

VICENTE G. HENSON, JR., PETITIONER, VS. UCPB GENERAL INSURANCE CO., INC., RESPONDENT.*G.R. No. 223134. August 14, 2019*

Ponente: PERLAS-BERNABE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-223134/>**PERLAS-BERNABE, J.:**

Assailed in this petition for review on certiorari[1] are the Decision[2] dated November 13, 2015 and the Resolution[3] dated February 26, 2016 of the Court of Appeals (CA) in CA-G.R. SP. No. 138147, which affirmed the Orders dated June 10, 2014[4] and September 22, 2014[5] of the Regional Trial Court of Makati City, Branch 138 (RTC) in Civil Case No. 10-885, ruling that the suit filed by respondent UCPB General Insurance Co., Inc. (respondent) has yet to prescribe, and resultantly, allowing the inclusion of petitioner Vicente G. Henson, Jr. (petitioner) as party-defendant to the same.

The Facts

From 1989 to 1999, National Arts Studio and Color Lab[6] (NASCL) leased the front portion of the ground floor of a two (2)-storey building located in Sto. Rosario Street, Angeles City, Pampanga, then owned by petitioner.[7] In 1999, NASCL gave up its initial lease and instead, leased the right front portion of the ground floor and the entire second floor of the said building, and made renovations with the building's piping assembly.[8] Meanwhile, Copylandia Office Systems Corp. (Copylandia) moved in to the ground floor.[9] On May 9, 2006, a water leak occurred in the building and damaged Copylandia's various equipment, causing injury to it in the amount of P2,062,640.00.[10] As the said equipment were insured with respondent,[11] Copylandia filed a claim with the former. Eventually, the two parties settled on November 2, 2006 for the amount of P1,326,342.76.[12] This resulted in respondent's subrogation to the rights of Copylandia over all claims and demands arising from the said incident.[13] On May 20, 2010, respondent, as subrogee to Copylandia's rights, demanded from, inter alia, NASCL for the payment of the aforesaid claim, but to no avail.[14] Thus, it filed a complaint for damages[15] against NASCL, among others, before the RTC, docketed as Civil Case No. 10-885.[16]

Meanwhile, sometime in 2010, petitioner transferred the ownership of the building to Citrinne Holdings, Inc. (CHI), where he is a stockholder and the President.[17]

On October 6, 2011, respondent filed an Amended Complaint (Second Amendment),[18] impleading CHI as a party-defendant to the case, as the new owner of the building. However, on April 21, 2014, respondent filed a Motion to Admit Attached Amended Complaint and Pre-Trial Brief (Third [A]mendment),[19] praying that petitioner, instead of CHI, be impleaded as a party-defendant to the case, considering that petitioner was then the owner of the building when the water leak damage incident happened.[20]

In the said complaints, respondent faults: (a) NASCL for its negligence in not properly maintaining in good order the comfort room facilities where the renovated building's piping assembly was utilized; and (b) CHI/petitioner, as the owner of the building, for neglecting to maintain the building's drainage system in good order and in tenable condition. According to respondent, such negligence on their part directly resulted in substantial

damage to Copylandia's various equipment amounting to P2,062,640.00.[21]

CHI opposed[22] the motion principally on the ground of prescription, arguing that since respondent's cause of action is based on quasi-delict, it must be brought within four (4) years from its accrual on May 9, 2006. As such, respondent is already barred from proceeding against CHI/petitioner, especially since the latter never received any prior demand from the former.[23]

The RTC Ruling

In an Order[24] dated June 10, 2014, the RTC ruled in respondent's favor and accordingly, ordered the: (a) dropping of CHI as party-defendant; and (b) joining of petitioner as one of the party-defendants in the case.[25]

The RTC pointed out that respondent's cause of action against the party-defendants, including petitioner, arose when it paid Copylandia's insurance claim and became subrogated to the rights and claims of the latter in connection with the water leak damage incident. Since respondent was merely enforcing its right of subrogation, the prescriptive period is ten (10) years based on an obligation created by law reckoned from the date of Copylandia's indemnification, or on November 2, 2006. As such, respondent's claim against petitioner has yet to prescribe when it sought to include the latter as party-defendant on April 21, 2014.[26]

CHI moved for reconsideration,[27] which was, however, denied in an Order[28] dated September 22, 2014. Aggrieved with his inclusion as party-defendant to the case, petitioner filed a petition for certiorari[29] under Rule 65 of the Rules of Court before the CA, docketed as CA-G.R. SP. No. 138147.

The CA Ruling

In a Decision[30] dated November 13, 2015, the CA affirmed the RTC ruling. It held that respondent's cause of action has not yet prescribed since it was not based on quasi-delict, which must be brought within four (4) years from the date of the occurrence of the negligent act. Rather, it is based on an obligation created by law, which has a longer prescriptive period of ten (10) years reckoned from its accrual.[31]

Undaunted, petitioner moved for reconsideration,[32] but the same was denied in a Resolution[33] dated February 26, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court's Resolution is whether or not respondent's claim has yet to prescribe.

The Court's Ruling

In ruling that respondent's claim against petitioner has yet to prescribe, the courts a quo cited Vector Shipping Corporation v. American Home Assurance Company (Vector).[34] In that case, therein petitioner Vector Shipping Corporation (Vector) entered into a contract of affreightment with Caltex Philippines, Inc. (Caltex) for the transport of the latter's goods. In connection therewith, Caltex insured its goods with therein respondent American Home Assurance Company (American Home). During transport on December 20, 1987, Vector's ship collided with another vessel and sank, resulting in the total loss of Caltex's goods. On July 12, 1988, American Home fully indemnified Caltex for its loss in the amount of P7,455,421.08, and thereafter, filed a suit against, inter alia, Vector for the recovery of such amount on March 5, 1992. Initially, the RTC ruled that American Home's claim against Vector has prescribed as it was based on a quasi-delict which should have been filed within four (4) years from the time Caltex suffered a total loss of its goods. However, the CA reversed the ruling, holding that the claim has yet to prescribe as it is based on a breach of Vector's contract of affreightment with Caltex, which has a longer prescriptive period often (10) years, again reckoned from the time of the loss.[35] The Court, in Vector, agreed with the CA that the claim has yet to prescribe, but qualified that "the present action was not upon a written

contract, but upon an obligation created by law,"[36] viz.:

We concur with the CA's ruling that respondent's action did not yet prescribe. The legal provision governing this case was not Article 1146 of the Civil Code, but Article 1144 of the Civil Code, which states:

Article 1144. The following actions must be brought within ten years from the time the cause of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

We need to clarify, however, that we cannot adopt the CA's characterization of the cause of action as based on the contract of affreightment between Caltex and Vector, with the breach of contract being the failure of Vector to make the M/T Vector seaworthy, so as to make this action come under Article 1144 (1), *supra*. Instead, we find and hold that the present action was not upon a written contract, but upon an obligation created by law. Hence, it came under Article 1144 (2) of the Civil Code. This is because the subrogation of respondent to the rights of x x x the insured was by virtue of the express provision of law embodied in Article 2207 of the Civil Code, to wit:

Article 2207. If the plaintiff's property has been insured, and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss, the aggrieved party shall be entitled to recover the deficiency from the person causing the loss or injury.

The juridical situation arising under Article 2207 of the Civil Code is well explained in *Pan Malayan Insurance Corporation v. [CA]*,[37] as follows:

Article 2207 of the Civil Code is founded on the well-settled principle of subrogation. If the insured property is destroyed or damaged through the fault or negligence of a party other than the assured, then the insurer, upon payment to the assured, will be subrogated to the rights of the assured to recover from the wrongdoer to the extent that the insurer has been obligated to pay. Payment by the insurer to the assured operates as an equitable assignment to the former of all remedies which the latter may have against the third party whose negligence or wrongful act caused the loss. The right of subrogation is not dependent upon, nor does it grow out of, any privity of contract or upon written assignment of claim. It accrues simply upon payment of the insurance claim by the insurer [*Compañia Maritima v. Insurance Company of North America*, 120 Phil. 998 (1964); *Fireman's Fund Insurance Company v. Jamila & Company, Inc.*, 162 Phil. 421 (1976)].

Verily, the contract of affreightment that Caltex and Vector entered into did not give rise to the legal obligation of Vector and Soriano to pay the demand for reimbursement by respondent because it concerned only the agreement for the transport of Caltex's petroleum cargo. As the Court has aptly put it in *Pan Malayan Insurance Corporation v. [CA]*, *supra*, respondent's right of subrogation pursuant to Article 2207, *supra*, was "not dependent upon, nor d[id] it grow out of, any privity of contract or upon written assignment of claim [but] accrue[d] simply upon payment of the insurance claim by the insurer."

Considering that the cause of action accrued as of the time respondent actually indemnified Caltex in the amount of P7,455,421.08 on July 12, 1988, the action was not yet barred by the time of the filing of its complaint on March 5, 1992, which was well within the 10-year period prescribed by Article 1144 of the Civil Code.[38] (Emphases and underscoring supplied)

In *Vector*, the Court held that the insured's (i.e., American Home's) claim against the debtor (i.e., Vector) was premised on the right of subrogation pursuant to Article 2207 of the Civil Code and hence, an obligation created by law. While indeed American Home was entitled to claim against Vector by virtue of its subrogation to the

rights of the insured (i.e., Caltex), the Court failed to discern that no new obligation was created between American Home and Vector for the reason that a subrogee only steps into the shoes of the subrogor; hence, the subrogee-insurer only assumes the rights of the subrogor-insured based on the latter's original obligation with the debtor.

To expound, subrogation's legal effects under Article 2207 of the Civil Code are primarily between the subrogee-insurer and the subrogor-insured: by virtue of the former's payment of indemnity to the latter, it is able to acquire, by operation of law, all rights of the subrogor-insured against the debtor. The debtor is a stranger to this juridical tie because it only remains bound by its original obligation to its creditor whose rights, however, have already been assumed by the subrogee. In Vector's case, American Home was able to acquire ipso jure all the rights Caltex had against Vector under their contract of affreightment by virtue of its payment of indemnity. If at all, subrogation had the effect of obliging Caltex to respect this assumption of rights in that it must now recognize that its rights against the debtor, i.e., Vector, had already been transferred to American Home as the subrogee-insurer. In other words, by operation of Article 2207 of the Civil Code, Caltex cannot deny American Home of its right to claim against Vector. However, the subrogation of American Home to Caltex's rights did not alter the original obligation between Caltex and Vector.

Accordingly, the Court, in Vector, erroneously concluded that "the cause of action [against Vector] accrued as of the time [American Home] actually indemnified Caltex in the amount of P7,455,421.08 on July 12, 1988." [39] Instead, it is the subrogation of rights between Caltex and American Home which arose from the time the latter paid the indemnity therefor. Meanwhile, the accrual of the cause of action that Caltex had against Vector did not change because, as mentioned, no new obligation was created as between them by reason of the subrogation of American Home. The cause of action against Vector therefore accrued at the time it breached its original obligation with Caltex whose right of action just so happened to have been assumed in the interim by American Home by virtue of subrogation. "[A] right of action is the right to presently enforce a cause of action, while a cause of action consists of the operative facts which give rise to such right of action." [40]

The foregoing application hews more with the fundamental principles of civil law, especially on the well-established doctrines on subrogation. Article 1303 of the Civil Code states that "[s]ubrogation transfers to the person subrogated the credit with all the rights thereto appertaining, either against the debtor or against third persons x x x." In *Loadstar Shipping Company, Inc. v. Malayan Insurance Company, Inc.*, [41] the Court had clearly explained that because of the nature of subrogation as a mode of "creditor-substitution," the rights of a subrogee cannot be superior to the rights possessed by a subrogor, viz.:

The rights of a subrogee cannot be superior to the rights possessed by a subrogor. "Subrogation is the substitution of one person in the place of another with reference to a lawful claim or right, so that he who is substituted succeeds to the rights of the other in relation to a debt or claim, including its remedies or securities. The rights to which the subrogee succeeds are the same as, but not greater than, those of the person for whom he is substituted, that is, he cannot acquire any claim, security or remedy the subrogor did not have. In other words, a subrogee cannot succeed to a right not possessed by the subrogor. A subrogee in effect steps into the shoes of the insured and can recover only if the insured likewise could have recovered."

Consequently, an insurer indemnifies the insured based on the loss or injury the latter actually suffered from. If there is no loss or injury, then there is no obligation on the part of the insurer to indemnify the insured. Should the insurer pay the insured and it turns out that indemnification is not due, or if due, the amount paid is excessive, the insurer takes the risk of not being able to seek recompense from the alleged wrongdoer. This is because the supposed subrogor did not possess the right to be indemnified and therefore, no right to collect is passed on to the subrogee. [42] (Emphases and underscoring supplied)

Despite its error, Vector had aptly cited the case of *Pan Malayan Insurance Corporation v. CA* (*Pan Malayan*),^[43] wherein it was explained that subrogation, under Article 2207 of the Civil Code, operates as a form of "equitable assignment"^[44] whereby "the insurer, upon payment to the assured, will be subrogated to the rights of the assured to recover from the wrongdoer to the extent that the insurer has been obligated to pay."^[45] It is characterized as an "equitable assignment" since it is an assignment of credit without the need of consent - as it was, in fact, mentioned in *Pan Malayan*, "[t]he right of subrogation is not dependent upon, nor does it grow out of, any privity of contract or upon written assignment of claim. It accrues simply upon payment of the insurance claim by the insurer."^[46] It is only to this extent that the equity aspect of subrogation must be understood. Indeed, subrogation under Article 2207 of the Civil Code allows the insurer, as the new creditor who assumes ipso jure the old creditor's rights without the need of any contract, to go after the debtor, but it does not mean that a new obligation is created between the debtor and the insurer. Properly speaking, the insurer, as the new creditor, remains bound by the limitations of the old creditor's claims against the debtor, which includes, among others, the aspect of prescription. Hence, the debtor's right to invoke the defense of prescription cannot be circumvented by the mere expedient of successive payments of certain insurers that purport to create new obligations when, in fact, what remains subsisting is only the original obligation. Verily, equity should not be stretched to the prejudice of another.

To better understand the concept of legal subrogation under Article 2207 of the Civil Code as a form of "equitable assignment," it deserves mentioning that there exist intricate differences between assignment and subrogation, both in their legal and conventional senses. In *Ledonio v. Capitol Development Corporation*:^[47]

An assignment of credit has been defined as an agreement by virtue of which the owner of a credit (known as the assignor), by a legal cause - such as sale, dation in payment or exchange or donation - and without need of the debtor's consent, transfers that credit and its accessory rights to another (known as the assignee), who acquires the power to enforce it, to the same extent as the assignor could have enforced it against the debtor.

On the other hand, subrogation, by definition, is the transfer of all the rights of the creditor to a third person, who substitutes him in all his rights. It may either be legal or conventional. Legal subrogation is that which takes place without agreement but by operation of law because of certain acts. Conventional subrogation is that which takes place by agreement of parties.

Although it may be said that the effect of the assignment of credit is to subrogate the assignee in the rights of the original creditor, this Court still cannot definitively rule that assignment of credit and conventional subrogation are one and the same.

A noted authority on civil law provided a discourse on the difference between these two transactions, to wit - Conventional Subrogation and Assignment of Credits. - In the Argentine Civil Code, there is essentially no difference between conventional subrogation and assignment of credit. The subrogation is merely the effect of the assignment. In fact[,] it is expressly provided (Article 769) that conventional redemption shall be governed by the provisions on assignment of credit.

Under our Code, however, conventional subrogation is not identical to assignment of credit. In the former, the debtor's consent is necessary; in the latter, it is not required. Subrogation extinguishes an obligation and gives rise to a new one; assignment refers to the same right which passes from one person to another. The nullity of an old obligation may be cured by subrogation, such that the new obligation will be perfectly valid; but the nullity of an obligation is not remedied by the assignment of the creditor's right to another. x x x

This Court has consistently adhered to the foregoing distinction between an assignment of credit and a conventional subrogation. Such distinction is crucial because it would determine the necessity of the debtor's consent. In an assignment of credit, the consent of the debtor is not necessary in order that the assignment may

fully produce the legal effects. What the law requires in an assignment of credit is not the consent of the debtor, but merely notice to him as the assignment takes effect only from the time he has knowledge thereof. A creditor may, therefore, validly assign his credit and its accessories without the debtor's consent. On the other hand, conventional subrogation requires an agreement among the parties concerned - the original creditor, the debtor, and the new creditor. It is a new contractual relation based on the mutual agreement among all the necessary parties.[48] (Emphases and underscoring supplied)

As discussed above, in an assignment of credit, the consent of the debtor is not necessary in order that the assignment may fully produce legal effects (as notice to the debtor suffices); also, in assignment, no new contractual relation between the assignee/new creditor and debtor is created. On the other hand, in conventional subrogation, an agreement between all the parties concerning the substitution of the new creditor is necessary. Meanwhile, legal subrogation produces the same effects as assignment and also, no new obligation is created between the subrogee/new creditor and debtor. As observed in commentaries on the subject:

The effect of legal subrogation is to transfer to the new creditor the credit and all the rights and actions that could have been exercised by the former creditor either against the debtor or against third persons, be they guarantors or mortgagors. Simply stated, except only for the change in the person of the creditor, the obligation subsists in all respects as before the novation.[49] (Emphasis supplied)

Unlike assignment, however, legal subrogation, to produce effects, does not need to be agreed upon by the subrogee and subrogor, unlike the need of an agreement between the assignee and assignor. As mentioned, "[l]egal subrogation is that which takes place without agreement but by operation of law because of certain acts,"[50] as in the case of payment of the insurer under Article 2207 of the Civil Code.

In sum, as legal subrogation is not equivalent to conventional subrogation, no new obligation is created by virtue of the insurer's payment under Article 2207 of the Civil Code; also, as legal subrogation is not the same as an assignment of credit (as the former is in fact, called an "equitable assignment"), no privity of contract is needed to produce its legal effects. Accordingly, "the insurer can take nothing by subrogation but the rights of the insured, and is subrogated only to such rights as the insured possesses. This principle has been frequently expressed in the form that the rights of the insurer against the wrongdoer cannot rise higher than the rights of the insured against such wrongdoer, since the insurer as subrogee, in contemplation of law, stands in the place of the insured and succeeds to whatever rights he may have in the matter. Therefore, any defense which a wrongdoer has against the insured is good against the insurer subrogated to the rights of the insured,"[51] and this would clearly include the defense of prescription.

Based on the above-discussed considerations, the Court must heretofore abandon the ruling in *Vector* that an insurer may file an action against the tortfeasor within ten (10) years from the time the insurer indemnifies the insured. Following the principles of subrogation, the insurer only steps into the shoes of the insured and therefore, for purposes of prescription, inherits only the remaining period within which the insured may file an action against the wrongdoer. To be sure, the prescriptive period of the action that the insured may file against the wrongdoer begins at the time that the tort was committed and the loss/injury occurred against the insured. The indemnification of the insured by the insurer only allows it to be subrogated to the former's rights, and does not create a new reckoning point for the cause of action that the insured originally has against the wrongdoer.

Be that as it may, it should, however, be clarified that this Court's abandonment of the *Vector* doctrine should be prospective in application for the reason that judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines.[52] Unto this Court devolves the sole authority to interpret what the law means, and all persons are bound to follow its interpretation. As explained in *De Castro v. Judicial and Bar Council*: [53]

Judicial decisions assume the same authority as a statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria that must control the actuations, not only of those called upon to abide by them, but also of those duty-bound to enforce obedience to them.[54]

Hence, while the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as a "good law" prior to its abandonment.[55] In *Philippine International Trading Corporation Commission on Audit*,[56] it was elucidated that:

It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith. To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication.[57] (Emphasis and underscoring supplied)

In *Pesca v. Pesca*[58] the Court further elaborated:

The "doctrine of stare decisis," ordained in Article 8 of the Civil Code, expresses that judicial decisions applying or interpreting the law shall form part of the legal system of the Philippines. The rule follows the settled legal maxim - "legis interpretado legis vim obtinet" - that the interpretation placed upon the written law by a competent court has the force of law. The interpretation or construction placed by the courts establishes the contemporaneous legislative intent of the law. The [said interpretation or construction] would thus constitute a part of that law as of the date the statute is enacted. It is only when a prior ruling of this Court finds itself later overruled, and a different view is adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith in accordance therewith under the familiar rule of "lex prospicit, non respicit." [59] (Emphasis and underscoring supplied)

With these in mind, the Court therefore sets the following guidelines relative to the application of *Vector* and this Decision vis-a-vis the prescriptive period in cases where the insurer is subrogated to the rights of the insured against the wrongdoer based on a quasi-delict:

1. For actions of such nature that have already been filed and are currently pending before the courts at the time of the finality of this Decision, the rules on prescription prevailing at the time the action is filed would apply. Particularly:

(a) For cases that were filed by the subrogee-insurer during the applicability of the *Vector* ruling (i.e., from *Vector*'s finality on August 15, 2013[60] up until the finality of this Decision), the prescriptive period is ten (10) years from the time of payment by the insurer to the insured, which gave rise to an obligation created by law.

Rationale: Since the *Vector* doctrine was the prevailing rule at this time, issues of prescription must be resolved under *Vector*'s parameters.

(b) For cases that were filed by the subrogee-insurer prior to the applicability of the *Vector* ruling (i.e., before August 15, 2013), the prescriptive period is four (4) years from the time the tort is committed against the insured by the wrongdoer.

Rationale: The *Vector* doctrine, which espoused unique rules on legal subrogation and prescription as aforescribed, was not yet a binding precedent at this time; hence, issues of prescription must be resolved under the rules prevailing before *Vector*, which, incidentally, are the basic principles of legal subrogation vis-a-vis prescription of actions based on quasi-delicts.

2. For actions of such nature that have not yet been filed at the time of the finality of this Decision:

(a) For cases where the tort was committed and the consequent loss/injury against the insured occurred prior to the finality of this Decision, the subrogee-insurer is given a period not exceeding four (4) years from the time of the finality of this Decision to file the action against the wrongdoer; provided, that in all instances, the total period to file such case shall not exceed ten (10) years from the time the insurer is subrogated to the rights of the insured.

Rationale: The erroneous reckoning and running of the period of prescription pursuant to the Vector doctrine should not be taken against any and all persons relying thereon because the same were based on the then-prevailing interpretation and construction of the Court. Hence, subrogees-insurers, who are, effectively, only now notified of the abandonment of Vector, must be given the benefit of the present doctrine on subrogation as ruled in this Decision.

However, the benefit of the additional period (i.e., not exceeding four [4] years) under this Decision must not result in the insured being given a total of more than ten (10) years from the time the insurer is subrogated to the rights of the insured (i.e., the old prescriptive period in Vector); otherwise, the insurer would be able to unduly propagate its right to file the case beyond the ten (10)-year period accorded by Vector to the prejudice of the wrongdoer.

(b) For cases where the tort was committed and the consequent loss/injury against the insured occurred only upon or after the finality of this Decision, the Vector doctrine would hold no application. The prescriptive period is four (4) years from the time the tort is committed against the insured by the wrongdoer.

Rationale: Since the cause of action for quasi-delict and the consequent subrogation of the insurer would arise after due notice of Vector's abandonment, all persons would now be bound by the present doctrine on subrogation as ruled in this Decision.

Application to the Case at Bar

In this case, it is undisputed that the water leak damage incident, which gave rise to Copylandia's cause of action against any possible defendants, including NASCL and petitioner, happened on May 9, 2006. As this incident gave rise to an obligation classified as a quasi-delict, Copylandia would have only had four (4) years, or until May 9, 2010, within which to file a suit to recover damages.[61] When Copylandia's rights were transferred to respondent by virtue of the latter's payment of the former's insurance claim on November 2, 2006, as evidenced by the Loss and Subrogation Receipt,[62] respondent was likewise bound by the same prescriptive period. Since it was only on: (a) May 20, 2010 when respondent made an extrajudicial demand to NASCL, and thereafter, filed its complaint; (b) October 6, 2011 when respondent amended its complaint to implead CHI as party-defendant; and (c) April 21, 2014 when respondent moved to further amend the complaint in order to implead petitioner as party-defendant in lieu of CHI, prescription - if adjudged under the present parameters of legal subrogation under this Decision - should have already set in.

However, it must be recognized that the prevailing rule applicable to the pertinent events of this case is Vector. Pursuant to the guidelines stated above, specifically under guideline 1 (a), the Vector doctrine - which was even relied upon by the courts a quo - would then apply. Hence, as the amended complaint[63] impleading petitioner was filed on April 21, 2014, which is within ten (10) years from the time respondent indemnified Copylandia for its injury/loss, i.e., on November 2, 2006, the case cannot be said to have prescribed under Vector. As such, the Court is constrained to deny the instant petition.

WHEREFORE, the petition is DENIED. The Decision dated November 13, 2015 and the Resolution dated February 26, 2016 of the Court of Appeals in CA-G.R. SP No. 138147 are hereby AFFIRMED with MODIFICATION based on the guidelines stated in this Decision.

SO ORDERED.

Bersamin, C. J., I dissent.

Carpio (Senior Associate Justice), Leonen, Gesmundo, J. Reyes, Jr., Carandang, Inting, and Zalameda, JJ., concur.

Peralta, J., I join the dissenting opinion of the C.J.

Jardeleza, J., no part.

Caguioa, J., See concurring opinion.

A. Reyes, Jr., J., See dissenting opinion.

Hernando, J., no part.

Lazaro-Javier, J., Please see concurring opinion.

[1] Rollo, pp. 10-27.

[2] Id. at 196-203. Penned by Associate Justice Stephen C. Cruz with Associate Justices Elihu A. Ybañez and Ramon Paul L. Hernando (now a Member of this Court), concurring.

[3] Id. at 193-194.

[4] Id. at 52-55. Penned by Presiding Judge Josefino A. Subia.

[5] Id. at 56-58.

[6] "National Art Studio," "National Art Studio Lab," or "National Art Studio and Color Lab" in some parts of the rollo.

[7] See rollo, pp. 196-197.

[8] See id. at 197.

[9] See id.

[10] See id.

[11] See Policy Schedule; id. at 117-141.

[12] See id. at 198.

[13] See Loss and Subrogation Receipt; id. at 142.

[14] Id. at 198.

[15] Not attached to the rollo.

[16] Rollo, p. 198.

[17] Id.

[18] Dated October 6, 2011. Id. at 61-64.

[19] Dated April 21, 2014. Id. at 92-94.

[20] See id. at 198.

[21] See Amended Complaints; id. at 62 and 114. See also id. at 20.

[22] See Comment/Opposition (to Motion to Admit Attached Amended Complaint and Pre-Trial Brief [The Amendment]) dated May 5, 2014; *id.* at 151-154.

[23] See *id.* at 53.

[24] *Id.* at 52-55.

[25] See *id.* at 55.

[26] See *id.* at 53-54.

[27] See motion for reconsideration dated July 4, 2014; *id.* at 174-181.

[28] *Id.* at 56-58.

[29] With Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction dated November 24, 2014. *Id.* at 30-47.

[30] *Id.* at 196-203.

[31] See *id.* at 202.

[32] See motion for reconsideration dated December 1, 2015; *id.* at 259-268.

[33] *Id.* at 193-194.

[34] 713 Phil. 198 (2013).

[35] See *id.* at 201-204.

[36] *Id.* at 206.

[37] 262 Phil. 919 (1990).

[38] *Id.* at 206-208.

[39] *Id.* at 208.

[40] Philippine American General Insurance Co., Inc. v. Sweet Lines, Inc., G.R. No. 87434, August 5, 1992, 212 SCRA 194, 208.

[41] 748 Phil. 569 (2014).

[42] *Id.* at 584-585.

[43] *Supra* note 37.

[44] *Id.* at 923.

[45] *Id.*

[46] *Id.*

[47] 553 Phil. 344 (2007).

[48] *Id.* at 360-362; citations omitted.

[49] De Leon, Hector and De Leon, Hector Jr., COMMENTS AND CASES ON OBLIGATIONS AND CONTRACTS. 2014 Edition, p. 480.

- [50] Ledonio v. Capitol Development Corporation, *supra* note 47, at 361.
- [51] Pasker v. Harleysville Mutual Ins. Co., 192 N.J. Super. 133 (1983), citing 44 Am.Jur.2d, Insurance, § 1821 at 748; emphasis and underscoring supplied.
- [52] See Office of the Ombudsman v. Vergara, G.R. No. 216871, December 6, 2017, 848 SCRA 151, 17 citing Carpio Morales v. CA, 772 Phil. 672, 775 (2015).
- [53] 632 Phil. 657 (2010).
- [54] *Id.* at 686, citing Caltex (Philippines), Inc. v. Palomar, 124 Phil. 763, 774 (1966).
- [55] Carpio Morales v. CA, *supra* note 52, at 775.
- [56] G.R. No. 205837, November 21, 2017, 845 SCRA 583.
- [57] *Id.* at 596-597; citing Columbia Pictures v. CA, 329 Phil. 875, 908 (1996).
- [58] 408 Phil. 713 (2001).
- [59] *Id.* at 720.
- [60] See *supra* note 34.
- [61] Article 1146 (2) of the CIVIL CODE reads:

Art. 1146. The following actions must be instituted within four years:

x x x x

(2) Upon a quasi-delict.

- [62] Rollo, p. 142.

[63] Under Section 8, Rule 10 of the Rules of Court, an amended complaint supersedes an original one. As a consequence, the original complaint is deemed withdrawn and no longer considered as part of the records (*Mercado v. Spouses Espina*, 704 Phil. 545, 551 [2013], citing *Figuracion v. Libi*, 564 Phil. 46, 58 [2007]). Hence, for purposes of determining whether or not the claim is already barred by the statute of limitations, the date of filing of the amended complaint shall be controlling (see *Wallem Philippines Shipping, Inc. v. S.R. Farms, Inc.*, 638 Phil. 324, 333 [2010], citing *Republic v. Sandiganbayan*, 355 Phil. 181, 205 [1998]).

DISSENTING OPINION

BERSAMIN, C.J.:

The majority opinion overturns the ruling in *Vector Shipping Corporation v. American Home Assurance Company*[1] wherein the Court has held that subrogation under Article 2207 of the Civil Code gives rise to a cause of action created by law; hence, the applicable prescriptive period is 10 years.

I submit that the present case has not given the Court any grounds to warrant the overturn. The dictum in *Vector Shipping Corporation v. American Home Assurance Company* remains good law in the context of Article 2207 of the Civil Code.

Before anything more, however, a review of the antecedents is enlightening.

National Arts Studio and Color Lab (National Arts Studio) leased for the period from 1989 to 1999 the front portion of the ground floor of a two-storey building then owned by Vicente G. Henson (Henson) located on Sto. Rosario Street in Angeles City, Pampanga.[2] In 1999, National Arts Studio leased the right front portion of the ground floor and the entire second floor of the building, and renovated its piping assembly. Meanwhile, Copylandia Office Systems Corporation (Copylandia) moved to the ground floor.[3]

A water leak occurred in the building on May 9, 2006 and damaged Copylandia's various equipment to the tune of P2,062,640.00.[4] Copylandia filed its claim for indemnity with respondent UCPB General Insurance Co., Inc. (UCPBGen), the insurer of its equipment.[5] On November 2, 2006, Copylandia and UCPBGen agreed to settle for P1,326,342.76,[6] thereby subrogating UCPBGen to the rights of Copylandia arising from the water leak incident. On May 20, 2010, UCPBGen demanded payment from National Arts Studio, but without success.[7] Hence, UCPBGen sued National Arts Studio, among others, for damages in the Regional Trial Court (RTC) in Makati City. The suit, docketed as Civil Case No. 10-885, was raffled to Branch 138 of the RTC.[8]

In 2010, Henson transferred the ownership of the building to Citrinne Holdings, Inc. (CTI), wherein he was a stockholder and the President at the same time.[9]

UCPBGen amended its complaint on October 6, 2011 to implead CTI as a party-defendant by virtue of its being the new owner of the building. UCPBGen later changed its mind, and filed on April 21, 2014 a Motion to Admit Attached Amended Complaint and Pre-Trial Brief praying that Henson, instead of CTI, be impleaded as the party-defendant considering that he was the owner of the building at the time of the water leak incident.[10]

CTI opposed the motion principally on the ground of prescription, and contended that UCPBGen's cause of action, having arisen from quasi-delict, must be brought within four years from its accrual on May 9, 2006.[11]

On June 10, 2014, the RTC directed the dropping of CTI as a party-defendant and the joining of Henson as one of the party-defendants.[12] It observed that UCPBGen's cause of action against the defendants, including Henson, arose when it paid Copylandia's insurance claim and thereby became subrogated to the latter's rights and claims arising from the water leak incident; that UCPBGen was merely enforcing its right of subrogation which prescribed in 10 years reckoned from the date of Copylandia's indemnification on November 2, 2006; and that UCPBGen's claim against Henson had yet to prescribe on April 21, 2014 when it sought to include him as party-defendant.

On September 22, 2014, the RTC denied CTI's motion for reconsideration.[13]

On his part, Henson brought a petition for certiorari in the Court of Appeals (CA).

On November 13, 2015, the CA rendered its decision upholding the ruling of the RTC.[14] The CA agreed that UCPBGen's cause of action was not based on quasi-delict, but on an obligation created by law, and, as such, the prescriptive period was 10 years reckoned from its accrual.

After the CA denied Henson's motion for reconsideration on February 26, 2016,[15] he appealed to the Court.

The issue for consideration is whether or not the CA correctly ruled that UCPBGen's cause of action was based on an obligation created by law that prescribed in 10 years.[16]

The majority opinion states that -

In sum, as legal subrogation is not equivalent to conventional subrogation, no new obligation is created by virtue of the insurer's payment under Article 2207 of the Civil Code; also, as legal subrogation is not the same as an assignment of credit (as the former is in fact, called an "equitable assignment"), no privity of contract is needed to produce its legal effects. Accordingly, the insurer can take nothing by subrogation but the rights of

the insured, and is subrogated only to such rights as the insured possesses. This principle has been frequently expressed in the form that the rights of the insurer against the wrongdoer cannot rise higher than the rights of the insured against such wrongdoer, since the insurer as subrogee, in contemplation of law, stands in the place of the insured and succeeds to whatever rights he may have in the matter. Therefore, any defense which a wrongdoer has against the insured is good against the insurer subrogated to the rights of the insured, and this would clearly include the defense of prescription.

Based on the above-discussed considerations, the Court must heretofore abandon the ruling in *Vector* that an insurer may file an action against the tortfeasor within ten (10) years from the time he indemnifies the insured. Following the principles of subrogation, the insurer only steps into the shoes of the insured and therefore, for purposes of prescription, inherits only the remaining period within which the insured may file an action against the wrongdoer. To be sure, the prescriptive period of the action that the insured may file against the wrongdoer begins at the time that the tort was committed and the loss/injury occurred against the insured. The indemnification of the insured by the insurer only allows it to be subrogated to the former's rights, and does not create a new reckoning point for the cause of action that the insured originally has against the wrongdoer.

Be that as it may, it should, however, be clarified that this Court's abandonment of the *Vector* doctrine should be prospective in application for the reason that judicial decisions applying or interpreting the laws or the Constitution, until reversed, shall form part of the legal system of the Philippines.[17]

The majority opinion concludes that because the insurer merely stepped into the shoes of the insured, its cause of action against the debtor was already barred by prescription considering that the cause of action was in the nature of a quasi-delict that was subject to the prescriptive period of four years.[18]

I DISSENT.

I submit that the ruling on prescription in *Vector Shipping Corporation v. American Home Assurance Company* is the applicable rule for this case.

Article 2207 of the Civil Code expressly provides:

Article 2207. If the plaintiffs property has been insured, and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss, the aggrieved party shall be entitled to recover the deficiency from the person causing the loss or injury.

To me, the letter and intent of the law are too clear and forthright to be ignored. Subrogation of the insurer under Article 2207 of the Civil Code gives rise to an obligation created by law. With the clarity and forthrightness of the legal provision on the nature of subrogation as an obligation arising from law, the cause of action based on subrogation prescribes in 10 years pursuant to Article 1144(2) of the Civil Code.

The Court pointed this out in *Vector Shipping Corporation v. American Home Assurance Company*, thusly:

The juridical situation arising under Article 2207 of the Civil Code is well explained in *Pan Malayan Insurance Corporation v. Court of Appeals*, as follows:

Article 2207 of the Civil Code is founded on the well-settled principle of subrogation. If the insured property is destroyed or damaged through the fault or negligence of a party other than the assured, then the insurer, upon payment to the assured, will be subrogated to the rights of the assured to recover from the wrongdoer to the extent that the insurer has been obliged to pay. Payment by the insurer to the assured operates as an equitable assignment to the former of all remedies which the latter may have against the third party whose negligence or wrongful act caused the loss. The right of subrogation is not dependent upon, nor does it grow out of, any privity of contract or upon written assignment of claim. It accrues simply upon payment of the insurance claim

by the insurer. [Compania Maritima v. Insurance Company of North America, G.R. No. L-18965, October 30, 1964, 12 SCRA 213; Fireman's Fund Insurance Company v. Jamila & Company, Inc., G.R. No. L-27427, April 7, 1976, 70 SCRA 323].

Verily, the contract of affreightment that Caltex and Vector entered into did not give rise to the legal obligation of Vector and Soriano to pay the demand for reimbursement by respondent because it concerned only the agreement for the transport of Caltex's petroleum cargo. As the Court has aptly put it in *Pan Malayan Insurance Corporation v. Court of Appeals*, supra, respondent's right of subrogation pursuant to Article 2207, supra, was "not dependent upon, nor d[id] it grow out of, any privity of contract or upon written assignment of claim [but] accrue[d] simply upon payment of the insurance claim by the insurer." [19]

In *Fireman's Fund Insurance Company v. Jamila & Company, Inc.*, [20] the Court has expounded on the rule enunciated under Article 2207 of the Civil Code, viz.:

Article 2207 is a restatement of a settled principle of American jurisprudence. Subrogation has been referred to as the doctrine of substitution. It "is an arm of equity that may guide or even force one to pay a debt for which an obligation was incurred but which was in whole or in part paid by another" (83 C.J.S. 576, 578, note 16, citing *Fireman's Fund Indemnity Co. vs. State Compensation Insurance Fund*, 209 Pac. 2d 55).

"Subrogation is founded on principles of justice and equity, and its operation is governed by principles of equity. It rests on the principle that substantial justice should be attained regardless of form, that is, its basis is the doing of complete, essential, and perfect justice between all the parties without regard to form" (83 C.J.S. 579-80).

Subrogation is a normal incident of indemnity insurance (*Aetna L. Ins. Co. vs. Moses*, 287 U.S. 530, 77 L. ed. 477). Upon payment of the loss, the insurer is entitled to be subrogated pro tanto to any right of action which the insured may have against the third person whose negligence or wrongful act caused the loss (44 Am. Jur. 2nd 745, citing *Standard Marine Ins. Co. vs. Scottish Metropolitan Assurance Co.*, 283 U.S. 284, 75 L. ed. 1037).

The right of subrogation is of the highest equity. The loss in the first instance is that of the insured but after reimbursement or compensation, it becomes the loss of the insurer (44 Am. Jur. 2d 746, note 16, citing *Newcomb vs. Cincinnati Ins. Co.*, 22 Ohio St. 382).

"Although many policies including policies in the standard form, now provide for subrogation, and thus determine the rights of the insurer in this respect, the equitable right of subrogation as the legal effect of payment inures to the insurer without any formal assignment or any express stipulation to that effect in the policy" (44 Am. Jur. 2nd 746). Stated otherwise, when the insurance company pays for the loss, such payment operates as an equitable assignment to the insurer of the property and all remedies which the insured may have for the recovery thereof. That right is not dependent upon, nor does it grow out of, any privity of contract, or upon written assignment of claim, and payment to the insured makes the insurer an assignee in equity (*Shambley vs. Jobe-Blackley Plumbing and Heating Co.*, 264 N. C. 456, 142 SE 2d 18). [21]

There is no question that the right of subrogation is a creature of equity, owing its origin at common law, [22] and later evolved as a doctrine through the decision of Lord Hardwicke in *Randal v. Cockran*. [23] Lord Hardwicke pronounced in *Randal v. Cockran* that:

x x x The person originally sustaining the loss was the owner; but after satisfaction made to him, the insurer.

No doubt, but from that time, as to the goods themselves, if restored in specie, or compensation made for them, the assured stands as a trustee for the insurer, in proportion for what he paid. [24]

As can be seen, the doctrine of subrogation essentially holds that an insurer who has fully indemnified an insured

against a loss covered by a contract of insurance between them may ordinarily enforce, in the insurer's own name, any right of recourse available to the insured. The role of equity comes into play once the insurer has indemnified the insured. Payment is the crucial event that allows the insurer to succeed to the rights of the insured. Unless the insurer pays pursuant to the policy, there is no loss that he has sustained and, therefore, there arises no right of recovery.[25]

Since the time of the pronouncement in *Randal v. Cockran*, therefore, it has been judicially recognized that the insurer's payment to the insured produces the following effects, namely:

(1)

The person making the payment to the third party was recognized as having acquired at the moment of paying a right to claim a contribution or an indemnity (as the case might be) from the principal obligor;

(2)

The acquisition of that right did not result from an express agreement to transfer such right, which the third party had against the principal obligor; and

(3)

Both the common law courts and the courts of equity accepted that this acquisition of rights against the principal obligor was an operation of equity, not of the common law.[26]

The automatic transfer of rights from the payor to the payee occurs at the moment of payment, and it takes place by act of law.[27] Yet, the ipso jure transfer of rights from the insured to the insurer does not result to a simple case of assignment.

Under insurance law principles, assignment varies from subrogation in both the method of creation and the results produced.[28]

Subrogation arises by operation of law when the insurer pays either a portion or the entire amount of property damages an insured individual claims under a policy, and may exist even without a statute or agreement that provides for it.[29] Subrogation accompanies payment, and carries with it only the limited claim to reimbursement, arising as it does upon payment to discharge a third person's indebtedness.[30] If the insurer has a right to subrogation, Philippine laws - particularly Article 2207 of the Civil Code - confer upon the insurer the status of a real party-in-interest with regard to the indemnity paid. That the insurer becomes the real party-in-interest after subrogation was aptly explained in *Philippine Airlines, Inc. v. Heald Lumber Company*,[31] whereby the Court clarified that:

x x x In this jurisdiction, we have our own legal provision which in substance differs from the American law. We refer to Article 2207 of the New Civil Code which provides:

ART. 2207. If the plaintiff's property has been insured, and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss, the aggrieved party shall be entitled to recover the deficiency from the person causing the loss or injury.

Note that if a property is insured and the owner receives the indemnity from the insurer, it is provided in said article that the insurer is deemed subrogated to the rights of the insured against the wrongdoer and if the amount paid by the insurer does not fully cover the loss, then the aggrieved party is the one entitled to recover the deficiency. Evidently, under this legal provision, the real party in interest with regard to the portion of the

indemnity paid is the insurer and not the insured. The reason is obvious. The payment of the indemnity by the insurer to the insured does not make the latter a trustee of the former as in the American law. This matter being statutory, the same must be governed by our own law in this jurisdiction.

This interpretation finds support in the explanatory note given by the Code Commission in proposing the adoption of the article under consideration. Thus, said Commission, in its report on the proposed Civil Code of the Philippines, referring to the article in question, says:

The rule in article 2227 (Art. 2207 of the Code as enacted) about insurance indemnity is different from the American law. Said article provides:

Art. 2227. If the plaintiff's property has been insured, and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who was violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss the aggrieved party shall be entitled to recover the deficiency from the person causing the loss of injury.

According to American jurisprudence, the fact that the plaintiff has been indemnified by an insurance company cannot lessen the damages to be paid by the defendant. Such rules give more damages than those actually suffered by the plaintiff, and the defendant, if also sued by the insurance company for imbursement, would have to pay in many cases twice the damages he has caused. The proposed article would seem to be a better adjustment of the rights of the three parties concerned. (Report of Code Commission on the Proposed Civil Code of the Philippines, p. 73) (Emphasis supplied)

It is insisted that despite the subrogation of the insurer to the rights of the insured, the latter can still bring the action in its name because the subrogation vests in the latter the character of a trustee charged with the duty to pay to the insurer so much of the recovery as corresponds to the amount it had received as a partial indemnity. This cannot be true in this for before a person can sue for the benefit of another under a trusteeship, he must be "a trustee of an express trust" (Section 3, Rule 3, Rules of Court). Thus, under this provision, "in order that a trustee may sue or be sued alone, it is essential that his trust should be express, that is, a trust created by the direct and positive acts of the parties, by some writing, deed, or will or by proceedings in court. The provision does not apply in cases of implied trust, that is, a trust which may be inferred merely from the acts of the parties or from other circumstances" (Moran, Comments on the Rules of Court, Vol. I, 1952 Ed., p. 35).

It also contended that to adopt a contrary rule to what is authorized by the American statutes would be splitting a cause of action or promoting multiplicity of suits which should be avoided. This contention cannot also hold water considering that under our rules both the insurer and the insured may join as plaintiffs to press their claims against the wrongdoer when the same arise out of the same transaction or event. This is authorized by Section 6, Rule 3, of the Rules of Court.[32] x x x x

In contrast, assignment is preceded by an agreement by virtue of which the owner of a credit (known as the assignor), by a legal cause - such as sale, dation in payment, exchange or donation - and without need of the debtor's consent, transfers that credit and its accessory rights to another (known as the assignee), who thereby acquires the power to enforce it, to the same extent as the assignor could have enforced it against the debtor.[33] Unlike the right to subrogation that arises only upon the insurer's payment of the insured's claim, assignment of the insured's property damage claim may take place even before the damage occurs.[34] After the assignment of the claims of the insured, the insurer becomes the real party-in-interest and may bring a claim in its own name against the tortfeasor or the latter's insurer.[35]

The only similarity that the doctrine of subrogation and the concept of assignment share is that the transferee has

no right independent of the transferor. In insurance, the insurer can only enforce the rights that the insured has; consequently, the insurer, as the person paying for the loss, cannot assume a better right than the insured, or person being indemnified. Yet, it must be recalled that subrogation, as an equitable principle, is supposed to ensure that the person who actually caused damages will eventually pay for those damages.[36] To underscore, this allowance of subrogation has its roots in the equitable doctrine of preventing unjust enrichment.[37]

If we adhere to the majority opinion's holding that subrogation is akin to assignment, which means that the insurer merely steps into the shoes of the insured, then an insurance claim filed after or even near the end of the prescriptive period to bring an action arising from quasi-delict may possibly defeat the fundamental purpose of subrogation as an arm of equity and justice. Moreover, the majority opinion's submission overrides the fact that the insurer's cause of action, or his right to recover the indemnity, only arises by reason of the payment made by the insurer independent of any agreement with the insured. Thus, once the insured received the payment, he is no longer the loser because his loss has been remedied by the insurer.[38] At that point, the insurer became the loser and his right to recover the payment he made to the insured then arises by operation of law.

Based on the foregoing, the dictum in *Vector Shipping Corporation v. American Home Assurance Company*, that subrogation gives rise to an action created by operation of law, and that, consequently, the action prescribes in 10 years reckoned from the moment of payment, is unassailable. With UCPBGen's cause of action against Henson, which accrued on November 2, 2006, not yet prescribed by April 21, 2014 when UCPBGen impleaded him as a party-defendant, Civil Case No. 10-885 should be allowed to prosper against him.

ACCORDINGLY, I vote to DENY the petition for review on certiorari; and to AFFIRM the November 13, 2015 decision and February 26, 2016 resolution of the Court of Appeals promulgated in C.A.-G.R. SP No. 138147.

[1] G.R. No. 159213, July 3, 2013, 700 SCRA 385.

[2] Rollo, pp. 196-197.

[3] Id.

[4] Id.

[5] Id. at 198.

[6] Id.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 53.

[12] Id. at 52-55.

[13] Id. at 56-58.

[14] Id. at 196-203; penned by Associate Justice Stephen C. Cruz, with Associate Justice Elihu A. Ybañez and Associate Justice Ramon Paul L. Hernando concurring.

[15] Id. at 193-194.

[16] Decision, p. 4.

[17] Id. at 10-11.

[18] Id. at 6.

[19] Supra note 1, at 394-395.

[20] L-27427, April 7, 1976, 70 SCRA 323.

[21] Id. at 327-328.

[22] See Marasinghe, M.L., An Historical Introduction to the Doctrine of Subrogation: The Early History of the Doctrine I and II, An Historical Introduction to the Doctrine of Subrogation: The Early History of the Doctrine I and II, Valparaíso University Law Review, Vol. 10, No. 1, pp. 45-65; and Vol. 10 No. 2, pp. 275-299.

[23] 1 Ves. Sen. 98, 27 Eng. Rep. 916 (1748).

[24] Id., as quoted and cited in Marasinghe, supra note 22, at 63.

[25] Marasinghe, supra, note 22, at 298.

[26] Marasinghe, M.L., supra note 24, at 279.

[27] Id. at 277, citing London Assurance Co. v. Sainsbury where it was held that:

The care of a sheriff who has paid the whole debt is very strong, for he stands in the place of the debtor, by act of Law; yet he must sue in the name of the plaintiff.

London Assurance Co. v. Sainsbury is said to have settled three issues, namely: (1) the trust concept enables the insurer to sue a tortfeasor of the assured once the payment was made pursuant to the policy; (2) such an action must be brought in the name of the assured; and (3) the subrogation process occurs by operation of law.

[28] Bueler, Jennifer A., Understanding the Difference Between the Right to Subrogation and Assignment of an Insurance Claim - Keisker v. Farmer, Missouri Law Review, Volume 68, Issue 4, Fall 2003, p. 950.

[29] Id. at 949.

[30] Snellings III; George M., The Role of Subrogation by Operation of Law and Related Problems in the Insurance Field, Louisiana Law Review, Volume 22, Number 1, December 1961, pp. 225, 227.

[31] 101 Phil. 1031 (August 16, 1957).

[32] Id. at 1035-1037 (italicized portions are part of the original text).

[33] See Ledonio v. Capitol Development Corporation, G.R. No. 149040, July 4, 2007, 526 SCRA 379, 393-394.

[34] Bueler, Jennifer A., supra note 28 at 951.

[35] Id. at p. 953.

[36] Id. at p. 949.

[37] Snellings III, George M., The Role of Subrogation by Operation of Law and Related Problems in the Insurance Field, Louisiana Law Review, Volume 22, Number 1, December 1961 p. 228.

[38] Marasinghe, M.L., An Historical Introduction to the Doctrine of Subrogation: The Early History of the Doctrine I, Valparaíso University Law Review, Vol. 10, No. 1, p. 63.

CONCURRING OPINION

CAGUIOA, J.:

I concur.

Because of the occurrence of a water leak in the building that Copylandia Office Systems Corp. (Copylandia) was leasing, its various equipment which were insured with respondent UCPB General Insurance Company, Inc. (UCPB Gen) were damaged on May 9, 2006. Copylandia filed a claim in the amount of P2,062,400.00 with UCPB Gen and on November 2, 2006, the parties settled for the amount of P1,326,342.76. More than 4 years after the damage to the equipment had been sustained, or on May 20, 2010, UCPB Gen, as subrogee to Copylandia's rights, made a demand on National Arts Studio and Color Lab (NASCL) — the entity that apparently caused the water leak — for the payment of Copylandia's claim. Eventually, UCPB Gen filed a complaint for damages against NASCL when UCPB Gen's demand failed.

Both the RTC and the CA held that UCPB Gen's cause of action has not yet prescribed since the applicable prescriptive period is 10 years based on legal subrogation which they considered to be an obligation created by law under Article 1144[1] of the Civil Code, and not 4 years based on quasi-delict (Article 1146[2]).

I concur with the ponencia that the applicable prescriptive period is 4 years because the cause of action is based on quasi-delict. Stated differently, the right that UCPB Gen is subrogated to is the right of Copylandia to damages arising from the quasi-delict committed by NASCL which resulted in the damage to its various equipment. The obligation of NASCL arises from quasi-delict under Article 2176 of the Civil Code and not from law.[3] Under Article 2176,

Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no preexisting contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter [on Quasi-Delicts].

The corresponding obligation vis-a-vis the right created by legal subrogation under Article 2207 must be subsumed within or under the right that the subrogee may exercise against "the wrongdoer or the person who has violated the contract" because the subrogee merely steps into the shoes of the insured. Thus, the corresponding obligation of NASCL arises from quasi-delict and not from the law creating the right of subrogation in favor of respondent.

It is noted that the RTC and the CA relied on the ruling in *Vector Shipping Corp. v. American Home Assurance Co.*[4] (Vector) where the Court made the following pronouncement, viz.:

We need to clarify, however, that we cannot adopt the CA's characterization of the cause of action as based on the contract of affreightment between Caltex and Vector, with the breach of contract being the failure of Vector to make the M/T Vector seaworthy, as to make this action come under Article 1144 (1), supra. Instead, we find and hold that the present action was not upon a written contract, but upon an obligation created by law. Hence, it came under Article 1144 (2) of the Civil Code. This is because the subrogation of respondent to the rights of Caltex as the insured was by virtue of the express provision of law embodied in Article 2207 of the Civil Code, to wit:

Article 2207. If the plaintiff's property has been insured, and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss, the aggrieved party shall be entitled to recover the deficiency from the person causing the loss or injury. (Emphasis

supplied)[5]

I join the ponente that it is now opportune to revisit the Court's interpretation of Article 2207 in *Vector* insofar as the obligation of "the wrongdoer or the person who has violated the contract" to the subrogee is concerned.

The phrase "the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract" in the above-quoted Article 2207 means only what it plainly states: that the insurance company merely acquires the rights of the insured in order to have a cause of action against the wrongdoer or the person who has violated the contract — the obligation of the latter being by virtue of quasi-delict or breach of contract. This is the only inference which is both legal and logical that can be derived from the quoted portion of Article 2207. If the obligation of the wrongdoer or the person who has violated the contract to the subrogee "arises from law", then what defense/s can the former interpose to exculpate him or limit his liability? I submit that the defenses which he can interpose are the very same ones he can interpose against the original plaintiff, i.e., those defenses available in a quasi-delict or breach of contract case.

If his defense is based on quasi-delict, then he should be able to interpose the defense of prescription of actions arising from quasi-delict. Going back to *Vector*, the liability of *Vector Shipping Corp.* did not arise because its vessel was not "seaworthy." Rather, it arose because of its failure to safely transport the petroleum cargo of *Caltex*. Seaworthiness is a defense in quasi-delict but not in a breach of contract of carriage or affreightment. In this case, clearly there is no privity of contract between *NASCL* and *Copylandia*.

I thus take the position that legal subrogation under Article 2207 does not create a "second" obligation (i.e., arising from law) on the part of the tortfeasor to the subrogee that is independent and distinct from the former's obligation arising from quasi-delict to the subrogor (aggrieved insured party). There is only one obligation and that is the one arising from quasi-delict. The rights of the subrogor and the subrogee are identical. In fact, if the subrogor files the complaint for damages against the tortfeasor and is later substituted by the subrogee after payment of the subrogor's insurance claim, the cause of action remains the same because the subrogee simply steps into the shoes of the subrogor.

The insurer's right of subrogation against third persons causing the loss paid by the insurer to the insured arises out of the contract of insurance and is derived from the insured alone.[6] Consequently, the insurer can take nothing by subrogation but only the rights of the insured.[7]

This is so because the rights of the insurer against the wrongdoer cannot rise higher than the rights of the insured against such wrongdoer; as subrogee, the insurer, in contemplation of law, stands in the place of the insured and succeeds to whatever rights he may have in the matter.[8] The cause of action of the insurer against the wrongdoer is the very cause of action of the insured against the wrongdoer such that when the property upon which there is insurance is damaged or destroyed by the negligence of another, the right of action accruing to the injured party is for an indivisible wrong giving rise to a single indivisible cause of action which abides in the insured, through whom the insurer, upon payment of the insurance, must work out its rights.[9] And, any defense which a wrongdoer has against the insured is good against the insurer subrogated to the rights of the insured, including statute of limitations.[10]

The dissent relies on *Fireman's Fund Insurance Company v. Jamila & Company, Inc.*[11] (*Fireman's Fund*). In *Fireman's Fund*, properties of *Firestone Tire and Rubber Company of the Philippines* (*Firestone*) valued at P11,925.00 were lost allegedly due to the acts of its employees who connived with *Jamila & Co., Inc.*'s (*Jamila*) security guard. *Fireman's Fund Insurance Company* (*Fireman's Fund*), as insurer, paid to *Firestone* the amount of the loss, and, claiming subrogation, sued *Jamila* for reimbursement of what it paid to *Firestone*. [12] The complaint was dismissed by the lower court because there was no allegation that *Jamila* consented to the subrogation, and as

such, Fireman's Fund had no cause of action against Jamila.[13] It is, thus, understandable, that Fireman's Fund only discussed the general principles on the insurer's right of subrogation and did not touch on the issue of prescription.

It is noted that Fireman's Fund relied on both Corpus Juris Secundum (C.J.S.) and American Jurisprudence 2d (Am. Jur. 2d). The citations from C.J.S.[14] deal with the Definition and Origin, Nature, and Purpose of Subrogation while those from Am. Jur. 2d[15] deal with Subrogation In General (§ 1820. Insurer's right of subrogation, generally). Also, it is noted that Fireman's Fund cited the 1969 edition of Am. Jur. 2d. Under the 1982 edition of Am. Jur. 2d., it is § 1794.[16]

I believe that the subsequent section of C.J.S. on Operation and Effect[17] of subrogation is what is in point in the present case.

Based on C.J.S., subrogation passes all the creditor's rights, privileges, remedies, liens, judgments and mortgages to the subrogee, subject to such limitations and conditions as were binding on the creditor; but the subrogee is not entitled to any greater rights than the creditor.[18]

Stated differently, a person entitled to subrogation, the subrogee, must work through the creditor whose rights he claims.[19] The subrogee stands in the shoes of the creditor; and he is entitled to the benefit of all remedies of the creditor and may use all the means which the creditor could employ to enforce payment.[20] The subrogee, however, can enforce only such rights as the creditor could enforce and must exercise such rights under the same conditions and limitations as were binding on the creditor; and, hence, can be subrogated to no greater rights than the one in whose place he is substituted.[21] Thus, if the latter had no rights, the subrogee can have none.[22]

The right asserted by the subrogee is subject to the same infirmities and set-offs as though its original owner were asserting it, and the extent to which the subrogee's recovery will be diminished thereby must be determined just as though the original owner were asserting it.[23]

As a subrogee, the insurer, cannot improve his position or augment his right beyond that of the subrogor, the insured, merely because he sues in his own name without bringing in the subrogor as a party.[24]

Similarly, it is my position that it is § 1795 (Extent of right; dependence upon rights of insured)[25] of Am. Jur. 2d (1982 ed.) or § 1821 (Extent of right; dependence upon rights of insured)[26] of Am. Jur. 2d (1969 ed.) that is relevant in this case.

Based on Am. Jur. 2d (1982 ed.), the insurer's right of subrogation against third persons causing the loss paid by the insurer to the insured does not rest upon any relation of contract or privity between the insurer and such third persons; but arises out of the contract of insurance and is derived from the insured alone.[27] As a consequence, the insurer can take nothing by subrogation but the rights of the insured, and is subrogated to only such rights as the insured possesses.[28]

The principle that proceeds from the foregoing is that the rights of the insurer against the wrongdoer cannot rise higher than the rights of the insured against such wrongdoer because the insurer as subrogee, in contemplation of law, stands in the place of the insured and succeeds to whatever rights he may have in the matter.[29] Thus, any defense which a wrongdoer has against the insured is good against the insurer subrogated to the rights of the insured; and the wrongdoer may assert a claim he has against the insured as a counterclaim against the insurer.[30]

It must be noted that the subrogation claim, being derived from the claim of the insured, is subject to same defenses, including statute of limitations, as if the action had been sued upon by the insured.[31]

In this respect, *St. Paul Fire Marine Ins. v. Glassing*[32] (*St. Paul II*) is in point. In this case, Ellen Lynn (Lynn) and Gary Glassing (Glassing) were involved in a motor vehicle collision in Bozeman on June 12, 1985. Lynn filed in Gallatin County District Court a personal injury action against Glassing on November 17, 1989 and judgment was entered in Lynn's favor in the net amount of \$95,377.92. At the time of the motor vehicle collision, St. Paul Fire Marine Insurance Company (St. Paul) insured Lynn with a policy that provided coverage in the event that Lynn was injured by an underinsured motorist. Allstate Insurance Company (Allstate) insured Glassing against liability resulting from the operation of his motor vehicle up to \$50,000 only — the limit of Glassing's liability coverage. On December 15, 1989, Lynn made a demand for underinsured motorist benefits to her insurer, St. Paul, and the latter paid Lynn on or about May 31, 1990 in the amount of \$51,461.16, which represented the difference between Glassing's \$50,000 policy limits and the judgment with interest to the date of St. Paul's payment. A release was subsequently executed by Lynn in favor of Glassing and Allstate, wherein Lynn acknowledged the receipt of \$50,000. On July 24, 1990, St. Paul initiated an action against Glassing to recover the \$51,461.16 payment, together with interest and costs it paid to Lynn pursuant to her underinsured motorist coverage. Glassing moved for summary judgment citing the ground that St. Paul's claim was barred by the statute of limitations. The Eighth Judicial District Court of Cascade County (District Court) denied Glassing's motion and granted summary judgment in favor of St. Paul. In reversing the District Court's order, the Supreme Court of Montana ruled:

[1] One issue raised by Glassing is dispositive of this appeal. Glassing contends that St. Paul's suit is barred by the statute of limitations. We agree.

In support of his argument, Glassing maintains that the same statute of limitations applies to an action for subrogation as applies to the injured party's claim. Because the accident occurred on June 12, 1985, and St. Paul did not file its action for subrogation until July 24, 1990, Glassing argues that the applicable three year statute of limitations on Lynn's negligence claim had expired, thus barring St. Paul's claim. See. § 27-2-204, MCA.

The District Court however, ruled that St. Paul's right of subrogation did not accrue until its duty to pay was triggered by the rendering of the excess judgment in favor of St. Paul's insured, Lynn. The court concluded that "[p]rior to that time neither Lynn's right to underinsured motorist benefits nor St. Paul's right to subrogation existed." In reaching its conclusion that the statute of limitations had not expired on St. Paul's claim, the District Court determined a distinction existed between uninsured motorist benefits and underinsured motorist benefits. The court concluded that "[u]nderinsured motorist benefits are not triggered until a settlement or judgment has been rendered by which the insured persons damages are not fully compensated." Therefore, the court found that St. Paul's subrogation claim did not accrue or come into existence until November 17, 1989, the date judgment was rendered in Gallatin County. Accordingly, the court concluded that St. Paul's suit was timely filed. However, the court did not state what the applicable statute of limitations would be on St. Paul's suit against Glassing. We conclude that the District Court erred in ruling that St. Paul's claim was not time-barred for two reasons.

First, the court's conclusion that St. Paul's claim accrued on the date of judgment ignores the basic premise of subrogation; that as a subrogee, St. Paul has no independent claim for its damages. It is a well established principle of subrogation law, that subrogation is "the substitution of another person in place of the creditor, so that the person substituted will succeed to the rights of the creditor in relation to the debt or claim." *Skaug v. Mountain States Tel. Tel.* (1977), 172 Mont. 521, 526, 565 P.2d 628, 630.

Additional subrogation principles provide:

Subrogation confers no greater rights than the subrogor had at the time the surety became subrogated. The subrogated insurer stands in the same position as the subrogor, for one cannot acquire by subrogation what another, whose rights he claims, did not have.

16 Couch on Insurance 2d, § 61:36 (1983).

The right of subrogation is purely derivative as the insurer succeeds only to the rights of the insured, and no new cause of action is created. In other words, the concept of subrogation merely gives the insurer the right to prosecute the cause of action which the insured possessed against anyone legally responsible for the latter's harm....

16 Couch on Insurance 2d, § 61:37 (1983).

[2] Because an insurer's claim is derived from that of the insured, its claim is subject to the same defenses, including the statute of limitations as though the action were sued upon by the insured. *Beedie v. Shelly* (1980), 187 Mont. 556, 561, 610 P.2d 713, 716. Accordingly, St. Paul's claim is derivative of Lynn's claim, and her claim accrued on June 12, 1985, the date of the accident.

Second, we are cited to no authority for the proposition that the principles of subrogation vary with the type of risk insured against. We recognize that there are jurisdictions which have statutes extending the limitation period for subrogation claims of insurers that have paid damages to their insureds under uninsured or underinsured motorist policy provisions from the date of payment made under the policy. See, *Liberty Mut. Ins. Co. v. Fales* (Cal. 1973) 505 P.2d 213. However, Montana has no such statutory authority extending the limitation date. Whether there should be such a statute is a matter to be determined by the legislature.

Rather, this Court follows the general principles of subrogation which provide:

Since the insurer's claim by subrogation is derivative from that of the insured, it is subject to the same statute of limitations as though the cause of action were sue[d] upon by the insured. Consequently, the insurer's action is barred if it sued after expiration of the period allowed for the suing out of tort claims.

16 Couch on Insurance 2d, § 61:234 (1983).

On appeal, St. Paul argues that the following statement from [*St. Paul Fire Marine Ins. Co. v. Allstate Ins. Co.* (1993 Mont. 47, 847 P.2d 705)] (St. Paul I), supports its contention that its right to subrogation arose upon the rendering of the judgment:

St. Paul's right to subrogation arises from the judgment entered in favor of its insured against the defendant, and that judgment is the result of the defendant's tortious conduct within the State of Montana. St. Paul I, 847 P.2d at 707.

We note however, that we made this statement in relation to the jurisdiction question which was before us. We concluded that the District Court had personal jurisdiction over Glassing because of the tortious conduct which occurred in the State of Montana, and that the judgment was entered as a result of this tortious conduct. Therefore, the statement does not support St. Paul's argument that its subrogation rights arose upon judgment.

[3, 4] It is apparent from St. Paul's argument, that St. Paul confuses the accrual of a claim for subrogation, and the attachment of the right of subrogation. An insurer's right to subrogation attaches, by operation of law, upon paying an insured's loss. *Skaug*, 565 P.2d at 630. Accordingly, we held in St. Paul I, that "[i]n this case, St. Paul became substituted for its insured as a matter of law when it paid Ellen Lynn pursuant to its insurance policy with her and is entitled to pursue her right to collect the amount of her judgment against the defendant." St. Paul I, 847 P.2d at 707. While St. Paul's right to subrogation arose upon its payment to Lynn, the right to subrogation does not operate to extend the statute of limitations.

While a subrogated insurer frequently contends that its action against the third-party tortfeasor who allegedly caused the damage or injury for which the insurer had to recompense its insured did not accrue, and the statute

of limitations did not begin to run thereon, until the insurer had made the payments required under its insurance contract, courts have held, generally, that such a contention was without merit... [T]he statute of limitations begins to run on such actions at the same time that the statute of limitations would have been to run on the insured's action...against the third-party tortfeasor.

Annotation, "When Does Statute of Limitations Begin to Run upon Action by Subrogated Insurer Against Third-Party Tortfeasor," 91 ALR 3d 844, 850 § 3; See also, Beedie, 610 P.2d 716; Preferred Risk Mut. Ins. Co. v. Vargas (Ariz.App. 1988), 754 P.2d 346; Nationwide Mut. Ins. Co. v. State Farm (N.C.App. 1993), 426 S.E.2d 298.[33]

Borrowing the words of St. Paul II, since the right of subrogation is purely derivative, UCPB Gen's claim is derivative of Copylandia's claim; and the latter's claim accrued on May 9, 2006, the occurrence of the damage to its various equipment. The 4-year prescriptive period for tort or quasi-delict began to run on UCPB Gen's action at the same time that the same statute of limitations would have begun to run on Copylandia's action against NASCL. Also, since the Philippines has no statutory authority extending the limitation period for subrogation claims of insurers that have paid damages to their insureds similar to the State of Montana, U.S.A., and the insurer's claim is derivative from that of the insured, the insurer's claim is subject to the same 4-year prescriptive period applicable to quasi-delicts as though the cause of action were sued upon by Copylandia. Consequently, the claim of UCPB Gen, as subrogee, had prescribed on May 9, 2010.[34]

To reiterate, the cause of action of the insurer against the wrongdoer is the very cause of action of the insured against the wrongdoer such that when the property upon which there is insurance is damaged or destroyed by the negligence of another, the right of action accruing to the injured party is for an indivisible wrong giving rise to a single indivisible cause of action which abides in the insured, through whom the insurer, upon payment of the insurance, must work out its rights.[35]

Thus, American jurisprudence clearly supports the majority view. In subrogation, the insurer literally steps into the shoes of the insured regardless of their size.

In Filipino Merchants Insurance Company, Inc. v. Alejandro[36] (Filipino Merchants) where the issue is "whether or not the one-year period within which to file a suit against the carrier and the ship, in case of damage or loss as provided for in the Carriage of Goods by Sea Act [(COGSA)] applies to the insurer of the goods,"[37] the Court ruled that the coverage of the Act includes the insurer of the goods. The Court reasoned out:

x x x Otherwise, what the Act intends to prohibit after the lapse of the one[-]year prescriptive period can be done indirectly by the shipper or owner of the goods by simply filing a claim against the insurer even after the lapse of one year. This would be the result if we follow the petitioner's argument that the insurer can, at any time, proceed against the carrier and the ship since it is not bound by the time-bar provision. In this situation, the one[-]year limitation will be practically useless. x x x[38]

Applying the Vector ruling, the insurer in Filipino Merchants would have a 10-year period to be indemnified based on subrogation and not be bound by the one-year prescriptive period under COGSA. If that is allowed, the rights of the insurer against the wrongdoer will rise higher than the rights of the insured against such wrongdoer and the insurer will have greater rights than the one in whose place he is substituted.

Further, the application of the second sentence of Article 2207 would lead to absurdity if the source of the obligation of the wrongdoer or the person who has violated the contract to the aggrieved party is different from the source of his obligation to the subrogee. With respect to prescription, if the aggrieved party files the deficiency suit beyond the 4 years from the occurrence of the quasi-delict, his cause of action would have prescribed. But with respect to the subrogee, it would not be barred provided that the case is filed within 10 years from the

payment of the insurance claim. The subrogee's right will then become superior to the right of the aggrieved insured party. The wrongdoer will not be able to raise prescription as defense against the insurer which would otherwise be available to the wrongdoer against the insured party had there been no subrogation. This is in violation of the principle in subrogation that any defense which a wrongdoer has against the insured is good against the insurer subrogated to the rights of the insured.

To recapitulate, to hold that subrogation under Article 2207 of the Civil Code gives rise to a cause of action created by law is erroneous. There are basic principles of subrogation that are violated.

Firstly, such ruling sanctions an unauthorized bifurcation of the singular indivisible obligation of the wrongdoer or tortfeasor, NASCL in this case, to both the injured party-insured, Copylandia, and the insurer, UCPB Gen as it violates a basic principle of subrogation that the right of action accruing to the injured party is for an indivisible wrong giving rise to a single indivisible cause of action which abides in the insured, through whom the insurer, upon payment of the insurance, must work out its rights. If Copylandia's cause of action against NASCL arises from quasi-delict and UCPB Gen's cause of action against NASCL arises from law, then there will, in effect, be two distinct obligations and causes of action.

Secondly, such ruling violates another basic principle of subrogation that the rights of the insurer against the wrongdoer cannot rise higher than the rights of the insured against such wrongdoer because the insurer, as subrogee, in contemplation of law, stands in the place of the insured and succeeds to whatever rights he may have in the matter. If UCPB Gen's cause of action prescribes in 10 years while that of Copylandia prescribes in 4 years, then the right of the insurer against the wrongdoer will necessarily rise higher than the right of the insured against such wrongdoer.

Thirdly, if UCPB Gen's cause of action is deemed not to have prescribed despite the fact that Copylandia's cause of action against NASCL had already prescribed, then still another basic principle of subrogation is violated, i.e., the subrogation claim, being derived from the claim of the insured is subject to same defenses, including statute of limitations, as if the action had been sued upon by the injured.

As to the time insurance companies respond to the insurance claim as opposed to the period wherein they run after the wrongdoer, it appears that they respond quickly to the claim of the insured and yet they take considerable time in going after the wrongdoer despite the relatively early settlement of the insurance claim.

In *Vector*, the collision between the M/T *Vector* and the M/V *Doña Paz* occurred in the evening of December 20, 1987 and on July 12, 1988, the respondent insurer therein indemnified Caltex, the insured, for the loss of the petroleum cargo in the full amount of P7,455,421.08.[39] But, it was only on March 5, 1992 when the respondent insurer therein filed the complaint against *Vector Shipping Corporation, et al.* to recover the full amount that it paid to Caltex.[40] The respondent insurer therein could have filed the complaint immediately after its payment to Caltex, but it did not.

In the instant case, the water leak that caused the damage to Copylandia's various equipment occurred on May 9, 2006 and the settlement between the insured and the respondent insurer happened on November 2, 2006. The demand for indemnity against the tortfeasor was made by the respondent insurer, as the subrogee to Copylandia's rights, on May 20, 2010. Clearly, the respondent had ample time to file its complain for damages against the tortfeasor within the 4-year prescriptive period.

It is a well-known practice among insurance companies to require the insured to file the insurance claim within a short period of time from the occurrence of the event for which the insurance policy was obtained subject to Section 63 of the Insurance Code, which provides that a condition, stipulation or agreement in any policy of

insurance limiting the time for commencing an action thereunder to a period less than one year from the time when the cause of action accrues is void. Given the fact that it mainly depends on the insurer when it will settle the claim of the insured, the belated settlement with the insured and filing of the complaint against the wrongdoer should be the insurer's look out. And, equity and justice should not be exploited to excuse the insurer's own fault or negligence in not seasonably enforcing its rights as the subrogee.

Based on the foregoing, the non-dismissal of the complaint based on the 10-year prescriptive period of an action upon an obligation created by law is fundamentally wrong because — to borrow the language of the cited American authorities — the right of action accruing to the injured party that is passed on to the insurer is for an indivisible wrong giving rise to a single indivisible cause of action which abides in the insured, through whom the insurer, upon payment of the insurance, must work out its rights. The complaint for damages should have been dismissed on the ground that it was not seasonably filed within the 4-year prescriptive period under Article 1146(2), an action upon a quasi-delict. It must be recalled that on May 20, 2010 UCPB Gen made an extrajudicial demand upon NASCL. Under Article 1155 of the Civil Code, "[t]he prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor." However, the extrajudicial demand here could not have interrupted the 4-year prescriptive period because the same had already lapsed on May 9, 2010, which is 4 years from the occurrence of the damage to the various equipment on May 9, 2006.

In view of the guidelines adopted by the Court to transition the abandonment of the Vector ruling, I concur in denying the petition.

[1] ART. 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

[2] ART. 1146. The following actions must be instituted within four years:

- (1) Upon an injury to the rights of the plaintiff;
- (2) Upon a quasi-delict.

[3] CIVIL CODE, Art. 1157.

[4] 713 Phil. 198 (2013). Penned by Associate Justice Lucas P. Bersamin and concurred by Chief Justice Maria Lourdes P.A. Sereno and Associate Justices Presbitero J. Velasco, Jr., Teresita J. Leonardo-De Castro and Martin S. Villarama, Jr.

[5] *Id.* at 206-207.

[6] 44 Am. Jur. 2d, Extent of right; dependence upon rights of insured, § 1795, p. 785 (1982).

[7] *Id.*; citations omitted.

[8] *Id.* at 785-786, citations omitted.

[9] *Virginia Electric & Power Co. v Carolina Peanut Co.* (CA4 NC), 186 F2d 816, 32 ALR2d 234 cited in 44 Am. Jur. 2d, Extent of right; dependence upon rights of insured, § 1795, note 87 p. 786 (1982).

- [10] Id. at 786; citations omitted.
- [11] 162 Phil. 421 (1976).
- [12] Id. at 424.
- [13] Id.
- [14] 83 C.J.S., Definition, § 1 and Origin, Nature, and Purpose of Doctrine, §2, specifically pp. 576-580.
- [15] 44 Am. Jur. 2d, Insurer's right of subrogation, generally, § 1820, specifically pp. 745-746 (1969).
- [16] 44 Am. Jur. 2d, Insurer's right of subrogation, generally, § 1794, pp. 782-785 (1982).
- [17] 83 C.J.S., Operation and Effect, § 14, pp. 611-614.
- [18] Id. at 611.
- [19] Id. at 612; citations omitted.
- [20] Id.; citations omitted.
- [21] Id. at 612-613; citations omitted.
- [22] Id. at 613; citations omitted.
- [23] Coal Operators Cas. Co. v. U.S. D.C.Pa., 16 F.Supp. 681 cited in 83 C.J.S., Operation and Effect, § 14, note 19, p. 613.
- [24] Coal Operators Casualty Co. v. U.S. D.C.Pa., id., cited in 83 C.J.S. Operation and Effect, § 14, note 20, id.
- [25] 44 Am. Jur. 2d, pp. 785-787(1982).
- [26] 44 Am. Jur. 2d, pp. 748-749 (1969).
- [27] 44 Am. Jur. 2d, Extent of right; dependence upon rights of insured, § 1795, p. 785 (1982).
- [28] Id.; citations omitted.
- [29] Id. at 785-786, citations omitted.
- [30] Id. at 786; citations omitted.
- [31] Beedie v. Shelly, (Mont) 610 P2d 713 cited in 44 Am. Jur. 2d, Extent of right; dependence upon rights of insured, § 1795, note 89, p. 786 (1982).
- [32] 269 Mont. 76, 887 P.2d 218, 51 St. Rep. 1437, accessed at <https://www.casemine.com/judgement/us/5914bdb0_add7b049347a3ba4#>.
- [33] Id.
- [34] REVISED ADMINISTRATIVE CODE OF 1987 (Executive Order No. 292, 1987), Book I, Chapter 8, Section 31 provides that "Year" shall be understood to be twelve calendar months.
- [35] Virginia Electric & Power Co. v Carolina Peanut Co. (CA4 NC), 186 F2d 816, 32 ALR2d 234 cited in 44 Am. Jur. 2d, Extent of right; dependence upon rights of insured, § 1795, note 87, p. 786 (1982).
- [36] 229 Phil. 73 (1986).

[37] Id. at 75.

[38] Id. at 79.

[39] Vector Shipping Corp. v. American Home Assurance Co., supra note 4, at 201.

[40] Id. at 202.

DISSENTING OPINION

REYES, A., JR., J.:

I agree with the denial of the petition but I respectfully enter my dissent with respect to the abandonment of the Vector[1] doctrine.

The Antecedents

The case under consideration pertains to Copylandia Office Systems Corporation's (Copylandia) damaged equipment caused by a water leak that occurred on May 9, 2006 in a two-storey building owned by petitioner Vicente G. Henson, Jr. (Henson) but leased by National Arts Studio and Color Lab (NASCL). The damaged equipment of Copylandia was insured with respondent UCPB General Insurance Co, Inc. (UCPB General Insurance). Consequently, Copylandia filed a claim with UCPB General Insurance for P2,062,640.00, but the parties settled the case for P1,326,342.76 on November 2, 2006.

After demand to pay has failed, UCPB General Insurance filed a complaint to recover the amount it paid Copylandia initially against NASCL, but later on impleaded Henson as the owner of the building. The complaint was opposed mainly on the ground of prescription arguing that UCPB General Insurance's cause of action was based on quasi-delict; hence, must be brought within four (4) years from the time it accrued.

Relying on Vector Shipping Corporation, et al. v. American Home Assurance Co, et al.,[2] the Regional Trial Court and the Court of Appeals (CA) rejected the defense of prescription and ruled that UCPB General Insurance's cause of action was based on an obligation created by law pursuant to Article 2207 of the Civil Code which prescribes in ten (10) years.

Hence, the instant case for petition for review on certiorari where the petitioner insists that the insurer's claim has already prescribed.

The ponencia submits that the CA did not err when it relied on Vector in resolving the issue of prescription since it is the prevailing rule applicable to the events of this case. However, the ponencia suggests that the Vector doctrine should no longer be applied in the future based mainly on the following justification:

In Vector, the Court held that the insure[r]'s (i.e. American Home's) claim against the debtor (i.e. Vector) was premised on the right of subrogation pursuant to Article 2207 of the Civil Code and hence, an obligation created by law. While indeed American Home was entitled to claim against Vector by virtue of its subrogation to the rights of the insured (i.e. Caltex), the Court failed to discern that no new obligation was created between American Home and Vector for the reason that a subrogee only steps into the shoes of the subrogor; hence, the subrogee-insurer only assumes the rights of the subrogor-insured based on the latter's original obligation with the debtor.

To expound, subrogation's legal effects under Article 2207 of the Civil Code are primarily between the subrogee-insurer and the subrogor-insured: by virtue of the former's payment of indemnity to the latter, it is able to acquire, by operation of law, all the rights of the subrogor-insured against the debtor. The debtor is a

stranger to this juridical tie because it only remains bound by its original obligation to its creditor whose rights, however, have already been assumed by the subrogee. In Vector's case, American Home was able to acquire ipso jure all the rights Caltex had against Vector under their contract of affreightment by virtue of its payment of indemnity. If at all, subrogation had the effect of obliging Caltex to respect this assumption of rights in that it must now recognize that its rights against the debtor, i.e. Vector, had already been transferred to American Home as subrogee-insurer. In other words, by operation of Article 2207 of the Civil Code, Caltex cannot deny American Home of its right to claim against Vector. However, subrogation of American Home to Caltex's rights did not alter the original obligation between Caltex and Vector.

Accordingly, the Court, in Vector, erroneously concluded that "the cause of action [against Vector] accrued as of the time [American Home] actually indemnified Caltex in the amount of P7,455,421.08 on July 12, 1988." Instead, it is the subrogation of rights between Caltex and American Home which arose from the time the latter paid the indemnity therefor. Meanwhile, the accrual of the cause of action that Caltex had against Vector did not change because, as mentioned, no new obligation was created as between them by reason of the subrogation of American Home. The cause of action against Vector therefore accrued at the time it breached its original obligation with Caltex whose right of action just so happened to have been assumed in the interim by American Home by virtue of subrogation. "[A] right of action is the right to presently enforce a cause of action, while a cause of action consists of the operative facts which gives rise to such right of action." [3] (Emphases Ours)

As gleaned from the foregoing, the ponencia proceeds under these premises:

- (a) The insured and the insurer's cause of action is the same, i.e. quasi-delict; the action prescribes within four (4) years from its accrual;
- (b) No new obligation is created by the subrogation; the cause of action of the insurer accrued at the time of the original breach of the obligation by the debtor; and
- (c) The subrogation's legal effects under Article 2207 of the Civil Code are primarily between the subrogee-insurer and the subrogor-insured;

I beg to differ.

The insured and the insurer's causes of action arose from different sources[4] of obligation.

Article 2207 of the Civil Code reads:

Art. 2207. If the plaintiff's property has been insured and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss, the aggrieved party shall be entitled to recover the deficiency from the person causing the loss or injury.

A reading of the said provision reveals two (2) possible situations: (1) total legal subrogation; and (2) partial legal subrogation.

Total legal subrogation

The first sentence of Article 2207 provides that upon receipt of indemnity by the insured, the insurer is automatically subrogated to the rights of the insured against the wrongdoer subject to the concurrence of the

following:

(1)

A property has been insured;

(2)

There is a loss, injury or damage to the insured;

(3)

The loss or injury was caused by or through the fault of the wrongdoer; and

(4)

The insured received indemnity from the insurance company for the injury, loss, or damage arising out of the wrong or breach complained of.

This contemplates legal subrogation which grows not out of privity of contract but arises by the fact of payment. In *Malayan Insurance Co., Inc. v. Alberto, et al.*,^[5] the Court explained the nature of legal subrogation in this wise:

Subrogation is the substitution of one person by another with reference to a lawful claim or right, so that he who is substituted succeeds to the rights of the other in relation to a debt or claim, including its remedies or securities. The principle covers a situation wherein an insurer has paid a loss under an insurance policy is entitled to all the rights and remedies belonging to the insured against a third party with respect to any loss covered by the policy. It contemplates full substitution such that it places the party subrogated in the shoes of the creditor, and he may use all means that the creditor could employ to enforce payment.

We have held that payment by the insurer to the insured operates as an equitable assignment to the insurer of all the remedies that the insured may have against the third party whose negligence or wrongful act caused the loss. The right of subrogation is not dependent upon, nor does it grow out of, any privity of contract. It accrues simply upon payment by the insurance company of the insurance claim. The doctrine of subrogation has its roots in equity. It is designed to promote and to accomplish justice; and is the mode that equity adopts to compel the ultimate payment of a debt by one who, in justice, equity, and good conscience, ought to pay.^[6] (Emphases Ours)

The provision is clear, legal subrogation is a right that springs from Article 2207 of the Civil Code. The resulting obligation arising therefrom is, therefore, created by law.

In my humble point of view, no sufficient basis was presented to warrant the abandonment of the Vector doctrine. Article 2207 is clear and needs no further interpretation.

Partial legal subrogation

The second sentence of Article 2207, on the other hand, provides for a situation wherein the amount insured or indemnified is less than the actual damage. In this case, the insured retains the right to recover the difference from the wrongdoer based on the original obligation which in this case is quasi-delict. Otherwise stated, the insurer will only be subrogated to the rights of the insured only to the extent of what the former has paid the latter. This is under the principle that "the insured shall be fully indemnified but should never be more than fully indemnified."^[7] Legal subrogation "will not permit a windfall."^[8]

Proceeding from the foregoing, two (2) scenarios can be deduced.

First, before the payment of indemnity by the insurer, the insured has a cause of action for his injury or loss based on quasi-delict.

Second, upon receipt of full indemnity by the insured from the insurer, an equitable or legal subrogation is created ipso jure. If the amount recovered does not fully indemnify the insured for the loss, the insurer is partly subrogated to the rights of the insured to the extent of what the former has paid the latter. The insured retains the right to recover the difference from the wrongdoer under the original obligation.

In this instance, there is a concurrence of rights between insured and insurer that arose out of the same event but constitute different causes of action.

The insured has the right to be indemnified for the damage or loss it suffered due to the fault or negligence of the wrongdoer based on quasi-delict while the insurer has the right to be reimbursed of the amount it paid the insured based on legal subrogation.

To elaborate on the disparity, a cause of action is the act or omission by which a party violates a right of another.[9] The elements of a cause of action based on *Mercene v. Government Service Insurance System*,^[10] are the following:

In order for cause of action to arise, the following elements must be present: (1) a right in favor-of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of obligation of the defendant to the plaintiff.^[11]

In *Indophil Textile Mills, Inc. v. Engr. Adviento*,^[12] the Court enunciated that a claim liability under quasi-delict requires the concurrence of the following elements: (a) damages suffered by the plaintiff; (b) fault or negligence of the defendant, or some other person for whose acts he must respond; and (c) the connection of cause and effect between the fault or negligence of the defendant and the damages incurred by the plaintiff.^[13]

Under Article 1146^[14] of the Civil Code, actions upon quasi-delict must be instituted within four (4) years.

The case of *Fireman's Fund Insurance Company v. Maryland Casualty Company et al.*,^[15] on the other hand, provides for the essential elements of an insurer's cause of action for equitable or legal subrogation, viz.:

(a) the insured suffered a loss for which the defendant is liable, either as the wrongdoer whose act or omission caused the loss or because the defendant is legally responsible to the insured for the loss caused by the wrongdoer;

(b) the claimed loss was one for which the insurer was not primarily liable;

(c) the insurer has compensated the insured in whole or in part for the same loss for which the defendant is primarily liable;

(d) the insurer has paid the claim of its insured to protect its own interest and not as a volunteer;

(e) the insured has an existing, assignable cause of action against the defendant which the insured could have asserted for its own benefit had it not been compensated for its loss by the insurer;

(f) the insurer has suffered damages caused by the act or omission upon which the liability of the defendant depends;

(g) justice requires that the loss be entirely shifted from the insurer to the defendant, whose equitable position is inferior to that of the insurer; and

(h) the insurer's damages are in a liquidated sum, generally the amount paid to the insured.^[16]

Under this jurisdiction, as an obligation that arose by operation of law, an action for legal subrogation prescribes in ten (10) years as statutorily provided in Article 1144.[17]

In both instances of legal subrogation, the effects of Article 2207 of the Civil Code are primarily between the insurer and the debtor-wrongdoer.

The ponencia is of the opinion that the subrogation's legal effect is mainly between the insurer and the insured; the wrongdoer is a mere stranger to this juridical tie who remains bound to the insured by its original obligation, one that arose from quasi-delict.

To my mind, the more logical view is that as a legal consequence of subrogation under Article 2207, a relationship primarily between insurer and the debtor-wrongdoer is created. Payment of indemnity by the insurer to the insured produces a *vinculum juris* between the insurer and the debtor-wrongdoer, in that the insurer now becomes the real party-in-interest[18] in a collection case against the debtor-wrongdoer with regard to the indemnity paid. In contrast, the effect of legal subrogation between the insured and insurer, who are governed by the insurance contract they entered into, is merely consequential.

The end of subrogation is to prevent inequity.

Of all the principles related to subrogation, it cannot be denied that the ultimate purpose for its creation is equity and "results from the natural justice of placing the burden where it ought to rest." Subrogation flows not from any fixed rule of law, but rather born from "principles of justice, equity and benevolence." [19] It makes sure that the responsibility must be on the person who should ultimately discharge the liability and not on the party who merely assumed the loss or injury. Subrogation operates as a device that places the burden for the loss on the party ultimately liable or responsible for it and "to relieve entirely the insurer who indemnified the loss and who in equity was not primarily liable therefor." [20]

Thus, Article 2207 of the Civil Code, in relation to Article 1144, should be construed under the aforementioned context.

In my perspective, to conform with the ponencia is to put the insurer at a disadvantage. This is against the very essence of legal subrogation that is to prevent unjust enrichment.[21]

The abandonment of the Vector doctrine will limit the options of the insurer, who upon payment to the insured, assumes the loss or injury caused by or through the fault of the wrongdoer. It will restrict the right of the insurer to recover from its assumed loss or injury by limiting the period within which it could recover. This will defeat the purpose of the principle of legal subrogation as a creature of the "highest equity" [22] which is "designed to promote and to accomplish justice and is the mode which equity adopts to compel the ultimate payment of a debt by one who in justice, equity and good conscience ought to pay." [23]

Accordingly, I submit that the CA is correct in ruling that UCPB General Insurance's cause of action based on legal subrogation has not yet prescribed pursuant to this Court's ruling in Vector.

THUS, I vote to DENY the petition for review on certiorari. But for the reasons stated, I respectfully VOTE

AGAINST THE ABANDONMENT of the Vector doctrine.

[1] See *Vector Shipping Corp., et al. v. American Home Assurance Co., et al.*, 713 Phil. 198 (2013).

[2] *Supra*.

[3] See ponencia, pp. 6-7.

[4] CIVIL CODE OF THE PHILIPPINES, Article 1157.

Article 1157. Obligations arise from:

- a) Law;
- b) Contracts;
- c) Quasi-contracts;
- d) Acts or omissions punished by law; and
- e) Quasi-delicts. (Emphases Ours)

[5] 680 Phil. 813 (2012).

[6] *Id.* at 829.

[7] Marasinghe, M.L., *An Historical Introduction to the Doctrine of Subrogation; The Early History of the Doctrine II*, *Valparaiso University Law Review*, Vol. 10, Number 2, p. 292.

[8] *Id.* at 294.

[9] RULES OF COURT, Rule 2, Section 2.

[10] G.R. No. 192971, January 10, 2018, 850 SCRA 209.

[11] *Id.* at 218.

[12] 740 Phil. 336 (2014).

[13] *Id.* at 350.

[14] Article 1146. The following actions must be instituted within four years:

- (1) Upon an injury to the rights of the plaintiff;
- (2) Upon a quasi-delict.

[15] No. A079345. July 31, 1998, citing *Caito v. United California Bank*, *supra*, 20 Cal.3d at p. 704; *Fireman's Fund Ins. Co. v. Wilshire Film Ventures, Inc.* (1997) 52 Cal. App. 4th 553, 555-556 [60 Cal Rptr. 2d 591]; *Patent Scaffolding Co. v. William Simpson Constr. Co.*, *supra*, 256 Cal. App. 2d at p. 509; *Grant v. de Otte* (1954) 122 Cal. App. 2d 724, 728 [265 P.2d 952]; 11 Witkin, *Summary of Cal. Law*, *supra*, Equity, § 169, p. 849.

[16] *Supra*.

[17] Article 1144. The following actions must be brought within ten years from the time the cause of action accrues:

- (1) Upon a written contract;

(2) Upon an obligation created by law;

(3) Upon a judgment.

[18] Phil. Air Lines, Inc. v. Heald Lumber Co., 101 Phil. 1031, 1035 (1957).

[19] Home Owner's Loan Corp. v. Parker, 73 P.2d 170 (Okla. 1937).

[20] Fireman's Fund Insurance Company v. Maryland Casualty Company et al., supra note 15.

[21] Mullen, J.M., The Equitable Doctrine of Subrogation, Maryland Law Review Vol 3 Issue 3, 3 Md. L. Rev. 202 (1939), p. 201.

[22] Fireman's Fund Insurance Company v. Jamila & Company, Inc., 162 Phil. 421, 429 (1976).

[23] PHILAMGEN v. Court of Appeals, 339 Phil. 455, 466 (1997).

CONCURRING OPINION

LAZARO-JAVIER, J.:

I concur with the concise but exhaustive ponencia of my senior colleague, Madam Justice Estela M. Perlas-Bernabe. May I just add a few thoughts to explain why I support Justice Perlas-Bernabe's ponencia.

As their respective names suggest, legal subrogation differs from conventional[1] subrogation in that the former arises by operation of law while the latter comes from the agreement between the subrogor and the subrogee. Legal subrogation is oftentimes referred to as an equitable assignment of credit not only to indicate its historical origin but also its reference to circumstances (or the equities of a case) upon which the law builds and provides for a remedy.[2]

But more than what its name suggests, it is the purpose of legal subrogation that defines the scope of its legal effects. It has been said that legal subrogation is "an equitable principle to prevent unjust enrichment." [3] Accordingly:

Limitations on the Right

The right of subrogation, with its origin in the Civil Law, is merely an equitable right. It is not enforced at the expense of a legal right. In this State the Court of Appeals in a number of cases has enunciated the principles just stated and has refused substitution... when by so doing it will work an injury upon other persons by destroying their legal or equitable rights. From the above, it is clear that the right of subrogation is not granted against a superior equity or a legal right, but that a judgment creditor has no such superior equity as entitles him to the benefit of this principle.

It would hardly seem necessary to cite authorities for the statement that if the creditor in connection with whose rights subrogation is claimed has no rights thus to be equitably conveyed to the person claiming subrogation, no right of subrogation can arise. Subrogation being a right to which a person claiming it is substituted by virtue of equitable principles, this right exists as to securities, which the creditor did not have or did not know about at the time his obligation was incurred.

Extent of the Right

This phase of the matter could probably be summarily disposed of by saying that the equitable doctrine of subrogation when applied accords to the subrogated person all of the rights of the creditor to which the subrogee becomes thus entitled....

In *Packham v. German Fire Insurance Company*, an insurance company had become subrogated to the rights of an insurer by paying his fire insurance loss claims on furniture and fixtures. The rights to which the insurance company was subrogated (of course, those of the insured) comprised a claim against a third person tortfeasor, who by a negligent fire had destroyed or damaged the insured's furniture and fixtures and merchandise and caused him a loss of profits. The insurance covered the furniture and fixtures only and had nothing to do with the merchandise and loss of profits. The insured endeavored to handle his claim against the tortfeasor in such a way that he could therein by settlement recover against the latter for the loss of merchandise and loss of profits, but not for the furniture and fixtures. In connection with this, he sued the insurance company, but the appellate court, applying the equitable doctrine of subrogation to the circumstances, felt that there could be no recovery, as by reason of having disintitiled himself to sue against the tortfeasor for loss of furniture and fixtures, he had thus voluntarily destroyed a right to which his insurer was entitled under the equitable doctrine of subrogation, and the insurer's right of recovery for his damages, being an indivisible right, he could not recover against the fire insurance company.[4] (emphasis added)

Legal subrogation, therefore, gives rise to an indivisible right of recovery, that is, indivisible from the original right pertaining to the equitable subrogor. The equitable subrogee's right cannot rise higher than that of the equitable subrogor.

Further, equity plays a very important role in the resolution of the scope of legal subrogation. I think it is highly iniquitous to continue adhering to the old and now abandoned legal doctrine that the equitable subrogee's right of recovery accrues from the time of payment to the subrogor of the tortfeasor's liability and continues for 10 years after. This is iniquitous when juxtaposed against the circumstances of a tortfeasor and his or her victim where an insurer does not play a role. In the latter case, the cause of action accrues from the time of the discovery of the tort and only for four years after.

The intervention of an insurer who pays for the damage does not rest upon a legitimate distinction between the former and the latter cases. In fact, the old legal doctrine appears to be giving an unwarranted preference to the insurer which in most if not all instances, is a big-budgeted artificial person that has both the resources and capacity to immediately investigate the cause of the insured's injuries, pay for the injuries, and launch the lawsuit to recover what it has paid.

There is no reason for the insurer to have the luxury of time that others similarly situated, i.e., those who have been injured by a tortfeasor but without an insurer to help them by, do not have. If we are to pursue the inequality further, an insurer can opt to pay an insured only after, for example, seven years, and from then on, will have ten more years to sue the tortfeasor for recovery. The insurer is thus benefitted by a timeline that is not reasonable under the insurer's own circumstances. This is in contrast to an uninsured victim of a tortfeasor who would only have four years from the date of discovery of the tort to pursue his or her claim. As well, the tortfeasor in the latter case would have to wait only four years until the claim against him would become stale, while in the former, he or she has to lie in wait not only for the time that the insurer decides to pay the insured victim but for 10 year more from the time of payment by the insurer to the insured, before the tortfeasor can claim prescription. Whether for the uninsured victim of the tortfeasor or the tortfeasor himself or herself, there is an inequality that being justified only by the presence of a deep-pocketed and legally savvy and experienced insurer.

[1] conventional, (n.d.) West's Encyclopedia of American Law, edition 2. (2008), <https://legal-dictionary.thefreedictionary.com/conventional> (last accessed August 22, 2019). Conventional mean "derived from or contingent upon the mutual agreement of the parties, as opposed to that created by or dependent upon a statute or other act of the law." James M. Mullen, *The Equitable Doctrine of Subrogation*, 3 Md. L. Rev. 202 (1939), available at: <http://digitalcommons.law.umaryland.edu/mlr/vol3/iss3/1> (last accessed August 22,

2019): "Thus, transposing one of the instances given above, if A as holder of a second mortgage on the property of B pays off the first mortgage, and has it assigned to him by the first mortgagee, the rights claimed would be adjudicated on the basis of the written assignment and not by virtue of any principle of equitable subrogation."

[2] James M. Mullen, *Supra*.

[3] *Id.*

[4] *Id.*

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.