



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Petitioner,

- versus -

**ALFREDO T. ROMUALDEZ, et
al.,**

Respondents.


Civil Case No. 0167

For: *Forfeiture of Unlawfully
Acquired Property under R.A. No.
1379 in Relation to E.O. Nos. 1, 2,
14 and 14-A*

Present:

CABOTAJE-TANG, P.J.,
Chairperson,
B. FERNANDEZ, J. and
R. MORENO, J.

Promulgated:

FEBRUARY 18, 2021 

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RESOLUTION

CABOTAJE-TANG, P.J.:

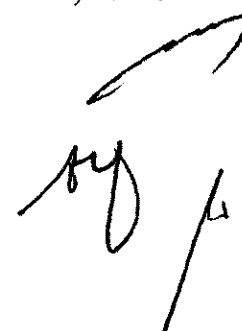
For resolution are the following:

1. Petitioner-Republic's "*Motion to Admit Show Cause Explanation with Motion to Suspend Pre-Trial and Other Proceedings*" dated June 04, 2020;¹ and

2. Petitioner-Republic's "*Motion for Leave of Court to Amend Amended Supplemental Petition*" dated June 10, 2020.²

¹ pp. 266-274, Vol. VI, Record

² pp. 296-303, *Id*



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**MOTION TO ADMIT SHOW CASE WITH MOTION TO
SUSPEND PRE-TRIAL AND OTHER PROCEEDINGS**

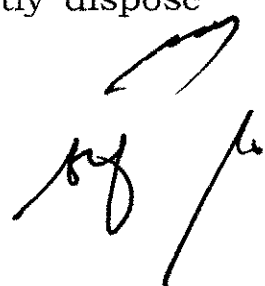
In its *motion*, petitioner-Republic prays that the pre-trial and other proceedings in this case be suspended until after summons shall have been properly served and all respondents have filed their responsive pleadings. It claims that since summonses have not yet been properly served upon all respondents, the conduct of pre-trial and other proceedings is premature.

On July 17, 2020, the Court granted petitioner-Republic's motion to admit show cause and noted its show cause explanation.³

In its *Comment* dated September 09, 2020,⁴ respondent Robinsons Land Corporation (RLC) submits that the service of summons to all respondents is not required for the Court to proceed with the pre-trial and other proceedings as the present case, being a forfeiture proceeding, is an action *in rem*. Thus, the Court does not need to acquire jurisdiction over the respondents for it to validly hear and try the case. Even assuming that the proceedings should be suspended in view of the failure to acquire jurisdiction over the other respondents, respondent RLC argues that this should not affect the proceedings as to itself. According to the same respondent, the only relevant allegation affecting it pertains to its capacity as the transferee of a parcel of land located in Marasbas, Tacloban, Leyte, previously registered in the name of Romson Realty, Inc. (Romson). Thus, while jurisdiction over respondent Romson has not yet been acquired, the same is not essential because as the transferee, respondent RLC is the one who stands to lose ownership over the subject property. Lastly, it avers that to suspend the proceedings and let it suffer the consequences of the failure to serve summons over the other respondents, to whom it has no legal relationship and concern, would not be in keeping with the mandate of the courts to promptly dispose

³ Order dated July 17, 2020; p. 363, Vol. VI, Record

⁴ pp. 369-375, Vol. VI, Record



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cases; and more importantly, it would violate its constitutional right to a speedy disposition of cases.

**MOTION FOR LEAVE OF COURT TO AMEND AMENDED
SUPPLEMENTAL PETITION**

In its *motion*, petitioner-Republic seeks to amend its Amended Supplemental Petition to implead as additional respondents, and to serve summons upon, Storton Investments Co., Inc., and Halston Investments, Inc., both foreign corporations with business addresses in Hong Kong. It avers that these foreign corporations are the alleged dummies of respondent Spouses Romualdez and the specific averments of their illegal actions have already been alleged in the Amended Supplemental Petition. However, they were not impleaded as respondents. Thus, to comply with the constitutional due process requirements, it is necessary for these corporations to be impleaded as respondents.

In his *Comment/Opposition* dated October 16, 2020⁵, respondent Alfredo Romualdez avers that the motion to amend should be denied as doing so would result in further inexcusable delay. He claims that allowing another amendment of the petition, for the third time and after more than eight (8) years from the filing of the original *Petition*, will only prolong the case further to his prejudice.

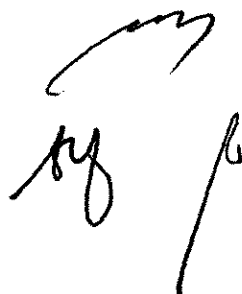
THE RULING OF THE COURT

I.

MOTION TO SUSPEND PRE-TRIAL

The Court finds the *motion* meritorious.

⁵ pp. 388-393, Vol. VI, Record

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Jurisdiction over the person, or jurisdiction *in personam* is an element of due process that is essential in all actions, civil as well as criminal, except in actions *in rem* or *quasi in rem*.⁶ In actions *in rem*, the court acquires jurisdiction over an action as long as it acquires jurisdiction over the *res* that is the subject matter of the action.⁷ Thus, the purpose of summons in such action is not the acquisition of jurisdiction over the defendant but mainly to satisfy the constitutional requirement of due process.⁸

As aptly explained by the Supreme Court in *De Pedro v. Romasan Development Corporation*:

Courts need not acquire jurisdiction over parties on this basis in in rem and quasi in rem actions. Actions in *rem* or *quasi in rem* are not directed against the person based on his or her personal liability.

Actions *in rem* are actions against the thing itself. They are binding upon the whole world. *Quasi in rem* actions are actions involving the status of a property over which a party has interest. Quasi in rem actions are not binding upon the whole world. They affect only the interests of the particular parties.

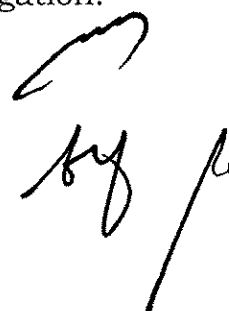
However, to satisfy the requirements of due process, jurisdiction over the parties in in rem and quasi in rem actions is required.

The phrase, "against the thing," to describe in rem actions is a metaphor. It is not the "thing" that is the party to an in rem action; only legal or natural persons may be parties even in in rem actions. "Against the thing" means that resolution of the case affects interests of others whether direct or indirect. It also assumes that the interests — in the form of rights or duties — attach to the thing which is the subject matter of litigation. In actions in rem, our procedure assumes an active vinculum over those with interests to the thing subject of litigation.

⁶ *Macasaet v. Co, Jr.*, 710 Phil. 167-183 (2013)

⁷ *Id*

⁸ *Id*



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Due process requires that those with interest to the thing in litigation be notified and given an opportunity to defend those interests. Courts, as guardians of constitutional rights, cannot be expected to deny persons their due process rights while at the same time be considered as acting within their jurisdiction.⁹

Prescinding therefrom, since this case is an action *in rem*, the non-service of summons to some respondents does not divest the Court of jurisdiction. Therefore, the action can proceed as long as the Court has obtained jurisdiction over the res, which holds true in this case. In fact, the Court already scheduled the pre-trial as early as October 7, 2019.¹⁰ However, in view of the fact that summonses have not been served on all respondents, the Court deemed it wise to defer the pre-trial to a later date until the summons have been properly served on all the respondents.¹¹ The same situation holds true today.

Nevertheless, we cannot ignore the fact more than one (1) year had elapsed since the original schedule of the conduct of pre-trial. This should have been more than ample time for the petitioner-Republic to locate the new addresses of the other respondents. Thus, to avoid any further delay in the proceedings, petitioner-Republic is directed anew to submit to the Court the specific addresses of respondents R&S Transport, Inc., Fidelity Management Inc., and Dio Island Resort, Inc.

II.

MOTION FOR LEAVE OF COURT TO AMEND AMENDED SUPPLEMENTAL PETITION

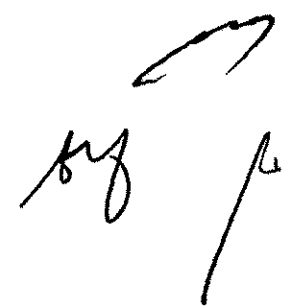
The Court resolves to grant petitioner-Republic's *motion*.

It is jurisprudentially settled that the granting of leave to file amended pleading is a matter addressed to the sound

⁹ *De Pedro v. Romasan Development Corp.*, 748 Phil. 706-742 (2014)

¹⁰ p. 438, Vol. V, Record

¹¹ Order dated November 15, 2019, p. 44, Vol. VI, Record



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discretion of the court, subject only to the limitation that the amendment is not made with intent to delay or confer jurisdiction on the court, or the pleading stated no cause of action from the beginning.¹² The prevailing rule on the amendment of pleadings is one of liberality, with the end of obtaining substantial justice for the parties.¹³ Thus, amendments are generally favored. Nevertheless, it may be refused if there are justifiable circumstances such as inexcusable delay or the taking of the adverse party by surprise.¹⁴

As explained by the Supreme Court:

The Court should be liberal in allowing amendments to pleadings to avoid multiplicity of suits and in order that the real controversies between the parties are presented, their rights presented, and the case decided on the merits without unnecessary delay. This liberality is greatest in the early stages, especially in this case where the amendment was made before the trial of the case, thereby giving the petitions all the time allowed by law to answer and to prepare for trial.¹⁵

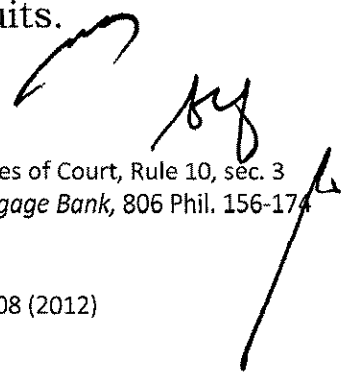
In this case, we find that the amendments sought to be made by petitioner-Republic are mere formal amendments. They neither alter the cause of action nor are inconsistent with the allegations in the initial petition. As correctly pointed out by both parties, the additional respondents that petitioner-Republic seeks to implead and the specific averments of their illegal actions have already been alleged in the *Amended Supplemental Petition*. Thus, we find the inclusion of the two (2) corporations to be proper in order to fulfill the requirements of due process and to avoid multiplicity of suits.

¹² *Tiu v. Philippine Bank of Communications*, 631 Phil. 56-72 (2009); Rules of Court, Rule 10, sec. 3

¹³ *Central Bank Board of Liquidators v. Banco Filipino Savings and Mortgage Bank*, 806 Phil. 156-174 (2017)

¹⁴ *Tiu v. Philippine Bank of Communication*, *supra* note 12

¹⁵ *Lisam Enterprises, Inc. v. Banco De Oro Unibank, Inc.*, 686 Phil. 293-308 (2012)

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WHEREFORE, petitioner-Republic's *Motion to Suspend Pre-Trial and Other Proceedings* dated June 04, 2020 and *Motion for Leave of Court to Amend Amended Supplemental Petition* are **GRANTED**. Accordingly, the *Second Amended Supplemental Petition* is hereby **ADMITTED** and Storton Investments Co. Inc., and Halston Investments, Inc. are impleaded as additional respondents.

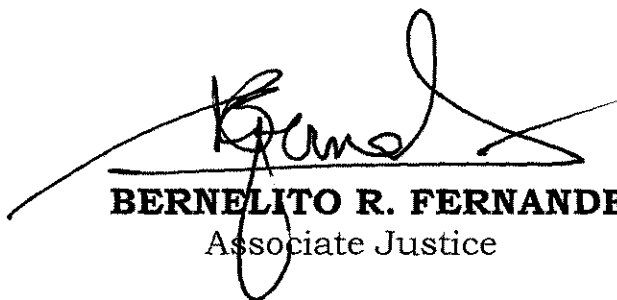
Moreover, petitioner-Republic is **DIRECTED** to submit to the Court the specific addresses of the three (3) other respondents, namely: R & S Transport Inc., Fidelity Management Inc., and Dio Island Resort, Inc. within a **NON-EXTENDIBLE** period of fifteen (15) days from receipt of this Resolution.

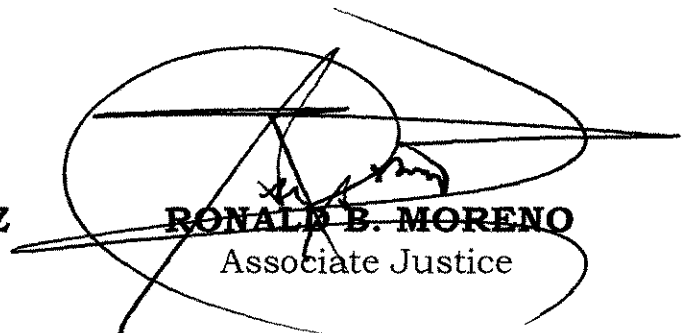
SO ORDERED.

Quezon City, Metro Manila


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson

WE CONCUR:


BERNELITO R. FERNANDEZ
Associate Justice


RONALD B. MORENO
Associate Justice

