

*any income* that may accrue from the supply of products of Japan and services of Japanese nationals to be provided under the Loan. (Emphases and underscoring supplied)

To “assume” means “[t]o take on, become bound as another is bound, or put oneself in place of another as to an obligation or liability.” This means that the obligation or liability remains, although the same is merely passed on to a different person. In this light, the concept of an assumption is therefore different from an exemption, the latter being the “[f]reedom from a duty, liability or other requirement” or “[a] privilege given to a judgment debtor by law, allowing the debtor to retain [a] certain property without liability.” Thus, contrary to the CTA En Banc's opinion, the constitutional provisions on tax exemptions would not apply.

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WHEREFORE, the petition is GRANTED. The Decision dated May 24, 2006 and the Resolution dated December 4, 2006 of the Court of Tax Appeals (CTA) En Banc in C.T.A. EB No. 5 are hereby REVERSED and SET ASIDE. The Decision dated December 17, 2003 of the CTA in C.T.A. Case No. 6139 is REINSTATED.”

## **OCAMPO VS. ENRIQUEZ**

EN BANC

G.R. No. 225973

August 8, 2017

SATURNINO C. OCAMPO, TRINIDAD H. REPUNO, BIENVENIDO LUMBERA BONIFACIO P. ILAGAN, NERI JAVIER COLMENARES, MARIA CAROLINA P. ARAULLO, M.D., SAMAHAN NG EX-DETAINEES LABAN SA DETENSYON AT ARESTO (SELDA), represented by DIONITO CABILLAS, CARMENCITA M. FLORENTINO, RODOLFO DEL E ROSARIO, FELIX C. DALISAY, and DANILO M. DELA FUENTE, Petitioners

vs.

REAR ADMIRAL ERNESTO C. ENRIQUEZ (in his capacity as the Deputy Chief of Staff for Reservist and Retiree Affairs, Armed Forces of the Philippines), The Grave Services Unit (Philippine Army), and GENERAL RICARDO R.

VISAYA (in his capacity as the Chief of Staff, Armed Forces of the Philippines), DEFENSE SECRETARY DELFIN LORENZANA, and HEIRS OF FERDINAND E. MARCOS, represented by his surviving spouse Imelda Romualdez Marcos, Respondents

RENE A.V. SAGUISAG, SR., RENE A.Q. SAGUISAG, JR., RENE A.C. SAGUISAG III, Intervenors.

G.R. No. 225984

August 8, 2017

REP. EDCEL C. LAGMAN, in his personal and official capacities and as a member of Congress and as the Honorary Chairperson of the Families of Victims of Involuntary Disappearance (FIND); FAMILIES OF VICTIMS OF INVOLUNTARY DISAPPEARANCE (FIND), represented by its Co-Chairperson, NILDA L. SEVILLA; REP. TEDDY BRAWNER BAGUILAT, JR.; REP. TOMASITO S. VILLARIN; REP. EDGAR R. ERICE; and REP. EMMANUEL A. BILLONES, Petitioners

vs.

EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA; DEFENSE SECRETARY DELFIN N. LORENZANA; AFP CHIEF OF STAFF LT. GEN. RICARDO R. VISAYA; AFP DEPUTY CHIEF OF STAFF REAR ADMIRAL ERNESTO C. ENRIQUEZ; and PHILIPPINE VETERANS AFFAIRS OFFICE (PVAO) ADMINISTRATOR LT. GEN. ERNESTO G. CAROLINA (Ret.), Respondents

G.R. No. 226097

August 8, 2017

LORETTA ANN PARGAS-ROSALES, HILDA B. NARCISO, AIDA F. SANTOS-MARANAN, JO-ANN Q. MAGLIPON, ZENAIDA S. MIQUE, FE B. MANGAHAS, MA. CRISTINA P. BAWAGAN, MILA D. AGUILAR, MINERVA G. GONZALES, MA. CRISTINA V. RODRIGUEZ, LOUIE G. CRISMO, FRANCISCO E. RODRIGO, JR., LIWAYWAY D. ARCE, and ABDULMARI DE LEON IMAO, JR., Petitioners

vs.

EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, DEFENSE SECRETARY DELFIN LORENZANA, AFP DEPUTY CHIEF OF STAFF REAR ADMIRAL ERNESTO C. ENRIQUEZ, AFP CHIEF OF STAFF LT. GEN. RICARDO R. VISAYA, and HEIRS OF FERDINAND E. MARCOS,

represented by his surviving spouse IMELDA ROMUALDEZ MARCOS,  
Respondents

G.R. No. 226116

August 8, 2017

HEHERSON T. ALVAREZ, JOEL C. LAMANGAN, FRANCIS X. MANGLAPUS, EDILBERTO C. DE JESUS, BELINDA O. CUNANAN, CECILIA GUIDOTE ALVAREZ, REX DEGRACIA LORES, SR., ARNOLD MARIE NOEL, CARLOS MANUEL, EDMUND S. TAYAO, DANILO P. OLIVARES, NOEL F. TRINIDAD, JESUS DELA FUENTE, REBECCA M. QUIJANO, FR. BENIGNO BELTRAN, SVD, ROBERTO S. VERZOLA, O AUGUSTO A. LEGASTO, JR., and JULIA KRISTINA P. LEGASTO,  
Petitioners

vs.

EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, DEFENSE SECRETARY DELFIN LORENZANA, AFP CHIEF OF STAFF LT. GEN. RICARDO R. VISAYA, AFP DEPUTY CHIEF OF STAFF REAR ADMIRAL ERNESTO C. ENRIQUEZ, and PHILIPPINE VETERANS AFFAIRS OFFICE (PVAO) of the DND, Respondents

G.R. No. 226117

August 8, 2017

ZAIRA PATRICIA B. BANIAGA, JOHN ARVIN BUENAAGUA, JOANNE ROSE SACE LIM, JUAN ANTONIO RAROGAL MAGALANG, Petitioners

vs.

SECRETARY OF NATIONAL DEFENSE DELFIN N. LORENZANA, AFP CHIEF OF STAFF RICARDO R. VISAYA, ADMINISTRATOR OF THE PHILIPPINE VETERANS AFFAIRS OFFICE ERNESTO G. CAROLINA,  
Respondents

G.R. No. 226120

August 8, 2017

ALGAMAR A. LATIPH, Petitioner

vs.

SECRETARY DELFIN N. LORENZANA, sued in his capacity as Secretary of National Defense, LT. GEN. RICARDO R. VISAYA, in his capacity as Chief of

Staff of the Armed Forces of the Philippines and LT. GEN. ERNESTO G. CAROLINA (ret.), in his capacity as Administrator, Philippine Veterans Affairs Office (PVAO), Respondents.

G.R. No. 226294

August 8, 2017

LEILA M. DE LIMA, in her capacity as SENATOR OF THE REPUBLIC and as TAXPAYER, Petitioner

vs.

HON. SALVADOR C. MEDIALDEA, DEFENSE SECRETARY DELFIN LORENZANA, AFP CHIEF OF STAFF LT. GEN. RICARDO R. VISAYA, UNDERSECRETARY ERNESTO G. CAROLINA, in his capacity as PHILIPPINE VETERANS AFFAIRS OFFICE (PVAO) ADMINISTRATOR and B/GEN. RESTITUTO L. AGUILAR, in his capacity as SHRINE CURATOR AND CHIEF, VETERANS MEMORIAL AND HISTORICAL DIVISION and HEIRS OF FERDINAND EDRALIN MARCOS, Respondents

G.R. No. 228186

August 8, 2017

SATURNINO C. OCAMPO, TRINIDAD H. REPUNO, BONIFACIO P. ILAGAN, MARIA CAROLINA P. ARAULLO, M.D., SAMAHAN NG EX-DETAINEES LABAB SA DETENSYON AT ARESTO (SELDA) represented by ANGELINA BISUNA, CARMENCITA M. FLORENTINO, RODOLFO DEL ROSARIO, FELIX C. DALISAY, DANILO M. DELA FUENTE, Petitioners

vs.

REAR ADMIRAL ERNESTO C. ENRIQUEZ (in his capacity as the Deputy Chief of Staff for Reservist and Retiree Affairs, Armed Forces of the Philippines), The Grave Services Unit (Philippine Army) and GENERAL RICARDO R. VISAYA (in his capacity as the Chief of Staff, Armed Forces of the Philippines), DEFENSE SECRETARY DELFIN LORENZANA, and HEIRS OF FERDINAND E. MARCOS, SR., represented by his surviving spouse IMELDA ROMUALDEZ MARCOS and legitimate children IMEE, IRENE and FERDINAND, JR., Respondents

G.R. No. 228245

August 8, 2017

LORETTA ANN PARGAS-ROSALES, HILDA B. NARCISO, AIDA F. SANTOS-MARANAN, JO-ANN Q. MAGLIPON, ZENAIDA S. MIQUE, FE B. MANGAHAS, MA. CRISTINA P. BAWAGAN, MILA D. AGUILAR, MINERVA G. GONZALES, MA. CRISTINA V. RODRIGUEZ, LOUIE G. CRISMO, FRANCISCO E. RODRIGO, JR., LIWAYWAY D. ARCE, and ABDULMARI DE LEON IMAO, JR., Petitioners

vs.

EXECUTIVE SECRETARY SALVADOR MEDIALDEA, DEFENSE SECRETARY DELFIN LORENZANA, REAR ADMIRAL ERNESTO C. ENRIQUEZ (in his capacity as the Deputy Chief of Staff for reservist and Retiree Affairs, Armed Forces of the Philippines), GENERAL RICARDO R. VISAYA (in his capacity as Chief of Staff, Armed Forces of the Philippines), and HEIRS OF FERDINAND E. MARCOS, represented by IMELDA ROMUALDEZ MARCOS, Respondents

## R E S O L U T I O N

PERALTA, *J.*:

### **Facts**

This case involves Motions for Reconsideration and Motion or Petition for Exhumation filed by petitioners challenging the decision of the court allowing the burial of former President Ferdinand E. Marcos at the Libingan ng mga Bayani. Among the grounds raised here is compliance with International Human Rights Law and International Humanitarian Law, particularly the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (“*Basic Principles and Guidelines*”) and *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* (“*UN Principles on Impunity*”). Here, ruling against the grounds raised by petitioners, the Court, in a nine (9) to five (5) decision, denied with finality the aforesaid motions and petitions.

### **Ruling**

“Rosales *et al.* propound that mere existence of human rights laws, administrative rules, and judicial issuance in the Philippines is not equivalent to

full compliance with international law standards. It is contended that if the State is to ensure its commitment to the principles of international human rights law, HRVVs must be given full satisfaction and guarantees of non-repetition as defined by Principles 22 and 23 of the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (“*Basic Principles and Guidelines*”). Similarly, Ocampo et al. hold that the HRVVs are entitled to restitution, compensation, rehabilitation, and satisfaction as contemplated in Sections 19 to 22 of the *Basic Principles and Guidelines*. Essentially, as the Chief Justice expressed in her dissent, there must holistic reparation – financial and symbolic.

The *Basic Principles and Guidelines* and the *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* (“*UN Principles on Impunity*”) are neither a treaty nor have attained the status of generally accepted principles of international law and/or international customs. Justice Arturo D. Brion fittingly observed in his Separate Concurring Opinion that they do not create legally binding obligations because they are not international agreements but are considered as “soft law” that cannot be interpreted as constraints on the exercise of presidential prerogative. Consistent with *Pharmaceutical and Health Care Assoc. of the Phils. v. Health Sec. Duque III*, the *Basic Principles and Guidelines* and the *UN Principles on Impunity* are merely expressions of non-binding norms, principles, and practices that influence state behavior; therefore, they cannot be validly considered as sources of international law that is binding upon the Philippines under Art. 38(1), Chapter II of the Statute of the International Court of Justice.

It is evident from the plain text of the *Basic Principles and Guidelines* and the *UN Principles on Impunity* that they are recommendatory in character. The Resolution of the General Assembly adopting the *Basic Principles and Guidelines* states:

2. Recommends that States take the Basic Principles and Guidelines into account, promote respect thereof and bring them to the attention of members of the executive bodies of government, in particular law enforcement officials and military and security forces, legislative bodies, the judiciary, victims and their representatives, human rights defenders and lawyers, the media and the public in general; (Underscoring ours)

As to the UN *Principles on Impunity*, the concluding portion of its Preamble reads:

Pursuant to the Vienna Declaration and Programme of Action, the following principles are intended as guidelines to assist States in developing effective measures for combating impunity. (Underscoring ours)

Had the Congress intended to incorporate the provisions of the *Basic Principles and Guidelines* and the UN *Principles on Impunity*, which was already adopted by the United Nations as early as 2005, it could have done so by expressly mentioning them in the Declaration of Policy under Sec. 2 of R.A. No. 10368. During the consideration of S.B. No. 3334 and H.B. No. 5990, petitioners-movants should have petitioned the Commission on Human Rights to make the necessary recommendations to the Congress or otherwise directly lobbied to the lawmakers to include the *Basic Principles and Guidelines* and the UN *Principles on Impunity* in the proposed law. They did not. Nonetheless, they can do so for the enactment of amendatory laws.

While the States have a duty to repair violations of human rights and international humanitarian law, the modalities of the reparation vary according to the right violated, the gravity of the violation, the harm done, or the persons affected. The *Basic Principles and Guidelines* recognizes that the different forms of reparation may be awarded depending on the facts of each case and whenever applicable.

Even if the *Basic Principles and Guidelines* and the UN *Principles on Impunity* are treated as binding international laws, they do not prohibit Marcos' burial at the LNMB. We already noted in the Decision that they do not derogate against the right to due process of the alleged human rights violator. Aside from Art. 14, Part III of the ICCPR, XIII (27) of the *Basic Principles and Guidelines* and Principle 9 of the UN *Principles on Impunity* are clear and unequivocal. Certainly, observance of due process must not be sacrificed in pursuing the HRVVs' right to full and effective remedy under the international human rights law. The recognition and protection of a person's human rights and dignity must not trample upon that of another who we do not like or those who are perceived to be against us. Justice and equity demands that there be a balancing of interests in the enforcement of both. For the Constitution is a law for all classes of men at all times and there is only one Bill of Rights with the same interpretation for both

unloved and despised persons on one hand and the rest who are not so stigmatized on the other.

xxx

WHEREFORE, the motions for reconsideration, as well as the motion/petition to exhume Marcos' remains at the *Libingan ng mga Bayani*, are DENIED WITH FINALITY. The petitions for indirect contempt in G.R. No. 228186 and G.R. No. 228245 are DISMISSED for lack of merit.”

**DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS VS.  
CMC/MONARK/PACIFIC/HI-TRI JOINT VENTURE**

THIRD DIVISION

G.R. No. 179732

September 13, 2017

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, Petitioner  
vs.  
CMC/MONARK/PACIFIC/HI-TRI JOINT VENTURE, Respondent

DECISION

LEONEN, J.:

**Facts**

The Department of Public Works and Highways (DPWH), and CMC/Monark/Pacific/Hi-Tri Joint Venture executed a “Contract Agreement for the Construction of Contract Package 6MI-9, Pagadian-Buug Section, Zamboanga del Sur, Sixth Road Project, Road Improvement Component Loan No. 1473-PHI” for a total contract amount of P713,330,885.28. While the project was ongoing, the Joint Venture’s truck and equipment were set on fire and a bomb exploded at the Joint Venture’s hatching plant. The Joint Venture made several written demands for extension and payment of the foreign component of the Contract.