



# PHILJA Bulletin



April to June 2001

Volume III, Issue No. 10

## From the Chancellor's Desk

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Training programs slowed down during this quarter owing to the deferment of Regional Seminars due to funding constraints; the successful implementation and conclusion of various Mediation activities highlighted by Settlement Weeks; the termination of special focus seminars; the conclusion of trainings in the use of the Benchbook for Trial Judges in the Metro Manila area; and the priority given Centenary Celebration activities.

Nonetheless, novel undertakings proved just as challenging and exciting. There was the World Bank Distance Learning Course on "Judicial Reforms: Performance and Accountability" where five countries were invited to participate: Bangladesh, Indonesia, Philippines, Sri Lanka, and Thailand. The course was based in Washington, D.C. and made use of internet and video conferencing facilities. The format was interactive with each participating country reacting to the main lectures and sharing mutual experiences.

The CASA-GAL (Court Appointed Special Advocates/Guardian *ad litem*) new multi-sectoral series of regional Training the Trainers programs, related to Family Courts, were also introduced in collaboration with AKAP-Ateneo Human Rights Center. CASA-GAL advocates are volunteers appointed by the Court to be a voice for children in court, who will make sure that the abuse and neglect children suffer at home do not continue as abuse and neglect at the hands of the system.

It is not to say, however, that regular programs were unattended to. The 18<sup>th</sup> Orientation Seminar-Workshop, the seminar for Judges of special courts for drugs cases, the Sheriffs and Process Servers respective convention-seminars, the 7<sup>th</sup> Regional Judicial Seminar, and the 5<sup>th</sup> Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice, were all held as scheduled.

Developments that were particularly significant were the rules that have amended procedural law that have issued from the High Court at an amazing rate. First, there were the 2000 Rules of Criminal Procedure. The Interim Rules on Corporate Rehabilitation and the Rules for the Examination of a Child Witness followed closely in its heels.

There is something exciting about this recent spate of new rules. Remedial Law changes, so that those who seek relief from our courts may more readily avail of the remedies of the law. Changes in criminal procedure aim at balancing the protection of the rights of the accused with the interests of law enforcers in curbing crime and lawlessness. Rules relative to corporate existence follow in the wake of changes in securities regulation. The rules to be applied to children who testify in court mean to allow this jurisdiction to comply with its commitments under the covenants it has entered into, as well as to measure up to accepted international standards.

PHILJA is both challenged and excited to be part of these developments either conceptually or by incorporating them in its educational offerings. The PHILJA Bulletin is an additional key vehicle to share them with our judges and court personnel in the frontlines.

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## SC DECLARES AMICABLE SETTLEMENT WEEKS

On March 21, 2001, the Supreme Court launched, at the Manila Hotel, the use of court-referred mediation to substantially declog the country's court dockets. Present as a guest speaker was President Gloria Macapagal-Arroyo who affirmed the full support of the executive branch of government with the judiciary in instituting the practice of mediation.

Then the Supreme Court declared the period March 26 to April 6 as "*Amicable Settlement Weeks.*" Through the Philippine Judicial Academy (PHILJA), the training arm of the Supreme Court, more than 400 mediators all over the Philippines had been trained to mediate court-referred cases such as family disputes (except those which, by law, cannot be settled by compromise), civil tenancy cases, creditor-debtor relationship cases, collection cases, damage suits, and all civil cases which may be settled amicably. These cases may be at the pre-trial stage or already on trial proper. An extension in the Makati Area lasted from April 16 to May 18, 2001.



*President Gloria Macapagal Arroyo, Chief Justice Hilario G. Davide, Jr., and Justice Ameurfina A. Melencio Herrera, Chancellor of the Philippine Judicial Academy, arrive at the Manila Hotel for the formal launching of the Supreme Court's adoption of court-referred mediation.*

## PHILIPPINE MEDIATION CENTER LAUNCHED

On April 6, 2001, the Philippine Mediation Center (PMC) was launched at the Top of the Citi, Citibank Towers, Makati City, with Dean Eduardo De Los Angeles as its president. A total of 194 participants attended its launching, which consisted of 130 mediators and 64 special guests. The objectives of the PMC are to promote the use of court-referred mediation; encourage the development of other mediation applications for the purpose of diversion of cases from the courts; provide training for the development of new mediators; accredit new mediators and determine continued authorization of mediators; ensure quality mediation services for court-referred mediation; provide mediation services for court-referred cases; and develop and prescribe curriculum for mediation training for court-connected and legal education programs.

## CASA/GAL TRAINING IN MANILA

The Philippine Judicial Academy (PHILJA), *Adhikain Para sa Karapatang Pambata* (AKAP) of the Ateneo Human Rights Center, United Nations Children's Fund (UNICEF), The Asia Foundation, and the Assisi Development Foundation jointly conducted a multi-sectoral *Court-Appointed Special Advocates/Guardians Ad Litem* (CASA GAL) *Trainers' Training Program* on April 23 to 26, 2001, at the Tiara Oriental Hotel, Makati City.

The CASA/GAL Trainers' Training is the first of a series of regional training seminar-workshops that will be conducted this year. Forty-four (44) participants consisting of judges, social workers, lawyers, government officers, psychologists and representatives from non-governmental organizations familiarized themselves with the tasks of CASA/GALs. They also commented on the CASA/GAL Manual being designed for future volunteers.

Mr. Michael Piriano, a resource person from the National Court Appointed Special Advocate Association in the United States, lawyer and consultant to international social services and child advocacy organizations, shared his experiences with the local trainers. Other resource persons, speakers, and panelists came from the ranks of PHILJA speakers and resource persons who are leading practitioners in law, medicine, and psychology.

In-depth training was made on issues of the court process; confidentiality; child development; abuse and neglect; advocacy; and interviewing techniques. As Judge Nimfa Vilches (Br. 48, Manila) explained, "CASA and GAL represent the unrepresented and are a powerful voice of children and families in the course of their involvement with the courts. As a family court judge, I profoundly believe that we need this *volunteer* advocacy now. GALs...are sanctioned under Section 19, Rules and Regulations of R.A. 7610 or the law on child abuse; Section 8 of R.A. 8369 or the Family Court's Act; and Article 12 of the UN Convention on the Rights of the Child."

## SHERIFFS CONVENTION AND SEMINAR HELD IN PALAWAN

A total of 575 participants attended the *Convention and Seminar for Sheriffs* conducted by the Sheriffs' Confederation of the Philippines (SCOPHIL) and the Philippine Judicial Academy (PHILJA) on April 26-28, 2001, at Puerto Princesa City, Palawan.



*The Convention and Seminar for Sheriffs was held at the Gov. Alfredo M. Abueg, Sr. Gymnasium, Puerto Princesa City, Palawan.*

With the theme, "*The Sheriff's Role in the Millennium*," the sheriffs in the seminar tackled the administrative issuances of the Supreme Court on the duties of sheriffs; execution of judgment; levying, attachment, garnishment and foreclosure, judicial and extrajudicial; values and work ethics of sheriffs; and problem areas in the discharge of sheriffs' function, including the role of PNP in the implementation of the writs. They were reminded that "[a] Sheriff should exert effort and, indeed, consider it his bounden duty to see to it that the final stage in the litigation process, namely, that of execution of judgment, is carried out in order to ensure a speedy and efficient administration of justice" (De Leon, Jr., J.).

## SC HOLDS PEACEMAKERS CIRCLE AWARDS AND PASASALAMAT TESTIMONIALS

The Supreme Court, through the Philippine Judicial Academy (PHILJA), held a *Peacemakers Circle Awards* and *Pasasalamat Testimonials* on June 5, 2001, at the SC Centennial Bldg., Manila.

All courts and mediators who were able to settle at least ten (10) cases during the Settlement Weeks received a Peacemaker Circle Award. Special commendation was given to Dean Eduardo D. De Los Angeles as Chairman of the ADR Sub-Committee, Consultants Group, Judicial Reforms Office of PHILJA, for his invaluable and untiring support of the Academy's pioneering judicial reform initiative on court-referred mediation aimed at easing the congestion of court dockets and improving access to judicial services. A posthumous award was also given to Justice Gloria C. Paras (ret.) for her outstanding contribution during the pilot testing of court-referred mediation aimed to test its efficacy as one of the solutions to congested court dockets.



Chief Justice Davide awards Dean De los Angeles a special commendation, assisted by Madame Justice Herrera, PHILJA Chancellor, and Justice Martinez, Vice-Chancellor. Fr. Aquino is the Master of Ceremonies.

In the *Pasasalamat* testimonials, 17 donor agencies received due recognition, namely: The World Bank, United Nations Development Program (UNDP), Asian Development Bank (ADB), United Nations Children's Fund (UNICEF), The Asia Foundation, British Embassy, Canadian Embassy, Australian Embassy, Canadian International Development Agency (CIDA), Philippine Exporters Confederation, Inc. (Phil-Export TAPS), United States Agency for International Development (US-AID), Accelerating Growth Investment and Liberalization with Equity (AGILE), International Development Law Institute (IDLI), Metrobank Foundation, Inc., Adhikain Para Sa Karapatang Pambata-Ateneo Human Rights Center (AKAP-AHRC), Philippine Bar Association (PBA), and CD Technologies Asia, Inc.

## JUDGES OF SPECIAL COURTS FOR DRUG CASES ATTEND PHILJA SEMINAR

A *Seminar for Designated Courts on Drug Laws* was conducted by the Philippine Judicial Academy at PHILJA, Tagaytay City, on May 17-18, 2001. Twenty-nine (29) judges were able to attend.

There was lively interaction during the open forum that followed every lecture. In particular, the participants had many queries on the topics of evidentiary considerations in drug cases, the law on prohibited and regulated drugs and substances, sentence and imposition of penalties, and the psychopathology and symptomatology of drug addiction. The Dangerous Drugs Board, through PHILJA, furnished the participants with a list of accredited doctors and rehabilitation centers for drug/alcohol dependents.

Lecturers included Justice Oscar M. Herrera, Sr.; Justice Romeo J. Callejo, Sr.; Justice Jesus M. Elbinias; Dr. Evangeline B. De La Fuente from the Department of Psychiatry, U.P.-P.G.H., Manila; Dr. Racquel Fortun, Associate Professor, Dept. of Pathology, U.P. College of Medicine and Consultant and Forensic Pathologist at the U.P.-P.G.H., Manila; and Dr. Rosendo P. Sualog, Medical Specialist II at the Dangerous Drugs Board.

## 7<sup>th</sup> REGIONAL SEMINAR FOR RTC & 1<sup>ST</sup> LEVEL COURTS JUDGES AND COURT PERSONNEL (REGION 1) IN DAGUPAN CITY

The *Seventh Regional Seminar for Judges, Clerks of Court, Branch Clerks of Court, Legal Researchers and Sheriffs of the Regional Trial Courts and First-Level Court of Region I* was conducted by the Philippine Judicial Academy (PHILJA) at the Star Plaza Hotel in Dagupan City, on April 24 to 27, 2001.

Three hundred thirty-one (331) participants attended the three and a half day seminar, that is, 89 judges, 132 clerks of court, 60 legal researchers, and 50 sheriffs. Despite the *Convention-Seminar for Sheriffs* scheduled that same week in Puerto Princesa City, many sheriffs of Region I attended this 7<sup>th</sup> regional seminar.



*Participants of the 7th 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 1 in Dagupan City.*

Judges and clerks of court had sessions together where they discussed election laws; trial court performance standards; resumption of session on election laws; and the salient features of the 1997 Rules of Civil Procedure, focusing on problem areas that have occasioned reversals of lower court judgments by appellate courts. The session of judges and legal researchers was on the topic of rules on the examination of the child witness. The clerks of court had a session with the legal researchers on mediation, with the sheriffs on values and work ethic, as well as a dialogue with the Office Court Administrator. The legal researchers also had sessions with the sheriffs on human relations and group dynamics and ethics in public service.

## PROSAPHIL SEMINAR HELD IN CAGAYAN DE ORO CITY

The Philippine Judicial Academy (PHILJA) and the Process Servers Association of the Philippines (PROSAPHIL) conducted the *Convention and Seminar for Court Process Servers* on May 2 to 4, 2001, in Cagayan de Oro City. Three hundred sixty-four (364) process servers from all over the judicial regions attended the convention-seminar which had the theme, "*The Role of Process Servers in the Speedy Delivery of Justice.*"

Numerous questions were raised by the participants regarding the performance of their duties, benefits, and administrative matters. Other topics discussed include R.A. 3019, R.A. 6713, and other criminal liabilities of court process servers; government service, work ethic and human fulfillment; and service of processes of the court under the rules of court. A dialogue session also occurred between the court administrator, with DCA Jose P. Perez as the dialogist, and the process servers.

Mayor Vicente Y. Emano of Cagayan de Oro City and Executive Judge Noli T. Catli of Cagayan de Oro City gave the Welcome Remarks. Mr. Pablito L. Carillo, Secretary-General and Chairman of the Board of National PROSAPHIL, was commended for his full and efficient cooperation.

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

With the assistance of the United Nations Children's Fund (UNICEF) and the Royal Netherlands Embassy, the Philippine Judicial Academy (PHILJA) conducted the 5<sup>th</sup> *Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice* for the Bicol and Samar-Leyte Regions on April 17 to 20, 2001, at the Leyte Park Hotel, Tacloban City.

Forty-eight (48) participants attended the multi-sectoral seminar, comprising judges, clerks of court, PAO lawyers, prosecutors, court social workers, law enforcers, and BJMP personnel of the Family Courts of Regions V and VIII.



*Participants of the 5th Regional Multi-Sectoral Seminar on Juvenile Justice from Bicol and Samar-Leyte Regions, with Justice Antonio M. Martinez (ret.), Vice-Chancellor of PHILJA (fifth from left), and Commissioner Linda Hornilla, PHILJA Professor II (fourth from left).*

In lieu of the moot court demonstration, a workshop on the new Rule on the Examination of a Child Witness was held. The participants evaluated the various sections of the law, focusing on issues that may arise out of its application. Participants from the Law Enforcement and Correction sectors also had an additional workshop where they discussed their working relationship with the Family Courts, that is, the problems that confront them.

Justice Antonio M. Martinez (ret.), Vice Chancellor of PHILJA, gave the inspiring Closing Remarks and handed out the Certificates to the participants, with the assistance of Commissioner Linda L. Malenab-Hornilla.

## NEWLY APPOINTED JUDGES ATTEND 18<sup>TH</sup> PHILJA ORIENTATION SEMINAR-WORKSHOP

The Philippine Judicial Academy held its 18<sup>th</sup> *Orientation Seminar-Workshop for Newly Appointed Judges* on June 18 to 22, 2001, at PHILJA, Tagaytay City.

Forty-one (41) judges were able to attend. Of this total, ten (10) were a case of promotion, thirty (30) were new appointments, and one (1) was a lateral transfer.

Topics discussed include caseload management; human rights, gender sensitivity and the protection of children; problem areas in civil procedure; civil law updates; technology and the courts; the revised (2000) rules of criminal procedure; reminders in criminal law with emphasis on indeterminate sentence law; decision and resolution writing; and the judge as administrator and manager.

Lecturers included Justice Oscar M. Herrera, Sr., Justice Jose C. Vitug, Justice Artemio V. Panganiban, Justice Jesus M. Elbinias, Justice Romeo J. Callejo, Sr., Justice Hilarion L. Aquino, Justice Alfredo L. Benipayo, Justice Ricardo P. Galvez, Acting Court Administrator Zenaida N. Elepaño, DCA Bernardo T. Ponferrada, Fr. Ranhilio C. Aquino, Atty. Ivan Uy and Prof. Sedfrey Candelaria. Recently appointed Justice Angelina S. Gutierrez gave the Inspirational Message.

## HIGHLIGHTS OF THE CENTENARY LECTURE SERIES APRIL – JUNE 2001

### PHILJA CHANCELLOR GIVES 9<sup>TH</sup> CENTENARY LECTURE

Madame Justice Ameurфина A. Melencio Herrera (ret.), Chancellor of the Philippine Judicial Academy (PHILJA), the education arm of the Supreme Court, delivered the Ninth Centenary Lecture on May 17, 2001, at the Supreme Court Session Hall, Manila. She spoke on "*Feminine Grace, The High Court, and Jurisprudence.*"

Justice Herrera was Associate Justice of the Supreme Court from January 18, 1979 to May 11, 1992, where she chaired the Second Division from 1988, and Associate Justice of the Court of Appeals chairing the Eighth Division from 1973 to 1979. She is the second woman justice elevated to the Court, the second most senior, and the Founder and First President of the Philippine Women Judges Association (PWJA). Her career in the Bench started when she was appointed as District Judge of the Ninth Judicial District of the Court of First Instance of Aurora, Baler, Quezon in 1965.

In her lecture, she focused on the eight women justices who have made it to the Supreme Court, out of its one hundred years of history and 147 justices, the rest of which are men, including all past and present Chief Justices. Justice Herrera gave an analysis of the decisions, separate opinions, and resolutions of Justices Cecilia Muñoz-Palma, Irene Cortes, Carolina Griño-Aquino, Florida Ruth Romero, Minerva Gonzaga-Reyes, Consuelo Yñares Santiago, Angelina Sandoval Gutierrez, and also those authored by herself.

Justice Herrera exhibited early on sterling qualities that are to be her bedrock in accomplishing a lot. She graduated *Valedictorian* in High School from St. Paul College, Manila and graduated *Valedictorian* again with the Latin Honor of *Cum Laude* at the University of the Philippines College of Law where she obtained her Bachelor of Laws degree. She became Bar Topnotcher when she took her Bar Examinations the same year and was ranked first with a score of 93.85%.

The Philippine Bar Association, that awarded Justice Herrera a Plaque of Appreciation in 1991, best described her pre-eminence thus: "Born of patrician stock, bred in gentility, raised in affluence, steeped in academics, and enveloped in historical prominence, she is her own light despite the long shadow cast by her grandfather, the First Philippine President Emilio Aguinaldo; her father, Ambassador Jose P. Melencio; and her husband, U.P. Chancellor, Dr. Florentino B. Herrera, Jr. Yet, she is the guardian of the legacy of her lineage as she brings forth into full flowering, through her actuations and court adjudications, the justice that heroes dream of and the freedom that martyrs die for."



Madame Justice Ameurфина Herrera, PHILJA Chancellor, receives a plaque of recognition from Chief Justice Hilario Davide, Jr. as the Ninth Centenary Lecturer.

Co-sponsors to the Ninth Centenary Lecture include the National Commission on the Role of Filipino Women, Philippine Women's University, Philippine Women Judges Association, and the U.P. Women Lawyers' Circle. Justice Alicia M. Martinez did the Invocation; Justice Minerva P. Gonzaga-Reyes gave the Opening Remarks; Justice Angelina P. Sandoval-Gutierrez introduced the Centenary Lecturer; Dr. Purificacion V. Quisumbing took the task of Master of Ceremonies; and Chief Justice Hilario G. Davide, Jr. delivered the Closing Remarks.

## SC'S 10<sup>TH</sup> CENTENARY LECTURE: PANEL ON PEOPLE POWER

The Supreme Court of the Philippines and the Philippine Judicial Academy (PHILJA), in cooperation with the Makati Business Club, Pamantasan ng Lungsod ng Maynila, and Philippine Lawyers Association, Inc., held the Tenth Centenary Lecture, a Panel Discussion on "*The Impact of People Power on our Legal System*," at the Supreme Court Session Hall, on May 24, 2001. The panel was composed of Dean Raul Pangalangan who delivered a piece on "*The Impact of People Power on our Legal System*," Atty. Katrina Legarda on "*People Power: A Media Account*," and Professor Randy David on "*People Power and the Legal System: A Sociological Note*."

Dean Raul Pangalangan is the Dean of the University of the Philippines College of Law since 1999. He received his Doctor of Juridical Science (1990) and Master of Laws (1986) degrees from the Harvard Law School where he also won the Sumner Prize for best dissertation on issues relating to international peace (1990) and the Laylin Prize for best paper in public international law (1986).

A well known political and legal commentator, Atty. Katrina Legarda can be currently seen in two television programs – *Off the Record* with Mr. Randy David aired on Channel 2, ABS-CBN, and *By Demand* on ANC 21. High-profile cases which she competently handled include *President Corazon Aquino v. Max Soliven*, *Luis Beltran, et.al. re: libel*; *PCGG v. Eduardo M. Cojuangco, Jr., Ma. Clara L. Lobregat, et.al.*; the Manila Filmfest Scam; and *People of the Philippines v. Congressman Romeo G. Jalosjos*. Known for her advocacy rights, Atty. Legarda succeeded in convincing the Supreme Court of the validity of the "battered wife syndrome" defense in the recent landmark case of *Peope v. Genosa*.

Professor Randolph David is currently a full professor at the Department of Sociology, University of the Philippines. As *Randy David*, he maintains an active second career in media, writing a regular Sunday column for the Philippine Daily Inquirer since 1995 and hosting the public affairs talk show (with Atty. Katrina Legarda), *Off the Record*. Previous to this, he was the host/writer of the long-running *Public Forum* (renamed *Public Life with Randy David*). The Cultural Center of the Philippines (CCP) chose *Public Forum* almost every year for a decade as one of the country's ten most outstanding TV programs.



Prominent judicial minds who joined the program include Chief Justice Hilario G. Davide, Jr. who gave the Closing Remarks; Justice Bernardo P. Pardo (Invocation); Justice Jose C. Vitug (Opening Remarks); Justice Sabino R. de Leon, Jr. (Introduction of the Panelists); and Justice Arturo B. Buena (Master of Ceremonies).

*The panel of the Tenth Centenary Lecture with their plaques (from left) Atty. Katrina Legarda, Prof. Randy David, and Dean Raul Pangalangan, together with Justice Amurfina Herrera, Chief Justice Hilario G. Davide, Jr., and Justice Artemio Panganiban.*



## CJ DAVIDE GIVES SPECIAL 11<sup>TH</sup> CENTENARY LECTURE



*Chief Justice Hilario G. Davide, Jr. delivers The Special Eleventh Centenary Lecture on the 100th anniversary of the Supreme Court, June 11, 2001.*

In cooperation with the Court of Appeals, the Faculty of Civil Law of the University of Santo Tomas, International Law Association and The Law Association for Asia and the Pacific (LAWASIA), the Supreme Court of the Philippines and the Philippine Judicial Academy (PHILJA) presented the Special Eleventh Centenary Lecture of Mr. Chief Justice Hilario G. Davide, Jr. on *"The Judiciary at the Threshold of the New Millennium,"* at the Supreme Court Session Hall, Manila, on June 11, 2001, the centennial date or the 100<sup>th</sup> anniversary of the Supreme Court, the culmination of the Centenary Celebrations.

Many Chief Justices, Justices, and dignified guests from other nations graced this centennial event, namely, Chief Justice Anthony Murray Gleeson, A.C. of the High Court of Australia; Chief Justice Mahmudul Amin Choudhury of the People's Republic of Bangladesh; Justice Datin Paduka Hayati binti POKSDSP Hj. Mohd Salleh of Brunei; Judge Sandra Oxner of Canada; Chief Justice and President Xiao Yang of the Supreme People's Court (SPC) of the People's Republic of China; Mr. Liu Fahe, Special Assistant to the President of the SPC; Chief Justice and President Li Daomin of the Higher People's Court of Henan Province; Chief Justice and President Qian Yingxue of the Higher People's Court of Qinghai Province; Senior Justice and President Huang Songyou of the Civil Division of the SPC; Director-General Liu Hehua of the Office of Foreign Affairs of the SPC; Justice Yan Maokun of the SPC; Chief Justice Dr. Adarsh Sein Anand of the High Court of India and his wife, Mrs. Mala Anand; Justice Mishael Cheshin of the Israeli Supreme Court and his wife, Mrs. Ruth Cheshin; President Thawatchai Phitakpol of the Supreme Court of Thailand and his wife, Mrs. Usa Thawatchai; and Hon. Chiranit Havanond, Secretary of the Supreme Court of Thailand.

Chief Justice Davide shared his vision of the Supreme Court and the Judiciary in the new millennium: a technology that "will unburden the Judiciary of a bloated bureaucracy as antiquated systems are replaced with cost-efficient tools"; increasing practice of alternative modes of dispute resolution "to promote peace and harmony among litigants and the community"; the Philippine Judicial Academy (PHILJA) becoming the center for judicial education in the Asia-Pacific, "with state-of-the-art judicial training facilities...serving as the venue for the transnational exchange of ideas and mutual development of judiciaries across the globe"; a Supreme Court "which actively participates in global efforts to promote international justice across borders, cultures, faiths and beliefs"; hence, a country that is "subject to the rule of law and not of men, where every person's rights are protected and redress is immediately and equitably obtained for any breach thereof."

In the program, Justice Jose A. R. Melo recited the Centennial Prayer for the Courts; Justice Reynato S. Puno gave the Opening Statement, Justice Artemio V. Panganiban the Closing Statement; and Justice Leonardo A. Quisumbing acted as the Master of Ceremonies.

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 47

DECLARING THE PERIOD FROM JUNE 4 TO 11, 2001 AND EVERY YEAR  
THEREAFTER AS "JUDICIARY WEEK"

WHEREAS, the 11<sup>th</sup> day of June marks the founding anniversary of the Supreme Court as the highest judicial body of the land, having been established on 11 June 1901 by Act No. 136 of the Philippine Commission;

WHEREAS, behind the Supreme Court in the pursuit of its basic legal mandate to protect individual rights and to dispense impartial justice are such special and regular inferior courts which have been created by law and spread throughout the different judicial districts;

WHEREAS, what has evolved through the years of the nation's history is an accountable, vigilant and independent judiciary endeavoring at all times to earn and deserve the respect and trust of the Filipino people;

WHEREAS, Proclamation No. 322 dated 6 June 2000 declared the period 11 June 2000 to 11 June 2001 as the Centenary of the Supreme Court to enhance not only the people's awareness of its tremendous responsibility as the court of last, but also their understanding of the history and the workings of the judiciary as a whole;

WHEREAS, there is a continuing need to remind the members of judiciary of the heavy but noble obligation imposed on them by law and tradition, as well as the corollary expectations lodged in them by an exacting public;

WHEREAS, as the centenary of the Supreme Court comes to a close, it is fitting to set aside a week in June every year to focus public attention on the judiciary as revered institution of our constitutional democracy and to highlight its role in creating a just and humane society.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the period from June 4 to 11, 2001, and every year thereafter as "Judiciary Week."

I call upon the public and the private sectors, more particularly the judges, and members of the bar to give the observance of the week their full support.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed

DONE in the City of Manila this 18<sup>th</sup> day of May in the year of Our Lord, two thousand and one

By the President:

  
RENATO C. CORONA  
Presidential Chief of Staff



MEMORANDUM CIRCULAR NO. 001-2001

To all Members of the Judiciary:

Upon the recommendation of the Executive Committee for the Centenary Celebrations, the Supreme Court *en banc* unanimously adopted the attached "Centenary Prayer for the Courts." At the opening of every court session, this prayer will be recited by the Presiding Judge or, in a collegiate court, by any of its members, effective immediately.

This ecumenical prayer was crafted by the Committee after consultations with various major religious denominations, as well as with RTC Executive Judges. Needless to say, its regular recitation, while encouraged by the Court, is voluntary. No administrative sanction will be imposed on those who opt not to use it for some personal reason like atheism or lack of faith.

This Court and the Committee will welcome reports on compliance with or problems, if any, in the implementation of this Circular.

April 18, 2001

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

(Sgd.) ARTEMIO V. PANGANIBAN  
Overall Chairman, Executive Committee  
Supreme Court Centenary Celebrations

CENTENNIAL PRAYER FOR THE COURTS

*(To be recited in open court by the presiding judge  
before commencing the court session)*

Almighty God, we stand in Your holy presence as our Supreme Judge. We humbly beseech You to bless and inspire us so that what we think, say, and do will be in accordance with Your will.

Enlighten our minds, strengthen our spirit, and fill our hearts with fraternal love, wisdom, and understanding, so that we can be effective channels of truth, justice and peace. In our proceedings today, guide us in the path of righteousness.

AMEN.

Continued from page 16

Date	Seminars / Activities	Venue
May 17 - 18	Seminar for Designated Courts on Drug Laws	PHILJA, Tagaytay City
May 24	10th Centenary Lecture - "The Impact of People Power on our Judicial System," <i>Panel Discussion: Dean Raul Pangalangan, Prof. Randy David and Atty. Katrina Legarda</i>	SC Session Hall, Manila
June 5	"Peacemakers Circle" Awards and "Pasasalamat Testimonials"	SC Centennial Bldg., Manila
June 11	11th Centenary Lecture - "The Judiciary at the Threshold of the New Millennium" Chief Justice Hilario G. Davide, Jr.	SC Session Hall, Manila
June 18 - 22	18th Orientation Seminar-Workshop for Newly Appointed Judges	PHILJA, Tagaytay City

## CIVIL LAW

**Damages; presumption of negligence of employer.**

Once a driver is proven negligent in causing damages, the law presumes the vehicle owner equally negligent and imposes upon the latter the burden of proving proper selection of employee as a defense. (*Panganiban, J., Rosendo Carticiano v. Mario Nuval*, G.R. 138054, September 28, 2000)

## REMEDIAL LAW

**Habeas Corpus cases; reglementary period within which to appeal habeas corpus cases.**

Provisions that were not reproduced in the 1997 Rules of Civil Procedure are deemed repealed. Hence, having been omitted from the 1997 Rules, Section 18, Rule 41 providing for a 48-hour reglementary period within which to appeal habeas corpus cases is deemed repealed. Accordingly, the period for perfecting appeals in said cases is 15 days from notice of judgment or order just like in ordinary civil actions. (*Panganiban, J., Tun Chin Hui v. Commissioner of Immigration*, G.R. 137571, September 21, 2000)

**Petition for certiorari under Rule 65; amendments thereto re: 60-day period for filing petition interpreted; A.M. No. 00-2-03-SC curative enactment.**

A.M. No. 00-2-03-SC further amends Section 4 Rule 65 which provides "x x x x x In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion." The Resolution is curative in nature and the principles governing curative statutes are applicable, i.e., they are enacted to cure defects in a prior law or to validate legal proceedings which would otherwise be void for want of conformity with certain legal requirements. They are intended to enable persons to carry into effect that which they have designed or intended. x x x x x curative statutes, therefore, by their very essence, are retroactive. (*Kapunan, J., Juanita Nargoles, et al v. NLRC*, G.R. 141959, September 29, 2000)

**Regular Courts; jurisdiction over labor cases.**

Regular courts have no jurisdiction to hear and decide questions which arise and are incidental to the enforcement of decisions, orders or awards rendered in labor cases by appropriate officers and tribunals of the Department of Labor and Employment. Corollarily, any controversy in the execution of the judgment shall be referred to the tribunal which issued the writ of execution since it has the inherent power to control its own processes in order to enforce its judgments and orders. The Regional Trial Court has no jurisdiction to issue a temporary restraining order in labor cases. (*Pardo, J., Gorgonio Nova v. Judge Sancho Dames IV*, AM-00-1574, March 28, 2001)

## CRIMINAL LAW

**Section 1 of P.D. 1866 as amended by R.A. 8294 interpreted.**

A simple reading of Section 1 of P.D. 1866 as amended by R.A. 8294 shows that if an unlicensed firearm is used in the commission of any crime, there can be no separate offense of simple illegal possession of firearms. Hence, if the "other crime" is murder or homicide, illegal possession of firearms becomes merely an aggravating circumstance, not a separate offense. Since direct assault with multiple attempted homicide was committed in this case, appellant can no longer be held liable for illegal possession of firearms. x x x x x We find no justification for limiting the proviso in the second paragraph to murder and homicide. The law is clear – the accused can be convicted of simple illegal possession of firearms, provided that no other crime was committed. The accused may evade conviction for illegal possession of firearms by using such weapon in committing an even lighter offense like alarm and scandal or slight physical injuries. This consequence, however, necessarily arises from the language of R.A. 8294 whose wisdom is not subject to the Court's review. (*Panganiban, J., People v. Walpan Ladjaalan*, G.R. 136149-51, September 19, 2000)

## CIVIL LAW

### Tenancy relationship; elements thereof.

The elements of tenancy relationship are:

- (1) the parties are the landowner and the tenant;
- (2) the subject is agricultural land;
- (3) there is consent;
- (4) the purpose is agricultural production;
- (5) there is personal cultivation;
- (6) there is sharing of harvests.

(Pardo, J., Reynaldo Behasa v. Court of Appeals, G.R. 108941, July 8, 2000)

### Prescription; laches; prescription distinguished from laches; kinds of prescription.

Prescription is concerned with the fact of delay while laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of inequity of permitting a claim to be enforced, this inequity being founded on some change in the condition of the property or the relation of the properties. Prescription is statutory; laches is not. Laches applies in equity, whereas prescription applies at law. Prescription is based on fixed time, laches is not.

There are two kinds of prescription – the first is the acquisition of a right by the lapse of time, or the acquisitive prescription, and the second is the loss of a right of action by the lapse of time, or extinctive prescription. (Mendoza, J., Dominica Cutanda, et al v. Heirs of Roberto Cutanda, G.R. 109215, July 11, 2000)

### Contract of sale; manner of payment of purchase price an essential element.

The manner of payment of the purchase price is an essential element before a valid and binding contract of sale can exist. Although the Civil Code does not expressly state that the minds of the parties must also meet on the terms and manner of payment of the price, the same is needed, otherwise there is no sale. Disagreement on the manner of payment is tantamount to a failure to agree on the price. (Mendoza, J., San Miguel Properties v. Spouses Alfredo and Grace Huang, G.R. 137290, July 31, 2000)

### Double sales of immovable; preferential rights of vendees.

Summarizing Article 1544 of the Civil Code, the Court ruled that in the double sales of immovables, ownership is transferred in the order hereunder stated:

- (a) the first registrant in good faith;
- (b) the first in possession in good faith;
- (c) the buyer who presents the oldest title in good faith;

and based on the foregoing, to merit protection under Article 1544, the second buyer must act in good faith in registering the deed. x x x What finds relevance and materiality is not whether or not said second buyer was a buyer in good faith but whether or not said second buyer registers such second sale in good faith, that is without knowledge of any defect in the title of the property sold. (Gonzaga-Reyes, J., Francisco Bayoca et al v. Gandioso Nogales, G.R. 138201, September 12, 2000)

### Contract to sell; contract of sale; types of contract of sale; principle of autonomy of contracts.

A contract of sale may either be absolute or conditional. One form of conditional sale is what is now popularly termed as a "Contract to Sell" where ownership or title is retained until the fulfillment of a positive suspensive condition normally the payment of the purchase price in the manner agreed upon. x x x x x The contracting parties are accorded the liberality and freedom to establish such stipulations, clauses, terms and conditions as they may deem convenient, provided the same are not contrary to law, morals, good customs, public order or public policy. In the law on contracts, such fundamental principle is known as the autonomy of contracts. (Buena, J., Vicente Gomez v. Court of Appeals, G. R. 120747, September 21, 2000)



(Continued on next page)

## CIVIL LAW

**Conjugal partnership; claims against conjugal partnership; death of one of the spouses, effects thereof; presumption of joint obligation.**

A creditor cannot sue the surviving spouse of a decedent in an ordinary proceeding for the collection of a sum of money chargeable against the conjugal partnership, and that the proper remedy is for him to file a claim in the settlement of estate of the decedent. After the death of either of the spouses, no complaint for the collection of indebtedness chargeable against the conjugal partnership can be brought against the surviving spouse. Instead, the claim must be made in the proceedings for the liquidation and settlement of the conjugal property. The reason for this is that upon the death of one spouse, the powers of administration of the surviving spouse ceases and is passed to the administrator appointed by the court having jurisdiction over the settlement of estate proceeding. Indeed the surviving spouse is not even a de facto administrator such that conveyances made by him of any property belonging to the partnership prior to the liquidation of the mass of conjugal partnership is void. For marriages governed by the rules of conjugal partnership of gains, an obligation entered into by the husband and wife is chargeable against their conjugal partnership and it is the partnership which is primarily bound for its repayment. Thus, when the spouses are sued for the enforcement of an obligation entered into by them, they are being impleaded in their capacity as representatives of the conjugal partnership and not as independent debtors such that the concept of joint or solidary liability as between them does not apply.

If from the law or the nature or the wording of the obligation the contrary does not appear, an obligation is presumed to be only joint, i.e., the debt is divided into as many equal shares as there are debtors, each debt being considered distinct from one another. (*Mendoza, J., Purita Alipio v. C.A. and Romeo Garing, G.R. 134100, September 29, 2000*)



## REMEDIAL LAW

**Equipose rule; definition and application.**

The testimony of accused-appellant as lone witness for the defense, is capable of two inferences, one of which is consistent with the presumption of innocence of accused-appellant of the crime charged and the other consistent with her guilt as co-principal in the crime of estafa, the situation calls for the application of the "equipose rule," pursuant to which the Court has to acquit accused-appellant because the prosecution's evidence does not fulfill the test of moral certainty and, therefore, is insufficient to support a judgment of conviction. (*Gonzaga-Reyes, J., People v. Aniceta Aquino, G.R. 130742, July 18, 2000*)

**Summary judgment; motion for summary judgment; when granted; purpose of summary judgment.**

A summary judgment is one granted upon motion by a party for an expeditious settlement of the case, there appearing from the pleadings, depositions, admissions, and affidavits that there are no important questions or issues of fact posed (except as to the amount of damages) and therefore, the moving party is entitled to a judgment as a matter of law.

Sections 1 and 3 of Rule 34, now Rule 35 of the 1997 Rules on Civil Procedure, does not vest in the trial court jurisdiction to summarily try the issues on depositions and affidavits, but gives it limited authority to render summary judgment only when there is no genuine issue of material fact at bar. Upon a motion for summary judgment, the sole function of the court is to determine whether or not there is an issue of fact to be tried, and any doubt as to the existence of an issue of fact must be resolved against the movant. x x x That one may surmise from plaintiff's showing that defendant is unlikely to prevail upon a trial is not a sufficient basis to assume that the allegation of defendant is sham, frivolous or unsubstantial. If the defense relied upon by the defendant is legally sufficient and does not appear patently sham, the motion for summary judgment should be denied. (*Purisima, J., Maria Patricia Garcia, et al v. Court of Appeals, et al, G. R. 117032, July 27, 2000*)

**REMEDIAL LAW** *(continued)*

**Ejectment case, execution pending appeal; when stayed; when immediately executory.**

x x x It is only execution of the Metropolitan or Municipal Trial Court's judgment pending appeal with Regional Trial Court which may be stayed by a compliance with the requisites provided in Rule 70, Section 19 of the 1997 Rules on Civil Procedure. On the other hand, once the Regional Trial Court has rendered a decision in its appellate jurisdiction, such decision shall, under Rule 70, Section 21 of the Rules on Civil Procedure be immediately executory without prejudice to an appeal in a petition for review before the Court of Appeals and/or Supreme Court. (*Ynares-Santiago, J., Rosendo T. Uy, et al v. Hon. Pedro Santiago, et al*, G.R. 131237, July 31, 2000)

**Judgment; grounds for annulment of judgment.**

Section 2, Rule 47 of the 1997 Rules of Court provides that judgment may be annulled on the grounds of extrinsic fraud or lack of jurisdiction. Citing *Makabingkil v. Peoples Homesite and Housing Corporation*, 72 SCRA 326, the Court also ruled that a patently void decision for non-compliance with due process requirements may also be set aside where mere inspection demonstrates its nullity. There is extrinsic fraud when the unsuccessful party had been prevented from exhibiting fully his case by fraud or deception practiced on him by his opponent, as by keeping him away from Court x x x or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff. (*Panganiban, J., Republic of the Philippines represented by APT v. Heirs of Sancho Magdato*, G.R. 137857, September 11, 2000)

**Final judgment; interlocutory order; when final judgment becomes executory.**

A "final" judgment or order is one that finally disposes of a case, leaving nothing more for the court to do in respect thereto – such as an adjudication on the merits which, on the basis of the evidence presented at the trial declares categorically what the rights and obligations of the parties are and which party is in the right, or a

judgment or order that dismisses an action on the ground of *res judicata* or prescription. It is distinguished from an order that is interlocutory or one that does not finally dispose of the case, such as an order denying a motion to dismiss under Rule 16 of the Rules of Court, or granting a motion for extension of time to file a pleading. As such, only final judgments or orders (as opposed to interlocutory orders) are appealable. A "final" judgment or order in the sense just described becomes "final and executory" upon expiration of the period to appeal therefrom where no appeal has been duly perfected or, an appeal therefrom having been taken, the judgment of the appellate court in turn becomes final. It is called "final and executory" judgment because execution at such point issues as a matter of right. (*Gonzaga-Reyes, J., Intramuros Tennis Club v. Philippine Tourism Authority*, G.R. 135630, September 26, 2000)

**Parol evidence; conditions for admissibility of parol evidence to vary the terms of a written agreement.**

Section 9, Rule 130 of the Revised Rules of Court expressly requires that for parol evidence to be admissible to vary the terms of the written agreement, the mistake or imperfection thereof or its failure to express the true agreement of the parties should be put in issue by the pleadings. x x x x Petitioner failed to raise the issue of an intrinsic ambiguity, mistake or imperfection in the terms of the Policy or of the failure of said contract to express the true intent and agreement of the parties thereto in its complaint. (*Kapunan, J., Filipinas Bank v. CA*, G. R. 141060, September 29, 2000)

**Writ of execution; refusal of party to yield possession as ordered by a writ of execution; remedy.**

When a party refuses to yield possession of a property as ordered by a writ of execution, contempt is not the proper remedy. The Sheriff must oust the deforciant from subject property. If a demolition is necessary, there must be a hearing, upon motion and with due notice, for the issuance of Special Order under Section 14 (now Section 10(d) of Rule 39).

## REMEDIAL LAW *(continued)*

Paragraph (d), Section 10 contemplates the only instance when a special "break-open" order is required. It is only when there is no occupant in the premises that the sheriff may lawfully cause a demolition without the need of securing a "break-open" order. (*Purísima, J.*, Judge Jaime Morta, Sr. and Donald Morga v. Judge Jose S. Sañez and Sheriff IV Angel Conejero, AM RTJ 00-1593, October 16, 2000)

## CRIMINAL LAW

**P.D. 115, Trust Receipts Law; violation thereof in relation to Art. 315 of the Revised Penal Code (estafa); trust receipt transaction, its nature and purpose.**

Trust receipt transactions are intended to aid in financing of importers and retail dealers who do not have sufficient funds or resources to finance the importation or purchase of merchandise and who may not be able to acquire credit except through utilization, as collateral, of the merchandise imported or purchased.

In a trust receipt transaction, the goods are owned by the bank and only released to the importer in trust subsequent to the grant of the loan. The bank acquires a security interest in the goods as holder of a security title for the advances it had made to the trustee. The ownership of the merchandise continues to be vested in the person who had advanced payment until he has been paid in full, or if the merchandise has already been sold, the proceeds of the sale should be turned over to him by the importer or by his representative or successor-in-interest. To secure that the bank shall be paid, it takes full title to the goods at the very beginning and continues to hold that title as his indispensable security until the goods are sold and the vendee is called upon to pay for them, hence, the importer has never owned the goods, and is not able to deliver possession. In a certain manner, trust receipts partake of the nature of a conditional sale where the importer becomes absolute owner of the imported merchandise as soon as he has paid its price. (*Davide, CJ.*, Melvin Colinares & Lordino Veloso v. CA & People, G.R. 90828, September 5, 2000)

## LAND REGISTRATION

**Reconstitution of lost or destroyed title; publication, notice, and posting of petition and hearing is jurisdictional and mandatory.**

Republic Act No. 26, an Act providing a special procedure for the reconstitution of Torrens Certificate of Title, lost or destroyed, lays down the special requirements and procedure that must be followed before jurisdiction may be acquired over a petition for reconstitution of title as follows:

- (1) Notice of the petition be published at the expense of the petitioner twice in successive issues of the Official Gazette and posted on the main entrance of the provincial building and of the Municipal building of the municipality or city in which the land is situated at least thirty days prior to the date of hearing;
- (2) The notice states among other things the number of the lost or destroyed Certificates of Title if known, the name of the registered owner, the name of the occupants or persons in possession of the property, the owner of the adjoining properties and all other interested parties, the location, area, and boundaries of the property, and the date on which all persons having any interest therein must appear and file their objection to the petition;
- (3) A copy of the notice also be sent by registered mail or otherwise at the expense of the petitioner, to every person named therein (i.e., occupants or persons in possession of the property, the owner of the adjoining properties and all other properties whose address is known at least thirty days prior to the date of hearing, and
- (4) That the petitioner at the hearing submit proof of publication, posting and service of the notice as directed by the court.

Thus, before the trial court can acquire jurisdiction to hear and decide a reconstitution case, compliance with the foregoing is imperative. (*Panganiban, J.*, Republic v. Pilar Estipular, G. R. 136588, July 20, 2000)



# PHILJA Bulletin

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## PRESIDING JUDGE

## 2001 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
Mar. 26 - Apr. 6	Mediation - Settlement Weeks	Selected courts nationwide
April 2 - 4	NLRC in the forefront of Development Seminar -Workshop	Olongapo City
April 6	Launching of the Philippine Mediation Center	Paseo de Roxas, Makati City
April 16-May 18	Settlement Weeks (Extension) Makati Area	Makati City
April 17 - 20	5th Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice (Bicol and Samar-Leyte Region)	Tacloban City
April 23-26	Court Appointed Special Advocate/Guardian Ad Litem (CASA/GAL) Trainers' Training	Makati City
April 24 - 27	7th Regional Seminar for Judges, Clerks of Court, Branch Clerks of Court, Legal Researchers and Sheriffs of Regional Trial Courts and 1st Level Courts of Region I	Dagupan City
April 26 - 28	Convention Seminar for Sheriffs	Puerto Princesa City, Palawan
May 2 - 4	Convention Seminar for Court Process Servers	Cagayan de Oro City
May 4 - 22	World Bank Distance Learning Course	Ortigas Center, Pasig City
May 17	9th Centenary Lecture - "Feminine Grace, The High Court and Jurisprudence," Justice Ameurfina A. Melencio Herrera	SC Session Hall, Manila

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