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1. Asian Construction and Development Corporation (ASIAKONSTRUCT) is ordered to *PAY* COMFAC Corporation the amount of ₱1,912,877.15 as the balance payable under the contracts with legal interest of 6% per annum from January 2, 1998, the date of the final statement of account, until fully paid;
2. Asian Construction and Development Corporation (ASIAKONSTRUCT) is further ordered to *FURNISH* COMFAC Corporation with the certificate of creditable withholding-tax-at-source for the amount of ₱56,986.35; and
3. The award of attorney's fees and the costs of litigation is *DELETED*.

**SO ORDERED.**

*Carpio, Carpio Morales, Tinga,* and *Velasco, Jr., JJ.,* concur.

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**FIRST DIVISION**

[G.R. No. 165027. October 16, 2006]

**PROTON PILIPINAS CORPORATION,** *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES, represented by the BUREAU OF CUSTOMS,** *respondent.*

**SYLLABUS**

**1. REMEDIAL LAW; JURISDICTION; R.A. No. 8249; THAT THE INSTITUTION OF CRIMINAL ACTION AUTOMATICALLY CARRIES WITH IT THE CIVIL ACTION; NOT APPLICABLE BEFORE THE SANDIGANBAYAN WHERE THE CIVIL CASE IS FOR COLLECTION OF UNPAID CUSTOMS DUTIES AND TAXES.** — It is a truism beyond doubt that the jurisdiction of the court over a subject matter is conferred only by the Constitution or by law. In addition,

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it is settled that jurisdiction is determined by the allegations in the complaint. While it is true that according to the aforesaid Section 4, of Republic Act No. 8249, the institution of the criminal action automatically carries with it the institution of the civil action for the recovery of civil liability, however, in the case at bar, the civil case for the collection of unpaid customs duties and taxes cannot be simultaneously instituted and determined in the same proceedings as the criminal cases before the Sandiganbayan, as it cannot be made the civil aspect of the criminal cases filed before it. It should be borne in mind that the tax and the obligation to pay the same are all created by statute; so are its collection and payment governed by statute. The payment of taxes is a duty which the law requires to be paid. Said obligation is not a consequence of the felonious acts charged in the criminal proceeding nor is it a mere civil liability arising from crime that could be wiped out by the judicial declaration of non-existence of the criminal acts charged. Hence, the payment and collection of customs duties and taxes in itself creates civil liability on the part of the taxpayer. Such civil liability to pay taxes arises from the fact, for instance, that one has engaged himself in business, and not because of any criminal act committed by him.

2. **POLITICAL LAW; R.A. No. 3019 (ANTI-GRAFT AND CORRUPT PRACTICES ACT); CIVIL LIABILITY; SUPPLEMENTED BY THE REVISED PENAL CODE IN THE ABSENCE OF PROVISION THEREFOR; ELUCIDATED.** — Republic Act No. 3019 is a special law but since it is silent as to the definition of civil liability, hence, it is only proper to make use of the Revised Penal Code provisions relating to civil liability as a supplement. This is in accordance with the provision of Article 10 of the Revised Penal Code, which make the said Code supplementary to special laws unless the latter should especially provide the contrary. Article 104 of the Revised Penal Code enumerates the matters covered by the civil liability arising from crimes, to wit: Article 104. *What is included in civil liability.* — The civil liability established in articles 100, 101, 102 and 103 of this Code includes: 1. Restitution; 2. Reparation of the damage caused; 3. Indemnification for consequential damages. With the above provision of the Revised Penal Code, it is far-fetched that the civil case for the collection of unpaid customs duties and taxes can be simultaneously instituted with the criminal

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cases for violation of Section 3(e) and (j) of Republic Act No. 3019 filed before the Sandiganbayan nor can it be made the civil aspect of such criminal cases. All the matters covered by the civil liability in the aforesaid article have something to do with the crimes committed by the wrongdoer. Clearly, the civil liability for violation of any criminal statute, like Republic Act No. 3019, exists because of the criminal act done by the offender. In other words, the civil obligation flows from and is created by the criminal liability, thus, the civil liability arising from crimes is different from the civil liability contemplated in the case of taxation.

3. **REMEDIAL LAW; COURTS; JURISDICTION; TAX COLLECTION CASES FALLS UNDER THE GENERAL JURISDICTION OF THE RTC.** — Since the present case took place at the time when Republic Act No. 1125, otherwise known as, *An Act Creating the Court of Tax Appeals,* was still in effect and when the Court of Tax Appeals had no jurisdiction yet over tax collection cases, this case therefore, still falls under the general jurisdiction of the RTC. Section 19(6) of Batas Pambansa Blg. 129, as amended, provides that: Section 19. *Jurisdictional in civil cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction: x x x (6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions; x x x. Consequently, the RTC, not the Sandiganbayan, has jurisdiction over Civil Case No. 02-102650. The jurisdiction of the Sandiganbayan is only with respect, among other things, to the criminal cases for violation of Republic Act No. 3019, particularly in this case, Section 3(e) and (j) thereof, but it has no authority to take cognizance of the civil case to collect the unpaid customs duties and taxes of the petitioner.

4. **ID.; CIVIL PROCEDURE; MOTION TO DISMISS; GROUNDS; *LITIS PENDENTIA*; REQUISITES.** — *Litis pendentia* is a Latin term, which literally means "a pending suit." *Litis pendentia* as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious. For *litis pendentia* to be invoked, the concurrence of the following requisites is necessary: (a) identity of parties or at least such as represent

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the same interest in both actions; (b) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (c) the identity in the two cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other.

5. **ID.; ID.; ID.; ID.; ID.; ID.; IDENTITY OF PARTIES; NOT PRESENT IN CASES WHERE TAX PAYMENT IN ISSUE AS THE SAME CAN BE ENFORCED ONLY AGAINST THE CORPORATE TAXPAYER AND NOT TO ITS CORPORATE OFFICERS OR STOCKHOLDERS.** — In the case at bar, in Criminal Cases No. 26168 to 71 only the responsible officers of the petitioner are charged in the Information, while in Civil Case No. 02-102650, it is only the corporation that is impleaded, holding it liable for the unpaid customs duties and taxes as a corporate taxpayer. Taxes being personal to the taxpayer, it can only be enforced against herein petitioner because the payment of unpaid customs duties and taxes are the personal obligation of the petitioner as a corporate taxpayer, thus, it cannot be imposed on its corporate officers, much so on its individual stockholders, for this will violate the principle that a corporation has personality separate and distinct from the persons constituting it. Having said that, the parties in the two actions are entirely different, hence, petitioner failed to establish the first requisite of *litis pendentia* as to identity of parties.

6. **ID.; ID.; ID.; ID.; ID.; ID.; IDENTITY OF CASES; GOVERNMENT CANNOT AWAIT RESULT OF CRIMINAL PROCEEDINGS IN THE SANDIGANBAYAN BEFORE IT CAN COLLECT OUTSTANDING CUSTOM DUTIES AND TAXES FROM PETITIONER.** — Attention must be given to the fact that taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents. It is also settled that taxes are the lifeblood of the government and their prompt and certain availability is an imperious need. So then, the determination of the validity or invalidity of the TCCs cannot be regarded as a prejudicial issue that must first be resolved with finality in the Criminal Cases filed before the Sandiganbayan. The Government should not and must not await the result of the criminal proceedings in the Sandiganbayan before it can collect the outstanding customs duties and taxes of the petitioner for such will unduly restrain the Government

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in doing its functions. The machineries of the Government will not be able to function well if the collection of taxes will be delayed so much so if its collection will depend on the outcome of any criminal proceedings on the guise that the issue of collection of taxes is a prejudicial issue that need to be first resolved before enforcing its collection. Therefore, it is the obligation of the petitioner to make good its obligation by paying the customs duties and taxes, which remain unpaid by reason of the cancellation of the subject TCCs for having been found as fake and spurious. It should not make the Government suffer for its own misfortune.

**APPEARANCES OF COUNSEL**

*Madrid & Associates* and *R.A. Quiroz Law Offices* for petitioner.

*The Solicitor General* for public respondent.

**D E C I S I O N**

**CHICO-NAZARIO, *J.*:**

This case is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to annul and set aside the Court of Appeals Decision[1] in CA-G.R. SP No. 77684 entitled, *Proton Pilipinas Corporation v. Hon. Juan C. Nabong*, dated 29 April 2004 and its Resolution[2] dated 2 August 2004, which respectively dismissed the Petition for *Certiorari* filed by petitioner and denied its Motion for Reconsideration, thereby affirming the Orders issued by the Regional Trial Court (RTC) of Manila dated 24 January 2003[3] and 15 April 2003.[4]

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[1] Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Amelita G. Tolentino and Vicente S.E. Veloso, concurring; *rollo*, pp. 9-18.

[2] *Id.* at 20.

[3] Penned by Presiding Judge Juan C. Nabong, Jr.; *rollo*, pp. 55-59.

[4] *Id.* at 60.

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The controversy arose from the following facts:

Herein petitioner Proton Pilipinas Corporation (Proton) is a corporation duly organized and existing under Philippine laws and duly registered[5] with the Board of Investments (BOI). It is engaged in the business of importing, manufacturing, and selling vehicles.

Sometime in 1997, Devmark Textile Industries, Inc. (Devmark), a corporation duly registered with the Securities and Exchange Commission (SEC) and with the BOI, and engaged in the business of spinning, knitting, weaving, dyeing, and finishing all types of textile, yarns, and fabrics, together with Texasia, Inc. (Texasia), expressed the intention to purchase the various vehicles distributed and marketed by petitioner. In payment thereof, the above named companies offered petitioner their Tax Credit Certificates (TCCs) worth ₱30,817,191.00. The companies, through their officers, guaranteed petitioner that the TCCs were valid, genuine, and subsisting. They further assured petitioner that said TCCs were a safe and a valid mode of payment for import duties and taxes as they were issued by the Department of Finance (DOF) and duly honored and accepted by the Bureau of Customs (BOC).

Persuaded by the representations and assurances made by the two companies as to the legality of the transaction, Paul Y. Rodriguez, in his capacity as Executive Vice-President of Proton, signed a Deed of Assignment[6] with Eulogio L. Reyes, General Manager of Devmark. The terms and conditions of the Deed of Assignment are as follows:

1. That the acceptance by the ASSIGNEE of the above duty/ taxes credit certificate being assigned by ASSIGNOR shall be subject to condition that the [DOF] approves the proposed assignment.

2. For the purpose of this assignment, the above duty/taxes certificates being assigned hereby to ASSIGNEE shall not

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[5] *Id.* at 92-95.

[6] *Id.* at 97-99.

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be credited as payment of ASSIGNOR's account unless and until ASSIGNEE has in turn utilized/applied the same with the [BOC] or Bureau of Internal Revenue [BIR] for payment of each duty/tax obligations.

3. ASSIGNEE undertakes to issue to ASSIGNOR the Tax Credit corresponding credit notes, as when the above duty/taxes credit certificates was (sic) use[d]/applied, either partially or fully by the ASSIGNEE, in payment of ASSIGNEE's duty/taxes obligation with the [BOC] or [BIR], respectively.

4. Withstanding the above-stated arrangement, such Tax Credit assigned and transferred by the ASSIGNOR to ASSIGNEE shall be subject to post-audit by the Government and shall be credited to the ASSIGNOR only upon actual availment thereof by ASSIGNEE.

5. If the whole or any portion of the Tax Credit assigned and transferred by ASSIGNOR to the ASSIGNEE is disallowed by the Government upon post-audit or cannot be utilized for any cause or reason not attributable to the fault negligence of the ASSIGNEE, the whole amount corresponding such Tax Credit or such portion thereof as is disallowed by the Government or cannot be utilized by ASSIGNEE shall be paid in cash to ASSIGNEE by the ASSIGNOR immediately upon receipt of written notice of such event.[7]

Consequently, the TCCs, as well as their transfers to petitioner, were submitted to the DOF for evaluation and approval. Thereafter, the DOF, through its Undersecretary Antonio P. Belicena, cleared said TCCs for transaction and approved them for transfer. For that reason, petitioner delivered 13 vehicles with a total value of ₱10,778,500.00 and post-dated checks worth ₱10,592,618.00, in exchange for the said TCCs, to Devmark and Texasia in accordance with their agreement. In turn, petitioner used the TCCs for payment of its customs duties and taxes to the BOC.

In the interim, the Office of the Ombudsman (Ombudsman) under Hon. Aniano Desierto began conducting an investigation on the alleged "₱60 Billion DOF Tax Credit Scam" in July

[7] *Id.* at 98.

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1998. On 30 March 1999, Silverio T. Manuel, Jr., as Graft Investigator II, was given the assignment to look into the alleged irregular issuances of four TCCs to Devmark and its subsequent transfer to and utilization by petitioner. Based on the Fact-Finding Report[8] dated 29 October 1999 of the Fact Finding and Investigation Bureau, Ombudsman, the TCCs were found to be irregularly and fraudulently issued by several officers of the DOF, including its Department Undersecretary Belicena, to Devmark. As revealed in the said Report, all the pertinent documents submitted by Devmark in support of its application for the TCCs were fake and spurious. As a consequence thereof, the transfers of the subject TCCs to petitioner and their subsequent use of the same was declared invalid and illegal. The Report recommended among other things, that the directors of the petitioner and Devmark, along with several DOF officers, be criminally charged with violation of Section 3(e) and (j) of Republic Act No. 3019,[9] otherwise known as *The Anti-Graft and Corrupt Practices Act*.

On the weight of the Fact-Finding Report, the Ombudsman filed with the Sandiganbayan, Criminal Cases No. 26168 to 71[10] charging DOF Undersecretary Belicena together with Reyes, General Manager of Devmark, Peter Y. Rodriguez and Paul Y.

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[8] *Id.* at 100-109.

[9] Section 3(e) and (j), Republic Act No. 3019, provides that:

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

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(j) Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled.

[10] *Rollo*, pp. 120-131.

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Rodriguez, in their capacity as Director and Executive Vice-President/Chief Operating Officer of the petitioner, respectively, for violation of Section 3(e) and (j) of Republic Act No. 3019.

In turn, petitioner filed a criminal case for Estafa against the officers of Devmark with the City Prosecutor of Mandaluyong, docketed as I.S. No. 00-42921-K, entitled, *Proton Pilipinas, Inc. v. Robert Liang*. The BOC on the other hand, filed Civil Case No. 02-102650[11] against petitioner before the RTC for the collection of taxes and customs duties, which remain unpaid because the subject TCCs had been cancelled brought about by petitioner's use of fraudulent TCCs in paying its obligations.

Petitioner then filed a Motion to Dismiss[12] the aforesaid civil case filed against it by BOC on the grounds of lack of jurisdiction, prematurity of action, and *litis pendentia*. The said Motion, however, was denied by the trial court in its Order dated 24 January 2003. Petitioner sought reconsideration of the above-mentioned Order, but the same was likewise denied in another Order dated 15 April 2003.

Feeling aggrieved, petitioner filed before the Court of Appeals a Petition for *Certiorari* under Rule 65 of the Revised Rules of Civil Procedure seeking to annul the Orders of the trial court.

On 29 April 2004, the Court of Appeals rendered a Decision dismissing the Petition for lack of merit and affirming the RTC Orders. On 7 June 2004, petitioner moved for reconsideration but the same was denied in the Court of Appeals Resolution dated 2 August 2004.

Hence, this Petition.

In the petitioner's Memorandum,[13] it ascribes the following errors committed by the Court of Appeals:

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[11] *Id.* at 132-135.

[12] *Id.* at 137-144.

[13] *Id.* at 293-311.

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I.

The Honorable Court of Appeals erred in affirming the RTC Orders and, consequently, in not dismissing the Civil Case because, per Section 4, RA 8249, the Sandiganbayan has sole and exclusive jurisdiction over the subject matter thereof.

1. Per Section 4, RA 8249, the Sandiganbayan has sole and exclusive jurisdiction over the subject matter of the Civil Case to the exclusion of the RTC.

a. The expanded jurisdiction of the Sandiganbayan under RA 8249 covers the subject matter of the Civil Case.

i. Before, the exclusive jurisdiction of the Sandiganbayan over civil actions was limited only to "civil liability arising from the offense charged" per [Presidential Decree] PD 1861 and RA 7975. But now under RA 8249, Sandiganbayan has the exclusive expanded jurisdiction over all civil actions for recovery of civil liability regardless of whether or not they arise from the offense charged.

ii. In fact, the language of the law is clear and extant that this expanded jurisdiction of the Sandiganbayan supersedes "any provision of law or the rules of court."

iii. The subject matter of the Civil Case, being the civil aspect of the Criminal Cases, is deemed simultaneously instituted in the latter.

II.

The Honorable Court of Appeals erred in holding that the *litis pendentia* rule is inapplicable and that the civil case is not premature.

1. The requisites of *litis pendentia* are present in the Criminal Cases and the Civil Case.

a. There is identity of parties or at least such as representing the same interest in both actions-

b. There is identity of rights asserted and relief prayed for, the relief being founded on the same facts-

c. The identity in the two (2) cases is such that the judgment that may be rendered in the pending case would, regardless of which party is successful, amount to *res judicata* in the other-

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d. Even assuming that not all the requisites of *litis pendentia* under the Rules of Court are present, the pendency of the Criminal Cases constitute some form of *litis pendentia* by express provision of Section 4, RA 8249.

2. In any event, the Civil Case is premature since the validity or invalidity of the TCCs is a prejudicial issue that has yet to be resolved with finality by the Sandiganbayan in the Criminal Cases.

Given the foregoing, this Court restates the issues for resolution in the Petition at bar, as follows:

I. Whether or not the jurisdiction over Civil Case No. 02-102650, involving collection of unpaid customs duties and taxes of petitioner, belongs to the Sandiganbayan and not to the RTC, as it can be considered the civil aspect of the Criminal Cases filed before the Sandiganbayan, hence, deemed instituted in the latter.

II. Whether or not the Court of Appeals erred in holding that, the rule on *litis pendentia* is inapplicable in the present case.

III. Whether or not the institution of the aforesaid Civil Case is premature as the determination of the validity or invalidity of the TCCs is a prejudicial issue that must first be resolved with finality in the Criminal Cases filed before the Sandiganbayan.

The Petition is bereft of merit.

In the instant case, petitioner argues that since the filing of the criminal cases was anchored on the alleged conspiracy among accused public officials, including the corporate officers, regarding the anomalous and illegal transfer of four TCCs from Devmark to petitioner and the latter's subsequent use of three TCCs in paying their customs duties and taxes to the detriment of the government, the civil case regarding collection of unpaid customs duties and taxes was deemed impliedly instituted with the criminal cases before the Sandiganbayan, being the civil aspect of the criminal cases. To buttress its assertion, petitioner quoted the last paragraph of Section 4, Republic Act No. 8249, which states that:

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Any provision of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the *Sandiganbayan* or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: x x x.

It is a truism beyond doubt that the jurisdiction of the court over a subject matter is conferred only by the Constitution or by law.[14] In addition, it is settled that jurisdiction is determined by the allegations in the complaint.[15]

Accordingly, as can be gleaned from the Complaint for Collection of Money with Damages[16] filed by the Government against petitioner, what the former seeks is the payment of customs duties and taxes due from petitioner, which remain unpaid by reason of the cancellation of the subject TCCs for being fake and spurious. Said Complaint has nothing to do with the criminal liability of the accused, which the Government wants to enforce in the criminal cases filed before the Sandiganbayan. This can be clearly inferred from the fact that only petitioner was impleaded in the said Complaint.

While it is true that according to the aforesaid Section 4, of Republic Act No. 8249, the institution of the criminal action automatically carries with it the institution of the civil action for the recovery of civil liability, however, in the case at bar, the civil case for the collection of unpaid customs duties and taxes cannot be simultaneously instituted and determined in the same proceedings as the criminal cases before the Sandiganbayan, as it cannot be made the civil aspect of the criminal cases filed before it. It should be borne in mind that the tax and the obligation to pay the same are all created by statute; so are its collection

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[14] *De Leon v. Court of Appeals*, 315 Phil. 140, 150 (1995).

[15] *Union of Nestlé Workers Cagayan de Oro Factory v. Nestlé Philippines, Inc.*, 439 Phil. 807, 813 (2002).

[16] *Rollo*, pp. 132-135.

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and payment governed by statute.[17] The payment of taxes is a duty which the law requires to be paid. Said obligation is not a consequence of the felonious acts charged in the criminal proceeding nor is it a mere civil liability arising from crime that could be wiped out by the judicial declaration of non-existence of the criminal acts charged.[18] Hence, the payment and collection of customs duties and taxes in itself creates civil liability on the part of the taxpayer. Such civil liability to pay taxes arises from the fact, for instance, that one has engaged himself in business, and not because of any criminal act committed by him.[19]

Undoubtedly, Republic Act No. 3019 is a special law but since it is silent as to the definition of civil liability, hence, it is only proper to make use of the Revised Penal Code provisions relating to civil liability as a supplement. This is in accordance with the provision of Article 10 of the Revised Penal Code, which make the said Code supplementary to special laws unless the latter should especially provide the contrary.[20] Article 104 of the Revised Penal Code enumerates the matters covered by the civil liability arising from crimes, to wit:

Article 104. *What is included in civil liability.* — The civil liability established in articles 100, 101, 102 and 103 of this Code includes:

1. Restitution;[21]

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[17] *People v. Arnault*, G.R. No. L-4288, 20 November 1952.

[18] *Republic v. Patanao*, 127 Phil. 105, 109 (1967).

[19] *Id.*

[20] Article 10. *Offenses not subject to the provisions of this Code.* — Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter should specially provide the contrary (Revised Penal Code).

[21] Article 105. *Restitution — How made.* — The restitution of the thing itself must be made whenever possible, with allowances for any deterioration, or diminution of value as determined by the court.

The thing itself shall be restored, even though it be found in the possession of a third person who has acquired it by lawful means, saving to the latter his action against the proper person who may be liable to him.

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2. Reparation of the damage caused;[22]

3. Indemnification for consequential damages.[23]

With the above provision of the Revised Penal Code, it is far-fetched that the civil case for the collection of unpaid customs duties and taxes can be simultaneously instituted with the criminal cases for violation of Section 3(e) and (j) of Republic Act No. 3019 filed before the Sandiganbayan nor can it be made the civil aspect of such criminal cases. All the matters covered by the civil liability in the aforesaid article have something to do with the crimes committed by the wrongdoer. Clearly, the civil liability for violation of any criminal statute, like Republic Act No. 3019, exists because of the criminal act done by the offender. In other words, the civil obligation flows from and is created by the criminal liability,[24] thus, the civil liability arising from crimes is different from the civil liability contemplated in the case of taxation.

Since the present case took place at the time when Republic Act No. 1125,[25] otherwise known as, *An Act Creating the Court*

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This provision is not applicable in case in which the thing has been acquired by the third person in the manner and under the requirements which, by law, bar an action for its recovery (Revised Penal Code).

[22] Article 106. *Reparation — How made.* — The court shall determine the amount of damage, taking into consideration the price of the thing, whenever possible, and its special sentimental value to the injured party, and reparation shall be made accordingly (Revised Penal Code).

[23] Article 107. *Indemnification — What is included.* — Indemnification for consequential damages shall include not only those caused the injured party, but also those suffered by his family or by a third person by reason of the crime (Revised Penal Code).

[24] *People v. Arnault, supra* note 18.

[25] Section 7, of Republic Act No. 1125, provides:

The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees, or other charges, penalties imposed in relation thereto, or other

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*of Tax Appeals,* was still in effect and when the Court of Tax Appeals had no jurisdiction yet over tax collection cases, this case therefore, still falls under the general jurisdiction of the RTC. Section 19(6) of Batas Pambansa Blg. 129, as amended, provides that:

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matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and

(3) Decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

However, by virtue of Republic Act No. 9282 otherwise known as, "*An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, otherwise known as The Law Creating the Court of Tax Appeals, and for other purposes*," which was approved on 30 March 2004 and shall become effective after 15 days following its publication in at least two newspapers of general circulation (Section 19, Republic Act No. 9282), the Court of Tax Appeals now has jurisdiction over tax collection cases.

Section 7, b-2-c, of Republic Act No. 9282, states that:

(c) Jurisdiction over tax collection cases as herein provided:

(1) Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: *Provided, however*, That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (₱1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.

(2) Exclusive appellate jurisdiction in tax collection cases:

(a) Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.

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Section 19. *Jurisdictional in civil cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction:

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(6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions; x x x.

Consequently, the RTC, not the Sandiganbayan, has jurisdiction over Civil Case No. 02-102650. The jurisdiction of the Sandiganbayan is only with respect, among other things, to the criminal cases for violation of Republic Act No. 3019, particularly in this case, Section 3(e) and (j) thereof, but it has no authority to take cognizance of the civil case to collect the unpaid customs duties and taxes of the petitioner.

*On the second and third issues.* Petitioner avers that the Court of Appeals erred in not applying the rule on *litis pendentia* despite the fact that all its requisites are present in both criminal and civil cases. Petitioner also avows that the institution of the civil case for collection of unpaid customs duties and taxes was premature since the validity or invalidity of the TCCs was a prejudicial issue that has yet to be resolved with finality by the Sandiganbayan in the Criminal Cases before it. Conversely, the Government claims that in Criminal Cases No. 26168 to 71 filed before the Sandiganbayan, the petitioner was not the party accused, but its corporate officers, whereas in Civil Case No. 02-102650 the party sued is not the corporate officers, but the corporation. Accordingly, there can be no *litis pendentia* as the requisite of identity of parties was absent.

*Litis pendentia* is a Latin term, which literally means "a pending suit." *Litis pendentia* as a ground for the dismissal of

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(b) Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction.

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a civil action refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious. For *litis pendentia* to be invoked, the concurrence of the following requisites is necessary:

(a) identity of parties or at least such as represent the same interest in both actions;

(b) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and

(c) the identity in the two cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other.[26]

In the case at bar, in Criminal Cases No. 26168 to 71 only the responsible officers of the petitioner are charged in the Information, while in Civil Case No. 02-102650, it is only the corporation that is impleaded, holding it liable for the unpaid customs duties and taxes as a corporate taxpayer. Taxes being personal to the taxpayer, it can only be enforced against herein petitioner because the payment of unpaid customs duties and taxes are the personal obligation of the petitioner as a corporate taxpayer, thus, it cannot be imposed on its corporate officers, much so on its individual stockholders, for this will violate the principle that a corporation has personality separate and distinct from the persons constituting it.[27] Having said that, the parties in the two actions are entirely different, hence, petitioner failed to establish the first requisite of *litis pendentia* as to identity of parties.

Going to the second requisite of *litis pendentia*, this Court finds that the causes of action, as well as the reliefs prayed for in the criminal and civil actions are considerably different. In

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[26] *Agilent Technologies Singapore (PTE) Ltd.* v. *Integrated Silicon Technology Philippines Corporation*, G.R. No. 154618, 14 April 2004, 427 SCRA 593, 601-602.

[27] *Martinez v. Court of Appeals*, G.R. No. 131673, 10 September 2004, 438 SCRA 130, 149.

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the criminal cases, the cause of action of the Government, as the Court of Appeals mentioned in its Decision, was founded on the fact that it was defrauded as a result of the alleged conspiracy among the corporate officers of the petitioner and some public officials in the procurement and use of the spurious TCCs, amounting to violation of Section 3(e) and (j) of Republic Act No. 3019. Therefore, the primordial relief sought by the Government is the conviction of the accused for their fraudulent acts. On the contrary, the cause of action in the civil case was established on the basis that since the TCCs were not honored, the customs duties and taxes remain unpaid so the civil action was filed in order to collect the unpaid taxes due to petitioner. The relief sought by the Government in the civil case is the collection of unpaid customs duties and taxes. Thus, the conviction of the accused in the criminal cases and the collection of unpaid taxes in the civil case are totally unrelated causes of action that will not justify the application of the rule on *litis pendentia*.

As regards the third requisite of *litis pendentia,* again, the petitioner failed to meet the same. This Court deems it necessary to quote the very wordings of the Court of Appeals in its Decision dated 29 April 2004, as follows:

> Moreover, a judgment in the criminal cases, to our mind, will not be determinative of the civil case upon which the principle of *res judicata* will operate. A judgment in the criminal cases will only lead to either conviction or acquittal of the accused officers of the petitioner as the crime only attaches to them but will not in anyway affect the liability of the petitioner as it is a distinct and separate juridical person. Nor do we believe that a finding on the efficacy of the TCCs will change the dire situation in which the Government finds itself in as the tax and the customs duties remain unpaid. The fate of the TCCs for whatever it's worth is already *fait accompli*. It is not disputed by the parties concerned that the subject TCCs have already been cancelled by the [DOF] for which reason the twin suits have been brought. It is on this basis too, that petitioner filed a [C]omplaint for [E]stafa against Devmark's officers before the City Prosecutor of Mandaluyong City. Hence, it is absurd for the petitioner to anchor its complaint on the alleged worthlessness of the TCCs

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only to argue in the present action that the same must await final determination in the criminal cases before the Sandiganbayan.[28]

Attention must be given to the fact that taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents.[29] It is also settled that taxes are the lifeblood of the government and their prompt and certain availability is an imperious need.[30] So then, the determination of the validity or invalidity of the TCCs cannot be regarded as a prejudicial issue that must first be resolved with finality in the Criminal Cases filed before the Sandiganbayan. The Government should not and must not await the result of the criminal proceedings in the Sandiganbayan before it can collect the outstanding customs duties and taxes of the petitioner for such will unduly restrain the Government in doing its functions. The machineries of the Government will not be able to function well if the collection of taxes will be delayed so much so if its collection will depend on the outcome of any criminal proceedings on the guise that the issue of collection of taxes is a prejudicial issue that need to be first resolved before enforcing its collection.

Therefore, it is the obligation of the petitioner to make good its obligation by paying the customs duties and taxes, which remain unpaid by reason of the cancellation of the subject TCCs for having been found as fake and spurious. It should not make the Government suffer for its own misfortune.

**IN VIEW WHEREOF,** the instant Petition is hereby *DENIED*. The Decision as well as the Resolution of the Court of Appeals in CA-G.R. SP No. 77684 dated 29 April 2004 and 2 August 2004, respectively, affirming the Orders of the RTC are hereby *AFFIRMED*. Costs against petitioner.

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[28] *Rollo*, pp. 50-51.

[29] *Commissioner of Internal Revenue v. Court of Appeals*, G.R. No. 106611, 21 July 1994, 234 SCRA 348, 356.

[30] *Province of Tarlac v. Fernando S. Alcantara*, G.R. No. 65230, 23 December 1992, 216 SCRA 790, 798.

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**SO ORDERED.**

*Panganiban, C.J. (Chairperson), Ynares-Santiago, Austria-Martinez,* and *Callejo, Sr., JJ.,* concur.

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**FIRST DIVISION**

[G. R. No. 167866. October 16, 2006]

**PEPSI-COLA PRODUCTS PHILIPPINES, INCORPORATED, and PEPSICO, INCORPORATED,** *petitioners, vs.* **PEPE B. PAGDANGANAN, and PEPITO A. LUMAJAN,** *respondents.*

**SYLLABUS**

**REMEDIAL LAW; DOCTRINE OF *STARE DECISIS*; ELUCIDATED.** — The principle of *stare decisis et non quieta movere* (to adhere to precedents and not to unsettle things which are established) is well entrenched in Article 8 of the Civil Code, to wit: ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines. For it is the better practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where the facts are substantially the same. The doctrine of *stare decisis* embodies the legal maxim that a principle or rule of law which has been established by the decision of a court of controlling jurisdiction will be followed in other cases involving a similar situation. It is founded on the necessity for securing certainty and stability in the law and does not require identity of or privity of parties. This is unmistakable from the wordings of Article 8 of the Civil Code. It is even said that such decisions "assume the same authority as the statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria which must control the actuations not only of those called upon to decide thereby but also of those in duty bound to enforce obedience thereto." Abandonment thereof must be