THE QUESTION OF STANDING ON THE BASIS OF JUS TERTII

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In the Philippines, as in the United States, it is a general rule of constitutional law that a party may not assail in court the validity of a statute, executive act or municipal ordinance unless upon a showing that he has a personal interest in the examination of its constitutionality.[1] This interest takes the form of a direct and substantial injury which the party-assailant suffers or will suffer by reason of the enforcement of said statute, executive act or municipal ordinance. Failing to show such an interest, the party will not be recognized as having standing in court and his suit will be dismissed.

This requirement of personal interest is not an absolute rule, however. It is settled doctrine in the United States that there are cases in which the party assailing a particular law will be allowed to assert the constitutional rights of persons other than himself (conveniently termed *jus tertii*), on the basis of which he will be granted standing.[2] The Supreme Court of the Philippines has yet to make a pronouncement on this matter.

It is the purpose of this work to make a study of the American and Philippine jurisprudence on this point in order to glean from it principles governing the successful assertion of third parties' rights before the Court in its exercise of the power of judicial review.

IN THE UNITED STATES

In this jurisdiction, the development of the assertion of constitutional *jus tertii* as an exception to the general rule which requires personal interest has not been easy.[3] Although it is generally accepted

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1 In the Philippines — People v. de Vera, 65 Phil. 86 (1937); Tan v. Macapagal, 43 SCRA 678 (1972).

In the United States — Standard Stock Food Co. v. Wright, 32 S. Ct. 784 (1912); Coleman v. Miller, 59 S. Ct. 972; Joint Anti-Fascist Refuge Comm. v. McGrath, 71 S. Ct. 624 (1950).

2 Truax v. Raich, 36 S. Ct. 7 (1915); Meyer v. Nebraska, 262 U.S. 390 (1923); Pierce v. Society of Sisters, 45 S. Ct. 570 (1925); Adler v. Board of Education, 342 U.S. 485 (1952); Barrows v. Jackson, 73 S. Ct. 1031 (1953); Griswold v. Connecticut, 85 S. Ct. 1678 (1965).

3 Robert Sedler still considers the matter an open question, as will be seen from his article hereinafter cited.

that it may be done, when and under what circumstances such assertion will result in a recognition of standing is as yet not satisfactorily settled. The Supreme Court of the United States, as may be gleaned from a long list of decisions,[4] has proceeded on a case to case basis, and it is from an examination of these decisions that certain principles may be seen to emerge. As yet, the Court has not come up with a precise and specific formulation which might serve as a general guideline, limiting itself, as will be noted in the cases to be subsequently discussed, to a ruling which is safely applicable only to the specific case at bar. The pronouncements are so interwoven with the facts of the controversy that it would be presumptuous to create out of them any rule capable of universal application. That the Court itself has refrained from framing a cut-and-dried rule should perhaps serve as a deterrent to the student of constitutional law from making such an attempt.

It is not of much help, either, to consider the time element, inasmuch as when the Court recognized standing in one case, and found it absent in another, it was not a question of the later case overruling the earlier one. On the contrary, the cases, regardless of when they were decided, stand side by side, despite dissimilar rulings, by reason of some circumstance peculiar to each which accounts for the difference in the results. In cases similarly decided, however, common elements may be discovered. A study of the individual cases will perhaps shed more light on this point.

A. *Cases in Which Standing Was Denied*

In 1903, the Court, in the case of *Davis and Farnum Manufacturing Co. v. City of Los Angeles*,[5] refused to grant standing to a subcontractor asserting the rights of his immediate contractor in seeking a declaration of invalidity of a municipal ordinance. The Court acknowledged the rule that in some cases a stockholder may be successful in asserting the rights of the corporation, an independent entity as far as he is concerned, but declined to apply the same to the case before it. The Court said:

> It is true that in a number of cases bills have been sustained by one or more stockholders in a corporation against the corporation and other parties, to restrain the enforcement of an unconstitutional law against the corporation itself, . . . x x x. This rule, however, has no application to subcontractors, who stand in no position to enforce the rights of their immediate contractors. x x x . The plaintiff in this case stands practi-

[4] A representative number of these decisions is discussed in subsequent portions of this work.

[5] 23 S. Ct. 498 (1925).

> cally in the position of one who seeks to take advantage of the unconstitutionality of a law in which it has only an indirect interest and by the enforcement of which it has suffered no legal injury.[6]

The feature of this case which accounts for the refusal of the Court to grant standing is that the plaintiff was asserting a property right belonging to third persons who were more in a position to assail the validity of the ordinance in order to protect their own rights. The Court also found that plaintiff had failed to show that it would suffer injury from a breach of its contract with the immediate contractor, and that assuming that it would suffer such injury, that it could not seek redress from said immediate contractor.

In *New York v. Reardon,*[7] decided in 1907, the Court, speaking through Mr. Justice Holmes, disposed of an objection to a stamp act based on the fact that certain cases could be imagined as falling within said act and as to which it would be unconstitutional and void. The Court held that

> unless the party setting up the unconstitutionality of the (state) law belongs to the class for whose sake the constitutional protection is given, or the class primarily protected, this court will not listen to his objections, and will not go into imaginary cases, notwithstanding the seeming logic of the position that it must do so, because if for any reason, or as against any class embraced, the law is unconstitutional, it is void as to all. x x x. If the law is valid when confined to the class of the party before the court, it may be more or less a speculation to inquire what exceptions the state court may read into the general words, or how it may sustain an act that partially fails.[8]

It will be noticed that the basis of the ruling here is the fact that there was no actual third party whose rights were being asserted, imaginary cases having been put forth by the party-assailant on the basis of which the law was sought to be declared invalid.

In 1912, in the case of *Standard Stock Food Co. v. Wright,*[9] where a statute requiring certain matters to be printed on the labels of specific products were assailed on the ground that it allegedly discriminated against persons doing small business, the Court, pointing out that the appellant had failed to show that it was within the allegedly injured class, said

> the case in this aspect falls within the established rule that one who would strike down a state statute as violative of the

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[6] *Id.*, page 501.
[7] 27 S. Ct. 188 (1907).
[8] *Id.*, page 190.
[9] 32 S. Ct. 784 (1912).

> Federal Constitution must bring himself, by proper averments and showing within the class as to whom the law thus attacked is unconstitutional. He must show that the alleged unconstitutional feature of the law injures him, and so operates as to deprive him of rights protected under the Federal Constitution.[10]

In *Jeffrey Manufacturing Co. v. Blagg*,[11] an employer asserted the rights of his employees in questioning the constitutionality of a workman's compensation act. The Court denied him standing, explaining thus

> Much of the argument is based on the supposed wrong to the employee, and the alleged injustice and arbitrary character of the legislation here involved as it concerns him alone, contrasting an employee in a shop with five employees with those having less. No employee is complaining of this act in this case. The argument based upon such discrimination, so far as it affects employees by themselves considered, cannot be decisive; for it is the well-settled rule of this court that it only hears objections to the constitutionality of laws from those who are themselves affected by its alleged unconstitutionality in the feature complained of.[12]

A similar denial of standing was made by the Court, on the ground of absence of an alleged injury, actual or threatened, to the party assailing the statute, in the case of *Bosley v. McLaughlin*,[13] decided in the same year.

A decision narrower in scope was promulgated in *Blair v. U.S.*[14] where it was held that witnesses may not question the jurisdiction of a court by alleging that it was proceeding under an unconstitutional statute, said right properly pertaining to a real party in the action. The decision was worded in part as follows

> Considerations of propriety, as well as long-established practice, demand that we refrain from passing upon the constitutionality of an act of Congress unless obliged to do so in the proper performance of our judicial function, when the question is raised by a party whose interests entitle him to raise it.
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> We do not think the present parties are so entitled, since a brief consideration of the relation of a witness to the proceeding in which he is called will suffice to show that he is not interested to challenge the jurisdiction of court or grand jury over the subject matter that is under inquiry.[15]

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[10] *Id.*, page 786.
[11] 35 S. Ct. 167 (1915).
[12] *Id.*, page 169.
[13] 35 S. Ct. 345.
[14] 39 S. Ct. 468 (1919).
[15] *Id.*, page 470.

Tileston v. Ullman,[16] the leading case in which standing was similarly denied, is a little more explicit than the preceding ones. There is greater clarity in the reasoning and a well-defined relation between the facts of this case and the decision reached by the Court. These features make possible an approximation of a rule which may be applied to other cases with some degree of predictability. For this reason, this decision is extensively cited in this discussion.

Plaintiff in this case sought a declaratory judgment concerning the constitutionality and applicability to him, as a physician, of the law of Connecticut prohibiting the use of drugs or instruments to prevent conception, and the giving of assistance or counsel for their use.

> Appellant alleged that the statute, if applicable to him, would prevent his giving professional advice concerning the use of contraceptives to three patients whose condition of health was such that their lives would be endangered by child-bearing, and that appellees, law-enforcement officers of the state, intend to prosecute any offense against the statute and "claim or may claim" that the proposed professional advice may constitute such an offense. The complaint set out in detail the danger to the lives of appellant's patients in the event that they should bear children, but contained no allegations asserting any claim under the Fourteenth Amendment of infringement of appellant's liberty or his property rights. x x x .
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> We are of the opinion that the proceedings . . . present no constitutional question which appellant has standing to assert. The sole constitutional attack upon the statutes is confined to their deprivation of life — obviously not appellant's but his patients'. There is no allegation or proof that appellant's life is in danger. His patients are not parties to these proceedings and there is no basis on which we can say that he has standing to secure an adjudication of his patients' constitutional right to life on their own behalf. No question is raised in the record with respect to the deprivation of appellant's liberty or property in contravention of the Fourteenth Amendment... x x x. The appeal must be dismissed on the ground that the appellant has no standing to litigate the constitutional question...[17]

This case will be compared later to similar ones in which, however, standing was granted.

The foregoing group of cases shows that the Court's refusal to grant standing was based primarily on the absence of personal injury or prejudice to the party assailing the constitutionality of the law in question. This factor appears to be common in all of the cases above-cited. Another factor in most of the cases is the possibility that the third persons,

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[16] 63 S. Ct. 493 (1943).
[17] *Id.*, page 493.

owners of the rights asserted, could have brought the actions in their own behalf and for the protection of their own interests. A third consideration, in several cases, is the fact that there was no actual third party to whom the rights asserted are properly attributable, imaginary or fictitious persons in make-believe cases having been manufactured and presented before the Court as capable of coming into existence. This third consideration need not be elaborated upon. Suffice it to say that the Court rightly disposed of these attempts to make the Court pass upon cases not actually before it, which would amount to a waste of its valuable time.

Having thus examined the group of cases in which standing was denied, let us now turn to that group where the parties assailing the law were more successful.

B. *Cases in Which Standing Was Granted*

As early as 1915, the United States Supreme Court, in the case of *Truax v. Raich*,[18] recognized that there are instances in which the rights of third parties may successfully be asserted in order to secure a grant of standing. In that case an Arizona statute required that business establishments ensure that at least 80% of their employees are citizens and qualified electors of the United States. One Raich, an inhabitant of Arizona but not a qualified elector, was told that solely because of the statute and because his employer, Truax, wished to avoid the penalties provided thereunder, he, Raich, was to be dismissed from his employment. Raich filed a bill invoking equal protection, alleging that the statute was contrary to the Fourteenth Amendment. Raich asserted his employer's right to freely exercise his judgment in the selection and discharge of his employees, alleging that said right was being violated by an unconstitutional statute. The Court said

> The employee had manifest interest in the freedom of the employer to exercise his judgment without legal interference or compulsion and, by the weight of authority, the unjustified interference of third persons is actionable though the employment is at will. x x x. It is further alleged that the employee cannot sue save to redress his own grievance... that is, that the servant cannot complain for the master, and that it is the master who is subject to prosecution, and not the complainant. But the act undertakes to operate directly upon the employment of aliens, and if enforced would compel the employer to discharge a sufficient number of his employees to bring the alien quota within the prescribed limit.

[18] 36 S. Ct. 7 (1915).

> It sufficiently appears that the discharge of the complainant will be solely for the purpose of meeting the requirements of the act and avoiding threatened prosecution under its provisions. It is, therefore, idle to call the injury indirect or remote. It is also entirely clear that the complainant will have no adequate remedy, and hence, we think that the case falls within the class in which, if the unconstitutionality of the act is shown, equitable relief may be had.[19]

The Court found that the act was unconstitutional and granted relief to Raich.

In 1925, in *Pierce v. Society of Sisters*,[20] the Court granted standing to a corporation engaged in maintaining educational institutions, said corporation having challenged the validity of a statute compelling parents and guardians to send children under their custody to public schools. The corporation was injured by said statute in the form of decreased enrolment and they presented their grievance to the Court, alleging

> that the enactment conflicts with the rights of parents to choose schools where their children will receive appropriate mental and religious training, the right of the child to influence the parents' choice of school, the right of schools and teachers therein to engage in a useful business or profession, and is accordingly repugnant to the Constitution and void. And further, that unless enforcement of the measure is enjoined, the corporation's business and property will suffer irreparable injury.[21]

Citing the case of *Meyer v. Nebraska*,[22] the Court stated that the statute in question "unreasonably interferes with the rights of parents and guardians to direct the upbringing and education of children under their control."[23] The Court further said

> appellees are corporations, and therefore, it is said, they cannot claim for themselves the liberty which the Fourteenth Amendment guarantees. Accepted in the proper sense, this is true. x x x. But they have business and property for which they claim protection. These are threatened with destruction through the unwarranted compulsion which appellants are exercising over present and prospective patrons of the schools. x x x.
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> Generally, it is entirely true... that no person in any business has such an interest in possible customers as to enable him to restrain the exercise of the power of the state upon the ground that he will be deprived of patronage. But the injunctions here sought are not against the exercise of any proper power. Appellees asked protection against arbitrary, unreason-

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[19] *Id.*, page 9.
[20] 45 S. Ct. 570 (1925).
[21] *Id.*, page 572.
[22] 43 S. Ct. 625 (1923).
[23] Pierce v. Society of Sisters, *supra*, page 573.

able, and unlawful interference with their patrons and the consequent destruction of their business and property. Their interest is clear and immediate.[24]

An analysis of the foregoing case reveals that the Court based its decision not only on the assertion of *jus tertii* but also on several other factors existing side by side with such assertion. Without these added factors, it is doubtful whether the Court would have granted standing. Indeed the language of the Court clearly implies that had there been only asserted violations of third parties' rights, this case would have been decided the way *Tileston v. Ullman* and the other cases were. These factors, which spelled the difference between the decisions in the first and the second groups of cases, will be dwelt on more lengthily hereinafter. At this point it is deemed sufficient to identify them. They are (1) the fact that the party assailing the law suffers and will suffer a direct and substantial injury to its property rights, also protected by the Constitution; (2) the fact that this injury is closely related to, nay, inseparable from, the violation of the asserted constitutional rights of parents and guardians, and (3) the fact that if the party challenging the constitutionality of the law is not given standing before the Court, it will have no other adequate remedy under the law.

Barrows v. Jackson[25] is another milestone in the history of *jus tertii* as a basis for standing. This case was the subject of a most vigorous dissent which serves to illustrate the unsatisfactory state of the jurisprudence on the matter. However, it is similar in many respects to the case of *Pierce v. Society of Sisters*[26] which is cited therein.

The case involved the question of damages for the violation of a restrictive covenant which bound landowers of a certain area, and their successors in interest, to sell only to members of the Caucasian race, thus excluding non-Caucasians. The Court refused to allow damages for breach of the covenant on the ground that if it did the Court's action would amount to an infringement of the constitutional rights of non-Caucasians, an outcome which would be patently deplorable. These constitutional rights of the non-Caucasians were asserted as a defense by the defendant in the damages suit and the Court recognized her standing although, as in the *Pierce* case, there were accompanying factors without which the result might have been different, namely: (1) injury, in the form of assessed damages, to the party asserting *jus tertii* for having breached a discriminatory covenant; (2) a direct relation between the

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[24] *Ibid.*
[25] 73 S. Ct. 1031 (1953).
[26] *Supra.*

action of the Court in allowing damages and the violation of the rights of the non-Caucasians and (3) the impossibility on the part of the race discriminated against to assert their constitutional rights in their own behalf, they not being parties to the restrictive covenant which gave rise to the controversy.

In other words, the Court, in granting standing to the appellant in this case, considered not only the violation of third persons' constitutional rights but also each of the three factors above-mentioned, among others.

With respect to the first factor, the Court started by saying that the rule is that "a person cannot challenge the constitutionality of a statute unless he shows that he himself is injured by its operation."[27] However, it went on to say that

> this principle has no application to the instant case in which the respondent has been sued for damages totaling $11,600, and in which a judgment against respondent would constitute a direct, pocketbook injury to her.[28]

As to the second and third factors, it said

> in the instant case we are faced with the unique situation in which it is the action of the state court which might result in a denial of constitutional rights and in which it would be difficult if not impossible for the persons whose rights are asserted to present their grievances before any court. Under the peculiar circumstances of this case, we believe the reasons which underlie our rule denying standing to assert another's rights, which is only a rule of practice, are outweighed by the need to protect the fundamental rights which would be denied by permitting the damages action to be maintained.[29]

The Court also explained the factual basis as well as the practical considerations underlying its statement that the court action would result in the infringement of constitutional rights.

> If a state court awards damages for breach of a restrictive covenant, a prospective seller of restricted land will either refuse to sell to non-Caucasians or else will require non-Caucasians to pay a higher price to pay for the damages which the seller may incur. Solely because of their race, non-Caucasians will be unable to purchase, own and enjoy property on the same terms as Caucasians. Denial of this right by state action deprives such non-Caucasians, unidentified but identifiable, of equal protection of the laws in violation of the Fourteenth Amendment.[30]

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[27] **Barrows v. Jackson**, *supra*, page 1034.
[28] *Id.*, page 1035.
[29] *Ibid.*
[30] *Id.*, page 1034.

The Court relied heavily on the case of *Shelley v. Kraemer*[31] which was a suit against a Negro couple for the enforcement of restrictive covenants against the occupancy or ownership of property by people of the Negro race. The issue before the Supreme Court in that case was the validity of a court enforcement of the restrictive covenant having the purpose above-described. The Shelleys, the Negro spouses, were petitioners before the Supreme Court, alleging violation of their constitutional right. The Court refused to enforce the covenant upon the ground that it would result in the denial of equal protection of the laws.

It is manifest that in the *Shelley* case there was no question whatsoever of asserting someone else's rights, the persons primarily affected being parties to the case.

It is largely because of this fact that the ruling of the majority regarding standing in the *Barrows* case is criticized by Mr. Chief Justice Vinson in his dissenting opinion, part of which is quoted below.

> The plain, admitted fact that there is no identifiable non-Caucasian before this Court who will be denied the right to buy, occupy or otherwise enjoy the properties involved in this lawsuit, or any other particular properties, is decisive to me. It means that the constitutional defect, present in the *Shelley* case, is removed from this case. It means that this Court has no power to deal with the constitutional issue which respondent seeks to inject in this litigation as a defense to her breach of contract.[32]
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> respondent must show at the outset, that she, herself, and not some unnamed person in an amorphous class, is the victim of the unconstitutional discrimination of which she complains.
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> Respondent makes no such showing. She does not ask the Court to protect her own constitutional rights, nor even the rights of the persons who now occupy the property. Instead, she asks the Court to protect the rights of those non-Caucasians, whoever they may be, who might, at some point, be prospective vendees of other property encumbered by some similar covenant. Had respondent failed to designate herself as the agent of this anonymous, amorphous class, the majority certainly would have no power to vindicate its rights. Yet, because respondent happened to have decided to act as the self-appointed agent of these principals whom she cannot identify — in order to relieve herself of the obligations of her covenant — the majority finds itself able to assert the power over state courts that it asserts today.[33]

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[31] 68 S. Ct. 836 (1948).
[32] Barrows v. Jackson, *supra*, page 1038.
[33] *Id.*, pages 1039-1040.

Insofar as the majority puts too much reliance on the *Shelley* case, it appears that the dissenting opinion is correct. However, the mere fact that that case is not in point in so far as standing is concerned does not mean that the ruling is, as a result, erroneous. It is submitted that reliance on the *Pierce* case, discussed above, would have been sufficient to support the Court's grant of standing. As has been mentioned earlier, this case and that one have much in common. In both cases the third persons whose rights were being asserted were not individually identified and named, the discrimination complained of having been shown to operate on them as a class. Furthermore, they were not imaginary, nor were the instances of violations of their rights fictitious. Should necessity arise, such third persons, as the Court said in the *Barrows* case, although "unidentified" were "identifiable."[34]

The common element of direct and substantial injury by reason of the violation of the constitutional rights asserted also makes more plausible a drawing from the *Pierce* ruling as basis for decision.

A reinforcement of the *Pierce* and *Barrows* decisions is the ruling in *Griswold v. Connecticut*,[35] decided in 1965. In this case the same Connecticut birth control laws involved in *Tileston v. Ullman*[36] were the subject of attack upon the ground of infringement of constitutional rights belonging to third persons — in this case married people. These rights were asserted, as in the *Tileston* case, by physicians, except that in this case, unlike in the former, the physicians had already been convicted and fined under the aiding-and-abetting sections of the law for having given aid or assistance to patients in the use of contraceptive drugs and instruments. The Court granted standing to the physicians to assert the rights of their patients, saying

> We think that appellants have standing to raise the constitutional rights of the married people with whom they had a professional relationship. *Tileston v. Ullman* is different, for there the plaintiff seeking to represent others asked for a declaratory judgment. In that situation, we thought that the requirements of standing should be strict, lest the standards of case and controversy in Article III of the Constitution become blurred. Here those doubts are removed by reason of a criminal conviction for serving married couples in violation of the aiding-and-abetting statute. Certainly the accessory should have standing to assert that the offense which he is charged with assisting is not, or cannot constitutionally be a crime. x x x . The rights of husband and wife, pressed here, are likely to be diluted or

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[34] *Supra.*
[35] 85 S. Ct. 1678 (1965).
[36] *Supra.*

> adversely affected unless those rights are considered in a case involving those who have this kind of confidential relation to them.[37]

Similarly to the *Pierce* and *Barrows* cases, the third persons whose rights are asserted in this case are considered as a class, not as individuals. They are referred to simply as "married people" whose constitutional rights[38] are being adversely affected by criminal convictions against physicians who counseled them in the use of contraceptives.

Found again in this case is what appears to be the common denominator in all the cases in which standing was recognized, namely, injury to the party asserting *jus tertii*, in this case taking the form of a criminal conviction and the imposition of a fine.

At this point, a summary of the principles common to the cases recognizing standing is in order.

A comparison of *Truax v. Raich*,[39] *Pierce v. Society of Sisters*,[40] *Barrows v. Jackson*[41] and *Griswold v. Connecticut*[42] reveals that the factors first gleaned from the case of *Pierce v. Society of Sisters* are present, with some modifications, in the other cases, including the earlier one of *Truax v. Raich*.

The factors crystallizing from these cases are as follows: (1) direct and substantial injury to the party asserting the constitutional rights of third persons, directly related to the violation of said rights; (2) the difficulty, if not the impossibility, on the part of the third persons, of vindicating their rights in their own behalf, and (3) the fact that if standing is not granted to the party asserting *jus tertii*, he will have no other remedy under the law for the redress of the injury to his own rights.

Having thus studied the two groups of cases and the circumstances and peculiarities of each group, the conclusion may be drawn that the assertion of constitutional *jus tertii* will not give rise to standing when it stands alone, that is, unaccompanied by any or all of the factors above-enumerated. This is manifest in the cases where the Court denied standing, as in the *Tileston* case, where the language of the decision clearly implies that had an additional fact (injury to the party assailing the law) been present, standing would have been recognized. This is also explicit in the decisions recognizing standing, the Court having

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[37] Griswold v. Connecticut, *supra*, page 1679.
[38] Referred to as "penumbral" right and discussed at length.
[39] *Supra*.
[40] *Supra*.
[41] *Supra*.
[42] *Supra*.

stated in definite terms the circumstances in each case which, in addition to the violation of third parties' rights, led to the result.

IN THE PHILIPPINES

At present, the Supreme Court of the Philippines still strictly adheres to the general rule, namely, that the party who assails the validity of a statute must show that he has a personal interest in the case. He must make by proper allegations a showing that he himself is injured by reason of the enforcement of the allegedly unconstitutional statute.

The Court, in *People v. Vera*,[43] stated the rule, which it reiterated in the 1972 case of *Tan v. Macapagal*,[44] that

> the person who impugns the validity of a statute must have a personal and substantial interest in the case such that he has sustained or will sustain direct injury as a result of its enforcement.[45]

A much stricter rule is embodied in the decision in *Stonehill v. Diokno*,[46] a 1967 case, regarding the assertion of constitutional rights belonging to third parties. It is true that search warrants, not a statute, executive act or municipal ordinance, were being attacked as unconstitutional in that case, but the ruling regarding *jus tertii* may be taken as the Court's stand on the matter.

The case involved allegedly unconstitutional search warrants under which certain effects were seized from the premises of certain corporations, which effects were sought to be used in evidence in criminal proceedings against certain stockholders thereof. The stockholders asked for the return of the seized effects, alleging that the corporation's constitutional right against illegal searches and seizures had been impaired. The Court said

> we hold that the petitioners herein have no cause of action to assail the legality of the contested warrants and of the seizures made in pursuance thereof, for the simple reason that said corporations have their respective personalities, separate and distinct from the personality of the herein petitioners, regardless of the amount of shares of stock and of the interest of each of them in said corporations, and whatever the offices they hold therein may be. Indeed it is well settled that the legality of a seizure can be contested only by the party whose rights have been impaired thereby, and that the objection to an unlawful

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[43] *Supra.*
[44] *Supra.*
[45] *Id.*, page 679.
[46] 20 SCRA 389 (1967).

> search and seizure is *purely personal* and cannot be availed of by third parties. Consequently, petitioners herein may not validly object to the use in evidence against them of the documents, papers and things seized from the offices and premises of the corporations adverted to above, since the right to object to the admission of said papers in evidence belongs *exclusively* to the corporations, to whom the seized effects belong, and may not be invoked by the corporate officers in proceedings against them in their individual capacity.[47]

The tenor of the above-quoted portion of the decision seems to indicate that a defendant in an action may not invoke a constitutional right belonging to another in his own defense.

It is true that the Court referred specifically to the right against illegal searches and seizures as being a "purely personal" right that a third party may not invoke, but it is submitted that the other rights enumerated in the Bill of Rights are equally personal rights. It is not overstretching the decision, therefore, to deduce from it that the Supreme Court's stand on the issue of *jus tertii* is that a party may not invoke for his own benefit a constitutional right pertaining to another. It seems unlikely that the Court, having characterized the right against illegal searches and seizures as "purely personal", will refuse to attribute such quality to such others as the right to life, the right to liberty, the right to due process and equal protection of the laws, the right against self-incrimination and other similar rights.

The absence of a case that squarely calls for a definite and categorical ruling with respect to standing on the basis of another's right, such as those American cases previously discussed, accounts for the unsatisfactory state of Philippine jurisprudence on this matter.

The *Stonehill* case is not decisive of the issue, providing as it does a mere basis for conjecture as to how the Court would react should a case involving said issue arise before it.

It will be noted that in deciding the question the way it did, the Court in that case ignored two other possibilities – first, it could have granted standing to the stockholders to assert the rights of the corporations, following the principles in the American cases, and second, it could have pierced the corporate veil in order to find out whether the corporations and the stockholders against whom the criminal cases were pending were actually inseparable personalities, so that the violation of the corporations' constitutional right by means of the illegal warrant was in reality a violation of the stockholders' rights. The extent of the

[47] *Id.*, pages 389-390.

stockholdings and the element of effective control could have been used by the Court to determine this, but as seen from the decision as quoted, the Court expressly rejected this avenue.

The Philippine Constitution having been patterned after that of the United States, and the Philippine Bill of Rights being almost identical with the Amendments to the American Constitution, the feasibility of adopting in this jurisdiction the American experience and jurisprudence on this subject merits serious consideration.

There appears to be no reason why our Supreme Court should stubbornly adhere to the general rule without considering some exceptions. As Sedler put it

> It must be realized that it is generally wise to limit standing to assert rights to those persons whose rights have been violated by the action in question. However, there are instances where in order to perpetuate other significant values, there must be a relaxation of the standing requirement.[48]

[48] Sedler, "Standing to Assert Constitutional Jus Tertii in the Supreme Court", Yale Law Review, 599 (1962).