Supreme Court E-Library

WHEREFORE, the decision sought to be reviewed is hereby set aside and the respondent, Republic of the Philippines (Bureau of Public Schools), is ordered:

1) To pay the claimant the sum of Four Thousand Eight Hundred Eighty Pesos (₱4,880.00) as death compensation and reimbursement of burial expenses;

2) To reimburse the petitioner of medical expenses incurred by Angel F. Villodres, Sr., if supported by proper receipts;

3) To pay the petitioner attorney's fees in the amount of Four Hundred Eight-Eight Pesos (₱488.00); and

4) To pay the successor of the Workmen's Compensation Commission the amount of Sixty-One Pesos (₱61.00) as administrative fee.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-43882. April 30, 1979]

ANGELICA VIAJAR and CELSO VIAJAR, *plaintiffs-petitioners, vs.* **HON. NUMERIANO G. ESTENZO, Presiding Judge, Court of First Instance of Iloilo, Branch III, RICARDO LADRIDO and ROSENDO TE,** *defendants-respondents.*

[G.R. No. L-45321. April 30, 1979]

ANGELICA VIAJAR and CELSO VIAJAR, *plaintiffs-appellants, vs.* **RICARDO LADRIDO and ROSENDO TE,** *defendants-appellees.*

Supreme Court E-Library

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; SUMMARY JUDGMENTS; PURPOSE.** — Relief by summary judgment is intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits. But if there be a doubt as to such facts and there be an issue or issues of fact joined by the parties, neither one of them can pay for summary judgment. Where the facts pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial.

2. **ID.; ID.; ID.; ID.; MOVANT REQUIRED TO SHOW ABSENCE OF GENUINE ISSUE OF FACT.** — An examination of the Rules will readily show that a summary judgment is by no means a hasty one. It assumes a scrutiny of facts in a summary hearing after the filing of a motion for summary judgment by one party supported by affidavits, depositions, admissions, or other documents, with notice upon the adverse party who may file an opposition to the motion supported also by affidavits, depositions, or other documents (Section 3, Rule 34). In spite of its expediting character, relief by summary judgment can only be allowed after compliance with the minimum requirement of vigilance by the court in a summary hearing considering that this remedy is in derogation of a party's right to a plenary trial of his case. At any rate, a party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is so patently unsubstantial as not to constitute a genuine issue for trial, and any doubt as to the existence of such an issue is resolved against the movant.

3. **ID.; ID.; ID.; ID.; UNWARRANTED WHERE A FACTUAL ISSUE EXISTS FOR ADJUDICATION.** — Where the interests of the parties clash on the proprietary effect of a natural phenomenon, the action of a river, the issue becomes genuine and ripe for adjudication as the conflicting claims give rise to a factual dispute which can only be properly settled by means of a trial on the merits. A summary judgment in such a case is unwarranted.

4. **ID.; ID.; ID.; ISSUANCE OF SUMMARY JUDGMENT IN INSTANT CASE, A CORRECTIBLE ERROR.** — In the case at bar the court merely relied on an "admission" arrived at by construction

Supreme Court E-Library

and dubitable by its terms, rather than a clear and positive concession which cannot be a basis for a summary judgment. Respondent's motion is not supported by an affidavit of merit or any document attesting the state of facts relied upon in the motion. Neither has the court afforded the parties a hearing on both the motion and opposition to the same. Clearly, the trial court in cursorily issuing a summary judgment, committed a correctible error.

APPEARANCES OF COUNSEL

Ramon A. Gonzales for plaintiffs-petitioners.

Corazon Miraflores for defendant-respondent Ricardo Ladrido.

Tirol & Tirol for defendant-respondent Rosendo Te.

D E C I S I O N

GUERRERO, *J.*:

Appeal from the summary judgment of the Court of First Instance of Iloilo, Branch III, issued in Civil Case No. 9660 entitled "*Angelica Viajar and Celso Viajar,* plaintiffs, *versus Ricardo Ladrido and Rosendo Te,* defendants."

On February 15, 1974, plaintiffs-petitioners filed a complaint for the recovery of possession of property premised on the allegations that they were the registered owners *pro-indiviso* of a parcel of agricultural land at Guibuangan, Pototan, Iloilo with an area of 2.0089 hectares, more or less, identified as Lot No. 7340, Pototan Cadastre and more particularly described as follows:

"A parcel of land (Lot No. 7340 of the Cadastral Survey of Pototan, with improvements thereon situated in the Municipality of Pototan and bounded on the Northeast by Lot No. 7339; in the Southeast by Lot No. 7342; Southwest by Lots Nos. 7341 & 7470 and on the West by the Suage River."

their ownership thereof being evidenced by Transfer Certificate of Title No. T-77367 of the Register of Deeds of Iloilo, (par.

Supreme Court E-Library

2, Complaint); that the above-described parcel of land was acquired through purchase by the plaintiffs on September 6, 1973 following which they caused to be undertaken by a licensed Geodetic Engineer the relocation survey of the property for the purpose of determining the exact metes and bounds thereof (par. 3, Complaint); that as a result of the said relocation survey, plaintiffs came to know and discover that the northeastern half portion of Lot No. 7340 has been eaten up and occupied by the new waterbed of the Suage River as a result of the natural change in its course, while the remaining southwestern portion of the property is occupied and possessed by defendant Ricardo Ladrido (par. 4, Complaint); that plaintiffs also later came to know that the defendant has occupied and possessed for more than (2) years not only the aforesaid Parcel 2 but also the old abandoned riverbed of the Suage River which was the original boundary on the West of the land in question, Lot No. 7340 (par. 5, Complaint); that the northeastern portion of their property having been occupied by the new riverbed of the Suage River, as aforestated, plaintiffs have become by law *ipso facto* the owners of the aforesaid abandoned riverbed in proportion to the area they lost (par. 6, Complaint); that notwithstanding demands made by the plaintiffs, defendant without any justifiable reason has refused and until now still refuses to vacate the aforesaid area occupied by him or surrender the possession thereof to the plaintiffs to the latter's great damage and prejudice in the amount of ₱6,000.00 per year, ₱5,000.00 for moral damages and ₱500.00 for expenses of litigation (pars. 7, 8 and 9, Complaint).

In his answer dated March 12, 1974, defendant-respondent Ricardo Ladrido denied the substantial allegations in the complaint and averred as special and affirmative defenses that he is the owner of Lot No. 7511 situated at Barrio Cawayan, Pototan, Iloilo, which lot is bounded on the east by Suague River (par. 6, Answer); that since 1926 or 1927, the Suague River gradually deposited soil accumulations on the eastern portion of Lot 7511 which the defendant promptly took possession and worked the same as his own as soon as said Suague River gradually, slowly and consistently moved farther to the East (par. 7, Answer); that Lot 7340 claimed by plaintiffs and allegedly titled in their

Supreme Court E-Library

names, is separated from Lot 7511 of the defendant by the Suague River, and the gradual action of the Suague River, admitted by the plaintiffs in their complaint, had eaten up said lot 7340 (par. 8, Answer); that the land in dispute which is indicated as parcel 2, Lot 7340, of Annex "A" of the complaint, as well as the old Suague River bed, is the soil accumulation or accretion attached to Lot 7511, owned by the defendant (par. 9, Answer); that defendant possessed the portions formed by the accumulations of soil deposits made by the Suague River gradually from 1926-27 up to 1940, at the latest, when the Suague River remained on a more or less stationary course up to the present (par. 10, Answer); that defendant is owner of the soil accumulations and the dried up riverbed now attached to his Lot 7511 (par. 11, Answer). Defendant-respondent filed as counterclaim the amount of ₱1,500.00 for attorney's fees and ₱5,000.00 as moral damages.

In a reply filed on April 4, 1974, plaintiffs-petitioners averred that they never admitted that the change in the course of the Suague River was through a gradual action resulting to an accumulation of soil deposits to the eastern part of Lot No. 7511 owned by the defendant. Plaintiffs had emphatically and continuously insisted that the Suague River changed its course through natural action by passing through the northeastern portion of Lot No. 7340 owned by plaintiffs (par. 1, Reply); that said lot in question indicated as Parcel 2 of Lot No. 7340 of Annex "B" is not the soil accumulation or accretions attached to Lot No. 7511 owned by defendant inasmuch as parcel 2 retains its identity, and in fact the old river bed of Suague River formerly running between Lot No. 7511 and Lot No. 7340 is still existing (par. 2, Reply); that the defense of accretion interposed by defendant in the instant case does not apply; instead it falls within the contemplation of Article 461 of the New Civil Code on change of course of rivers (par. 4, Reply); and that by reason of the natural change of the course of the Suague River, the abandoned river bed which is existing as admitted by defendant himself, exclusively belongs to the plaintiffs for reasons above stated (par. 5, Reply).

Supreme Court E-Library

On June 14, 1974, plaintiffs-petitioners amended their complaint by impleading Rosendo Te as defendant from whom they purchased the land in question upon the latter's assurance that the title is clean and the landholding is not possessed nor subject to any lien, encumbrances or claims by third persons. Plaintiffs-petitioners prayed in the alternative that should possession of defendant-respondent Ricardo Ladrido be sustained, an order be issued annulling the contract of sale and direct the vendor Rosendo Te to return the purchase price thereof with interest from the date of execution of the sale.

Defendant-respondent Rosendo Te filed his own answer to the amended complaint acknowledging the deed of sale but alleging that he only sold to plaintiffs-petitioners whatever rights he had over the property under the Torrens Title and Tax Declaration over the land transferred to him by the original owner; that complainants are precluded from including defendant Rosendo Te in the case because the former had never previously demanded from the said vendor the cancellation of the sale, but on the contrary, plaintiffs-petitioners have always maintained that they were entitled as a matter of right to the ownership of the remaining portion of Lot No. 7340 and the dry riverbed which are under the possession of defendant Ladrido.

On August 8, 1975, defendant-respondent Ricardo Ladrido filed a Motion for Summary Judgment dismissing the action of plaintiffs and declaring defendant Ricardo Ladrido the owner of the land in question on the basis of the alleged admission of the plaintiffs in their complaint as well as of the law and jurisprudence on the matter. Quoting par. 4 of the complaint which reads:

"That as a result of the said relocation survey, plaintiffs came to know and discover that the northeastern half portion of Lot No. 7340 has been *easten up and occupied by the new waterbed of the Suage River* as a result of the natural change in its course, while the remaining southwestern portion of the property is occupied and possessed by defendant Ricardo Ladrido,"

movant Ricardo Ladrido argues that said allegation of plaintiffs is an admission on their part that the change of course of the

Supreme Court E-Library

river was gradual and not sudden or abrupt; that it is therefore a case of alluvion in Article 457 of the Civil Code (366 of the Old Civil Code) and not abandoned river bed in Article 461 of the Civil Code (370 of the Old Civil Code) as in the latter the change of course is sudden or abrupt; that being alluvion, the land in question is accreted land on Lot 7511 (Article 457 of the Civil Code; Article 366 of the Old Civil Code).

Defendant Rosendo Te filed his "Opposition to Motion for Summary Judgment" on the ground that there is a clear controversy between the parties as to how the Suague River had changed its course, whether abruptly as contended by the plaintiffs and defendant Rosendo Te or gradually as contended by defendant Ricardo Ladrido. Moreover, oppositor claims that the abandoned river bed which in reality does not form part of Lots Nos. 7511 and 7340 is likewise involved in the case and the question as to whom such land should now belong is also a matter of controversy.

On August 19, 1975, respondent Judge issued the Summary Judgment, which is quoted fully hereunder:

"SUMMARY JUDGMENT

Paragraphs 5, 6 and 9 of the amended complaint read, as follows:

xxx xxx xxx

"5. That as a result of the said relocation survey, plaintiffs came to know and discover that the northeastern half portion of Lot No. 7340 has been eaten up and occupied by the new waterbed of the Suage River as a result of the natural change in its course, while the remaining southwestern portion of the property is occupied and possessed by defendant Ricardo Ladrido. The portion now occupied by the Suage River is identified as Parcel 1 and the portion occupied by the defendant *Ricardo Ladrido* is identified as Parcel 2 in the sketch marked as Annex "B" and is found attached to the original complaint;

"6. That plaintiffs also later came to know that the defendant *Ricardo Ladrido* has occupied and possessed for more than two (2) years not only the aforesaid Parcel 2 but also the old abandoned riverbed of the Suage River which was the original boundary on the West of the land in question, Lot No. 7340";

Supreme Court E-Library

xxx xxx xxx

"9. *That plaintiffs upon knowing that a portion of the landholding in question is being possessed by defendant Ricardo Ladrido, immediately informed and complained to the defendant Rosendo Te that the land sold to them is not free from any claim and possession of third persons, as it is in fact possessed and claimed by defendant Ricardo Ladrido, but instead defendant Rosendo Te when he received the information merely told the plaintiffs that it was their own lookout and for them to fight their own legal battle;*

xxx xxx xxx

Then paragraphs 2 and 10 of defendant Rosendo Te's answer read:

xxx xxx xxx

"2. It is admitted that on September 6, 1973 answering defendant executed a Deed of Sale in favor of the plaintiffs herein selling to the latter for the sum of ₱5,000 all his rights, title and interest over Lot No. 7340 of the Cadastral Survey of Pototan of which he was then the registered owner under Transfer Certificate of Title No. T-50333; but all and each of the other allegations in Par. 3 of the Amended Complaint, specially the assurances supposedly given by answering defendant, are specifically denied, the truth of the matter being as follows: that answering defendant was only selling to the plaintiffs all and whatever rights he might have over the said parcel of land under and by virtue of the aforesaid Torrens title and the tax declaration covering the land; that the plaintiffs themselves were the ones who approached and proposed to the defendant the purchase from the latter of his registered rights on the said land, stating that they would visit the land before the purchase was going to be consummated; and that answering defendant in turn acquired in good faith his rights over said land by purchase from its former registered owners, the spouses Francisco M. Militante and Consuelo M. Cordova, by virtue of a document of sale executed on January 2, 1966."

xxx xxx xxx

"10. The plaintiffs are precluded by estoppel from including Rosendo Te as a defendant in the present case because they had never previously demanded from the latter for the

Supreme Court E-Library

cancellation of the sale in their favor; and, on the contrary, based on the facts of the case, they have always maintained as they have so manifested to answering defendant that they were entitled as a matter of right to the ownership of the remaining portion of Lot No. 7340, as well as to the dry abandoned bed of the Suage River."

xxx xxx xxx

Then paragraph 1 of the reply read as follows:

"1. That plaintiffs never admitted that the change in the course of the Suage River was through a gradual action resulting to an accumulation of soil deposits to the eastern part of Lot No. 7511 owned by the defendant. Plaintiffs had emphatically and continuously insisted that the Suague River changed its course through natural action by passing through the northeastern portion of Lot No. 7340 owned by plaintiffs";

xxx xxx xxx

The foregoing judicial admission of plaintiffs supports the motion for summary judgment per comments of Chief Justice Moran and Justice Martin cited by defendant Ladrido.

In the opposition of defendant Rosendo Te it is contended that no admission has been made as to the ownership of defendant Ladrido but the foregoing paragraph 1 of the plaintiffs' reply clearly indicated and admitted the ownership of defendant Ladrido on Lot 7511. Then defendant Te has filed no claim against defendant Ladrido, so it is Te who is in estoppel to oppose Ladrido's motion for summary judgment.

The presence of the clause 'eaten up and occupied by the new waterbed of the Suague River' clearly admitted a case of alluvion referred to in Article 457 of the New Civil Code, so that the doctrine laid down in the case of '*Payatas Estate Improvement Co. vs. Tuason,*' (53 Phil. 55) is applicable to the present claim of defendant Ladrido.

Then plaintiff is a purchaser in bad faith as at the time of the purchase in 1973, defendant Ladrido was already in possession of the land for more than 2 years before the filing of the complaint on February 15, 1974, pursuant to paragraph 5 of the original and amended complaint pursuant to the ruling in the case of *Comspecto vs. Fruto,* 31 Phil. 144, found on page 316 of the Philippine Torrens System by Ponce, to wit:

Supreme Court E-Library

'Precaution when property is in possession of another. One who purchases real property which is in actual possession of others should, at least, make some inquiry concerning the rights of those in possession. The actual possession by others other than the vendor should, at least, put the purchaser upon inquiry. He can scarcely, in the absence of such inquiry, be regarded as a *bona-fide* purchaser as against such possessors. (*Comspecto vs. Fruto*, 31 Phil. 144, 149).'

WHEREFORE, summary judgment is hereby rendered against the plaintiffs and in favor of the defendants, hereby dismissing this case, without pronouncement as to costs.

SO ORDERED."

From the above judgment, plaintiffs-petitioners filed the notice of appeal to the Court of Appeals. This was followed by the submission of their Record on Appeal on September 25, 1975. But before the petition for review could be filed, counsel for petitioners moved for the certification of the case to the Supreme Court after realizing that the appeal involves pure questions of law. The motion was granted by the Seventh Division of the Court of Appeals in the resolution of September 2, 1976 which certified the case to Us for final determination pursuant to Section 31 in relation to Section 17 of the Judiciary Act, as amended. In Our resolution of December 17, 1976, the certified case was docketed as G.R. No. L-45321 and consolidated with G.R. No. L-43882, a petition for review on *certiorari* of the same summary judgment filed by plaintiffs-petitioners in the meantime on July 2, 1976 and given due course as a special civil action in Our resolution of September 1, 1976.

Having considered the petition as an original action, the principal issue is whether or not the trial court gravely abused its discretion in deciding the case by Summary Judgment dated August 19, 1975. Plaintiffs-petitioners contend that the lower court erred in promulgating summary judgment in view of the questions of fact disputed in the pleadings. They maintain that by invoking Article 461 of the Civil Code in relation to their allegation that there was a natural change in the course of Suague River, they, in effect, alleged the abrupt or sudden change

Supreme Court E-Library

in the course of the waters. They point out that this contention was contradicted by defendant-respondent Ricardo Ladrido in his answer when the latter claimed that the change was instead gradual under the contemplation of Article 457 of the same Code. On the other hand, this defendant-respondent supports the propriety of the summary judgment on the ground that the complaint failed to aver categorically the sudden and abrupt change in the course of the river, but on the contrary, the allegation therein that the land was eaten up by the current amounts to an admission on the part of complainants that the change was in fact gradual.

From a careful reading of the complaint and answer, there are two conflicting theories respecting the occurrence of a natural phenomenon, the effects and consequences of which are governed either by Article 461[1] or Article 457[2] of the Civil Code. The obvious task laid before the trial court is to determine whether there actually occurred an abrupt and sudden change of the water current, or that the river had gradually veered through the years leaving alluvial deposit of soil now composing the portion claimed by the parties.

We cannot subscribe to the interpretation that the phrase "eaten up and occupied by the new waterbed" imports an admission by plaintiffs-petitioners of a gradual action of the water current, thus stripping the complaint of its only contestable issue, and hence, needs only to be disposed of in a summary judgment. We hold that the phrase "eaten up" is a vague expression of what complainants wanted to convey, since the phrase can either mean gradual or sudden action of the river. This ambiguity,

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[1] *Art. 461.* River beds which are abandoned through the natural change in the course of the waters *ipso facto* belong to the owners whose lands are occupied by the new course in proportion to the area lost. However, the owners of the lands adjoining the old bed shall have the right to acquire the same by paying the value thereof, which value shall not exceed the value of the area occupied by the new bed.

[2] *Art. 457.* To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters.

Supreme Court E-Library

though, cannot deprive the complaint of its merit because the pleader is required to state only the ultimate facts constituting his cause of action. At least, by the reading of the entire complaint, it is clear enough that the pleader did not take its own expression to mean the gradual shifting of the river current, so much so that defendant-respondent in his answer countered with a diametrically opposed explanation as demonstrated in his factual allegations. Moreover, plaintiffs-petitioners in their reply alleged that they never admitted that the change in the course of the Suague River was through a gradual action resulting to an accumulation of soil deposits to the eastern part of the lot owned by defendant.

Besides, co-defendant Rosendo Te conceded in his answer to the amended complaint that the Suague River *suddenly* changed its course by channeling its bed at the northeastern strip of Lot No. 7340 (Records, p. 28). Considering that the interests of the parties clashed on the proprietary effect of the natural phenomenon, the issue all the more became genuine and ripe for adjudication. Plaintiffs-petitioners claim ownership over the abandoned riverbed in proportion to the area they lost when the river opened a new channel within their property. On the other hand, defendant-respondent Ricardo Ladrido claims ownership to the disputed portion because its consists of accretion attached to his land as a result of the gradual accumulation of solid brought by the action of the water current. With these conflicting claims, a factual dispute certainly arises which can only be properly settled by means of a trial on the merits. Summary judgment was therefore, unwarranted.[3]

Relief by summary judgment is intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits. But if there be a doubt as to such facts and there be an issue or issues of fact joined by the parties, neither one of them can pray for a summary judgment. Where the facts pleaded by the

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[3] *Magallanes v. Kayanan*, 69 SCRA, pp. 28, 34 (1976).

Supreme Court E-Library

parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial.[4]

An examination of the Rules will readily show that a summary judgment is by no means a hasty one. It assumes a scrutiny of facts in a *summary hearing* after the filing of a motion for summary judgment by one party supported by affidavits, depositions, admissions, or other documents, with notice upon the adverse party who may file an opposition to the motion supported also by affidavits, depositions, or other documents (Section 3, Rule 34). In spite of its expediting character, relief by summary judgment can only be allowed after compliance with the minimum requirement of vigilance by the court in a summary hearing considering that this remedy is in derogation of a party's right to a plenary trial of his case. At any rate, a party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is so patently unsubstantial as not to constitute a genuine issue for trial, and any doubt as to the existence of such an issue is resolved against the movant.[5]

We find that in the case at bar, the aforementioned guidelines were not observed. The mere reliance on an "admission" arrived at by construction and dubitable by its terms, rather than a clear and positive concession cannot be a basis for a summary judgment. Respondent's motion is not supported by an affidavit of merit or any document attesting the state of facts relied upon in the motion. Neither has the court afforded the parties a hearing on both the motion and opposition to the same. Clearly, the trial court in cursorily issuing a summary judgment, committed a correctible error.

WHEREFORE, the summary judgment is set aside and the case is hereby remanded to the trial court for further proceedings. Without costs.

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[4] 2 MORAN, *COMMENTS ON THE RULES OF COURT*, pp. 185-196 (1970); see also: *Gatchalian v. Pavilin*, 6 SCRA 508 (1962); *Agcanas v. Nagum*, 32 SCRA p. 298 (1970).

[5] See: Footnote 4, *supra*, 2 Moran at pp. 181, 191.

Supreme Court E-Library

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, De Castro, and *Melencio-Herrera, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-47880. April 30, 1979]

WILSON AGBAYANI, CARMELO BAUTISTA, PABLO PASCUAL and RENATO ROMEO DUGAY, *petitioners, vs.* **HONORABLE SOFRONIO G. SAYO, Presiding Judge of Court of First Instance of Nueva Vizcaya, Branch I, the PEOPLE OF THE PHILIPPINES And CONRADO B. MAHINAN,** *respondents.*

SYLLABUS

1. ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; INCLUDES GSIS BRANCH MANAGER. — A Government Service Insurance System branch manager is unquestionably a public officer. (See Sec. 1 (1) (B), Art. XII and Sec. 5, Art. XIII, Constitution and Sec. 2(a) and (b), Republic Act No. 3019).

2. CRIMINAL LAW; WRITTEN DEFAMATION; RULE ON VENUE FOR CRIMINAL AND CIVIL ACTIONS. — The rules on venue of criminal and civil actions for written defamation as provided for in article 360 of the Revised Penal Code are: 1. Whether the offended party is a public official or a private person, the criminal action may be filed in the Court of First Instance of the province or city where the libelous article is printed and first published. 2. If the offended party is a private individual, the criminal action may also be filed in the Court of First Instance of the province where he actually resided at the time of the commission of the offense. 3. If the offended party is a public officer whose office is in Manila at the time of the commission