

FRANCISCO T. KOH, PETITIONER, VS. COURT OF APPEALS, HON. MANUEL V. ROMILLO, JR., DISTRICT JUDGE, COURT OF FIRST INSTANCE OF ILOCOS NORTE, BRANCH I, AND JOSE P. COLOMA, RESPONDENTS.

G.R. No. L-40428. December 17, 1975

Ponente: ESGUERRA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f1187f805b88/>

ESGUERRA, J.:

Petition for certiorari with writ of preliminary injunction to review and reverse the decision of the Court of Appeals (Eight Division) in CA-G.R. NO. SP-03322, entitled "Francisco T. Koh, petitioner vs. Jose P. Cotoma and Hon. Manuel V. Romillo, Jr., Judge of First Instance of Ilocos Norte, Branch I, respondents." The appellate Court found "no grave abuse of discretion on the part of the respondent judge in not dismissing the complaint on the ground of improper venue"; dismissed the petition for injunction and lifted the writ of preliminary injunction it previously issued against the respondents.

The undisputed facts contained in petitioner's brief as adopted in respondents' brief are:

"On February 21, 1974, private respondents (Jose Coloma) filed a Complaint for damages against the herein petitioner in the Court of First Instance of Ilocos Norte, Branch I, the same being docketed as Civil Case No. 5011-1 (Annex A of Amended Petition). On April 8, 1974, petitioner filed a Motion to Dismiss the said Complaint on the grounds that the same fails to state a sufficient cause of action and that venue has been improperly laid. (Annex B of Amended Petition) On May 8, 1974, petitioner filed a Manifestation before the lower court apprising it that the copy of the Motion to Dismiss sent to private respondent (counsel for private respondent did not specify any address in the Complaint other than his alleged address in San Nicolas, Ilocos Norte) was returned unserved by the Bureau of Post for the season that he was unknown in the said address. (San Nicolas, Ilocos Norte) Annexes "C" and "D" of Amended Petition.

"On May 28, 1974, petitioner's counsel received a Notice from the lower court setting the hearing of the Motion To Dismiss for June 4, 1974. In response to this notice, petitioner on May 31, 1974 filed a Manifestation informing the lower court that he was submitting the motion without further arguments. Three (3) days before the scheduled hearing of the Motion to Dismiss, specifically on June 11, 1974, counsel for petitioner received a copy of private respondents' opposition to his Motion To Dismiss. Finding that the private respondent's pleading required comment, on June 18, 1974, petitioner herein filed a Reply thereto (Annex G of Amended Petition).

"On July 9, 1974, petitioner, thru counsel,- received a copy of the Order of the lower court denying the Motion To Dismiss (Annex A of Amended Petition). However from the registry return card of the corresponding pleadings, it was apparent that the Order denying our Motion To Dismiss dated June 25, 1974 of the lower court aforementioned did not consider the facts and exhibits reflected in petitioner's Reply To Opposition To Motion To Dismiss inasmuch as the same was received by the lower court on June 27, 1974 (2 days later) after the Order had been issued (the petitioner's pleadings in the said case were all filed with the court thru registered mail special delivery due to the distance involved). For this reason, and within the period authorized

by law, on July 11, 1974, petitioner filed a Motion For Reconsideration of the said Order reiterating therein the matter stated in his Reply to Opposition which was not considered by the lower court (Annex I of Amended Petition). This Motion for Reconsideration was opposed by private respondent.

"In an Order dated July 19, 1974, the lower court issued an Order denying the Motion for Reconsideration filed by the petitioner.

"From the Orders of the lower court dated June 25, 1974 and July 19, 1974, the petitioner herein instituted certiorari proceedings with preliminary injunction before the Court of Appeals, the same being docketed as CA-G.R. No. L-03322. For failure of the petitioner to attach thereto certified true copies of the orders appealed from by reason of their unavailability, the Court of Appeals dismissed the said petition. However, on September 5, 1974, petitioner herein filed a Motion for Reconsideration of the resolution of the Court of Appeals and on September 24, 1974, the said Motion was favorably acted upon and the petition was given due course. On October 9, 1974, the Court of Appeals issued a writ of preliminary injunction in the said case enjoining the court of First Instance of Ilocos Norte from further proceeding thereon.

"After the issues on the petition were joined by the filing of the ANSWER for the respondents dated October 15, 1974, the case was set for oral arguments after which the parties were required to submit, simultaneously, their respective memoranda. Only petitioner herein filed his Memorandum in support of his petition. Private respondents did not submit their memorandum.

"In a resolution dated March 19, 1975, the Court of Appeals dismissed the petition for certiorari and dissolved the writ of preliminary injunction."

Hence, this petition for review and reversal of said resolution of March 19, 1975.

The only issue raised before Us is whether or not respondent Appellate Court erred and thus committed grave abuse of discretion in dismissing the petition for certiorari filed by petitioner before it; in holding that private respondent Jose P. Coloma is a resident of San Nicolas, Ilocos Norte, and thereby holding that venue of the action before the Court of First Instance of Ilocos Norte was proper, and in finding that the complaint of private respondent Coloma in the trial court recites a sufficient cause of action.

Respondent Appellate Court predicated its decision on the finding that despite the petitioner's receipt of a copy of the opposition to the petitioner's motion to dismiss filed by private respondent Coloma in the trial court, petitioner failed to appear during the hearing of his motion to dismiss the complaint on June 14, 1974; that "the parties were given the opportunity to adduce proofs and advance arguments to support their respective sides and on the basis of whatever were adduced during the hearing, it rendered a ruling in the exercise of its jurisdiction; "that" the lower court in its ruling cited the evidence it relied upon and doctrines which supported and justified its findings and conclusions;" that "considering that there is no showing of whimsical and capricious exercise of discretion, it could be said that if ever there was an error committed by the respondent judge, it was an error of judgment in the exercise of his discretion which is correctible by appeal;" and that it concurred with the lower court's order denying the motion to dismiss which is anchored on the arguments that the question of residence of a person is one of intent. In the instant case, the trial Court concluded that San Nicolas, Ilocos Norte, is the residence of plaintiff as contemplated in paragraph (b) Section 2 of Rule 4.

Under ordinary circumstances the foregoing reasoning and findings of the trial court and the respondent Appellate Court could be considered highly tenable and justifiably defensible, but We simply cannot ignore petitioner's allegation in his motion to dismiss filed in the trial court that "this clearly is a nuisance action brought before the Honorable Court to require the defendant (petitioner) to travel and appear in Laoag, Ilocos Norte" as well as the background of the present case and compels Us to delve deeper into the possible motives of private respondent in choosing as situs for his claim for damages against petitioner the rather relatively far Court of First Instance of

Ilocos Norte.

It is clear that Civil Case No. 5011 (for Damages) (Annex "A" to this Petition) filed by private respondent Coloma in the Court of First Instance of Ilocos Norte, wherein Coloma is asking for damages to the tune of P173,000.00 from petitioner for alleged "malicious, baseless, and unfounded criminal complaint: filed by petitioner against Coloma, arose from the following alleged incidents, to wit:

"That sometime on May 21, 1970, the defendant (petitioner) Francisco T. Koh filed before the Municipal Court of Mandaluyong, Rizal, a complaint of Forcible Entry and Detainer against the plaintiff (private respondent Coloma) for the possession of a house and lot located at 480 Barangka Drive, Mandaluyong, Rizal, on which plaintiff (Coloma) and his family were all residing;

"That to avert the ejectment of plaintiff (Coloma) and his family from the aforecited house, plaintiff (Coloma) and defendant (petitioner) entered into a compromise settlement in court whereby plaintiff (Coloma) will pay to defendant (petitioner) the total amount of P3,125.00;

"That to insure the payment of the aforecited obligation, plaintiff (Coloma) issued to defendant (petitioner) a Manila BANKING Corporation check No. 17010812 post-dated February 27, 1971;

"That in post-dating the aforecited check, plaintiff (Coloma) explicitly explained to defendant (petitioner) that there is not sufficient funds at the time in the Bank to cover the amount, hence the necessity to post-date it with the expectation that plaintiff (Coloma) will deposit the necessary amount on or before the due date;

"That for certain reasons beyond the control of plaintiff (Coloma), he failed to deposit the required amount on the date due, so that defendant (petitioner) Francisco T. Koh forcibly evicted the plaintiff and his family from their aforecited residence the following day, February 28, 1971;

"That defendant (petitioner), still not contented in having successfully evicted plaintiff (Coloma) and his family from their residence defendant (petitioner) filed a criminal complaint against the plaintiff (Coloma) before the Fiscal's Office at Pasig, Rizal, over the Manila Banking Corporation check in question, which complaint was later filed before the Court of First Instance of Rizal;

"That defendant personally applied and actively participated in the criminal case as a private prosecutor in collaboration with the prosecuting fiscal;

"That the Court of First Instance of Rizal, upon motion of plaintiff (Coloma) dismissed said criminal complaint in its order dated Sept. 26, 1972."

Private respondent Coloma convinced the trial court, although he admitted that he is presently residing at No. 57 K-6th Street, Kamias, Quezon City, that he could be considered a legal resident domiciled at San Nicolas, Ilocos Norte, because he was born and he grew up there; that his parents and his brothers and sisters still live there; that their ancestral home and lands are situated there; that he studied in Ilocos Norte up to his graduation in the Ilocos Norte High School; that if ever he came to Manila, it was for the purpose of pursuing a college career; that he goes home time and again to oversee their properties' harvests as he is the oldest; that if he is staying in Quezon City now, it is because his wife is a government employee as staff nurse in the Philippine General Hospital; and after her retirement, he and his family intends to return to his hometown of San Nicolas, Ilocos Norte, and establish his permanent home there.

On the other hand, petitioner contends that on May 8, 1974, he filed a Manifestation before the lower court apprising it that the copy of the motion to dismiss was sent to private respondent Coloma (counsel for Coloma did not specify any address in the complaint) in his alleged address of San Nicolas, Ilocos Norte, but the same was returned unserved by the Bureau of Posts for the reason that he (Coloma) was unknown in the said address of San

Nicolas, Ilocos Norte (Annex "C" and "D" of Amended Petition); that in pleadings under oath filed in several judicial proceedings involving petitioner and private respondent, the latter asserted his actual and present residence as either 486 Barangka Drive, Mandaluyong, Rizal or No. 57, K-6th, Kamias, Quezon City, Rizal, to wit:

- Jose P. Coloma vs. Francisco T. Koh, Administrative Case No. 1060, Supreme Court;
- Jose P. Coloma vs. Francisco T. Koh, Civil case No. 14067, C.F.I. Rizal, Branch XI;
- Jose P. Coloma net al. vs. Francisco T. Koh, Civil Case No. 15450, C.F.I. Rizal, Branch VI;
- Jose P. Coloma, et al. vs. Hon. Cesar C. Cruz, et al., C.F.I. Rizal, Civil Case No. 14687;
- Jose P. Coloma, et al., vs. Hon. Presiding Justice Salvador V. Esguerra, et al., Supreme Court, G.R. No. L-35945;
- Jose P. Coloma vs. Hon Cesar C Cruz, et al., C.F.I. Rizal, Civil Case No. 14140;
- Jose P. Coloma, et al. vs. Hon. V.M. Ruiz, et al., C.A.-G.R. No. SP-00329;
- Francisco T. Koh vs. Hon. Guardson Lood, et al., C.A.-G.R. No. 00785-R;
- Jose P. Coloma vs. Hon. Juan Enriquez, et al., G.R. No. L-36425;

that both private respondent Coloma and his wife Crisanta A. Coloma are registered voters in the Greater Manila Area, it appearing in Jose P. Coloma's Voter's I.D. No. A-4941010 and Mrs. Coloma's Voter's I.D. No. A-494109 that they are residents of No. 486 Barangka Drive, Mandaluyong, Rizal; that the complaint filed against petitioner for damages in the C.F.I. of Ilocos Norte, was prepared in Manila, signed by a Manila lawyer, verified in Manila by private respondent who showed his Residence Certificate issued in Manila (R.C.A.-324643, issued on March 8, 1973, in Manila); that the filing of the complaint for damages before the C.F.I of Ilocos Norte was "purely for the purpose of harassment and that venue of the action was improperly laid."

It is fundamental in the law governing venue of actions (Rule 4 of the Rules of Court) that the situs for bringing real and personal civil actions are fixed by the rules to attain the greatest convenience possible to the parties litigants by taking into consideration the maximum accessibility to them of the courts of justice. It is likewise undeniable that the term domicile is not exactly synonymous in legal contemplation with the term residence, for it is a established principle in Conflict of Laws that domicile refers to the relatively more permanent abode of a person while residence applies to a temporary stay of a person in a given place. In fact this distinction is very well emphasized in those cases where the Domiciliary Theory must necessarily supplant the Nationality Theory in cases involving stateless persons.

This Court held in the case of *Uytengsu vs. Republic*, 50 O.G. 4781, October, 1954, reversing its previous stand in *Larena v. Ferrer*, 61 Phil. 36 and *Nuval v. Guray*, 52 Phil. 645, that —

"There is a different between domicile and residence. Residence is used to indicate a place of abode, whether permanent or temporary; domicile denotes a fixed permanent residence to which when absent, one has the intention of returning. A man may have a residence in one place and a domicile in another. Residence is not domicile, but domicile is residence coupled with the intention to remain for an unlimited time. A man can have but one domicile for one and the same purpose at any time, but he may have numerous places of residence. His place of residence generally is his place of domicile, but is not by any means, necessarily so since no length of residence without intention of remaining will constitute domicile." (Italics for emphasis)

We note that the law on venue in Courts of First Instance (Section 2, of Rule 4, Rules of Court) in referring to the

parties utilizes the words "resides or may be found," and not "is domiciled," thus:

"Sec. 2(b) Personal actions — All other actions may be commenced and tried where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiffs resides, at the election of the plaintiff." (Italics for emphasis)

Applying the foregoing observation to the present case, We are fully convinced that private respondent Coloma's protestations of domicile in San Nicolas, Ilocos Norte, based on his manifested intention to return there after the retirement of his wife from government service to justify his bringing of an action for damages against petitioner in the C.F.I of Ilocos Norte, is entirely of no moment since what is of paramount importance is where he actually resided or where he may be found at the time he brought the action, to comply substantially with the requirements of Sec. 2(b) of Rule 4, Rules of Court, on venue of personal actions. The admission of private respondent Coloma that when he brought the action for damages against petitioner in the C.F.I, of Ilocos Norte, he was "residing at No. 57 K-6th Street, Kamias, Quezon City" is to Our mind absolutely fatal to all his contentions of good faith in bringing that action in a distant place and at the same time quite revealing of his motive for doing so, when We take into consideration the basis of the action for damages against petitioner which is the criminal prosecution for estafa against private respondent Coloma arising from a bank check he used to pay petitioner and was dishonored for lack of funds; respondent Coloma's proven acts in having the civil compliant for damages prepared in Manila by a Manila lawyer, verified in Manila and filed in Ilocos Norte C.F.I.; and the numerous cases between petitioner and respondent Coloma in this Court, the Court of Appeals and the Rizal Courts of First Instance wherein respondent Coloma swore under oath that he is a resident of 486 Barangka Drive, Mandaluyong, Rizal and No. 57, K-6th, Kamuning, Quezon City.

An examination of the cause of action contained in the civil compliant for damages filed by respondent Coloma against petitioner in Civil Case No. 5011 of the Court of First Instance of Ilocos Norte raises lingering doubts in Our mind as to the existence of a valid and justified cause of action, for prays for P173,000.00 worth of alleged damages (actual moral exemplary and attorney's fees) based on an alleged "malicious, baseless, and unfounded compliant" filed by petitioner against respondent Coloma, when it could be seen from the civil compliant itself that the basis of the action for damages is the criminal prosecution of respondent Coloma for the crime of estafa in the C.F.I of Rizal because of the compliant of petitioner arising from the post-dated check admittedly issued by respondent Coloma which was dishonored for lack of funds. It can readily be seen from the record that it was the Fiscal of Rizal who filed the criminal compliant for estafa against respondent Coloma after preliminary investigation when the fiscal was convinced of the existence of a prima facie case against Coloma. While it is true that petitioner was the offended party because the dishonored check was issued in his favor and that he acted as private prosecutor when the case was filed in the C.F.I of Rizal because there was no separate civil action filed against Coloma arising from the same cause of alleged estafa, it certainly cannot be said that as offended party in the criminal case and by initiating the same criminal case against respondent Coloma he (petitioner) was the one who filed the "malicious, baseless and unfounded compliant" against private respondent Coloma. To establish the filing of the criminal case against Coloma by the Fiscal of Rizal as "malicious" is highly problematical because the Fiscal of Rizal conducted a preliminary investigation on the same and if he in the exercise of his quasi-judicial duty believed there was a prima facie case against respondent Coloma that made him file the case, his act cannot be called "malicious." We note here that the petitioner was not the one who filed the criminal case against the respondent Coloma, the former being merely the offended party. The criminal complaint against respondent Coloma could hardly be termed "baseless and unfounded" because he himself admitted that he issued a post-dated check that was dishonored. If the criminal complaint against him was dismissed by the C.F.I, of Rizal upon his own motion and perchance by some reason of technicality or by reason of reasonable doubt, respondent Coloma is by no means absolved from the civil liability of refunding the amount written in the dishonored check to the

petitioner. The logical conclusion that could be derived from all the foregoing is that the criminal complaint filed against respondent Coloma for Estafa by the Fiscal of Rizal is by no means "malicious," "baseless," and "unfounded" and therefore the action for damages is without any basis and that respondent Coloma's civil complaint for damages filed in the C.F.I. of Ilocos Norte was without sufficient cause of action.

We observe in the examination of the record of this case, that private respondent Coloma can go to the extent of resorting to other means while this case pending in the respondent Court of Appeals to find a solution to another aspect of the raging controversy between petitioner and private respondent. As a result of respondent Coloma's filing of a complaint for damages (Civil Case No. 5011) against petitioner in the C.F.I. of Ilocos Norte, wherein respondent Coloma alleged that "he is a resident of the Municipality of San Nicolas, Province of Ilocos Norte," petitioner filed in the Fiscal's Office of Manila a case of perjury against respondent Coloma and the investigating Fiscal in his resolution believed in the existence of a prima facie case against him. Respondent Coloma was able to get a directive from the Secretary of Justice, dated Sept. 3, 1974, reversing the findings of the Investigating Fiscal and instructing the City Fiscal of Manila to have the case "dismissed, immediately upon receipt hereof." At any rate, We are convinced that the misunderstanding between petitioner and private respondent Coloma has gone to such an extent that it would not be surprising for respondent Coloma to be motivated by vengeance when he filed his action for damages against the petitioner in the C.F.I. of Ilocos Norte in order to get even with and impose all kinds of inconveniences on the petitioner. Otherwise, it would have been easier and very much more convenient for both parties if the civil action for damages against petitioner had been filed either in the C. F. I. of Quezon City or Pasig, Rizal, because both petitioner and private respondent are admittedly residing within the greater Manila area.

WHEREFORE, the decision of the respondent Appellate Court is hereby reversed; the Orders dated June 25, 1974, and July 19, 1974, in Civil Case No. 5011-1 of the Court of First Instance of Ilocos Norte are set aside; the complaint in the aforementioned case is hereby dismissed for improper venue and lack of sufficient cause of action, and the respondent judge of the Court of First Instance of Ilocos Norte or his successor in office is restrained from further proceeding with the hearing of said case.

With costs against private respondent Coloma.

SO ORDERED.

Makasiar, Muñoz Palma, and Martin, JJ., concur.

Teehankee, J., concurs in the result.

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.