process, without any process . . . The only difference was that in *Raquizza*, the officers responsible for the wrongful deprivation of liberty of the petitioners are Americans, while in the present case, they are Filipinos."

<sup>63</sup> 75 Phil. 634 (1945).