



# PHILJA Bulletin



January to March 2001

Volume III, Issue 9

Excellence in the Judiciary

## From the Chancellor's Desk *Ben*

The first quarter of 2001 was both challenging and exciting. It is hard to believe that we had conducted a total of fifty-one (51) activities or an average of seventeen (17) activities per month. To these must be added other miscellaneous projects and assignments undertaken.

It was during this period that PHILJA's mediation program went into full gear culminating in Settlement Weeks, two (2) weeks of intensive court-referred mediation in Metro Manila, Cebu and Davao, with a success rate of 81%. This formed part of the Centenary Celebrations of the Supreme Court which significantly turned out to be that of the entire judiciary.

The 2<sup>nd</sup> Pre-Judicature Program for aspirants was also undertaken, with fifty-three (53) participants, a mix of lawyers, prosecutors, clerks of court, and legal researchers. Considering the comprehensive coverage of the program, not a few attended the seminar solely for educational enhancement without necessarily eyeing a judgeship.

The Academy pursued with vigor its regional judicial seminars bringing judicial education nearer to our "foot soldiers." The Rules of Criminal Procedure and updates on Election Laws went regional, too, with a benchbook and audio tapes on the latter, to boot. So did seminar-workshops on Juvenile and Domestic Relations Justice in the form of regional multi-sectoral seminars that generated a healthy interaction among the key players in the five pillars of the criminal justice system.

Partnerships with The Asia Foundation, Singapore Mediation Center, and Phil-Export Taps on the successive mediation activities; with USAID-AGILE on the novel subject of Law and Economics, and Corporate Law, Insolvency and Rehabilitation; with the Australian Government and its consultant, the International Development Institute (IDLI) for the training on the Benchbook for trial judges, termed by the Chief Justice as the "Bible for Philippine Judges"; with the British Government for the Training Program for Family Court Judges and Social Welfare Officers; with UNICEF for the seminar-workshops on the theme "Towards a Comprehensive and Restorative Justice System"; and with the Centre for Democratic Institutions and the Federal Court of Australia for the 2<sup>nd</sup> Australian-Philippine Judicial Cooperation Project, all went into full swing.

On top of all these, PHILJA was privileged to continue spearheading the Centenary Lecture Series, a major activity of the Supreme Court in celebration of its centenary year.

We bring all this wealth of information, inclusive of the regular features dealing with new rulings, reminders, Orders and Circulars, to our judges and the entire judicial complement in this 9th issue of the PHILJA Bulletin, as we thank all and sundry for the warm acceptance they have accorded this young and fledgling publication.

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## **PHILJA HOLDS 2<sup>nd</sup> PRE-JUDICATURE PROGRAM**

The Philippine Judicial Academy (PHILJA) successfully conducted the two phases of the *Second Pre-Judicature Program* on January 29 to February 9 (Phase I) and February 26 to March 9, 2001 (Phase II), at the Centennial Bldg., Supreme Court, Manila.

There were fifty-three (53) officially enrolled aspirants for Phase I. However, only forty-six participants returned to complete Phase II of the *Pre-Judicature Program*. Satisfactory completion of and compliance with the requirements of the program is required for appointment or promotion to any position or vacancy in the Judiciary pursuant to Sec. 10 of R.A. No. 8557.

## **3<sup>rd</sup> REGIONAL MULTI-SECTORAL SEMINAR ON JUVENILE AND DOMESTIC RELATIONS JUSTICE GOES TO BAGUIO**

The *Third Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice*, conducted by the Philippine Judicial Academy (PHILJA) and UNICEF, was held at the Skyrise Hotel, Baguio City, from January 9 to 12, 2001.

Ninety-four (94) representatives of the five pillars of justice from Central Luzon and the Ilocos Region attended the seminar workshop. Discussions centered on the theory, application and practice of restorative justice; mediation and other diversion modes in juvenile and domestic relations cases; legal framework of family courts and jurisdiction issues; and sociological and psychological considerations in the cases of the Filipino couple, the battered woman, child victim, child abuser, and child in conflict with the law.

Justice Leonardo A. Quisumbing graced the seminar as its Inspirational Speaker. Mr. Philip Wan, UNICEF's Manila Deputy Representative and Justice Antonio M. Martinez (ret.), Vice Chancellor of PHILJA, gave the Opening and Welcome Remarks.

## **PHILJA HOLDS 2<sup>ND</sup> TRAINING PROGRAM FOR FAMILY COURT JUDGES AND SOCIAL WELFARE OFFICERS**

The *Second Training Program for Family Court Judges and Social Welfare Officers* was conducted by the Philippine Judicial Academy (PHILJA), in cooperation with the British Embassy-Manila on March 12-14, 2001, at the De La Salle University College of St. Benilde, Angelo King International Center, Manila. ACA Antonio H. Dujua is the principal coordinator of this training program.

Sixty-three (63) participants attended the live-in seminar workshop where they tackled critical policies; processes, policies, and practices in the Philippine justice system for children; emerging trends and restorative justice models on the juvenile justice system; and the provisions of the rule on the examination of a child witness.



His Excellency Alan Collins, CMG, Her Britannic Majesty's Ambassador, delivered the Opening and Welcome Remarks. DCA Reynaldo Suarez read the Inspirational Message in behalf of Justice Antonio M. Martinez (ret.), PHILJA Vice Chancellor, and distributed the Certificates of Completion to the participants. He was assisted by Mr. Neale Jagoe, Second Secretary at the British Embassy.

Participants of the *3rd Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice (Ilocos and Central Luzon Regions)* start the day's session with a little stretching.

#### **4<sup>TH</sup> REGIONAL SEMINAR HELD IN OLONGAPO CITY**

A total of 338 participants attended the *Fourth Regional Seminar for Judges, Clerks of Court, Branch Clerks of Court, Legal Researchers and Sheriffs of the Regional Trial Courts and First-Level Courts of Region III*, held at the Crown Peak Garden Hotel, Subic, Olongapo City, on January 31 to February 2, 2001.

Justice Ameurfina A. Melencio Herrera, PHILJA Chancellor, gave the Opening Remarks as well as the Inspirational Message in the seminar. She anchored her message on the performance of the Judiciary, headed by Chief Justice Hilario G. Davide, Jr. in the Impeachment trial and in the unforgettable event on January 20<sup>th</sup>. She said that the Chief Justice is the epitome of independence, credibility, respectability and public confidence that is worthy of inspiration and emulation by the women and men who compose the Judiciary.

#### **5<sup>TH</sup> REGIONAL SEMINAR CONDUCTED IN TACLOBAN CITY**

Two hundred eighty four (284) participants attended the *Fifth Regional Seminar for Judges, Clerks of Court, Branch Clerks of Court, Legal Researchers and Sheriffs of the Regional Trial Courts and First-Level Courts of Region VIII* held at the Leyte Park Resort Hotel in Tacloban City, from February 21 to 23, 2001. Some participants from the other island provinces of Region VIII failed to attend as the sea was rough and a typhoon just passed their province.

Integrated into the program were new topics on Election Laws and Gender Sensitivity and Human Relations. Justice Hilarion L. Aquino, Associate Justice of the Court of Appeals and Chairperson of PHILJA's Department of Ethics and Judicial Conduct gave a lecture on "*Towards a Culture of Excellence in the Judiciary.*" DCA Bernardo T. Ponferrada delivered the Closing Remarks.

#### **4<sup>TH</sup> REGIONAL MULTI-SECTORAL SEMINAR ON JUVENILE AND DOMESTIC RELATIONS JUSTICE HELD IN TAGAYTAY CITY**

With the assistance of the United Nations Children's Fund (UNICEF) and the Royal Netherlands Embassy, the Philippine Judicial Academy (PHILJA) conducted the *Fourth Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice* for judges, branch clerks of court, prosecutors, PAO lawyers, PNP and BJMP officers, and court social workers from Cagayan Valley and Southern Luzon, at the Development Academy of the Philippines (DAP), Tagaytay City, from February 27 to March 2, 2001.

A total of sixty-two (62) participants attended the seminar workshop which had the theme, "*Towards a Comprehensive and Restorative Justice System.*" Topics dealt on include the new rule on the examination of a child witness; formulating workplans on the implementation of restorative justice in each pillar; family courts and issues relating to family and marriage; and out-of-court modes of resolving family court cases.



Dr. Terrel Hill, UNICEF Representative for the Philippines and PHILJA Vice Chancellor Antonio M. Martinez delivered the Opening and Welcome Remarks. Acting Presiding Justice Cancio C. Garcia of the Court of Appeals gave the Inspirational Message.

Professor Sedfrey M. Candelaria, Atty. Katrina Legarda, Dr. Ma. Lourdes Carandang, Dr. Stella Manalo, and ACA Antonio H. Dujua comprise the panel of reactors on the diagnostic workshop on child abuse at the *2nd Training Program for Family Court Judges and Social Welfare Officers.*

## **HIGHLIGHTS OF THE CENTENARY LECTURE SERIES JANUARY - MARCH 2001**

The Centenary Lecture Series is part of the Centenary Celebrations of the Supreme Court of the Philippines which will commemorate its 100<sup>th</sup> anniversary on June 11, 2001. The year-long commemorative program, with the theme, "*Katarungan at Bayan Magpakailanman*," was launched last June 11, 2000. Chief Justice Hilario G. Davide, Jr. leads the Council of Advisers of the Executive Committee for the Centenary Celebrations, with Associate Justice Artemio V. Panganiban as Chairman and Associate Justice Leonardo A. Quisumbing as Vice-Chairman.

The Centenary Lecture Series covers a span of twelve months from July 11, 2000 to June 11, 2001 with one lecture scheduled every month. Filipino and foreign eminent jurists and legal luminaries have been invited to deliver lectures on core issues which have shaped and will continue to influence the Philippine judiciary as well as law and jurisprudence.

### **The Centenary Lecture Series July 2000 - June 2001**

First  
**"The Chief Justices in Philippine History"**  
Mr. Chief Justice Andres R. Narvasa (ret.)  
of the Supreme Court of the Philippines  
July 11, 2000

Seventh  
**"Old Doctrines and New Paradigms"**  
Associate Justice Artemio V. Panganiban  
of the Supreme Court of the Philippines  
February 13, 2001

Second  
**"Shari'a Law and the Philippine Legal System"**  
Professor Michael O. Mastura  
Founder and President of the Sultan Kudarat Islamic Academy  
Foundation, Inc. (SKIA)  
September 12, 2000

Eighth  
**"A Century of Constitutionalism:  
The Mission (as per Malcolm, J.)  
and  
its Fulfilment (as per Laurel, C.J.)"**  
Chief Justice Enrique M. Fernando (ret.)  
of the Supreme Court of the Philippines  
March 28, 2001

Third  
**"Contracts and Transactions by E-Commerce:  
Legal and Evidentiary Considerations"**  
Congressman Leandro B. Verceles, Jr.  
of the Lone District of Catanduanes  
October 10, 2000

Ninth  
**"Feminine Grace, The High Court,  
and Jurisprudence"**  
Madame Justice Ameurfina A. Melencio Herrera  
Chancellor, Philippine Judicial Academy  
May 17, 2001

Fourth  
**"Life Technologies and the Rule of Law"**  
Dr. Franklin M. Zweig, Ph.D., J.D.  
President of the Einstein Institute for Science,  
Health and the Courts (EINSHAC)  
Chevy Chase, Maryland, U.S.A.  
November 14, 2000

Tenth  
**"The Impact of People Power on  
our Legal System"**  
Panel Discussion:  
Dean Raul Pangalangan  
Attorney Katrina Legarda  
Professor Randy David  
May 24, 2001

Fifth  
**"Protecting Civil Liberties in a State of  
Continuing Emergency"**  
Madame Justice Dorit Beinisch  
of the Supreme Court of the State of Israel  
December 5, 2000

Sixth  
**"The Function of the Supreme Court of  
Hungary"**  
H.E. Dr. Pal Solt  
President of the Supreme Court of the Republic of Hungary  
and of the National Council of Justice  
January 16, 2001

Eleventh  
**"The Judiciary at the Threshold of  
the New Millennium"**  
Chief Justice Hilario G. Davide, Jr.  
of the Supreme Court of the Philippines  
June 11, 2001



## CJ OF HUNGARY IS SC's 6<sup>TH</sup> CENTENARY LECTURER

His Excellency, Dr. Pal Solt, President of the Supreme Court of Justice of the Republic of Hungary and of the National Council of Justice, graced the country and the Supreme Court Session Hall as the Sixth Centenary Lecturer on January 16, 2001. He spoke on "*The Function of the Supreme Court of Justice of Hungary.*"

Dr. Solt has been serving as President of the Supreme Court of Justice of Hungary since 1990. He was re-elected in 1996 by two-thirds majority of the members of Parliament for another six-year mandate. He is also the President of the National Council of Justice, an independent organization responsible for court administration; Chairman of the National Council of Law Administration since 1997; and one of the five founding members of the new Constitutional Court elected by Parliament on November 23, 1989.

The Supreme Court and the Philippine Judicial Academy (PHILJA) had, as co-sponsors, the Consulate of the Republic of Hungary, the World Association of Law Professors (WALP), and the San Beda College of Law which conferred on Dr. Solt a degree of Doctor of Laws, *honoris causa*.

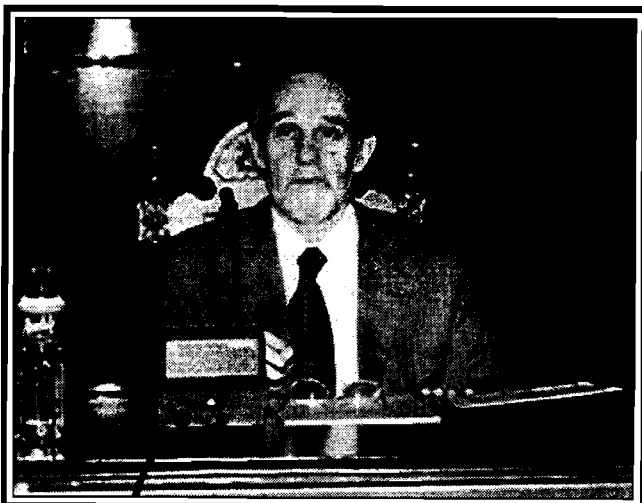
Eminent jurists who took part in the Sixth Centenary Lecture include: Chief Justice Hilario G. Davide, Jr. for the Closing Remarks; Justice Minerva P. Gonzaga-Reyes for the Invocation; Justice Josue N. Bellosillo for the Opening Remarks; Justice Santiago M. Kapunan for Introduction of the Centenary Lecturer; and Justice Artemio V. Panganiban as Master of Ceremonies.

## JUSTICE PANGANIBAN GIVES 7<sup>TH</sup> CENTENARY LECTURE

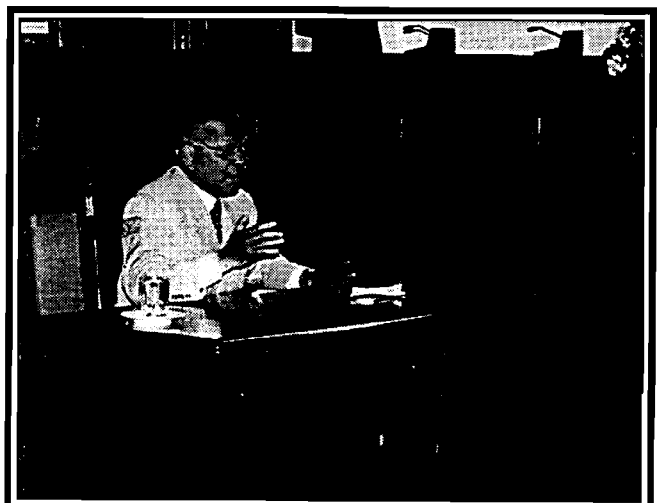
The Supreme Court of the Philippines and the Philippine Judicial Academy (PHILJA), in cooperation with the Far Eastern University Institute of Law, the Management Association of the Philippines, and Kilosbayan – Bantay Katarungan, held the Seventh Centenary Lecture, "*Old Doctrines and New Paradigms,*" by Mr. Justice Artemio V. Panganiban, on February 13, 2001, at the Supreme Court Session Hall, Manila.

Justice Panganiban was appointed to the Supreme Court of the Philippines on October 10, 1995 by then President Fidel V. Ramos. Before his appointment, he was Senior Partner at the Panganiban Benitez Parlade Africa & Barinaga Law Office (PABLAW) for over thirty (30) years, from 1963 to 1995. An active Catholic lay leader, he held the very rare distinction of being a Member of the Pontifical Council for the Laity (PCL), appointed by Pope John Paul II in 1995 for a five-year term. He is the only Filipino in this Council which is composed of thirty (30) Catholic leaders chosen by the Pope from various countries to advise him on "all matters involving the Christian life of the faithful."

Prominent judicial leaders joined Justice Panganiban in the Seventh Centenary Lecture. Chief Justice Hilario G. Davide, Jr. gave the Closing Remarks; newly appointed Justice Angelina S. Gutierrez did the Invocation; Justice Ameurfina A. Melencio Herrera (ret.), Chancellor of PHILJA, gave the Opening Remarks; Justice Reynato S. Puno introduced the Centenary Lecturer; and Father Ranhilio C. Aquino acted as the Master of Ceremonies.



*Dr. Pal Solt, President of the Supreme Court of Hungary*



*Justice Artemio V. Panganiban, 7th Centenary Lecturer*

## HIGHLIGHTS OF THE CENTENARY LECTURE SERIES (continued)

### FORMER CJ FERNANDO DELIVERS 8<sup>TH</sup> CENTENARY LECTURE

Chief Justice Enrique M. Fernando (ret.), the fourteenth Chief Justice of the Supreme Court of the Philippines, delivered the Eighth Centenary Lecture on March 15, 2001, at the Supreme Court Session Hall, Manila, as organized by the Supreme Court and the Philippine Judicial Academy, with the cooperation of Malcolm Trust Funds I and II, the University of the Philippines College of Law, Philippine Bar Association, and Lyceum of the Philippines. He spoke on "A Century of Constitutionalism: The Mission (as per Malcolm. J.) and Its Fulfillment (as per Laurel, C.J.)"

Chief Justice Fernando was appointed by then President Ferdinand E. Marcos to serve in this capacity from June 29, 1979 to his retirement on July 25, 1985. He is one of seven eminent leaders who joined the Supreme Court and became Chief Justice without any prior judicial experience, the others being Chief Justices Ramon C. Aquino, Claudio Teehankee, Pedro L. Yap, Marcelo B. Fernan, Andres R. Narvasa and Hilario G. Davide, Jr.. Chief Justice Fernando was also Chairman of the first investigating body set up to look into the assassination of the late Senator Benigno S. Aquino on August 21, 1983. He wrote many landmark decisions, primarily in Constitutional Law.



In the centenary lecture event, Chief Justice Hilario G. Davide, Jr. gave the Closing Remarks; Justice Carolina Griño Aquino led the Invocation; Justice Arturo B. Buena delivered the Opening Remarks; Justice Vicente V. Mendoza introduced Chief Justice Fernando; and Justice Santiago M. Kapunan served as the Master of Ceremonies.

*Former Chief Justice  
Enrique M. Fernando,  
8th Centenary Lecturer*

*Continued from page 14*

<i>Date</i>	<i>Seminars/Activities</i>	<i>Venue</i>
February 8 – 9	Training Seminar for Judges on Corporate Law, Insolvency and Rehabilitation	Philippine Judicial Academy, Tagaytay City
February 15 – 16	Training Seminar for Judges on Law and Economics	Philippine Judicial Academy, Tagaytay City
February 15	Advocates Forum for Business	Court of Appeals Auditorium, Manila
February 16	Regional Seminar on Election Laws and the Revised Rules of Criminal Procedure (Region V)	Villa Caceres Hotel, Naga City
February 21 – 23	5 <sup>th</sup> Regional Seminar (Region VIII)	Leyte Park Hotel, Tacloban City
February 26 – March 9	Pre-Judicature Program Phase II	Centennial Bldg, Supreme Court, Manila
March 4 – 10	Seminar-Workshop for Court Social Workers of Family Courts	Philippine Judicial Academy, Tagaytay City
March 8 – 9, 12 – 13, 15 – 16,	Benchbook Training for Judges	Centennial Bldg, Supreme Court, Manila
March 12 – 14	2 <sup>nd</sup> Training Program for Family Court Judges and Social Welfare Officers	Angelo King International Center, College of St. Benilde, Manila
March 16	Advocates Forum for Media	Linden Suites, Pasig City
March 21	Mediation: Conference and Workshop	Manila Hotel, Manila
March 23	Seminar on Election Laws	Centennial Bldg, Supreme Court, Manila

## CIVIL LAW

### Co-ownership by couple not capacitated to marry.

It was error for the trial court to rule that because the parties were not capacitated to marry each other at the time they were living together that they could not have owned properties in common. The Family Code in addition to providing that a co-ownership exists between a man and a woman who live together as husband and wife without the benefit of marriage, likewise provide that if the parties are incapacitated to marry each other, properties acquired by them through their joint contribution of money, property or industry shall be owned in common in proportion to their contribution which in the absence of proof to the contrary is presumed to be equal. (*Mendoza, J., Eustaquio Mallillim, Jr. v. Ma. Elvira Castillo*, G.R. 136803, June 16, 2000)

## CRIMINAL LAW

### Crime of unfair competition under Article 189 of the Revised Penal Code repealed by R.A. 8293, Intellectual Property Code.

The issue involving the existence of unfair competition as a felony involving design patents referred to in Article 189 of the Revised Penal Code has been rendered moot and academic by the repeal of the article upon the enactment of R.A. 8293. (*Bellosillo, J., Kenneth Roy Sarage v. Judge Taypin*, G.R. 134217, May 11, 2000)

## ELECTION LAW

### Application of election law and jurisprudence in the appreciation of contested ballots is essential; misappreciation of ballots involves question of law hence proper subject of motion for reconsideration.

The COMELEC en banc gravely abused its discretion in declaring that the COMELEC Division's findings on the contested ballots are findings of fact "that may not be the subject of a motion for reconsideration." Commissioner Dy-Liacó in her dissenting opinion correctly opined that when protestant implored that the COMELEC en banc review, re-examine and re-inspect the 111 ballots where the Trial Court and the Division disagreed and make its own final findings in effect dispute the ruling of the 2<sup>nd</sup> Division implying that the appreciation is contrary to law. (*Buena, J., Rolando Columbres v. COMELEC*, G.R. 142038, September 18, 2000)

## REMEDIAL LAW

### Pauper Litigants; motions to litigate as pauper litigants.

A motion to litigate as an indigent can be made even before the appellate courts, either for the prosecution of appeals, in petitions for review as in special civil actions. The ruling is in keeping with the Bill of Rights which decrees that free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. (*Bellosillo, J., Teofilo Martinez v. People*, G.R. 132852, May 31, 2000)

### Expropriation suit; jurisdiction over expropriation cases.

The subject of an expropriation suit is the government's exercise of eminent domain, a matter that is incapable of pecuniary estimation, hence, the Regional Trial Court have original jurisdiction to try expropriation proceedings. (*Panganiban, J., Barangay San Roque, Talisay Cebu v. Heirs of Francisco Pastor*, G.R. 138896, June 20, 2000)

### Extrajudicial confession under R.A. 7438 explained.

In providing that during the taking of an extrajudicial confession the accused's parents, older brothers and sisters, his spouse, the municipal mayor, municipal judge, district school supervisor, or priest or minister of the gospel as chosen by the accused may be present, R.A. 7438 does not propose that they appear in the alternative or as a substitute for counsel. It is explicitly stated therein that before the above-mentioned persons can appear two (2) conditions must be met: (a) Counsel of the accused must be absent, and (b) A valid waiver must be executed. R.A. 7438 does not, therefore, unconditionally and unreservedly eliminate the necessity of counsel but underscore its importance by requiring that a substitution of counsel of the above-mentioned persons be made with caution and with the essential safeguards. xxxxx The apparent consent of the accused in continuing with the investigation was of no moment as a waiver to be effective must be made in writing and with the assistance of counsel. (*Per Curiam, People v. Pacito Ordone*, G.R. 132154, June 29, 2000)

## CIVIL LAW

### Notice of *lis pendens* not proper in actions *in personam*.

The nature of an action is determined by the allegations of the complaint. Investco's complaint was an action for collection of sums of money, damages, and attorney's fees to recover from Solid Homes unpaid installments on the purchase price of the subject property. In such case, the annotation of a notice of *lis pendens* on the titles of the property was not proper as the action was *in personam*. (*Pardo, J.*, AFP Mutual Benefit Association v. Court of Appeals, G.R. 104769, *Solid Homes v. Investco*, substituted by AFP Mutual Benefit Association, G.R. 135016, March 3, 2000)

### Contracts; perfection of contracts; requisites thereof.

There can be no contract unless the following requisites concur: (a) consent of the contracting parties; (b) object certain which is the subject matter of the contract, and (c) cause of the obligation which is established. A contract binds both contracting parties and has the force of law between them. Contracts are perfected by mere consent, upon the acceptance by the offeree of the offer made by the offeror. From that moment, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law. To produce a contract, the acceptance must not qualify the terms of the offer. However, the acceptance may be express or implied. For a contract to arise, the acceptance must be made known to the offeror. Accordingly, the acceptance can be withdrawn or revoked before it is made known to the offeror. (*Bellosillo, J.*, *Jardine Davies v. Court of Appeals*, G.R. 128066, June 19, 2000)

### Kinds of expropriation proceedings; stages thereof; ownership of land to be expropriated; when completed.

Expropriation may be initiated by court action or by legislation and in both instances, just compensation is determined by the courts. It consists of two stages – the first is concerned with

the determination of the authority of plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action of condemnation, declaring that the plaintiff has a lawful right to take the property sought to be condemned, for public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint. The second phase is concerned with the determination by the court of the just compensation for the property sought to be taken. This is done by the court with the assistance of not more than three commissioners.

It is only upon the completion of these two stages that expropriation is said to have been completed. Moreover, it is upon payment of just compensation that title over the property passes to the government. Therefore, until the action for expropriation has been completed and terminated, ownership over the property being expropriated remains with the registered owner who can exercise all rights to dispose. (*Mendoza, J.*, *Republic v. Salem Industrial Corporation*, G.R. 157569, June 23, 2000)

### Right of redemption of agricultural lessee; effect of sale of landholding to third person.

Under Section 12 of R.A. 3844, the lessee has two (2) years within which to redeem the property sold to third persons from the registration of the sale and shall have priority over any other right of legal redemption provided that the entire landholding sold must be redeemed, and where there are two or more agricultural lessees, each shall be entitled to the said right of redemption only to the area actually cultivated by him. Failure to redeem does not, however, mean that he can no longer continue in possession and enjoyment of the land in question as legitimate tenant because the right of tenancy attaches to the landholding by operation of law. The leasehold relation is not extinguished by the alienation or transfer of the legal possession of the landholding. (*Pardo, J.*, *Philbancor Finance v. Court of Appeals*, G.R. 129572, June 26, 2000)



## REMEDIAL LAW

### **Dismissal without prejudice; final order of dismissal.**

An order dismissing a case without prejudice is a final order if no motion for reconsideration or appeal therefrom is timely filed. The law grants an aggrieved party a period of fifteen (15) days from his receipt of the court's decision or order disposing of the action or proceeding, to appeal or move to reconsider the same. After the order of dismissal of a case without prejudice has become final and, therefore, becomes outside the court's power to amend and modify, a party who wishes to reinstate the case has no other remedy but to file a new complaint. (*Kapunan, J., Fidel Bañares, et.al v. Elizabeth Baliseng, et.al*, G.R. 132624, March 13, 2000)

### **Special Civil Action for certiorari under Rule 65; its nature; issue to be resolved therein; distinguished from petition for certiorari under Rule 45.**

A special civil action for certiorari under Rule 65 is an original action, independent from the principal action and not a part or continuation of the trial which resulted in the rendition of the judgment complained of. It does not interrupt the course of the principal action nor the running of the reglementary periods involved in the proceedings unless an application for a restraining order or a writ of preliminary injunction to the appellate court is granted. It is not a mode of appeal where the appellate court reviews the errors of fact or of law committed by the lower court. The issue in a special civil action for certiorari is whether the lower court acted without or in excess of jurisdiction or with grave abuse of discretion.

In an appeal by certiorari under Rule 45, the petitioner and respondent are also the original parties to the action in the lower court. But in certiorari as an original action, the parties are the aggrieved party against the lower court or quasi-judicial agency and the prevailing parties, who thereby become the petitioner and respondents. (*Quisumbing, J., Shuhei Yasuda v. Court of Appeals and Blue Cross Insurance*, G.R. 112569, April 12, 2000)

### **Forum-Shopping; A.C. O4-94 of the Court does not cover compulsory counterclaim.**

Proceeding from the ruling in *Sto. Tomas University*, the Court reiterated that petitioners need not file a certification of non-forum shopping since their claims are not initiatory in character. (*Gonzaga-Reyes, J., Spouses Clory Ponciano and Gloria Ponciano v. Honorable Porcuntela*, G.R. 133284, May 9, 2000)

### **Claims for damages; jurisdiction over cases for damages arising from employer-employee relationship.**

P.D. No.1691 nullified P.D. 1367 and restored Article 217 of the Labor Code almost to its original form. xxx The jurisdiction of the labor arbiters and the NLRC in Article 217 is comprehensive enough to include claims for all forms of damages arising from employer-employee relations. Article 217 should apply with equal force to the claims of an employer for actual damages against its dismissed employee where the basis for the claims arises from or is necessarily connected with the facts of termination and should be entered as a counterclaim in the illegal dismissal case. (*Gonzaga-Reyes, J., Bebianio M. Bañez v. Hon. Downey Valdevilla*, G.R. 128024, May 9, 2000)

### **Dispositive part of decision; subject of execution; exception.**

While the general rule is that the portion of the decision that becomes the subject of execution is that ordained or decreed in the dispositive part thereof, there are exceptions to this rule, to wit: (a) where there is ambiguity or uncertainty, the body of the opinion may be referred to for purposes of construing the judgment because the dispositive part of the decision must find support from the decision's *ratio decidendi* and (b) where extensive and explicit discussion and settlement of the issue is found in the body of the decision. Findings of the court are to be considered in the interpretation of the dispositive portion of the judgement. (*Buena, J., Wilson Ong v. China National Cereals Oil*, G.R. 131502, June 8, 2000 )

(Continued on next page)

## REMEDIAL LAW *(continued)*

### Demurrer to evidence; aims of demurrer.

Defendants who present a demurrer to the plaintiff's evidence retain the right to present their evidence if the trial court disagrees with them; if the trial court agrees with them but on appeal the appellate court disagrees with them and reverses the dismissal order, the defendants lose the right to present their own evidence. The appellate court shall, in addition, resolve the case and render judgment on the merits inasmuch as a demurrer aims to discourage prolonged litigations. (*Panganiban, J., Radiowealth Finance Co. v. Spouses Vicente and Maria Sumilang del Rosario*, G.R. 138739, July 8, 2000)

## CRIMINAL LAW

### Award of damages; computation of lost earnings and life expectancy.

Applying the American Expectancy Table of Mortality, the life expectancy of the deceased is

computed thus:  $2/3$  multiplied by (80 minus the age of the deceased). Since the deceased was 48 years at the time of her death, her life expectancy is 21.33 years. The computation of her lost earning is gross earnings less 50% living expenses = net earnings  $\times$  life expectancy. (*Bellosillo, J., People v. Armando Reanzares*, G.R. 130656, June 29, 2000)

## LABOR LAW

### Financial assistance to a dismissed employee; equity defined.

An employee who is dismissed for cause is generally not entitled to any financial assistance. Equity considerations, however, provide an exception. Equity has been defined as justice outside law, being ethical rather than jural, and belonging to the sphere of morals than of law. It is grounded on the precepts of conscience and not on any sanction of positive law, for equity finds no room for application where there is law. (*De Leon, J., Rolando Aparente, Sr. v. NLRC and Coca Cola Bottlers Phil.*, G.R. 117652, April 27, 2000)

*(Continued from page 13)*

TO: ALL JUDGES AND CLERKS OF COURT OF THE REGIONAL TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, AND MUNICIPAL TRIAL COURTS IN MANDAUE CITY, LAPU-LAPU CITY, DIGOS CITY, TAGUM CITY, AND PANABO, DAVAO DEL NORTE.

WHEREAS, on 20 February 2001, the Chief Justice issued Administrative Order No. 21-2001 on the matter of participation of some courts in the Settlement Weeks. A copy of said Administrative Order with the annexed Guidelines is hereto attached as Annex "A" and is made part hereof.

WHEREAS, in her letter of 27 February 2001, Mme. Justice Ameurфина A. Melencio Herrera, Chancellor of the Philippine Judicial Academy (PHILJA), informed the Chief Justice that there is a strong clamor by the Bench and the Bar, as well as by the trained mediators, to include as participating courts during the Settlement Weeks the Regional Trial Courts,

Municipal Trial Courts in Cities, and Municipal Trial Courts in Lapu-Lapu City, Mandaue City, Tagum City, Digos City, and Panabo of Davao Del Norte.

WHEREAS, according to Mme. Chancellor Herrera, the number of trained mediators is enough to cover these additional participating courts.

NOW, THEREFORE, the Regional Trial Courts, Municipal Trial Courts in Cities and the Municipal Trial Courts in Mandaue City, Lapu-Lapu City, Digos City and Tagum City and in the Municipality of Panabo, Davao Del Norte, are hereby included as participants in the Amicable Settlement Weeks. The Judges and Clerks of Court thereof are enjoined to comply with Administrative Order No. 21-2001, copy attached.

Issued this 5th day of March 2001.

(SGD.) HILARIO G. DAVIDE, JR.  
Chief Justice

## SUPREME COURT

### ADMINISTRATIVE CIRCULAR NO. 1-2001

TO: CLERKS OF COURT AND BRANCH  
CLERKS OF COURT OF ALL LOWER  
COURTS

SUBJECT: SUBMISSION OF LISTS OF CASES  
FILED / RAFFLED, DISPOSED,  
ARCHIVED, TRANSFERRED / RE-  
RAFFLED, AND WITH SUSPEN-  
DED PROCEEDINGS

To achieve a more accurate and dependable court reporting system and effective monitoring of caseflow in the lower courts, all clerks of court and branch clerks of court are hereby enjoined to submit the following monthly reports effective December 2000:

1. List of newly filed or raffled cases, revived or reinstated cases, or cases transferred or reraffled from other salas;
2. List of decided or resolved cases after trial on the merits or by compromise agreement, plea of guilt, and the like; and/or resolved complaints after preliminary investigation (for first level courts);
3. List of archived cases (stating the reasons for archiving the case);
4. List of cases transferred or reraffled to other salas; and
5. List of cases with suspended proceedings (stating the reason/s for such suspension).

The following data shall be indicated in each of the separate listings: case number; title of case; nature of case; date filed, revived or reinstated, or transferred or reraffled from other salas; and date decided or resolved, archived, transferred or reraffled to other salas, or when proceedings were suspended.

To facilitate the processing and analysis thereof, the aforesaid lists shall be attached to the corresponding Monthly Reports of Cases (SC Form No. 1, Revised January 1995), submitted monthly by each court.

This court hereby reiterates the directive to all clerks of courts in courts with multiple salas to send copies of the Minutes of Raffle to the Office

of the Court Administrator as required by Administrative Circular No.1, dated 28 January 1998, particularly Item No. 8 ( Raffle of Cases) thereof.

Strict compliance is hereby enjoined. The Court Administrator and the Deputy Court Administrators in respect to their assigned Judicial Regions shall monitor such compliance.

This Administrative Circular shall take effect on the fifteenth day of January 2001.

Issued this 2<sup>nd</sup> day of January 2001.

(SGD.) HILARIO G. DAVIDE, JR.  
Chief Justice

### ADMINISTRATIVE CIRCULAR NO. 13-2001

TO: ALL JUDGES

SUBJECT: CLARIFICATION OF ADMINISTRATIVE CIRCULAR NO. 12-2000 ON THE PENALTY FOR VIOLATION OF BATAS PAMBANSA BLG. 22, OTHERWISE KNOWN AS THE BOUNCING CHECKS LAW

Clarification has been sought by concerned Judges and other parties regarding the operation of Administrative Circular 12-2000 issued on 21 November 2000. In particular, queries have been made regarding the authority of Judges to:

1. Impose the penalty of imprisonment for violations of Batas Pambansa Blg. 22; and
2. Impose subsidiary imprisonment in the event that the accused, who is found guilty of violating the provisions of B.P. Blg. 22, is unable to pay the fine which he is sentenced to pay-

considering that Administrative Circular No. 12-2000 adopted the rulings in Eduardo Vaca v. Court of Appeals (G.R. No. 131714, 16 November 1998, 298 SCRA 656) and Rosa Lim v. People of the Philippines (G.R. No. 130038, 18 September 2000) as a policy of the Supreme Court on the matter of the imposition of penalties for violations of B.P. Blg. 22, without mentioning whether

subsidiary imprisonment could be resorted to in case of the accused's inability to pay the fine.

The clear tenor and intention of Administrative Circular No. 12-2000 is not to remove imprisonment as an alternative penalty, but to lay down a rule of preference in the application of the penalties provided for in B.P. Blg. 22.

The pursuit of this purpose clearly does not foreclose the possibility of imprisonment for violators of B.P. Blg. 22. Neither does it defeat the legislative intent behind the law.

Thus, Administrative Circular No. 12-2000 establishes a rule of preference in the application of the penal provisions of B.P. Blg. 22 such that where the circumstances of both the offense and the offender clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone should be considered as the more appropriate penalty. Needless to say, the determination of whether the circumstances warrant the imposition of a fine alone rests solely upon the Judge. Should the Judge decide that imprisonment is the more appropriate penalty, Administrative Circular No. 12-2000 ought not be deemed a hindrance.

It is therefore, understood that:

1. Administrative Circular 12-2000 does not remove imprisonment as an alternative penalty for violations of B.P. Blg. 22;
2. The judges concerned may, in the exercise of sound discretion, and taking into consideration the peculiar circumstances of each case, determine whether the imposition of a fine alone would best serve the interests of justice or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise be contrary to the imperatives of justice;
3. Should only a fine be imposed and the accused be unable to pay the fine, there is no legal obstacle to the application of the Revised Penal Code provisions on subsidiary imprisonment.

The issuance of this Administrative Circular was authorized by the Court En Banc in A.M. No. 00-11-01-SC at its session of 13 February 2001.

The Clerk of Court of the Supreme Court and the Court Administrator shall immediately cause the implementation of this Administrative Circular.

This Administrative Circular shall be published in a newspaper of general circulation not later than 20 February, 2001.

Issued this 14<sup>th</sup> day of February, 2001.

(SGD.) HILARIO G. DAVIDE, JR.  
Chief Justice

#### **ADMINISTRATIVE ORDER NO. 20-2001**

DESIGNATING DEPUTY COURT ADMINISTRATOR ELEPAÑO AS ACTING COURT ADMINISTRATOR

The Honorable Court Administrator ALFREDO L. BENIPAYO having been appointed by Her Excellency President Gloria Macapagal-Arroyo as Chairman of the Commission of Elections and having taken his oath of office on 16 February 2001 and assumed such position, **Deputy Court Administrator ZENAIDA N. ELEPAÑO** is hereby designated **ACTING COURT ADMINISTRATOR** effective immediately and until further orders.

Issued this 19<sup>th</sup> day of February 2001.

(SGD.) HILARIO G. DAVIDE, JR.  
Chief Justice  
Chairman, First Division

(SGD.) JOSUE N. BELLOSILLO  
Senior Associate Justice  
Chairman, Second Division

(SGD.) JOSE A.R. MELO  
Associate Justice  
Chairman, Third Division

**ADMINISTRATIVE ORDER NO. 21-2001**

RE: PARTICIPATION IN THE AMICABLE SETTLEMENT WEEKS

TO: ALL JUDGES AND CLERKS OF COURT OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, AND MUNICIPAL TRIAL COURTS IN CITIES IN VALENZUELA, KALOOKAN CITY, MANILA, QUEZON CITY, PASAY CITY, MAKATI CITY, PASIG CITY, MALABON, MARIKINA, MANDALUYONG CITY, PARAÑAQUE CITY, LAS PIÑAS CITY, MUNTINLUPA CITY, DAVAO CITY AND CEBU CITY.

Rule 18, Section 2, of the 1987 Rules of Civil Procedure provides that the pre-trial, which is mandatory, shall consider, inter alia, "(a) [t]he possibility of an amicable settlement or of a submission to alternative modes of dispute resolution."

The priorities in the Action Program of Judicial Reform under the section on Judicial Systems and Procedures include alternative dispute resolution (ADR) mechanisms, particularly, the "establishment of a court-annexed mediation system." And one of the activities in the year-long celebration of the Supreme Court Centenary is to test the efficacy of court-referred mediation as an alternative mode of resolution of disputes filed in courts.

In line with the foregoing, the period from 26 March to 6 April 2001 is hereby declared Amicable Settlement Weeks. The participants are the Judges and Clerks of Court of the courts enumerated above, who are hereby enjoined to comply strictly with the Revised Guidelines is hereto attached and made an integral part of this Administrative Order.

The participating courts are further enjoined to:

1. Audit and cause an inventory of the cases in their dockets and select at least 20 cases therefrom, which may be referred for ADR. The cases which may be referred are family disputes, except those which, by law, cannot be settled by compromise; civil tenancy cases; damage suits; and all civil cases that may

have a good chance of being settled. These cases, which may either be at the pre-trial stage or on trial proper, may be referred to the Mediators during the Amicable Settlement Weeks;

2. Issue, on or before 28 February 2001, an Order advising the parties that their cases are referred to a Mediator for mediation purposes. The name of the mediator will be sent beforehand to these courts by the Philippine Judicial Academy (PHILJA) so that the concerned courts can cite the name in the Order. Attached is a sample of the Order which may be issued;
3. Ensure that at least one case in the morning and another case in the afternoon are scheduled for mediation each day for the entire duration of the Amicable Settlement Weeks;
4. See to it that the Orders are promptly issued and served so as to ensure that the parties receive notice thereof within a reasonable period and appear on the dates their cases are scheduled for mediation; and
5. Assign a suitable place in the court that will be available for the mediator and parties on the given dates per the Order issued.

Any question concerning this Administrative Order and the activities pertaining to the Amicable Settlement Weeks may be directed to Hon. Justice Ameurfina A. Melencio Herrera, Chancellor, Philippine Judicial Academy, with Tel.Nos. (02) 5236277 & (02) 5239075; or to DCA Reynaldo L. Suarez (ret.), Head, Judicial Reforms Office, with Tel.No. 5245981.

Strict compliance with this Administrative Order is hereby enjoined.

Issued this 20<sup>th</sup> day of February 2001.

(Sgd.) HILARIO G. DAVIDE, JR.  
Chief Justice

**ADMINISTRATIVE ORDER NO. 24-2001**

RE: INCLUSION OF ADDITIONAL PARTICIPANTS IN THE AMICABLE SETTLEMENT WEEKS

*(Continued on page 10)*



# PHILJA Bulletin

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## PRESIDING JUDGE

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RESEARCH AND PUBLICATIONS OFFICE  
PHILIPPINE JUDICIAL ACADEMY  
SUPREME COURT

## 2001 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars</i>	<i>Venue</i>
January 9 – 12	3 <sup>rd</sup> Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice (Ilocos Region and Central Luzon)	Skyrise Hotel, Baguio City
January 10	Conference on the Revised Rules of Criminal Procedure for the Justices of CA and SC and C.A Attorneys	Court of Appeals Session Hall, Manila
January 12	Regional Seminar on the Revised Rules of Criminal Procedure	Crown Lodge Hotel, Tuguegarao City
January 16	Advocates Forum for Cebu	Cebu Waterfront, Cebu City
January 22 – 26	17 <sup>th</sup> Orientation Seminar-Workshop for Newly-Appointed Judges	Philippine Judicial Academy, Tagaytay City
January 23 – 24, 26 – 27	Basic Seminar Workshop on Mediation	Marco Polo Hotel, Davao City
January 25	Advocates Forum for Davao	Marco Polo Hotel, Davao City
January 29 - February 9	2 <sup>nd</sup> Pre-Judicature Program	Centennial Bldg., Supreme Court, Manila
January 31 – February 2	4 <sup>th</sup> Regional Seminar for Judges, COCs, BCCs, Legal Researchers and Sheriffs	Crown Peak Garden Hotel, Subic, Olongapo City

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*Chancellor, Philippine Judicial Academy*  
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