

CIVIL LAW
PART I
PERSONS AND FAMILY RELATIONS
AND
OBLIGATIONS AND CONTRACTS

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Comparatively, the field of Civil Law remains an island of jurisprudential tranquility amidst the turbulent waters generated by numerous Presidential issuances and Supreme Court decisions in other areas of law which are now drastically affecting the rights and obligations of everyone. The 1973 decisions, particularly in Persons and Family Relations and in Obligations and Contracts which are the subjects of this survey article, although hewing closely to dicta laid down by the High Tribunal in the past, give assurance, however, that the law will not choose to stand still but will remain dynamic and ever responsive to the "felt necessities of the time".¹

PERSONS AND FAMILY RELATIONS

Damages Awarded to Spouses Arising from Breach of Contract of Carriage

Are damages arising from a breach of a contract of carriage part of the conjugal partnership property or the exclusive property of the spouse with whom the transportation company has entered into a compromise agreement?

In its Resolution of the Motion for Reconsideration filed by the defendant-appellant in the case of *Zulueta v. Pan American World Airways, Inc.*,² the Supreme Court held such damages part of the conjugal partnership properties.

As a result of their off-loading plaintiff passenger at Wake Island "in a manner calculated to humiliate him, to chastise him, to make him suffer, to cause him the greatest possible inconvenience", the defendant airline company was ordered to pay the former an aggregate of ₱700,000 representing actual, exemplary and moral damages. Said award was ac-

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¹ O. W. HOLMES, *THE COMMON LAW* 1 (1946).

² G.R. No. L-28598, January 8, 1973, 49 SCRA 1 (1973).

tually made in favor of the Zulueta spouses and their daughter who were all passengers on the flight concerned.

Over PANAM's objection that the damages involved were not among those belonging to the partnership properties mentioned in Article 153 of the Civil Code,³ the High Tribunal maintained, on the basis of the same provision, that they were, considering that the right thereto was "acquired by onerous title during the marriage". The contract of carriage having been entered into during marriage, of necessity, the rights accruing therefrom, including those resulting from a breach thereof, were presumed to belong to the conjugal partnership property.

Moreover, the damages involved herein do not fall under the enumeration of exclusive property of the separate spouses under Article 148.⁴ In fact, proceeding by analogy, if that which is acquired by right of redemption or by exchange with other property belonging to only one of the spouses and that which is purchased with exclusive money of the wife or of the husband, belong exclusively to such wife or husband, it follows that that which is acquired with money of the conjugal partnership belongs thereto.

Defendant PANAM cannot rightfully insist that the right of redemption pertained to the wife in the absence of proof that the transportation fare came from funds belonging to her. The presumption that the money came from conjugal funds, since the trip was for the spouses' common benefit, applies.

The cases cited by the defendant company where damages were awarded to the wife exclusively were inapplicable since they refer to moral damages due to physical injuries suffered by her.

Effect of Compromise Agreement Entered Into by Wife on Conjugal Partnership Property

In the *Zulueta v. Pan American World Airways, Inc.*⁵ case, the defendant company assailed the denial by the Court of the wife's motion

³ Art. 153. The following are conjugal partnership property:

(1) That which is acquired by onerous title during the marriage at the expense of the common fund, whether the acquisition be for the partnership, or for only one of the spouses;

(2) That which is obtained by the industry, or work, or as salary of the spouses, or of either of them;

(3) The fruits, rents or interests received or due during the marriage, coming from the common property or from the exclusive property of each spouse.

⁴ Art. 148: The following shall be the exclusive property of each spouse:

(1) That which is brought to the marriage as his or her own;

(2) That which each acquires, during the marriage, by lucrative title;

(3) That which is acquired by right of redemption or by exchange with other property belonging to only one of the spouses;

(4) That which is purchased with exclusive money of the wife or of the husband.

⁵ *Supra*, note 2.

to dismiss the case insofar as she was concerned on the ground that she had settled all her differences with the PANAM in a compromise agreement under which she had been paid the sum of P50,000. The Supreme Court, sustaining the lower court's stand, allowed said amount to be deducted from the aggregate award of P700,000 due to plaintiff spouses rather than sentencing the defendant to pay the whole amount to the spouses and subsequently directing the wife to return to it the P50,000 she received under the compromise agreement. This, for the reason that upon the liquidation of the conjugal partnership as provided by law, said P50,000 would have to be reckoned with, either as part of her share in the partnership, or as part of the support which might have been due to her as wife of plaintiff Rafael Zulueta.

Paternity and Filiation

Where a spurious child has failed during the lifetime of the alleged putative father to prove her status of being his illegitimate child and after the latter's death files an action to have herself declared heiress of the deceased and, therefore, owner of all his properties by operation of law, said action becomes one to compel recognition. Hence, it cannot be brought after the death of the putative father.⁶

Adoption

In *Malkinson v. Agrava*,⁷ the Supreme Court firmly reiterated its doctrine in the *Therkelsen*⁸ and *Cathey*⁹ adoption cases that alienage by itself does not disqualify a foreigner from adopting a Filipino child. Under the express terms of Article 335 (4) and (5) of the Civil Code, the only aliens disqualified from adopting are non-resident aliens and resident aliens with whose government the Republic of the Philippines has broken diplomatic relations.

For respondent judge to order the dismissal of the petition for adoption by petitioners on the ground that the petitioner husband, being an alien, is disqualified to adopt the child sought to be adopted, who is a Filipino, would be to introduce an additional requisite not imposed by the Civil Code, namely that both adopter and adopted be of the same nationality. Had it been the intention of the lawmakers to consider alienage on the part of the adopter as a disqualification, it would have so explicitly provided.

Under the clear and plain language of the Civil Code and the Supreme Court's express rulings in *Therkelsen* and *Cathey*, therefore, peti-

⁶ *Bato v. Velez*, G.R. No. L-28873, July 31, 1973, 52 SCRA 190 (1973).

⁷ G.R. No. L-36309, November 26, 1973, 54 SCRA 66 (1973).

⁸ *Therkelsen v. Republic*, G.R. No. L-21951, November 27, 1964, 12 SCRA 400 (1964).

⁹ *Cathey v. Republic*, G.R. No. L-22170, September 23, 1966, 18 SCRA 86 (1966).

tioner husband, as an American resident not suffering from any legal disqualification, may, jointly with his co-petitioner Filipino wife, legally adopt the latter's acknowledged natural child. The Court found no cogent ground for departing from the established doctrine. Whatever may be the merit of respondent court's views, they go into the wisdom or policy of the statute which are beyond the Court's domain.

Change of Name

In the proceedings for the change of name of petitioner-appellee and one of his children, a motion was filed for the change of name of his wife and other minor children. The Supreme Court declared that, there being a total absence of a separate petition by the petitioner's wife and other minor children and the publication thereof, the orders of the lower court giving due course to said motion were completely void *ab initio*.

It stressed that separate proceedings and publications are indispensable to enable persons who may be in possession of adverse information or evidence against the grant of the petition to come forward with such information in order to protect public interest as well as the interest of private individuals who may be prejudiced by the change of name of the petitioner.

Even the decision granting the petitioner's own petition was held similarly void *ab initio* for lack of jurisdiction since the petition did not contain all the names or aliases of petitioner, nor the new name he and his minor daughter desired to acquire. Proceedings in a petition for change of name being *in rem*, strict compliance with jurisdictional requisites is essential. The change of name lies within the discretion of the court to give or withhold, it being a privilege and not a matter of right.¹⁰

OBLIGATIONS AND CONTRACTS

Contract Interpretation and Characteristics of Contracts

In *People's Car, Inc. v. Commando Security Service Agency*¹¹, defendant-appellee, a duly licensed security service agency, undertook "to safeguard and protect the business premises of (plaintiff) from theft, pilferage, robbery, vandalism and all other unlawful acts of any person or persons prejudicial to the interest of (plaintiff)" in consideration of payments made by the latter.

One of defendant's security guards on duty at plaintiff's service shop abandoned his post, took a car of plaintiff's customer and while driving the same lost control of it, causing it to fall into a ditch. As a result, plaintiff, which had to make good its liability to its customer owner of the car in the amount of ₱8,489.10, brought an action in turn against

¹⁰ *Secan Kok v. Republic of the Philippines*, G.R. No. L-27621, August 30 1973, 52 SCRA 322 (1973).

¹¹ G.R. No. L-36840, May 22, 1973, 51 SCRA 40 (1973).

the defendant on the ground that the latter was liable for said damages under paragraph 5 of the above-mentioned contract. The trial court, however, held that the liability of the defendant in favor of the plaintiff fell under paragraph 4 and not paragraph 5 of the contract and rendered judgment finding the former liable to the latter only in the amount of ₱1,000.00.

The resolution of the dispute, therefore, hinges on a proper interpretation of the Guard Service Contract. Paragraph 4 states:

Party of the Second Part (defendant) through the negligence of its guards, after an investigation has been conducted by the Party of the First Part (plaintiff) wherein the Party of the Second Part has been duly represented, shall assume full responsibilities for any loss or damages that may occur to any property of the Party of the First Part for which it is accountable, during the watch hours of the Party of the Second Part.....provided however that after the proper investigation to be made thereof that the guard on post is found negligent and that the amount of the loss shall not exceed ONE THOUSAND (₱1,000.00) PESOS per guard post. (Italics supplied).

Paragraph 5 states:

The party of the Second Part assumes the responsibility for the proper performance by the guards employed, of their duties and (shall) be solely responsible for the acts done during their watch hours, the Party of the First Part being specifically released from any and all liabilities to the former's employee or to the third parties arising from the acts or omissions done by the guards during their tour of duty. (Italics supplied).

Reversing the trial court, the Supreme Court held Paragraph 5 and not Paragraph 4 applicable instead. Paragraph 4 limiting defendant's liability to ₱1,000 per guard post may be justifiably invoked only if the damage or loss to plaintiff occurred at its premises and if it were due to the negligence of the guard on duty, both of which were glaringly absent under the stipulated facts of the parties.

In the case at bar, defendant's own guard unlawfully drove out the car from plaintiff's compound, lost control of it, causing damages thereto. Inasmuch as plaintiff had duly discharged its liability to its customer, it has every right now to proceed against defendant under paragraph 5 quoted above. As ordained in Article 1159 of the Civil Code, "Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith". Plaintiff could not very well ask its customer to hold the defendant directly accountable for the damages inasmuch as the two had no privity of contract with each other. Moreover, it could hardly create any goodwill for plaintiff's business as it would be in a way, an attempt to evade its contractual liability.

Not only is the instant case an illustration of the proper interpretation of contracts but also of its characteristics of mutuality and of being obligatory upon the parties.

Perfection of Contracts of Sale

*Velasco v. Court of Appeals*¹² is essentially a case on Remedial Law, settling as it does the technical question of whether the 60-day period for submitting the printed record on appeal is mandatory and, therefore, jurisdictional, or whether it is merely a procedural period. Having decided the issue along the lines indicated in past cases, the Supreme Court could very well have ended its decision with a denial of the petition for *certiorari* and *mandamus* against the Court of Appeals' resolution dismissing petitioners' appeal.

However, it chose to uphold likewise the judgment *a quo* on the merits involving the finer points on perfection of a contract of sale. A look at the facts is in order.

Plaintiff Lorenzo Velasco and defendants herein offer different versions of the transaction involving a parcel of land, the former alleging that it had been offered and subsequently sold to him by Magdalena Estate for ₱100,000.00 while the latter contends that the lessee of said land, Socorro Velasco, had offered to purchase the lot for ₱100,000.00, making an initial payment, the receipt of which was placed in the name of plaintiff, her brother-in-law. The Court found that the facts were as narrated by defendant.

In any event, both versions are agreed that the lot was purchased for a consideration of ₱100,000.00. As to the *terms of payment*—the amount of the down payment and the amortizations to cover the balance—the parties are at variance with each other. To repeat, the agreement on the purchase price was undisputed. The minds of the parties met at ₱100,000.00, thus producing a perfectly valid and binding contract in accordance with Article 1475 which provides: The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the *price*.

Quoting the trial court, the Supreme Court said: "The court *a quo* agreed with the respondent's (defendant therein) contention that no contract of sale was perfected because the minds of the parties did not meet 'in regard to the manner of payment.' The court *a quo*'s appraisal of this aspect of the action below is correct. The material averments contained in the petitioners' complaint themselves disclose a lack of complete 'agreement in regard to the manner of payment' of the lot in question."¹³ (Italics supplied)

¹² G.R. No. L-31018, June 29, 1973, 51 SCRA 439 (1973).

¹³ *Supra*, p. 452-453.

Towards the close of the decision, the Supreme Court itself, adopting the lower court's stand, declared: "It is not difficult to glean from the aforementioned averments that the petitioners themselves admit that they and the respondent still had to meet and agree on how and when the down-payment and the installment payments were to be paid. Such being the situation, it cannot, therefore, be said that a definite and firm sales agreement between the parties had been perfected over the lot in question." "Indeed, this Court has already ruled before that a definite agreement on the *manner of payment* of the purchase price is an essential element in the formation of a binding and enforceable contract of sale." (Italics supplied) The reference is to a 1961 case, *Navarro v. Sugar Producers Corp. Marketing Association, Inc.*¹⁴

It will be noted that the Supreme Court hinges its decision that the parties failed to perfect their agreement on the fact that there was no "definite agreement on the manner of payment." It went further to describe the manner of payment of the purchase price as an "*essential element*" in the formation of a binding and enforceable contract of sale.

With all due respect to the Supreme Court's opinion, it is submitted that the moment the parties agreed on the purchase price of ₱100,000.00 as admittedly they did, the contract was perfected.

Article 1475 quoted above is clear that, with the meeting of the minds of the parties on the thing which is the object of the contract and the *price*, the perfection stage has been reached. Why? Because these are the *essential elements* without which no contract will be considered valid and, therefore, binding on the parties. Other matters relating to terms and conditions of payment are merely *accidental elements*, as to which the parties are free to stipulate as long as they do not run counter to law, morals, good customs, public order or public policy.¹⁵

The facts merely show a difference in the testimonies of the parties on the origin of the contract and the terms regarding down-payment and amortizations. The parties actually admitted that "the terms of payment still had to be mutually covenanted". As regards the *price* itself, however, there is not the slightest hint of a disagreement. This being the case, the contract of sale may be deemed to have been perfected.

Stipulations pour autrui

In the case of *Artex Development Co., Inc. v. Wellington Insurance Co., Inc.*,¹⁶ the defendant insurer sought to avoid payment of the balance of the plaintiff-insured's property loss on the ground that the latter should

¹⁴ G.R. No. L-12888, April 29, 1961, 1 SCRA 1180-1187 (1961).

¹⁵ Art. 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.

¹⁶ G.R. No. L-29508, June 27, 1973, 51 SCRA 352 (1973).

directly demand the same from the reinsurers inasmuch as the reinsurance contract had a stipulation *pour autrui* in their favor.

The Supreme Court, however, invoking Article 1311¹⁷ of the Civil Code declared that "[u]nless there is a specific grant in, or assignment of, the *reinsurance* contract in favor of the insured or a manifest intention of the contracting parties to the *reinsurance* contract to grant such benefit or favor to the insured, the *insured*, not being privy to the *reinsurance* contract, has no cause of action against the *reinsurer*."¹⁸

Even assuming that plaintiff insured could avail itself of the reinsurance contracts and directly sue the reinsurer for payment of the loss, still such assumption would not in any way affect or cancel out defendant-insurer's direct contractual liability to plaintiff-insured under the insurance policy to indemnify the plaintiff for the property losses.

Obligations Arising from Quasi-Delicts

The case of *Teague v. Fernandez*¹⁹ sheds further light on the doctrine of proximate cause in connection with civil liability arising from negligence.

The facts are simple enough. A fire that broke out in a building adjacent to the Realistic Institute owned by petitioner caused a stampede in the vocational school, resulting in the death of four students and injuries to several others. The brothers and sisters of one of the deceased filed an action for damages against petitioner but the same was dismissed by the lower court. Upon reversal by the Court of Appeals, petitioner brought the case to the Supreme Court on a petition for review. This time, the High Tribunal affirmed the appellate court's finding of liability on the part of the petitioner due to her negligence in violating the ordinance in question.

Section 491 of the Revised Ordinances of the City of Manila laid down certain requirements in connection with the construction and use of buildings within the city limits. It was alleged that the same was violated by petitioner in that the second story of the building housing the school had only one stairway 1.5 meters wide, instead of two of at least 1.2 meters each, although at the time of the fire, the owner of the building had a second stairway under construction.

¹⁷ Art. 1311. "Contracts take effect only between the parties, their assigns and heirs, except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law. The heir is not liable beyond the value of the property he received from the decedent.

If a contract should contain some stipulation in favor of a third person, he may demand its fulfillment provided he communicated his acceptance to the obligor before its revocation. A mere incidental benefit or interest of a person is not sufficient. The contracting parties must have clearly and deliberately conferred a favor upon a third person.

¹⁸ *Supra*, p. 354.

¹⁹ G.R. No. L-29745, June 4, 1973, 51 SCRA 181 (1973).

The issue posed was: Was such non-compliance with the City Ordinance an act of negligence on the part of the petitioner and if so, was it the proximate cause of the death of the students? Petitioner argued that the violation of the ordinance being only a remote cause, it cannot be the basis of liability since there intervened a number of independent causes which actually produced the injuries such as the ensuing stampede after the fire and the overcrowding at the stairway.

In finding the petitioner liable, the Supreme Court said that the above argument sprang from a faulty juxtaposition of the events which formed a chain resulting in the injury. It is true that the petitioner's non-compliance with the ordinance was ahead of and prior to the other events and therefore, remote in point of time, in the sense that it was coetaneous with its occupancy of the building. But the violation was a continuing one, since the ordinance was a measure of safety designed to prevent a specific situation which would pose a danger to the occupants of the building. That situation was undue overcrowding in case it should become necessary to evacuate the building, which, it could be reasonably foreseen, was bound to happen under emergency conditions if there was only one stairway available.

Again, it is true that in this case, there would have been no overcrowding in the single stairway if there had not been a fire in the neighborhood which caused the students to panic and rush headlong for the stairs in order to go down. But it was precisely such contingencies or events that the authors of the ordinance had in mind, for under normal conditions one stairway would be adequate for the occupants of the building.

The Supreme Court, however, hastened to add that to consider the violation of the ordinance as the proximate cause of the injury does not accurately portray the situation. Rather, the overcrowding at the stairway was the proximate cause and that was precisely what the ordinance intended to prevent by requiring that there be two stairways instead of only one.

Indication of Choice of Remedy for Civil Liability Based on Culpa Aquiliana

Since the 1944 case of *Barredo v. Garcia*²⁰ where the Supreme Court placed in proper focus the independent standing of the civil remedy based on *culpa aquiliana* under Articles 2176-2194, a number of decisions have fortified the legal anchorage of the doctrine, most recent of which is *Garcia v. Florido*.²¹

While this case may well be written up in the survey on Remedial Law, its aspects bearing on civil liability arising from *quasi-delict* or *culpa aquiliana* under the Civil Code make it significant reading for civilists.

²⁰ 73 Phil. 607 (1942).

²¹ G.R. No. L-35095, August 31, 1973, 52 SCRA 420 (1973).

In the instant case, as a result of a collision, petitioners sustained various physical injuries which necessitated their medical treatment and hospitalization. After a criminal complaint was lodged by the Chief of Police and before final judgment, the petitioners filed a quasi-delictual action for damages under Articles 2176-2194 of the Civil Code. Respondents filed a motion to dismiss on the ground that no civil action could as yet be filed until the criminal case had been finally adjudicated pursuant to section 3 of Rule 111 of the Rules of Court²² and, therefore the instant civil action was premature. The lower court having sustained these arguments of respondents, petitioners appealed to the Supreme Court on *certiorari*.

Reversing the trial court the Supreme Court reiterated its firm doctrine in *Barredo v. Garcia*²³ that the same negligent act causing damages may give rise to civil liability arising from a crime under Article 100 of the Revised Penal Code or create a separate, independent action for quasi delict under Articles 2176-2194 of the Civil Code. Clearly the petitioners opted for the latter remedy as shown by the fact that they never intervened in the criminal action instituted by the Chief of Police. Their institution of the civil action for damages was proof enough of their intent to abandon their right to press recovery for damages in the criminal case.

Said the Court: "Undoubtedly an offended party loses his right to intervene in the prosecution of a criminal case, not only when he has waived the civil action or expressly reserved his right to institute, but also when he has actually instituted the civil action. For by either of such actions his interest in the criminal case has disappeared."²⁴

Estoppel

Defendant-appellant, after having agreed to a partition agreement with plaintiff-appellees who are his children and his co-owners of certain proper-

²² RULES OF COURT, Rule 111, Sec. 3: "*Other civil actions arising from offenses.* — In all cases not included in the preceding section the following rules shall be observed:

(a) Criminal and civil actions arising from the same offense may be instituted separately, but after the criminal action has been commenced the civil action can not be instituted until final judgment has been rendered in the criminal action;

(b) After a criminal action has been commenced, no civil action arising from the same offense can be prosecuted, and the same shall be suspended, in whatever stage it may be found, until final judgment in the criminal proceeding has been rendered;

(c) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damage suffered.

²³ *Supra*, note 10.

²⁴ *Supra*, p. 428.

ties, now questions the same on the ground of lack of consent or knowledge on his part as shown by the absence of his and his counsel's signatures thereto.

According to the Supreme Court, defendant's inaction for over a period of nearly eight years, after his having become aware of the petition agreement and the judgment based thereon, amounted to a ratification of the same. He was barred by his inaction for laches may operate to validate an agreement otherwise invalid at its inception as when the party, on becoming aware of the compromise, fails to repudiate it promptly.²⁵

Trusts

Requisites of adverse possession barring acquisitive prescription by a trustee.

In the case of *Valdez v. Olorga*,²⁶ it was established that plaintiff had always been in continuous and uninterrupted possession of the premises in question as co-heirs ever since their parents died. However, they agreed to place the Transfer Certificate of Title solely in the name of one of them with the express understanding that the latter would hold the same in trust for his other brother and sisters. Defendant, widow of the trustee in whose name the title was registered, subsequently claimed ownership by virtue of acquisitive prescription.

Following its firm dictum, the Supreme Court held that the trustee's possession is not adverse with respect to the real owners, the *cestui que trust*, and therefore, cannot ripen into a title by prescription. Adverse possession, stressed the Court, requires the concurrence of the following circumstances:

- (a) that the trustee has performed unequivocal acts of repudiation amounting to an ouster of the *cestui que trust*;
- (b) that such positive acts of repudiation have been made known to the *cestui que trust*; and
- (c) that the evidence thereon should be clear and conclusive.

By analogy, Article 1452 of the Civil Code may be applied to the case at bar. It provides: "If two or more persons agree to purchase property and by common consent the legal title is taken in the name of one of them for the benefit of all, a trust is created by force of law in favor of the others in proportion to the interest of each."

²⁵ *Cadano v. Cadano*, G.R. No. L-34998, January 11, 1973, 49 SCRA 33 (1973).

²⁶ G.R. No. L-22571, May 25, 1973, 51 SCRA 71 (1973).