

**DIONISIO L. FALGUI, JR., AMOR M. PALACIO, EDNA M. PALACIO,
PEDRO ALARAS, PEDRO M. PALACIO, JR., EXALTACION M. PALACIO,
GIL M. PALACIO, EMELITA M. PALACIO, PEDRO PALACIO, SR., AN...**

G.R. No. L-27523. February 25, 1975

Ponente: ANTONIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1b59cf9679ee/>

ANTONIO, J.:

Petition for certiorari and prohibition, with prayer for preliminary injunction, to annul the order issued by respondent Provincial Fiscal of Batangas on April 26, 1967, denying petitioners' motion to suspend the preliminary investigation of I.S. No. 593 for alleged violation of the Usury Law filed by private respondent Guillermo T. Ramos against petitioners, and to prohibit and enjoin respondents and/or their representatives from proceeding with the preliminary investigation until the alleged prejudicial question involved in Civil Case No. 69104 of the Court of First Instance of Manila and Civil Case No. 660 of the Court of First Instance of Batangas (Balayan Branch), pending between petitioners and private respondent, is finally resolved.

On August 5, 1965, private respondent Guillermo T. Ramos, with the written consent of his wife Vedasta Ramos, executed in Manila a deed of absolute sale in favor of the children of petitioners-spouses Pedro Palacio, Sr. and Juliana Macalalad-Palacio (Pedro M. Palacio, married to Exaltacion M. Palacio; Edna M. Palacio, married to Pedro Alaras; Gil M. Palacio, Emelita M. Palacio, and Amor M. Palacio, married to Dionisio L. Falgui, Jr.), who are the other petitioners in this case (hereinafter referred to as the other petitioners), over three (3) parcels of sugarland covered by TCT Nos. 11434 and 11435 of the Register of Deeds of Batangas. The consideration that appears in the deed of sale is P60,000.00. The vendor, respondent Ramos, appears to have executed a receipt on the same date, to the effect that he received from the aforementioned vendees referred to in the aforesaid Deed of Sale, the sum of P90,000.00 ". . . representing the true consideration of the Deed of Absolute Sale . . ." According to petitioners, this second document was executed by Ramos because he had requested the other petitioners to indicate in the deed of sale the sum of P60,000.00, instead of P90,000.00, as the consideration of the sale, to reduce the expenses in connection with execution and registration of said document, considering that Ramos would be the one to defray the same; and in view of the good relations existing between petitioners and Ramos, the former acceded provided that for record purposes respondent Ramos would acknowledge in writing his receipt of the true amount. This Deed of Absolute Sale was duly registered and Transfer Certificates of Title Nos. 11457 and 11458 were issued to the vendees. The following day, August 6, 1965, the other petitioners, in an agreement designated as a "Contract to Sell", granted an option to respondent Ramos to purchase the same properties for the sum of P133,000.00 in cash, with the understanding that during the period of the option or from the date of the signing of the contract to August 5, 1967, respondent Ramos shall be entitled to take possession of the aforescribed parcels of land so that he could cultivate the same and benefit from the crops thereon. On February 6, 1967, upon receipt of the sum of P133,000.00, the other petitioners executed a Deed of Absolute Sale wherein they conveyed and transferred, by way of absolute sale, the same properties to respondent Ramos.

On April 5, 1967, the "other petitioners" filed a complaint for damages against respondent Ramos in the sum of

P220,000.00, in addition to attorney's fees and costs, with the Court of First Instance of Manila (Civil Case No. 69104), alleging inter alia that after the consummation of the transactions mentioned above, defendant Ramos "started and engaged in willful and malicious campaigns, schemes and intrigues against plaintiffs, spreading malicious, slanderous and defamatory statements, utterances and gossips among the friends and neighbors of the plaintiffs, to the effect that the above enumerated transactions, covered by Annexes 'A', 'C' and 'E', are usurious; that plaintiffs herein, the whole family, are all usurers and corrupt in all their dealings; that they are persons who would lose their honors and morals when it comes to money; and, that they are persons who would take advantage of their friends and neighbors and should not be trusted and should be shunned or avoided."

On April 11, 1967, respondent Ramos filed a criminal complaint for usury against petitioners with the Office of the Provincial Fiscal of Batangas (I.S. No. 593). In his affidavit-complaint Ramos stated, among others, that what he asked for and obtained from petitioner spouses Pedro Palacio, Sr. and Juliana Macalalad-Palacio, was a loan in the amount of P60,000.00; that, however, the Palacio spouses asked him to execute a deed of sale on August 5, 1965 in favor of their heirs (the other petitioners) over three (3) parcels of land with an aggregate area of sixty-nine (69) hectares whose market value was about P300,000.00; that on the same day he and the other petitioners executed a Contract to Sell (which was, however, dated August 6, 1965) whereby the Palacios granted him an option to repurchase the property for P133,000.00 within two (2) years; that on January 17, 1967, or some seven (7) months before the expiration of the repurchase period, he wrote the Palacios offering to repurchase the property, with a request for the reduction of interest upon the principal amount which he allegedly obtained from the Palacios by way of a loan; that his request for reduction of interest was rejected by the Palacio spouses, who insisted on the repurchase price of P133,000.00; that in view of pressing circumstances, he had to pay the Palacios the said sum of P133,000.00, thus he was compelled to pay the Palacios the sum of P73,000.00 by way of interest for seventeen (17) months on the principal loan of only P60,000.00.

On April 15, 1967, petitioners received copy of the summons issued by respondent Assistant Provincial Fiscal Carmelo Q. Quizon setting the preliminary investigation of I.S. No. 593 for April 26, 1967.

On April 18, 1967, respondent Ramos filed his Answer with Counterclaim in Civil Case No. 69104 of the Court of First Instance of Manila alleging inter alia that the Deed of Absolute Sale dated August 5, 1965, the receipt dated August 5, 1965, the Contract to Sell dated August 6, 1965, and the Deed of Absolute Sale dated February 6, 1967, "were executed at the instance of the plaintiffs in order to cover up a usurious loan transaction, and that said documents are made to reflect agreements other than the true intention of the parties and are therefore void and without legal force and effect," and that the true transaction between the plaintiffs and defendant Ramos is an equitable mortgage.

On April 24, 1967, petitioner spouses Pedro Palacio, Sr. and Juliana Macalalad-Palacio filed with the Court of First Instance of Batangas (Balayan Branch) a complaint for damages (Civil Case No. 660) against respondent Ramos for allegedly causing the publication in three (3) metropolitan newspapers of malicious, libelous and defamatory contents of his affidavit to the effect that petitioner spouses "loaned" to respondent the amount of P60,000.00 and that said petitioners charged respondent Ramos with interest in the amount of P73,000.00.

On April 26, 1967, petitioners filed a motion in I.S. No. 593 asking respondent Provincial Fiscal of Batangas to suspend the preliminary investigation on the ground that prejudicial questions are involved in Civil Case No. 69104 of the Court of First Instance of Manila and in Civil Case No. 660 of the Court of First Instance of Batangas (Balayan Branch). The motion was opposed by respondent Ramos. After extensive arguments between the parties on the issue of pre-judicial question, respondent Assistant Provincial Fiscal denied petitioners' motion for suspension of the preliminary investigation. Petitioners' filed a motion for reconsideration, but the same was denied.

On May 6, 1967, the present petition was filed with this Court. We gave due course to the petition, and on June 2, 1967, a writ of preliminary injunction was issued restraining respondents Provincial Fiscal and Assistant Provincial Fiscal of Batangas from proceeding with the preliminary investigation of I.S. No. 593.

On August 21, 1967, respondent Ramos filed in Civil Case No. 660 of the Court of First Instance of Batangas (Balayan Branch) his Answer to Amended Complaint with Counterclaim alleging inter alia that the Deed of Absolute Sale dated August 5, 1965 and the other documents related thereto "were executed at the instance of plaintiffs in conspiracy with the children and in-laws in order to cover up a usurious loan transaction, and that said documents are made to reflect agreements other than the true intention of the parties and are therefore void and without legal force and effect," and that the true transaction between the plaintiffs and defendant Ramos is an equitable mortgage.

I

The crucial question for determination is whether the petitioners could ask for the suspension of the preliminary investigation on the ground that the question of usury, an issue involved in Civil Case No. 69104 (CFI, Manila) and Civil Case No. 660 (CFI, Batangas) should first be resolved before proceeding with said preliminary investigation, being a pre-judicial question to the criminal case for usury pending investigation.

A pre-judicial question is one that arises in a case, the resolution of which is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal.[1] It is based on a fact distinct and separate from the crime but so intimately connected with it that it is determinative of the guilt or innocence of the accused.[2] We have heretofore ruled that a pre-judicial question must be determinative of the case before the court and jurisdiction to try the same must be lodged in another tribunal.[3] In *Flordelis vs. Castillo*, We explained that "doctrine of prejudicial question comes into play generally in a situation where a civil action and a criminal action both pend and there exists in the former an issue which must be preemptively resolved before the criminal action may proceed, because howsoever the issue raised in the civil action is resolved would be determinative juris et de jure of the guilt or innocence of the accused in the criminal case." [4] In connection with the requirement that the jurisdiction to hear and decide the prejudicial question must be lodged in another tribunal, We ruled that the court, when exercising its jurisdiction over the civil action is considered as a court distinct and different from itself when trying the criminal action.[5]

Implicit, therefore, is the pendency of both the civil action and the criminal action, and the resolution of the issue raised in the civil action would be determinative of the guilt or innocence of the accused in the criminal case. The requirement that there should be a criminal action pending in court is pursuant to the express provisions of Section 5, Rule 111, of the Revised Rules of Court which provides that "A petition for the suspension of the criminal action based upon the pendency of a pre-judicial question in a civil case, may only be presented by any party before or during the trial of the criminal action." The abovequoted rule is a reiteration of Our ruling in *Dasalla, et al., vs. City Attorney of Quezon City, et al.*, [6] that the time to ask for the suspension of a criminal case due to a prejudicial question is not during the preliminary investigation but after the Fiscal has filed the corresponding information.[7] Consequently, even conceding that the resolution of the issues involved in the two civil cases (Civil Case No. 69104, Court of First Instance of Manila and Civil Case No. 660, Court of First Instance of Batangas) would be determinative juris et de jure of the guilt or innocence of the petitioners in the case pending preliminary investigation in the Office of the Provincial Fiscal of Batangas, the suspension of such preliminary investigation based upon that reason may not be sustained.

II

It is, however, insisted that both the aforecited Section 5, Rule 111, of the Revised Rules of Court and Our ruling in *Dasalla, et al. vs. City Attorney of Quezon City, et al.* are inconsistent with the provisions of Article 36 of the

Civil Code and, therefore, should be modified to conform to the imperative commands of the statute. The statutory provision in question provides: "Pre-judicial questions, which must be decided before any criminal prosecution, may be instituted or may proceed, shall be governed by rules of court which the Supreme Court shall promulgate and which shall not be in conflict with the provisions of this Code."

It is the view of petitioners that Article 36 of the Civil Code is based on the ruling of this Court in *De Leon vs. Mabanag*[8] where this Court "ruled that the pre-judicial questions can be raised even during the preliminary investigation and ordered the respondent Fiscal therein to abstain from further proceeding with the preliminary investigation." [9]

We have explained in *Isip vs. Gonzales*, [10] that while Article 36 of the Civil Code provides that a pre-judicial question must be decided before the criminal action may proceed, it did not fix at what precise stage of the criminal prosecution the doctrine of the pre-judicial question may be invoked to warrant the suspension of the criminal proceedings. It expressly left that matter to "the rules of court which the Supreme Court shall promulgate." Thus, We held that Section 5 of Rule 111, which provided that the pre-judicial question may only be raised after a finding of probable cause and the case is already in court of proper jurisdiction for trial, in effect fixes the time when the same may be raised and, therefore, this is in conformity with the aforecited statutory provision.

"More definitely in *Estrella vs. Orendain, Jr. and Quilop*, G.R. No. L-19611, February 27, 1971, We held that 'it is settled that the matter of prejudicial questions cannot be resolved (until) . . . after the corresponding information has already been filed.

"Of course, this is not to overlook the holding in the earlier case of *De Leon vs. Mabanag*, heavily relied upon by petitioners, which sustained an action for prohibition against the City Fiscal of Manila to stop him from proceeding with the preliminary investigation of a charge of falsification of public documents on the ground of the existence of a prejudicial question in a civil case; but *Dasalla* being much later in point of time, and since, on the other hand, it already formed part of our jurisprudence when the revised Rules of Court were promulgated in 1964, it is obvious that Section 5 of Rule 111 of said Rules should be construed consistently with the ruling in *Dasalla*.

"Petitioners contend that the construction given by this Court in Section 5 of Rule 111 in the *Dasalla* case makes the same inconsistent with the above-quoted Article 36 of the Civil Code. The point of petitioners is that the phrase 'before any criminal prosecution may be instituted or may proceed' in said Article 36 contemplates that the prejudicial question must be decided before the preliminary investigation, considering that in *People vs. Olarte*, L-22465, February 28, 1967, 19 SCRA 494, We held that the period of prescription for a criminal action is tolled by the filing of the criminal complaint in court, even if said filing is only for purposes of preliminary investigation, hence, the preliminary investigation is already part of the criminal prosecution. Petitioners are in error. While Article 36 does provide logically that a prejudicial question should be decided before the criminal case proceeds, it does not fix at what precise stage the criminal prosecution should be suspended to await the resolution of the prejudicial questions. Precisely, Article 36 leaves the procedure for invoking, considering and deciding prejudicial questions to the rules of court promulgated by the Supreme Court. Inasmuch as in Section 5, Rule 111 and *Dasalla* and *Estrella* We have provided and ruled that the question of whether or not a criminal action shall be suspended because of a prejudicial question may not be raised during the stage of preliminary investigation but only after a finding of probable cause and the case is already in the court of proper jurisdiction for trial, the contention of petitioners is clearly untenable." (*Isip vs. Gonzales*, 39 SCRA 263-264)

We reiterated this rule in *Bautista vs. Navarro*, [11] and *Rojas vs. People*. [12]

We find no sound and cogent reason to warrant a departure from the aforesaid rulings of this Court.

In consequence hereof, the petition for certiorari and prohibition is hereby dismissed, with costs against petitioners.

Fernando, (Chairman), Barredo, Fernandez, and Aquino, JJ., concur.

[1] Zapanta vs. Montesa, etc., et al., L-14534, February 28, 1962, 4 SCRA 510; Fortich-Celdran vs. Celdran, L-22677, February 28, 1967, 19 SCRA 502; Jimenez vs. Averia, L-22759, March 29, 1968, 22 SCRA 1380.

[2] Benitez vs. Concepcion, Jr., L-14646, May 30, 1961, 2 SCRA 178.

[3] Zapanta vs. Montesa, etc., et al., supra' Fortich-Celdran vs. Celdran, supra' Jimenez vs. Averia, supra.

[4] 58 SCRA 301, 305.

[5] Merced vs. Diez, 109 Phil., 155.

[6] 5 SCRA 193, 196.

[7] Vol. 4, p. 161, Martin, Rules of Court of the Philippines With Notes and Comments.

[8] 70 Phil., 204-207.

[9] Petitioners' Memorandum, p. 19.

[10] 39 SCRA 255.

[11] L-35345, November 23, 1972, 48 SCRA 176.

[12] L-22237, May 31, 1974, 57 SCRA 248.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.