

**ENRIQUE V. VIUDEZ II, PETITIONER, VS. THE COURT OF APPEALS
AND HON. BASILIO R. GABO, JR., IN HIS CAPACITY AS PRESIDING
JUDGE OF BRANCH 11, REGIONAL TRIAL COURT, MALOLOS,
BULACAN...**

G.R. No. 152889. June 05, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari under Section 1, Rule 45 of the 1997 Rules of Civil Procedure, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 67115 dismissing the petition for certiorari filed by herein petitioner against Judge Basilio R. Gabo, Jr., in his capacity as Presiding Judge of Branch 11, Regional Trial Court (RTC) of Malolos, Bulacan.

The factual and procedural antecedents are as follows:

Honorato Galvez and his driver were fatally shot on June 9, 2000 in Barangay San Juan, San Ildefonso, Bulacan. On June 26, 2000, a complaint for the alleged murder of the said victims was filed by the 303rd Philippine National Police Criminal Investigation Division (PNP CID) Team with the Office of the Provincial Prosecutor against the following: Cirilo de la Cruz, Guilberto Chico, Edmund Fernando, two persons named Ronald and Gerry, three (3) John Does, and Eulogio Villanueva. Likewise, on July 14, 2000, a complaint for murder against petitioner Enrique Viudez II was filed by Estrella Galvez, widow of Mayor Honorato Galvez, for the killing of the latter and his driver.[2]

On March 31, 2001, a Resolution was issued by the Investigating State Prosecutor finding probable cause to indict the petitioner and others for the crime of murder. On September 19, 2001, two (2) Informations[3] for murder were filed with the RTC of Malolos, Bulacan, which then issued warrants of arrest on the same day.[4]

On September 21, 2001, petitioner filed a Motion to Suspend Proceedings and to Suspend the Implementation of the Warrant of Arrest, Pursuant to Department Circular No. 70 of the Department of Justice (DOJ)[5] arguing that all the accused in the said criminal cases had filed a timely petition for review with the Secretary of Justice and, pursuant to Section 9[6] of Department Circular No. 70, the implementation of the warrant of arrest against petitioner should be suspended and/or recalled pending resolution of the said petition for review.

In an Order[7] dated September 28, 2001, the RTC denied petitioner's Motion stating that, insofar as the implementation of the warrant of arrest against petitioner was concerned, said warrant had already been issued for his apprehension. The court also added that there was no way for it to recall the same in the absence of any compelling reason, and that jurisdiction over his person had not yet been acquired by it; hence, petitioner had no personality to file any pleading in court relative to the case until he was arrested or voluntarily surrendered himself to the court. Thus, petitioner filed a motion for reconsideration of the said Order, but was denied in an

Order dated October 10, 2001.

Thereafter, petitioner filed with the CA on October 11, 2001, a petition for certiorari with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction[8] claiming the following:

x x x The Order of September 28, 2001 and the Order of October 10, 2001 denying the Motion for Reconsideration were issued with grave abuse of discretion amounting to lack of jurisdiction. This is because of the following reasons:

(a) The fact that the petitioner has not voluntarily surrendered nor arrested is not a legal impediment or obstacle to the suspension of the implementation of the warrant of arrest issued against the petitioner.

(b) Precisely, the petitioner has prayed for the suspension of the implementation of the warrant of arrest because if he is arrested or voluntarily surrenders to the Court, the issues on the suspension of the implementation of the warrant of arrest would become moot and academic. It is for this reason that the petitioner has prayed for the suspension of the implementation of the warrant of arrest. The petitioner is merely availing of his rights under the law. There would be a waiver on the part of the petitioner if he surrenders to the lower court. Meantime, he would be deprived of his provisional liberty pending the resolution of his petition for review. The clear intention of Department Circular No. 70 is to suspend all proceedings including the implementation of the warrant of arrest pending resolution by the Secretary of Justice of the petition for review.

(c) The authority of the Secretary of Justice to entertain the petition for review even after the filing of the informations is settled. In *Solar Team Entertainment, Inc. v. Hon. Rolando How*, the High Court ruled, "the authority of the Secretary of Justice to review resolutions of his subordinates even after an information has already been filed in court does not present an irreconcilable conflict with the 30-day period prescribed by Section 7 of the Speedy Trial Act."

(d) Moreover, the authority of the Secretary of Justice to review resolutions of the Chief State Prosecutor, Provincial or City Prosecutors is recognized by Sec. 4 of Rule 112 of the Revised Rules of Criminal Procedure.

(e) Sec. 4, Rule 112 of the Revised Rules of Criminal Procedure expressly recognizes the authority and power of the Department of Justice to prescribe the rules to be followed in cases of a petition for review of a resolution of the Chief State Prosecutor, Provincial or City Prosecutors. The rules provide "if upon petition by a proper party under such rules as the Department of Justice may prescribe," clearly recognizing the power of the Secretary of Justice to promulgate rules to be followed in petitions for review of appeals from resolutions of the Chief State Prosecutor, Provincial or City Prosecutor.

(f) Pursuant to the rule-making power of the Secretary of Justice, Department Circular No. 70 was promulgated by the Secretary of Justice providing that "the appellant and the trial prosecutor shall see to it that, pending resolution of the appeal, the proceedings in court are held in abeyance.

(g) The implementation of the warrant of arrest issued against the petitioner is part of the proceedings in court. Since the circular unequivocally provides that the "proceedings in court are held in abeyance" pending resolution of the petition for review or appeal, it follows that the lower court committed grave abuse of discretion amounting to lack of jurisdiction when it denied the motion to suspend the implementation of the warrant of arrest. There is even no opposition by the trial prosecutor to the motion to suspend the implementation of the warrant of arrest against the petitioner.[9]

In a Resolution[10] dated October 16, 2001, the CA found that the verified petition of petitioner sufficiently showed that unless the implementation of the warrants of arrest dated September 19, 2001 in Criminal Case Nos. 2492-M-2001 and 2693-M-2001 were temporarily enjoined before the application for a writ of preliminary injunction could be heard on notice, great or irreparable injury would be visited upon the petitioner, as he could momentarily be arrested and detained upon non-bailable charges. Thus, the CA granted a TRO, commanding

respondent RTC Judge Gabo to enjoin the implementation of the said warrants of arrest.

Respondents RTC Judge Basilio R. Gabo, Jr., in his capacity as Presiding Judge of the RTC, Branch II of Malolos, Bulacan, and the Office of the Solicitor General (OSG) argued in their Comment (with motion to lift temporary restraining order and opposition to the application for the issuance of a writ of preliminary injunction)[11] dated November 12, 2001, that the determination of whether to issue a warrant of arrest after the filing of an information was a function that was exclusively vested in respondent Judge. Respondent Judge, therefore, was in no way obligated to defer the implementation of the service of the warrant of arrest simply because a petition for review was filed by petitioner before the Secretary of Justice to question the filing of the information against the same petitioner. As to their Opposition to the application for issuance of preliminary injunction with motion to lift temporary restraining order, the public respondents contended that the issue proposed by petitioner was the mere suspension of the implementation of the warrant of arrest to await the resolution of the Department of Justice; hence, respondent Judge was under no obligation to suspend the proceedings, because the issuance of the warrant of arrest was his exclusive function.

On December 19, 2001, the CA promulgated its Decision[12] dismissing the petition for certiorari for lack of merit and found no whimsicality or oppressiveness in the exercise of the respondent Judge's discretion in issuing the challenged Orders. The court added that, since the premise of petitioner's conclusion was erroneous - for said circular and the cases cited did not make it obligatory for respondent Judge to grant petitioner's motion - petitioner's cause was lost. It also stated that nowhere in the Revised Rules of Criminal Procedure, or in any circular of this Court, even in any of its decision was it ever pronounced that when a petition for review of the resolution of the investigating prosecutor -- finding probable cause to indict a respondent -- is filed with the Office of the Secretary of Justice, the court which earlier issued warrants of arrest, should suspend their enforcement.

In an Order[13] dated January 9, 2002, respondent Judge ordered the issuance of an alias warrant of arrest for the apprehension of petitioner by virtue of the expiration of the effectivity of the TRO issued by the CA.

Petitioner filed with the CA a Motion for Reconsideration[14] dated January 3, 2002 of the Decision dated December 19, 2001, which was eventually denied by the same court in its Resolution[15] dated April 11, 2002, stating, among others, that it found nothing to justify a modification, much less a reversal, of its judgment. The court further stated that the motion for reconsideration had not presented any fresh argument or raised any new matter that would need an extended discussion, and that the points stressed were the same as those already discussed in the petition and other papers of the petitioner which were fully considered in the decision.

Hence, the instant petition.

Petitioner claimed, among others, that the Decision of the CA was issued with grave abuse of discretion amounting to lack of jurisdiction when it ruled that Department Circular No. 70 of the Department of Justice promulgated on July 3, 2000 was plainly a directive of the Secretary of Justice to the accused and the trial prosecutor to ask the Court to suspend the proceedings thereon during the pendency of the appeal. According to petitioner, the said department circular had the force and effect of law. He cited cases[16] wherein this Court ruled that administrative regulations adopted pursuant to law had the force and effect of law. Petitioner also pointed out that the same department circular stated that its promulgation was in line with recent jurisprudence. Anent the prayer for the issuance of a TRO, petitioner argued that unless a TRO was issued enjoining the implementation of the warrant of arrest dated September 19, 2001 and the alias warrant of arrest issued by virtue of the Order of January 9, 2002, he stood to suffer great and irreparable injury, as he would be deprived of his liberty without due process of law.

In a Resolution[17] dated May 6, 2002, this Court resolved to issue the TRO prayed for by petitioner and to direct

respondent Judge to cease and desist from implementing the warrant of arrest dated September 19, 2001 against petitioner and the alias warrant of arrest issued pursuant to the Order of January 9, 2002 in Criminal Case Nos. 2492-M-2001 and 2493-M-2001, entitled "People of the Philippines vs. Enrique V. Viudez II, et al.," effective immediately until further orders from the same Court.

In its Comment[18] dated June 13, 2002, the OSG stated that the determination of whether to issue a warrant of arrest after the filing of an information was a function that was exclusively vested in respondent Judge. Respondent Judge, therefore, was in no way obliged to defer the implementation of the service of the warrant simply because a petition for review was filed by petitioner before the Secretary of Justice to question the filing of the information against him. The OSG further argued that the respondent Judge did not need to wait for the completion of the preliminary investigation before issuing a warrant of arrest, for Section 4, Rule 113 of the Rules of Criminal Procedure provides that the head of the office to whom the warrant of arrest has been delivered for execution shall cause the warrant to be executed within ten (10) days from receipt thereof. As an opposition to the application for issuance of preliminary injunction and as a motion to lift the temporary restraining order, the OSG stated that the petitioner did not challenge the finding of probable cause of respondent Judge in the issuance of the warrant of arrest against him. Petitioner simply wanted a deferment of its implementation by virtue of Section 9 of Department Circular No. 70; hence, according to the OSG, the issuance of the TRO was tantamount to an abatement of the criminal proceedings.

Petitioner, in its Opposition[19] to the motion to lift temporary restraining order dated September 5, 2002 stated that the discussion of the evidence of the prosecution by the OSG was way off the mark, because the only issue to be resolved in the present petition was whether the implementation of the warrant of arrest issued by the RTC should be suspended pending resolution by the Secretary of Justice of the petition for review filed by petitioner. He also reiterated that the lifting of the TRO would cause grave and irreparable injury to his rights because no bail had been recommended for his provisional liberty.

On September 19, 2002, petitioner filed a Manifestation[20] informing this Court that the Secretary of Justice had already sustained his petition for review. A photocopy of the Resolution[21] of the Secretary of Justice, promulgated on September 13, 2002, was attached to the said manifestation, the dispositive portion of which reads, among others:

[t]he Chief State Prosecutor is directed to move, with leave of court, for the withdrawal of the information for murder (2 counts) against Mayor Enrique V. Viudez II and Eulogio Villanueva immediately. In view of the same resolution, according to petitioner, the motion of the OSG for the lifting of the TRO issued by this Court has no more legal basis and should be denied for lack of merit.

In his Reply[22] to the Comment of the OSG, dated November 6, 2002, petitioner reiterated that the Secretary of Justice had already issued a resolution on the petition for review that he filed with the said office, and that the State Prosecutor had already filed with the RTC a motion to withdraw the information against him and his co-accused; hence, the instant petition may already be moot and academic because of the said developments.

On December 2, 2002, this Court resolved to give due course to the present petition and required the parties to submit their respective memoranda.[23] Petitioner eventually filed his Memorandum[24] dated February 4, 2003, while the OSG filed its Memorandum on March 24, 2003.

Before this Court shall delve into its disquisition on the issue propounded by petitioner, it is worth noting that in his Memorandum[25] dated February 4, 2003, petitioner reiterated that the Secretary of Justice had already resolved the petition for review and ordered the withdrawal of the informations for murder filed against the same petitioner with the RTC of Malolos, Bulacan, ruling that there was no probable cause for the filing of the said

informations. Accordingly, as contained in the same Memorandum, the Office of the State Prosecutor filed a Motion[26] to Withdraw the Informations, which the RTC granted on October 23, 2002. [27] Furthermore, in a Resolution dated May 6, 2002, this Court already resolved to issue a TRO as prayed for by petitioner. These developments would necessarily render the instant petition moot and academic; however, as implored by petitioner, this Court will render its decision on the merits of the case in the interest of justice.

The basic issue propounded by petitioner is whether a pending resolution of a petition for review filed with the Secretary of Justice concerning a finding of probable cause will suspend the proceedings in the trial court, including the implementation of a warrant of arrest.

Petitioner cites DOJ Department Circular No. 70, specifically paragraph 2 of Section 9 thereof, which provides that the appellant and the trial prosecutor shall see to it that, pending resolution of the appeal, the proceedings in court are held in abeyance. Somehow, petitioner is of the opinion that the suspension of proceedings in court, as provided in the said circular, includes the suspension of the implementation of warrants of arrest issued by the court.

Petitioner's contention is wrong.

It is well to remember that there is a distinction between the preliminary inquiry, which determines probable cause for the issuance of a warrant of arrest; and the preliminary investigation proper, which ascertains whether the offender should be held for trial or be released. The determination of probable cause for purposes of issuing a warrant of arrest is made by the judge. The preliminary investigation proper - whether or not there is reasonable ground to believe that the accused is guilty of the offense charged - is the function of the investigating prosecutor. [28]

As enunciated in *Baltazar v. People*,[29] the task of the presiding judge when the Information is filed with the court is first and foremost to determine the existence or non-existence of probable cause for the arrest of the accused. Probable cause is such set of facts and circumstances as would lead a reasonably discreet and prudent man to believe that the offense charged in the Information or any offense included therein has been committed by the person sought to be arrested. In determining probable cause, the average man weighs the facts and circumstances without resorting to the calibrations of the rules of evidence of which he has no technical knowledge. He relies on common sense. A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed and that it was committed by the accused. Probable cause demands more than suspicion; it requires less than evidence that would justify conviction. [30]

The purpose of the mandate of the judge to first determine probable cause for the arrest of the accused is to insulate from the very start those falsely charged with crimes from the tribulations, expenses and anxiety of a public trial. [31]

The function of the judge to issue a warrant of arrest upon the determination of probable cause is exclusive; thus, the consequent implementation of a warrant of arrest cannot be deferred pending the resolution of a petition for review by the Secretary of Justice as to the finding of probable cause, a function that is executive in nature. To defer the implementation of the warrant of arrest would be an encroachment on the exclusive prerogative of the judge. It must be emphasized that petitioner filed with the trial court a motion to suspend proceedings and to suspend the implementation of the warrant of arrest in pursuance of a DOJ circular, and not a motion to quash the warrant of arrest questioning the issuance thereof. Thus, there is no contest as to the validity or regularity of the issuance of the warrant of arrest. Petitioner merely wanted the trial court to defer the implementation of the warrant of arrest pending the resolution by the Secretary of Justice of the petition for review that he filed citing the following directive contained in Section 9 of DOJ Department Circular:

x x x x

The appellant and the trial prosecutor shall see to it that, pending resolution of the appeal, the proceedings in court are held in abeyance. [32]

The above provision of the Department Circular is directed specifically at the appellant and the trial prosecutor, giving them latitude in choosing a remedy to ensure that the proceedings in court are held in abeyance. However, nowhere in the said provision does it state that the court must hold the proceedings in abeyance. Therefore, the discretion of the court whether or not to suspend the proceedings or the implementation of the warrant of arrest, upon the motion of the appellant or the trial prosecutor, remains unhindered. This is in consonance with the earlier ruling[33] of this Court that once a complaint or information is filed in court, any disposition of the case as to its dismissal, or the conviction or acquittal of the accused, rests on the sound discretion of the said court, as it is the best and sole judge of what to do with the case before it. In the instant case, the judge of the trial court merely exercised his judicial discretion when he denied petitioner's motion to suspend the implementation of the warrant of arrest. Consequently, the CA was correct when it found no whimsicality or oppressiveness in the exercise of the trial judge's discretion in issuing the challenged orders.

Neither does this Court find any applicability of the cases cited by the petitioner to the instant case.

Petitioner has put emphasis on his argument that the suspension of the proceedings in court, including the suspension of the implementation of a warrant of arrest pending a resolution of an appeal by the Secretary of Justice, is in consonance with jurisprudence laid down by this Court in *Marcelo v. Court of Appeals*, [34] *Roberts, Jr. v. Court of Appeals*, [35] *Ledesma v. Court of Appeals*, [36] *Dimatulac v. Villon*, [37] and *Solar Team Entertainment, Inc. v. How*. [38]

A close reading of the factual antecedents in *Ledesma*, *Solar Team Entertainment, Inc.*, *Dimatulac* and *Marcelo* clearly show that a common issue among them is whether the arraignment of an accused may be deferred pending resolution by the Secretary of Justice of a petition for review on the finding of probable cause, to which this Court ruled in the affirmative. Nowhere in the said decisions did it state that the implementation or enforcement of the warrant of arrest was also deferred or suspended, as herein petitioner prays for. Thus, as ruled in *Ledesma*: [39]

Where the secretary of justice exercises his power of review only after an information has been filed, trial courts should defer or suspend arraignment and further proceedings until the appeal is resolved. Such deferment or suspension, however, does not signify that the trial court is ipso facto bound by the resolution of the secretary of justice. Jurisdiction, once acquired by the trial court, is not lost despite a resolution by the secretary of justice to withdraw the information or to dismiss the case.

It was also decided in *Solar Team Entertainment, Inc.* [40] that:

Procedurally speaking, after the filing of the information, the court is in complete control of the case and any disposition therein is subject to its sound discretion. The decision to suspend arraignment to await the resolution of an appeal with the Secretary of Justice is an exercise of such discretion.

The ruling in *Dimatulac*, [41] as well, reads:

We do not then hesitate to rule that Judge Villon committed grave abuse of discretion in rushing the arraignment of the Yabuts on the assailed information for homicide. Again, the State and the offended parties were deprived of due process.

And in *Marcelo*, [42] this Court enunciated that:

Accordingly, we rule that the trial court in a criminal case which takes cognizance of an accused's motion for review of the resolution of the investigating prosecutor or for reinvestigation and defers the arraignment until

resolution of the said motion must act on the resolution reversing the investigating prosecutor's finding or on a motion to dismiss based thereon only upon proof that such resolution is already final in that no appeal was taken therefrom to the Department of Justice.

Finally, in *Roberts*, petitioner claimed that this Court, in the dispositive portion of its decision, clearly directed the deferment of the issuance of the warrant of arrest pending resolution of the petition for review by the Secretary of Justice when it ruled that, in the meantime, respondent Judge Asuncion was directed to cease and desist from further proceeding with Criminal Case No. Q-93-43198 and to defer the issuance of warrants of arrest against the petitioner. According to petitioner, the said dispositive portion is borne out by the finding of this Court that:

x x x [I]t was premature for respondent Judge Asuncion to deny the motions to suspend proceedings and to defer arraignment on the following grounds:

"This case is already in this Court for trial. To follow whatever the opinion the Secretary of Justice may have on the matter would undermine the independence and integrity of this Court. This Court is still capable of administering justice." The real and ultimate test of the independence and integrity of his court is not the filing of the aforementioned motions at that stage of the proceedings but the filing of a motion to dismiss or to withdraw the information on a basis of a resolution of the petition for review reversing the Joint Resolution of the investigating prosecutor. Once a motion to dismiss or withdraw the information is filed the trial judge may grant or deny it, not out of subservience to the Secretary of Justice, but in faithful exercise of judicial prerogative.[43]

However, the above observation of petitioner is inaccurate, if not erroneous.

What this Court adjudged as premature in *Roberts* was the respondent judge's denial of the motions to suspend proceedings and to defer arraignment on the ground that the case was already in his court for trial and to follow whatever opinion the Secretary of Justice may have on the matter would undermine the independence and integrity of his court, which was still capable of administering justice. In dispelling the ground relied upon by the respondent judge, this Court ruled that the filing of a motion to dismiss or to withdraw the information, on the basis of a resolution of the petition for review reversing the finding of the investigating prosecutor, was the real and ultimate test of the independence and integrity of his court. Therefore, what was disapproved by this Court was not the denial per se of the motions, but the reasoning behind it. It was from that premise that this Court ordered in the dispositive portion of its decision to defer the issuance of the warrants of arrest. Of more importance still was the fact that, whereas the questioned motions in *Roberts* were for the suspension of proceedings and deferment of arraignment, the issue in the instant case is the suspension of the implementation of a warrant of arrest, which this Court did not rule upon in the former case.

WHEREFORE, the petition for review on certiorari with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction dated April 25, 2002 is DENIED -- the petition for review, for lack of merit; and the issuance of TRO and/or preliminary injunction, for being moot and academic.

SO ORDERED.

Ynares-Santiago, Carpio[*], Corona**, and Nachura, JJ., concur.

[*] Designated to sit as an additional member, per Special Order No. 638 dated May 8, 2009.

[**] Designated to sit as an additional member, per Special Order No. 631 dated April 29, 2009.

[1] Penned by Associate Justice Hilarion L. Aquino, with Associate Justices Ma. Alicia Austria-Martinez (now retired Justice of the Supreme Court) and Justice Edgardo P. Cruz, concurring; rollo, pp. 29-41.

[2] CA Decision dated December 19, 2001, id.

[3] Docketed as Criminal Case Nos. 2492-M-2001 and 2493-M-2001; rollo, pp. 59-62; 63-65.

[4] CA decision, supra.

[5] Rollo, pp. 67-92.

[6] Section 9. Effect of the Appeal. Unless the Secretary of Justice directs otherwise, the appeal shall not hold the filing of the corresponding information in court on the basis of the finding of probable cause in the appealed resolution.

The appellant and the trial prosecutor shall see to it that, pending resolution of the appeal, the proceedings in court are held in abeyance.

[7] Rollo, p. 72.

[8] Id. at 74-92.

[9] Id. at 86-88.

[10] Id. at 93-94.

[11] Id. at 96-140.

[12] Supra note 1.

[13] Rollo, p. 95.

[14] Id. at 42-55.

[15] Id at 57-58.

[16] Valerio v. Secretary of Agriculture and Natural Resources, G.R. No. L-18587, April 23, 1963, SCRA 719; Antique Sawmills, Inc. v. Zayco, G.R. No. L-20051, May 30, 1966, 17 SCRA 316; Macailing v. Andrada, G.R. No. L-21607, January 30, 1970, 31 SCRA 126.

[17] Rollo, p. 141.

[18] Id. at 160-207.

[19] Id. at 271-277.

[20] Id. at 281-282.

[21] Id. at 285-294.

[22] Id. at 303-309.

[23] Id. at 315-316.

[24] Id. at 320-327.

[25] Id.

[26] Id. at 310-312.

[27] Id. at 313.

[28] AAA v. Antonio Carbonell, G.R. No. 171465, June 8, 2007, 524 SCRA 496, 509, citing *People v. Inting*, 187 SCRA 788, 792-793 (1990).

[29] G.R. No. 174016, July 28, 2008, 560 SCRA 278, 293-294.

[30] *People v. Aruta*, 351 Phil. 868, 880 (1998).

[31] *Id.* at 294. citing *Okabe v. Gutierrez*, G.R. No. 150185, May 27, 2004, 429 SCRA 685, 706.

[32] See Note 6.

[33] *Marcelo v. Court of Appeals*, G.R. No. 106695, 1994, 235 SCRA 39, 48, citing *Crespo v. Mogul*, 151 SCRA 462 (1987).

[34] G.R. No. 106695, August 4, 1994, 235 SCRA 39.

[35] G.R. No. 113930, March 5, 1996, 254 SCRA 307.

[36] G.R. No. 113216, September 5, 1997, 278 SCRA 656.

[37] G.R. No. 127107, October 12, 1998, 297 SCRA 679.

[38] G.R. No. 140863, August 22, 2000, 338 SCRA 511.

[39] *Supra* note 36, at 680.

[40] *Supra* note 38, at 517.

[41] *Supra* note 37, at 712.

[42] *Supra* note 34, at 50.

[43] *Supra* note 35, at 333.

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