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Feria (Chairman), Alampay, Gutierrez, Jr., and *Paras, JJ.*, concur.

EN BANC

[G.R. No. 63915. December 29, 1986]

LORENZO M. TAÑADA, ABRAHAM F. SARMIENTO, and MOVEMENT OF ATTORNEYS FOR BROTHERHOOD, INTEGRITY AND NATIONALISM, INC. (MABINI), *petitioners, vs.* **HON. JUAN C. TUVERA, in his capacity as Executive Assistant to the President, HON. JOAQUIN VENUS, in his capacity as Deputy Executive Assistant to the President, MELQUIADES P. DE LA CRUZ, ETC., ET AL.,** *respondents.*

SYLLABUS

1. **CIVIL LAW; STATUTORY CONSTRUCTION; ART. 2, CIVIL CODE; CLAUSE "UNLESS OTHERWISE PROVIDED" EXPLAINED.—** The subject of contention is Article 2 of the Civil Code providing as follows: "ART. 2. Laws shall take effect after fifteen days following the completion of their publication in the *Official Gazette*, unless it is otherwise provided. This Code shall take effect one year after such publication." After a careful study of this provision and of the arguments of the parties, both on the original petition and on the instant motion, we have come to the conclusion, and so hold, that the clause "unless it is otherwise provided" refers to the date of effectivity and not to the requirement of publication itself, which cannot in any event be omitted. This clause does not mean that the legislature may make the law effective immediately upon approval, or on any other date, without its previous publication.

2. **ID.; EFFECT AND APPLICATION OF LAWS; MATTERS REQUIRING PUBLICATION AS A CONDITION FOR**

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THEIR EFFECTIVITY.— We hold therefore that *all* statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity date is fixed by the legislature. Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation. Even the charter of a city must be published notwithstanding that it applies to only a portion of the national territory and directly affects only the inhabitants of that place. All presidential decrees must be published, including even, say, those naming a public place after a favored individual or exempting him from certain prohibitions or requirements. The circulars issued by the Monetary Board must be published if they are meant not merely to interpret but to "fill in the details" of the Central Bank Act which that body is supposed to enforce.

3. **ID.; ID.; ID.; EXCLUSIONS.**— Interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the so-called letters of instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties. No publication is required of the instructions issued by, say, the Minister of Social Welfare on the case studies to be made in petitions for adoption or the rules laid down by the head of a government agency on the assignments or workload of his personnel or the wearing of office uniforms. Parenthetically, municipal ordinances are not covered by this rule but by the Local Government Code.

4. **ID.; ID.; ID.; PUBLICATION TO BE MADE IN FULL; PURPOSE.**— We agree that the publication must be in full or it is no publication at all since its purpose is to inform the public of the contents of the laws. As correctly pointed out by the petitioners, the mere mention of the number of the presidential decree, the title of such decree, its whereabouts (e.g., "with Secretary Tuvera"), the supposed date of effectivity, and in a mere supplement of the Official Gazette cannot satisfy the

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publication requirement. This is not even substantial compliance. This was the manner, incidentally, in which the General Appropriations Act for FY 1975, a presidential decree undeniably of general applicability and interest, was "published" by the Marcos administration. The evident purpose was to withhold rather than disclose information on this vital law.

5. **CONSTITUTIONAL LAW; SUPREME COURT; CALLED UPON MERELY TO INTERPRET AND APPLY THE LAW.**— T his Court is not called upon to rule upon the wisdom of a law or to repeal or modify it if we find it impractical. That is not our function. That function belongs to the legislature, Our task is merely to interpret and apply the law as conceived and approved by the political departments of the government in accordance with the prescribed procedure.

6. **CIVIL LAW; EFFECT AND APPLICATION OF LAWS; ARTICLE 2, CIVIL CODE; PUBLICATION MUST BE MADE ONLY IN THE OFFICIAL GAZETTE.**— We have no choice but to pronounce that under Article 2 of the Civil Code, the publication of law must be made in the Official Gazette, and not elsewhere, as a requirement for their effectivity after fifteen days from such publication or after a different period provided by the legislature. We also hold that the publication must be made forthwith, or at least as soon as possible, to give effect to the law pursuant to the said Article 2.

FERNAN, *J.*, *concurring:*

CIVIL LAW; EFFECT AND APPLICATION OF LAWS; ARTICLE 2, CIVIL CODE; PUBLICATION OF LAWS MADE TO ENSURE CONSTITUTIONAL RIGHT TO DUE PROCESS AND TO INFORMATION.— The categorical statement by this Court on the need for publication before any law be made effective seeks to prevent abuses on the part if the lawmakers and, at the time, ensure to the people their constitutional right to due process and to information on matter of public concern.

FELICIANO, *J.*, *concurring*:

1. **CIVIL LAW; EFFECT AND APPLICATION OF LAWS; ARTICLE 2, CIVIL CODE; STATUTE TO COME TO**

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EFFECT IMMEDIATELY UPON PUBLICATION THEREOF IN THE OFFICIAL GAZETTE.— A statute which by its terms provides for its coming into effect immediately upon publication thereof in the Official Gazette as provided in Article 2 of the Civil Code. Such statute, in other words, should not be regarded as purporting literally to come into effect immediately upon its approval or enactment and without need of publication. For so to interpret such statute should be to collide with the constitutional obstacle posed by the due process clause.

2. **ID.; ID.; ID.; PUBLICATION OF STATUTE IN THE OFFICIAL GAZETTE AS THE PRESCRIBED MEDIUM MAY BE CHANGED.**— It is clear that the requirement of publication of a statute in the Official Gazette, as distinguished from any other medium such as a newspaper of general circulation, is embodied in a statutory norm and is not a constitutional command. The statutory norm is set out in Article 2 of the Civil Code and is supported and reinforced by Section 1 of Commonwealth Act No. 638 and Section 35 of the Revised Administrative Code. A specification of the Official Gazette as the prescribed medium of publication may therefore be changed. Article 2 of the Civil Code could, without creating a constitutional problem, be amended by a subsequent statute providing, for instance, for publication either in the Official Gazette or in a newspaper of general circulation in the country. Until such an amendatory statute is in fact enacted, Article 2 of the Civil Code must be obeyed and publication effected in the Official Gazette and not in any other medium.

APPEARANCES OF COUNSEL

Pedro Ella, Sr. for petitioners MABINI
Abraham F. Sarmiento Law Office for petitioners.

RESOLUTION

CRUZ, *J.*:

Due process was invoked by the petitioners in demanding the disclosure or a number of presidential decrees which they claimed had not been published as required by law. The

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government argued that while publication was necessary as a rule, it was not so when it was "otherwise provided," as when the decrees themselves declared that they were to become effective immediately upon their approval. In the decision of this case on April 24, 1985, the Court affirmed the necessity for the publication of some of these decrees, declaring in the dispositive portion as follows:

> "WHEREFORE, the Court hereby orders respondents to publish in the Official Gazette all unpublished presidential issuances which are of general application, and unless so published, they shall have no binding force and effect."

The petitioners are now before us again, this time to move for reconsideration/clarification of that decision.[1] Specifically, they ask the following questions:

1. What is meant by "law of public nature" or "general applicability"?

2. Must a distinction be made between laws of general applicability and laws which are not?

3. What is meant by "publication"?

4. Where is the publication to be made?

5. When is the publication to be made?

Resolving their own doubts, the petitioners suggest that there should be no distinction between laws of general applicability and those which are not; that publication means complete publication; and that the publication must be made forthwith in the Official Gazette.[2]

In the Comment[3] required of the then Solicitor General, he claimed first that the motion was a request for an advisory opinion and should therefore be dismissed, and, on the merits, that the clause "unless it is otherwise provided" in Article 2 of

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[1] *Rollo*, pp. 242-250.

[2] *Ibid.*, pp. 244-248.

[3] *Id.*, pp. 271-280.

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the Civil Code meant that the publication required therein was not always imperative; that publication, when necessary, did not have to be made in the Official Gazette; and that in any case the subject decision was concurred in only by three justices and consequently not binding. This elicited a Reply[4] refuting these arguments. Came next the February Revolution and the Court required the new Solicitor General to file a Rejoinder in view of the supervening events, under Rule 3, Section 18, of the Rules of Court. Responding, he submitted that issuances intended only for the interval administration of a government agency or for particular persons did not have to be published; that publication when necessary must be in full and in the Official Gazette; and that, however, the decision under reconsideration was not binding because it was not supported by eight members of this Court.[5]

The subject of contention is Article 2 of the Civil Code providing as follows:

"ART. 2. Laws shall take effect after fifteen days following the completion of their publication in the *Official Gazette*, unless it is otherwise provided. This Code shall take effect one year after such publication."

After a careful study of this provision and of the arguments of the parties, both on the original petition and on the instant motion, we have come to the conclusion, and so hold, that the clause "unless it is otherwise provided" refers to the date of effectivity and not to the requirement of publication itself, which cannot in any event be omitted. This clause does not mean that the legislature may make the law effective immediately upon approval, or on any other date, without its previous publication.

Publication is indispensable in every case, but the legislature may in its discretion provide that the usual fifteen-day period shall be shortened or extended. An example, as pointed out by the present Chief Justice in his separate concurrence in the

[4] *Id.*, pp. 288-299.

[5] *Id.*, pp. 320-322.

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original decision,[6] is the Civil Code which did not become effective after fifteen days from its publication in the Official Gazette but "one year after such publication." The general rule did not apply because it was "otherwise provided."

It is not correct to say that under the disputed clause publication may be dispensed with altogether. The reason is that such omission would offend due process insofar as it would deny the public knowledge of the laws that are supposed to govern it. Surely, if the legislature could validly provide that a law shall become effective immediately upon its approval notwithstanding the lack of publication (or after an unreasonably short period after publication), it is not unlikely that persons not aware of it would be prejudiced as a result; and they would be so not because of a failure to comply with it but simply because they did not know of its existence. Significantly, this is not true only of penal laws as is commonly supposed. One can think of many non-penal measures, like a law on prescription, which must also be communicated to the persons they may affect before they can begin to operate.

We note at this point the conclusive presumption that every person knows the law, which of course presupposes that the law has been published if the presumption is to have any legal justification at all. It is no less important to remember that Section 6 of the Bill of Rights recognizes "the right of the people to information on matters of public concern," and this certainly applies to, among others, and indeed especially, the legislative enactments of the government.

The term "laws" should refer to all laws and not only to those of general application, for strictly speaking all laws relate to the people in general albeit there are some that do not apply to them directly. An example is a law granting citizenship to a particular individual, like a relative of President Marcos who was decreed instant naturalization. It surely cannot be said that such a law does not affect the public although it unquestionably does not apply directly to all the people. The subject of such law is a matter of public interest which any member of the

[6] 136 SCRA 27, 46.

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body politic may question in the political forums or, if he is a proper party, even in the courts of justice. In fact, a law without any bearing on the public would be invalid as an intrusion of privacy or as class legislation or as an *ultra vires* act of the legislature. To be valid, the law must invariably affect the public interest even if it might be directly applicable only to one individual, or some of the people only, and not to the public as a whole.

We hold therefore that *all* statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity date is fixed by the legislature.

Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation.

Interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the so-called letters of instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties.

Accordingly, even the charter of a city must be published notwithstanding that it applies to only a portion of the national territory and directly affects only the inhabitants of that place. All presidential decrees must be published, including even, say, those naming a public place after a favored individual or exempting him from certain prohibitions or requirements. The circulars issued by the Monetary Board must be published if they are meant not merely to interpret but to "fill in the details" of the Central Bank Act which that body is supposed to enforce.

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However, no publication is required of the instructions issued by, say, the Minister of Social Welfare on the case studies to be made in petitions for adoption or the rules laid down by the head of a government agency on the assignments or workload of his personnel or the wearing of office uniforms. Parenthetically, municipal ordinances are not covered by this rule but by the Local Government Code.

We agree that the publication must be in full or it is no publication at all since its purpose is to inform the public of the contents of the laws. As correctly pointed out by the petitioners, the mere mention of the number of the presidential decree, the title of such decree, its whereabouts (e.g., "with Secretary Tuvera"), the supposed date of effectivity, and in a mere supplement of the Official Gazette cannot satisfy the publication requirement. This is not even substantial compliance. This was the manner, incidentally, in which the General Appropriations Act for FY 1975, a presidential decree undeniably of general applicability and interest, was "published" by the Marcos administration.[7] The evident purpose was to withhold rather than disclose information on this vital law.

Coming now to the original decision, it is true that only four justices were categorically for publication in the Official Gazette[8] and that six others felt that publication could be made elsewhere as long as the people were sufficiently informed.[9] One reserved his vote[10] and another merely acknowledged the need for due publication without indicating where it should be made,[11] It is therefore necessary for the present membership of this Court to arrive at a clear consensus on this matter and to lay down a binding decision supported by the necessary vote.

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[7] *Rollo*, p. 246.

[8] Justices Venicio Escolin (ponente), Claudio Teehankee, Ameurfina Melencio-Herrera, and Lorenzo Relova.

[9] Chief Justice Enrique M. Fernando and Justices Felix V. Makasiar, Vicente Abad-Santos, Efren I. Plana, Serafin P. Cuevas, and Nestor B. Alampay.

[10] Justice Hugo E. Gutierrez, Jr.

[11] Justice B. S. de la Fuente.

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There is much to be said of the view that the publication need not be made in the Official Gazette, considering its erratic releases and limited readership. Undoubtedly, newspapers of general circulation could better perform the function of communicating the laws to the people as such periodicals are more easily available, have a wider readership, and come out regularly. The trouble, though, is that this kind of publication is not the one required or authorized by existing law. As far as we know, no amendment has been made of Article 2 of the Civil Code. The Solicitor General has not pointed to such a law, and we have no information that it exists. If it does, it obviously has not yet been published.

At any rate, this Court is not called upon to rule upon the wisdom of a law or to repeal or modify it if we find it impractical. That is not our function. That function belongs to the legislature. Our task is merely to interpret and apply the law as conceived and approved by the political departments of the government in accordance with the prescribed procedure. Consequently, we have no choice but to pronounce that under Article 2 of the Civil Code, the publication of laws must be made in the Official Gazette, and not elsewhere, as a requirement for their effectivity after fifteen days from such publication or after a different period provided by the legislature.

We also hold that the publication must be made forthwith, or at least as soon as possible, to give effect to the law pursuant to the said Article 2. There is that possibility, of course, although not suggested by the parties that a law could be rendered unenforceable by a mere refusal of the executive, for whatever reason, to cause its publication as required. This is a matter, however, that we do not need to examine at this time.

Finally, the claim of the former Solicitor General that the instant motion is a request for an advisory opinion is untenable, to say the least, and deserves no further comment.

The days of the secret laws and the unpublished decrees are over. This is once again an open society, with all the acts of the government subject to public scrutiny and available always to public cognizance. This has to be so if our country is to

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remain democratic, with sovereignty residing in the people and all government authority emanating from them.

Although they have delegated the power of legislation, they retain the authority to review the work of their delegates and to ratify or reject it according to their lights, through their freedom of expression and their right of suffrage. This they cannot do if the acts of the legislature are concealed.

Laws must come out in the open in the clear light of the sun instead of skulking in the shadows with their dark, deep secrets. Mysterious pronouncements and rumored rules cannot be recognized as binding unless their existence and contents are confirmed by a valid publication intended to make full disclosure and give proper notice to the people. The furtive law is like a scabbarded saber that cannot feint, parry or cut unless the naked blade is drawn.

WHEREFORE, it is hereby declared that all laws as above defined shall immediately upon their approval, or as soon thereafter as possible, be published in full in the Official Gazette, to become effective only after fifteen days from their publication, or on another date specified by the legislature, in accordance with Article 2 of the Civil Code.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., and *Paras, JJ.*, concur.

FERNAN, *J., concurring*:

While concurring in the Court's opinion penned by my distinguished colleague, Mr. Justice Isagani A. Cruz, I would like to add a few observations. Even as a Member of the defunct Batasang Pambansa, I took a strong stand against the insidious manner by which the previous dispensation had promulgated and made effective thousands of decrees, executive orders, letters of instructions, etc. Never has the law-making power which traditionally belongs to the legislature been used and abused to satisfy the whims and caprices of a one-man legislative mill

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as it happened in the past regime. Thus, in those days, it was not surprising to witness the sad spectacle of two presidential decrees bearing the same number, although covering two different subject matters. In point is the case of two presidential decrees bearing number 1686 issued on March 19, 1980, one granting Philippine citizenship to Michael M. Keon, the then President's nephew and the other imposing a tax on every motor vehicle equipped with air-conditioner. This was further exacerbated by the issuance of PD No. 1686-A also on March 19, 1980 granting Philippine citizenship to basketball players Jeffrey Moore and Dennis George Still.

The categorical statement by this Court on the need for publication before any law may be made effective seeks to prevent abuses on the part of the lawmakers and, at the same time, ensures to the people their constitutional right to due process and to information on matters of public concern.

FELICIANO, *J., concurring*:

I agree entirely with the opinion of the Court so eloquently written by Mr. Justice Isagani A. Cruz. At the same time, I wish to add a few statements to reflect my understanding of what the Court is saying.

A statute which by its terms provides for its coming into effect immediately upon approval thereof, is properly interpreted as coming into effect immediately upon publication thereof in the Official Gazette as provided in Article 2 of the Civil Code. Such statute, in other words, should not be regarded as purporting literally to come into effect immediately upon its approval or enactment and without need of publication. For so to interpret such statute would be to collide with the constitutional obstacle posed by the due process clause. The enforcement of prescriptions which are both unknown to and unknowable by those subjected to the statute, has been throughout history a common tool of tyrannical governments. Such application and enforcement constitutes at bottom a negation of the fundamental principle of legality in the relations between a government and its people.

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At the same time, it is clear that the requirement of publication of a statute in the Official Gazette, as distinguished from any other medium such as a newspaper of general circulation, is embodied in a statutory norm and is not a constitutional command. The statutory norm is set out in Article 2 of the Civil Code and is supported and reinforced by Section 1 of Commonwealth Act No. 638 and Section 35 of the Revised Administrative Code. A specification of the Official Gazette as the prescribed medium of publication may therefore be changed. Article 2 of the Civil Code could, without creating a constitutional problem, be amended by a subsequent statute providing, for instance, for publication either in the Official Gazette or in a newspaper of general circulation in the country. Until such an amendatory statute is in fact enacted, Article 2 of the Civil Code must be obeyed and publication effected in the Official Gazette and not in any other medium.

FIRST DIVISION

[G.R. No. 65129. December 29, 1986]

TOMAS AVERIA, JR., *petitioner, vs.* **THE HONORABLE MILAGROS V. CAGUIOA, in her capacity as Judge of the Regional Trial Court, Fourth Judicial Region, Branch LVII, Lucena City, and VERONICA PADILLO,** *respondents.*

SYLLABUS

1. **LAND TITLES AND DEEDS; LAND REGISTRATION PROCEEDINGS; JURISDICTION OF CADASTRAL COURT; LIMITED JURISDICTION UNDER SECTION 112 OF LAND REGISTRATION ACT SUPERSEDED BY PROPERTY REGISTRATION DECREE (P.D. 1529).**— In this petition for *certiorari* and prohibition with preliminary injunction, it is argued