CIVIL LAW — PART ONE

PERSONS AND FAMILY RELATIONS AND OBLIGATIONS AND CONTRACTS

FLERIDA RUTH P. ROMERO*

Supreme Court decisions in Civil Law have hardly been known to shake the structure of society to its foundations, but through a process of quiet accretion and occasional modification of rulings handed down year after year, these foundations are made secure and stabilized, assuring to our institutions that measure of "certainty and repose" so vital to a society that would endure.

In the field of *Persons and Family Relations* and *Obligations and Contracts,* most pronouncements of the Supreme Court in 1969 have been more reiterative than innovative.

PERSONS AND FAMILY RELATIONS

NATURALIZATION AND CITIZENSHIP

Qualifications and disqualifications —

It is basic in naturalization proceedings that the applicant must possess all the qualifications and none of the disqualifications provided for in the Revised Naturalization Law, Commonwealth Act No. 473. During the year under review, several applications for citizenship were denied due to inability of petitioners to comply with certain qualifications.

Proper and irreproachable conduct —

Instances illustrative of conduct which does not meet the standard laid down in Section 2 of the Revised Naturalization Law are:

1. Petitioner's behavior in paying for documents and certifications of proceedings and investigations which he knew never took place. This is reflective of his moral character, making him unworthy of the privilege to become a citizen.[1]

2. Failure to register a son promptly as required by the Alien Registration Act when petitioner had been fined for late registration of a daughter

* *Associate Professor of Law* and *Head,* Division of Continuing Legal Education, U.P. Law Center.

[1] Choa Hai v. Republic, G.R. No. 23515, February 27, 1969.

earlier[2] as well as failure to register his wife and children[3] or all of seven children.[4]

3. Use by petitioner of aliases without judicial authority.[5]

4. Concealment of the fact that petitioner has two other children, thus making him guilty of misrepresentation.[6]

5. Misrepresentation and concealment in connection with applicant's second petition for naturalization. Misrepresentation consisted of his stating in his verified petition that his two children were born and resided in La Union when, in fact, were born and had always lived in China. The petitioner's failure to mention in his petition that he had previously filed a similar petition and that one of the principal reasons for the denial of the latter was his failure to bring his children to the Philippines to have them educated here was fatal to his second petition, for it deprived the lower court of pertinent information that would have prompted it to scrutinize the second petition more carefully.[7]

Occupational qualification —

The applicant is required to have some known lucrative trade, profession or lawful occupation if he cannot meet the property qualification required in the Revised Naturalization Law. The Supreme Court has attempted to lay down, on a case-to-case basis, its concept of a lucrative income.

This income must be gauged as of the time of the filing of the application for naturalization. The monthly pension given to petitioner by his elder children cannot be added to his annual income which in itself is insufficient for purposes of the naturalization law because, like bonuses, commissions and allowances, pensions are contingent, speculative and precarious.[8]

Declared by the Supreme Court not lucrative is a yearly income of ₱4,200 as a salesman,[9] ₱9,600,[10] ₱6,000[11] or a monthly income of ₱250,[12] ₱172,[13] ₱180 a month in an uncle's firm, applicant having been employed only one month before filing his application for naturalization,[14] and ₱540 where applicant has a wife and three children, one of them of school age.[15]

---

2 Sy Suan v. Republic, G.R. No. 23470, February 28, 1969.
3 Lai v. Republic, G.R. No. 22619, March 28, 1969.
4 Yu Chuan v. Republic, G.R. No. 26706, June 30, 1969.
5 Te Poot v. Republic, G.R. No. 20017, March 28, 1969; Yu Lim v. Republic, G.R. No. 23591, March 28, 1969; Say Chong Hai v. Republic, G.R. No. 25438, April 25, 1969; Uy v. Republic, G.R. No. 20194, July 17, 1969.
6 Lim Siong v. Republic, G.R. No. 26601, June 30, 1969.
7 Chan Ho Lay v. Republic, G.R. No. 26244, October 31, 1969.
8 Bhrojraj v. Republic, G.R. No. 24023, May 8, 1969.
9 Ngo v. Republic, G.R. No. 25805, February 27, 1969.
10 Sy Suan v. Republic, *supra*, note 2.
11 Chua Lian Yan v. Republic, G.R. No. 26416, April 25, 1969.
12 Hong Chiong Yu v. Republic, G.R. No. 20895, February 28, 1969; Te Poot v. Republic, *supra*, note 5.
13 Yu Lim v. Republic, *supra*, note 5.
14 Uy v. Republic, *supra*, note 5.
15 Oh Hek How v. Republic, G.R. No. 27429, August 27, 1969.

Enrollment of children

Time and again, petitions for naturalization have been denied due to applicant's inability to enroll his minor children of school age in Philippine schools. This requirement is not satisfied by enrolling the children in Chinese schools with Filipinos forming the minority as it runs counter to the requirement that the petitioner must evince a sincere desire to embrace Philippine customs, traditions and ideals and must mingle socially with the Filipinos.[16] It should be shown by petitioner that the school was regularly attended by a sizeable number of Filipino students from whom applicant could have imbibed Filipino customs and traditions.[17]

The enrollment of the child of applicant in a public or private school in the Philippines should be "during the entire period of petitioner's residence in the Philippines" and "prior to hearing of his petition for naturalization as a Philippine citizen." If therefore a child is merely transferred to a Filipino school after the filing of the petition, there is non-compliance with the requirement.[18]

This requirement is mandatory, and failure to comply with it because of petitioner's inability to bring his child into the Philippines due to financial difficulties or strictness of immigration authorities is fatal to his application.[19] Moreover, it is a ground for the cancellation of the certificate of naturalization already issued.[20]

It is now settled doctrine that no proceeding is established by law by which any person claiming to be a citizen may secure a declaration to that effect in a court of justice. By the same token, the law does not allow an applicant for Filipino citizenship to secure the same by indirection. For instance, a court cannot, in any action where the plaintiff seeks to establish his filiation and status as an acknowledged illegitimate child of a Filipino woman, who is not made a party to the action, and to impugn his status as a legitimate child of Chinese parents, make a pronouncement that said plaintiff is the recognized natural child of a Filipino woman, and on this basis alone, declare and adjudge him a Filipino citizen, ordering the corresponding correction of his birth and immigration records.[21]

Declaration of intention —

In one case, applicant did not file a declaration of intention on the ground that he falls under the exceptions provided for in Section 6 of the Revised Naturalization Law, as amended by Commonwealth Act 535, that is conti-

16 Choa Hai v. Republic, *supra*, note 1.
17 Te Poot v. Republic, *supra*, note 5; Go Ay Koc v. Republic, G.R. No. 23652, April 25, 1969; Lim Chuy Tian v. Republic, G.R. No. 26602, April 25, 1969.
18 Chua Lian Yan v. Republic, *supra*, note 11; Lim Chuy Tian v. Republic, *supra*, note 17; Lim Siong v. Republic, *supra*, note 6.
19 Chua Lian Yan v. Republic, *supra*, note 11.
20 Republic v. Uy Piek Tuy, G.R. No. 27580, August 27, 1969.
21 Tan Pong v. Republic, G.R. No. 21010, November 28, 1969.

nuous residence in the Philippines for a period of thirty years or more before filing the application. The Supreme Court held that since by his testimony, petitioner had visited his native India four times, each trip lasting from five to seven months, petitioner cannot invoke said exemption. His failure to file the declaration of intention rendered the entire proceedings null and void.[22]

Where the applicant seeks to justify his exemption from filing a declaration of intention on his having received his primary and secondary education in private schools recognized by the government and not limited to any race or nationality, his own testimony, unsupported by other competent evidence is inadequate.[23]

Similarly, when petitioner failed to file a declaration of intention on the ground of birth in the Philippines presentng in support thereof his alien Certificate of Registration and his Certificate of Residence, the Supreme Court declared that the court did not acquire jurisdiction over the petition.[24]

Contents of the petition

Section 7 of the Revised Naturalization Law requires the petition for naturalization to state the "present and past places of residence" of the applicant. A line of decisions has been to the effect that this requirement does not refer to the legal residence or domicile but all places where petitioner had *actually* resided, whether the stay was permanent of temporary. In this connection, the principle that a minor child follows the residence of the father would not operate. Honest failure to state the former place of residence does not cure the fatal defect.[25]

Publication of petition —

Non-compliance with the requirement of publication of petition affects the jurisdiction of the court and constitutes a fatal defect.[26] Again the Supreme Court stressed that the publication must be in a newspaper of general circulation in the province where the petitioner resides and not just a newspaper of general circulation in the Philippines.[27]

Character witnesses —

The Supreme Court reiterated the principle that the character witnesses must have known petitioner for his entire period of stay in the country.[28]

---

22 Pessumal Bhrojraj v. Republic, G.R. No. 24023, May 8, 1969.
23 Luckayco v. Republic, G.R. No. 25814, July 30, 1969.
24 Te Poot v. Republic, *supra*, note 5.
25 Choa Hai v. Republic, *supra*, note 1; Sy Suan v. Republic, *supra*, note 2; Go Ay Koc v. Republic, *supra*, note 17; Chua Lian Yan v. Republic, *supra*, note 11; Zabaleta v. Republic, G.R. No. 25401, June 30, 1969; Lim Siong v. Republic, *supra*, note 6.
26 Ngo v. Republic, *supra*, note 9.
27 Choa Hai v. Republic, *supra*, note 1.
28 Choa Hai v. Republic, *supra*, note 1; Sy Suan v. Republic, *supra*, note 2; Te Poot v. Republic, *supra*, note 5; Say Chong Hai v. Republic, *supra*, note 5.

Effect of naturalization on wife and minor children —

It has been the stand of the Supreme Court that marriage to a Filipino does not result in the automatic conferment of the status on his foreign wife, unless, possessing all the qualifications and none of the disqualifications under the law, she undergoes naturalization proceedings through judicial process. This holds true in the case of a wife who was admitted into the Philippines as a non-immigrant, a temporary visitor whose husband was naturalized while she was staying here. Neither can their two minor children be considered naturalized as they were not within legal contemplation "dwelling in the Philippines at the time of the naturalization of the parent", the term "dwelling" being necessarily construed to mean lawful residence.[29]

Cancellation of certificate of naturalization

Over two years after appellee was allowed to take his oath of allegiance, the Solicitor General filed a motion for the cancellation of his certificate of naturalization. Upon denial of this motion by the lower court, the Government appealed the case.

The Supreme Court cancelled appellee's certificate of naturalization on the following grounds: (1) failure to enroll his children of school age in local public or private schools recognized by the Government where Philippine history, civics and government are taught or prescribed as part of the curriculum, during the entire period of residence required of him in this country, prior to the hearing of the petition for naturalization; (2) violation of an announced Government policy by applicant's failure to cause his wife and two children who came to the Philippines as "temporary visitors," to depart from this country upon the expiration of the extended period of their authorized stay; (3) failure to attach his certificate of arrival to his petition for naturalization which is mandatory and an essential prerequisite to a valid order of naturalization for it provides a natural starting point for the investigation that the Government is given an opportunity to undertake prior to the hearing of the petition for naturalization.[30]

Likewise, the Supreme Court declared null and void the oath of allegiance taken by petitioner as well as the certificate of naturalization issued in pursuance thereto upon his failure to secure from the Minister of the Interior of Nationalist China the permission required by the laws thereof for a valid renunciation of his Chinese citizenship. While the same is not required by our laws, Section 12 of Commonwealth Act No. 473 requires the petitioner to solemnly swear to his absolute renunciation of all allegiance to the state of which he is a subject or citizen, the obvious purpose being to divest him of his former nationality before acquiring Philippine citizenship.

[29] Vivo v. Puno, G.R. No. 25180, August 29, 1969.
[30] Republic v. Uy Piek Tuy, *supra*, note 20.

The question of how a Chinese citizen may strip himself of that status is necessarily governed, pursuant to Articles 15 and 16 of our Civil Code, by the laws of China and not those of the Philippines.[31]

Donation propter nuptias —

In *Mateo v. Lagua*[32] the Supreme Court declared that the donations of two lots made by a father to his son, being in the nature of donations propter nuptias,[33] are without onerous consideration. The marriage merely furnished the occasion or motive, not the cause, for the same. Being liberalities, they remained subject to reduction for officiousness upon the donor's death if they should infringe upon the legitime of a forced heir. Consequently, there must be proof that the value of the donated property exceeds that of the disposable free portion plus the donee's share as legitime in the properties of the donor.

CONJUGAL PARTNERSHIP OF GAINS

Effect of marriage of partners on partnership —

The implications for tax purposes of the marriage of partners in a particular partnership are discussed in the case of *Commisioner of Internal Revenue v. Suter.*[34]

The limited partnership, "William J. Suter 'Morcoin' Co., Ltd." with respondent William Suter as general partner and Julia Spirig as one of two limited partners had been filing its income tax returns as a corporation without objection by the Commissioner of Internal Revenue. Subsequenlty, partners Suter and Spirig got married and they acquired the interests of the remaining partner in the partnership. Petitioner, in an assessment, then consolidated the income of the firm and the individual incomes of the partners-spouses Suter and Spirig resulting in a determination of a deficiency income tax against Suter on the ground that their marriage dissolved the partnership and the spouses now formed a single taxable unit.

The Supreme Court, in sustaining the Court of Tax Appeals, reversed the Commissioner of Internal Revenue. It held that the marriage of the partners Suter and Spirig and their subsequent acquisition of the participation of the remaining partner did not operate to dissolve the limited partnership, marriage not being of the causes for the dissolution of such a partnership either in the Spanish Civil Code or the Code of Commerce. This being the case, the juridical personality of the partnerhip cannot be disregarded and it remains taxable on its income. Suter was not bound to include in his ndividual return the income of the limited partnership. To

[31] Oh Hek How v. Republic, *supra*, note 15.
[32] G.R. No. 26270, October 30, 1969.
[33] See CIVIL CODE, art. 126.
[34] G.R. No. 25532, February 28, 1969.

so require him would result in equal treatment, taxwise, of a general co-partnership and a limited partnership when the code plainly differentiates the two. And precisely because the partnership in question is a limited and not a universal one, it was not a partnership that spouses were forbidden to enter under Article 1677 of the Spanish Civil Code.[35]

Nor can it be maintained that by the marriage of both partners, the company became a single proprietorship or common property of both. The capital contributions of the partners being separately owned and contributed by them before they were joined in wedlock, such contributions remained their respective separate property under Article 1396[36] of the Spanish Civil Code which provides as follows:

"The following shall be the exclusive property of each spouse:

(a) That which is brought to the marriage as his or her own:"

It cannot be argued that the income of the limited partnership is actually or constructively the income of the spouses and therefore part of the conjugal partnership of gains. This would not be wholly correct. It has been established in several cases that the fruits of the wife's paraphernal property become conjugal only when no longer needed to defray the expenses for the administration and preservation of the paraphernal capital of the wife.

Liability of conjugal partnership for obligations of husband —

The issue in the *Luzon Surety Co., v. De Garcia* case[37] is whether or not a conjugal partnerhip, in the absence of any showing of benefits received, could be held liable on an indemnity agreement executed by the husband to accommodate a third party in favor of a surety company.

Respondent-spouses filed a suit for injunction against the provincial sheriff of Negros Occidental to enjoin the latter from selling sugar allegedly registered in their names as a result of a lower court's decision finding the husband liable on an indemnity agreement by him to accommodate a friend in favor of the petitioner surety company.

The lower court's decision which was affirmed by the Supreme Court declared that the garnishment in question was contrary to Article 161 of the Civil Code which makes the conjugal partnership liable for, among other things, "all debts and obligations contracted by the husband for the benefit of the conjugal partnership . . ." The language is clear requiring some advantage accruing to the welfare of the spouses to bind the partnership. The husband, in acting as guarantor did not act for the benefit of the conjugal partnership but for his friend, especially where no proof is presented that he received consideration therefor.

---

[35] Now art. 1782 of the CIVIL CODE.
[36] Now art. 148 of the CIVIL CODE.
[37] G.R. No. 25659, October 31, 1969.

The averment that said accommodation by the husband added to his reputation or esteem, enhancing his standing as a citizen in the community in which he lives, even if hypothetically accepted, is too remote and fanciful to come within the express terms of the provision, the Supreme Court concluded.

Fines and indemnities imposed upon spouses chargeable to partnership assets

Under Article 163 of the Civil Code, fines and pecuniary indemnities imposed upon either husband or wife are not to be charged to the conjugal partnership. As an exception however, the same may be enforced against the partnership assets after the responsibilities enumerated in Article 161 have been covered, if the spouse who is bound have no exclusive property or if it should be insufficient; but at the time of the liquidation of the partnership such spouse shall be charged for what has been paid for the purpose.

How and when such an obligation may be enforced against the partnership assets is the question answered for the first time by the Supreme Court in *People v. Lagrimas.*[88]

In a criminal case for murder, the lower court found the accused guilty of the crime charged and sentenced him, as his civil liability, to indemnify appellant-heirs in damages, attorney's fees and burial expenses. Attachment and the writ of execution issued on eleven parcels of land in the name of the accused to satisfy the civil indemnity was eventually declared null and void by the lower court.

The order revolves on the assumption that the conjugal partnership is totally exempted from such liabilities imposed on one of the spouses *prior to the stage of liquidation.* The judge of the lower court labored under the misconception that the obligation mentioned in Article 161 which should be met first before the assets of the partnership can be made to answer for the indemnities can only be paid after liquidation, which of necessity occurs only after the dissolution of the conjugal partnership.

The subsequent appeal by the heirs of the victim was found by the Supreme Court meritorious. Article 163 of the Civil Code is not lacking in explicitness. When it allow fines and indemnities to be enforced against the *partnership assets* as an exception, the inference is that the conjugal partnership is still existing. The only precondition is that the responsibilities met in Article 161 be complied with first. Obviously, the termination of the conjugal partnership is not contemplated as a prerequisite. Any lingering doubt is resolved by the concluding portion of the article which provides that "at the time of the liquidation of the partnership such spouse shall be charged for what has been paid for the purposes above-mentioned."

[88] G.R. No. 25355, August 28, 1969.

Such wording minimizes the possibility that the civil liability imposed on an accused might be rendered nugatory and the heirs of the offended party be made to suffer still further. In so doing justice to the heirs of the murdered victim, no injustice is committed against the family of the offender for the obligations in Article 161 covering maintenance of his family are required to be safistied first.

As to how practical effect could be given this liability of the conjugal partnership, the Supreme Court reiterated a previous ruling to the effect that this provision being an exception to the general rule, "it is incumbent upon the one who invokes this provision . . . to show that the requisites for its applicability are obtaining."

Donation by a spouse of conjugal property before liquidation

In the case of *Balbin v. Register of Deeds of Ilocos Sur*,[39] the Supreme Court had occasion to clarify the rights of a spouse over conjugal partnership property. One Cornelio Balbin, registered owner of a parcel of land donated *inter vivos* an undivided two-thirds portion thereof in favor of petitioners. Petitioners presented to the register of deeds of Ilocos Sur a duplicate copy of Balbin's certificate of title and an instrument of donation from him with the request that the same be annotated on the title. The register of deeds denied that request for being "lawfully defective or otherwise not sufficient in law," which denial was subsequently upheld by the Commissioner of Land Registration.

In affirming the action of denial of the two above-named officials, the Supreme Court declared that since the property subject of the donation was presumed conjugal, the deed of donation executed by the husband alone bears on its face an infirmity, namely, the fact that the two-thirds portion which he donated was more than his one-half share in the conjugal property, and more than what remained of such share after he had sold portions of the same land to three other parties.

The Court described as too sweeping a statement made by the Land Registration Commissioner in upholding the denial by the Register of Deeds that "there should first be a liquidation of the partnership before the surviving spouse may make such a conveyance." It pointed out that even without a previous settlement of the partnership, a surviving spouse may dispose of his aliquot share or interest therein, subject to the result of future liquidation.

PATERNITY AND FILIATION

Natural child entitled to support from date of judgment compelling recognition

As early as fifty-one years ago, the Supreme Court had held that a natural child not recognized by the father has no rights whatsoever, not even

[39] G.R. No. 20611, May 8, 1969.

to support[40]. It is the fact of recognition, voluntary, by any of the means specified in Article 278 of the Civil Code, or compulsory, in any of the cases mentioned n Article 278, that entitled the natural child to rights of support and succession.

Where the court orders the putative father in compulsory recognition and support proceedings to recognize his natural child and provide the latter support, when shall said support commence?

In the case of *Cruz v. Castillo,*[41] the Supreme Court ordered defendant-appellant to recognize the child as his natural child and give her support, not from the date of the filing of the complaint as erroneously ordered by the lower court, but from the date of the judgment since it is the judgment that bestows rights on the child.

PARENTAL AUTHORITY

Parent denied custody of abandoned child

In at least two cases decided by the Supreme Court during the period under review, it served notice that a mother who has abandoned her child in infancy will not *ipso jure* be entitled to its custody upon her representations as against those who have reared said child. While our law recognizes the right of a parent to the custody of her child, the Court pointed out that it must not lose sight of the basic principle that "in all questions on the care, custody, education and property of children, the latter's welfare shall be paramount" and that for compelling reasons, *even a child under seven* may be ordered separated from the mother.

In the case of *Medina v. Makabali,*[42] a mother who left her third child by a married man with the doctor who assisted at its delivery was not allowed to regain custody of said child. Tracing the evolution of the legal institution of *patria potestas,* the Supreme Court declared that it had been transformed from the *jus vitae ac necis* (right of life and death) of the Roman law, under which the offspring was virtually a chattel of his parents, into a radically different institution, due to the influence of Christian faith and doctrines. Quoting Puig Pena, it said: "there is no power, but a task; no complex of rights but a sum of duties; no sovereignty, but a sacred trust for the welfare of the minor."

Similarly, petitioner in *Chua v. Cabangbang*[43] who had lived with several men without benefit of marriage and surrendered one of her children to the respondents when it was barely four months old, was held to have forever relinquished all parental claim to it. She was deprived of parental authority on the ground of abandonment under Artice 332 of the Civil Code. The Court

---

[40] Concepcion v. Untaran, 38 Phil. 736 (1918).
[41] G.R. No. 27232, June 30, 1969.
[42] G.R. No. 26953, March 28, 1969.
[43] G.R. No. 23253, March 28, 1969.

took cognizance of the fact that as against the spouses Cabangbang who had treated the child as their own flesh and blood, petitioner could not prove that her motives flowed "from the wellsprings of a loving mother's heart." She had betrayed mercenary intentions when she expressed her willingness to allow the child to stay with the respondents if the latter would give her a jeep and some money.

USE OF SURNAMES

Under Article 374 of the Civil Code, the employment of pen names or stage names is permitted, provided it is done in good faith and there is no injury to third persons. Commonwealth Act No. 142 regulating the use of such aliases has been amended by Republic Act No. 6085 approved on Aug. 4, 1969 allowing the use of the same for other reasons and introducing more stringent measures to regulate the use thereof.[44]

Change of name

Change of name is a privilege and not a right, and before a person can be authorized to do so, he must show proper or reasonable cause, or any compelling reason to justify such change. The petitioner, a Chinese citizen, has not met that standard, according to the Court, which noted that his reason for applying for a change from Yap Ek Siu to William Tanchon was that his Filipino playmates have always called him and out of a sense of filial respect for his father surnamed Tanchon. Besides, for a Chinese citizen to use a Filipino name will only create embarrassment and confusion in his social and business dealings on the ground that he might be mistaken for a Filipino.[45]

Similarly, the Court refused to grant a petition to change the name of Lee Wai Lam to William Lee Wong.[46]

CIVIL REGISTER

Correction in the civil registry

In the *Matias v. Republic* case,[47] the Supreme Court allowed petitioner to supply her name in the space destined for a name in the birth certificate but which was left blank by oversight after due publication of the petition and proper hearing. The name of a child does not necessarily have to appear in the record of birth at the time it is entered, but may be supplied later on the strength of a supplemental report. There is no reason, the Court reasoned out, why the same may not be done upon a judicial order issued after proper hearing.

---

44 Rep. Act No. 6085 (1969).
45 Yap Ek Siu v. Republic, G.R. No. 25437, April 23, 1969.
46 Republic v. Lee Wai Lam, G.R. No. 22607, July 30, 1969.
47 G.R. No. 26982, May 8, 1969.

The doctrine of *Ty Kong Tin v. Republic*[48] which forbade only the entering of material corrections or amendments in the record of birth by virtue of a judgment in a summary action against the Civil Registrar is not applicable here for the proceedings herein were not summary and absolutely no doubt was cast on the truth of petitioner's allegations.

Again the Supreme Court decried the repeated practice of some members of the bar of petitioning for a correction of an entry on citizenship in the Civil Registry when in effect they sought a judicial declaration of Philippine citizenship.[49]

OBLIGATIONS AND CONTRACTS

OBLIGATION ARISING FROM LAW

Under Article 1157, obligations may arise from law, contracts, quasi-contracts, delicts or crimes and quasi-delicts. Where an employer pays the widow of his employee death benefits and funeral expenses for the latter's death which occurred out of and in the course of employment, he complies with an obligation arising from law, namely, Section 2 of the Workmen's Compensation Act. The employer, under Section 6 of the same law, is subrogated to his deceased employee's right to sue the tortfeasor.[1]

Obligatory force of contracts

That contracts have the force of law as between the contracting parties and should therefore be complied with in good faith is basic in the law of obligations. This principle is embodied in Article 1159.

The Supreme Court had occasion once again to invoke this cardinal rule in the case of *Commissioner of Immigration v. Asian Surety & Insurance Co., Inc.*[2] when it held the defendant surety company to its undertaking to guarantee the departure of a non-immigrant Chinese student on a certain date. Brushing aside the company's contention that such failure to depart was the result of the extensions of stay authorized by the Immigration Commissioner without its knowledge or consent, the Court declared that the Company's admission that there was a failure to live up to the terms of the bond is fatal to its claim for exemption. The obligation under such bond was the law between the parties.

In holding the surety company liable, the Court took into consideration the need for discouraging overstaying aliens from further prolonging their stay in the country.

---

[48] 94 Phil. 321 (1954).
[49] Chua Tan Chuan v. Republic, G.R. No. 25439, March 28, 1969.
[1] Bautista v. Federico O. Borromeo, Inc., G.R. No. 26002, October 31, 1969.
[2] G.R. No. 22552, January 30, 1969.

KINDS OF OBLIGATIONS

Facultative resolutory condition

A stipulation in a contract between the Commissioner of Customs and the Cebu Port Terminal, Inc. whereby the latter was designated manager of arrastre service at the port of Cebu for five years, that the same may be revoked and cancelled for violation of any of its terms and conditions, is valid. It is in the nature of a facultatve resolutory condition which in many cases has been upheld by the Supreme Court. Resort to judicial action is not necessary.[3]

Obligations with a period

Under a contract where plaintiff was to furnish logs to defendant who in turn obligated itself to furnish the vessel to receive said shipment "to be made before the end of July but not to commence earlier than April", the Supreme Court held that the same was an obligation with a term intended for the benefit of both parties.[4] Consequently, neither party could demand performance nor incur in delay before the expiration of the period.

Although there was a term, defendant waived the same by assuring the plaintiff that it would take delivery of the logs earlier. Inasmuch as the former failed to meet its commitment without any satisfactory explanation, he was ordered to bear the corresponding loss in an action for rescission of the contract and damages.

The case likewise illustrates the interpretation of contracts in the light of the contemporaneous and subsequent acts of the parties.

JOINT AND SOLIDARY OBLIGATIONS

Joint instead of solidary liability presumed

Where a person expressly authorized her brother to mortgage and borrow money for and in her name, she stands liable not merely on the mortgage of her share in the property, but also for the loans which said brother obtained from the plaintiff bank.[5] Said liability is not joint and several but only joint, pursuant to Article 1207 of the Civil Code. The Court pointed out that "the concurrence of two or more debtors in one and the same obligation does not imply that each one of the debtors is bound to render entire compliance with the prestation."

---

[3] Enrile v. Court of Appeals, G.R. No. 27549, September 30, 1969.
[4] Abesamis v. Woodcraft Works, Ltd. G.R. No. 18916, November 28, 1969.
[5] Philippine National Bank v. Sta. Maria, G.R. No. 24765, August 29, 1969.

EXTINGUISHMENT OF OBLIGATIONS

Consignation, a facultative remedy of the debtor

In the case of *Sotto v. Mijares*,[6] the Supreme Court determined that the lower court acted with grave abuse of its discretion in ordering the defendant-debtors to deposit the amount of indebtedness which was not disputed, it appearing that the creditors had not complied with the condition imposed upon them that the mortgage the debtors had executed as security be cancelled.

To deposit or not at all the amount of an admitted indebtedness, or to do so under certain conditions, is a right which belongs to the debtor exclusively, the Supreme Court declared. If he refuses he may not be compelled to do so, and the creditor must fall back on the proper coercive processes provided by law to secure or satisfy his credit, as by attachment, judgment and execution.

From the viewpoint of the debtor a deposit is in the nature of consignation, and consignation being a facultative remedy, he may or may not avail himself of it. If the debtor makes the deposit, the creditor merely accepts it, if he wishes; or the court declares that it has been properly made, in either of which events the obligation is ordered cancelled. The law specifically provides that "before the creditor has accepted the consignation or before a judicial declaration that the consignation has been properly made, the debtor may withdraw the thing or the sum deposited, allowing the obligation to remain in force." If the debtor has such right of withdrawal, he surely has the right to refuse to make the deposit in the first place.

Legal compensation

In the case of *Gan Tion v. Court of Appeals*,[7] respondent was indebted to petitioner for unpaid rentals but since he was at the same time a judgment creditor of the latter in an award for attorney's fees in his favor in a separate case, the Supreme Court held that the two amounts could be the subject of legal compensation. The requisites of legal compensation, namely, that the parties must be creditors and debtors of each other in their own right[8] and that each one of them must be bound principally and at the same time be a principal creditor of the other[9] were both present. The Court explained that an award for attorney's fees is made in favor of the litigant and not of his counsel.

---

[6] G.R. No. 23563, May, 8, 1969.
[7] G.R. No. 22490, May 21, 1969.
[8] CIVIL CODE, art. 1278.
[9] CIVIL CODE, art. 1279.

Novation

Under Article 1292 of the Civil Code, "in order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms, or that the old and the new obligations be on every point incompatible with each other."

The Supreme Court had occasion to apply this test in the case of *Guerrero v. Court of Appeals*[10] in determining whether there was such incompatibility between a compromise agreement in a civil case and a contract of indemnity as to bring about novation.

Petitioner bound himself with others jointly and severally in an "agreement of counter guaranty with mortgage and pledge" to indemnify a surety company in case the latter becomes liable on a bond it executed to insure payment of a debt of one Jose Robles to Chan Too. Said agreement was denominated by the Supreme Court a contract of indemnity not only against actual loss but against liability as well.

Upon failure of Robles to pay his creditor, the latter instituted a civil case which was resolved on the basis of a compromise agreement under which the former was allowed to pay his debt in three successive monthly installments. When Robles defaulted again, the surety company on whom several demands had been made earlier, sued the petitioner on the basis of the indemnity agreement. By way of defense, petitioner alleged that, having been a party to the compromise agreement in the civil case, he was released from his obligation under the earlier indemnity agreement which is deemed to have been novated.

In the first place, the Supreme Court pointed out, not having been a party to the civil case, he could not have been affected by the terms of its compromise agreement. Even if he were, in the absence of an express release of the petitioner from liability, nothing less than a showing of complete incompatibility between the two obligations — the "agreement of counter-guaranty" (actually an indemnity contract) and the compromise agreement would justify a finding of novation by implication. Failing to find such incompatibility, petitioner's liability under the counter-guaranty agreement under which he is now being sued by the surety company subsists.

CONTRACTS

Freedom to contract

One of the liberties guaranteed by the Constitution and reiterated in Article 1306 of the Civil Code is the right to enter into contracts freely. Not even the State can compel a party to enter into a contract with it where

[10] G.R. No. 22366, October 30, 1969.

no agreement is had between them as to the principal terms and conditions of the contract.

In the case of *Republic v. Philippine Long Distance Telephone Co.*,[11] the Republic, in the interest of the Bureau of Telecommunications, asked the trial court to command the PLDT to execute a contract with it for the use of the defendant's facilities throughout the country under such terms and conditions as the court might consider reasonable.

The Supreme Court, agreeing with the court below, declared that freedom to stipulate the terms and conditions of the contract is of the essence of our contractual system. In fact, a contract may be annulled if tainted by violence, intimidation or undue influence. The Court, however, pointed out that although the Republic may not compel the PLDT to contract with it, through the exercise of the sovereign power of eminent domain in the general interest, the telephone company could be required to permit the desired interconnection of the government telephone system and that of the PLDT.

Perfection of contract

The question raised in *Guardiano v. Encarnacion*[12] is whether the document involved was a perfected contract to sell land by the PHHC as vendor to respondent-vendee. The Supreme Court, reversing the lower court, found that the cited "conditional contract to sell" was but a blank PHHC printed form of contract devoid of any signature whatsoever. What was filed by respondent was merely an application setting out that a contract would still have to be executed after the survey and inspection of the lot.

Inadequacy of consideration

In the case of *Morales Development Co. v. Court of Appeals*,[13] the Supreme Court was called upon to determine which of two buyers of registered land was the real owner, one basing his claim on the first owner's duplicate copy of the Transfer Certificate of Title and the other, on the second owner's duplicate copy. Petitioner sought to impugn respondent's title on the ground that the consideration having been only ₱1.00, the sale was suspicious and therefore null and void.

The Court pointed out that it is not unusual in deeds of conveyance adhering to the Anglo-Saxon practice to state that the consideration given is the sum of ₱1.00, although the actual consideration may have been much more. Moreover, assuming that said consideration of ₱1.00 is suspicious, this circumstance alone does not necessarily justify the inference that the

[11] G.R. No. 18841, January 27, 1969.
[12] G.R. No. 23396, August 29, 1969.
[13] G.R. No. 26572, March 28, 1969

buyers were not purchasers in good faith and for value. Neither does this inference warrant the conclusion that the sales were null and void ab initio.

Bad faith and inadequacy of the monetary consideration do not render a conveyance inexistent, for the assignor's liberality may be sufficient cause for a valid contract, whereas fraud or bad faith may render either rescissible or voidable, although valid until annulled, a contract concerning an object certain, entered into with a cause and with the consent of the contracting parties.

Validity of oral contracts

In the *Dauden-Hernaez v. De los Angeles* case,[14] the Supreme Court was called upon to decide whether the court below abused its discretion in ruling that a contract for personal services involving more than ₱500.00 was either invalid or unenforceable under the last paragraph of Article 1358 of the Civil Code.

Actress Marlene Hernaez filed a complaint against a motion picture company to recover ₱14,700.00 representing a balance allegedly due her for her services as leading actress in two motion pictures produced by said company. The latter interposed as a defense the violation of Articles 1356 and 1358 in that the contract sued upon should have been in writing as required by said provisions. The lower court dismissed the complaint.

The Supreme Court, however, pointed out that the ruling herein betrayed "a basic and lamentable misunderstanding of the role of the written form in contracts as ordained in the Civil Code". It pointed out that as long as the essential requisites of a contract are present, the contract is generally valid and obligatory, regardless of the form in conformity with the doctrine of upholding the spirit and intent of the parties over formalities, subject only to the exceptions embodied in Article 1356. The contract sued upon does not fall within the exception. Although Article 1358 provides that "all other contracts where the amount involved exceeds five hundred pesos must appear in writing, even a private one", nowhere does it provide that the absence of a written form will make the agreement invalid or unenforceable. In other words, in our contractual system, it is not enough that the law should require that the contract be in writing, as it does in Article 1358; the law must further prescribe that without the writing the contract is not valid or not enforceable by action.

Reformation of instrument

Where there is a simple mistake in the drafting of the document of sale in designating the land object of the sale, the remedy is reformation of the instrument, there being meeting of the minds of the parties to the contract.

[14] G.R. No. 27010, April 30, 1969.

When one sells or buys real property, one sells or buys the property as he sees it, in its actual setting and by its physical metes and bounds, and not by the mere lot number assigned to it in the certificate of title. In this case of *Atilano v. Atilano*,[15] the parties had retained possession of their respective properties conformably to the real intention of the parties to that sale, and all they should do now is to execute mutual deeds of conveyance.

Ratification of oral contract

Deceased Nieves Cruz and respondent spouses entered into an agency agreement whereby the latter were authorized by the former to sell her (Nieves Cruz') land. Under said agreement, the amount of ₱20,000 was paid by the spouses. Thereafter, various sums totalling ₱27,198.60 were paid. On these subsequent payments, there is variance on the reasons given by the parties. Petitioners' heirs of Nieves Cruz, contended that these amounts were installment payments of the purchase price on the representation of the spouses that they had a buyer for the property pursuant to the agency agreement, whereas respondents averred that the same were paid by them, as disclosed buyers, to Nieves Cruz and her children, pursuant to a novatory verbal contract of sale entered into subsequent to the agency agreement.

In holding that there was such a novatory oral contract to sell, the Supreme Court relied on significant facts and circumstances. While it is true that the receipts evidencing the numerous payments did not state all the basic elements of a contract of sale, for they did not expressly identify the object nor fix a price or the manner of fixing the price, the petitioners did not question the respondents' claim that the object of the sale is Nieves Cruz' share in land co-owned with her brother and that the price is ₱1.60 per square meter. By failing to object to the presentation of oral evidence to prove the sale and by accepting from the respondent all the subsequent payments, petitioners ratified the oral contract, conformably with Article 1405 of the Civil Code, and removed the partly executed agreement from the operation of the Statute of Frauds.[16]

Estoppel

In the case of *Iriola v. Felices*,[17] plaintiff brought a suit for the declaration of ownership and reconveyance of a parcel of land against the defendant on the ground that the latter obtained a homestead patent over a larger piece of land which included his own. In the course of the trial, the lower court ruled that the plaintiff was estopped from proving ownership because he had recognized that the land in question forms an integral part of titled land and that in the conditional sale made of the land to him by defendant, he had admitted that said land which was north of the portion that he bought

[15] G.R. No. 22487, May 21, 1969.
[16] Rodriguez v. Court of Appeals, G.R. No. 29264, August 29, 1969.
[17] G.R. No. 26775, October 31, 1969.

was the property of the defendant. In other words, estoppel by deed was predicated on the deed of sale a *retro* executed by both parties.

The Supreme Court however clarified that to constitute estoppel by deed, a distinct and precise assertion of a fact is necessary. Such estoppel should be certain to every intent. In this case the alleged admissions of appellant in the deed of sale *a retro* were not sufficiently precise and specific to predicate estoppel. Besides, estoppel by deed cannot prevent the denial of an equitable title which is not identical with the legal title.

The rule that a grantee is estopped to deny the title of his grantor is correct only if limited to the property actually conveyed and to the time of the conveyance. In this case, as the property subject to the complaint was not the parcel bought by plaintiff-appellant under the deed, estoppel does not apply.

Constructive trusts

With the dearth of jurisprudence on trusts, a title newly incorporated in the present Civil Code, the case of *Miguel v. Court of Appeals*[18] is more than welcome. It illustrates a constructive trust arising from a fiduciary relationship.

Petitioner Eloy Miguel, who had been occupying and cultivating a piece of land since 1894, was convinced in 1932 by one Reyes to entrust to him the tax declaration and tax receipts covering the said land in order that he could work for the issuance of a homestead patent in petitioner's name. For such services rendered by Reyes, petitioner gave him, and after his death, his wife, 1/5 of the yearly harvest from the land.

Unknown to petitioner, Reyes, in 1935 filed a sales application in the name of his wife covering the same parcel of land and, by bidding at the sale by public auction, secured the award of the land from the Director of Lands. When Reyes had the land surveyed in 1950, petitioner got suspicious, started inquiring from the proper government office about the status of his homestead application and discovered that it was now covered by the sales application of the respondent. Pending an administrative investigation initiated by petitioner, an original certificate of title was nonetheless issued in the name of the respondent.

Petitioner filed an action against respondent to compel her to reconvey the land to him, which action was appealed to the Supreme Court on certain points of law. Setting aside the decision of the Court of Appeals, the Supreme Court ordered the respondent to reconvey the land to the petitioner mainly on the ground that a fiduciary relationship existed between petitioner and Reyes.

[18] G.R. No. 20274, October 30, 1969.

The Court declared that a fiduciary relation arises where one man assumes to act as agent for another and the other reposes confidence in him, although there is no written contract or no contract at all. If the agent violates his duty as fiduciary, a constructive trust arises. It is immaterial that there was no antecedent fiduciary relation and that it arose contemporaneously with the particular transaction. Petitioner was well within his rights when he instituted his action for the enforcement of a constructive trust at the time he did for it was filed within four years from the discovery of the fraud.

Drawing freely upon American precedents in determining the effect of trusts, the Supreme Court explained that the law on trusts has been more frequently applied in England and in the United States than it has been in Spain and specially so since the trust known to American and English equity jurisprudence are derived from the *fidei commissa* of Roman Law and is entirely based on civil law principles.