ROBERTO S. BENEDICTO AND HECTOR T. RIVERA, PETITIONERS, VS. THE COURT OF APPEALS, HON. GUILLERMO L. LOJA, SR., PRESIDING JUDGE, REGIONAL TRIAL COURT OF MANILA, BRANCH 26, AND PE...

G.R. No. 125359. September 04, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Assailed in this petition is the consolidated decision rendered on May 23, 1996, by the Court of Appeals in CA-G.R. SP No. 35928 and CA-G.R. SP No. 35719. CA-G.R. SP No. 35928 had affirmed the order dated September 6, 1994, of the Regional Trial Court, Manila, Branch 26, insofar as it denied petitioners' respective Motions to Quash the Informations in twenty-five (25) criminal cases for violation of Central Bank Circular No. 960. Therein included were informations involving: (a) consolidated Criminal Cases Nos. 91-101879 to 91-101883 filed against Mrs. Imelda R. Marcos, Roberto S. Benedicto, and Hector T. Rivera; (b) consolidated Criminal Cases Nos. 91-101884 to 91-101892 filed against Mrs. Marcos and Benedicto; and (c) Criminal Cases Nos. 92-101959 to 92-101969 also against Mrs. Marcos and Benedicto. Note, however, that the Court of Appeals already dismissed Criminal Case No. 91-101884.

The factual antecedents of the instant petition are as follows:

On December 27, 1991, Mrs. Imelda Marcos and Messrs. Benedicto and Rivera were indicted for violation of Section 10 of Circular No. 960[1] in relation to Section 34[2] of the Central Bank Act (Republic Act No. 265, as amended) in five Informations filed with the Regional Trial Court of Manila. Docketed as Criminal Cases Nos. 91-101879 to 91-101883, the charge sheets alleged that the trio failed to submit reports of their foreign exchange earnings from abroad and/or failed to register with the Foreign Exchange Department of the Central Bank within the period mandated by Circular No. 960. Said Circular prohibited natural and juridical persons from maintaining foreign exchange accounts abroad without prior authorization from the Central Bank.[3] It also required all residents of the Philippines who habitually earned or received foreign currencies from invisibles, either locally or abroad, to report such earnings or receipts to the Central Bank. Violations of the Circular were punishable as a criminal offense under Section 34 of the Central Bank Act.

That same day, nine additional Informations charging Mrs. Marcos and Benedicto with the same offense, but involving different accounts, were filed with the Manila RTC, which docketed these as Criminal Cases Nos. 91-101884 to 91-101892. The accusatory portion of the charge sheet in Criminal Case No. 91-101888 reads:

> That from September 1, 1983 up to 1987, both dates inclusive, and for sometime thereafter, both accused, conspiring and confederating with each other and with the late President Ferdinand E. Marcos, all residents of Manila, Philippines, and within the jurisdiction of this Honorable Court, did then and there wilfully, unlawfully and feloniously fail to submit reports in the prescribed form and/or register with the Foreign Exchange Department of the Central Bank within 90 days from October 21, 1983 as required of them being residents habitually/customarily earning, acquiring or receiving foreign exchange from whatever source or from invisibles locally or from abroad, despite the fact they actually earned interests regularly every six (6) months

> for the first two years and then quarterly thereafter for their investment of $50-million, later reduced to $25-million in December 1985, in Philippine-issued dollar denominated treasury notes with floating rates and in bearer form, in the name of Bank Hofmann, AG, Zurich, Switzerland, for the benefit of Avertina Foundation, their front organization established for economic advancement purposes with secret foreign exchange account Category (Rubric) C.A.R. No. 211 925-02 in Swiss Credit Bank (also known as SKA) in Zurich, Switzerland, which earned, acquired or received for the accused Imelda Romualdez Marcos and her late husband an interest of $2,267,892 as of December 16, 1985 which was remitted to Bank Hofmann, AG, through Citibank, New York, United States of America, for the credit of said Avertina account on December 19, 1985, aside from the redemption of $25 million (one-half of the original $50-M) as of December 16, 1985 and outwardly remitted from the Philippines in the amounts of $7,495,297.49 and $17,489,062.50 on December 18, 1985 for further investment outside the Philippines without first complying with the Central Bank reporting/registering requirements.
>
> CONTRARY TO LAW.[4]

The other charge sheets were similarly worded except the days of the commission of the offenses, the name(s) of the alleged dummy or dummies, the amounts in the foreign exchange accounts maintained, and the names of the foreign banks where such accounts were held by the accused.

On January 3, 1992, eleven more Informations accusing Mrs. Marcos and Benedicto of the same offense, again in relation to different accounts, were filed with the same court, docketed as Criminal Cases Nos. 92-101959 to 92-101969. The Informations were similarly worded as the earlier indictments, save for the details as to the dates of the violations of Circular No. 960, the identities of the dummies used, the balances and sources of the earnings, and the names of the foreign banks where these accounts were maintained.

All of the aforementioned criminal cases were consolidated before Branch 26 of the said trial court.

On the same day that Criminal Cases Nos. 92-101959 to 92-101969 were filed, the Central Bank issued Circular No. 1318[5] which revised the rules governing non-trade foreign exchange transactions. It took effect on January 20, 1992.

On August 24, 1992, the Central Bank, pursuant to the government's policy of further liberalizing foreign exchange transactions, came out with Circular No. 1353,[6] which amended Circular No. 1318. Circular No. 1353 deleted the requirement of prior Central Bank approval for foreign exchange-funded expenditures obtained from the banking system.

Both of the aforementioned circulars, however, contained a saving clause, excepting from their coverage pending criminal actions involving violations of Circular No. 960 and, in the case of Circular No. 1353, violations of both Circular No. 960 and Circular No. 1318.

On September 19, 1993, the government allowed petitioners Benedicto and Rivera to return to the Philippines, on condition that they face the various criminal charges instituted against them, including the dollar-salting cases. Petitioners posted bail in the latter cases.

On February 28, 1994, petitioners Benedicto and Rivera were arraigned. Both pleaded not guilty to the charges of violating Central Bank Circular No. 960. Mrs. Marcos had earlier entered a similar plea during her arraignment for the same offense on February 12, 1992.

On August 11, 1994, petitioners moved to quash all the Informations filed against them in Criminal Cases Nos. 91-101879 to 91-101883; 91-101884 to 91-101892, and 91-101959 to 91-101969. Their motion was grounded on lack of jurisdiction, forum shopping, extinction of criminal liability with the repeal of Circular No. 960, prescription, exemption from the Central Bank's reporting requirement, and the grant of absolute immunity as a

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result of a compromise agreement entered into with the government.

On September 6, 1994, the trial court denied petitioners' motion. A similar motion filed on May 23, 1994 by Mrs. Marcos seeking to dismiss the dollar-salting cases against her due to the repeal of Circular No. 960 had earlier been denied by the trial court in its order dated June 9, 1994. Petitioners then filed a motion for reconsideration, but the trial court likewise denied this motion on October 18, 1994.

On November 21, 1994, petitioners moved for leave to file a second motion for reconsideration. The trial court, in its order of November 23, 1994, denied petitioners' motion and set the consolidated cases for trial on January 5, 1995.

Two separate petitions for certiorari and prohibition, with similar prayers for temporary restraining orders and/or writs of preliminary injunction, docketed as CA-G.R. SP No. 35719 and CA-G.R. SP No. 35928, were respectively filed by Mrs. Marcos and petitioners with the Court of Appeals. Finding that both cases involved violations of Central Bank Circular No. 960, the appellate court consolidated the two cases.

On May 23, 1996, the Court of Appeals disposed of the consolidated cases as follows:

> WHEREFORE, finding no grave abuse of discretion on the part of respondent Judge in denying petitioners' respective Motions to Quash, except that with respect to Criminal Case No. 91-101884, the instant petitions are hereby DISMISSED for lack of merit. The assailed September 6, 1994 Order, in so far as it denied the Motion to Quash Criminal Case No. 91-101884 is hereby nullified and set aside, and said case is hereby dismissed. Costs against petitioners.
>
> SO ORDERED.[7]

Dissatisfied with the said decision of the court a quo, except with respect to the portion ordering the dismissal of Criminal Case No. 91-101884, petitioners filed the instant petition, attributing the following errors to the appellate court:

> THAT THE COURT ERRED IN NOT FINDING THAT THE INFORMATIONS/CASES FILED AGAINST PETITIONERS-APPELLANTS ARE QUASHABLE BASED ON THE FOLLOWING GROUNDS:
>
> (A)
>
> LACK OF JURISDICTION/FORUM SHOPPING/NO VALID PRELIMINARY INVESTIGATION
>
> (B)
>
> EXTINCTION OF CRIMINAL LIABILITY
>
> 1)
>
> REPEAL OF CB CIRCULAR NO. 960 BY CB CIRCULAR NO. 1353;
>
> 2)
>
> REPEAL OF R.A. 265 BY R.A. 7653[8]
>
> (C)
>
> PRESCRIPTION

(D)

EXEMPTION FROM CB REPORTING REQUIREMENT

(E)

GRANT OF ABSOLUTE IMMUNITY.[9]

Simply stated, the issues for our resolution are:

(1)

Did the Court of Appeals err in denying the Motion to Quash for lack of jurisdiction on the part of the trial court, forum shopping by the prosecution, and absence of a valid preliminary investigation?

(2)

Did the repeal of Central Bank Circular No. 960 and Republic Act No. 265 by Circular No. 1353 and Republic Act No. 7653 respectively, extinguish the criminal liability of petitioners?

(3)

Had the criminal cases in violation of Circular No. 960 already prescribed?

(4)

Were petitioners exempted from the application and coverage of Circular No. 960?

(5)

Were petitioners' alleged violations of Circular No. 960 covered by the absolute immunity granted in the Compromise Agreement of November 3, 1990?

On the first issue, petitioners assail the jurisdiction of the Regional Trial Court. They aver that the dollar-salting charges filed against them were violations of the Anti-Graft Law or Republic Act No. 3019, and the Sandiganbayan has original and exclusive jurisdiction over their cases.

Settled is the rule that the jurisdiction of a court to try a criminal case is determined by the law in force at the time the action is instituted.[10] The 25 cases were filed in 1991-92. The applicable law on jurisdiction then was Presidential Decree 1606.[11] Under P.D. No. 1606, offenses punishable by imprisonment of not more than six years fall within the jurisdiction of the regular trial courts, not the Sandiganbayan.[12]

In the instant case, all the Informations are for violations of Circular No. 960 in relation to Section 34 of the Central Bank Act and not, as petitioners insist, for transgressions of Republic Act No. 3019. Pursuant to Section 34 of Republic Act No. 265, violations of Circular No. 960 are punishable by imprisonment of not more than five years and a fine of not more than P20,000.00. Since under P.D. No. 1606 the Sandiganbayan has no jurisdiction to try criminal cases where the imposable penalty is less than six years of imprisonment, the cases against petitioners for violations of Circular No. 960 are, therefore, cognizable by the trial court. No error may thus be charged to the Court of Appeals when it held that the RTC of Manila had jurisdiction to hear and try the dollar-salting cases.

Still on the first issue, petitioners next contend that the filing of the cases for violations of Circular No. 960 before the RTC of Manila constitutes forum shopping. Petitioners argue that the prosecution, in an attempt to seek a favorable verdict from more than one tribunal, filed separate cases involving virtually the same offenses before the regular trial courts and the Sandiganbayan. They fault the prosecution with splitting the cases. Petitioners maintain that while the RTC cases refer only to the failure to report interest earnings on Treasury Notes, the

Sandiganbayan cases seek to penalize the act of receiving the same interest earnings on Treasury Notes in violation of the Anti-Graft Law's provisions on prohibited transactions. Petitioners aver that the violation of Circular No. 960 is but an element of the offense of prohibited transactions punished under Republic Act No. 3019 and should, thus, be deemed absorbed by the prohibited transactions cases pending before the Sandiganbayan.

For a charge of forum shopping to prosper, there must exist between an action pending in one court and another action before another court: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.[13] Here, we find that the single act of receiving unreported interest earnings on Treasury Notes held abroad constitutes an offense against two or more distinct and unrelated laws, Circular No. 960 and R.A. 3019. Said laws define distinct offenses, penalize different acts, and can be applied independently.[14] Hence, no fault lies at the prosecution's door for having instituted separate cases before separate tribunals involving the same subject matter.

With respect to the RTC cases, the receipt of the interest earnings violate Circular No. 960 in relation to Republic Act No. 265 because the same was unreported to the Central Bank. The act to be penalized here is the failure to report the interest earnings from the foreign exchange accounts to the proper authority. As to the anti-graft cases before the Sandiganbayan involving the same interest earnings from the same foreign exchange accounts, the receipt of the interest earnings transgresses Republic Act No. 3019 because the act of receiving such interest is a prohibited transaction prejudicial to the government. What the State seeks to punish in these anti-graft cases is the prohibited receipt of the interest earnings. In sum, there is no identity of offenses charged, and prosecution under one law is not an obstacle to a prosecution under the other law. There is no forum shopping.

Finally, on the first issue, petitioners contend that the preliminary investigation by the Department of Justice was invalid and in violation of their rights to due process. Petitioners argue that government's ban on their travel effectively prevented them from returning home and personally appearing at the preliminary investigation. Benedicto and Rivera further point out that the joint preliminary investigation by the Department of Justice, resulted to the charges in one set of cases before the Sandiganbayan for violations of Republic Act No. 3019 and another set before the RTC for violation of Circular No. 960.

Preliminary investigation is not part of the due process guaranteed by the Constitution.[15] It is an inquiry to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof.[16] Instead, the right to a preliminary investigation is personal. It is afforded to the accused by statute, and can be waived, either expressly or by implication.[17] The waiver extends to any irregularity in the preliminary investigation, where one was conducted.

The petition in the present case contains the following admissions:

> 1. Allowed to return to the Philippines on September 19, 1993...on the condition that he face the criminal charges pending in courts, petitioner-appellant Benedicto, joined by his co-petitioner Rivera, lost no time in attending to the pending criminal charges by posting bail in the above-mentioned cases.
>
> 2. Not having been afforded a real opportunity of attending the preliminary investigation because of their forced absence from the Philippines then, petitioners-appellants invoked their right to due process thru motions for preliminary investigation...Upon denial of their demands for preliminary investigation, the petitioners intended to elevate the matter to the Honorable Court of Appeals and actually caused the filing of a petition for certiorari/prohibition sometime before their arraignment but immediately caused the withdrawal thereof...in view of the prosecution's willingness to go to pre-trial wherein petitioners would be allowed access to the

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> records of preliminary investigation which they could use for purposes of filing a motion to quash if warranted.
>
> 3. Thus, instead of remanding the Informations to the Department of Justice...respondent Judge set the case for pre-trial in order to afford all the accused access to the records of the prosecution...
>
> x x x
>
> 5. On the basis of disclosures at the pre-trial, the petitioners-appellants Benedicto and Rivera moved for the quashing of the informations/cases...[18]

The foregoing admissions lead us to conclude that petitioners have expressly waived their right to question any supposed irregularity in the preliminary investigation or to ask for a new preliminary investigation. Petitioners, in the above excerpts from this petition, admit posting bail immediately following their return to the country, entered their respective pleas to the charges, and filed various motions and pleadings. By so doing, without simultaneously demanding a proper preliminary investigation, they have waived any and all irregularities in the conduct of a preliminary investigation.[19] The trial court did not err in denying the motion to quash the informations on the ground of want of or improperly conducted preliminary investigation. The absence of a preliminary investigation is not a ground to quash the information.[20]

On the second issue, petitioners contend that they are being prosecuted for acts punishable under laws that have already been repealed. They point to the express repeal of Central Bank Circular No. 960 by Circular Nos. 1318 and 1353 as well as the express repeal of Republic Act No. 265 by Republic Act No. 7653. Petitioners, relying on Article 22 of the Revised Penal Code,[21] contend that repeal has the effect of extinguishing the right to prosecute or punish the offense committed under the old laws.[22]

As a rule, an absolute repeal of a penal law has the effect of depriving a court of its authority to punish a person charged with violation of the old law prior to its repeal.[23] This is because an unqualified repeal of a penal law constitutes a legislative act of rendering legal what had been previously declared as illegal, such that the offense no longer exists and it is as if the person who committed it never did so. There are, however, exceptions to the rule. One is the inclusion of a saving clause in the repealing statute that provides that the repeal shall have no effect on pending actions.[24] Another exception is where the repealing act reenacts the former statute and punishes the act previously penalized under the old law. In such instance, the act committed before the reenactment continues to be an offense in the statute books and pending cases are not affected, regardless of whether the new penalty to be imposed is more favorable to the accused.[25]

In the instant case, it must be noted that despite the repeal of Circular No. 960, Circular No. 1353 retained the same reportorial requirement for residents receiving earnings or profits from non-trade foreign exchange transactions.[26] Second, even the most cursory glance at the repealing circulars, Circular Nos. 1318 and 1353 shows that both contain a saving clause, expressly providing that the repeal of Circular No. 960 shall have no effect on pending actions for violation of the latter Circular.[27] A saving clause operates to except from the effect of the repealing law what would otherwise be lost under the new law.[28] In the present case, the respective saving clauses of Circular Nos. 1318 and 1353 clearly manifest the intent to reserve the right of the State to prosecute and punish offenses for violations of the repealed Circular No. 960, where the cases are either pending or under investigation.

Petitioners, however, insist that the repeal of Republic Act No. 265, particularly Section 34,[29] by Republic Act No. 7653, removed the applicability of any penal sanction for violations of any non-trade foreign exchange transactions previously penalized by Circular No. 960. Petitioners posit that a comparison of the two provisions shows that Section 36[30] of Republic Act No. 7653 neither retained nor reinstated Section 34 of Republic Act No. 265. Since, in creating the Bangko Sentral ng Pilipinas, Congress did not include in its charter a clause

providing for the application of Section 34 of Republic Act No. 265 to pending cases, petitioners' pending dollar-salting cases are now bereft of statutory penalty, the saving clause in Circular No. 1353 notwithstanding. In other words, absent a provision in Republic Act No. 7653 expressly reviving the applicability of any penal sanction for the repealed mandatory foreign exchange reporting regulations formerly required under Circular No. 960, violations of aforesaid repealed Circular can no longer be prosecuted criminally.

A comparison of the old Central Bank Act and the new Bangko Sentral's charter repealing the former show that in consonance with the general objective of the old law and the new law "to maintain internal and external monetary stability in the Philippines and preserve the international value of the peso,"[31] both the repealed law and the repealing statute contain a penal clause which sought to penalize in general, violations of the law as well as orders, instructions, rules, or regulations issued by the Monetary Board. In the case of the Bangko Sentral, the scope of the penal clause was expanded to include violations of "other pertinent banking laws enforced or implemented by the Bangko Sentral." In the instant case, the acts of petitioners sought to be penalized are violations of rules and regulations issued by the Monetary Board. These acts are proscribed and penalized in the penal clause of the repealed law and this proviso for proscription and penalty was reenacted in the repealing law. We find, therefore, that while Section 34 of Republic Act No. 265 was repealed, it was nonetheless, simultaneously reenacted in Section 36 of Republic Act No. 7653. Where a clause or provision or a statute for that matter is simultaneously repealed and reenacted, there is no effect, upon the rights and liabilities which have accrued under the original statute, since the reenactment, in effect "neutralizes" the repeal and continues the law in force without interruption.[32] The rule applies to penal laws and statutes with penal provisions. Thus, the repeal of a penal law or provision, under which a person is charged with violation thereof and its simultaneous reenactment penalizing the same act done by him under the old law, will neither preclude the accused's prosecution nor deprive the court of its jurisdiction to hear and try his case.[33] As pointed out earlier, the act penalized before the reenactment continues to remain an offense and pending cases are unaffected. Therefore, the repeal of Republic Act No. 265 by Republic Act No. 7653 did not extinguish the criminal liability of petitioners for transgressions of Circular No. 960 and cannot, under the circumstances of this case, be made a basis for quashing the indictments against petitioners.

Petitioners, however, point out that Section 36 of Republic Act No. 7653, in reenacting Section 34 of the old Central Act, increased the penalty for violations of rules and regulations issued by the Monetary Board. They claim that such increase in the penalty would give Republic Act No. 7653 an ex post facto application, violating the Bill of Rights.[34]

Is Section 36 of Republic Act No. 7653 an ex post facto legislation?

An ex post facto law is one which: (1) makes criminal an act done before the passage of the law and which was innocent when done, and punishes such an act; (2) aggravates a crime, or makes it greater than it was when committed; (3) changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed; (4) alters the legal rules of evidence, and authorizes conviction upon less or different testimony than the law required at the time of the commission of the offense; (5) assuming to regulate civil rights, and remedies only, in effect imposes penalty or deprivation of a right for something which when done was lawful; and (6) deprives a person accused of a crime of some lawful protection to which he has become entitled such as the protection of a former conviction or acquittal, or a proclamation of amnesty.[35]

The test whether a penal law runs afoul of the ex post facto clause of the Constitution is: Does the law sought to be applied retroactively take "from an accused any right that was regarded at the time of the adoption of the constitution as vital for the protection of life and liberty and which he enjoyed at the time of the commission of the offense charged against him?"[36]

The crucial words in the test are "vital for the protection of life and liberty."[37] We find, however, the test inapplicable to the penal clause of Republic Act No. 7653. Penal laws and laws which, while not penal in nature, nonetheless have provisions defining offenses and prescribing penalties for their violation operate prospectively.[38] Penal laws cannot be given retroactive effect, except when they are favorable to the accused.[39] Nowhere in Republic Act No. 7653, and in particular Section 36, is there any indication that the increased penalties provided therein were intended to operate retroactively. There is, therefore, no ex post facto law in this case.

On the third issue, petitioners ask us to note that the dollar interest earnings subject of the criminal cases instituted against them were remitted to foreign banks on various dates between 1983 to 1987. They maintain that given the considerable lapse of time from the dates of the commission of the offenses to the institution of the criminal actions in 1991 and 1992, the State's right to prosecute them for said offenses has already prescribed. Petitioners assert that the Court of Appeals erred in computing the prescriptive period from February 1986. Petitioners theorize that since the remittances were made through the Central Bank as a regulatory authority, the dates of the alleged violations are known, and prescription should thus be counted from these dates.

In ruling that the dollar-salting cases against petitioners have not yet prescribed, the court a quo quoted with approval the trial court's finding that:

> [T]he alleged violations of law were discovered only after the EDSA Revolution in 1986 when the dictatorship was toppled down. The date of the discovery of the offense, therefore, should be the basis in computing the prescriptive period. Since (the) offenses charged are punishable by imprisonment of not more than five (5) years, they prescribe in eight (8) years. Thus, only a little more than four (4) years had elapsed from the date of discovery in 1986 when the cases were filed in 1991.[40]

The offenses for which petitioners are charged are penalized by Section 34 of Republic Act No. 265 "by a fine of not more than Twenty Thousand Pesos (P20,000.00) and by imprisonment of not more than five years." Pursuant to Act No. 3326, which mandates the periods of prescription for violations of special laws, the prescriptive period for violations of Circular No. 960 is eight (8) years.[41] The period shall commence "to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and institution of judicial proceedings for its investigation and punishment."[42] In the instant case, the indictments against petitioners charged them with having conspired with the late President Ferdinand E. Marcos in transgressing Circular No. 960. Petitioners' contention that the dates of the commission of the alleged violations were known and prescription should be counted from these dates must be viewed in the context of the political realities then prevailing. Petitioners, as close associates of Mrs. Marcos, were not only protected from investigation by their influence and connections, but also by the power and authority of a Chief Executive exercising strong-arm rule. This Court has taken judicial notice of the fact that Mr. Marcos, his family, relations, and close associates "resorted to all sorts of clever schemes and manipulations to disguise and hide their illicit acquisitions."[43] In the instant case, prescription cannot, therefore, be made to run from the dates of the commission of the offenses charged, for the obvious reason that the commission of those offenses were not known as of those dates. It was only after the EDSA Revolution of February, 1986, that the recovery of ill-gotten wealth became a highly prioritized state policy,[44] pursuant to the explicit command of the Provisional Constitution.[45] To ascertain the relevant facts to recover "ill-gotten properties amassed by the leaders and supporters of the (Marcos) regime"[46] various government agencies were tasked by the Aquino administration to investigate, and as the evidence on hand may reveal, file and prosecute the proper cases. Applying the presumption "that official duty has been regularly performed",[47] we are more inclined to believe that the violations for which petitioners are charged were discovered only during the post-February 1986 investigations and the tolling of the prescriptive period should be counted from the dates of discovery of their commission. The criminal actions against

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petitioners, which gave rise to the instant case, were filed in 1991 and 1992, or well within the eight-year prescriptive period counted from February 1986.

The fourth issue involves petitioners' claim that they incurred no criminal liability for violations of Circular No. 960 since they were exempted from its coverage.

Petitioners postulate that since the purchases of treasury notes were done through the Central Bank's Securities Servicing Department and payments of the interest were coursed through its Securities Servicing Department/Foreign Exchange Department, their filing of reports would be surplusage, since the requisite information were already with the Central Bank. Furthermore, they contend that the foreign currency investment accounts in the Swiss banks were subject to absolute confidentiality as provided for by Republic Act No. 6426,[48] as amended by Presidential Decree Nos. 1035, 1246, and 1453, and fell outside the ambit of the reporting requirements imposed by Circular No. 960. Petitioners further rely on the exemption from reporting provided for in Section 10(q), [49] Circular No. 960, and the confidentiality granted to Swiss bank accounts by the laws of Switzerland.

Petitioners correctly point out that Section 10(q) of Circular No. 960 exempts from the reporting requirement foreign currency eligible for deposit under the Philippine Foreign Exchange Currency Deposit System, pursuant to Republic Act No. 6426, as amended. But, in order to avail of the aforesaid exemption, petitioners must show that they fall within its scope. Petitioners must satisfy the requirements for eligibility imposed by Section 2, Republic Act No. 6426.[50] Not only do we find the record bare of any proof to support petitioners' claim of falling within the coverage of Republic Act No. 6426, we likewise find from a reading of Section 2 of the Foreign Currency Deposit Act that said law is inapplicable to the foreign currency accounts in question. Section 2, Republic Act No. 6426 speaks of "deposit with such Philippine banks in good standing, as may...be designated by the Central Bank for the purpose."[51] The criminal cases filed against petitioners for violation of Circular No. 960 involve foreign currency accounts maintained in foreign banks, not Philippine banks. By invoking the confidentiality guarantees provided for by Swiss banking laws, petitioners admit such reports made. The rule is that exceptions are strictly construed and apply only so far as their language fairly warrants, with all doubts being resolved in favor of the general proviso rather than the exception.[52] Hence, petitioners may not claim exemption under Section 10(q).

With respect to the banking laws of Switzerland cited by petitioners, the rule is that Philippine courts cannot take judicial notice of foreign laws.[53] Laws of foreign jurisdictions must be alleged and proved.[54] Petitioners failed to prove the Swiss law relied upon, either by: (1) an official publication thereof; or (2) a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certification from the secretary of the Philippine embassy or legation in such country or by the Philippine consul general, consul, vice-consul, or consular agent stationed in such country, or by any other authorized officer in the Philippine foreign service assigned to said country that such officer has custody.[55] Absent such evidence, this Court cannot take judicial cognizance of the foreign law invoked by Benedicto and Rivera.

Anent the fifth issue, petitioners insist that the government granted them absolute immunity under the Compromise Agreement they entered into with the government on November 3, 1990. Petitioners cite our decision in Republic v. Sandiganbayan, 226 SCRA 314 (1993), upholding the validity of the said Agreement and directing the various government agencies to be consistent with it. Benedicto and Rivera now insist that the absolute immunity from criminal investigation or prosecution granted to petitioner Benedicto, his family, as well as to officers and employees of firms owned or controlled by Benedicto under the aforesaid Agreement covers the suits filed for violations of Circular No. 960, which gave rise to the present case.

The pertinent provisions of the Compromise Agreement read:

> WHEREAS, this Compromise Agreement covers the remaining claims and the cases of the Philippine Government against Roberto S. Benedicto including his associates and nominees, namely, Julita C. Benedicto, Hector T. Rivera, x x x
>
> WHEREAS, specifically these claims are the subject matter of the following cases (stress supplied):
>
> - Sandiganbayan Civil Case No. 9
>
> - Sandiganbayan Civil Case No. 24
>
> - Sandiganbayan Civil Case No. 34
>
> - Tanodbayan (Phil-Asia)
>
> - PCGG I.S. No. 1
>
> x x x
>
> WHEREAS, following the termination of the United States and Swiss cases, and also without admitting the merits of their respective claims and counterclaims presently involved in uncertain, protracted and expensive litigation, the Republic of the Philippines, solely motivated by the desire for the immediate accomplishment of its recovery mission and Mr. Benedicto being interested to lead a peaceful and normal pursuit of his endeavors, the parties have decided to withdraw and/or dismiss their mutual claims and counterclaims under the cases pending in the Philippines, earlier referred to (underscoring supplied);
>
> x x x
>
> II. Lifting of Sequestrations, Extension of Absolute Immunity and Recognition of the Freedom to Travel
>
> a) The Government hereby lifts the sequestrations over the assets listed in Annex "C" hereof, the same being within the capacity of Mr. Benedicto to acquire from the exercise of his profession and conduct of business, as well as all the haciendas listed in his name in Negros Occidental, all of which were inherited by him or acquired with income from his inheritance...and all the other sequestered assets that belong to Benedicto and his corporation/nominees which are not listed in Annex "A" as ceded or to be ceded to the Government.
>
> Provided, however, (that) any asset(s) not otherwise settled or covered by this Compromise Agreement, hereinafter found and clearly established with finality by proper competent court as being held by Mr. Roberto S. Benedicto in trust for the family of the late Ferdinand E. Marcos, shall be returned or surrendered to the Government for appropriate custody and disposition.
>
> b) The Government hereby extends absolute immunity, as authorized under the pertinent provisions of Executive Orders Nos. 1, 2, 14 and 14-A, to Benedicto, the members of his family, officers and employees of his corporations above mentioned, who are included in past, present and future cases and investigations of the Philippine Government, such that there shall be no criminal investigation or prosecution against said persons for acts (or) omissions committed prior to February 25, 1986, that may be alleged to have violated any laws, including but not limited to Republic Act No. 3019, in relation to the acquisition of any asset treated, mentioned or included in this Agreement.
>
> x x x[56]

In construing contracts, it is important to ascertain the intent of the parties by looking at the words employed to project their intention. In the instant case, the parties clearly listed and limited the applicability of the Compromise Agreement to the cases listed or identified therein. We have ruled in another case involving the same Compromise Agreement that:

> [T]he subject matters of the disputed compromise agreement are Sandiganbayan Civil Case No. 0009, Civil Case No. 00234, Civil Case No. 0034, the Phil-Asia case before the Tanodbayan and PCGG I.S. No. 1. The cases arose from complaints for reconveyance, reversion, accounting, restitution, and damages against former President Ferdinand E. Marcos, members of his family, and alleged cronies, one of whom was respondent Roberto S. Benedicto.[57]

Nowhere is there a mention of the criminal cases filed against petitioners for violations of Circular No. 960. Conformably with Article 1370 of the Civil Code,[58] the Agreement relied upon by petitioners should include only cases specifically mentioned therein. Applying the parol evidence rule,[59] where the parties have reduced their agreement into writing, the contents of the writing constitute the sole repository of the terms of the agreement between the parties.[60] Whatever is not found in the text of the Agreement should thus be construed as waived and abandoned.[61] Scrutiny of the Compromise Agreement will reveal that it does not include all cases filed by the government against Benedicto, his family, and associates.

Additionally, the immunity covers only "criminal investigation or prosecution against said persons for acts (or) omissions committed prior to February 25, 1986 that may be alleged to have violated any penal laws, including but not limited to Republic Act No. 3019, in relation to the acquisition of any asset treated, mentioned, or included in this Agreement."[62] It is only when the criminal investigation or case involves the acquisition of any ill-gotten wealth "treated, mentioned, or included in this Agreement"[63] that petitioners may invoke immunity. The record is bereft of any showing that the interest earnings from foreign exchange deposits in banks abroad, which is the subject matter of the present case, are "treated, mentioned, or included" in the Compromise Agreement. The phraseology of the grant of absolute immunity in the Agreement precludes us from applying the same to the criminal charges faced by petitioners for violations of Circular No. 960. A contract cannot be construed to include matters distinct from those with respect to which the parties intended to contract.[64]

In sum, we find that no reversible error of law may be attributed to the Court of Appeals in upholding the orders of the trial court denying petitioners' Motion to Quash the Informations in Criminal Case Nos. 91-101879 to 91-101883, 91-101884 to 91-101892, and 92-101959 to 92-101969. In our view, none of the grounds provided for in the Rules of Court[65] upon which petitioners rely, finds application in this case.

One final matter. During the pendency of this petition, counsel for petitioner Roberto S. Benedicto gave formal notice to the Court that said petitioner died on May 15, 2000. The death of an accused prior to final judgment terminates his criminal liability as well as the civil liability based solely thereon.[66]

WHEREFORE, the instant petition is DISMISSED. The assailed consolidated Decision of the Court of Appeals dated May 23, 1996, in CA-G.R. SP No. 35928 and CA-G.R. SP No. 35719, is AFFIRMED WITH MODIFICATION that the charges against deceased petitioner, Roberto S. Benedicto, particularly in Criminal Cases Nos. 91-101879 to 91-101883, 91-101884 to 101892, and 92-101959 to 92-101969, pending before the Regional Trial Court of Manila, Branch 26, are ordered dropped and that any criminal as well as civil liability ex delicto that might be attributable to him in the aforesaid cases are declared extinguished by reason of his death on May 15, 2000. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] SEC. 10. Reports of foreign exchange earners. - All resident persons who habitually/customarily earn, acquire, or receive foreign exchange from invisibles locally or from abroad, shall submit reports in the prescribed form of

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such earnings, acquisition or receipts with the appropriate CB department. Those required to submit reports under this section shall include, but need not necessarily be limited to the following:

x x x

Residents, firms, or establishments habitually/customarily earning, acquiring, receiving foreign exchange from sales of merchandise, services or from whatever source shall register with the Foreign Exchange Department of the Central Bank within ninety (90) days from the date of this Circular.

[2] SEC. 34. Proceedings upon violation of laws and regulations. - Whenever any person or entity willfully violates this Act or any order, instruction, rule or regulation legally issued by the Monetary Board, the person or persons responsible for such violation shall be punished by a fine of not more than twenty thousand pesos (P20,000.00) and by imprisonment of not more than five (5) years. x x x

[3] SEC. 4. Foreign exchange retention abroad. - No person shall promote, finance, enter into or participate in any foreign exchange transactions where the foreign exchange involved is paid, retained, delivered or transferred abroad while the corresponding pesos are paid for or are received in the Philippines, except when specifically authorized by the Central bank or otherwise allowed under Central Bank regulations.

SEC. 10. Reports of foreign exchange earners. - All resident persons who habitually/customarily earn, acquire, or receive foreign exchange from invisibles locally or from abroad, shall submit reports in the prescribed form of such earnings, acquisition or receipts with the appropriate CB department. Those required to submit reports under this section shall include, but need not necessarily be limited to the following:

x x x

Residents, firms, associations, or corporations unless otherwise permitted under CB regulations are prohibited from maintaining foreign exchange accounts abroad.

[4] Rollo, pp. 140-141.

[5] CB CIRCULAR NO. 1318

"SEC. 111. Repealing Clause. All existing provisions of Circulars 363, 960, 1028 including amendments thereto, with the exception of the second paragraph of Section 68 of Circular 1028, as well as all other existing Central Bank rules and regulations parts thereof, which are inconsistent with or contrary to the provisions of this Circular, are hereby repealed or modified accordingly: Provided, however, that regulations, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern."

[6] CB CIRCULAR NO. 1353

"SEC. 16. Final Provisions of CB Circular No. 1318. All the provisions in Chapter X of CB Circular No. 1318 insofar as they are not inconsistent with, or contrary to the provisions of this Circular, shall remain in full force and effect: Provided, however, that any regulation on non-trade foreign exchange transactions which has been repealed, amended or modified by this Circular, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time of the cause of actions accrued shall govern." (Underline supplied)

[7] Rollo, p. 79.

[8] Also known as "The New Central Bank Act."

[9] Rollo, pp. 8-9.

[10] Azarcon v. Sandiganbayan, 268 SCRA 747, 757 (1997) citing People v. Magallanes, 249 SCRA 212, 227 (1995).

[11] The P.D. 1606 defined the jurisdiction of the Sandiganbayan at the time these twenty-five (25) dollar-salting cases were filed. Republic Act No. 7975, which amended the Sandiganbayan Law, took effect only on May 16, 1995, (Binay vs. Sandiganbayan, et al., G.R. Nos. 120681-83, October 1, 1999) after petitioners had been arraigned. Republic Act No. 8249, which further amended the jurisdiction of the Sandiganbayan, in turn, took effect on February 23, 1997 (Binay vs. Sandiganbayn, et al., supra).

[12] "SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise:

(a) Exclusive original jurisdiction in all cases involving:

(1) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code;

(2) Other offenses or felonies committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prision correcional or imprisonment for six (6) years, or a fine of P6,000.00: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prision correcional or imprisonment for six (6) years or a fine of P6,000.00 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court.

x x x

In case private individuals are charged as co-principals, accomplices, or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.

x x x

[13] Saura v. Saura, Jr., et al., 313 SCRA 465, 475 (1999).

[14] People v. Alvarez, 45 Phil. 472, 475 (1923).

[15] Lozada v. Hernandez, etc., et al., 92 Phil. 1051, 1053 (1953)

[16] Torralba v. Sandiganbayan, 230 SCRA 33, 41 (1994) citing Paderanga v. Drilon, 196 SCRA 86 (1991).

[17] In Re: Letter of Freddie P. Manuel, 235 SCRA 4, 7 (1994) citing People v. Ramilo, 57 O.G. 7431, Nombres v. People, 105 Phil. 1259 (1959) and People v. Casiano, 111 Phil. 73 (1961); People v. Lazo, 198 SCRA 274 (1991).

[18] Rollo, pp. 11-13.

[19] People v. Court of Appeals, 242 SCRA 645, 653 (1995); People v. Hubilo, 220 SCRA 389, 397-398 (1993); citing People v. La Caste, 37 SCRA 767 (1971); Palanca v. Querubin, 30 SCRA 728 (1969); Zacarias v. Cruz, 30 SCRA 728 (1969); People v. Selfaison, 110 Phil. 839 (1967); People v. De la Cerna, 21 SCRA 569 (1967); People

v. Casiano, 1 SCRA 478 (1961); Lozada v. Hernandez, 92 Phil. 1051 (1953); People v. Olandag, 92 Phil. 486 (1952).

[20] Socrates v. Sandiganbayan, 253 SCRA 773, 792 (1996).

[21] SEC. 22. Retroactive effect of penal laws. - Penal laws shall have a retroactive effect insofar as they favor the person guilty of a felony who is not a habitual criminal, as this term is defined in Rule 5 of Article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same.

[22] Petitioners specifically cite People v. Pastor, 77 Phil. 1000, 1008 (1947), People v. Tamayo, 61 Phil. 225 (1935); People v. Francisco, 56 Phil. 572 (1932) and People v. Alcaraz, 56 Phil. 520 (1932).

[23] People v. Almuete, 69 SCRA 410, (1976).

[24] Buscayno v. Military Commission Nos. 1, 2, 6, and 25,109 SCRA 273, 287 (1981).

[25] People v. Concepcion, 44 Phil. 126, 132 (1922) citing US v. Cuna, 12 Phil. 241 (1908), Ong Chang Wing and Kwong Fok v. United States, 40 Phil. 1046 (1910), 218 US 272 (1910), and People v. Concepcion, 43 Phil. 653 (1922).

[26] Sec. 6 (b) of the Circular No. 1353 states:

b) all residents falling under any of the following categories of non-trade foreign exchange earners shall submit to the Central Bank a monthly report of their foreign receipts and disbursements, if any, under a report form which shall be prescribed by the Central Bank.

x x x

15. Receipts of profits, dividends, earnings, divestment proceeds with foreign exchange purchased from AAB.

[27] The saving clause of Circular No. 1318 reads:

SEC. 111. Repealing Clause. - All existing provisions of Circulars 363, 960 and 1028, including amendments thereto, with the exception of the second paragraph of Section 6B of Circular 1028, as well as all other existing Central Bank rules and regulations or parts thereof, which are inconsistent with or contrary to the provisions of this Circular, are hereby repealed or modified accordingly: Provided, however, that regulations, violations of which are the subject of pending actions or investigations shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time of the cause of action shall govern. (Stress supplied)

The saving clause of Circular No. 1353, in turn, provides:

SEC. 16. Final Provisions of CB Circular No. 1318. - All the provisions in Chapter X of CB Circular No. 1318 insofar as they are not inconsistent with, or contrary to the provisions of this Circular, shall remain in full force and effect: Provided, however, that any regulation on non-trade foreign exchange transactions which has been repealed, amended or modified by this Circular, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions are concerned, it being understood that as to such pending actions or investigations the regulations existing at the time of the cause of action accrued shall govern. (Stress supplied).

[28] Ibañez de Aldecoa v. Hongkong & Shanghai Bank, 30 Phil. 228, 246 (1915).

[29] Supra, note 2.

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[30] SEC. 36. Proceedings Upon Violation of This Act and Other Banking Laws, Rules and Regulations, Orders or Instructions. - Whenever a bank or quasi-bank, or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be punished by a fine of not less than Fifty thousand pesos (P50,000.00) nor more than Two hundred thousand pesos (P200,000.00) or by imprisonment of not less than two (2) years nor more than ten (10) years; or both, at the discretion of the court.

x x x

[31] Sec. 2 (a), Republic Act No. 265. Section 3 of Republic Act No. 7653 restated this objective as follows: The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy. It shall also promote and maintain monetary stability and the convertibility of the peso. (Stress supplied).

[32] American Bible Society v. City of Manila, 101 Phil. 386, 397 (1957).

[33] Ong Chang Wing and Kwong Fok v. US, 40 Phil. 1046, 1050 (1910); US v. Cuna, supra.

[34] Const., Art. III, Sec. 22. "No ex post facto law or bill of attainder shall be enacted."

[35] In Re: Kay Villegas Kami Inc., 35 SCRA 429, 431(1970) citing Calder v. Bull (1798), 3 Dall. 386, Makin v. Wolfe, 2 Phil. 74 (1903).

[36] Nuñez v. Sandiganbayan, 111 SCRA 433, 450 (1982) citing Thompson v. Utah, 170 US 343 (1898).

[37] Nuñez v. Sandiganbayan, supra.

[38] People v. Moran, 44 Phil. 387, 398 (1923).

[39] Laceste v. Santos, 56 Phil. 472, 475 (1932). See also Rev. Pen. Code, Art. 22.

[40] Rollo, p. 77.

[41] SEC. 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules:

x x x

c) after eight (8) years for those punished by imprisonment for two (2) years or more, but less than six (6) years.

x x x

[42] Act No. 3326, Sec. 2.

[43] Bataan Shipyard & Engineering Co., Inc. v. Presidential Commission on Good Government, 150 SCRA 181, 208 (1987).

[44] Republic v. Sandiganbayan (First Division), 240 SCRA 376, 391 (1995).

[45] Ordained by Proclamation No. 3, promulgated on March 25, 1986, it also was more popularly known as the "Freedom Constitution."

[46] CONST. (March 25, 1986), Art. II, Sec. 1(d).

[47] RULES OF COURT, Rule 131, Sec. 3(m).

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[48] Also known as "The Foreign Currency Deposit Act." The secrecy clause relied upon by petitioners is Section 8 thereof which provides:

SEC. 8. Secrecy of Foreign Currency Deposits. - All foreign currency deposits authorized under this Act, as amended by Presidential Decree No. 1035, as well as foreign currency deposits authorized under Presidential Decree No. 1034 are hereby declared as and considered of an absolutely confidential nature and except upon the written permission of the depositor, in no instance shall such foreign currency deposits be examined, inquired or looked into by any person, government official, bureau or office whether judicial or administrative or legislative, or any other entity whether public or private: Provided, however, that said foreign currency deposits shall be exempt from attachment, garnishment, or any other order or process of any court, legislative body, government agency or any administrative body whatsoever." (As amended by Section 2, Presidential Decree No. 1246).

[49] The provision reads:

q. Firms issuing/servicing international credit cards. Authorized foreign exchange dealers and registered foreign exchange earners shall submit separate monthly reports to the Foreign Exchange Department copy furnished the Supervision and Examination Section, Dept. IV, CB supported by proof/evidences of receipts, sales of foreign exchange to the banking system, provided that foreign exchange eligible for deposit under the Philippine Foreign Exchange Currency Deposit System as provided in Rep. Act 6426, as amended, need not be covered by the report. x x x

[50] SEC. 2. Authority to deposit foreign currencies. - Any person, natural or juridical may, in accordance with the provisions of this Act, deposit with such Philippine banks in good standing, as may, upon application be designated by the Central Bank for the purpose; foreign currencies which are acceptable as part of the international reserve, except those which are required by the Central Bank to be surrendered in accordance with the provisions of Republic Act Numbered Two hundred sixty-five.

[51] Ibid.

[52] Salaysay v. Castro, et al., 98 Phil. 364, 380 (1956).

[53] Vda. de Perez v. Tolete, 232 SCRA 722, 735 (1994) citing Philippine Commercial and Industrial Bank v. Escolin, 58 SCRA 266 (1974).

[54] Zalamea v. Court of Appeals, 228 SCRA 23, 30 (1993) citing Collector of Internal Revenue v. Douglas Fisher, et al., and Douglas Fisher, et al. v. Collection of Internal Revenue, 110 Phil. 686 (1961).

[55] Rules of Court, Rule 132, Sec. 24.

[56] Rollo, pp. 339-341.

[57] Republic v. Sandiganbayan, 226 SCRA 314, 318 (1993).

[58] ART. 1370. If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulation shall control.

If the words appear to be contrary to the evident intention of the parties, the latter shall prevail over the former.

[59] RULES OF COURT, Rule 130, Sec. 9. Evidence of written agreements. - When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.

x x x

[60] Philippine National Railways v. Court of First Instance of Albay, Branch 1, 83 SCRA 569, 575 (1978).

[61] Heirs of Amparo del Rosario v. Santos, 108 SCRA 43, 58 (1981).

[62] Rollo, p. 341.

[63] Id.

[64] IV TOLENTINO, CIVIL CODE 562 (1991 ed.).

[65] Rule 117, Sec. 3. Grounds. - The accused may move to quash the complaint or information on any of the following grounds:

(a)

That the facts charged do not constitute an offense;

(b)

That the court trying the case has no jurisdiction over the offense charged or the person of the accused;

(c)

That the officer who filed the information had no authority to do so;

(d)

That it does not conform substantially to the prescribed form;

(e)

That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses;

(f)

That the criminal action or liability has been extinguished;

(g)

That it contains averments which, if true, would constitute a legal excuse or justification; and

(h)

That the accused has been previously convicted or in jeopardy of being convicted, or acquitted of the offense charged.

[66] People v. Bayotas, 236 SCRA 239, 255 (1994); Rev. Pen. Code, Art. 89.

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