



PHILJA Bulletin



October-December 2000

Volume II, Issue 8

From the Chancellor's Desk *Ben*

So much has happened since our last issue. The Supreme Court ruled on the Indigenous People's Rights Act (though the court was evenly divided) and reconsidered its decision in the widely discussed extradition case of Mark Jimenez. It published Administrative Circular 12-2000 on the application of the penalty for violations of B.P. 22. It promulgated the Revised Rules of Criminal Procedure, the Rule on Examination of a Child Witness and the Rules on Corporate Rehabilitation.

All these developments call on the resourcefulness of judges and court officials alike so that neither may be left behind by changes and developments that occur with almost confusing rapidity. The *PHILJA Bulletin* is meant to be an aid to the harried judge and the court official. It is some sort of a judicial "Readers Digest." PHILJA is glad to make this issue available once more to our readers.

PHILJA itself has had to do some internal restructuring. Demands on the Academy have considerably grown since its inception. Its calendar is now filled with varied educational activities. Its contribution to the Philippine judiciary ranges from the training and continuing professional education of judges and court personnel to the formulation of proposed revised rules as well as policies, and initiatives in alternative dispute resolution, particularly in court-annexed and court-referred mediation as a means of expediting the disposition of cases. Owing to PHILJA's present commitments, it has become necessary for us to examine our organizational and operational structure and to ask the Court to clarify our charter.

We are constantly enabling ourselves to be of optimal service to the Philippine judiciary. But so much depends on the goodwill and the earnestness of each judge and court employee. Lectures and seminars are for naught when lessons are not learned and useful habits are not formed.

With the *PHILJA BULLETIN* as just one more reminder of the concern of the Supreme Court for the efficient, credible and competent administration of justice, particularly in the more basic rungs of the judicial ladder, we pray you will respond with enthusiasm and zeal towards the pursuit of our common vision. There is nothing trite nor tired about pursuing excellence in the judiciary.

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Excellence in the Judiciary

PHILJA TRAINS TRAINERS FOR A COMPREHENSIVE JUSTICE SYSTEM

The Philippine Judicial Academy (PHILJA), in cooperation with the United Nations Children's Fund (UNICEF), successfully conducted the *Training of Trainers for a Comprehensive Justice System for Children, Youth and Families* seminar-workshop at PHILJA, Ridge Convention Center, Tagaytay City last October 11 to 14, 2000.

Headed by Dr. Purificacion V. Quisumbing, Project Director, a total of forty-eight (48) participants comprising judges, prosecutors, PAO lawyers, local government practitioners, private practitioners, law enforcers, court and DSWD social workers, a Medical Child and Family Protection Specialist, and other members of the community from Luzon, Visayas, and Mindanao attended the seminar.

In this seminar-workshop, the participants acquired the following skills: training strategies on Child Rights; effective communication skills on child and family care management; effective management practices at various stages of handling family court cases; formulation of a work plan and agenda for the training of their respective sectors as well as for a multi-sectoral training program; and development of training modules on mediation and other training techniques to promote better coordination of all pillars of justice. They also gained a working knowledge of the operations and potentials of Family Courts and the legal foundation of mediation; a deeper understanding of how the other pillars work in support of the Family Courts especially in cases of domestic relations, child victims, and children in conflict with the law; and the importance and usefulness of alternative dispute resolution in Family Courts.



The cast of participants who took part in the Role Playing Presentation on a domestic violence case which was one of the highlights of the Training of Trainers Seminar-Workshop. Members from the five pillars of the justice system took on roles which were opposite to their professional ones. Judge Merlin D. Deloria of RTC Br. 65, Jordan, Guimaras (last row, third from right) played the abusive husband, and P/Insp. Delia Ingalla (last row, fourth from right) played the battered wife.



The participants of the *Training of Trainers for a Comprehensive Justice System for Children, Youth and Families* seminar workshop with Dr. Purificacion V. Quisumbing, Project Director (front row, sixth from left), Atty. Grace Agcaoili, UNICEF Training Officer (front row, second from left), and Atty Sean Litton (front row, fourth from left), a visitor-observer from the International Justice Mission, U.S.A.



Atty. Lorenzo F. Balo, a private law practitioner at the Balo Law Office, played Junior, a battered son. Atty. Katrina Legarda played multiple roles, including narrator, media person, etc.

PHILJA GOES TO BOHOL FOR 2ND REGIONAL SEMINAR

The Philippine Judicial Academy (PHILJA) held its *Second 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 VII* on October 25 to 27, 2000 at the Bohol Tropics Resort, Graham Ave., Tagbilaran City, Bohol.

Three hundred eighty five (385) participants attended the seminar and discussed the relations between the judiciary, the public, and the media; developments in jurisprudence from 1999 to 2000; and alternative dispute resolution, particularly court-referred and court-annexed mediation, as a promising solution to the perennial problem of clogged and distended court dockets. The participants also took part in the Judicial Clinic where they were given the chance to ventilate problems, raise questions, and pose issues relative to court management and administration. Through this exchange, the participants benefited from each other's perspectives and the panelists, which included Justice Ameurfina A. Melencio Herrera (ret.), PHILJA Chancellor, Justice Alfredo L. Benipayo, Court Administrator, Justice Hilarion L. Aquino from the Court of Appeals, DCA Bernardo T. Ponferrada and DCA Jose P. Perez, provided approaches and solutions to the problems posed.

Chief Justice Hilario G. Davide, Jr. gave the Inspirational Message and reminded the participants that *"The Judiciary's troops in the field are human beings who must respond to situations and deal with challenges more creatively."*

PHILJA HOLDS 2ND SEMINAR ON JUVENILE AND DOMESTIC RELATIONS JUSTICE

The Philippine Judicial Academy (PHILJA), in cooperation with the United Nations Children's Fund (UNICEF) and the Royal Netherlands Embassy, held the *Second Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice* for participants in the National Capital Judicial Region (NCJR) South, on November 7 to 10, 2000 at PHILJA, Ridge Convention Center, Tagaytay City.

Sixty-five (65) participants that composed of judges, prosecutors, PAO lawyers, local government practitioners, private practitioners, law enforcers, court and DSWD social workers were exposed to both the legal and non-legal aspects of dealing with juvenile and domestic relations issues. Each sector determined its "strengths" as well as its "weaknesses," and identified the "opportunities" that it has as a sector in addressing the situation effectively, as well as the "threats" that it must face. The participants were also given an overview of the fundamental principles on restorative justice as it applies to children in particular. They tackled the importance and usefulness of alternative dispute resolution modes in Family Courts and the legal foundation of mediation, and practiced various mediation techniques in Family Courts. They gained the ability to distinguish between cases that fall within the jurisdiction of Family Courts and those that do not as they acquired a working knowledge of the operations and potentials of Family Courts.

The *First Regional Multi-Sectoral Seminar on Juvenile and Domestic Relations Justice* (September 26-29, 2000) and the *Training of Trainers for a Comprehensive Justice System for Children, Youth and Families* (October 11-14, 2000) are among the several projects assisted by UNICEF under the leadership of Dr. Terril Hill and his team, including Mr. Pol M. Moselina, Atty. Alberto T. Muyot and Atty. Mary Grace C. Agcaoili. These PHILJA projects on Family Courts are managed by Dr. Purificacion V. Quisumbing, Project Director, and Prof. Sedfrey M. Candelaria, Assistant Project Director.

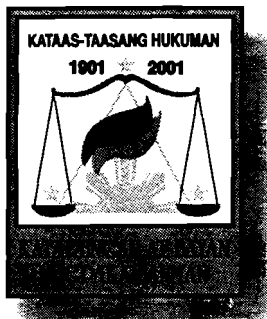
PHILJA WITH PTJLI BLAZE TRAIL TOWARD JUDICIAL TRUSTWORTHINESS

The Philippine Judicial Academy (PHILJA), in cooperation with the Philippine Trial Judges League, Inc. (PTJLI), held the *Convention and Seminar of the Philippine Trial Judges League, Inc.* on November 23 to 25, 2000 at the Manila Hotel. The theme of the convention was, "*First Level Courts: Blazing the Trail towards Judicial Trustworthiness.*"

Two hundred nine (209) judges representing the Thirteen Judicial Regions attended the convention seminar. The judges-participants took up techniques and strategies of caseflow towards the expeditious disposition of cases in First-Level Trial Courts; the reduction of congested dockets through the alternative method of mediation in the settlement of disputes; and the year 2000 Rules of Criminal Procedure or the latest decisions and doctrines on preliminary investigation, warrants of arrest, and search warrants. Attention was given to problem areas and mistakes frequently committed relative to these items. Emphasis was also made on the provisions of R.A. No. 7438. The participants were also made to focus on the public perception of First Level Trial Courts, particularly in terms of credibility, trust and confidence. The objective was to help the judges themselves foster greater public trust and confidence in First Level Trial Courts. Indeed, they were made to analyze the demands of morality insofar as they, as judges, are concerned.

Chief Justice Hilario G. Davide, Jr. gave the keynote address, who also reminded the judges of the recent ruling of the Court and the Administrative Circular decriminalizing violations of Batas Pambansa Blg. 22 which eliminated the ancillary penalty of imprisonment. Inspirational Message was delivered by Sandiganbayan Presiding Justice Francis E. Garchitorena.

HIGHLIGHTS OF THE CENTENARY LECTURE SERIES OCTOBER – DECEMBER 2000



The Centenary Lecture Series is part of the Centenary Celebrations of the Supreme Court of the Philippines which will commemorate its 100th 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 5, 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

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

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

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

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

Seventh

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

Eighth

***"A Century of Constitutionalism:
The Mission (as per Malcolm, J.) and
its Fulfilment (as per Laurel, J.)"***
Chief Justice Enrique M. Fernando (ret.)
of the Supreme Court of the Philippines
March 15, 2001

(Continued on next page)

CONGRESSMAN VERCELES DELIVERS 3RD CENTENARY LECTURE

Representative Leandro B. Verceles, Jr., a progressive member of the Philippine House of Representatives who is now on his third term serving the lone district of Catanduanes, delivered the Third Centenary Lecture on October 10, 2000 at the Supreme Court Session Hall, Supreme Court, Manila to almost 400 guests or participants. He was cited by the Web Philippines Magazine in January, 1999 as one of the Ten Most Influential Filipinos in the country's Internet industry.

Organized by PHILJA and with the Arellano University School of Law, De La Salle University Commercial Law Department and the Law and Economic Development Institute as co-sponsors, Congressman Verceles spoke on "*Contracts and Transactions by E-Commerce: Legal and Evidentiary Considerations*"

Congressman Verceles is well known for his principal authorship of bills on the Y2K or the Millennium Bug and E-Commerce. The E-Commerce Act, wide in scope, already covers both the soft and hard components of the Philippine information infrastructure. It gives legal recognition to all messages, documents, transactions and signatures in electronic form. It mandates the installation of an electronic online network within the next two years. The Department of Transportation and Communications, National Telecommunications Commission, and the National Telecommunications Commission, and the National Computer Center are likewise mandated to formulate policies and rules that will substantially reduce the cost of telecommunication and Internet facilities.

Congressman Verceles is also the proponent in the establishment of a government Intranet using the Internet, the RPWEB, to electronically network the entire Philippine government. RPWEB links up through local Internet exchanges network access points of more than 8,000 government offices and local government units nationwide. RPWEB will also be linking universities, colleges and other schools to the entire Philippine government as proposed by Administrative Order 332 implementing House Resolution 890 of which Congressman Verceles is the author.

Prominent judicial leaders joined Congressman Verceles in the Supreme Court's Fifth Centenary Lecture Program. Justice Arturo B. Buena did the Invocation; Justice Jose C. Vitug gave the Opening Remarks while Justice Bernardo P. Pardo delivered the Closing Remarks; Atty. Ivan John E. Uy, a good friend of the Centenary Speaker, did the Introduction; and Justice Antonio M. Martinez (ret.) was the Master of Ceremonies.



Congressman Leandro B. Verceles, Jr. of the lone district of Catanduanes, well-known author of the bills on E-Commerce and the Millennium Bug, is the Supreme Court's Third Centenary Lecturer. He spoke on "*Contracts and Transactions by E-Commerce: Legal and Evidentiary Considerations.*"

DR. ZWEIG, SC's FIRST FOREIGN LECTURER, GIVES 4TH CENTENARY LECTURE

The Supreme Court of the Philippines and the Philippine Judicial Academy (PHILJA), in cooperation with the Department of Science and Technology (DOST), University of the East College of Law, and Federacion Internacional De Abogadas (FIDA) held the Fourth Centenary Lecture, "*Life Technologies and the Rule of Law*," by Dr. Franklin M. Zweig, Ph.D., J.D., on November 14, 2000, 2:00 p.m., at the Supreme Court Session Hall, Supreme Court, Manila.

Dr. Zweig is the President of the Einstein Institute for Science, Health and the Courts (EINSHAC), a technical assistance consortium serving the Judicial Branch with knowledge tools. Based in Washington, D.C., EINSHAC is a not-for-profit, voluntary, education and research agency affiliated with the Judicial Branch. It is a science and health care study and dissemination utility (tax deductible under IRC section 501 C (3)), operating for the benefit of judges and other personnel of federal and state courts. EINSHAC's program areas include criminal and civil justice proceedings related to genetics, molecular biology, biotechnology, neurobiology and neuroscience, toxic exposure and environmental sciences, and health policy and health care delivery issues.

Eminent jurists also took part in the Fourth Centenary Lecture: Chief Justice Hilario G. Davide, Jr. gave the Closing Remarks; Madame Justice Consuelo-Yñares did the Invocation; Justice Santiago M. Kapunan gave the Opening Remarks; Dr. Purificacion V. Quisumbing introduced the Centenary lecturer; and Justice Sabino R. de Leon, Jr. was the Master of Ceremonies.



Dr. Franklin M. Zweig, Ph.D., J.D., President of the Einstein Institute for Science, Health and the Courts (EINSHAC), delivered a lecture on "*Life Technologies and the Rule of Law*" as the Fourth Centenary Lecturer.

MADAME JUSTICE BEINISCH OF ISRAEL SPEAKS ON CIVIL LIBERTIES AT THE 5TH CENTENARY LECTURE

Madame Justice Dorit Beinisch, the second most senior member of the Israeli Supreme Court, graced the Supreme Court Session Hall as the Fifth Centenary Lecturer on December 5, 2000. She spoke on "*Protecting Civil Liberties in a State of Continuing Emergency.*" She is expected to head the Israeli Supreme Court, the first woman to do so, upon retirement of Chief Justice Aharon Barak a few years from now when he reaches the age of 70.

Born in Tel Aviv, Israel, Justice Beinisch entered the public service right after admittance to the Israeli Bar. For six years (1976-1982), she served as the Director of the Department of Constitutional and Administrative Law in the State Attorney's Office in the Ministry of Justice where she was responsible for representing the State of Israel before the Supreme Court in constitutional and administrative matters, in petitions against the government and the military authorities, and in cases brought by citizens against the state. She was appointed State Attorney in 1989, a position she held for seven years where she was in charge of criminal prosecution and was responsible for all the litigation of the State in courts of all levels. As State Attorney, she played, in particular, an important role as an official legal advisor to all the government authorities. Justice Beinisch was appointed to the Supreme Court of the State of Israel in 1995.

Among the Supreme Court decisions that Justice Beinisch has penned involve a prohibition against corporeal punishment of children by their parents and other cases strengthening and protecting the rights of women and children. Throughout her career in public service, her main concern and emphasis has been the struggle of law enforcement and accountability within the government itself. To that end, she has fought to enforce the principles of law upon the police and the general security services.

In the centenary lecture event, Chief Justice Hilario G. Davide, Jr. delivered the Opening Remarks; Justice Artemio V. Panganiban, a good friend of Justice Beinisch, did the Introduction of the Centenary Lecturer; Justice Jose A.R. Melo led the Invocation; Justice Reynato S. Puno gave the Opening Remarks; and Justice Ameurfina A. Melencio Herrera (ret.), Chancellor of PHILJA, was the Master of Ceremonies.



Madame Justice Dorit Beinisch from Israel, Fifth Centenary Lecturer, receives a plaque of recognition from Chief Justice Hilario G. Davide, Jr. and Justice Artemio V. Panganiban for delivering a lecture on "*Protecting Civil Liberties in a State of Continuing Emergency.*"

CIVIL LAW

Seller's express warranty; action against seller in case of breach thereof.

"x x x petitioner must remember that prior to its consummation, it expressly intimated to her that it had already paid the taxes and customs duties. Such representation shall be considered as a seller's express warranty under Article 1546 of the Civil Code which covers any affirmation of fact or any promise by the seller which induces the buyer to purchase the thing and actually purchases it, relying on such affirmation or promise. It includes all warranties which are derived from express language whether the language is in the form of a promise or representation.

"Under Article 1599 of the Civil Code, once an express warranty is breached, the buyer can accept or keep the goods and maintain an action against the seller for damages x x x" (*Bellosillo, J., Harrison Motors v. Rachel Navarro, GR 132269, April 27, 2000*)

REMEDIAL LAW

Rule on finality of judgment applicable to cases covered by the 1991 Revised Rule on Summary Procedure.

Equally erroneous is private respondents' contention that the rules regarding finality of judgment under the Revised Rules of Court do not apply to cases covered by the 1991 Revised Rule on Summary Procedure. There is nothing in the aforesaid provision which supports private respondents' view. Section 18 merely states that when a case covered by the 1991 Revised Rule on Summary procedure is dismissed without prejudice for non-referral of the issues to the Lupon, the same may be revived only after the dispute, subject of the dismissed case, is submitted to barangay conciliation as required under the Local Government Code. There is no declaration to the effect that said case may be revived by mere motion even after the fifteen-day period within which to appeal or to file a motion for reconsideration has lapsed. x x x Nothing in Section 18 of the 1991 Revised Rule on summary Procedure conflicts with the prevailing rule that a judgment or order which is not appealed or made subject of a motion for reconsideration within the prescribed period of fifteen (15) days attains finality. (*Kapunan, J., Fidel Bañares v. Elizabeth Balising, et al, GR 132624, March 13, 2000*)

ADMINISTRATIVE LAW

Summary dismissal proceedings; due process; offense of conduct unbecoming of a police officer does not encompass the offense of simple irregularity in the performance of duty.

The administrative disciplinary machinery for dealing with complaints or charges against any member of the Philippine National Police (PNP) is laid down in RA 6975, DILG Act of 1990. It defines the dismissal powers of the PNP Chief and Regional Directors in cases where the respondent is guilty of conduct unbecoming of a police officer, as defined in Section 3 (c), Rule 11 of M.C. No. 92-006. x x x On the other hand, "simple irregularity in the performance of duty" is defined in M.C. 91-002, and it is a light offense. While the definition of the more serious offense is broad and almost all encompassing, a finding of guilt for an offense, no matter how light for which one is not properly charged and fined cannot be countenanced without violating the rudimentary requirements of due process. x x x It is true that consistent with its summary nature, the duration of the hearing is limited. x x x However, notification of the charges contemplates that respondent be informed of the specific charges against him. (*Gonzaga-Reyes, J., Summary Dismissal Board of the Regional Appellate Board, PNP, Region VI, Iloilo City v. C/ Insp. Lazaro Tarcita, GR 130442, April 6, 2000*).

PROCEDURAL LAW

Notice of appeal; docket and other lawful fees; when and where paid.

Effective July 1, 1997, Rules 1 to 71 of the Revised Rules of Court have already been superseded by the 1997 Rules of Civil Procedure under which a notice of appeal must be filed within fifteen (15) days from receipt of the decision or order appealed from and the docket, and other lawful fees must also be paid within the same period. Further, Sec.4 of Rule 41 thereof explicitly provides that payment of the full amount of the appellate court docket and other lawful fees should be made before the Clerk of Court of the court which rendered the judgment or order appealed from. (*Bellosillo, J., William Chan v. Court of Appeals, GR 138758, July 6, 2000*)

CIVIL LAW

Vicarious liability of the employer for the acts of his employee; provisions of law on vicarious liability; effect of reserving right to file separate civil action, treatment of criminal negligence.

Under the law, vicarious liability of the employer is founded on two specific provisions of law. The first is in Article 2176 in relation to Article 2180 of the Civil Code which allows an action predicated on quasi delict to be instituted by the injured party against the employer for an act or omission of the employee and would necessitate only a preponderance of evidence to prevail. The liability of the employer for the negligent conduct of the subordinate is direct and primary, subject to the defense of due diligence in the selection and supervision of the employee. The enforcement of the judgment against the employer in an action based on Article 2176 does not require the employer to be insolvent since the nature of the liability of the employer with that of the employee, the two being statutorily considered joint tortfeasors is solidary. The second, predicated on Article 103 of the Revised Penal Code, provides that an employer may be held subsidiarily civilly liable for a felony committed by his employee in the discharge of his duty. This liability attaches where the employee is convicted of a crime done in the performance of his work and is found to be insolvent that renders him unable to properly respond to the civil liability adjudged.

Pursuant to the provisions of Rule 111, Section 1, paragraph 3 of the 1985 Rules of Criminal Procedure, when private respondents, as complainants in the criminal action, reserved the right to file the separate civil action, they waived other available civil actions predicated on the same act or omission of the accused driver. Such civil action include the recovery of indemnity under the Revised Penal Code, and damages under Article 32, 33 and 34 of the Civil Code arising from the same act or omission of the accused. x x x

Consequently, the Court of Appeals and the trial court erred in holding the accused civilly liable, and petitioner-employer of the accused subsidiarily liable for damages arising from crime (*ex delicto*) in the criminal action as the offended parties in fact filed a separate civil action against the employer based on quasi delict resulting in the waiver of the civil action *ex delicto*.

Under Article 365 of the Revised Penal Code, criminal negligence is treated as a mere quasi offense, and dealt with separately from willful offenses. It is not a question of classification or terminology. In intentional crimes, the act itself is punished; in negligence or imprudence, what is principally penalized is the mental attitude or condition behind the act, the dangerous

recklessness, lack of care or foresight, the *imprudencia punible*. Much of the confusion has arisen from the common use of such descriptive phrases as "homicide through reckless imprudence," and the like; when the strict technical sense is, more accurately, "reckless imprudence resulting in homicide" or "simple imprudence causing damage to property."

There is need, therefore, to rectify the designation of the offense without disturbing the imposed penalty for the guidance of bench and bar in strict adherence to precedent. (*Pardo, J., Rafael Reyes Trucking Corporation v. People and Rosario P. Dy, et al, GR 129029, April 3, 2000*)

REMEDIAL LAW

Payment of appellate court docket and other lawful fees under Section 4 of Rule 41 within prescribed time mandatory and jurisdictional.

The Court ruled that contrary to the submission of private respondents that the aforesaid rule is merely directory, the payment of the docket and other legal fees within the prescribed period is both mandatory and jurisdictional. x x x The Court also stressed that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. (*Panganiban, J., Gabriel Lazaro, et al, v. Court of Appeals, GR 137761, April 6, 2000*)

LABOR LAW

Managerial employees; types of managers.

In *United Pepsi Cola Supervisory Union v. Laguesma* (288 SCRA 15, 1998), the Supreme Court stated that managerial employees are ranked as Top Managers, Middle Managers and First Line Managers. Top and Middle Managers have the authority to devise, implement, and control strategic and operational policies, while the task of First Line Managers is simply to ensure that such policies are carried out by the rank-and-file employees of an organization. Under this distinction, managerial employees fall in two categories, namely, the managers per se composed of Top and Middle Managers, and the supervisors composed of First Line Managers. Thus, the mere fact that an employee is designated "manager" does not *ipso facto* make him one. Designation should be reconciled with the actual job description of the employee, for it is the job description that determines the nature of employment. (*De Leon, Jr., J., Paper Industries Corporation of the Philippines v. Hon. Buenvenido Laguesma, Undersecretary of Labor and Employment, GR 101738, April 12, 2000*)

(Continued on page 12)

SUPREME COURT

Republic of the Philippines
Supreme Court
Manila

Gentlemen:

Quoted hereunder, for your information, is a resolution of the Court En Banc dated 12 December 2000.

G.R. No. 135862 (People of the Philippines v. Rafael Principe y Molina). – For consideration of the Court are Appellee's Motion to Admit (Appellee's Brief) With Apologies and the aforesaid Brief, both filed on November 7, 2000. The brief was due on November 2, 2000 per resolution dated September 5, 2000 of the Court granting the Office of the Solicitor General (OSG) an extension of ninety (90) days within which to file the appellee's brief. Assistant Solicitor General Nestor J. Ballacillo explains that the delay was due to the fact that the Solicitor handling the case had resigned, and he had to take over in the preparation of the brief.

Under Supreme Court Circular A.M. No. 99-2-03, the OSG may request for a second extension of twenty (20) days after the expiration of the first 90-day extension within which to file the appellee's brief. Such request may be granted for compelling reasons. In this case, the extension of 90 days granted to the OSG had expired but, without asking for further extension, the Solicitor General's Office simply asks that its brief for the appellee be admitted. This is improper. If the appellee's brief could not be filed within the extended period of 90 days earlier granted the OSG because the unnamed solicitor in charge of the preparation of the brief allegedly resigned, the proper procedure would have been for the OSG to request for a second extension. As it is, with the first extension having expired, there is no longer any period to be extended further.

The fact that the OSG has to meet many of its deadlines is not an excuse for failure to file pleadings on time. That is precisely why the Court grants an extra period of grace in meritorious cases. Nonetheless, the Court will exercise liberality in this instance and the motion will be granted in view of the important public interest involved in criminal cases.

WHEREFORE, the Court RESOLVED to GRANT the Solicitor General's motion and to admit the appellee's brief attached to it. Assistant Solicitor General Nestor J. Ballacillo is ADMONISHED and WARNED that repetition of similar acts would be dealt with more severely.

Very truly yours,

LUZVIMINDA D. PUNO
Clerk of Court

By: (Sgd.) MA. LUISA D. VILLARAMA
Assistant Clerk of Court



Republic of the Philippines
Supreme Court
Manila

Gentlemen:

Quoted hereunder, for your information, is a resolution of the Court En Banc dated 22 August 2000.

A.M. No. 00-8-10-SC - In Re: Transfer of Cases from the Securities and Exchange Commission to the Regular Courts Pursuant to R.A. No. 8799.

The Court RESOLVED to (a) NOTE the letter dated 11 August 2000 of Chairperson Lilia R. Bautista of the Securities and Exchange Commission with the enclosed partial list of intra-corporate cases for the years 1995 and 1998 to 2000, inclusive, which will be transferred to the Regional Trial Courts pursuant to R.A. No. 8799; and (b) DIRECT the Court Administrator and the Securities and Exchange Commission to cause the actual transfer of the records of such cases and all other SEC cases affected by R.A. No 8799 to the appropriate Regional Trial Courts, subject to the following guidelines:

1. Within forty-five (45) days from receipt of a copy of this Resolution, the Court Administrator and the Securities and Exchange Commission shall submit an inventory of all SEC cases for transfer to the Regional Trial Courts, grouping together therein, for venue purposes, cases where the residences, principal offices or business addresses of the plaintiffs, petitioners or complainants are located in the same place, (e.g. all those cases where plaintiffs reside or have principal offices or business addresses in Manila should be placed under the heading MANILA).
2. In the meantime, if on the basis of the inventory, more than fifty (50) cases fall within a particular venue group, the Court Administrator shall recommend to the Court En banc the designation of special commercial courts therein.

(Continued on next page)

3. The records of cases classified under a specific venue group (e.g., Manila, Quezon City, Cebu City) shall be transmitted to the Executive Judge of the Regional Trial Court in the place for raffle between or among the different branches thereof. However, if a specific branch thereof has been designated as a special commercial court, the cases should be transmitted to said special commercial court.

The Court Administrator and the Securities and Exchange Commission shall submit their report in compliance with this Resolution within sixty (60) days from receipt of a copy of this Resolution.

Very truly yours,

LUZVIMINDA D. PUNO
Clerk of Court

By: (Sgd.) MA. LUISA D. VILLARAMA
Assistant Clerk of Court

ADMINISTRATIVE CIRCULAR No. 12-2000 Penalty for Violation of B.P. BLG. 22

Section 1 of B.P. Blg. 22 (An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds for Credit and for Other Purposes) imposes the penalty of imprisonment of not less than thirty (30) days but not more than one (1) year OR a fine of not less than but not more than double the amount of the check, which fine shall in no case exceed P200,000, OR both such fine and imprisonment at the discretion of the court.

In its decision in *Eduardo Vaca v. Court of Appeals* (G.R. No. 131714, 16 November 1998; 298 SCRA 656, 664) the Supreme Court (Second Division) per Mr. Justice Vicente V. Mendoza, modified the sentence imposed for violation of B.P. Blg. 22 by deleting the penalty of imprisonment and imposing only the penalty of fine in an amount double the amount of the check. In justification thereof, the Court said:

"Petitioners are first-time offenders. They are Filipino entrepreneurs who presumably contribute to the national economy. Apparently, they brought this appeal, believing in all good faith, although mistakenly, that they had not committed a violation of B.P. Blg. 22. Otherwise, they could simply have accepted the judgement of the trial court and applied for probation to evade a prison term. It would best serve the ends of criminal justice if in fixing the penalty within the range of discretion allowed by §1, par. 1, the same philosophy underlying the Indeterminate Sentence Law is

observed, namely, that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order. In this case we believe that a fine in an amount equal to double the amount of the check involved is an appropriate penalty to impose on each of the petitioners."

In the recent case of *Rosa Lim v. People of the Philippines* (G.R. No. 130038, 18 September 2000), the Supreme Court *en banc*, applying *Vaca* also deleted the penalty of imprisonment and sentenced the drawer of the bounced check to the maximum of the fine allowed by B.P. Blg. 22, i.e., P200,000, and concluded that "such would best serve the ends of criminal justice."

All courts and judges concerned should henceforth take note of the foregoing policy of the Supreme Court on the matter of the imposition of penalties for violations of B.P. Blg. 22.

The Court Administrator shall cause the immediate dissemination of this Administrative Circular to all courts and judges concerned.

This Administrative Circular, referred to and approved by the Supreme Court *en banc*, shall take effect upon its issuance.

Issued this 21st day of November 2000.

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

Continued from page 10

PROCEDURAL LAW

Grant of bail in offenses when the penalty prescribed is death, reclusion perpetua or life imprisonment.

When the penalty prescribed by law is death, reclusion perpetua, or life imprisonment, a hearing must be conducted by the trial judge before bail can be granted to the accused. Absent such hearing, the order granting bail is void for having been issued with grave abuse of discretion. x x x The absence of objection from the prosecution is never a basis for the grant of bail in such cases, for the judge has no right to presume that the prosecutor knows what he is doing on account of familiarity with the case. Such reasoning is tantamount to ceding to the prosecutor the duty of exercising judicial discretion to determine whether the guilt of the accused is strong. (*Panganiban, J., Joselito Narciso v. Flor Marie Sta. Romana-Cruz, GR 134504, March 17, 2000*)

EN BANC
A.M. No. 00-11-03-SC

**RESOLUTION DESIGNATING CERTAIN
BRANCHES OF REGIONAL TRIAL COURTS TO
TRY AND DECIDE CASES FORMERLY
COGNIZABLE BY THE SECURITIES AND
EXCHANGE COMMISSION**

To implement the provisions of Sec. 5.2 of Republic Act No. 8799 (The Securities Regulation Code), and in the interest of a speedy and efficient administration of justice and subject to the guidelines hereinafter set forth, the following branches of the Regional Trial Courts (RTC) are hereby designated to try and decide Securities and Exchange Commission (SEC) cases enumerated in Sec. 5 of P.D. No. 902-A (Reorganization of the Securities and Exchange Commission), arising within their respective territorial jurisdictions with respect to the National Capital Judicial Region, and within the respective provinces in the First to the Twelfth Judicial Regions:

**NATIONAL CAPITAL REGION
JUDICIAL REGION**

Manila

(1) Br. 46, Judge Artemio S. Tipon

Quezon City

(2) Br. 90, Judge Reynaldo B. Daway
(3) Br. 93, Judge Apolinario D. Bruselas, Jr.

Makati City

(4) Br. 138, Judge Sixto C. Marella
(5) Br. 139, Judge Florentino A. Tuason, Jr.

Pasig City

(6) Br. 158, Judge Jose R. Hernandez

Kalookan City

(7) Br. 123, Judge Edmundo T. Acuña

La Piñas City

(8) Br. 253, Judge Jose F. Caoibes, Jr.

Mandaluyong City

(9) Br. 214, Judge Edwin D. Sorongon

Marikina City

(10) Br. 273, Judge Olga P. Enriquez

Muntinlupa City

(11) Br. 256, Judge Alberto L. Lerma

Parañaque City

(12) Br. 258, Judge Raul E. De Leon

Pasay City

(13) Br. 231, Judge Cesar Z. Ylagan

Valenzuela City

(14) Br. 75, Judge Jaime F. Bautista

FIRST JUDICIAL REGION

Abra (Bangued)

(15) Br. 1, Judge Charito B. Gonzales

Benguet (Baguio City)

(16) Br. 59, Judge Abraham B. Borreta

Ilocos Norte (Laoag City)

(17) Br. 15, Judge Benjamin D. Turgano

La Union (San Fernando City)

(18) Br. 29, Judge Robert T. Cawed

Pangasinan (Urdaneta City)

(19) Br. 48, Judge Alicia G. Decano

SECOND JUDICIAL REGION

Isabela (Ilagan)

(20) Br. 16, Judge Isaac R. De Alban

Nueva Vizcaya (Bayombong)

(21) Br. 29, Judge Gil L. Valdez

Quirino (Cabaroguis)

(22) Br. 31, Judge Moises M. Pardo

THIRD JUDICIAL REGION

Bataan (Balanga)

(23) Br. 2, Judge Manuel M. Tan

Bulacan (Malolos)

(24) Br. 7, Judge Danilo A. Manalastas

Nueva Ecija (Cabanatuan City)

(25) Br. 28, Judge Tomas B. Talavera

Pampanga (San Fernando)

(26) Br. 42, Judge Pedro M. Sunga, Jr.

Zambales (Olongapo City)

(27) Br. 72, Judge Eliodoro G. Ubiadas

Tarlac (Tarlac City)

(28) Br. 63, Judge Arsenio P. Adriano

(Continued on next page)

FOURTH JUDICIAL REGION

- Laguna (Calamba)**
(29) Br. 92, Judge Antonio S. Pozas
- Rizal (Binangonan)**
(30) Br. 70, Judge Augusto T. Gutierrez
- Cavite (Imus)**
(31) Br. 21, Judge Norberto J. Quisumbing, Jr.
- Batangas (Batangas City)**
(32) Br. 2, Judge Mario V. Lopez
- Quezon (Lucena City)**
(33) Br. 57, Judge Rafael R. Lagos
- Mindoro Oriental (Calapan City)**
(34) Br. 39, Judge Manuel C. Luna, Jr.

FIFTH JUDICIAL REGION

- Camarines Sur (Naga City)**
(35) Br. 23, Judge Pablo M. Paqueo, Jr.
- Albay (Legaspi City)**
(36) Br. 4, Judge Gregorio A. Consulta
- Sorsogon (Sorsogon)**
(37) Br. 52, Judge Honesto A. Villamor

SIXTH JUDICIAL REGION

- Negros Occidental (Bacolod City)**
(38) Br. 53, Judge Pepito B. Gellada
- Iloilo (Iloilo City)**
(39) Br. 39, Judge Jose G. Abdallah
- Aklan (Kalibo)**
(40) Br. 8, Judge Eustaquio G. Terencio
- Capiz (Roxas City)**
(41) Br. 19, Judge Sergio L. Pestaño
- Antique (San Jose)**
(42) Br. 10, Judge Sylvia G. Jurao

SEVENTH JUDICIAL REGION

- Cebu (Cebu City)**
(43) Br. 11, Judge Isaias P. Dicdican
- Negros Oriental (Dumaguete City)**
(44) Br. 40, Judge Godofredo S. Sison
- Bohol (Tagbilaran City)**
(45) Br. 48, Judge Fernando G. Fuentes, III

EIGHTH JUDICIAL REGION

- Leyte (Tacloban City)**
(46) Br. 8, Judge Salvador Y. Apurillo
- Southern Leyte (Maasin)**
(47) Br. 24, Judge Bethany G. Kapili
- Northern Samar (Catarman)**
(48) Br. 19, Judge Cesar R. Cinco

NINTH JUDICIAL REGION

- Zamboanga del Norte (Dipolog City)**
(49) Br. 6, Judge Primitivo S. Abarquez, Jr.
- Zamboanga del Sur (Zamboanga City)**
(50) Br. 12, Judge Hakim S. Abdulwahid
- Agusan del Norte (Butuan City)**
(51) Br. 33, Judge Victor A. Tomaneng

TENTH JUDICIAL REGION

- Misamis Oriental (Cagayan de Oro City)**
(52) Br. 40, Judge Epifanio T. Nacaya, Jr.
- Misamis Occidental (Oroquieta City)**
(53) Br. 14, Judge Henry B. Damasing
- Surigao del Norte (Surigao City)**
(54) Br. 30, Judge Floripinas C. Buyser

ELEVENTH JUDICIAL REGION

- Davao del Norte (Panabo)**
(55) Br. 34, Judge Gregorio A. Palabrica
- Davao del Sur (Davao City)**
(56) Br. 10, Judge Augusto V. Brevia
- South Cotabato (General Santos City)**
(57) Br. 23, Judge Jose S. Majaducon
- Surigao del Sur (Tandag)**
(58) Br. 27, Judge Ermelindo G. Andal

TWELFTH JUDICIAL REGION

- Lanao del Norte (Iligan City)**
(59) Br. 5, Judge Maximino M. Libre
- Lanao del Sur (Marawi City)**
(60) Br. 8, Judge Santos B. Adiong

The following guidelines shall be observed:

(Continued on next page)

1. In the multiple sala courts where one (1) or more branches of the RTC are herein designated as special courts, there will be no unloading of cases already pending in the branches designated. They shall continue to try and decide the said cases in addition to the SEC cases. In the meantime, in view of the temporary imbalance of caseload as a result of the transfer of SEC cases, the Executive Judge concerned shall exclude them in the raffle of newly filed cases in their station until their workload equals to that of the other branches, in which event they shall be included in the raffle of other civil and criminal cases.
2. The trial and disposition of SEC cases shall be in accordance with the procedure to be promulgated by the Supreme Court.
3. In case of temporary incapacity, absence, disability or inhibition of the judge of the designated special court in multiple sala courts where one (1) or more branches of the RTC have been designated, the pairing system for multiple sala stations subject of Circular No. 7 dated 23 September 1974, as amended, shall apply.
4. The branches herein designated shall continue to perform the functions of special courts even after they shall have become vacant due to retirement, death, incapacity, dismissal, resignation, transfer, detail or promotion of the incumbent judges herein named. Their successors, whether permanent or temporary, shall act as Presiding Judges of these special courts unless the Court directs otherwise.
5. In provinces (for the First to the Twelfth Judicial Regions) where there are no designated special courts, the Executive Judge of the station where new SEC cases will be filed shall consult the Supreme Court thru the Office of the Court Administrator.
6. This Resolution shall take effect on the fifteenth day of December, 2000 and shall be published in a newspaper of general circulation not later than the 28th day of November 2000.

Promulgated this 21st day of November 2000.

(Sgd.) DAVIDE, JR, CJ, BELLOSILLO, MELO, PUNO, VITUG, KAPUNAN, MENDOZA, PANGANIBAN, QUISUMBING, PARDO, BUENA, GONZAGA-REYES, YNARES-SANTIAGO, DE LEON, JJ.

2000 Upcoming PHILJA Events (continued)

November 16-18	Convention Seminar for Metropolitan and City Judges Association of the Philippines	Century Park Sheraton, Manila
November 19-25	Seminar Workshop for Court Social Workers of Family Courts	DAP, Tagaytay City
November 20	Training the Trainors Program for Insolvency, Rehabilitation and Intra-Corporate Controversy Cases	ADB Ave., Ortigas Center, Pasig City
November 23-25	Convention and Seminar of the Philippine Trial Judges League, Inc.	Manila Hotel, Manila
November 27	Enhancing Efficiency and Productivity: A Benchbook for the Philippine Judiciary	Discovery Suites, ADB Ave., Ortigas Center, Pasig City
November 28-29	Training Seminar for Judges on Corporate Law, Insolvency and Rehabilitation	DAP, Tagaytay City
December 1	Seminar on the 2000 Rules of Criminal Procedures for Judges and Clerks of Court of Manila	City Council Session Hall, City Hall of Manila
December 5	5th Centenary Lecture, "Protecting Civil Liberties in a State of Continuing Emergency," Madam Justice Dorit Beinisch	SC Session Hall, Manila
December 7-9	General Assembly and Seminar of the Philippine Association of Court Interpreters	Teachers' Camp, Baguio City
December 11-12	Basic Seminar Workshop on Mediation	Metro Club, Makati City
December 13-15	3rd Regional Seminar for Judges and Court Personnel of Region X	Balanghai Hotel and Convention Ctr, Butuan City
December 14-15	Basic Seminar Workshop on Mediation	Metro Club, Makati City
December 18-19	Basic Seminar Workshop on Mediation	Metro Club, Makati City

3rd Floor of the Supreme Court
Building
Taft Avenue, Manila

PRESIDING JUDGE

2000 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars</i>	<i>Venue</i>
October 10	3rd Centenary Lecture, "Contracts and Transactions by E-Commerce: Legal and Evidentiary Considerations," Congressman Leandro B. Verceles, Jr.	SC Session Hall, Manila
October 11-14	Training of Trainers for a Comprehensive Justice System For Children, Youth and Families	PHILJA, Tagaytay City
October 16-20	16th Orientation Seminar-Workshop for Newly Appointed Judges	PHILJA, Tagaytay City
October 20	Orientation of Judges on Mediation	SC Annex Bldg., Manila
October 25-27	2nd Regional Seminar for Judges and Court Personnel of Region VII	Bohol Tropics Resort, Tagbilaran City
October 27	Seminar on Mediation for Court Personnel	SC Annex Bldg., Manila
November 6	Roundtable Discussion on Law and Economics	PHILJA Conference Room
November 7-10	2nd Regional Multi-Sectoral Seminar on Juvenile Justice and Domestic Relations Justice (NCJR South)	PHILJA, Tagaytay City
November 13-18	Basic Seminar Workshop on Mediation	ADB, Ortigas Center, Pasig City
November 14	4th Centenary Lecture, "Life Technologies and the Rule of Law," Dr. Franklin M. Zweig	SC Session Hall, Manila

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