



ATTY. ARNALDO M. ESPINAS
Sundays 10:00AM-12:00PM

Reference:
Paras, Philippine Conflict of Laws 8th Ed. (1996)

I. Preliminary Matters

ARTICLE I NATIONAL TERRITORY

The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

Article II, Sec. 2 (accession to the principles of international law)

Section 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

II. Conflict of Laws

Definition

Conflict of laws (or private international law) is that part of the municipal law of a state which directs its courts and administrative agencies, when confronted with a legal problem involving a foreign element, whether or not they should apply a foreign law or foreign laws.

Importance

- To adjust conflicting rights in international, mercantile and corporate transactions
- To solve personal, family, property, and successional, contractual problems, possessed of facts or elements operating in two or more states

Basic Causes

- Multiplicity of governments with separate legal systems
- Different system of laws may apply to different class of citizens (India)
- Different municipal tribunals may give identical laws varying interpretations

Scope of Functions

- To prescribe the conditions under which the court is competent to entertain such a suit
- To determine for each class of cases the particular territorial system of law by reference to which the rights of the parties may be ascertained
- To specify the circumstances in which a foreign judgment can be recognized as decisive of the question in dispute

How and why it is observed

- States may observe conflict of laws by complying faithfully with its "conflict rules"; REASON: States must necessarily observe the subject because it is part of their own municipal law;
- Private individuals may in their own way abide by our conflicts rules by observing them and by complying with judicial decisions on the subject; REASON: Individual citizens observe it because of fear of municipal sanctions.

Distinguished from public international law

Conflict of Laws	Law of Nations
As to NATURE	
Municipal in character	International in character
As to PERSONS involved	
Private individuals	States, international organizations
As to TRANSACTIONS involved	
Private transactions	Generally affect public interest
As to REMEDIES or SANCTIONS	
Resort to municipal tribunals	Remedies may be peaceful or forcible

NOTE: distinction here advanced by dualist view



Monism – international law and domestic law belong to only one system of law with international law considered as superior to domestic law.

Dualism – (pluralist theory, based on positivism) domestic and international law are two different spheres of law. They would favor state law.

Direct vs. Indirect Sources

Direct Sources	Indirect Sources
<ul style="list-style-type: none"> • Constitution • Codifications • Special laws • Treaties and conventions • Judicial decisions • International customs 	<ul style="list-style-type: none"> • Natural moral law • Works of writers

III. Issues on Jurisdiction

Jurisdiction defined

Jurisdiction is the authority of a tribunal to hear and decide a case. (*from the latin "jus dicere" meaning "the right to speak"*)

When court/tribunal has no jurisdiction

It has no alternative but to dismiss the case. Any judgment rendered without or in excess of jurisdiction is clearly null and void even in the state that rendered it, in view of the lack of "due process". (*Pennoyer v. Neff, 95 US 714*)

When court/tribunal has jurisdiction

- **Refusal to assume jurisdiction on the ground of *forum non conveniens***
- **Application of *lex fori* (law of the forum) or *lex causae* (foreign law)**

Kinds of jurisdiction

1. Over the subject matter (BP 129 as amended)

Jurisdiction over the subject matter is conferred by law...

2. Over the person

Jurisdiction over the person is the power of the court to render judgment that will be binding on the parties involved: the plaintiff and the defendant.

Jurisdiction over the plaintiff is acquired upon the filing of the complaint. Jurisdiction over the defendant is acquired through:

- Personal service of summons;
- Substituted service of summons;
- Voluntary appearance; or
- By publication (if the the action is *in rem* or *quasi in rem*)

3. Over the res

It is the jurisdiction over the particular subject matter in controversy, regardless of the persons who may be interested thereon.

Action *in rem* vs. action *in personam*

<i>In rem</i>	<i>In personam</i>
Directed against the thing itself	Directed against a particular person or persons
Binding upon the whole world	Binding only between and among the parties in the case

Service of summons on foreign private juridical entity (Rule 14 Sec. 12)

Section 12. Service upon foreign private juridical entities. — When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.

- Service of summons on unknown defendant (Rule 14 Sec. 14)

Section 14. Service upon defendant whose identity or whereabouts are unknown. — In any action where the defendant is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order.



- **Principle of continuing jurisdiction**

The principle that once a court has acquired jurisdiction, that jurisdiction continues until the court has done all that it can do in the exercise of that jurisdiction.

- **Valid reasons to apply *forum non conveniens***

Heine vs. New York Insurance Co.
50 F.2d 382 (9th Cir.), 25 May 1931

RULING: Civil cases and actions in admiralty and maritime jurisdiction have equal status, and the courts have uniformly, where the question has arisen, declined to entertain jurisdiction in admiralty suits by nonresidents when in the discretion of the court it would be inconvenient and inexpedient to do so. And no distinction has been made to civil cases.

Nor is the right to challenge the jurisdiction or to invite the discretion of the court waived or forfeited by removal from the state to the federal court, or the right of the court, after issue joined, to make investigation on notice and, in its discretion, decline jurisdiction after such inquiry. 28 USCA, § 81, provides that in all suits removed the court shall proceed as if the suit had been originally commenced in the district court and the same proceedings had been taken in such suit in said district court as shall have been had therein in said state court prior to its removal.

Upon the face of the record the district court had jurisdiction when the case came to it from the state court. When the issue first came to its attention, and upon inquiry and examination, the court became cognizant of the status and relation and no doubt had inherent power to protect itself from a deluge of litigation by nonresidents, inspired by contingent retainers to avoid or overcome foreign laws and interpretation and application thereof by foreign courts of the country of the *situs* of the contract; and it had the power to prefer resident litigants of the district in access to overcrowded calendars, for, as Justice Holmes said in *Douglas v. New York*, "There are manifest reasons for preferring residents in access to often overcrowded Courts, both in convenience and in the fact that broadly speaking it is they who pay for maintaining the Courts concerned"; and it had the power to prevent imposition upon its jurisdiction and use of the court as a "cover for injustice to the defendants" by reason of the enormous expense involved in bringing across the continent witnesses from Germany and New York and the records of appellee which plaintiff demands as necessary in another case and, if so, must also be necessary in this case, the removal of which would destroy the ability of the appellee, representing more than 2,500,000 policyholders, to function.

Comity between the United States and Germany should also have consideration.

When to apply the internal or domestic law

Wildvalley Shipping C. Ltd. V. CA
(342 SCRA 213)

RULING: The NLRC was a seriously inconvenient forum.

Under the rule of *forum non conveniens*, a Philippine court or agency may assume jurisdiction over the case if it chooses to do so provided: (1) that the Philippine court is one to which the parties may conveniently resort to; (2) that the Philippine court is in a position to make an intelligent decision as to the law and the facts; and (3) that the Philippine court has or is likely to have power to enforce its decision. The conditions are unavailing in the case at bar.

The Court fails to see how the NLRC is a convenient forum given that all the incidents of the case - from the time of recruitment, to employment to dismissal occurred outside the Philippines. The inconvenience is compounded by the fact that the proper defendants, the Palace Hotel and MHICL are not nationals of the Philippines. Neither are they doing business in the Philippines. Likewise, the main witnesses, Mr. Shmidt and Mr. Henk are non-residents of the Philippines.

Garcia v. Recio
(366 SCRA 437)

RULING: A divorce obtained abroad by an alien may be recognized in our jurisdiction, provided such decree is valid according to the national law of the foreigner. However, the divorce decree and the governing personal law of the alien spouse who obtained the divorce must be proven. Our courts do not take judicial notice of foreign laws and judgments; hence, like any other facts, both the divorce decree and the national law of the alien must be alleged and proven according to our law on evidence.

Exceptions to comity

1. When the foreign law, judgment, or contract:
 - (a) is contrary to a sound and established public policy;
 - (b) is contrary to almost universally conceded principles of morality (*contra bonos mores*);
 - (c) involves procedural matters;
2. When the case involves penal laws, contracts or judgments;
3. When the case involves purely fiscal matters (*i.e. revenue producing*) or administrative matters;



4. When the application of foreign law, judgment, or contract may work:
 - (a) undeniable injustice to the citizens or residents or citizens of the forum;
 - (b) against the vital interests and national security of the state of the forum;
5. When the case involves real or personal property situated in the forum.

Philippine Civil Code provisions on Conflict Rules

Article 14. Penal laws and those of public security and safety shall be obligatory upon all who live or sojourn in the Philippine territory, subject to the principles of public international law and to treaty stipulations.

Article 15. Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad.

Article 16. Real property as well as personal property is subject to the law of the country where it is stipulated.

However, intestate and testamentary successions, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, shall be regulated by the national law of the person whose succession is under consideration, whatever may be the nature of the property and regardless of the country wherein said property may be found.

Article 17. The forms and solemnities of contracts, wills, and other public instruments shall be governed by the laws of the country in which they are executed.

When the acts referred to are executed before the diplomatic or consular officials of the Republic of the Philippines in a foreign country, the solemnities established by Philippine laws shall be observed in their execution.

Prohibitive laws concerning persons, their acts or property, and those which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country.

Cadalin vs. POEA (238 SCRA 721)

RULING: The parties to a contract may select the law by which it is to be governed. In such a case, the

foreign law is adopted as a "system" to regulate the relations of the parties, including questions of their capacity to enter into the contract, the formalities to be observed by them, matters of performance, and so forth.

Instead of adopting the entire mass of the foreign law, the parties may just agree that specific provisions of a foreign statute shall be deemed incorporated into their contract "as a set of terms." By such reference to the provisions of the foreign law, the contract does not become a foreign contract to be governed by the foreign law. The said law does not operate as a statute but as a set of contractual terms deemed written in the contract;

A basic policy of contract is to protect the expectation of the parties. Such party expectation is protected by giving effect to the parties' own choice of the applicable law. The choice of law must, however, bear some relationship to the parties or their transaction. There is no question that the contracts sought to be enforced by claimants have a direct connection with the Bahrain law because the services were rendered in that country.

(citations omitted)

PIA Co. v. Ople (190 SCRA 90)

Petitioner PIA cannot take refuge in paragraph 10 of its employment agreement which specifies, firstly, the law of Pakistan as the applicable law of the agreement and, secondly, lays the venue for settlement of any dispute arising out of or in connection with the agreement "only [in] courts of Karachi Pakistan". The first clause of paragraph 10 cannot be invoked to prevent the application of Philippine labor laws and regulations to the subject matter of this case, i.e., the employer-employee relationship between petitioner PIA and private respondents. We have already pointed out that the relationship is much affected with public interest and that the otherwise applicable Philippine laws and regulations cannot be rendered illusory by the parties agreeing upon some other law to govern their relationship. Neither may petitioner invoke the second clause of paragraph 10, specifying the Karachi courts as the sole venue for the settlement of dispute; between the contracting parties. Even a cursory scrutiny of the relevant circumstances of this case will show the multiple and substantive contacts between Philippine law and Philippine courts, on the one hand, and the relationship between the parties, upon the other: the contract was not only executed in the Philippines, it was also performed here, at least partially; private respondents are Philippine citizens and respondents, while petitioner, although a foreign corporation, is licensed to do business (and actually doing business) and hence resident in the Philippines;



lastly, private respondents were based in the Philippines in between their assigned flights to the Middle East and Europe. All the above contacts point to the Philippine courts and administrative agencies as a proper forum for the resolution of contractual disputes between the parties. Under these circumstances, paragraph 10 of the employment agreement cannot be given effect so as to oust Philippine agencies and courts of the jurisdiction vested upon them by Philippine law. Finally, and in any event, the petitioner PIA did not undertake to plead and prove the contents of Pakistan law on the matter; it must therefore be presumed that the applicable provisions of the law of Pakistan are the same as the applicable provisions of Philippine law.

IV. Theories in the applicability of foreign laws

Theory of Comity

Under this theory, we apply the foreign law because of its convenience, and finally, because we want protection to our citizens, residents, and transients in our land.¹

Theory of Vested Rights

Here we seek to enforce not the foreign law itself but the rights that have been vested under such foreign law.²

Theory of Local Laws

We apply foreign law not because it is foreign but because our own laws, by applying similar rules, require us to do so.³

Theory of Harmony of Laws

We have to apply foreign law so that whenever a case is decided, that is, irrespective of the forum, the solution should be approximately the same; thus identical or similar solutions anywhere and everywhere.⁴

Theory of Justice

The purpose of all laws is the dispensing of justice; if this can be attained in many cases

by applying the proper foreign law, we must do.⁵

V. Collateral Matters

Nature and proof of foreign judgments

- Recognition and enforcement
- Requisites

Section 48. Effect of foreign judgments or final orders. — The effect of a judgment or final order of a tribunal of a foreign country, having jurisdiction to render the judgment or final order is as follows:

- (a) In case of a judgment or final order upon a specific thing, the judgment or final order, is conclusive upon the title to the thing, and
- (b) In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right as between the parties and their successors in interest by a subsequent title.

In either case, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

PHILIPPINE ALUMINUM WHEELS, INC., petitioner,
v.
FASGI ENTERPRISES, INC., respondent.
G.R. No. 137378, 12 October 2000
[Third Division]

[VITUG,J.]

FACTS: Unable to obtain satisfaction of the final judgment within the United States, FASGI Enterprises Incorporated (FASGI), a corporation organized and existing under and by virtue of the laws of the State of California, United States of America, filed a complaint for "enforcement of foreign judgment" before the Regional Trial Court of Makati, Philippines. The Makati court, however, in an order, dismissed the case, thereby denying the enforcement of the foreign judgment within Philippine jurisdiction, on the ground that the decree was tainted with collusion, fraud, and clear mistake of law and fact. The lower court ruled that the foreign judgment ignored the reciprocal obligations of the parties. While the assailed foreign judgment ordered the return by Philippine Aluminum Wheels, Incorporated (PAWI) of the purchase amount, no similar order was made requiring FASGI to return to PAWI the third and fourth containers of wheels. This situation, the trial court maintained, amounted to an unjust enrichment on the part of FASGI. FASGI appealed the decision of the trial court to the Court of Appeals. The appellate court reversed the decision of the trial court and ordered the full enforcement of the California judgment. Hence, this appeal.

ISSUE: Whether or not a foreign judgment may be enforced in the Philippine jurisdiction.

¹ Paras, Conflict of Laws, p.64

² *Id.*

³ *Id.*

⁴ *Id.* at p.65

⁵ *Id.*



HELD: YES.

Generally, in the absence of a special compact, no sovereign is bound to give effect within its dominion to a judgment rendered by a tribunal of another country; however, the rules of comity, utility and convenience of nations have established a usage among civilized states by which final judgments of foreign courts of competent jurisdiction are reciprocally respected and rendered efficacious under certain conditions that may vary in different countries.

In this jurisdiction, a valid judgment rendered by a foreign tribunal may be recognized insofar as the immediate parties and the underlying cause of action are concerned so long as it is convincingly shown that there has been an opportunity for a full and fair hearing before a court of competent jurisdiction; that trial upon regular proceedings has been conducted, following due citation or voluntary appearance of the defendant and under a system of jurisprudence likely to secure an impartial administration of justice; and that there is nothing to indicate either a prejudice in court and in the system of laws under which it is sitting or fraud in procuring the judgment. A foreign judgment is presumed to be valid and binding in the country from which it comes, until a contrary showing, on the basis of a presumption of regularity of proceedings and the giving of due notice in the foreign forum.

ASIAVEST MERCHANT BANKERS (H)

BERHAD., petitioner,

v.

COURT OF APPEALS and PNCC, respondents.

G.R. No. 110263, 20 July 2001

[Second Division]

[DE LEON, J.]

FACTS: Petitioner sought to recover the indemnity of the performance bond it had put up in favor of private respondent to guarantee the completion of the Felda Project and the non-payment of the loan it extended to Asiavest-CDCP Sdn. Bhd. for the completion of Paloh Hanai and Kuantan By-Pass Project in Malaysia. Judgment was rendered in favor of Petitioner. However, after unsuccessful attempts to enforce the judgment of the High Court of Malaya against respondent, petitioner initiated the complaint before the RTC of Pasig, Metro Manila.

Private respondent filed its Answer with Compulsory Counterclaim and therein raised the grounds it brought up in its earlier denied motion to dismiss. In its Reply the petitioner contended that the High Court of Malaya acquired jurisdiction over the person of private respondent by its voluntary submission to the courts jurisdiction through its appointed counsel. Furthermore, private respondents counsel waived any and all objections to the High Court's jurisdiction in a pleading filed before the court. To prevent the enforcement of the foreign judgment private respondent relied on the defense that (1) the person who received summons was not authorized to receive such and (2) there was no board resolution authorizing their retained lawyers in Malaysia to admit all the claims of the Petitioner. The trial court dismissed Petitioners complaint. Petitioner interposed an appeal with the Court of Appeals, but the appellate court dismissed the same and affirmed the decision of the trial court.

ISSUE#1: Whether or not the Malaysian Court had acquired jurisdiction over PNCC so that its judgment is rendered valid.

HELD#1: YES.

Matters of remedy and procedure such as those relating to the service of summons or court process upon the defendant, the authority of counsel to appear and represent a defendant and the formal requirements in a decision are governed by the *lex fori* or the internal law of the forum, i.e., the law of Malaysia in this case.

Here, it is the procedural law of Malaysia where the judgment was rendered that determines the validity of the service of court process on private respondent as well as other matters raised by it. As to what the Malaysian procedural law is, remains a question of fact, not of law. It may not be taken judicial notice of and must be pleaded and proved like any other fact. Sections 24 and 25 of Rule 132 of the Revised Rules of Court provide that it may be evidenced by an official publication or by a duly attested or authenticated copy thereof. It was then incumbent upon private respondent to present evidence as to what that Malaysian procedural law is and to show that under it, the assailed service of summons upon a financial officer of a corporation, as alleged by it, is invalid. It did not. Accordingly, the presumption of validity and regularity of service of summons and the decision thereafter rendered by the High Court of Malaya must stand.

ISSUE#2: Whether or not the judgment by Malaysian court cannot be enforced in the Philippines on the ground that it did not state the fact and the law relied upon.

HELD#2: YES

The *lex fori* or the internal law of the forum governs matters of remedy and procedure. Considering that under the procedural rules of the High Court of Malaya, a valid judgment may be rendered even without stating in the judgment every fact and law upon which the judgment is based, then the same must be accorded respect and the courts in this jurisdiction cannot invalidate the judgment of the foreign court simply because our rules provide otherwise.

All in all, private respondent had the ultimate duty to demonstrate the alleged invalidity of such foreign judgment, being the party challenging the judgment rendered by the High Court of Malaya. But instead of doing so, private respondent merely argued, to which the trial court agreed, that the burden lay upon petitioner to prove the validity of the money judgment. Such is clearly erroneous and would render meaningless the presumption of validity accorded a foreign judgment were the party seeking to enforce it be required to first establish its validity

A. Nature and Composition of Conflict Rules

1. Nature of conflict rules

Conflict rules are the provisions found in a country's own law which



govern factual situations possessed of a foreign element.

2. Kinds of conflict rules

- a. One-sided rule – indicates when Philippine internal law shall apply
- b. All-sided rule – indicates when foreign law is to be applied

3. Composition of conflict rules

- a. The factual situation
- b. Point of contact or the connecting factor

B. Characterization

1. Defined
2. Steps in characterization
3. Theories on characterization

C. Various Theories on Status and Capacity

1. Status and Capacity defined
2. Theories on personal law that govern status and capacity

D. The Nationality Theory

1. 1987 Constitution Art. IV

Section 1. The following are citizens of the Philippines:

[1] Those who are citizens of the Philippines at the time of the adoption of this Constitution;

[2] Those whose fathers or mothers are citizens of the Philippines;

[3] Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and

[4] Those who are naturalized in accordance with law.

Section 2. Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship. Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens.

Section 3. Philippine citizenship may be lost or reacquired in the manner provided by law.

Section 4. Citizens of the Philippines who marry aliens shall retain their citizenship, unless by their act or omission, they are deemed, under the law, to have renounced it.

Section 5. Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law.

2. R.A. No.9225

AN ACT MAKING THE CITIZENSHIP OF PHILIPPINE CITIZENS WHO ACQUIRE FOREIGN CITIZENSHIP PERMANENT. AMENDING FOR THE PURPOSE COMMONWEALTH ACT. NO. 63, AS AMENDED AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title* – this act shall be known as the "Citizenship Retention and Re-acquisition Act of 2003."

Section 2. *Declaration of Policy* - It is hereby declared the policy of the State that all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of this Act.

Section 3. Retention of Philippine Citizenship - Any provision of law to the contrary notwithstanding, natural-born citizenship by reason of their naturalization as citizens of a foreign country are hereby deemed to have re-acquired Philippine citizenship upon taking the following oath of allegiance to the Republic:

"I _____, solemnly swear (or affirm) that I will support and defend the Constitution of the Republic of the Philippines and obey the laws and legal orders promulgated by the duly constituted authorities of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the Philippines and will maintain true faith and allegiance thereto; and that I imposed this obligation upon myself voluntarily without mental reservation or purpose of evasion."

Natural born citizens of the Philippines who, after the effectivity of this Act, become citizens of a foreign country shall retain their Philippine citizenship upon taking the aforesaid oath.

Section 4. Derivative Citizenship - The unmarried child, whether legitimate, illegitimate or adopted, below eighteen (18) years of age, of those who re-



acquire Philippine citizenship upon effectivity of this Act shall be deemed citizenship of the Philippines.

Section 5. Civil and Political Rights and Liabilities -

Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

- (1) Those intending to exercise their right of suffrage must Meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as "The Overseas Absentee Voting Act of 2003" and other existing laws;
- (2) Those seeking elective public in the Philippines shall meet the qualification for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath;
- (3) Those appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office: Provided, That they renounce their oath of allegiance to the country where they took that oath;
- (4) Those intending to practice their profession in the Philippines shall apply with the proper authority for a license or permit to engage in such practice; and
- (5) That right to vote or be elected or appointed to any public office in the Philippines cannot be exercised by, or extended to, those who:
 - (a) are candidates for or are occupying any public office in the country of which they are naturalized citizens; and/or
 - (b) are in active service as commissioned or non-commissioned officers in the armed forces of the country which they are naturalized citizens.

Section 6. Separability Clause - If any section or provision of this Act is held unconstitutional or invalid, any other section or provision not affected thereby shall remain valid and effective.

Section 7. Repealing Clause - All laws, decrees, orders, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 8. Effectivity Clause – This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or two (2) newspaper of general circulation.

3. Bengzon v. HRET

ANTONIO BENGZON III, *petitioner*,

v.

H.R.E.T. and TEODORO CRUZ, *respondent*.

G.R. No. 142840, May 7, 2001

[En Banc]

KAPUNAN, J.:

FACTS: Respondent Cruz was a natural-born citizen of the Philippines. He was born in San Clemente, Tarlac, on April 27, 1960, of Filipino parents. However, respondent Cruz enlisted in the United States Marine Corps and, without the consent of the Republic of the Philippines, took an oath of allegiance to the United States. As a consequence, he lost his Filipino citizenship for under Commonwealth Act No. 63, Section 1(4), a Filipino citizen may lose his citizenship by, among others, "rendering service to or accepting commission in the armed forces of a foreign country. Whatever doubt that remained regarding his loss of Philippine citizenship was erased by his naturalization as a U.S. citizen on June 5, 1990, in connection with his service in the U.S. Marine Corps. Later, respondent Cruz reacquired his Philippine citizenship through repatriation under Republic Act No. 2630. He ran for and was elected as the Representative of the Second District of Pangasinan in the 1998 elections. He won over petitioner Antonio Bengzon III, who was then running for reelection. Subsequently, petitioner filed a case for Quo Warranto Ad Cautelam with respondent House of Representatives Electoral Tribunal (HRET) claiming that respondent Cruz was not qualified to become a member of the House of Representatives since he is not a natural-born citizen as required under Article VI, Section 6 of the Constitution. The HRET rendered its decision dismissing the petition.

ISSUE: Whether respondent Cruz, a natural-born Filipino who became an American citizen, can still be considered a natural-born Filipino upon his reacquisition of Philippine citizenship.

HELD: YES

[R]epatriation results in the **recovery of the original nationality**. This means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino. In respondent Cruz's case, he lost his Filipino citizenship when he rendered service in the Armed Forces of the United States. However, he subsequently reacquired Philippine citizenship under R.A. No. 2630, which provides:

Section 1. Any person who had lost his Philippine citizenship by rendering service to, or accepting commission in, the Armed Forces of the United States, or after separation from the Armed Forces of the United States, acquired United States citizenship, may reacquire Philippine citizenship by taking an oath of allegiance to the Republic of the Philippines and registering the same with Local Civil Registry in the place where he resides or last resided in the Philippines. The said oath of allegiance shall contain a renunciation of any other citizenship.



Having thus taken the required oath of allegiance to the Republic and having registered the same in the Civil Registry of Magantarem, Pangasinan in accordance with the aforesaid provision, respondent Cruz is deemed to have recovered his original status as a natural-born citizen, a status which he acquired at birth as the son of a Filipino father. It bears stressing that the act of repatriation allows him to **recover, or return to, his original status before he lost his Philippine citizenship.**

4. Moy Ya case

MO YA LIM YAO et al., petitioner–appellants,
v.
THE COMMISSIONER OF IMMIGRATION,
respondent-appellee.
G.R. No. L-21289, October 4, 1971
[En Banc]

BARREDO, J.:

FACTS

Lau Yuen Yeung applied for a passport visa to enter the Philippines as a non-immigrant. In the interrogation made in connection with her application for a temporary visitor's visa to enter the Philippines, she stated that she was a Chinese residing at Kowloon, Hongkong, and that she desired to take a pleasure trip to the Philippines to visit her great (grand) uncle Lau Ching Ping for a period of one month. She was permitted to come into the Philippines to stay for a period of one month. On the date of her arrival, Asher Y. Cheng filed a bond to undertake, among others that said Lau Yuen Yeung would actually depart from the Philippines on or before the expiration of her authorized period of stay in this country or within the period as in his discretion the Commissioner of Immigration or his authorized representative might properly allow. After repeated extensions, petitioner Lau Yuen Yeung was allowed to stay in the Philippines. Later, she contracted marriage with Moy Ya Lim Yao alias Edilberto Aguinaldo Lim an alleged Filipino citizen. Because of the contemplated action of respondent to confiscate her bond and order her arrest and immediate deportation, after the expiration of her authorized stay, she brought this action for injunction with preliminary injunction.

ISSUE: Whether or not Lau Yuen Yeung may be considered a Filipino citizen by reason of marriage with a naturalized Filipino.

HELD: YES

The Revised Naturalization Law (Commonwealth Act 473) provides:

Sec. 15. Effect of the naturalization on wife and children. — Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.

Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof.

A foreign-born minor child, if dwelling in the Philippines at the time of naturalization of the parents, shall automatically become a Philippine citizen, and a foreign-born minor child, who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside permanently in the Philippines when still a minor, in which case, he will continue to be a Philippine citizen even after becoming of age.

A child born outside of the Philippines after the naturalization of his parent, shall be considered a Philippine citizen, unless within one year after reaching the age of majority, he fails to register himself as a Philippine citizen at the American Consulate of the country where he resides, and to take the necessary oath of allegiance.

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It is obvious that the Revised Naturalization Law is to establish a complete procedure for the judicial conferment of the status of citizenship upon qualified aliens. After laying out such a procedure, remarkable for its elaborate and careful inclusion of all safeguards against the possibility of any undesirable persons becoming a part of our citizenry, it carefully but categorically states the consequence of the naturalization of an alien undergoing such procedure it prescribes upon the members of his immediate family, his wife and children, and, to that end, in no uncertain terms it ordains that: (a) all his minor children who have been born in the Philippines shall be "considered citizens" also; (b) all such minor children, if born outside the Philippines but dwelling here at the time of such naturalization "shall automatically become" Filipinos also, but those not born in the Philippines and not in the Philippines at the time of such naturalization, are also redeemed citizens of this country provided that they shall lose said status if they transfer their permanent residence to a foreign country before becoming of age; (c) all such minor children, if born outside of the Philippines after such naturalization, shall also be "considered" Filipino citizens, unless they expatriate themselves by failing to register as Filipinos at the Philippine (American) Consulate of the country where they reside and take the necessary oath of allegiance; and (d) as to the wife, she "shall be deemed a citizen of the Philippines" if she is one "who might herself be lawfully naturalized"



Domiciliary Theory

1. Distinguished from citizenship and nationality
2. Definition of domicile
3. Kinds of domicile
4. Domicile vs. residence

EDGAR SAN LUIS, *petitioner*,
v.
FELICIDAD SAN LUIS, *respondent*.
G.R. No. 133743 06 February 2007
[Third Division]

YNARES-SANTIAGO, J.:

FACTS: The instant case involves the settlement of the estate of Felicisimo T. San Luis (Felicisimo), who was the former governor of the Province of Laguna. Respondent alleged that she is the widow of Felicisimo; that, at the time of his death, the decedent was residing at 100 San Juanico Street, New Alabang Village, Alabang, Metro Manila. Petitioner Rodolfo San Luis, one of the children of Felicisimo by his first marriage, filed a motion to dismiss on the grounds of improper venue and failure to state a cause of action. Rodolfo claimed that the petition for letters of administration should have been filed in the Province of Laguna because this was Felicisimo's place of residence prior to his death, citing election case laws.

ISSUE: Whether or not "residence," for purposes of fixing the venue of the settlement of the estate of Felicisimo, is synonymous with "domicile."

HELD: NO

[T]here is a distinction between "residence" for purposes of election laws and "residence" for purposes of fixing the venue of actions. In election cases, "residence" and "domicile" are treated as synonymous terms, that is, the fixed permanent residence to which when absent, one has the intention of returning. However, for purposes of fixing venue under the Rules of Court, the "residence" of a person is his personal, actual or physical habitation, or actual residence or place of abode, which may not necessarily be his legal residence or domicile provided he resides therein with continuity and consistency. Hence, it is possible that a person may have his residence in one place and domicile in another. In the instant case, while petitioners established that Felicisimo was domiciled in Sta. Cruz, Laguna, respondent proved that he also maintained a residence in Alabang, Muntinlupa up to the time of his death.

The Situs or Eclectic Theory

1. As restated
2. Kinds of participation

The Problem of Renvoi

1. Defined

Renvoi literally means referring back; the problem arises when there is a doubt as to whether a reference to a foreign law:

- (a) Is a reference to the INTERNAL law of said foreign law; or
- (b) Is a reference to the WHOLE of the said foreign law, including its CONFLICT RULES.

2. Reference to internal law of the foreign law
3. Various solutions to the problem of *renvoi*
4. The foreign court theory
5. Transmission defined
6. Double *renvoi* vs. transmission

Testate Estate of AMOS BELLIS deceased
PEOPLE'S BANK AND TRUST COMPANY, et al.,
executor, oppositors-appellants,

v.
EDWARD A. BELLIS, et al., *heirs-appellee*.

G.R. No. 23678, June 6, 1967
[En Banc]

BENGZON, J.P., J.:

FACTS: Amos G. Bellis, was a citizen of the State of Texas of the United States. He executed a will in the Philippines, disposing a part of his estate in favor of his illegitimate children, before he died a resident of San Antonio, Texas, U.S.A. His will was probated in the CFI of Manila.

ISSUE: Which law must apply to the dispositions in the will, the Texas Law or Philippine law?

RULING: It is the Texas Law. Texas Law should govern the execution of the will and the successional rights of the illegitimate children. As stated in Article 16, par. 2, and Art. 1039 of the Civil Code, it renders applicable the national law of the decedent, in intestate or testamentary successions, with regard the amount of successional rights, among others. Here, Amos G. Bellis, is a citizen of the State of Texas, U.S.A., and that under the laws of Texas, there are no forced heirs or legitimes. Accordingly, since the intrinsic validity of the provision of the will and the amount of successional rights are to be determined under Texas law, the Philippine law on legitimes cannot be applied to the testacy of Amos G. Bellis.



In this regard, the parties do not submit the case on, nor even discuss, the doctrine of *renvoi*. Said doctrine is usually pertinent where the decedent is a national of one country, and a domicile of another. In the present case, it is not disputed that the decedent was both a national of Texas and a domicile thereof at the time of his death.² So that even assuming Texas has a conflict of law rule providing that the domiciliary system (law of the domicile) should govern, the same would not result in a reference back (*renvoi*) to Philippine law, but would still refer to Texas law. Nonetheless, if Texas has a conflicts rule adopting the situs theory (*lex rei sitae*) calling for the application of the law of the place where the properties are situated, *renvoi* would arise, since the properties here involved are found in the Philippines. In the absence, however, of proof as to the conflict of law rule of Texas, it should not be presumed different from ours. Appellants' position is therefore not rested on the doctrine of *renvoi*. As stated, they never invoked nor even mentioned it in their arguments. Rather, they argue that their case falls under the circumstances mentioned in the third paragraph of Article 17 in relation to Article 16 of the Civil Code.

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