

Title:

Tañada vs. Tuvera, (1986) Prescribing the Necessity for Publication of Laws in the Official Gazette

Facts:

Petitioners Lorenzo M. Tañada, Abraham F. Sarmiento, and the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. (MABINI) sought to compel the respondents, who held various governmental positions, to publish presidential decrees, executive orders, and other presidential issuances that had not been published as demanded by law. The petitioners argued that the lack of publication deprived the people of knowledge of the law, a violation of due process. The government posited that while publication is usually necessary, it could be omitted when the decree provided for immediate effectivity upon approval. The Supreme Court initially ruled in favor of publication, but clarification and reconsideration were sought on what laws required publication and other related questions.

Procedural Posture:

After the initial decision of the Supreme Court on April 24, 1985, the petitioners moved for a reconsideration/clarification on certain aspects of the ruling. The then Solicitor General argued that the motion was merely seeking an advisory opinion and should be dismissed, while taking the stance that publication, unless otherwise provided, was not mandatory, and that the decision was not binding due to insufficient concurrence. The Court then sought input from the new Solicitor General post-February Revolution, who endorsed publication in the Official Gazette and clarified that the decision was binding.

Issues:

1. What constitutes “law of public nature” or “general applicability”?
2. Is a distinction between laws of general applicability and those that are not necessary?
3. What is meant by “publication” and where should it be made?
4. When should publication be made?
5. Is the clause “unless it is otherwise provided” in the Civil Code a basis to exempt some laws from publication?

Court’s Decision:

The Supreme Court resolved that the clause “unless it is otherwise provided” in Article 2 of the Civil Code pertains to the date of a law’s effectivity, not to the prerequisite of publication itself. Thus, publication in the Official Gazette is indispensable to legislation and cannot be excused. The publication must be done forthwith, and the laws become effective

only after fifteen days from their publication, unless a different period is noted by the legislature.

Doctrine:

Laws must be published in full in the Official Gazette to have binding effect and the clause “unless it is otherwise provided” in the Civil Code refers to the date of effectivity rather than an exception to the rule of publication.

Class Notes:

- Publication Requirement: For a law to have general applicability and enforceability, it must be published in the Official Gazette.
- Due Process: Non-publication of laws denies citizens their right to due process, contravening the constitutional requirement that the people must know the laws that govern them.
- Official Gazette as Publication Medium: Current legal requirement mandates publication in the Official Gazette, not in alternative platforms.
- Effectivity after Publication: Laws take effect only after fifteen days from their complete publication unless the law specifies a different date for effectivity (Art. 2, Civil Code).
- Nonpenal Measures and Publication: Not just penal laws require publication. Non-penal laws also affect rights and must be made known to the people through publication.

Historical Background:

In the political climate of the Philippines post-Marcos era, the case emerged from the capricious and secretive legislative processes of the previous regime. *Tañada vs. Tuvera* signified a reassertion of checks and balances and transparency in government, reflecting the democratic shift and the policy of public scrutiny in the wake of the 1986 EDSA People Power Revolution. The decision reinforced the principle that a democratic society operates on an informed electorate that is aware of its rights and obligations under the law. It marked the end of an era where presidential issuances could be enacted without proper dissemination to the populace, ensuring the right to information and participation in legislation was upheld in the newly restored democracy.