RECENT DEVELOPMENTS IN COMMERCIAL AND TAXATION LAW*

*Florian Kim P. Dayag***

ABSTRACT

This *Survey* discusses recent developments in Philippine commercial and taxation law covering the period of July 2023 to February 2025. The author looks into four recently passed statutes concerning internet transactions, financial account scamming, and agricultural economic sabotage, along with amendments to the National Internal Revenue Code (NIRC) imposing value-added tax (VAT) on digital services. The author also analyzes nine commercial law and two taxation law cases decided by the Supreme Court, covering key issues and doctrines in corporation law, securities regulation, financial rehabilitation, consumer protection law, intellectual property law, and banking.

---

* *Cite* as Florian Kim P. Dayag, Feature, *Recent Developments in Commercial and Taxation Law*, 98 PHIL. L.J. 692, [page cited] (2025).

This Feature is part of a series published by the JOURNAL, providing a survey of recent developments in statutes, rules, and jurisprudence across different fields of the law and written by a member of the UP College of Law Faculty, with the assistance of PLJ editors and their interns.

** J.D., University of the Philippines (2014). B.S. Business Economics, University of the Philippines (2010). Senior Lecturer, University of the Philippines, College of Law; Court Attorney, Court of Appeals, Philippines.

All views presented in this paper are written in the author's personal capacity and do not necessarily represent the views of any employer, organization, or institution that the author is affiliated with.

The author is grateful to PLJ Editor Joshua Cedric Carmen, and his team (Angela Nicole Bao, Louie Miguel Nuñez, Raine Raval, and Kristine Joy Tatoy) for their research and editorial support.

I. RECENT LEGISLATION

A. Internet Transactions Act of 2023

The Internet Transactions Act of 2023 ("ITA")[1] seeks to protect online consumers and merchants engaged in internet transactions. It covers business-to-business and business-to-consumer internet transactions within the mandate of the Department of Trade and Industry (DTI), as long as one of the parties is "situated in the Philippines or where the digital platform, e-retailer, or online merchant is availing of the Philippine market and has minimum contacts therein," excluding online media content and consumer-to-consumer transactions.[2]

[1] Rep. Act No. 11967 (2023). Internet Transactions Act of 2023.
[2] § 3.

The ITA defines the obligations and rights of online consumers, e-marketplaces, e-retailers, and online merchants.

Online consumers are required to exercise ordinary diligence in any internet transaction.[3] As a rule, they shall not cancel confirmed orders of purchased goods if the items are already paid for, perishable in nature, in the possession of a third-party delivery service, or in transit, except when the transaction allows cancellation for a fee or when the parties agree otherwise.[4] The ITA also provides that:

> In case of defect, malfunction, or loss of the items without the fault of the online consumer, or failure to conform with warranty or any liability of the online merchant or e-retailer arising from the contract, the online consumer shall have the right to pursue repair, replacement, refund or other remedies provided under [the Consumer Act] or any existing relevant laws.[5]

E-marketplaces are required to ensure that internet transactions on their platform: (1) are clearly identifiable as an e-commerce transaction, (2) identify the person on whose behalf the e-commerce transaction is made, and (3) identify any promotional offer and the conditions required to qualify for it.[6] Before allowing an online merchant on its platform, they must require the merchant to submit their name, accompanied by at least one government identification (for individuals) or business registration documents, address, and contact details.[7] They must then ensure that online merchants in their platforms indicate the name, brand, price, description, and condition of the goods or services.[8] They are also obligated to take the necessary precautions to protect the data privacy of consumers[9] and to provide an effective and responsive redress mechanism for online consumers and online merchants to report violations of relevant laws.[10]

E-retailers and online merchants are responsible for indicating the price of goods and services offered.[11] In addition, e-retailers are required to

---

[3] § 19.
[4] § 19.
[5] § 20.
[6] § 21(a).
[7] § 21(b).
[8] § 21(g).
[9] § 21(d).
[10] § 21(f).
[11] § 23(a).

publish on their homepage the corporate and business name, the address of their physical shop, and its contact details.[12] They must also ensure that the goods are received by the online consumer together with its accessories, packaging, installation inclusions, user manual, or other instructions as advertised or described.[13] They also warrant certain qualities and capabilities of the goods or services sold, similar to warranties of merchantability and fitness for a particular purpose under general sales law.[14] They must also issue paper or electronic invoices or receipts for all sales, and have in place an accessible and efficient redress mechanism for handling complaints from their clients.[15]

Considering that e-marketplaces, e-retailers, and online merchants are required to institute internal redress mechanisms, an online consumer must exhaust such mechanisms first before filing a complaint before any court or appropriate government agency. Such mechanism is deemed exhausted if the complaint remains unresolved after seven (7) calendar days from filing.[16] If there is a ground to indemnify the online consumer for any valid reason, the primary liability shall fall upon the e-retailer or online merchant.[17] The e-marketplace or digital platform that facilitated the internet transaction shall be subsidiarily liable to the online consumer only under certain circumstances, such as if it failed to exercise ordinary diligence in complying with its obligations.[18]

B. Anti-Financial Account Scamming Act

The Anti-Financial Account Scamming Act ("AFASA") [19] criminalizes the act of financial account scamming, which may be committed through (1) money mulling activities, (2) social engineering schemes, and (3) economic sabotage.[20]

Money mulling activities are those that take advantage of financial accounts for the "purpose of obtaining, receiving, depositing, transferring, or withdrawing proceeds that are known to be derived from crimes, offenses,

---

[12] § 23(f).
[13] § 23(c).
[14] § 23(c).
[15] §§ 23(h)–(i)
[16] § 24.
[17] § 25.
[18] § 26.
[19] Rep. Act No. 12010 (2024). Anti-Financial Account Scamming Act.
[20] § 4.

or social engineering schemes."[21] These activities consist of "1) using, borrowing or allowing the use of a financial account; 2) opening a financial account under a fictitious name or using the identity or identification documents of another; 3) buying or renting a financial account; or 4) selling or lending a financial account." Recruiting, enlisting, contracting, hiring, utilizing, or inducing any person to perform any of the said acts also constitute money mulling activities.[22]

Social engineering schemes involve obtaining "sensitive identifying information of another person, through deception or fraud, resulting in unauthorized access and control over the person's [f]inancial [a]ccount."[23] This may be committed by "1) misrepresenting oneself as acting on behalf of an institution, or making false representations to solicit another person's sensitive identifying information; or 2) using electronic communications to obtain another person's sensitive identifying information."[24]

Economic sabotage occurs when money mulling activities or social engineering schemes are committed "1) by a group of three (3) or more persons conspiring or confederating with one another; 2) against three (3) or more persons individually or as a group; 3) using a mass mailer; or 4) through human trafficking."[25]

To facilitate the prosecution and investigation of these offenses, the Bangko Sentral ng Pilipinas (BSP) is vested with the authority to investigate and inquire into financial accounts which may be involved in the commission of these offenses.[26] These powers thus carve another exception to our bank secrecy laws.

C. Anti-Agricultural Economic Sabotage Act

The Anti-Agricultural Economic Sabotage ("AGES") Act [27] prohibits smuggling and regulates certain competition concerns involving agricultural products listed in Section 4 thereof:

---

[21] § 4(a).
[22] § 4(a).
[23] § 4(b).
[24] § 4(b).
[25] § 4(c).
[26] § 12.
[27] Rep. Act No. 12022 (2024). Anti-Agricultural Sabotage Act.

> [R]ice, corn, beef and other ruminants, pork, poultry, garlic, onion, carrots, other vegetables, fruits, fish, salt, and other aquatic products in their raw state or which have undergone the simple process of preparation or preservation for the market within the primary and post-harvest stages of the food supply chain, palm oil, palm olein, raw and refined sugar, and tobacco.[28]

The law punishes the act of economic sabotage in agriculture, defined as:

> [A]ny act or activity that disrupts the economy by creating artificial shortage, promoting excessive importation, manipulating prices and supply, evading payment or underpaying tariffs and customs duties, threatening local production and food security, gaining excessive or exorbitant profits by exploiting situations, creating scarcity, and entering into agreements that defeat fair competition to the prejudice of the public.[29]

Economic sabotage may be committed through (1) agricultural smuggling, (2) agricultural hoarding, (3) agricultural profiteering, and (4) engaging in cartel.

Agricultural smuggling pertains to "the fraudulent act of importing or bringing agricultural and fishery products into the country, or the act of assisting in receiving, concealing, buying, selling, disposing, storing, or transporting such products, with full knowledge that the same have been fraudulently imported."[30] It becomes economic sabotage when the value of each or of the combination of agricultural and fishery products smuggled is at least 10 million pesos based on the daily price index (DPI)[31] at the time the crime was committed.[32]

Agricultural hoarding is committed by "having stocks of agricultural and fishery products in excess of thirty percent (30%) of their normal inventory level ten (10) days after the declaration of an abnormal situation by the [AGES] Council or an emergency or state of calamity."[33] The same

---

[28] § 4.

[29] § 3(e).

[30] § 7.

[31] Defined as "a system of monitoring and publishing or broadcasting the prevailing retail prices of agricultural and fishery products in all regions of the country on a day-to-day basis." § 3(d).

[32] § 7.

[33] § 8.

provision requires persons to sell to the public their excess stocks within ten (10) days from said declaration.[34] Otherwise, the goods may be ordered seized by the Court of Tax Appeals (CTA).[35]

Agricultural profiteering is the "sale or offer for sale of agricultural and fishery products at a price at least ten percent (10%) in excess of the DPI, at the time of the declaration of an abnormal situation by the [AGES] Council, or emergency or state of calamity by competent authority."[36] It is presumed when the price exceeds 30% of the DPI at the time of said declaration.[37] The prohibition, however, does not apply to "retailers who purchase goods from wholesalers, importers, or producers, and directly sell in smaller quantities to the general public, usually in wet markets, *talipapa*, and cooperative stores with capitalization not exceeding [PHP 200,000], and farmers and fisherfolk selling their own harvest, produce, or catch."[38]

Finally, engaging in cartel is presumed:

> [W]hen two (2) or more persons competing for the same market and dealing in the same agricultural and fishery products agree to perform uniform, simultaneous, or complementary acts among themselves and actually perform such acts designed to artificially and unreasonably increase or manipulate the supply or prices of such projects, thereby stifling competition, […] to the detriment of consumers, or the decrease in farmgate prices to the detriment of the agricultural and fishery producers.[39]

D. Tax Code Amendment Imposing Value-Added Tax (VAT) to Digital Services

Republic Act No. 12023,[40] amending the National Internal Revenue Code, imposes VAT on any person who, in the course of trade or business, renders digital services, including those performed by nonresident digital

---

[34] § 8.
[35] §§ 8, 23.
[36] § 9.
[37] § 9.
[38] § 9.
[39] § 10.
[40] Rep. Act No. 12023 (2024). An Act Amending Sections 105, 108, 109, 110, 113, 114, 115, 128, 236, and 288 and Adding New Sections 108-A and 108-B of the National Internal Revenue Code of 1997, as amended.

service providers if consumed in the Philippines.[41] *Digital service* is defined as "any service that is supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated."[42] The term includes online search engine, online marketplace or e-marketplace, cloud service, online media and advertising, online platforms, and digital goods.[43] Meanwhile, digital services exempt from the VAT include online educational services provided by duly accredited private educational agencies or those rendered by government educational institutions,[44] and services of banking institutions and financial intermediaries performed through digital platforms.[45]

II. RECENT SUPREME COURT DECISIONS

A. Corporation Law

1. Commissioner of Internal Revenue v. BW Shipping Philippines, Inc.

The Revised Corporation Code is silent as to what constitutes "doing business" in the Philippines.[46] Instead, Section 3(d) of Republic Act No. 7042 or the Foreign Investments Act and its Implementing Rules and Regulations (IRR) serve as bases for assessing whether a foreign corporation is doing business in the Philippines, but the list is by no means exhaustive.[47] In *Agilent Technologies v. Integrated Silicon* [48] two tests—substance and continuity—were established to determine if a foreign corporation is doing business in the Philippines.[49] In this context, the Supreme Court, in the case of Commissioner of Internal Revenue v. BW Shipping Philippines, Inc.[50] clarified the status of foreign shipping companies that employ and hire labor in the Philippines.

---

[41] TAX CODE, § 105. The National Internal Revenue Code or Rep. Act No. 8424 (1997), *amended by* Rep. Act No. 12023 (2024), § 1.

[42] TAX CODE, § 108-A(a); Rep. Act No. 12023 (2024), § 3.

[43] TAX CODE, § 108-A(a)(1)–(6); Rep. Act No. 12023 (2024), § 3.

[44] TAX CODE, § 109(H), *amended by* Rep. Act No. 12023 (2024), § 5.

[45] TAX CODE, § 109(V), *amended by* Rep. Act No. 12023 (2024), § 5.

[46] MR Holdings, Ltd. v. Bajar, 430 Phil. 443, 461 (2002).

[47] Rep. Act No. 7042 (1991), § 3(d); Rep. Act No. 11647 Rules & Regs. (2022), § 1(j).

[48] [Hereinafter, "*Agilent*"], 471 Phil. 582 (2004).

[49] *Id.* at 602–03.

[50] [Hereinafter, "*CIR v. BW Shipping*"], 947 Phil. 739 (2023).

BW Shipping is a domestic corporation engaged in the general business of shipping, including providing manning and crewing services to foreign shipping companies.[51] It filed an administrative claim for refund for 2014, claiming that it received manning fees in foreign currency that were subjected to 0% VAT.[52] The Bureau of Internal Revenue (BIR) denied its claim. The CTA, however, held that the application should have been granted because the recipients of BW Shipping's services were non-resident corporations doing business outside of the Philippines.[53]

The Supreme Court affirmed the CTA. In ruling that the shipping companies were not doing business in the Philippines, the Court took two primary considerations. First, the shipping companies had no "full control" over BW Shipping's operations. Providing recruitment instructions or approving the dismissal or transfer of crew members were not evidence of control but were mere necessary consequences of outsourcing.[54] The designation of BW Shipping as an agent of the shipping company in the outsourcing agreements is also not indicative of control, since the Omnibus Rules and Regulations of the Migrant Workers and Overseas Filipinos Act require such designation.[55] Second, the hiring of crew members is not considered a continuity of the shipping companies' commercial dealings nor is it in pursuit of commercial gain. Shipping companies earn profit by providing transport services for goods. Although crew members are essential in the operation of vessels, recruitment activities themselves do not necessarily bring in profit.[56]

The CTA noted that several cases involving money claims of seafarers have described shipping companies as "doing business through its agent," but observed that this characterization is pertinent only to the discussion of the shipping companies' liability under labor rules.[57] The Supreme Court went further, holding that the characterization in these money claims cases has no basis and was mere *obiter*—thus, not definitive pronouncements as to the nature of the business of the shipping companies.[58]

---

[51] *Id.* at 740.
[52] *Id.*
[53] *Id.* at 741.
[54] *Id.* at 750–51.
[55] *Id.* at 751.
[56] *Id.* at 752.
[57] *Id.*
[58] *Id.*

The first factor used by the Supreme Court may be related to the requirement of "full control" under Section 1(j) of the IRR of the Foreign Investment Act.[59] The requirement, however, only applies to appointed representatives and distributors who do not transact business in their own name and for their own account.[60] Otherwise, the subsequent clause of Section 1(j) applies, requiring only the foreign company's participation in the management, supervision, or control of the domestic company to be considered "doing business" in the Philippines.[61] It does not entail "full" management supervision or control. A reading of *CIR v. BW Shipping* in line with statutory construction would support not applying the "full control" requirement beyond the appointment of representatives and distributors. Nevertheless, even if tested outside the "full control" requirement, the conclusion remains the same, i.e. providing recruitment instructions and approving the dismissal or transfer of crew members are not acts of participation in the management, supervision, or control of the domestic recruitment company.

The second factor, on the other hand, is closely related to the profit-making requirement in *Agilent*.[62] The impact of the decisions to shipping companies engaged in activities other than transporting goods then needs to be examined. It may be argued, for instance, that cruise ships earn profits through the entertainment services they provide, hence the hiring of entertainers may be connected to the profit-making requirement.

2. Rodriguez v. Pastorfide

In *Lim v. Moldex Land*,[63] the Court ruled that while a juridical person may appoint representatives in order to exercise its membership rights and privileges in a condominium corporation, unless such representatives are also members of the condominium corporation in their own right, they may not

---

[59] Rep. Act No. 11647 Rules & Regs. [hereinafter, "FIA IRR"] (2022), § 1(j). "Doing business shall include […] appointing representatives or distributors, operating under full control of the foreign corporation, domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totaling one hundred eighty (180) days or more[.]"

[60] FIA IRR, § 1(j). "The following acts shall not be deemed 'doing business' in the Philippines: […] (iii) Appointing a representative or distributor domiciled in the Philippines which transacts business in the representative's or distributor's own name and account[.]"

[61] § 1(j). " Doing business shall include […] participating in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines[.]"

[62] *CIR v. BW Shipping*, 947 Phil. at 750.

[63] [Hereinafter, "*Lim*"], 804 Phil. 341 (2017).

be elected as directors and officers thereof.[64] The ruling in *Lim* is the center of the petitioner's claim in *Rodriguez v. Pastorfide*.[65]

In *Rodriguez*, Pastorfide Land Corporation (PLC) and Maxicare Health Corporation (MHC) are members of Medical Plaza Makati Condominium Corporation. During its annual general assembly, PLC's representatives were elected to the board of directors of the corporation, which the petitioner contested on the ground that they are not, by themselves, registered owners of the units that they represented.[66] The trial court granted the complaint, citing *Lim*, but it was reversed by the Court of Appeals (CA).[67]

The Supreme Court affirmed the CA. It emphasized that the by-laws of the corporation allow member-corporations to authorize representatives to act on their behalf.[68] As juridical persons, they can only act through natural persons duly authorized for the purpose. Thus, to be elected to the board of a condominium corporation, the member-corporation must appoint a natural person as its representative. Otherwise, it would be deprived of its essential right to participate in the management of the corporation.[69]

The Court thus rejected the application of *Lim* on the ground that the ruling therein was based on "the requirement under the Corporation Code that a trustee of a non-stock corporation must be a member thereof,"[70] which is not entirely applicable to the factual milieu in this case.[71] Yet, the pronouncement in *Lim* appears to be broad enough to cover representatives, as it also involved authorized representatives, and the term "proxies and representatives" is actually used therein.[72] Hence, the trial court's application of *Lim* could not be said to be entirely baseless. Yet, this Author opines that the holding and reasoning in *Rodriguez* is correct and more attuned with basic corporation law principles, as opposed to the overbroad characterization used in *Lim*. Still, *Rodriguez* could have gone further by clarifying the extent of *Lim* or even limiting its application to proxy-related cases only.

---

[64] *Rodriguez v. Pastorfide* [hereinafter, "*Rodriguez*"], G.R. No. 256648, Feb. 24, 2025 (slip op. at 7), *citing Lim*, 804 Phil. at 363.

[65] G.R. No. 256648, Feb. 24, 2025. (slip op.).

[66] *Id.* at 2.

[67] *Id.* at 4–5.

[68] *Id.* at 8–9.

[69] *Id.* at 10.

[70] *Id.* at 8.

[71] *Id.* at 9.

[72] *Lim*, 804 Phil. 341, 361–62 (2017).

It is also noteworthy to point out that the Supreme Court made a further explanation that a member-corporation may appoint only one natural person to act as its representative for purposes of election to the board to avoid a biased and unfair power dynamic in the board.[73] Yet, it failed to consider that Pastorfide, Monteblanco, and Angeles were all representatives of PLC. If such is the case, shouldn't the election of all and not just one of them constitute an abuse of this principle? The Supreme Court, however, simply affirmed the CA's dismissal of the complaint, without correcting the election of all three of them.

B. Securities Regulation Code

1. Securities and Exchange Commission v. 1Accountants Party-List, Inc.

Under Section 5 of the Securities Regulation Code (SRC), the Securities and Exchange Commission (SEC) has the power to regulate and supervise persons to ensure compliance with the law.[74] Under Rule 68 of the IRR of the SRC, all registered corporations must have independent auditors accredited by the SEC.[75] The SEC then promulgated Memorandum Circular (MC) No. 13-2009, which required the accreditation of certified public accountants (CPAs) before they could act as external auditors of registered corporations.[76]

On June 21, 2022, the Supreme Court *en banc* unanimously declared Rule 68, paragraph 3 of the SRC IRR and MC No. 13-2009 as void for violating Republic Act No. 9298 or the Philippine Accountancy Act of 2004.[77] The Court ruled that the SEC's jurisdiction only extends to "juridical entities and their directors, officers and stockholders, as well as those that directly deal with the securities issued by said entities […]. Individual CPAs are not under [its] authority and jurisdiction, and thus cannot be governed by the same rules."[78] The accreditation requirement amounts to a licensing requirement which curtails the right of CPAs to practice their profession, the regulatory power for which is exclusively delegated to the Professional Regulatory Board of Accountancy.[79] On June 27, 2023, the Court denied the

---

[73] *Rodriguez*, slip op. at 10.

[74] SEC. REG. CODE, § 5(d).

[75] SEC. REG. CODE, Rules & Regs. (2000), Rule 68, ¶ 3.

[76] Sec. & Exch. Comm'n Mem. Circ. No. 13-09 (2009), § 4, ¶ 4.1. Revised Guidelines on Accreditation of Auditing Firms and External Auditors.

[77] Sec. & Exch. Comm'n v. 1Accountants Party-List, Inc., 923 Phil. 590, 605 (2022).

[78] *Id.* at 599.

[79] *Id.* at 602.

SEC's first motion for reconsideration,[80] prompting it to file a second motion.

In a January 28, 2025, Resolution decided by a 12-2 vote, the Court reconsidered its earlier judgment and ruled in favor of the SEC. Under the SRC, the SEC can exercise authority which may be implied from or necessary or incidental to carry out its express powers. This includes the power of accreditation in relation to its express power to issue rules in relation to corporate reportorial requirements.[81] The Court also observed that other pieces of legislation allow various regulators to accredit external auditors. For instance, under the Insurance Code, supervised persons and entities can only engage the services of external auditors accredited by the Insurance Commissioner.[82] The power of accreditation was thus held to be "a logical extension of existing regulatory practices aimed at promoting consistency, efficiency, and financial integrity across different sectors."[83] As to the alleged interference on the practice of accountancy, the Court explained that the practice is a mere privilege, not a right, and the accreditation requirement on CPAs who wish to audit financial statements is but a condition on a mere privilege.[84]

Justices Caguioa and Lazaro-Javier maintained their position in the first decision and expressed their dissent to the majority's reversal thereof. Justice Caguioa opposed the resort to implied power, arguing that resort to the doctrine of necessary implication is available only when there is a gap or omission in the law that needs to be addressed. There is no such gap considering that the Philippine Accountancy Act already provides the accreditation of CPAs and external auditors.[85] Justice Lazaro-Javier supported the rationale in the first decision and criticized the reversal on the ground that a second motion for reconsideration is, as a general rule, a prohibited pleading. She noted that the arguments of the SEC were the very same arguments earlier raised, and the SEC did not provide justification to relitigate the issues or allege any compelling reason to allow the second motion.[86]

---

[80] [Hereinafter *"1Accountants Resolution"*], G.R. No. 246027 (Res.), Jan. 28, 2025. (slip op. at 2.).

[81] *Id.* at 9.

[82] *Id.* at 12, *citing* Pres. Dec. No. 612 (1974), § 347, *amended by* Rep. Act No. 10607 (2012).

[83] *Id.* at 13.

[84] *Id.* at 15.

[85] *1Accountants Resolution* (Caguioa, *J.*, *dissenting*).

[86] *1Accountants Resolution* (Lazaro-Javier, *J.*, *dissenting*).

It should be pointed out that the respondents are not prohibited from filing a motion for reconsideration from the new judgment, owing to the rule that a motion for reconsideration seeking reconsideration of a decision where the tribunal substantially reverses itself on a matter for the first time is not considered a prohibited second motion for reconsideration.[87] Thus, the saga between the parties may not have concluded just yet.

C. Financial Rehabilitation and Insolvency Act

1. Pacific Cement Company v. Oil and Natural Gas Commission

The FRIA and the Financial Rehabilitation Rules of Procedure ("FR Rules") are clear that the issuance of a commencement order by a rehabilitation court operates to suspend all actions or proceedings for the enforcement of all claims against the debtor or any judgment, attachment, or other provisional remedies against the debtor, except for those expressly exempted by law.[88] Case law is also consistent that the automatic suspension of an action for claims against a corporation under a rehabilitation receiver or management committee embraces all phases of the suit.[89] *Pacific Cement Company v. Oil and Natural Gas Commission*[90] addresses two related issues pertaining to the suspension order: one, with regard to the effect of the suspension order on the foreign award; and two, on the effect of want of notice to the courts or tribunals where the action to be suspended is pending.

In the case, an action to enforce a foreign judgment against the petitioner-debtor was pending in the CA when the debtor filed a petition for rehabilitation. The rehabilitation court issued a commencement order on December 15, 2014, but the rehabilitation receiver only informed the CA of the rehabilitation proceeding on October 13, 2015, months after it had already rendered a decision on August 20, 2015. The CA affirmed the enforceability of the foreign judgment but ordered the suspension of its enforcement pending the rehabilitation proceedings.[91]

The Supreme Court upheld the CA's ruling that a duly recognized foreign arbitral award is covered by the suspension order under FRIA and

---

[87] Cristobal v. Phil. Airlines, Inc., 819 Phil. 343, 344 (2017).

[88] Rep. Act No. 10142 (2010), § 16(q). Financial Rehabilitation and Insolvency Act (FRIA) of 2010; FIN. REHAB. RULES OF PROC., § 8(V).

[89] *See* Phil. Airlines, Inc. v. Zamora, 543 Phil. 546 (2007)

[90] [Hereinafter, "*Pacific Cement*"], 944 Phil. 237 (2023).

[91] *Id.* at 253–54 (2023).

thus may not be the subject of execution while the rehabilitation proceeding is ongoing.[92] This means that the CA should have suspended the proceedings when the rehabilitation court issued the Commencement Order. However, due to the delay in notifying the CA, it was no longer bound "to take note of and consider the pendency of the rehabilitation proceedings,"[93] and thus, the promulgation of the CA's decision on August 20, 2015 was still valid.

In the end, the Supreme Court lamented that the controversy would not have arisen had the CA been promptly informed of the pendency of the rehabilitation proceedings.[94] As a result, the Court laid down the following guidelines to ensure that courts and tribunals are properly and promptly informed of the issuance of a commencement order that involves or affects the party litigants, whether as creditor or debtor:

> [1.] Upon the appointment of a rehabilitation receiver, the rehabilitation court shall instruct the former to notify all courts or tribunals before which the debtor/s has/have pending actions, by way of manifestation, of the existence of the petition for rehabilitation, the court before which the petition was filed, the date of its filing, and the fact of the issuance of a commencement order and stay order.
>
> [2.] In cases where the petitioner/s is/are debtor/s, the courts or tribunals to be notified shall be those indicated in the verified petition and affidavit of general financial condition, as required by Sec. 2(A)(7) and (10), Rule 2(A) of the FR Rules.
>
> [3.] In cases where the petitioner/s is/are creditor/s, the rehabilitation court shall instruct the rehabilitation receiver to ascertain the existence of any pending actions or proceedings by or against the debtor/s.
>
> [4.] The rehabilitation receiver shall report its compliance herewith to the rehabilitation court on the date of the initial hearing.
>
> [5.] The rehabilitation court shall require the rehabilitation receiver, should the latter learn of any other pending actions by or against the debtor/s, to notify such other court or tribunal of the existence of the petition for rehabilitation, the court before which the petition was filed, the date of its filing, and the fact of the issuance of a commencement order and stay order, by way of manifestation

[92] *Id.* at 263.
[93] *Id.* at 270.
[94] *Id.* at 277.

> within five calendar days from the rehabilitation receiver's knowledge of such other actions. The rehabilitation receiver shall report its compliance to the rehabilitation court within five calendar days.[95]

D. Consumer Protection Law

1. Department of Trade and Industry v. Toyota Balintawak, Inc.

Defects in goods and products are not uncommon affairs in a contract of sale. The Civil Code provisions on the law on sales address general concerns on the matter.[96] But as commerce becomes more complex, the legal order requires a more intricate mechanism to address more specific grievances of buyers. Among others, Congress passed the Consumer Act of the Philippines,[97] which focuses on consumer goods and services, and the Philippine Lemon Law, which applies particularly to brand new motor vehicles.[98]

In *Department of Trade and Industry v. Toyota Balintawak, Inc.*,[99] Marilou Tan purchased a vehicle from Toyota Balintawak that exhibited "jerky movement." A mechanical inspection determined that some parts needed replacement, so Marilou demanded that the vehicle be replaced. However, Toyota refused on the ground that the Philippine Lemon Law allows up to four repair attempts before it can be obligated to replace the vehicle.[100] Aggrieved, Marilou filed a complaint with the DTI pursuant to Article 100 of the Consumer Act.[101] The DTI ruled that the remedies under the Lemon Law and the Consumer Act are alternative,[102] but the CA held that Lemon Law applies exclusively.[103]

The Supreme Court held that the DTI had no standing to question the CA's decision, and that the case was rendered moot by Toyota's repair

---

[95] *Id.* at 277–78.

[96] *See* CIVIL CODE, arts. 1547, 1561–69.

[97] Rep. Act No. 7394 (1992). Consumer Act of the Philippines.

[98] Rep. Act No. 10642 (2014). Philippine Lemon Law.

[99] [Hereinafter, "*DTI v. Toyota*"], 948 Phil. 335 (2023).

[100] *Id.* at 336.

[101] *Id.* at 337, *citing* Rep. Act No. 7394 (1992), art. 100. "[I]f the imperfection of the product cannot be corrected within 30 days the consumer may alternatively demand for a replacement of the unit or the immediate reimbursement of the amount paid with monetary updating, without prejudice to any losses and damages."

[102] *Id.* at 340.

[103] *Id.* at 342.

of the vehicle. It nevertheless took cognizance of the case, recognizing that it is capable of repetition yet evading review.[104] The Court focused on Section 7 of the Lemon Law, which provides that the law does not limit or impair a consumer's rights and remedies under any other law.[105] This provision, according to the Court, clearly expresses that the Lemon Law is but an alternative remedy, and that a buyer of a brand-new vehicle is not prevented from availing of the remedies under the Consumer Act or any other law.[106]

The case, however, did not articulate if availing of one remedy would bar recourse to another remedy. For instance, if a buyer had availed of two out of four repair attempts under the Lemon Law, will the alternative nature of the remedies allow the buyer to refuse the two remaining attempts and instead immediately resort to Article 100, or other provisions for that matter, of the Consumer Act? The two laws provide distinct remedies and periods, and a clarification on the extent of their alternativeness would be necessary for future cases. The impact of the decision on actions involving hidden defects, in light of the pronouncement in *De Guzman v. Toyota Cubao, Inc.*,[107] should also be addressed. The Court in *De Guzman* appears to give preference to the provisions of the Civil Code in cases where the cause of action arises from hidden defects. Considering the broad definition of "nonconformity" under the Lemon Law, the possible intersection of the Civil Code and the Lemon Law should also be further clarified.

E. Intellectual Property Law

1. Icebergs Food Concepts, Inc. v. FILSCAP

In *Filipino Society of Composers, Authors, and Publishers, Inc. (FILSCAP) v. Anrey*,[108] the Supreme Court *en banc* ruled that the act of playing radio broadcasts containing copyrighted music through the use of loudspeakers is a public performance contemplated under Article 171.6 of the Intellectual Property Code.[109] Applying the doctrine of multiple performance, it ruled that a radio reception creates a new public performance separate from the broadcast and requiring separate protection.[110] It then concluded that the use

---

[104] *Id.* at 345–47.
[105] *Id.* at 350, *citing* Rep. Act No. 10642 (2014), § 7.
[106] *Id.* at 351.
[107] 538 Phil. 258 (2006).
[108] [Hereinafter, "*Anrey*"], 927 Phil. 577 (2022).
[109] *Id.* at 594.
[110] *Id.* at 597.

of radio reception transmitted through loudspeakers to enhance profit does not constitute, and is not analogous to, fair use.[111] Notably, the Court did not distinguish between big businesses, such as restaurants, and small businesses, such as small eateries and canteens. Realizing the decision's impact on small businesses, the Court noted that other countries have taken steps to remedy the dilemma[112] and hinted, without further discussion, that Congress should take further actions on the matter.[113]

Recently, in *Icebergs Food Concepts, Inc. v. Filipino Society of Composers, Authors, and Publishers, Inc. (FILSCAP)* [114] the Supreme Court had the opportunity to suggest and discuss further a possible exemption to the Intellectual Property Code ("IP Code") to accommodate and protect small businesses from infringement lawsuits. In the case, Icebergs operates several restaurant branches within the country. FILSCAP discovered that Icebergs publicly played in its restaurants copyrighted musical works without the required public performance license.[115] Thus, it sued Icebergs for copyright infringement. Echoing *Anrey*, the Court granted FILSCAP's complaint and ordered Icebergs to pay damages and attorney's fees.[116] It reiterated that playing copyrighted music via radio broadcast, even as mere background music in restaurants, for the entertainment of customers and for the enhancement of their dining experience falls outside the ambit of fair use.[117]

The Court went further and discussed the small business exemption rule found in the United States Copyright Act, as amended by the Fairness in Music Licensing Act of 1998. Under the said statute, an establishment may be exempted if: (1) it is a small commercial establishment; (2) it does not make a "direct charge" to hear the music; (3) it employs a single receiving apparatus of a kind commonly used in private homes; and (4) the performances are not further transmitted to the public. [118] Since this exemption is not found under the IP Code, the Court drew Congress' attention to the rule and declared that, in the meantime, courts should "strike a careful balance between the rights of the owners to be compensated for

---

[111] *Id.* at 609.
[112] *Id.* at 615–620.
[113] *Id.* at 621.
[114] [Hereinafter, "*Icebergs*"], 940 Phil. 226 (2023).
[115] *Id.* at 227.
[116] *Id.* at 263.
[117] *Id.* at 251.
[118] *Id.* at 254, *citing* Peggy H. Luh, *Pay or Don't Play: Background Music and the Small Business Exemption of Copyright Law*, 16 LOY. L.A. ENT. L. REV. 711, 719 (1996).

the use of their works and the right of the public to enjoy these creations" in applying the IP Code.[119]

To fill this gap in the IP Code, the *ponencia* proposed a three-part test to establish legal parameters to limit a copyright holder's rights and allow small businesses to exploit their creations: (1) it must cover only certain special cases; (2) it must not conflict with the normal exploitation of the work; and (3) it must not unreasonably prejudice the legitimate interests of the copyright holder.[120] Accordingly, the small business exemption must apply only to "smaller commercial establishments that are unlikely to significantly impact the market for copyrighted work." In this analysis, the "establishment's size, type, usage, and the manner in which the music is transmitted" must be scrutinized.[121]

Icebergs and the three-part test appear to address, if not appease, some matters raised in Justice Singh's dissent in *Anrey*, where she criticized the majority's failure to distinguish between big and small businesses in applying the fair use doctrine.[122] *Icebergs* could be viewed as her concession to the broad declaration in *Anrey* on the non-application of the fair use doctrine, while also providing a way to possibly reduce its impact by providing an alternative exemption, using the exercise of a defined discretion of courts and administrative bodies to address the perceived iniquity caused by the decision. The effect of *Icebergs* to *Anrey*, however, is yet to be tested, particularly since the latter was an *en banc* decision while the former was rendered by a division of the Court.[123]

2. FILSCAP v. Wolfpac Communications, Inc.

Anrey paved the way for many music copyright cases in the past few years, with *Filipino Society of Composers, Authors, and Publishers, Inc. (FILSCAP) v. Wolfpac Communications*[124] being the latest. Wolfpac operated the website "http://ring.smart.com.ph" allowing prospective consumers to listen to a 20-second portion of a song before buying and downloading the ringtone. Some of the songs formed part of the repertoire of copyrighted works of

---

[119] *Icebergs*, 940 Phil. at 256 (2023).

[120] *Id.* at 256–57, *citing id.* at 275 (Caguioa, *J.*, *concurring*).

[121] *Id.* at 258.

[122] *Anrey*, 927 Phil. 577, 732 (2022) (Singh, *J.*, *dissenting*).

[123] CONST. art. VIII, § 4(3). "[N]o doctrine or principle of law laid down by the court in a decision rendered en banc or in division may be modified or reversed except by the court sitting en banc."

[124] [Hereinafter, "*Wolfpac*"] G.R. No. 184661, Feb. 25, 2025. (slip op.).

FILSCAP, for which Wolfpac paid no royalties.[125] This prompted FILSCAP to sue Wolfpac for copyright infringement. Wolfpac countered that the samples did not constitute public performance and that, in any case, they obtained the consent of the composers.[126] The trial court agreed with Wolfpac and dismissed FILSCAP's complaint, ruling that the 20-second pre-listening option is not a public performance and falls within the purview of the fair use doctrine.[127] The issue being a pure question of law, FILSCAP appealed to the Supreme Court.

In resolving the appeal, the Supreme Court first discussed the parameters of public performance as demonstrated in *Anrey*, and contrasted it with communication to the public:

> *As to the act complained of*: under Section 171.3, communication can be done by making the works available to the public by wire or wireless means, including broadcasting, rebroadcasting, retransmitting by cable, broadcasting, and retransmitting by satellite. Meanwhile, performance under Section 171.6 can be done in three ways, depending on the kind of work involved. In works other than audiovisual work, performance means the recitation, playing, dancing, acting, or otherwise performing the work by means of any device or process. In audiovisual works, performance constitutes the showing of images in sequence and making the accompanying sounds audible. Lastly, the performance of sound recordings is making the recorded sound audible.
>
> *As to the role of the accused or infringer*: the accused, in communication to the public, is responsible for making the works available to the public by using the means provided under Section 171.3. On the other hand, the accused performs, shows, or makes the work audible in public performance.
>
> *As to the role of the public*: in communication to the public by wire or wireless means, the members of the public have access to the works from a place and time individually chosen by them, regardless of whether they actually accessed or received the works. In public performance, the members of the public should actually or could possibly perceive the performance of the works without the need for communication to the public.[128]

---

[125] *Id.* at 2.
[126] *Id.* at 3.
[127] *Id.*
[128] *Id.* at 15.

Thus, there is communication to the public as long as the work (a) is made available to the public, and (b) any member of the public may have access to the copyrighted work at a time and place individually chosen by them.[129] The actual or possible public perception is unnecessary. As long as the communicator provides the public with the means to perceive the works, there is communication to the public.[130] On the other hand, in public performance, actual or possible public perception is necessary and the public's access to the copyrighted work at a time and place individually chosen by them is not.[131]

In this case, the Court considered the 20-second preview as a form of communication to the public. It was made available to the public through "Wolfpac's act of placing the pre-listening function on the website," and any member of the public has the option to "access the samples from a place and time individually chosen by them."[132]

Nonetheless, the Supreme Court held that the preview falls under fair use and does not constitute copyright infringement.[133] The mere fact that Wolfpac's use of the music is commercial in nature does not *per se* take it out of the fair use doctrine.[134] Using the transformative test, the analysis is centered on whether the use of the copyrighted work differs from its purpose. If there is a huge difference between the purpose and character of the copyrighted work and its complained use, a finding of fair use is more favored.[135] In other words, the purpose of the copyrighted work must be "transformed" by the complained use. In this case, the purpose of the preview is to provide potential consumers with comprehensive information on the ringtones—a purpose different from the main purpose of the copyrighted song, which is to entertain.[136] Thus, although the preview may use a substantial portion of the copyrighted songs, the use is still reasonable and necessary to achieve Wolfpac's purpose of providing potential consumers with information about the ringtone.[137] Moreover, the pre-listening function would not cause any substantial harm to the composers because the snippet cannot be considered as a market replacement of the

---

[129] *Id.* at 14.
[130] *Id.*
[131] *Id.*
[132] *Id.* at 16.
[133] *Id.* at 26.
[134] *Id.* at 23.
[135] *Id.*
[136] *Id.* at 24.
[137] *Id.* at 25.

actual copyrighted song, on top of the fact that listeners would not be able to download the snippet into their mobile phones.[138]

Justice Singh dissented from the majority's application of fair use, opining that the commercial nature of the complained use was understated. The analysis, she believed, should not be limited to the use of the preview to sell ringtones, but also to its use in advertising Wolfpac's website as a platform that offers mobile phone services in general.[139] Justice Zalameda's dissent, on the other hand, touched on what he perceived as the Court's abandonment of the ruling in *Anrey,* which deemed radio-over-loudspeakers as public performance.[140] No express abandonment was espoused in the majority opinion, although Justice Zalameda raises a valid point that the decision could be interpreted as potentially altering certain principles established in *Anrey*. This point prompts further discussion on the topic which could enrich music copyright case law post-*Anrey*.

F. Banking Law

1. Banco de Oro Universal Bank, Inc. v. Seastres[141]

The business of banking is so impressed with public interest that the appropriate standard of diligence required by law is very high, if not the highest, degree of diligence.[142] When there is negligence on the bank's part, it is usually made to suffer the loss. In exceptional circumstances, the Supreme Court had applied contributory negligence, most commonly in cases of checks bearing a forged signature, to mitigate its liability—sharing the loss with another party who also acted negligently in the course of the transaction.[143] *Banco de Oro v. Seastres* was held to fall in the general rule.

Liza Seastres, owner of Las Management and General Services, appointed her long-time friend Anabelle Benaje as chief operating officer. Seastres discovered that Benaje, by forging Seastres' signature, had made several unauthorized withdrawals from her personal and corporate accounts spanning a period of four months.[144] Seastres, who rarely went to the bank,

---

[138] *Id.* at 25–26.

[139] *Id.* (Singh, *J.*, *concurring and dissenting*), slip op. at 11.

[140] *Id.* (Zalameda, *J.*, *concurring and dissenting*), slip op. at 9.

[141] [Hereinafter, "*BDO v. Seastres*"], 935 Phil. 1042 (2023).

[142] *Id.* at 1049–1050, *citing* Phil. Comm'l Intl Bank v. Ct. of Appeals, 403 Phil. 361, 388 (2001).

[143] *See, e.g.,* Associated Bank v. Ct. of Appeals, 322 Phil. 677 (1996).

[144] *BDO v. Seastres*, 935 Phil. at 1043.

allowed Benaje to process her personal and corporate transactions. Whenever the bank made confirmatory calls to Seastres' office, Benaje would make excuses and ultimately make the confirmation herself.[145] The trial court held the bank liable for all the amounts involved in Benaje's fraudulent scheme,[146] but the CA disagreed and adjudged both parties negligent, attributing 60% of the liability to the bank and 40% to Seastres.[147]

The Supreme Court reversed the CA. It concurred that the bank failed to comply with its rules and regulations when it "allowed Benaje to personally transact the unauthorized withdrawals without confirming from Seastres the authority of Benaje and without the latter accomplishing the authority for withdrawal through representative as indicated in the subject withdrawal slips."[148] The Court, however, refused to find Seastres guilty of contributory negligence. While there is nothing wrong with transacting through a representative, Benaje's authority was limited and did not include making any withdrawals from Seastres' accounts. Thus, the blame was entirely on the bank when it disregarded the said limitation.[149]

Justice Gaerlan dissented, arguing that Seastres was also negligent when she entrusted all her banking transactions to Benaje, who had full access to her accounts and was allowed to transact with the bank on her behalf. While the written authority was limited, in practice, all transactions made by Benaje were always done with Seastres' full consent and authority.[150] Moreover, the bank's confirmatory calls to Seastres' office were always referred to Benaje, even by Seastres' employees,[151] and Seastres also failed to regularly check her bank statements. She even admitted that Benaje was given access to the business' financial records and was privy to both her personal and corporate accounts.[152]

Justice Gaerlan also referred to the case of *Philippine National Bank v. Spouses Cheah*.[153] *Banco de Oro v. Seastres* thus joins the already fascinating body of case law on contributory negligence of the bank account holder when

---

[145] *Id.* at 1044.
[146] *Id.* at 1045–46.
[147] *Id.* at 1047.
[148] *Id.* at 1051.
[149] *Id.* at 1058.
[150] *Id.* at 1065–66 (Gaerlan, *J.*, *dissenting*).
[151] *Id.* at 1068 (Gaerlan, *J.*, *dissenting*).
[152] *Id.* at 1069 (Gaerlan, *J.*, *dissenting*).
[153] 686 Phil. 760 (2012).

entrusting his or her affairs to another person. In *Ilusorio v. Court of Appeals*,[154] the Supreme Court found the holder negligent when he "accorded his secretary unusual degree of trust and unrestricted access to his credit cards, passbooks, check books, bank statements."[155] The Court also deemed his failure to examine his bank statements as the proximate cause of the damage.[156] The same ruling was applied in *Gempesaw v. Court of Appeals*,[157] in relation to the trust given to a bookkeeper. Meanwhile, in *Samsung v. Far East Bank and Trust Company*,[158] the Court held that the standing habit of the bank in dealing with an assistant accountant, acting on behalf of the corporation, was not sufficient to negate or mitigate the bank's negligence in spotting the irregularities in the questioned transactions.[159]

2. Cruz v. Metropolitan Bank and Trust Company

As early as 1967 in the case of *Zulueta v. Reyes*,[160] the Supreme Court has already ruled that the right to foreclose is not restrained by unnecessary questions of accounting.[161] In the 2006 case of *Selegna Management and Development Corporation v. United Coconut Planters Bank*,[162] the Supreme Court affirmed the rule, explaining that the accounting of debt is not a requisite before one can be declared in default and that a pending question regarding the due amount is not a sufficient reason to enjoin foreclosure.[163] These could have simply been applied in *Cruz v. Metropolitan Bank and Trust Company*,[164] but the Supreme Court found peculiar circumstances that warranted a deviation from the *Zulueta* rule.

Petitioners obtained various loans from Metropolitan Bank from 1993 to 2004. The Bank claimed that the petitioners defaulted in paying their obligations, but the petitioners denied the claim and complained that the Bank failed to keep an accurate record of their account.[165] In 2005, the petitioners filed a complaint for accounting, while in 2009, the Bank

---

[154] G.R. No. 139130, 393 SCRA 89, Nov. 27, 2002.
[155] *Id.* at 97.
[156] *Id.*
[157] G.R. No. 92244, 218 SCRA 682, Feb. 9, 1993.
[158] 480 Phil. 39 (2004).
[159] *Id.* at 63.
[160] G.R. No. 21807, 20 SCRA 279, May 29, 1967.
[161] *Id.* at 292.
[162] 522 Phil. 671 (2006).
[163] *Id.* at 688.
[164] [Hereinafter, "*Cruz v. MBTC*"], G.R. No. 236605, July 29, 2024. (slip op.).
[165] *Id.* at 2.

instituted foreclosure proceedings against the petitioners, which the petitioners sought to annul.[166]

The accounting case eventually reached the Supreme Court, where it concluded that "the bank failed to furnish the petitioners with a detailed and comprehensive accounting of their loan payments," which is necessary to determine if they had fully paid their obligations.[167] The Court also observed several anomalous practices committed by the Bank. The accounting case was remanded to the trial court for further reception of evidence.[168] Meanwhile, the foreclosure sale was annulled by the trial court, but the CA granted the Bank's appeal and issued a writ of possession in favor of the Bank.[169]

The Supreme Court, pending the proper accounting of the petitioners' obligation, was thus faced with the issue of whether the foreclosure sale was valid. According to the Court, the judgment in the accounting case "presents a compelling variable that demands a nuance[d] approach" in evaluating whether to annul the foreclosure sale.[170]

The Court also recognized that payment of loans is a general ground to annul a foreclosure sale.[171] Ordinarily, payment is an affirmative defense that must be proven by the party assailing a foreclosure sale. Considering the earlier order to conduct a proper accounting of the petitioners' obligation, however, the Court concluded that the discrepancies in the petitioners' account should be resolved first before allowing the foreclosure proceedings. Otherwise, it "would dilute the essence of payment and would undermine the immutable finding that [the] bank was remiss in its fiduciary duty to petitioners."[172] The Court's deviation from *Zulueta* was also justified under "the principles of fairness, diligence in banking practices, and the fiduciary duty owed by banks to their clients" and was considered as a "practical approach" to prevent undue burden on the petitioners that may be caused by protracted litigation.[173]

---

[166] *Id.* at 2–3.

[167] *Id.* at 5.

[168] *Id.* at 4, *citing* Metropolitan Bank & Trust Co. v. Cruz, 894 Phil. 177 (2021). This case also illustrates the extent of the record-keeping duties of banks and financial institutions, in connection with the defense involving the five-year record-keeping period under the Anti-Money Laundering Act.

[169] *Id.* at 5.

[170] *Id.* at 9.

[171] *Id.* at 10.

[172] *Id.*

[173] *Id.* at 11.

Cruz v. MTBC, however, should not be read as an abandonment of *Zulueta* and related cases. *Zulueta* remains the prevailing rule—that it suffices that the creditor has proven that the debtor is in default of the payment of their obligation, without regard to any accounting issues or dispute. *Cruz v. MTBC* carves a narrow exception to the *Zulueta* rule and should be applied to similar or comparable cases.

G. Taxation

1. McDonald's Philippines Realty Corporation v. CIR

Generally, internal revenue taxes are assessed by the CIR within three (3) years after the last day prescribed by law for the filing of the return.[174] Section 222 of the NIRC provides certain exceptions, such as in cases of "false or fraudulent return[s] with intent to evade tax," where the period is extended to 10 years after the discovery of the falsity or fraud.[175] In *Aznar v. Court of Tax Appeals*,[176] the Supreme Court, interpreting the corresponding provision in the 1939 Tax Code, declared that the 10-year period applies regardless of whether the falsity is deliberate or not, and that a presumption of falsity is imputed upon a substantial underdeclaration of income.[177] This doctrine was incorporated in Section 248 of the NIRC, which provides that the failure to report sales, receipts, or income in excess of 30% of the amount declared in the tax return is presumptive of the taxpayer's substantial underdeclaration and the return's falsity or fraud.[178]

In *McDonald's Philippines Realty Corporation v. CIR*,[179] the respondent Commissioner relied on *Aznar* to assess deficiency taxes against the petitioner for the year 2007 beyond the general three-year assessment period. The CTA upheld the application of *Aznar*, agreeing that the petitioner's returns were false and that the 10-year period should apply.[180] However, the Supreme Court reversed the CTA and abandoned the ruling in *Aznar*. Emphasizing the exceptional character of the 10-year period, it held that under the NIRC, a false return refers to a tax return that contains a deliberate or willful error or misstatement. The entry of wrong information due to

---

[174] TAX CODE, § 203.
[175] § 222(a).
[176] [Hereinafter, "*Aznar*"], G.R. No. L-20569, 58 SCRA 519, Aug. 23, 1974.
[177] *Id.* at 541.
[178] TAX CODE, § 248.
[179] [Hereinafter, "*McDonald's*"], 945 Phil. 365 (2023).
[180] *Id.* at 370.

mistake, carelessness, or ignorance, without intent to evade tax, or a mere understatement of income or overstatement of deductions, by itself, does not amount to a falsehood.[181] To the Court, this new doctrine is more consistent with the presumption of good faith and deters possible abuse by tax authorities.[182]

The CIR has the burden to show not just the falsity in the return, but its willfulness or intentionality as well.[183] Pertinent to the *prima facie* evidence of falsity contained in the NIRC, the Court stressed that the 30% threshold merely creates a disputable presumption which may be proven otherwise by the taxpayer.[184] To tackle due process concerns arising from the presumption, the Court devised a two-prong requirement. First, the assessment notice issued to the taxpayer must clearly state that the ten-year period is being applied and indicate the bases of allegations of falsity or fraud. The notice must set out the computation by which the CIR ascertained that the misdeclaration in the return surpassed the 30% threshold. Second, the tax authorities must not act in a manner that is inconsistent with the invocation of the ten-year prescriptive period or otherwise mislead the taxpayer that the basic period will be applied.[185]

McDonald's is the culmination of the Supreme Court's modification and qualification of *Aznar* in the past three decades.[186]

2. CIR v. Estate of Romig

The Foreign Currency Deposit Act of the Philippines ("FCDA") was enacted in 1974 to respond to the unstable financial condition brought upon by heavy dollar spending that caused a dollar deficit in the country.[187] Towards this end, the law provided certain incentives for foreign currency deposits, including stronger bank secrecy protection and broader tax exemptions and incentives. *CIR v. Estate of Charles Marvin Romig* involves the

---

[181] *Id.* at 400.

[182] *Id.* at 401.

[183] *Id.* at 402.

[184] *Id.* at 403.

[185] *Id.*

[186] *See, e.g.,* Comm'r of Internal Revenue v. Javier, 276 Phil. 914 (1991); Comm'r of Internal Revenue v. B.F. Goodrich Phils., Inc., 363 Phil. 169 (1999); *and* Comm'r of Internal Revenue v. Phil. Daily Inquirer, 807 Phil. 912 (2017).

[187] G.R. No. 262092, Oct. 9, 2024 (slip op. at 10), *citing* Gov't Serv. Ins. Sys. v. Ct. of Appeals, 666 Phil. 656, 670 (2011).

intersection of the FCDA and the estate tax regime under the NIRC, as amended.

The case emanated from an administrative claim for refund filed by the Respondent before the BIR, claiming that the decedent's US dollar account in the Hongkong and Shanghai Banking Corporation (HSBC) should have been excluded from the computation of estate tax.[188] The BIR rejected the claim on the ground that foreign currency deposits are neither allowable as a deduction nor exempted from estate tax under Section 86(A) and 87 of the NIRC, respectively.[189] The CTA reversed the Bureau, holding that the NIRC did not revoke the tax exemption provided under the FCDA.[190]

The Supreme Court affirmed the CTA. It emphasized that the FCDA is a special law created particularly for foreign currency deposits, while the NIRC is a general law that governs the imposition of national internal revenue taxes, fees, and charges.[191] Following fundamental rules in statutory construction, the special law prevails over the general law. A special law must be interpreted to constitute an exception to the general law in the absence of special circumstances warranting a contrary conclusion" or an express provision repealing or modifying the special law.[192] The Court ruled that the NIRC contained "no express repeal of the grant of tax exemption" for foreign currency deposits under the FCDA.[193] The decision did not go beyond express repeal, although the explanation of the Court as to the rationale behind the enactment of the FCDA could operate to reject any argument rooted in implied repeal, in the absence of a manifest intention by the legislature for the NIRC to supersede the FCDA.

Nota bene: On the procedural aspect, the Supreme Court discussed that under Sections 204 and 229 of the NIRC, "an administrative claim for refund must precede the filing of a judicial claim and that both claims must be filed within the two years from the payment of the tax."[194] The estate filed its administrative and judicial claims on June 28, 2017—just two days prior

---

[188] *Id.* at 3.

[189] *Id.*

[190] *Id.* at 4.

[191] *Id.* at 10.

[192] *Id.* at 11, *citing* Comm'r of Internal Revenue v. Bases Conversion & Dev. Auth., 868 Phil. 567, 581 (2020), *citing* Comm'r of Internal Revenue v. Semirara Mining Corp., 844 Phil. 755, 763 (2018).

[193] *Id.* at 11.

[194] *Id.* at 8.

to the lapse of the two-year period.[195] The BIR argued that it was not given the opportunity to act on the administrative claim for refund. The Supreme Court held that the NIRC merely requires that both claims be filed within the two-year period and that requiring the estate to wait for the BIR to act on the administrative claim, knowing that the two-year period was about to lapse, would have resulted in forfeiture of its right to seek judicial recourse.[196]

The dispute, however, arose before the enactment of Republic Act. No. 11976 or the Ease of Paying Taxes Act ("EOPT").[197] Hence, the case was resolved under the old provisions of the NIRC. Now, as introduced in the EOPT, only the administrative claim for refund is required to be filed within two years from the payment of the tax. The BIR is then given a period of 180 days to process and decide on an administrative claim for refund.[198] Judicial recourse may then be availed of upon the BIR's denial of the claim or if the BIR failed to act on the claim within the prescribed 180-day period.[199]

- o0o -

[195] *Id.* at 9.
[196] *Id.*
[197] Rep. Act No. 11976 (2024). Ease of Paying Taxes Act.
[198] TAX CODE, § 204, *as amended by* Rep. Act No. 11976 (2024), § 31.
[199] TAX CODE, § 229, *amended by* Rep. Act No. 11976 (2024), § 32.