

legislative, administrative or legal nature, as well as any official translation thereof.

may be amended by merely adding a new sentence after the provision to wit: "The immediately preceding paragraph or other provisions of this law to the contrary notwithstanding, personal information of a natural person is an intellectual property possessing the attributes of moral rights found in Part IV, Chapter X of this Code."

Without a doubt, the increasing trend of using personal information as a commodity has necessitated a unique means of protecting personal information (along with its privacy implications). While the current Philippine legal framework leaves a void by failing to provide for this requirement, all need not be in vain. A property rights regime may be adopted by our legislators and our courts to provide for this evolving need of the modern individual.

The Dichotomy in Reparation and Lack of Particularity: The Registered Owner Rule and the Compulsory Motor Vehicle Liability Insurance

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The principal goals of any system of accident law: first it must be just or fair; second, it must reduce the costs of accidents. Justice, though often talked about, is by far the harder of the two goals to analyze.¹

I. INTRODUCTION

Along with a faltering economy, the belts of citizens have tightened correspondingly. This observable fact has also ignited an increase in individuals buying and selling motor vehicles² either for better value or for

1. PAGE KEETON, *CASES AND MATERIALS ON THE LAW OF TORTS* 768 (2d ed. 1977).
2. An Act to Compile the Laws Relative to Land Transportation and Traffic Rules, to Create a Land Transportation Commission and For Other Purposes, as amended [LAND TRANSPORTATION AND TRAFFIC CODE] art. II, § 3(a).

"Motor Vehicle" shall mean any vehicle propelled by any power other than muscular power using the public highways, but excepting road rollers, trolley-cars, street sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes.

Trailers having any number of wheels when propelled or intended to be propelled by attachment to a motor vehicle shall be classified as separate motor vehicle with no power rating.

practicality. One of the more popular options relative to this is the trend towards pre-owned³ vehicles, as the pricing of brand new vehicles may prove to be prohibitive for most. From the classifieds to the car lots, the inevitable happens, motor vehicles change hands.

Contemplating this reality and its attached circumstances, there are some concerns amidst bustling transactions. Primarily, there are the ownership issues, which, in turn, lead to other more serious consequences – such as tort liabilities arising from the motor vehicle involved. A simple transfer of possession or a simple sale will only take moments to consummate, after which, the seller moves on with the payment, and the buyer drives away with a newly acquired vehicle. It is a done deal to a layman, but in the eyes of the law, the intricacies of the transfer, registration, ownership and the consequences next to them step into the picture.

In reality, practice and theory differ. As one may be made aware, questions not only regarding the price, condition, maintenance records and appearance have to be appreciated when dealing with motor vehicles. A man of ordinary prudence, exercising due diligence, would have to inquire into the prior ownership when dealing with vehicles, being, by nature, valuable pieces of property. Beyond this simple, initial query is a matter of verification into the legitimacy of the documents and knowledge of the previous owner. Surprisingly, it has been all too common for the seller, already in possession of the vehicle for several years as the owner, to have never transferred the certificate of registration⁴ in his or her name and yet have apparently had no problems in registering the vehicle throughout the years. More appalling is that many attest that this has indeed become the norm in vehicle registration. The truth of the matter is, transfer of ownership is in fact not a precondition for usage of the new owner, nor is it required for registration. In some cases, the seller is already the second, third or fourth owner, but the

3. The term pertains to motor vehicles registered to a prior owner before any subsequent transfer.
4. LAND TRANSPORTATION AND TRAFFIC CODE, art. II, § 3(f).

"Owner" shall mean the actual legal owner of a motor vehicle, in whose name such vehicle is duly registered with the Land Transportation Commission.

The "owner" of a government-owned motor vehicle is the head of the office or the chief of the Bureau to which the said motor vehicle belongs.

motor vehicle is still under the name of the first owner.⁵ These instances are then wanting of an inquiry into the legal and practical implications with the corresponding nuances of such actions or omissions, particularly in the liabilities incurred when there is a mishap involving a motor vehicle.

Statistics show that worldwide, some 1.2 million people die and 50 million are injured in motor vehicle accidents each year⁶ – concrete proof of such inevitable mishaps. The numbers are so staggering, and almost tantamount to an epidemic. Imagine, six children are killed and 257 others are injured in road accidents daily!⁷ Such numbers show that our roads kill more people than AIDS, SARS and Bird Flu combined. An Asian Development Bank study showed that road accidents claimed 9,000 lives and caused injuries to 493,000 persons in the year 2003 alone. The 7.8 vehicular deaths per 100,000 persons ratio is one of the highest in Asia-Pacific.⁸

Bad roads, drunk drivers, unsafe vehicles, heavy traffic and poor implementation of traffic laws are the hazards both motorists and commuters confront daily.⁹ Given the road and traffic conditions prevalent in this country, accidents are almost a certainty in all routes. The number of deaths from a particular cause is divided by a country's population to get a specific rate, the death rate from motor vehicle traffic accidents comes out to about 7.8 per 100,000, which is quite high compared to most countries, especially when you look at some countries with far more motor vehicles than the Philippines, and yet have lower death rates from vehicular accidents.¹⁰ A clear illustration of such case is that of the United Kingdom and

5. *Id.* This refers to the initial owner, being the first person to have the car registered straight from the 'dealer.' See, LAND TRANSPORTATION AND TRAFFIC CODE, art. II, § 3(g).

"Dealer" shall mean every person, association, partnership or corporation making, manufacturing, constructing, assembling remodeling, or setting up motor vehicles; and every such entity acting as agent for the sale of one or more makes, styles or kinds of motor vehicles, dealing in motor vehicles, keeping the same in stock or selling same or handling with a view to trading same.

6. Michael L. Tan, *A Different Epidemic*, at http://www.inq7.net/opi/2004/apr/14/opi_mltan-1.htm (last accessed Sep. 5, 2006).

7. Federico D. Pascual Jr., *Hanging Tough, Gloria Likely to Ride Out Crisis*, at <http://www.newflash.org/2004/02/ht/ht005168.htm> (last accessed June 13, 2006).

8. *Id.*

9. *Id.* (citing Senator Ralph G. Recto).

10. Tan, *supra* note 6.

Scandinavian countries which had rates lower than six per 100,000 and neighbouring Singapore has an impressive rate of 1.5 per 100,000. Singapore, the city-state, with a population of about 5 million, had 25 deaths from accidents that entire year; compare that to about 800 deaths in 2003 in Metro Manila, with a population of about 11 million.¹¹ Beyond these numbers, it is quite apparent that where there are vehicles, accidents happen. And for every accident, liability is a certainty.

A. The Legal Dilemma

Involved herein are motor vehicles, as a form of property and transportation, and attached to which are more legalities when placed in their rightful domain, the road. Motor vehicles being movable properties merit a discussion of the basic principles of the law on property and sales, specifically on ownership, possession and transfer. Using such principles consequently brings us to the administrative laws of the Land Transportation Office (hereinafter LTO),¹² the government agency for motor vehicles. Going further into the Study entails an inquiry into the specific requirements of the LTO in relation to the regulation, registration and use of vehicles. Following this would be an examination of the laws that cover the liabilities that arise when the motor vehicle is involved in an accident and injury is caused to a third party. From here, the law takes over in the form of the *Registered Owner Rule* (hereinafter *Rule*),¹³ including the *Compulsory Motor Vehicle Liability Insurance* (hereinafter *CMVLI*)¹⁴ supplementing such rule. These laws in particular will be the heart of this Study, hence deserve a thorough examination as to how they operate within the bounds of their intended purpose.

The issues are further elaborated in the sale of motor vehicles, wherein the only requirement by law is mandatory *registration*¹⁵ in the LTO. *Transfer of ownership* on the other hand is not required, not even is it made directory.

11. *Id.*

12. See LAND TRANSPORTATION AND TRAFFIC CODE, art. III (*Administration of Act*).

13. TIMOTEO B. AQUINO, *TORTS AND DAMAGES* 704-07 (2d ed. 2005).

14. Ordaining and Instituting an Insurance Code of the Philippines, as amended [INSURANCE CODE], § 373-89.

15. BLACK'S LAW DICTIONARY 1449 (4d ed. 1978) (defined as inserting in an official register). See generally, LAND TRANSPORTATION AND TRAFFIC CODE, art. I, § 5(a).

In actuality, this is in fact bypassed by both buyer and seller, resulting in a transfer evidenced merely by a deed of sale held by the registered owner,¹⁶ while the certificate of registration¹⁷ remains in the name of the previous owner of record as held by the Land Transportation Office. Instances also exist wherein a motor vehicle, previously owned by a tax-exempt person, is sold to a non-exempt person, who in turn takes advantage of such exemption by deferring the transfer of ownership, and registering the vehicle under the previous owner's name. Neither are car lots spared, as car sales agents, for faster transactions, forego transfer, as they have no interest in such detail. Being merely agents, they are not duty bound to transfer ownership from the seller to the buyer. Neither are the buyer and the seller interested. The operative term that has to be given utmost importance in this article is *registration*, a term clearly defined by the law involved, and *transfer*, an act that is wanting in line with *registration*.

The circumstances above, coupled with the fact that the vehicles may in turn be used or operated by several other persons whose connection with the registered owner in the original record may not be clearly established, open the door to multifarious scenarios involving a string of imputed claims and liabilities against undetermined persons. The registered owner, the possessor, the buyer and the person made liable, are all connected, but their liabilities are muddled in case of a mishap, accident or injury to a third party.

The law has apparently evolved through time and has come up with a way out of the problem: *the Registered Owner Rule*. The *Rule* makes the registered owner liable by default where in some cases he may be two or more degrees behind the present owner or the actual tort-feasor.¹⁸ Further, the CMVLI has been imposed to give the law more teeth in dealing with liabilities. A perusal of these remedies, however, do not address the entire problem. Indeed, they point the injured party to a definitive scapegoat, but the person made liable, the registered owner, may not really be the tort-feasor. The article will be developed within the issues and repercussions created by the respective laws involved.

Ultimately, it all boils down to the question of whether or not the law provides an equitable solution, not only to the injured party, but to all parties involved. By imputing so strict and absolute liability, considering the totality of the circumstances and the nature of liabilities, does the law accomplish

16. LAND TRANSPORTATION AND TRAFFIC CODE, art. II, § 3(f).

17. *Id.* art. I, § 15.

18. BLACK'S LAW DICTIONARY 1661 (4d ed. 1978) ("A wrong-doer, one who commits or is guilty of a tort.").

such a solution? The intent of the law has been reparative, and it has, of course, responded to the need for such recompense. However, by imputing liability as the most convenient recourse to a party who may not be privy to the contract, the intention to perpetuate justice has led to a more iniquitous remedy without really arriving at the root of the problem. The main issue revolves around the absolute imputation of liability to the registered owner, a rule with a noble intent but not cognizant enough to stand on solid footing.

B. Defining the Order of Discussion

The examination of the *Rule* along with the *CMVLI* as well as the pertinent provisions that support them, accordingly call for a consideration of several laws. The focus herein will be on pre-owned¹⁹ vehicles, both for private use and those held out to the public, otherwise known as public utility vehicles,²⁰ and not on brand new²¹ vehicles, which require no transfer.²² The nuances of transfer, being one of the core issues, will necessary involve only those things capable of being transferred.

Determining the nature of motor vehicles will mean looking into civil law,²³ namely: the law on property,²⁴ particularly ownership²⁵ and possession.²⁶ The discussion of these laws will primarily be for defining the nature of the subject matter, and will aid in looking at its characteristics.

19. LAND TRANSPORTATION AND TRAFFIC CODE, art. II, § 3(g) & art. I, § 7(a).

20. BLACK'S LAW DICTIONARY 1395 (4d ed. 1978). Public utility vehicles are defined as:

A means of transportation; the devotion to public use must be of such character that the product and service is available to the public generally and indiscriminately, or there must be the acceptance by the utility of public franchises or calling to its aid the police power of the state.

21. Brand new vehicles as contemplated in this Article pertain to those where the buyer is the first owner, hence the registered owner upon primary registration in the LTO.

22. LAND TRANSPORTATION AND TRAFFIC CODE *cf. Id.* § 7(b).

23. *See generally*, An Act to Ordain and Institute the Civil Code of the Philippines [NEW CIVIL CODE].

24. *See generally, id.* Book II (*Property, Ownership and its Modifications*).

25. *See generally, id.* Book II, Title II (*Ownership*).

26. *See generally, id.* Book II, Title V (*Possession*).

The LTO, being the administrative agency governing the regulation of motor vehicles will have to be considered as well. This will mean a study of the rules and regulations that pertain to motor vehicles in general of the Land Transportation and Traffic Code,²⁷ particularly the specific provisions regarding the process and requirements for registration as well as transfer under the LTO. A discussion of the Land Transportation Franchising Regulatory Board, as applicable to public utility vehicles, deserves merit.

The law on sales²⁸ and obligations and contracts,²⁹ as applied to the sale of pre-owned vehicles will also be looked into.

An in-depth discussion of the law on torts and damages will be important as the *Rule* is at the heart of this article. The chapter on quasi-delicts³⁰ will be delved into extensively, as well as that of persons made liable both *vicariously* and *strictly*. Negligence and its nuances be discussed only in relation to strict liability; an illustration using jurisprudence will be corollary in this regard. The corresponding rights, duties as well as remedies of the parties involved will be discussed.

In line with the lawful remedies, the Insurance Code,³¹ particularly, the CMVLI will be a significant cog in the study as it plays a major role in the reparative nature of the *Rule*. It will be presumed for the purpose of this inquiry that the motor vehicle is not covered by any other motor vehicle liability insurance,³² as the rules for procurement of which may vary from one insurance company to the other.

27. See generally, LAND TRANSPORTATION AND TRAFFIC CODE.

28. See generally, NEW CIVIL CODE, Book IV, Title VI (Sales).

29. See generally, *id.* Book IV (Obligations and Contracts).

30. See generally, *id.* Book IV, Title XVII, ch. 2 (Quasi-delicts).

31. See generally, INSURANCE CODE.

32. US National Highway Traffic Administration Website, *A Definition of Motor Vehicle Insurance in the US*, at <http://www.nhtsa.gov/people/injury/pedbimot/motorcycle/motorcycleinsurance03/Motorcycle%20Insurance%20Web/overview.html> (last accessed July 1, 2006).

Motor vehicle insurance pays for many of the medical and work losses resulting from highway crashes. Insurance information is critical to understanding crash costs and who pays them. [Contrast with, Compulsory Motor Vehicle Liability Insurance (where the CMVLI is a condition *sine qua non* for registration and road use of vehicles, comprehensive motor vehicle insurance is not mandatory, but coverage of which is broader than that of CMVLI)].

A keen observation of car lots³³ and private sellers³⁴ has led to the conclusion that indeed, the omission to transfer is widespread. That is why the need for transfer of ownership comes to the fore, and the most pressing matters that can be gleaned from that observation are the repercussions on the liability arising from motor vehicle mishaps – particularly looking at the requirements of law when the *Rule* is invoked.

An analysis of existing laws and jurisprudence affecting the subject is material in order to understand the development and the corresponding rationale. This will entail looking at foreign counterparts of the LTO and their rules and regulations that may be compared and contrasted to our own. Content analysis³⁵ of the latest case law will then be resorted to, in order to analyze the intent of the judiciary, in validating a long existing principle, known as the *Registered Owner Rule*, which after much consideration, and extensive analysis, will prove to be more inefficacious in getting to resolve the issue.

II. THE LAND TRANSPORTATION OFFICE

The earliest law on regulation of motor vehicles in this jurisdiction was enacted in 1912, through Legislative Act No. 2159, which provided for regulation of vehicles and licensing for operators. The same law also created the Automobile Section under the Administrative Division of the Bureau of Public Works, chiefly tasked to have control over motor vehicles and drivers' licenses.³⁶ Amendments were later on made, eventually leading to a compilation of all laws governing motor vehicles in 1922, under Act No. 3045.³⁷ Eleven years after, Act No. 3992³⁸ was enacted, amending Act No.

33. Car dealerships. More specifically, car lots are those which sell pre-owned or second hand cars of various brands; the quantity of the cars, usually depending on the size of the lot.

34. Private sellers as used in the study are primarily those who are not engaged as agents in car lots, nor engaged in selling brand new cars. Private sellers are those who most often sell their motor vehicles personally and sometimes via classified ads.

35. Cf., Brian Crump, *PIP-DAY Research Methodologies*, at <http://hsc.csu.edu.au/pta/scansw/pipmeth.html> (last accessed Sep. 5, 2006) (explaining that observation is when you observe recurring events or behaviors and make a note of what you see for later analysis).

36. RUFUS B. RODRIGUEZ, *THE REGULATORY LAWS AND CASES ON LAND, WATER AND AIR TRANSPORTATION IN THE PHILIPPINES* 60 (1999 ed.).

37. An Act Compiling all Motor Vehicle Laws, Act No. 4035 (1922).

38. The Revised Motor Vehicle Law of 1933, Act No. 3992 (1933).

3045. It was also known as the Revised Motor Vehicle Law.³⁹ In 1964, the *Land Transportation and Traffic Code*, R.A. No. 4136 was enacted. It abolished the Motor Vehicle Office, repealed Act No. 3992 and created the Land Transportation Commission (hereinafter LTC).⁴⁰ It was provided for by the Act that the Commission shall control the registration and operation of motor vehicles and the licensing of owners, dealers, conductors, drivers and similar matters.⁴¹ To further the LTC's goal, regional offices were established in different parts of the country to better facilitate the functions held by the office.⁴²

In 1979, the LTC was renamed the Bureau of Land Transportation (BLT) and was absorbed by the Ministry of Transportation and Communications (MOTC), via Executive Order No. 546.⁴³ On 30 January 1987, the LTC was abolished which gave way to the creation of two offices, the Land Transportation Office (LTO) and the Land Transportation Franchising and Regulatory Board (LTFRB).⁴⁴ The MOTC was renamed the Department of Transportation and Communication (DOTC), while the LTO took charge of BLT functions and the LTFRB taking over the former BOT, all through Executive Orders No. 125,⁴⁵ 125-A⁴⁶ and 226,⁴⁷ all promulgated in 1987.⁴⁸

Presently, the LTO is charged with rationalizing, developing, and continuously improving the services involving land transportation and with effectively implementing the various transportation laws, rules and regulations.⁴⁹ To better understand how the LTO works, examining its

39. RODRIGUEZ, *supra* note 36, at 60.

40. *Id.* at 61.

41. *Id.*

42. *Id.*

43. Creating a Ministry of Public Works and Ministry of Transportation and Communications, Executive Order No. 546 (1979).

44. RODRIGUEZ, *supra* note 36, at 62.

45. Reorganizing the Ministry of Transportation and Communications, Defining its Powers and Functions and for Other Purposes, as amended, Executive Order No. 125 (1987).

46. Amending Executive Order No. 125, Entitled: Reorganizing the Ministry of Transportation and Communications, Defining its Powers and Functions, and for Other Purposes, Executive Order No. 125-A (1987).

47. The Omnibus Investments Code of 1987, Executive Order No. 226 (1987).

48. RODRIGUEZ, *supra* note 36, at 62.

49. *Id.*

powers and functions is warranted. The basic functions of the Office are as follows:

1. Registration of motor vehicles;
2. Issuance of licenses to drivers and conductors;
3. Enforcement of land transportation rules and regulations; and
4. Adjudication of apprehension cases.⁵⁰

Emphasis was intentionally placed on the first and third functions, their being the most significant to this article. Particularly, *registration* will be the operative act that continuously scrutinized vis-à-vis the related matters in issue. The matter on enforcement on the other hand, as can be gleaned from the third function, should be put in line with the Land Transportation and Traffic Code, the governing law in this regard. Being the primary government body responsible for registration, the Land Transportation Office of the DOTC together with the rules and regulations regarding the intricacies and procedural requirements being adhered to in reality, deserves immense focus.

III. SCRUTINIZING THE COINCIDENCE INVOLVING TRANSPORTATION, TRANSFERS AND TORTS

A. Transportation

There is not a dearth of definitions when it comes to *transportation* or the *contract of transportation*. It is generally referred to as the movement of persons or goods from one place to another.⁵¹ Also, a contract of transportation has been described as one where a person or associations of persons oblige themselves to transport persons and things from one place to another for a price fixed before hand.⁵² It has also been defined as an agreement wherein one party is bound to move, carry or transport persons from one place to another.⁵³ However, given all these definitions, we will only be consigned to one — motor vehicles.

50. Motor Vehicle Registration System Manual, Land Transportation Office 2 (1988), *cited in* RODRIGUEZ, *supra* note 36, at 62 (emphasis supplied).

51. BLACK'S LAW DICTIONARY 1499 (7d ed. 1999).

52. 4 AGUEDO AGBAYANI, COMMENTS AND JURISPRUDENCE ON THE PHILIPPINE COMMERCIAL LAWS (1993 ed.).

53. MARIANO SICAT & PEDRO JOVEN, THE LAW ON TRANSPORTATION I (1959 ed.).

Motor vehicles, in their most patent form, are one of the modes of transportation. A more specific distinction brings them within the domain of land transportation, as what we are concerned with here is that type which neither operates in water nor air. Motor vehicle transportation is better characterized under the Land Transportation and Traffic Code:

Sec. 3. Words and Phrases defined. — As used in this Act.

(a) "Motor Vehicle" shall mean *any vehicle propelled by any power other than muscular power using the public highways*, but excepting road rollers, trolley cars, street sweepers, sprinklers, lawn mowers, bulldozers, graders, forklifts, amphibian trucks, and cranes if not used on public highways and vehicles run which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes.⁵⁴

Now that we have delineated the particular type of transportation involved herein, the fine points of this particular class will be delved into further, as *motor vehicles* in their broadest sense. We will focus on two general distinctions of motor vehicles in this study. First are *privately owned vehicles*, the other being *public utilities*. To be able to define privately owned vehicles, it will be better to first take a look at the other side of the coin, those vehicles held out to the public.

Public utility implies a public use, and service to the public, and indeed, the principal determinative characteristic of a public utility is that of service to, or readiness to serve an indefinite public, or portion of the public, which has a legal right to demand and receive its services or commodities. There must be a dedication or holding out, either express or implied, of produce or services to the public as a class.⁵⁵

The most obvious definition of the phrase 'public utility' is the implication of public use and service.⁵⁶ The term *public* as used above refers not necessarily to everyone, but generally it means without restriction as to whom the utility caters to. As long as it is made available to everyone, no matter how many actually avail of the service, it still qualifies as a public utility.⁵⁷ Public utility vehicles are thus those that are made available to the public and to everyone, without any restriction. The term public utility can be found in the Constitution,⁵⁸ regarding its significance to the State and

54. LAND TRANSPORTATION AND TRAFFIC CODE, § 3(a) (emphasis supplied).

55. 64 AM. JUR. 2D *Public Utilities* § 1 (1972).

56. *Albano v. Reyes*, 175 SCRA 270-271 (1989).

57. 64 AM. JUR. 2D *Public Utilities* § 2 (1972).

58. PHIL. CONST. art XII, §§ 11, 13, 17, 18:

State regulation. A more exacting term for public utility vehicles can be found in the New Civil Code— under the definition of *common carriers*.

Common carriers are persons, corporations, firms or associations, engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public.⁵⁹

The Civil Code classifies common carriers as to subjects of carriage, whether they involve passengers or goods.⁶⁰ A common carrier has been referred to as any person or company in the business of transporting passengers or goods for a fee, at uniform rates available to all persons.⁶¹ Also as "any carrier by law to convey passengers of freight without refusal, if the

Section 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines, at least sixty per centum of whose capital is owned by such citizens; nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.

Section 13. The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.

Section 17. In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately-owned public utility or business affected with public interest.

Section 18. The State may, in the interest of national welfare or defense, establish and operate vital industries and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

59. NEW CIVIL CODE, art. 1732.

60. CESAR S. SANGCO, PHILIPPINE LAW ON TORTS AND DAMAGES 107 (1984 rev. ed.).

61. WEBSTER'S NEW COLLEGE DICTIONARY 295 (14d ed. 1993).

approved fare or charge is paid, in contrast to a private carrier."⁶² Philippine jurisprudence similarly defines common carriers as a person or corporation whose regular business is to carry passengers or property for all persons who may choose to employ or remunerate him; or a person or corporation who undertakes to carry goods or persons for hire.⁶³ Foreign jurisprudence defines it as one who undertakes to transport persons or property from place to place, for compensation, offering his services to the general public.⁶⁴ For reasons of public policy and the nature of their business, they are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported.⁶⁵

A better understanding of common carriers may be had, in comparison to that of its counterpart — *private carriers*. While the distinctive characteristic of a common carrier is the fact that it is offered to the public, private carriers on the other hand, do not operate for public use. In this light, private carriers are not required to carry passengers or even goods indiscriminately. The private carrier can in fact choose who to transport, unlike the common carrier, which is held out to everyone.

Looking at the simplest designation of private carriers, and the plethora of characterizations for common carriers, it is clear that since private carriers do not in fact operate for public use, they cannot be considered public utilities or a public service, and that is sufficient enough to draw out the legal implications of the issue herein.

Two aspects can be pointed out showcasing the major distinctions. First, is the obligation to carry; and second, and more importantly, is the liability for loss or injury.⁶⁶ The obligation to carry has been clearly set apart, one being held out to the public, while the other is not. As for the second distinction, the liability of common carriers is based on the contract of carriage or *culpa contractual*,⁶⁷ while the liability of private carriers is based on tort or *culpa aquiliana*.⁶⁸

62. BLACK'S LAW DICTIONARY 143 (5d ed. abridged 1979).

63. United States v. Quinajon & Quitoriano, 31 Phil. 188, 197 (1915).

64. 13 AM. JUR. 2D Carriers §§ 561-62 (1964).

65. NEW CIVIL CODE, art. 1733.

66. 13 AM. JUR. 2D Carriers § 8 (1964).

67. Ignacio Del Prado v. Manila Electric Co., 52 Phil. 900 (1929) (defining *culpa contractual* as liability arising from the breach of a contractual duty.).

68. *Id.* at 904 (defining *culpa aquiliana* as liability arising from a mere tort.).

It is also worthwhile to peruse the term used in the Land Transportation and Traffic Code to classify the types of motor vehicles. There are four classifications made therein: private,⁶⁹ for-hire,⁷⁰ government⁷¹ and diplomatic.⁷² The main focus of this paper will only be the first two classifications. Each is defined as follows:

Private — Private motor vehicles are those owned by private individuals or companies which are not intended to be used for hire under any circumstances.⁷³

For-Hire — For hire motor vehicles are those authorized to be operated as public utility by virtue of certificates of public convenience, or provisional authority issued by the Board of Transportation. Operation of such vehicles shall be subject to the Board of Transportation. Operation of such vehicles shall be subject to the Public Service Act and the rules and regulations issue thereunder and other pertinent laws.⁷⁴

69. LAND TRANSPORTATION AND TRAFFIC CODE, § 7(a) ("Private motor vehicles are those owned by private individuals or companies which are not intended to be used for hire under any circumstances.").

70. *Id.* § 7(b).

For hire motor vehicles are those authorized to be operated as public utility by virtue of certificates of public convenience, or provisional authority issued by the Board of Transportation. Operation of such vehicles shall be subject to the Board of Transportation. Operation of such vehicles shall be subject to the Public Service Act and the rules and regulations issue thereunder and other pertinent laws such as Republic Act No. 4136 as amended by Batas Pambansa Blg. 43 and Batas Pambansa Blg. 74.

71. *Id.* § 7(c) ("Government motor vehicles are those owned by the government of the Philippines and its political subdivisions and those owned by government owned or controlled corporations.").

72. *Id.* § 7(d).

Diplomatic motor vehicles falling under the diplomatic classification are those owned by foreign government or by their duly accredited diplomatic officers in the Philippines and are used in the discharge of their official duties. Included in this classification also are those motor vehicles owned by international organizations and officials who are enjoying diplomatic rights and immunities under International Laws.

73. *Id.* § 7(a).

74. *Id.* § 7(b).

A CMVLI circular,⁷⁵ characterizes motor vehicle owners as those who use *private motor vehicles* and land transportation operators, as those in charge of *land transportation*. The former refers to the actual legal owner of a motor vehicle in whose name such vehicle is duly registered, while the latter means the owner or owners of motor vehicles for transportation of passengers for compensation, including school buses. The glaring similarities from the gathered terms should be given ample attention.

Several expressions have already been encountered in this paper: *public utility vehicles, common carriers, land transportation and for-hire vehicles*— all pertaining to the same entity. Taking a good look at all the definitions, it can be safely concluded that the greatest common factor that can be deduced is whether or not the public is involved or the holding out of service indiscriminately. When the public factors in, the State therefore, as a mantle of protection to the community at large, finds the necessity to regulate.

For all four classes abovementioned, a *certificate of public convenience* (CPC)⁷⁶ is a pre-requisite prior to their operation. It will then be safe to say that all can be put under one umbrella for the purpose of this Thesis. In view of the fact that the LTO uses the term *for-hire vehicles*, the CMVLI uses the term *land transportation operator*, while the New Civil Code refers to *common carriers*, and the Constitution utilizes the term *public utility*; the author deems it proper to use that which the highest law of the land employs; hence, the term *public utility vehicles*, as opposed to *private owned vehicles*. These two types of motor vehicles will be the focus herein.

B. The Nature of Motor-Vehicles

Before further probing, the author finds it apt to look into the nature of motor vehicles put in its legal contemplation. Amidst several laws, rules and regulations, which have taken it into consideration in varying degrees, its most basic tenets should be put to the fore.

The most patent characteristic of a motor vehicle is that it falls under the classification of *property*.⁷⁷ Property in general is primarily referred to by law

75. Insurance Commission, Insurance Memorandum Circular No. 3-81.

76. RODRIGUEZ, *supra* note 36, at 50 (explaining that a Certificate of Public Convenience defines the obligations and responsibilities of the operator to the riding public and to the Board. It also defines the area/route the vehicle is authorized to operate, the validity or distance by which the vehicle is allowed to operate and the specification of said vehicle.).

77. BLACK'S LAW DICTIONARY 1382 (4d ed. 1978). Property is defined as:

as all things which are or may be appropriated. The law proclaims the classification of property into two genus; first, as immovable or real property and second as movable or personal property.⁷⁸ As the maxim goes, "movable things follow the person; immovable, their locality." Distinguishing between the two types is of utmost importance since there are special rules applicable only to one class. The classification of property assumes its importance due to the reality that provisions of law differ as to acquisition, possession, disposition, loss, and more importantly for this Study, in the *registration* of either personal or real property.

Motor vehicles, palpably fall under the classification of movable or personal property as can be seen from the New Civil Code:

1. Those movables susceptible of appropriation which are not included in the preceding article;
2. Real property which by any special provision of law is considered as personal property;
3. Forces of nature which are brought under control by science; and
4. In general, all things which can be transported from place to place without impairment of the real property to which they are fixed.⁷⁹

Concomitant with the classification of motor vehicles as movable, there is another right attached thereto — *ownership*. The thing, of which there may be ownership, particularly pertains to property. Ownership is the complete dominion, title or proprietary right in a thing or claim; it also is the entirety of the powers of use and disposal allowed by law.⁸⁰ Another definition is that it is a collection of rights in order to use and enjoy the property, including the right to transmit it to others.⁸¹ According to the New Civil Code, ownership may be exercised over things or rights.⁸² A law dictionary defines the term as follows:⁸³

That which is peculiar to any person; that which belongs exclusively to one; in a strict legal sense, an aggregate of rights which are guaranteed and protected by the government. Personal property, more specifically is everything that is the subject of ownership, not coming under denomination of real estate or real property.

78. NEW CIVIL CODE, art. 414.

79. *Id.* art. 416.

80. *Id.* art. 428.

81. BLACK'S LAW DICTIONARY 1260 (4d rev ed. 1978).

82. NEW CIVIL CODE, art. 427.

83. FEDERICO B. MORENO, PHILIPPINE LAW DICTIONARY 665 (3d ed. 1988).

By virtue of ownership, a thing pertaining to one person is completely subjected to his will in everything not prohibited by public law or the concurrence with the rights of another. It encompasses a broader spectrum and includes at least five attributes to wit: *jus utendi*,⁸⁴ *jus fruendi*,⁸⁵ *jus abutendi*,⁸⁶ *jus disponendi*⁸⁷ and *jus vindicandi*.⁸⁸

Related to ownership over the motor vehicle is the concept of *possession*, the holding of a thing or the enjoyment of a right.⁸⁹ The objects of possession are things and rights which are susceptible of being appropriated.⁹⁰ In relation to transportation, there are certainly instances wherein ownership and possession belong to separate persons, hence the distinction. The practical importance of possession is that it is presumed ownership in general and with respect to personal property. In general, possession acquired in good faith is equivalent to title.⁹¹ The good faith of the possessor, on the other hand, consists in the reasonable belief that the person from whom he received the property is the real owner thereof, who can transmit ownership thereof.⁹² Article 541 of the same Code also provides that:

A possessor in the concept of an owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it.⁹³

Putting together all the rules in possession, and harmonizing the provisions of law, it can all be summed up as follows; *possession is presumed ownership, unless the contrary is proved*. Relating this to the concept of motor vehicles coming under the classification of property as movable, the Code

84. HECTOR S. DE LEON, COMMENTS AND CASES ON PROPERTY 76 (4d ed. 2003) (defining *jus utendi* as the right to possess; the right to hold a thing or enjoy a right which in essence is subjecting a thing to the control of one's will).

85. *Id.* (defining *jus fruendi* as the right to the fruits.).

86. *Id.* (defining *jus abutendi* as the right to consume (this right is intertwined with the right to use)).

87. *Id.* (defining *jus disponendi* as the right to dispose, the right includes the power of the owner to alienate, transfer, encumber, transform, and even destroy the thing owned).

88. *Id.* (defining *jus vindicandi* as the right to recover).

89. NEW CIVIL CODE, art. 523.

90. *Id.* art. 530.

91. *Id.* art. 541, cited in United States v. E. Rapiñan, 1 Phil. 294 (1902).

92. Kasilag v. Rodriguez, 69 Phil. 217 (1939).

93. NEW CIVIL CODE, art. 541.

provides that as long as the personal property remains within the control of the possessor, possession is not deemed lost, even if the possessor may not know its whereabouts for the time being.⁹⁴ The possessor therefore holds primacy over a subject motor vehicle.

A better illustration of the laws mentioned, as applied to motor vehicles in particular, can be seen in the decisions of the Supreme Court. In the case of *Cruz v. Pahati*,⁹⁵ B sold an automobile to the plaintiff, he later made an offer to plaintiff to resell the automobile for him. B was able to obtain a certificate of registration in his own name from the office in charge of motor vehicles, but it was done through falsification. And, on the excuse that he was to show the vehicle to a buyer, he was able to take possession of the car. He then sold the vehicle to the defendant, and this resulted in the plaintiff filing for an action to recover the said vehicle. The Court, in ruling, cited the following provisions:

Art. 559. One who lost any movable or has been unlawfully deprived thereof, may recover it from the person in possession of the same and the only defense the latter may have is if he has acquired it in good faith at a public sale, in which case, the owner cannot obtain its return without reimbursing the price paid thereof.⁹⁶

Art. 1505. Where goods are sold by a person who is not the owner thereof, and who does not sell them under authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.⁹⁷

The Court then held that the provisions above inevitably led to the conclusion that plaintiff had a better right to the automobile in question than the defendant, due to the indisputable fact that plaintiff had been deprived thereof illegally when B maliciously utilized a scheme to allow him to dispose of the vehicle as though he were the real owner thereof. Consequently, the Court ruled that the plaintiff could still recover the car, despite the fact that the defendant acted in good faith upon purchasing from B.⁹⁸

94. *Id.* art. 556.

95. *Cruz v. Pahati*, 98 Phil. 788 (1956).

96. NEW CIVIL CODE, art. 559.

97. *Id.* art. 1505.

98. *Cruz*, 98 Phil. at 792

In light of the Land Transportation and Traffic Code, and in correlation to this discussion on the fine distinctions of the law on property and the terms germane to the Study, the law gives its own definition of ownership. Article II, section 3(f) of the Code provides:

Sec. 3 Words and phrases defined. – As used in this Act:

x x x

- (f) "Owner" shall mean the actual legal owner of a motor vehicle, in whose name such vehicle is duly registered with the Land Transportation Commission.

The "owner" of a government-owned motor vehicle is the head of the office or the chief of the Bureau to which the said motor vehicle belongs.⁹⁹

The law is quite clear in providing that the owner of a motor vehicle is the person under whose name it is registered with the LTO. Harmonizing this with the laws on property, the same owner contemplated herein may therefore enjoy and exercise dominion over the vehicle. He also has *jus disponendi* over it, meaning he may dispose, alienate, transfer, encumber or transform the same, being the owner thereof.

It all seems so fundamental when all such laws can be put together in good resonance. The only detail that the author would like to point out at this juncture is for a closer inquiry regarding the term *registration*, particularly the *registered owner*, since *registration* modifies the term earlier defined under the laws on property, such that, to qualify as the legal owner in transportation law, registration is necessary. This should be seriously considered while keeping in mind the concomitant characteristics that have been established by the provisions on property, particularly those of ownership and possession of motor-vehicles. The law further speaks of a *legal owner*, which should hold the same meaning as *registered owner*, being used in the same vein. Accordingly, "a legal owner is one recognized and held responsible by law as the owner of property. In a more particular sense, one in whom the legal title to real estate is vested, but who holds it in trust for the benefit of another, the latter being called the equitable owner."¹⁰⁰ The same source, however, holds out that the term owner is a *nomen generalissimum*,¹⁰¹ whose meaning is to be gathered from the connection in

99. LAND TRANSPORTATION AND TRAFFIC CODE, § 3(f).

100. BLACK'S LAW DICTIONARY 1260 (4d ed. 1978).

101. *Id.* at 1198 (*Nomen Generalissimum* is "a name or term of the most general meaning").

which it is used and from the subject-matter to which it is applied.¹⁰² For our purposes, it would mean taking *registration* for where it is used, and motor vehicles as the subject-matter, both being products of such association.

C. *The Law on Registration: Examining the Land Transportation and Traffic Code*

In its simplest form, *registration* means recording or inserting in an official record.¹⁰³ An extensive definition of the term is proper at this stage, in order for the legal issues to be threshed out.

Registration in general is any entry made in the books of the registry, including both registration in its ordinary and strict sense, in cancellation, annotation, and even the marginal notes. In its strict acceptance, it also refers to the entry made in a book or public registry of deeds. Under the Torrens system, registration is the operative act that gives validity to the transfer or creates a lien upon the land. It is also the means whereby registered property is made subject to the terms of the deed or instrument. A ministerial act by which a deed, contract or instrument is sought to be inscribed in the records of the office of the register of deeds and annotated at the back of the certificate of title covering the land subject of the deed, contract or instrument.¹⁰⁴

Many of the definitions commonly given have limited applicability to real property registration or land titles to be more exact. One specific characteristic of the abovementioned definition of *registration* that cannot simply apply to personal property is the ability of the act of registration, falling under the Torrens system, to be the operative act that validates transfer. Due to the nature of immovable property, transfers have to be placed in a public instrument to bind third persons, and each annotation or encumbrance on the title has to be registered in the proper registry of deeds to be binding *in rem*. In this regard, it may be safe to say that in cases of personal property like motor vehicles, registration can only be taken in its general sense of recording and inserting in the official record, rather than an operative act to validate a transfer as that with land titles. Again, this is an example of the differences in the treatment according to the classification of property either as real or personal. The rules applicable are different.

Registration of motor vehicles is mandated by law, if they are to operate in public highways. The Land Transportation and Traffic Code states:

102. *Id.* at 1259.

103. *Id.* at 1449.

104. MORENO, *supra* note 83, at 805.

Sec. 5. Compulsory registration of motor vehicles.

- (a) All motor vehicles and trailers of any type used or operated on or upon any highway of the Philippines must be registered with the Bureau of Land Transportation for the current year in accordance with the provisions of this Act.
- (b) The dates of annual registration of motor vehicles shall be based on a registration scheme to be prepared by the Bureau of Land Transportation subject to the approval of the Minister of Transportation and Communications. The scheme shall provide for a system that will distribute the registration of motor vehicles equitably over different months in a calendar year. Said scheme and rates shall not be changed more often than once every three years, and only upon due notice given to the public at least ninety calendar days before the effectivity of such registration scheme.

*Any registration of motor vehicles, not renewed on or before the date fixed by the Bureau of Land Transportation, shall become delinquent and invalid.*¹⁰⁵

A reading of the provision states the duty imposed by law to register motor vehicles, a task now handed over to the LTO, as per amendments made by the more recent executive issuances, Executive Orders 125 and 125-A. Further reading of the same Code will lead to the requirement of an annual registration fee, accompanying each application for registration of motor vehicles. Nowhere in the said law is the term *registration* defined. Hence, we cannot be certain of what may be included or excluded by such act. The best recourse would be to go back to the basic legal meaning of registration involving vehicles. An observation of the procedural rules and requirements of the LTO, being the registration authority for all types of vehicles covered in this inquiry will shed some light into its meaning. Below are the requirements for renewal of motor vehicle registration.¹⁰⁶

For *private vehicles*, the following are the requirements:¹⁰⁷

1. Original Certificate of Registration (CR) and latest original Official Receipt (OR) of payment
2. Appropriate Insurance Certificate of Cover (also known as the CMVLI)

105. LAND TRANSPORTATION AND TRAFFIC CODE, § 5(a) & (b) (emphasis supplied).

106. Note that we are concerned with *renewal*, and not initial registration, because the scope of the study will cover only those motor vehicles that are pre-owned, hence, initial registration is no longer necessary.

107. Land Transportation Office Website, at <http://www.lto.gov.ph/mvreq2.html#renewpriv> (last accessed Sep. 5, 2006) (emphasis supplied).

3. Motor Vehicle Inspection Report (MVIR)
4. Taxpayer's Identification Number (TIN)

For public utility or for-hire vehicles, the following are required:¹⁰⁸

1. Confirmation of Franchise from the Land Transportation Franchising and Regulatory Board (LTFRB) with copy of Decision/Order
2. Original Certificate of Registration (CR) and latest original Official Receipt (OR) of payment
3. Common Carrier Tax (from the Bureau of Internal Revenue)
4. Appropriate Insurance Certificate of Cover (also known as the CMVLI)
5. Motor Vehicle Inspection Report (MVIR)
6. Taxpayer's Identification Number (TIN)

Nowhere in the requirements for either class can there be found any prerequisite of a transfer or any duty that is related thereto. As earlier stated, the act of *registration* does not bring the act of *transferring* within its ambit. Unlike real property, and land titles where registration is the operative act of transfer, the same cannot be said of motor vehicles, being a different type of property all together. This is one point which the author would like focus on.

D. From One Hand to Another

One of the realities that need no introduction is the fact that in the lifetime of a vehicle, change of ownership is inevitable. Most especially at this point in time when the citizenry has become more conscious about costs, everyone does some belt-tightening, which is manifested in many ways. One pertinent means often resorted to is downgrading to more fuel efficient vehicles. Some just sell their vehicles for the needed cash. Others trade-in for value, while some simply divest the vehicles altogether. Certainly, a five-year old car will never be sent to the junkyard. And in a third world country like the Philippines, motor vehicles will be on the road as long as they can manage to move from one point to the other. Ten, twenty, and even thirty year old motor vehicles can be seen traversing the highways. A safe conclusion is that, in the lifetime of an automobile, the only constant is a change in ownership.

108. *Id.* (emphasis supplied).

The most common form of conveyance is in the form of a sale. The sales transactions appear to be simple. After the execution of the deed of sale,¹⁰⁹ the seller walks away with the payment and the buyer takes the key to his newly acquired motor vehicle. The only document that is required to be handed over to the buyer, aside from the deed of sale, to serve as proof of ownership, is the original certificate of registration (CR)¹¹⁰ and the most recent original official receipt (OR)¹¹¹ of payment. Barring any problems with the production of documents, the transaction is finished.

If motor vehicles sales were as simple as ordinarily perceived, there would be no reason to look into the details. But with what has been so far discussed regarding the nature of motor vehicles as personal property, and the matter of registration, another ingredient is lacking in order for extraction of the legal issue: the element of transfer. Already established is the nature of motor vehicles, the requirement of registration as provided by law,

109. *Garcia v. Court of Appeals*, 312 SCRA 180 (1999). The deed of sale operates as a formal or symbolic delivery of the property sold and authorizes the buyer to use the document as proof of ownership. (Land Transportation Office Website, at <http://www.lto.gov.ph/mvreq2.html#renewpriv> (last accessed Sep. 5, 2006) (emphasis supplied).

110. LAND TRANSPORTATION AND TRAFFIC CODE, § 14-15.

Section 14. *Issuance of certificates of registration.* - A properly numbered certificate of registration shall be issued for each separate motor vehicle after due inspection and payment of corresponding registration fees.

Section 15. *Use and authority of certificate of registration.*

(a) The said certificate shall be preserved and carried in the car by the owner as evidence of the registration of the motor vehicle described therein, and shall be presented with subsequent applications for re-registration, transfer of ownership, or recording of encumbrances: Provided, That in lieu of the certificate of registration a true copy or photostat thereof may be carried in the motor vehicle.

(b) The certificate of registration issued under the provisions of this Act for any motor vehicle shall, while the same is valid and effective and has not been suspended or revoked, be the authority for the operation of such motor vehicle.

(c) No motor vehicle shall be operated on the public highways in a manner which would place it under a classification requiring the payment of a larger registration fee than that stated in the certificate of registration.

111. LAND TRANSPORTATION AND TRAFFIC CODE, § 8. After the payment of the annual registration fee, or re-registration for others, a corresponding Official Receipt (OR) will be issued.

and the reality of constant change in ownership of motor vehicles. Given these rudiments, it is time to look into the often overlooked details, the impacts of which may be more far reaching than its knack of being disregarded — the transfer of ownership.

What constitutes transfer in the area of motor vehicle transactions? At its most basic description, “[t]ransfer is to convey or remove from one place, person, etc. to another; or to pass or hand over possession or control of, to sell or give”¹¹² Also defined as “[a]n act of the parties, or of the law, by which the title to property is conveyed from one person to another.”¹¹³ More enlightening however, is to trace ‘transfer’ from its cause. The Civil Code provides:

Art. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefore a price certain in money or its equivalent.¹¹⁴

Art. 1459. The thing must be licit and the vendor must have a right to transfer the ownership thereof at the time it is delivered.¹¹⁵

The first provision refers to the agreement between the buyer and the seller regarding the sale. On the other hand, the motor vehicle involved satisfies the second provision, such being licit and accordingly, the seller or vendor must have the right over the subject matter in order to be able to transfer the ownership. Emphasis should then be placed on the fact that sale is merely *title* and that *delivery* by the vendor or seller, otherwise known as *tradition*, is the operative act or mode that transfers ownership to the buyer, all such matters being the end result of a sale.¹¹⁶ The law provides that “ownership of the thing sold shall be transferred to the vendee upon the actual or constructive delivery thereof.”¹¹⁷ There is said to be delivery when the thing sold is put in the possession and under the control of the buyer and it goes without saying that such act of delivery will only be effective legally, if there is a valid sale.¹¹⁸ In this light, the law on sales asserts that upon the delivery of the motor vehicle by the seller to the buyer, ownership is transferred.

112. BLACK’S LAW DICTIONARY 1669 (4d rev ed. 1978).

113. *Id.*

114. NEW CIVIL CODE, art. 1458.

115. *Id.* art. 1459.

116. CESAR L. VILLANUEVA, LAW ON SALES 1 (2004 ed.) (emphasis supplied).

117. NEW CIVIL CODE, art. 1477.

118. VILLANUEVA, *supra* note 115, at 233.

Comparing this with real property, wherein the operative act of transferring ownership is through registration, delivery is the counterpart in personal property, motor vehicles more particularly. What then is the purpose of *registration* of motor vehicles, if *tradition* already equates to transfer? The Supreme Court has clarified the matter thusly:

Registration is required *not to make said registration the operative act by which ownership in vehicles is transferred, as in land registration cases*, because the administrative proceeding of registration does not bear any essential relation to the contract of sale between the parties, but to permit the use and operation of the vehicle upon any public highway.¹¹⁹

The duty to register is a prerequisite of usage of the vehicle on roads and highways; hence the law only requires registration as an exercise of the police power by the state through regulation of motor vehicles. The *transfer* that this Study has been mulling over seems to be moot, given the doctrine above and the matter of *tradition*. Quite certainly, a simple perusal of the law on sales has made things clearer. But another legal issue emerges. The Court in the same case further held:

The main aim of motor vehicle registration is to identify the owner so that if any accident happens, or that any damage or injury is caused by the vehicle on the public highways, responsibility therefore can be fixed on a definite individual, the registered owner. Instances are numerous where vehicles running on public highways caused accidents or injuries to pedestrians or other vehicles without positive identification of the owner or drivers, or with very scant means of identification. It is to forestall these circumstances, so inconvenient or prejudicial to the public, that the motor vehicle registration is primarily ordained, in the interest of the determination of persons responsible for damages or injuries caused on public highways.¹²⁰

The law then does not require transfer of ownership, and merely requires registration due to the reasons given above; the practical monetary side and the reparative nature imbued therein. The following requirements provided by the LTO would then be rendered useless, if indeed, transfer of ownership is a foregone issue. The requirements, in cases of transfer, are:

Plain transfer of ownership for private vehicles:¹²¹

119. Villanueva v. Domingo et al., 438 SCRA 485 (2004) (citing Chinchilla v. Rafael and Verdager, 39 Phil. 888 (1919)) (emphasis supplied).

120. Ereso v. Jepte, 102 Phil. 103 (1957).

121. Land Transportation Office Website, at <http://www.lto.gov.ph/mvreq7.html#priv> (last accessed Sep. 5, 2006).

1. Original Certificate of Registration (CR) and latest original Official Receipt (OR) of payment
2. Original Deed of Sale of the Motor Vehicle
3. Clearance from Philippine National Police-Traffic Management Group (PNP-TMG)
4. Endorsement from the Insurance Company to the New Owner
5. Actual inspection of MV with duly accomplished MVIR
6. Confirmation of CR/OR (Cir-91-137) if issued by other LTO Agency
7. Taxpayer's Identification Number (TIN)

Plain transfer of ownership for for-hire vehicles:¹²²

1. Confirmation of Franchise from the Land Transportation Franchising and Regulatory Board (LTFRB) with copy of Decision/Order
2. Original Certificate of Registration (CR) and latest original Official Receipt (OR) of payment
3. Original Deed of Sale of the Motor Vehicle
4. Endorsement from the Insurance Company - New Owner
5. Clearance from Philippine National Police-Traffic Management Group (PNP-TMG)
6. Actual inspection of MV with duly accomplished MVIR
7. Confirmation of CR/OR (CIR-91-137) if issued by other LTO Agency
8. Taxpayer's Identification Number (TIN)

These are the requirements provided in order to *transfer ownership* of motor vehicles; a mere glance at which make it apparent that there are more requirements here than of renewal of registration provided earlier. How does such transfer differ from that resultant to the operative act of tradition or delivery due to sale? It has been held that "sale is merely title that creates the obligation on the part of the seller to transfer ownership and deliver possession, but on its own, sale is not a mode that transfers ownership."¹²³ Sale then only creates the presumption of ownership, through delivery and resultantly possession.

122. *Id.*

123. Equatorial Realty Development v. Mayfair Theater, Inc., 370 SCRA 56 (2001).

Given the current state of the law on land transportation, the transfer contemplated does not merely operate in the same way as that with tradition or delivery in sales. The transfer here goes into the *Certificate of Registration* (CR) of a motor vehicle. Going back to the Land Transportation and Traffic Code, being the special law on the matter, the definition of *owner* therewith pertains to him under whose name it is duly registered. If that is the case, as long as the buyer of the motor vehicle does not transfer ownership in this vein, he will never fall under the definition of an *owner* under the special law. In that situation, he can only be considered mere as a mere *possessor* of the vehicle, while *ownership* still rests under whose name it is registered. It is the registered owner who takes the blame for any mishap as enunciated by the doctrines stated, hence beneficial to the possessor. What purpose then does the deed of sale serve, if not as proof of ownership? The law provides that such may be used by the registered owner in reimbursing expenses for injuries caused, against the buyer-owner-possessor, who never availed of the option to transfer ownership of the motor vehicle as provided for by the LTO.

The nuance of transfer has led to many questions regarding ownership, liability and the prevailing doctrines of law. Settled is the fact that *registration* is a condition precedent before motor vehicles can operate on public roads. Also settled earlier was that the law only requires registration, and the annual renewal of the same, but nowhere does it require *transfer of ownership* along with such registration.

It is noteworthy though that the law has provided several procedural requirements for such transfer, and the author thinks that this purports to serve a significant purpose, despite the snub. What then is the truth behind transfers? It has been virtually rendered a ghost in the transportation landscape and has been reduced to the hilt of obscurity.

E. The Law on Torts and Damages vis-à-vis Motor Vehicle Accidents

The last component of this chapter brings the study to the field of Torts.¹²⁴ After going through the first two namely, transportation and transfers, the

124. J. ALICIA GONZALEZ-DECANO, NOTES ON TORTS AND DAMAGES 3 (2d ed. 2005). Definition of *tort*:

A tort is defined as the commission of an act by one without right, whereby another receives some injury, directly or indirectly in person, property or reputation. It is also sometimes referred to as a wrong independent of contract or as a breach of duty which the law as distinguished from a mere contract, has imposed. Generally speaking tort is a wrong, and a tortuous act is a wrongful act.

road has been paved towards this direction with much briefing. The most significant factor in veering toward this route is found in the *Rule*, a product of this branch of law. It has been established as early as 1957 in the case of *Erezo v. Jepte*:¹²⁵

The Rule in this jurisdiction is that the person who is the registered owner of a vehicle is liable for any damages caused by the negligent operation of the vehicle although the same was already sold or conveyed to another person at the time of the accident. The registered owner is liable to the injured party subject to his right of recourse against the transferee or the buyer.¹²⁶

Accordingly, the reason behind the law is to identify a particular person, so that in case of an accident and injury to third persons, there is always a definite person to take responsibility.

An examination of the main features of tort law will help in relating to the *Rule*. First, it is not based on consent, or its non-contractual characteristic, as shown by this illustration: an automobile driver who drives carelessly will be liable in tort to anyone he hits regardless if there was consent or not.¹²⁷ Second, is the rationale of compensating for the harm that may have been caused by a certain act. In line with this is the tendency of the courts to shift the burden, based on the higher interest of justice, to the party who is most capable of remunerating, as clearly seen in the concept of *strict liability* when it comes to manufacturers, with the understanding that these big companies will have the means to cover such expenses. This is the third main feature of tort law.¹²⁸ In a sense, the *Rule* is a strict imputation of liability, where the burden is always shifted to him under whose name the vehicle is duly registered, rather than the person who committed the tortuous act.

In cases of motor vehicle accidents then, as the *Rule* reveals, one need not look anywhere else, for the vehicle's *certificate of registration* (CR) will ultimately point out who is liable. This may not be consistent with the second feature which supposedly puts the burden on the most capable party, due to the fact that it is difficult to tell which party is most able to compensate. There then exists a clear-cut tort-feasor in each motor vehicle

125. *Erezo v. Jepte*, 102 Phil. 103 (1957).

126. *Id.* at 110, cited in AQUINO, *supra* note 13, at 704-05.

127. GONZALEZ-DECANO, *supra* note 123, at 10.

128. NEW CIVIL CODE, art. 2187, cited in GONZALEZ-DECANO, *supra* note 123, 10-

mishap — the registered owner. The liability of motor vehicle owners is reflected in the Civil Code on the part on quasi-delicts.¹²⁹

The Civil Code provisions state that there exists a presumption of negligence in motor vehicle mishaps, on the part of the person driving or on the owner who may not be the driver, but who may be in the same vehicle. The law may have some variations though as to its application, depending on whether it is a privately owned or a public utility vehicle.

Public Utility Vehicles

The public interest vested in these vehicles puts them in a very delicate category. The basis of legal liability for public utility vehicles is the contract of carriage where the common carrier binds itself to carry the passengers safely as far as care and foresight can provide.¹³⁰ Jurisprudence also provides a more precise definition:

By the contract of carriage, the carrier assumes the express obligation to transport the passenger to his destination safely and to observe extraordinary diligence with a due regard to all circumstances, and any injury that might be suffered by the passenger is right away attributable to the fault or negligence of the carrier. This is an exception to the general rule that negligence must be proved, and it is therefore incumbent upon the carrier

129. *Id.* arts. 2184-86.

Article. 2184. In motor vehicle mishap, the owner is solidarily liable with his driver, if the former, who was in the vehicle, could have, by the use of the due diligence, prevented the misfortune. It is disputably presumed that a driver was negligent, if he had been found guilty of reckless driving or violating traffic regulations at least twice within the next preceding two months.

Article. 2185. Unless there is proof to the contrary, it is presume that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation.

Article. 2186. Every owner of a motor vehicle shall file with the proper government office a bond executed by a government controlled corporation or office, to answer for damages to third persons. The amount of the bond and other terms shall be fixed by the competent public official.

130. *Juntilla v. Fontanar*, 136 SCRA 624 (1985).

to prove that it has exercised extraordinary diligence as prescribed in Art. 1733¹³¹ and 1755¹³² of the Civil Code.¹³³

Until the transfer of a public motor vehicle is approved by the Public Service Commission, the transferor remains the registered owner and is liable for its wrongful operation. The transferee merely acts as agent of the former who is responsible for any damage that may be brought upon others by reason of his negligence.¹³⁴ The registered owner or operator is made liable *directly and primarily*. In the case of *Montoya v. Ignacio*,¹³⁵ this was affirmed, when it was held that the damages sustained by third persons along with passengers, due to the negligent operation of the motor vehicle, will be charged directly and primarily to the registered owner or operator. Further, it was held that if the vehicle had already been transferred, sold or leased, without the required approval of the LTFRB, the person actually operating the said vehicle during the occurrence of the accident will be deemed merely an agent of the registered owner.¹³⁶

Again, in the case of *Vargas v. Langcay*,¹³⁷ it was stated that regardless of who the actual owner of the vehicle is, when it comes to the public and to third persons, the operator of record continues to be the designated owner and is held primarily and directly responsible for the incidents consequential to its operation. In that case, the operator of record or owner, is the employer of the driver, the actual operator and employer being considered merely as his agent.¹³⁸ In another case, the registered owner of a passenger vehicle was made jointly and severally liable with the driver, for the damages

131. NEW CIVIL CODE, art. 1733 ("Common carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case.").

132. NEW CIVIL CODE, art. 1755 ("A common carrier is bound to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances.").

133. *Sy v. Malate Taxicab & Garage, Inc.*, 102 Phil. 482 (1957).

134. *Tamayo v. Aquino*, 105 Phil. 949 (1959).

135. *Montoya v. Ignacio*, 94 Phil. 182 (1953).

136. *Id.* at 185.

137. *Vargas v. Langcay*, 6 SCRA 174 (1962).

138. *Id.* at 178.

suffered by the passengers as a consequence of injuries or even death, resulted from the negligent operation of the motor vehicle.¹³⁹

The prevailing doctrine for public utility vehicles and the *raison d'être* for such was summarized as follows: the leading doctrine on common carriers makes the registered owner liable for consequences flowing from the operations of the carrier, even though the specific vehicle involved may already have been transferred to another person. This doctrine rests on the principle that in dealing with vehicles registered under the Public Service Law, the public has the right to assume that the registered owner is the actual or lawful owner thereof. It would be very difficult and often impossible as a practical matter, for members of the general public to enforce the rights of action that they may have for injuries inflicted by the vehicles being negligently operated, if they should still be required to show proof as to who the actual owner is. The registered owner is not allowed to deny liability by proving the identity of the alleged transferee. Clearly, to permit a public vehicle to escape its responsibility for the passengers or goods transported by it, by proving a prior sale of the vehicle to an alleged vendee would be to attenuate drastically the carrier's duty of extraordinary diligence.¹⁴⁰

The rule when involving public vehicles has been clarified with the range of rulings illustrating the nature of its liability.

Private Vehicles

The registered owner of any vehicle, even if not used for a public service, should primarily be responsible to the public or to third persons for injuries caused the latter while the vehicle is being driven on the highways and on the streets.¹⁴¹ The doctrine has tagged private vehicles as included in the jurisdictional application of the *Rule*. This is despite the fact that, unlike public vehicles, private vehicle owners are not as heavily regulated by the State.

In cases of quasi-delicts, even if the *Rule* is usually applied to common carriers, the Supreme Court had already expanded the coverage to include private vehicles.¹⁴² In fact, it has already been applied in enforcement of

139. *De Leon Brokerage Co., Inc. v. Court of Appeals*, 4 SCRA 518 (1962).

140. *Benedicto v. Intermediate Appellate Court*, 187 SCRA 547 (1990), cited in RUFUS B. RODRIGUEZ, *LAW ON TRANSPORTATION* 25 (4d ed. 2004).

141. *SANGCO*, *supra* note 60, at 114.

142. *AQUINO*, *supra* note 13, at 707.

liability cases involving employers under Art. 2180,¹⁴³ even if the employer is not engaged in business.¹⁴⁴ And, in the case of *Aguilar, Sr. v. Commercial Savings Bank*, liability was attributed to the registered owner even if the offending car was already sold to the person who was driving the same when the accident occurred.¹⁴⁵ In that case, the vehicles involved were of private ownership. This corroborates the application of the *Rule* in such an instance.

The application of the *Rule* seems to be uniform in both types of motor vehicles, and its strict assignment of the tort-feasor was not altered, save for the variance in premise where liability of public vehicles arise from breach of contract,¹⁴⁶ while the liability of private carriers is based on quasi-delicts.¹⁴⁷

143. NEW CIVIL CODE, art. 2180.

Article 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertain, in which case what is provided in Article 2176 shall be applicable.

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

144. *AQUINO*, *supra* note 13, at 707.

145. *Aguilar, Sr. v. Commercial Savings Bank*, 360 SCRA 395 (2001).

146. *BLACK'S LAW DICTIONARY* 188 (6d ed. 1990). Breach of contract is defined as:

It is also possible that a contractual obligation can be breached by tort, the act or omission may result in both *culpa aquiliana* and *culpa contractual*.¹⁴⁸ Nonetheless, it is safe to say that the *Rule* makes no distinction as to the classification of motor vehicles. It applies to both.

F. Development of Jurisprudence towards Reparation

Earlier, an account was made regarding the main features of tort law, one of the features being its compensatory character, owing to the injury inflicted on another. The main concern of the law has always really been reparative in nature. The tort-feasor – in the case of this Study, the registered owner – will always be the one to recompense regardless of the circumstances. The iron hand of the *Rule* is exhibited in a 1961 doctrine which enunciated that for the purpose of identification, the registered owner is deemed the real and true owner in the absence of convincing evidence to the contrary. This strict imputation clearly sets a staple party to point at, coupled with the ruling in the case of *Benedicto v. Intermediate Appellate Court*,¹⁴⁹ where it was reasoned out that the law wants to ensure that the general public will not have a complicated time enforcing their rights. The law, however, entitles the registered owner to be reimbursed by the actual or real owner,¹⁵⁰ after being held primarily liable for the damage or injury caused to another. The rule on reimbursement applies to both types of motor vehicles, whether public or private.¹⁵¹ One can thus easily conclude that the Court has obviously been aware of instances wherein the owners may vary, as evidenced by the rule on reimbursement, but seemingly, it has not made steps to examine the law on registration and the possibilities of transfer.

the failure, without legal excuse to perform any promise which forms part of the contract; it is the prevention or hindrance by a party to the contract for the creation or continuance of a right in favor of the other party or the discharge of a duty by him.

147. NEW CIVIL CODE, art. 2176.

Article 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this chapter.

148. *Air France v. Carrasco*, 18 SCRA 155 (1966).

149. *Benedicto v. Intermediate Appellate Court*, 187 SCRA 547 (1990).

150. *Tamayo v. Aquino*, 105 Phil. 949, 954 (1959).

151. SANGCO, *supra* note 60, at 117.

As early as *Erezo*,¹⁵² down to the more recent case of *Villanueva v. Domingo*,¹⁵³ the Court has been very consistent in its basis for using the *Rule*, that ultimately, it will not leave the injured party without any recourse or give the party a hard time identifying who to obtain compensation from. Jurisprudence has not varied in reasoning either and had always kept the injured party under its mantle of protective concern. Regardless of the classification of the vehicles, and not considering whether it changed hands, the *Rule* has been iron clad.

IV. BEYOND PHILIPPINE SOIL

A. The Treatment and Processes in Other Jurisdictions

The origins of the Public Service Act,¹⁵⁴ the mother law of the Land Transportation and Traffic Code, can be traced to the public utility laws of New Jersey.¹⁵⁵ With this in mind, the author deemed it necessary to look into the rules and regulations regarding registration of motor vehicles and transfer of ownership, as well as to those in other jurisdictions. Since the laws of the United States have a vast influence on the laws in our jurisdiction, it is only proper to look at the rules and regulations as provided for by the equivalent of the LTO of a few select states, namely: California (a representative state of the West Coast), New York (a state on the East Coast), Louisiana, (being a civil law state like our own), New Jersey and Nevada, as a random selection. The United States equivalent of our LTO is the Department of Motor Vehicles (hereinafter DMV) for each of the corresponding states.

California

According to the California DMV, change in ownership is any change of the registered owner or lien holder (legal owner) of a vehicle or vessel. This is considered to be a change in ownership that must be updated on the records at the Department of Motor Vehicles (DMV). The change is usually due to:

152. *Erezo v. Jepte*, 102 Phil. 103 (1957).

153. *Villanueva v. Domingo et al.*, 438 SCRA 485 (citing *Erezo v. Jepte*, 102 Phil. 103 (1957)).

154. The Public Service Law, as amended, Commonwealth Act No. 146 (1936).

155. 3 TEODORICO C. MARTIN, COMMENTARIES AND JURISPRUDENCE ON THE PHILIPPINE COMMERCIAL LAWS 334 (1989 rev ed.).

sale or gift, adding or deleting the name of an owner, inheritance or satisfaction of a lien.¹⁵⁶

The DMV of California amply provides for rules regarding transfer of ownership of vehicles, and gives helpful information on how to go about such transfer easily. Not only is transfer required, but non-compliance therewith is even penalized. It is also here that we first encounter a document known as the *Notice of Release from Liability* (hereinafter NRL).¹⁵⁷

¹⁵⁶. Website of the California Department of Motor Vehicles, at <http://www.dmv.ca.gov/vr/vr.htm> (last accessed Sep. 6, 2006). The following terms will be useful in this discussion as defined by the California DMV:

Transfer—Whenever there is a change of ownership, the DMV refers to the transaction as a transfer.

Seller—The person(s) and/or company shown as the registered owner on the Certificate of Title (and DMV's records) is always referred to as the seller, even if the vehicle is a gift.

Buyer—The person(s) and/or company who is going to become the new registered owner is referred to as the buyer.

Change of Legal Owner—Change of legal owner only for a vehicle may occur when a lien has been paid off or when the legal owner changed, for example, when a car is refinanced. The registered owner remains the same. To have the legal owner name removed from the title, you must submit the Certificate of Title to DMV.

¹⁵⁷. *Id.*

The Notice of Transfer and Release of Liability (NRL) is the form used to notify the Department of Motor Vehicles (DMV) that you have sold or transferred your vehicle or vessel to another party. It is used only when the registered ownership of the vehicle or vessel has changed. Legal owner transfers (transfers between lenders or removal of a lienholder from the title) do not require an NRL. When this form is properly completed and the information is recorded by DMV, liability for parking and/or traffic violations and civil litigation resulting from operation after the date of sale become the responsibility of the subsequent purchaser. Whenever you sell or transfer your vehicle or vessel, Vehicle Code §5900 states that you must notify DMV within five calendar days following the sale or transfer. Only the buyer's application for transfer, using the endorsed title received from you, can do that. However, when the information required on the NRL is received by DMV, you are no longer responsible for civil or criminal actions arising with the vehicle after the date of sale.

The Vehicle Code requires you to provide DMV with the following information: Date of sale, owner of record's name and address, buyer or transferee's name and address, description of the vehicle or vessel

To further highlight the importance of the requirements, the DMV advises that the only time to safely turnover the key to the new owner is when:

1. When you have provided the buyer with all the appropriate documentation, signatures, and certifications noted in this brochure.
2. Your completed Notice of Transfer and Release of Liability and is ready to be submitted to DMV.
3. You are satisfied with the payment that you have received from the buyer.

Special attention should be given to the requirement stating, 'If the vehicle was not purchased from the owner whose name appears on the title, you will need a Bill of Sale from each in-between buyer.' This is something that cannot be found anywhere in our laws, and which is very important in this study, as the details of transfer in our jurisdiction are not thoroughly contemplated by the LTO. Over and above this, the California DMV is quite clear on its requirement for transfer.

New York

The following regulations are from the New York State DMV (hereinafter NYS-DMV):

The rules provide that when one transfers the ownership of a vehicle or remove such vehicle from the road, two options are available:

1. You can transfer the registration and vehicle plates to another vehicle that you will register in your name, or
2. You can surrender your vehicle plates to the NYS-DMV.¹⁵⁸

The DMV also provides for the transfer of registration item, wherein one can transfer vehicle plates and registration to a vehicle that is register in one's name.

The new registration is valid until the expiration date of the original registration. You should also notify the automobile dealer or the DMV office that you plan to transfer the registration. You can surrender the

including the vehicle (or vessel hull) identification number, year model, vehicle make, vehicle license plate or vessel CF number, and the vehicle odometer reading as of the sale or transfer date.

¹⁵⁸. Website of the New York State Department of Motor Vehicles, at <http://www.nydmv.state.ny.us/regtransfer.htm#sell> (last accessed Sep. 5, 2006).

vehicle plates to the DMV, receive a transfer receipt, and transfer the registration in the future. Bring the receipt and the required documents to a DMV office. You can transfer a registration to another vehicle that is in your name and not renew the current registration, and then bring the transfer receipt and the registration for the other vehicle to a DMV office. The DMV office should then be informed that you will transfer the registration but will not renew the registration. Three things to remember for registration and transferring are the following:

1. You cannot transfer a registration to a vehicle to be registered in the name of another person.
2. You cannot use the transfer receipt to reduce another registration fee or receive a refund.
3. You cannot request a refund if the second year of the registration has started when you surrender the vehicle plates.¹⁵⁹

The new owner must give the original Bill of Sale to the DMV with the other acceptable proofs of ownership required. A Bill of Sale is not an acceptable proof of ownership without other proofs.

In New York, the *registration* itself can be transferred provided that the rules abovementioned are followed, such as forwarding the information and other documents, particularly acceptable proofs of ownership to the DMV. It is worth noting that in that state, every move in contemplation of transfer and registration should be in strict coordination with the DMV to be valid. Another observable fact is the surrender of plate policy, which implies the mandatory registration or renewal for all, as a matter of course.

Louisiana

Louisiana's significance cannot be downplayed, as it is the only civil law state in the United States just like the Philippines. An examination of their rules on registration is therefore necessary.

In order to register a motor vehicle, all documents and monies must be submitted simultaneously. The following items are required:

Application for title properly completed and signed by the owner, showing the current physical Louisiana address...¹⁶⁰

¹⁵⁹. *Id.*

¹⁶⁰. Website of the Louisiana Department of Motor Vehicles, at <http://www.dps.state.la.us/omv/ttl/title.html> (last accessed Sep. 5, 2006).

In addition, in cases of transfer, here are the requirements provided which are relevant for our study:

1. Certificate of title properly executed to the buyer and signed by the seller and notarized. In the case of a new unregistered vehicle, we require the manufacturer's statement of origin, a dealer's invoice, and an odometer disclosure statement. Either the statement of origin or the invoice must be notarized.
2. Current registration certificate.
3. Notarized Bill of Sale or notarized act of donation which must show complete description of the vehicle. The act of donation must be in authentic form and state the relationship between donor and donee. The donor must execute the act in the presence of a notary and two witnesses.¹⁶¹

By far, the state of Louisiana has the least restrictions. The requirements are not as numerous and burdensome as those asked for in the two previously named states. In fact, the requirements are very similar to those provided by the Philippine LTO. The author would not like to attribute such infirmity in requirements to the fact of both states are governed by civil law, although so far, this more closely resembles our own.

Nevada

The Nevada DMV gives helpful insights in motor vehicle transactions, starting with purchasing a vehicle from another private party. In purchasing a vehicle from a private party, *you must have a properly signed-off title to register the vehicle and transfer ownership*. If the seller does not have a title, the owner of record will have to apply for a duplicate from the state where the vehicle was last titled. The buyer will not be able to register the vehicle without a valid title. A Bill of Sale by itself is not acceptable.¹⁶² In short, no certificate of title, no registration, and a mere deed of sale will not hold water. The Nevada DMV also gives specific instructions in making sure to complete the buyer section of the title with the full legal name of the new owner. *The new title and registration will reflect what is entered in the buyer section.*¹⁶³

The buyer and seller should complete a Bill of Sale. The seller should keep this as proof that he or she sold the vehicle, although it is not anymore

¹⁶¹. *Id.*

¹⁶². Website of the Nevada Department of Motor Vehicles, at <http://www.dmvnv.com/nvreg.htm> (last accessed Sep. 5, 2006).

¹⁶³. *Id.*

necessary for the buyer to have the Bill of Sale if there is a properly signed-off title. The seller should also keep his license plates,¹⁶⁴ a rule resembling that of New York.

Peculiar to the state of Nevada is the rule which makes use of the Bill of Sale to transfer ownership, only on the ground that the person one is dealing with is actually the owner of record. The precondition of dealing with the owner of record serves as a fail-safe procedure, as such person's name is the one listed in the most recent title, which, in turn, is equivalent to the registered owner.

For vehicle movement, meaning, for it to be used on the roads, the seller must keep his or her license plates. The seller must either use them on another vehicle or surrender the plates to the DMV within 30 days. No other notification of the sale is necessary after that. The seller must then keep a completed Bill of Sale and the contact information for the buyer for reference. On the other hand, the Nevada rules prescribe the buyer to obtain insurance and a *movement permit* which enables the motor vehicle to be driven on public streets. He must also present the signed-off title or other proof of ownership at a DMV for a movement permit. As for the registration process itself, the buyer must register the vehicle at a DMV within 30 days.

Though dissimilar in terminology and procedure with the other states, Nevada provides reliable set standards which assure clarity in the transactions with respect to registration and usage of motor vehicles. The usual concept is that registration serves that purpose of being the operative act for road usage. It can be said that, though nowhere in the rule can be found an order to transfer ownership, this is impliedly made by, first, the utilization of the 'buyer section' which is used as a basis for the new title, and the fail-safe precondition of dealing with the owner of record.

NEW JERSEY

It was earlier mentioned that the Public Service Act of the Philippines was derived from New Jersey laws; hence, this discussion is a fruit of that correlation. The New Jersey Motor Vehicle Commission (MVC) gives the following guidelines for purchase of used vehicles:

1. Visit any MVC Agency with the following: the title for the vehicle that is being transferred, current registration certificate or plate number, insurance policy number and the name of the insurance company and your current driver license number

¹⁶⁴. *Id.*

2. Fill out a registration application.
3. Complete the sales tax information in the section that will be stamped on the form, if the vehicle has not already been titled in your name.
4. Pay the appropriate registration change fee.
5. Pay sales tax and title fee if applicable.¹⁶⁵

New Jersey residents must register their vehicles before driving on public roads. The driver must have a valid registration document when using the vehicle. Every motor vehicle in New Jersey must be titled and registered at an MVC Agency before a driver can operate it on public roadways.¹⁶⁶

The New Jersey rules are simpler than most of those previously presented, and quite similar to that of Louisiana, in that no requirements for transfer of ownership are apparent. Also noticeable is the fact that similar to the Philippines, registration is a requirement prior to highway operation of a vehicle.

New Zealand

So far, in order to amplify the subject matter, the inquiry has been limited to the United States. To further expand the coverage, and also due to interesting and pertinent data collected by the author, a look into the rules of New Zealand will be very useful. The Land Transport Registry of New Zealand presents a helpful guide for motor vehicle buyers and sellers, making it known to whoever inquires that there is more to buying and selling a vehicle than exchanging keys and money.¹⁶⁷

The Registry gives the following guidelines for sellers:

1. Ensure that all outstanding license fees are paid. If you sell an unlicensed vehicle, you remain liable for the licensing fees
2. Notify Land Transport New Zealand of the sale/disposal of the vehicle by lodging an MR 13A form within seven days of the date of sale

¹⁶⁵. Website of the New Jersey Department of Motor Vehicles, at <http://www.state.nj.us/mvc/Vehicle/TransferringVehicle.htm> (last accessed Sep. 5, 2006).

¹⁶⁶. *Id.*

¹⁶⁷. New Zealand Land Transport Website, at <http://www.landtransport.govt.nz/vehicle-ownership/buying.html> (last accessed Sep. 5, 2006).

3. Confirm your details, as the seller, on the MR 13A form
4. Record the buyer's full name and address details on the MR 13A form
5. Send the MR 13A form by Freepost to Land Transport New Zealand's Transport Registry Centre.
6. Do not rely on the buyer to lodge the form
7. *Do not hand over the vehicle until the buyer can prove that they have changed the ownership into their name.*

It was also noted that, for the seller's own protection, he should wait for the buyer to bring a Change of Ownership card, issued by a Land Transport New Zealand agent, before he hands the vehicle over, as this card proves that the buyer has in fact, acquired ownership of the motor vehicle.¹⁶⁸

On the other hand, these are the guidelines for the buyers:

1. Notify Land Transport New Zealand of the purchase of the vehicle by lodging an MR 13B form within seven days of the purchase date. (You should lodge the form, with the appropriate fee, at a Land Transport New Zealand agent)
2. Remember to confirm your details, as the buyer, on the MR 13B form
3. Remember to take valid identification to the agent
4. Remember to ask the agent for a change of ownership label, so you can show the seller that the ownership has been transferred.¹⁶⁹

Registration comes after the abovementioned guidelines have been observed by the parties involved. Registration is the initial recording of a vehicle on the Motor Vehicle Register, and the issuing of registration plates, according to New Zealand Law. Vehicles can only be registered after they have been checked to ensure they are safe to be on the road, part of that process involves those guidelines presented.¹⁷⁰

The rules provided for in New Zealand are quite similar to those of California, though the author has placed emphasis on some guidelines that may be key to this Study, particularly that which guides the seller not to

¹⁶⁸. *Id.*

¹⁶⁹. *Id.*

¹⁷⁰. New Zealand Land Transport Website, at <http://www.landtransport.govt.nz/factsheets/09.html> (last accessed Sep. 5, 2006).

hand over the vehicle until the buyer can prove that they have changed the ownership to their name. The implications of New Zealand's guidelines are far reaching if integrated into other systems; as such an infallible process may just save more than meets the eye.

B. Exploring Foreign Rules

After a survey of rules of LTO equivalents in foreign jurisdictions regarding registration and transfer of ownership, it can be deduced that even abroad, the rules vary accordingly. There are states which require transfer, while there some that do not. The rules are more detailed in some, while others provide for general requirements, reminiscent of those provided in our own jurisdiction. The reason is to approximate the application of their registration and transfer process, two things that weigh heavily in the author's Study. The presentation of the rules show how in some jurisdictions, registration serves a purpose beyond that we observe; and at the same time, how the process of transfer is closely intertwined, or even inextricably as in some states of the United States and in New Zealand, to the process of buying and selling motor vehicles, in line with the registration process.

From hereon, the purpose of the inquiry into foreign ground will have to be contemplated on heavily as the Study heads to other matters that now relate to the *Registered Owner Rule's* nuances.

V. AN INTEGRATION AND ANALYSIS OF THE REGISTERED OWNER RULE, THE COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE AND THEIR CORRESPONDING NUANCES

A. The Registered Owner Rule

The Rule in this jurisdiction is that the person who is the registered owner of a vehicle is liable for any damages caused by the negligent operation of the vehicle although the same was already sold or conveyed to another person at the time of the accident. The registered owner is liable to the injured party subject to his right of recourse against the transferee or the buyer.¹⁷¹

We cannot argue with the rulings of the Court regarding the matter. In *Erezo*, the principle enunciated was the ease of identification of the public or third persons and as to whom to enforce their rights against.¹⁷² Further, the

¹⁷¹. AQUINO, *supra* note 13, at 704-05 (emphasis supplied).

¹⁷². *Erezo v. Jepte*, 102 Phil. 103, 108 (1957).

Court clearly stated that the main aim of motor vehicle registration is to identify the owner, so that in case of accident or injury due to the vehicles operation on highways, responsibility can be easily fixed.¹⁷³ In the case of *BA Finance Corporation v. Court of Appeals*, the Court held:

One of the principal purposes of motor vehicle legislation is identification of the vehicle and of the operator, in case of accident; and another is that the knowledge that means of detection are always available may act as a deterrent from lax observance of the law and of the rules of conservative and safe operation. Whatever purpose there may be in these statutes, it is subordinate at the last to the primary purpose of rendering it certain that the violator of the law or of the rules of safety shall not escape because of lack of means to discover him. The purpose of the statute is thwarted, and the displayed number becomes a 'share and delusion,' if courts would entertain such defenses as that put, forward by appellee in this case. No responsible person or corporation could be held liable for the most outrageous acts of negligence, if they should be allowed to place a 'middleman' between them and the public, and escape liability by the manner in which they recompense servants.¹⁷⁴

A few years prior to *BA Finance*, in *Benedicto v. Intermediate Appellate Court*, the Court already preordained such reasoning by saying that contrary to the petitioner's claim in the case, *private respondent-injured party is not required to go beyond the vehicle's registration to ascertain ownership of the carrier*.¹⁷⁵ It again mentioned the same ratio on ease of enforcement on the part of the public, so as to give their actionable rights due course. A little over a decade later, in the *Aguilar, Sr. case*, all previous rulings were cited, with the Court adding to the already rich, abundant and redundant rationale:

Were a registered owner allowed to evade responsibility by proving who the supposed transferee or owner is, it would be easy for him, by collusion with others or otherwise, to escape said responsibility and transfer the same to an indefinite person, or to one who possesses no property with which to respond financially for the damage or injury done. A victim of recklessness on the public highways is usually without means to discover or identify the person actually causing the injury or damage. He has no means other than by recourse to the registration in the Motor Vehicles Office to determine who the owner is. The protection that the law aims to extend to him would become illusory were the registered owner given the opportunity to

173. *Id.*

174. *BA Finance Corporation v. Court of Appeals*, 215 SCRA 715 (1992) (citing *King vs. Brenham Automobile Co., Inc.* 145 S.W. 278, 279).

175. *Benedicto v. Intermediate Appellate Court*, 187 SCRA 547, 553 (1990) (emphasis supplied).

escape liability by disproving his ownership. If the policy of the law is to be enforced and carried out, the registered owner should not be allowed to prove the contrary to the prejudice of the person injured, that is, to prove that a third person or another has become the owner, so that he may thereby be relieved of the responsibility to the injured person.¹⁷⁶

All these rulings have the same line of reasoning. It can be safely concluded that the injured party is heavily favored. For about half a century, or probably even more, the rule has stood the test of time, and the success of which can only be judged by the number of times it has been invoked. There is no doubt however, as to the fact that the injured party never walks away empty-handed.

B. *The Case of Villanueva vs. Domingo*

The most recent case to reiterate the reparative rationale behind the *Registered Owner Rule* is the case of *Villanueva v. Domingo*.¹⁷⁷ The latest case practically served as a repository of all previous rulings on the matter, hence its unwavering importance in this Study. According to the facts:

Respondent Domingo is the registered owner of a silver Mitsubishi Lancer Car model 1980 with co-respondent as authorized driver. Petitioner Villanueva was then the registered owner of a green Mitsubishi Lancer. Following a green traffic light, respondents silver Lancer then driven by co-respondent, was cruising along the middle lane of South Superhighway at moderate speed from north to south. Suddenly, a green Mitsubishi Lancer driven by Renato Dela Cruz Ocfemia darted from Vito Cruz Street towards the South Superhighway directly into the path of silver car, thereby hitting and bumping its left front portion. As a result of the impact, the silver Lancer hit two parked vehicles at the roadside, the second hitting another parked car in front of it. The original complaint was amended twice: first, impleading Auto Palace Car Exchange as commercial agent and/or buyer-seller and second, impleading Albert Jaucian as principal defendant doing business under the name and style of Auto Palace Car Exchange. Petitioner Villanueva claimed that he was no longer the owner of the car at the time of the mishap because it was swapped with a Pajero owned by Jaucian from Auto Palace Car Exchange. On the other hand, Auto Palace Car Exchange represented by Jaucian claimed that he was not the registered owner of the car.

The issue in the case was whether the registered owner of a motor vehicle can be held liable for damages arising from a vehicular accident involving his motor vehicle while being operated by the employee of its

176. *Aguilar, Sr. v. Commercial Savings Bank*, 360 SCRA 395, 401 (2001).

177. *Villanueva v. Domingo*, 438 SCRA 485 (2004).

buyer without the latter's consent and knowledge? The Court held in the affirmative, consistently sticking with the *Registered Owner Rule*, such that the registered owner of any vehicle is directly and primarily responsible to the public and third persons while it is being operated.¹⁷⁸

The ratio of the case was arrived at by a sifting through case precedents, namely the rulings in *First Malayan v. Court of Appeals*,¹⁷⁹ which has been reiterated in *BA Finance*, and more recently in *Aguilar, Sr.* In *BA Finance*, it was held that the registered owner is still liable even if, at the time of the accident, the vehicle was leased by another party and was driven by the employee of the lessee. In *Aguilar, Sr.*, the registered owner-bank answered for damages for the accident even if the vehicle was being driven by the Vice-President of the Bank in his private capacity and not as a bank-officer, as claimed by the Bank. In *Villanueva*, the Court drew from the same source of wisdom.¹⁸⁰

Again, the reparative nature was explained in the case. The main purpose of vehicle registration is the easy identification of the owner who can be held responsible for any accident, damage or injury caused by the vehicle. This prevents inconvenience and prejudice to a third party injured by one who is unknown or unidentified. Allowing a registered owner to escape liability by claiming that the driver was not authorized by the new or actual owner, results to the public detriment the law seeks to avoid.¹⁸¹

The more interesting utterance of the Court though is not the reiteration of the rationale, but is shown here:

*The above policy and application of the law may appear quite harsh and would seem to conflict with truth and justice. We do not think it is so. A registered owner who has already sold or transferred a vehicle has the recourse to a third-party complaint, in the same action brought against him to recover for the damage or injury done, against the vendee or transferee of the vehicle. The inconvenience of the suit is no justification for relieving him of liability; said inconvenience is the price he pays for failure to comply with the registration that the law demands and requires.*¹⁸²

Here, there is a clear indication regarding the harshness of the law. The same was said in the cases of *Erezo*, in 1957, *BA Finance* in 1992 and *Aguilar, Sr.* in 2001. In all cases, it was also refuted that such inconvenience is no

178. *Id.* at 488 (emphasis supplied).

179. *First Malayan v. Court of Appeals*, 209 SCRA 660 (1992).

180. *Villanueva*, 438 SCRA at 494.

181. *Id.* at 491.

182. *Id.* (emphasis supplied).

justification to relieve the registered owner of liability, and such is actually the price he pays for in failing to comply with the registration that the law demands. In this regard, the Court is saying that the registered owner is duty bound to transfer ownership.

A strong emphasis should be put on the fact that there was failure to comply with the *registration* that the law demands and requires. It can be clearly inferred from all these cases, that apparently, there was no transfer of ownership, hence, the registered owner, still carries the burden of liability. The proponent would like to hark back to what was earlier stated regarding *registration*. It has been settled, that in this jurisdiction, when the act of *registration* of motor vehicles is spoken of, it does not bring the act of *transferring* the same within its scope. In reiteration, unlike real property and land titles, where registration is the operative act of transferring, the same cannot be said of motor vehicles, being a different type of property all together, where registration is but a precondition for road use.

The Court in acknowledging the law's inequity by reason of 'failure to comply with the requirements of registration,' is suddenly in murky waters. The author thinks in this line due to the fact that, what the law actually demands and requires, is *only registration*, which was earlier clarified not to include transfer, not even a slight contemplation of which as can be gleaned from both the Land Transportation and Traffic Code, as well as the rules of the LTO. The contemplation of inequity is then valid, as in fact the harshness of the law is patent. On the other hand, the shifting of the burden to the registered owner cannot hold water, particularly in cases where owners of the motor vehicles have changed. What the Court has deemed required and demanded, is actually nowhere to be found.

C. A Double-Edged Sword: The Inevitable Effects and Consequences.

Among the parties involved in accidents wherein the *Rule* finds application, only one side is saved—the injured party. The rest are left to fend for themselves; the registered owner, bearing the liability directly and primarily, while the actual owner is obliged to reimburse the registered owner. The law does not allow the registered owner to prove who the actual owner is; the law with its goal in mind does not relieve him directly of the responsibility that it fixes and places upon him as an incident or consequence of registration.¹⁸³ The equity bias for one side leaves the rest in disarray. The reservations of the author are premised on this regard, and on whether, indeed, the intention of the law is to cull so strict a liability, from a latent —

183. SANGCO, *supra* note 60, at 114.

now apparent – deficiency; particularly regarding on the law regarding registration and transfer.

The protection that the law aims to extend to him would become illusory were the registered owner given the opportunity to escape liability by disproving his ownership. If the policy of the law is to be enforced and carried out, the registered owner should not be allowed to prove the contrary to the prejudice of the person injured, that is, to prove that a third person or another has become the owner, so that he may thereby be relieved of the responsibility to the injured person.¹⁸⁴

The reasoning here, again saves to protect only one and leaves the rest of the involved in dire peril of having to prove who the real owner is, likewise in the same action. As provided in *Villanueva*: “[a] registered owner who has already sold or transferred a vehicle has the recourse to a third-party complaint, in the same action brought against him to recover for the damage or injury done, against the vendee or transferee of the vehicle.”¹⁸⁵ This, however, is besides the lack of verity in the Court’s justification – it being premised on an in-existent requirement – embodied in the line, “the inconvenience of the suit is no justification for relieving him of liability; said inconvenience is the price he pays for failure to comply with the registration that the law demands and requires.”¹⁸⁶ The effect then is leaving all but the injured party feeling the aftermath of non-compliance to a non-existent provision.

VI. THE COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

A. A Band-Aid Solution

Still dissatisfied with the compensation to injured parties, the law has supplemented the *Rule* with another instrument called the Compulsory Motor Vehicle Liability Insurance (CMVLI), otherwise known as the Compulsory Third Party Liability Insurance (CTPL). This is a form of casualty insurance,¹⁸⁷ against loss or liability arising from accidents or

184. *Villanueva v. Domingo*, 438 SCRA 485, 491 (2004).

185. *Id.*

186. *Id.* (emphasis supplied).

187. INSURANCE CODE, § 174.

Section 174. Casualty insurance is insurance covering loss or liability arising from accident or mishap, excluding certain types of loss which by law or custom are considered as falling exclusively within the scope of insurance such as fire or marine. It includes, but is not limited to, employer’s liability insurance, public liability insurance, motor vehicle

mishaps, which are not within the scope of other types of insurance, namely marine, fire, suretyship and life. Liability which arises from the commission of a quasi-delict or tort is insurable under the same. Generally, with the compensative purpose of tort law being hampered by difficulties encountered by the aggrieved parties, the legislature has provided for alternative means of recovering. One of the alternative systems of compensation that has been put in motion is the CMVLI.¹⁸⁸ This is in reality a more specific type of casualty insurance, and falls under a separate chapter with its own provisions in the Insurance Code.

B. The Extent and Coverage of the CMVLI

The law is quite explicit on the CMVLI, and even defines the transportation terms relevant therein. Provided here are the parts significant in this study:

Section 373. For purposes of this chapter:

(a) *Motor Vehicle* is any vehicle as defined in section three, paragraph (a) of Republic Act No. 4136, otherwise known as the *Land Transportation and Traffic Code*.

(b) *Passenger* is any fare paying person being transported and conveyed in and by a motor vehicle for transportation of passengers for compensation, including persons expressly authorized by law or by the vehicle’s operator or his agents to ride without fare.

(c) *Third-Party* is any person other than a passenger as defined in this section and shall also exclude a member of the household, or a member of the family within the second degree of consanguinity or affinity, of a motor vehicle owner or land transportation operator, as likewise defined herein, or his employee in respect of death, bodily injury, or damage to property arising out of and in the course of employment. (As amended by Presidential Decree No. 1814 and 1981).

(d) *Owner or motor vehicle owner* means the actual legal owner of a motor vehicle, in whose name such vehicle is duly registered with the Land Transportation Commission (now the LTO);

(e) *Land transportation operator* means the owner or owners of motor vehicles for transportation of passengers for compensation, including school buses;

(f) *Insurance policy or Policy* refers to a contract of insurance against passenger and thirty-party liability for death or bodily injuries and damaged to

liability insurance, plate glass insurance, burglary and theft insurance, personal accident and health insurance as written by non-life insurance companies, and other substantially similar kinds of insurance.

188. AQUINO, *supra* note 13, at 21.

property arising from motor vehicle accidents. (As amended by Presidential Decree No. 1455 and 1814).

The definitions in the Insurance Code are basically identical to those in the Land Transportation and Traffic Code, which should not come as a surprise, as the two are intended to operate concurrently. This concurrence is further verified by the subsequent provisions, making CMVLI a prerequisite for highway operation of any vehicle.

Sec. 374. It shall be unlawful for any land transportation operator or owner of a motor vehicle to operate the same in the public highways unless there is in force in relation thereto a policy of insurance or guaranty in cash or surety bond issued in accordance with the provisions of this chapter to indemnify the death, bodily injury, and/or damage to property of a third-party or passenger, as the case may be, arising from the use thereof. (As amended by Presidential Decree No. 1455 and 1814).

Sec. 376. The Land Transportation Commission (now the LTO) shall not allow the registration or renewal of registration of any motor vehicle without first requiring from the land transportation operator or motor vehicle owner concerned the presentation and filing of a substantiating documentation in a form approved by the Commissioner evidencing that the policy of insurance or guaranty in cash or surety bond required by this chapter is in effect. (As amended by Presidential Decree No. 1455).

Sec. 377. Every land transportation operator and every owner of a motor vehicle shall, before applying for the registration or renewal of registration of any motor vehicle, at his option, either secure an insurance policy or surety bond issued by any insurance company authorized by the Commissioner or make a cash deposit in such amount as herein required as limit of liability for purposes specified in section three hundred seventy-four...¹⁸⁹

Basically, this motor vehicle insurance is a protection coverage that will answer for legal liability for losses and damages for bodily injuries that may be sustained by another rising from the use and operation of a motor vehicle by its owner.¹⁹⁰ The protection used to be obtained on a purely voluntary basis if a motor vehicle owner deems it necessary to meet his needs in relation to any liability that may be caused by his motor vehicle. The law however found it necessary to make it compulsory, in line with its objective of affording relief to the victims of accidents. CMVLI is a response to the growing need of assurance, financial assistance and relief to the injured.

189. INSURANCE CODE, § 374, § 376-77.

190. *Shafer v. Judge, RTC of Olongapo City*, 167 SCRA 386 (1988) (explaining that this no longer includes property damage).

Owners of motor vehicles subject to the CMVLI requirement are those classified as either:

1. Motor vehicle owner, or one who is the actual legal owner of a motor vehicle in whose name such vehicle is registered.
2. Land Transportation operators or one who is the owner of a motor vehicle or vehicles being used for conveying passengers for compensation.¹⁹¹

For owners of private motor vehicles, the coverage includes third party liability for death and bodily injury. For the land transportation operators or public utility vehicles on the other hand, the coverage must also include liability to passengers. The insurer may, however, extend additional risks at its option.

Indeed, the nature of CMVLI is such that it is primarily intended to provide compensation for the death or bodily injuries suffered by innocent third parties or passengers as a result of the negligent operation and use of motor vehicles. The victims and/or their dependents are assured of immediate financial assistance, regardless of the financial capacity of motor vehicle owners. As the Court, speaking through Associate Justice Leonardo A. Quisumbing, explained in *Government Service Insurance System v. Court of Appeals*.¹⁹²

However, although the victim may proceed directly against the insurer for indemnity, the third party liability is only up to the extent of the insurance policy and those required by law. While it is true that where the insurance contract provides for indemnity against liability to third persons, and such persons can directly sue the insurer, the direct liability of the insurer under indemnity contracts against third party liability does not mean that the insurer can be held liable in solidum with the insured and/or the other parties found at fault. For the liability of the insurer is based on contract; that of the insured carrier or vehicle owner is based on tort...¹⁹³

Obviously, the insurer could be held liable only up to the extent of what was provided for by the contract of insurance, in accordance with the CMVLI law.

C. The "No-Fault Indemnity Clause," A Temporary Taste of Relief

191. INSURANCE CODE, § 374.

192. *GSIS v. Court of Appeals*, 308 SCRA 559 (1999), cited in *Tiu and Las Piñas v. Arriessgado et al.*, 437 SCRA 426 (2004).

193. *Id.* at 569-70.

The "No-Fault Indemnity Clause" is stated as:

Sec. 378. Any claim for death or injury to any passenger or third party pursuant to the provisions of this chapter shall be paid without the necessity of proving fault or negligence of any kind; Provided, that for purposes of this section:

- (i) The total indemnity in respect of any person shall not exceed five thousand pesos;
- (ii) The following proofs of loss, when submitted under oath, shall be sufficient evidence to substantiate the claim:
 - (a) Police report of accident; and
 - (b) Death certificate and evidence sufficient to establish the proper payee; or
 - (c) Medical report and evidence of medical or hospital disbursement in respect of which refund is claimed;
- (iii) Claim may be made against one motor vehicle only. In the case of an occupant of a vehicle, claim shall lie against the insurer of the vehicle in which the occupant is riding, mounting or dismounting from. In any other case, claim shall lie against the insurer of the directly offending vehicle. In all cases, the right of the party paying the claim to recover against the owner of the vehicle responsible for the accident shall be maintained.¹⁹⁴

Under the provision abovementioned, the insurance company shall pay any claim for death or bodily injuries sustained by a passenger or third party, without the necessity of proving fault or negligence of any kind subject to certain conditions. If the total indemnity claim exceeds P5,000 and there is controversy with respect thereto, the finding of fault may be availed of by the insurer, only as to the excess. The first P5,000 should be paid without regard to fault, hence the term "no-fault indemnity clause."

That the said vehicle in the provision might not be the one that caused the accident is of no moment, since the law itself provides that the party paying the claim may recover against the owner of the vehicle responsible for the accident. The essence of the "no-fault indemnity" is such that vehicular accident victims or their heirs are afforded immediate compensation, although for a limited amount. It is therefore immaterial whether or not there was fault indeed on the motor vehicle involved.¹⁹⁵ As long as the mounting or dismounting occupant of the vehicle is injured or involved in the mishap, the claim shall lie against the insurer of the vehicle.

¹⁹⁴. INSURANCE CODE, § 378.

¹⁹⁵. *Perla Cia de Seguros v. Ancheta*, 164 SCRA 144 (1988).

In any other case where the victim is not an occupant of a vehicle, the claim shall lie against the insurer of the directly offending vehicle.

This provision of the insurance code should be read together with Article 2186 of the Civil Code, which says,

Art. 2186. Every owner of a motor vehicle shall file with the proper government office a bond executed by a government controlled corporation or office, to answer for damages to third persons. The amount of the bond and other terms shall be fixed by the competent public official.¹⁹⁶

The provision and the CMVLI both seem to serve the same purpose. Also, both utilize similar terminology, such that the Civil Code uses the term 'every owner of a motor vehicle,' while the CMVLI including the 'no-fault indemnity clause uses 'any land transportation operator or owner of a motor vehicle.' A closer look however would show that the Civil Code, with Article 2186, does not provide for a sanction. The CMVLI in the Insurance Code, making it a prerequisite for registration is more stringent and obligatory. It seems to emulate Article 2186, only with more muscle. In the United States, it has been said that, "A no-fault insurance system for the compensation of automobile accident victims will assure victims substantial benefits in a more timely manner, will provide a more efficient accident compensation system, and will reduce court burdens."¹⁹⁷ For all intents and purposes, the insurance law in the Philippines has the right idea in mind, at least as a reparative mechanism. In reality and in most cases though, the indemnity given to the injured party may be severely short of the real costs and expenses that the party will incur.

D. Faultily Supplementing the Registered Owner Rule with the CMVLI

Behind the CMVLI, without a shadow of a doubt, is the noble intention of compensating the injured party. This of course and always is an aim for insurance, but the CMVLI in particular plays a vital role in motor vehicle operation. First, it has been made mandatory by law¹⁹⁸ that if one does not

¹⁹⁶. NEW CIVIL CODE, art. 2186.

¹⁹⁷. PAGE KEETON ET AL., *TORT AND ACCIDENT LAW CASES AND MATERIALS* 894 (1983).

¹⁹⁸. INSURANCE CODE, § 374, § 376, states:

Section 374. It shall be unlawful for any land transportation operator or owner of a motor vehicle to operate the same in the public highways unless there is in force in relation thereto a policy of insurance or guaranty in cash or surety bond issued in accordance with the

procure CMVLI, registration of the motor vehicle will not be permitted; hence a precondition before any vehicle can be used on the road. Second, it has the same aspiration as the *Registered Owner Rule*, which is to give financial assistance to the victim of the accident.

After the discussion on registration, transfer, and the nuances of the *Rule*, the question arises: who benefits from the CMVLI? In every registration, the actual owner obtains the required CMVLI, but the benefit of the CMVLI accrues to the benefit of the registered owner, being the one held liable directly, and him under whose name the certificate of registration resides. Every time a motor vehicle changes hands, without transferring ownership, the CMVLI taken out by the owner is not for himself, but for the operator of record. In a way, it can be said that the CMVLI supplements the purpose of the *Rule*.

The Land Transportation and Traffic Code imposes a duty on motor vehicle owners. Registration is the mandate of the law on one hand, while the CMVLI is a precondition to such registration, making both indispensable if one wishes to use his motor vehicle. Evidently lacking in either however, is the requirement of transfer of ownership, or the certificate of registration to the new owner. While they support each other's cause, they also bring out each other's weakness.

It is very interesting to note though, that the Insurance Code contemplates a possible change in ownership of the motor vehicle and amply provides for such cases.

Sec. 382. In case of change of ownership of a motor vehicle, or change of the engine of an insured vehicle, there shall be no need of issuing a new policy until the next date of registration or renewal of registration of such vehicle, and provided that the insurance company shall agree to continue the policy, such change of ownership or such change of the engine shall be indicated in a corresponding endorsement by the insurance company

provisions of this chapter to indemnify the death, bodily injury, and/or damage to property of a third-party or passenger, as the case may be, arising from the use thereof. (as amended by Presidential Decree No. 1455 and 1814).

Section 376. The Land Transportation Commission shall not allow the registration or renewal of registration of any motor vehicle without first requiring from the land transportation operator or motor vehicle owner concerned the presentation and filing of a substantiating documentation in a form approved by the Commissioner evidencing that the policy of insurance or guaranty in cash or surety bond required by this chapter is in effect. (as amended by Presidential Decree No. 1455).

concerned, and a signed duplicate of such endorsement shall, within a reasonable time, be filed with the Land Transportation Commission.¹⁹⁹

Recognition, however, is one thing; actual change of ownership is another.

VII. INTEGRATION ON THE MATTER OF VICARIOUS AND STRICT LIABILITY

A. The Resultant Scenarios

It was settled earlier that the delineation between the classifications of motor vehicles is obliterated by the *Registered Owner Rule*, as such applies to both in practically the same way, always making primarily and directly liable the owner of record. Some peculiar circumstances have been pinpointed in order to see how the Rule operates in varying degrees.

Jurisprudence on Quasi-delicts

In the case of *St. Mary's Academy v. Carpitanos*,²⁰⁰ an accident resulted in the death of a student, who joined a solicitation campaign for enrollment with other students. The registered owner was held liable, together with the parents of another minor student, who was driving the motor vehicle involved. Allegedly, the minor-driver drove the vehicle negligently, resulting in the mishap.²⁰¹

In another case, the petitioner, also the registered owner, was held liable for the acts of the driver employed by its former lessee who has become the owner of the vehicle, hence the actual owner at that time, but by virtue of an unregistered deed of sale. The petitioner was solidarily liable with the driver for the damages caused by his negligence, in spite of the fact of the sale of the vehicle to another person. The Court ruled that the *Rule* is applicable even if the certificate of registration qualifies the name of the registered owner as lessee.²⁰²

199. INSURANCE CODE, § 382.

200. *St. Mary's Academy v. Capitanos*, 376 SCRA 473 (2002).

201. *Id.* cited in AQUINO, *supra* note 13, at 704-05.

202. *Equitable Leasing Corporation v. Suyom, et al.*, 388 SCRA 445 (2002).

Leased Vehicles

In *BA Finance*, a truck was involved, which was apparently on lease to another corporation when the accident transpired. The registered owner of a motor vehicle, even if not meant to be a public utility, was held directly and primarily liable to third persons, for deaths, damages and injuries that may be resultant thereto. The Court reiterated that the Rule is applicable in the case, even if the vehicle was leased to another.²⁰³

Illegally Acquired Vehicles

The registered owner, however, cannot be held liable in case of a stolen or illegally acquired vehicle. In a case where the vehicle was virtually stolen from the owner's garage, by a person neither authorized nor employed by the owner, the *Rule* is inapplicable. Holding the registered owner liable in this case would be incongruous, as it would be holding him liable for an accident caused by a vehicle of his which was stolen, and driven by the person who stole the same resulting in the mishap.²⁰⁴

The 'Kabit' System

The *Rule* is also applicable in cases wherein the parties involved are engaged in what is commonly known as the *kabit system*. It is an arrangement where someone who has been granted a certificate of public convenience, opens his line of operations to others, and allows them to use the authority of his license.²⁰⁵ The incentive is usually a fee or percentage of the earnings of the *kabit*. The system is not penalized by law; nonetheless, it is invariably recognized as being contrary to public policy, making it void and inexistent under Article 1409²⁰⁶ of the Civil Code.²⁰⁷

203. *BA Finance Corporation v. Court of Appeals*, 215 SCRA 715, 723 (1992).

204. *Duavit v. Court of Appeals*, 173 SCRA 490, 496 (1989).

205. *AQUINO*, *supra* note 13, at 711.

206. NEW CIVIL CODE, art. 1409:

The following contracts are inexistent and void from the beginning:

- (1) Those whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy;
- (2) Those which are absolutely simulated or fictitious;
- (3) Those whose cause or object did not exist at the time of the transaction;
- (4) Those whose object is outside the commerce of men;

In the case of *Lita Enterprises, Inc., v. Intermediate Appellate Court*,²⁰⁸ since the respondents had no franchise to operate taxicabs, they contracted with the petitioner for the use of the latter's certificate of public convenience and paid them a fee in return. To effectuate said agreement, the aforesaid cars were registered in the name of petitioner. Possession, however, remained with the respondents who operated and maintained the same. One of said taxicabs driven by their employee, collided with a motorcycle whose driver died from the head injuries sustained therefrom. A criminal case was eventually filed against the driver while a civil case for damages was instituted against petitioner as registered owner of the taxicab.²⁰⁹ A certificate of public convenience is a special privilege conferred by the government. Abuse of this privilege by the grantees thereof cannot be countenanced.

Consistent with the *kabit system*, being against public policy, the registered owner cannot be allowed to prove the actual owner of the motor vehicle figuring in the accident, for he is held primarily and directly liable. Being in that position, he cannot be permitted to evade liability even if under the *kabit system*, another person is operating the vehicle.²¹⁰

B. The Types of Liabilities

For the purpose of this article, the focus will only be on three types of liabilities, namely: *vicarious liability* as contemplated by Art. 2180;²¹¹ *strict liability*; and, *absolute liability*.

Vicarious Liability

Vicarious liability is said to exist when a person is held liable not only for torts committed by himself, but also for torts committed by others for whom

(5) Those which contemplate an impossible service;

(6) Those where the intention of the parties relative to the principal object of the contract cannot be ascertained;

(7) Those expressly prohibited or declared void by law.

These contracts cannot be ratified. Neither can the right to set up the defense of illegality be waived (emphasis supplied).

207. *Teja Marketing v. Intermediate Appellate Court*, 148 SCRA 347 (1987).

208. *Lita Enterprises v. Intermediate Appellate Court*, 129 SCRA 79 (1984).

209. *Id.* at 81.

210. *AQUINO*, *supra* note 13, at 712.

211. *Infra* note 217.

he is responsible due to the existence of some relationship.²¹² In Anglo-American tort law, it is also known as the *doctrine of imputed negligence*.²¹³ Due to the relationship that pre-exists the tortious act, liability is imputed to the one responsible for the tort.

Ultimately, for this liability to subsist there must be a pre-existing relationship, like an employer to employee or parent to a child. Other relationships with regard to this liability are found under Art. 2180.²¹⁴

Strict Liability

The next type is strict liability. Under this kind of liability, one is made liable when certain facts provided for by law are established, independent of fault,

212. Tamargo v. Court of Appeals, 209 SCRA 518, 523 (1992).

213. *Id.* at 523. See also Cangco v. Manila Railroad Co., 38 Phil. 768 (1918).

214. NEW CIVIL CODE, art. 2180 states:

The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in Article 2176 shall be applicable.

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

negligence or intent of the person involved. Even if the person exercised reasonable care, and regardless of the actor's state of mind, there can still exist strict liability.²¹⁵ The dictionary meaning of the term is liability without fault, or when neither care nor negligence, neither good nor bad faith, neither knowledge nor ignorance will save the defendant.²¹⁶

In our jurisdiction there are four particular circumstances to which such liability pertains: Article 2183²¹⁷ on damage caused by animals; Article 2193²¹⁸ on falling objects; Article 1711²¹⁹ on liability of employers; and, Article 2187²²⁰ on defective products. Worth noting is that in all four instances of strict liability, there is some form of control exercised by the

215. AQUINO, *supra* note 13, at 737.

216. BLACK'S LAW DICTIONARY 1591 (4d ed. 1978).

217. NEW CIVIL CODE, art. 2183 states:

The possessor of an animal or whoever may make use of the same is responsible for the damage which it may cause, although it may escape or be lost. This responsibility shall cease only in case the damage should come from force majeure or from the fault of the person who has suffered damage.

218. *Id.* art. 2193 provides:

The head of a family that lives in a building or a part thereof, is responsible for damages caused by things thrown or falling from the same.

219. *Id.* art. 1711 provides:

Owners of enterprises and other employers are obliged to pay compensation for the death of or injuries to their laborers, workmen, mechanics or other employees even though the event may have been purely accidental or entirely due to a fortuitous cause, if the death or personal injury arose out of and in the course of the employment. The employer is also liable for compensation if the employee contracts any illness or disease caused by such employment or as the result of the nature of the employment. If the mishap was due to the employee's own notorious negligence, or voluntary act, of drunkenness, the employer shall not be liable for compensation. When the employee's lack of due care contributed to his death or injury, the compensation shall be equitably reduced.

220. *Id.* art. 2187 provides:

Manufacturers and processors of foodstuffs, drinks, toilet articles and similar goods shall be liable for death or injuries caused by any noxious or harmful substances used, although no contractual relation exists between them and the consumers.

person or entity made liable over the occurrence of an accident or mishap within its premises.

Absolute Liability

The doctrine of absolute liability is predicated on the theory that the actor, realizing the hazard of his undertaking, nevertheless assumes the risk connected therewith. Notwithstanding the fact that the person is free from all wrong, and has exercised due or extraordinary diligence, he is nonetheless held liable for any violation of another's rights.²²¹

Under the liability without fault, liability does not depend on negligence, but on the actuations of a person which he knows in the normal course of things, may cause loss to another in spite of exercising utmost care. Absolute liability finds application where harm and damage are the necessary consequences of what the defendant is doing, incidental to the activity itself or the manner in which it is conducted. Usually, it applies to extra hazardous activities or occupations.²²²

There seems to be very little distinction, if any, between strict and absolute liability. The definition of absolute liability being connected to the high risks involved, while strict liability, in our jurisdiction at least, has been clearly drawn to specific persons. In the particular provisions of strict liability, the risks are in the same nature contemplated under absolute liability, concomitant to the designation above. In essence, they both imbue a certain matter of exactness without regard to other incidents.

C. The Registered Owner Rule: A Liability in the Guise of Absolute Certainty

An examination of the Supreme Courts decisions, from *Erezo*,²²³ down to *Villanueva*,²²⁴ articulates a distinct impression as to which side the Court has been leaning. Whenever motor vehicle accidents are the issue and there is an invocation of the *Registered Owner Rule*, the liability has been crafted more in the form of a strict or absolute liability.²²⁵ The circumstantial milieu in each of the cases, down the line, have little or no bearing to the liability imposed, as each time, the registered owner is made liable. Indeed, in the cases of

221. GONZALEZ-DECANO, *supra* note 123, at 9.

222. *Id.*

223. *Erezo v. Jepte*, 102 Phil.103 (1957).

224. *Villanueva v. Domingo et al.*, 438 SCRA 485 (2004).

225. AQUINO, *supra* note 13, at 709.

Erezo, BA Finance, Aguilar, Sr. and Villanueva, the Court has never failed to reiterate: "The above policy and application of the law may appear quite harsh and would seem to conflict with truth and justice."²²⁶

As a result of that repeated rationalization, the defense of the registered owner in *Villanueva*, that he was not liable because the person driving the vehicle at the time of the accident was not even an authorized driver of the actual and present owner, was rejected. The Court then explained that whether the driver is authorized or not by the actual owner is irrelevant in determining the liability of the registered owner, as he is always held directly and primarily liable under the law. And thus, the registered owner is held responsible for any accident, injury or death caused by the motor vehicle's operation.²²⁷

Liability is *strict* when neither care nor negligence, neither good nor bad faith, neither knowledge nor ignorance, will save the defendant.²²⁸ This can be seen clearly in the four instances provided for by law,²²⁹ and that in all of them, the party made liable is able and duty-bound to prevent the accident from transpiring. It is *absolute* when notwithstanding the fact that the person is free from all wrong, and has used exercised due or extraordinary diligence, he is nonetheless held liable for any violation of another's rights.²³⁰ The *Rule* imputes liability even if there is no pre-existing relationship between the parties. It points at a designated person even if such person is in no way able and duty-bound to prevent the accident from occurring because its happening is inevitable – regardless of whether or not there was transfer. No further construction of meaning need be made: the *Rule*, as preordained by the Court, is too exacting, even worse than vicarious or strict liability. There is absolutely no connection between the registered owner's failure or negligence to transfer ownership via certificate of registration and the occurrence of the accident involving the actual owner.

226. *Villanueva*, 438 SCRA at 491. See also *Erezo v. Jepte*, 102 SCRA 103 (1957), *BA Finance Corporation v. CA*, 215 SCRA 715 (1992), *Aguilar, Sr. v. Commercial Savings Bank*, 360 SCRA 395 (2001).

227. *Villanueva*, 438 SCRA at 485 cited in *AQUINO*, *supra* note 13, at 711.

228. BLACK'S LAW DICTIONARY 1591 (4d ed. 1978).

229. NEW CIVIL CODE, art. 2183 on damage caused by animals, art. 2193 on falling objects, art. 1711 on liability of employers, & art. 2187 on defective products.

230. GONZALEZ-DECANO, *supra* note 123, at 9.

VIII. A PARADIGM SHIFT: TOWARDS PROTECTION AND EQUITY
FOR ALL

A. *A Just System of Compensation.*

The main purpose of vehicle registration is the easy identification of the owner who can be held responsible for any accident, damage or injury caused by the vehicle. Easy identification prevents inconvenience and prejudice to a third party injured by one who is unknown or unidentified. To allow a registered owner to escape liability by claiming that the driver was not authorized by the new, actual owner results in the public detriment the law seeks to avoid.²³¹

This is the ratio behind the *Villanueva* decision. The obvious inclination to avoid prejudicing the third party is unambiguous. After the ruling, the burden was then shifted to the owners, both registered and actual. This has been the story and reason for years in the field of motor vehicle accident law in this jurisdiction. The compensation method here is attributable only in terms of an absolute liability qualified by the compulsory insurance system. In order to see what has been so far achieved by the decisions, and as to what type of system is utilized in this jurisdiction, viewing the major segments of tort law and other compensation arrangement systems may be helpful. One may classify the major segments as follows:

1. A pure system of negligence law,
2. A system of negligence law supplemented by liability insurance,
3. A pure system of strict liability,
4. *A system of strict liability, supplemented by liability insurance...*²³²

Regardless of the system implemented, the purpose is to achieve justice, or more realistically, to come as close to achieving justice as is humanly possible. To achieve this goal, several objectives have been set as to what should comprise a good compensation system.

First, *a good system of compensation will be equitable, and it will be so from each of three different perspectives—between those who receive its benefits and those who bear the burden of its costs, among different beneficiaries, and among different cost-bearers.*

Second, the system will contribute to the protection, enhancement and wise allocation of society's human and economic resources.

231. *Villanueva v. Domingo et al.*, 438 SCRA 485 (2004).

232. PAGE KEETON, *CASES AND MATERIALS ON THE LAW OF TORTS* 776 (2d ed. 1977) (emphasis supplied).

Third, the system will compensate promptly. It will meet economic burdens as they occur, and it will provide for medical and other rehabilitative service as they are needed.

Fourth, *the system will be reliable. It will give assurance of financial responsibility for the payment of compensation determined to be due, and the determinations of entitlement to benefits and responsibility for costs will be predictable.*

Fifth, *the system will distribute losses rather than impose or leave crushing burdens on individuals.*

Sixth, *the system will be efficient minimizing waste and overhead.*

Seventh, the system will avoid inducements and, if feasible, provide affirmative deterrents to antisocially risky conduct.

Eighth, the system will minimize inducements to exaggeration and fraud and opportunities for profit from such conduct. This is essential to the integrity and equity of the system and to cost control as well.²³³

The fourth type of system closely resembles that which exists in the country. Though the system of negligence law is also present, the strict liability doctrine is vital in this article and has been the direction of Court decisions as presented herein; and the CMVLI is the liability insurance that supplements such liability. In fact, without the CMVLI, there would be no application of strict liability to motor vehicles, as the insurance is a precondition provided for by law in order to register. It would be safe to say then that, presently, the compensation system in this country has been a combination of strict liability and insurance liability.

The present *Rule* is blatantly contrary to the fifth objective, as obviously, holding the registered owner primarily and directly liable is a crushing burden on the individual held liable. The first and fourth objectives have to be considered together, as with the current set-up of always being able to identify the tort-feasor — registered owner in the guise of equity, the reliability as to the real person at fault is momentarily spared. Though recourse can be had as to the actual owner, this goes against the sixth objective of minimizing waste, as particularly, claims will again have to be settled in court, and with the already overflowing dockets, such is definitely a waste if there are other remedies already available.

B. *Reality Bites: The Pragmatic Significance of the Rule.*

233. R. KEETON, *COMPENSATION FOR MEDICAL ACCIDENTS* 121 U.Pa.L.Rev. 590, 603 (1973), cited in KEETON, *id.* at 776-77 (emphasis supplied).

The relevance of the clarifying the *Registered Owner Rule* is of utmost concern in this Study, as the implications are very far reaching. At first glance, there seems to be no cause for alarm. There are several matters rampant in reality that have to be considered in the light of the Study. In line with the discussion on pre-owned motor vehicles, of both private and public character, registration is mandatory if one intends to use his vehicle. Registration, as settled earlier, is not a problem. The rules in the LTO are simple, the only real requirement being the certificate of cover, otherwise known as the CMVLI. But that is as far as the requirements go. *Transfer*, apparently is not made mandatory in any way.

So why do buyers opt not to transfer? Some think forward and figure that since they are going to sell the car in the future anyway, why bother? Others do not transfer since it would entail additional cost, not to mention the time and hassle it would take to go around government agencies to fix the paper trail, as one has to go to the Philippine National Police²³⁴ for clearance, and the original LTO registration agency, as well as the new agency of which the vehicle is to be registered. For cases of public utility vehicles, it is even more tedious, as one has to go through the LTFRB and submit more requirements in order to comply with franchise regulations. There are also instances where one acquires a tax exempt vehicle,²³⁵ and in order to avoid paying the tax due to transferring to a non-exempt entity or individual, no transfer is made to illicitly avail of the benefit. There are of course those who are just plain careless in buying and selling, such that transferring is not even contemplated. Others resort to a blank deed of sale, in contemplation of future transactions with regard to the vehicle. The bottom line, and most important, however, is that no one will transfer ownership when there is no provision of law requiring it. It was already established earlier that though the LTO provides for rules and regulations for ownership transfer, nowhere in the rules of the LTO or even the Land Transportation and Traffic Code, exists a requirement for the same.

Why then should one transfer? The peace of mind of having personal property, something as valuable as a car, in one's name is security for most people. Besides that, it is during transfer of ownership where details

234. The PNP clearance process is a mandatory procedure in cases of ownership transfer. The motor vehicles engine and chassis numbers are stenciled and verified for any encumbrances, or attachments. Currently, there is a computer database of all the information regarding registered vehicles, upon first registration and for every transfer, the vehicles files are updated accordingly.

235. The National Internal Revenue Code of the Philippines, as amended [TAX CODE], § 149.

regarding the vehicle are found out, such as encumbrances, police records, alarms,²³⁶ etc. There are many risks that may attach to a motor vehicle, as it may even turn out to be a 'hot car'.²³⁷ By transferring ownership, the risks are minimized, if not totally eliminated. The most important reason would be in relation to the *Rule*. If you are the seller, it would only be wise to transfer. This is exemplified by the New Zealand transportation guidelines, warning sellers not to hand over the vehicle until the buyer can prove that they have changed the ownership into their name. A rule that is simply in concurrence with the due diligence of a seller to transfer under the law on sales – which holds that “[b]y the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefore a price certain in money or its equivalent,”²³⁸ the registered owner will then be the new and actual owner. For the buyer on the other hand, to verify the papers, and other details of the motor vehicle, and also as an assurance of its legality, transferring will eliminate all doubts.

To support the author's contention, the doctrine held in *First Malayan* is recalled:

In order for a transfer of ownership of a motor vehicle to be valid against third persons, it must be recorded in the Land Transportation Office. For, although valid between the parties, the sale cannot affect third persons who rely on the public registration of the motor vehicle as conclusive evidence of ownership.²³⁹

Also, in the case of *Chao Liong Tan v. Muro & Tan Ban Yong*:

A certificate of registration of a motor vehicle in one's name indeed creates a strong presumption of ownership. For all practical purposes, the person in whose favor it has been issued is virtually the owner thereof unless proved otherwise.²⁴⁰

C. Inspecting Strict Liability and its Correlation to the Present Law

If the problem of fixing responsibility under a system of strict and absolute liability were as uncomplicated as it seems, courts might be tempted to

236. Alarms is a term used in the PNP clearance as to whether the vehicle is illegally acquired, stolen, carnapped, etc.

237. A hot car is a stolen, carnapped, or illegally acquired car.

238. NEW CIVIL CODE, art. 1458.

239. *First Malayan v. Court of Appeals*, 209 SCRA 660, 664 (1992).

240. *Chao Liong Tan v. Muro & Tan Ban Yong*, 228 SCRA 75 (1993).

follow the lead of decisions recognizing strict liability in other circumstances.²⁴¹ Judging by the movement of decisions in this jurisdiction, this certainly is turning out to be the growing tendency.

The negligence system as espoused by the law on torts, or quasi-delicts to be more precise, is where the law allocates the risks and determines whether a party shall be compensated accordingly, when persons simultaneously engaged in the common activity of traversing roads and highways encounter accidents. This is done by invoking familiar doctrines with respect to the *reasonably prudent man*,²⁴² *proximate cause*,²⁴³ *contributory negligence*,²⁴⁴ *last clear chance*,²⁴⁵ the effect of statutory violations and *imminent*

241. *Maloney v. Rath*, 69 Cal.2d 442, 71 Cal. Rptr. 897, 445 P.2d 513 (1968) cited in PAGE KEETON ET AL., TORT AND ACCIDENT LAW CASES AND MATERIALS 886 (1983).

242. *Adams v. Bullock*, 227 N.Y. 208, 125 N.E. 93 (1919).

The prudent man is expected to act according to the circumstances that appear to him at the time of the incident and he is not judged based on his knowledge or experience after the event. The law does not require the standard of one who is fortified with a gift of prophesy or one who is omniscient of the future.

243. *Bataclan v. Medina*, 102 Phil. 181 (1957).

Proximate Cause; that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred. And more comprehensively, 'the proximate legal cause is that acting first and producing the injury, either immediately or by setting other events in motion, all constituting a natural and continuous chain of events, each having a close causal connection with its immediate predecessor, the final event in the chain immediately effecting the injury as natural and probable result of the cause which first acted, under such circumstances that the person responsible for the first event should, as an ordinarily prudent and intelligent person, have reasonable ground to expect at the moment of his act or default that an injury to some person might probably result therefrom.

244. *Rakes v. AG&P*, 7 Phil. 359 (1907). See also *Genobiagon v. Court of Appeals*, 178 SCRA 422 (1989).

Doctrine of contributory negligence; In order to impose such liability upon the defendant, it must appear that its negligence caused the accident. The reason why contributory negligence on the part of the plaintiff is a defense, in this class of cases is that the negligence of the defendant did not alone cause the accident. If nothing but that negligence had existed, the accident would not have happened and, as I understand it in every case in which

peril or emergency.²⁴⁶ A rule of strict liability on the other hand requires its own attendant set of rules to allocate risk and govern compensation among the parties and common road users.²⁴⁷

Emphasizing the legal inequity created by the *Rule*, as premised on the strict and absolute type of liability is brought out in the open in the case of *Maloney v. Rath*:

Unless the *ratio decidendi* of a decision making an abrupt change in the law can point with reasonable certainty to the solution of similar cases, it cannot help but create uncertainty in the area of its concern. In many situations, the problem caused by such uncertainty will not outweigh the considerations that dictate change as the appropriate development in law. To invoke a rule of strict liability on road and highway users, however, without also establishing in substantial detail how the new rule should operate would only

contributory negligence is a defense it is made so because the negligence of the plaintiff is the cause of the accident, to this extent, that if the plaintiff had not been negligent the accident would not have happened, although the defendant was also negligent. In other words, the negligence of the defendant is not alone sufficient to cause the accident. It requires also the negligence of the plaintiff.

245. *Picart v. Smith*, 37 Phil. 809 (1918). See also *Phoenix Construction v. Intermediate Appellate Court*, 148 SCRA 353 (1987).

Doctrine of last clear chance: The doctrine of last clear chance simply means that the negligence of a claimant does not preclude a recovery for the negligence of defendant where it appears that the latter, by exercising reasonable care and prudence, might have avoided injurious consequences to claimant notwithstanding his negligence. Or s the doctrine usually is stated, a person who has the last clear chance or opportunity of avoiding an accident, notwithstanding the negligent acts of his opponent or the negligence of a third person which is imputed to his opponent, is considered in law solely responsible for the consequences of the accident.

246. *Gan v. Court of Appeals*, 165 SCRA 51 (1988).

Emergency Rule: Under that rule, one who suddenly finds himself in a place of danger, and is required to act without time to consider the best means that may be adopted to avoid the impending danger, is not guilty of negligence, if he fails to adopt what subsequently and upon reflection may appear to have been a better method, unless the emergency in which he finds himself is brought about by his own negligence.

247. *Maloney v. Rath*, 69 Cal.2d 442, 71 Cal. Rptr. 897, 445 P.2d 513 (1968), cited in PAGE KEETON ET AL., TORT AND ACCIDENT LAW CASES AND MATERIALS 886-87 (1983).

contribute confusion to the automobile accident problem. Settlement and claims adjustment procedures would become chaotic until the new rules were worked out on a case to case basis, and the hardships of delayed compensation would be seriously intensified. Only the Legislature, if it deems it wise to do so, can avoid such difficulties by enacting a comprehensive plan for the compensation of automobile accident victims in place of or in addition to the law of negligence.²⁴⁸

The adherence to the absoluteness of liability is actually contributory to the greater malady as between the various owners, registered and actual. The rationale of the case has cleared the motes shuddering in the midst of the *Rule's* veracity. Clearly, the rulings of the Court which espouse strict liability are not yet well grounded.

*D. Expanding the Doctrine in Padilla v. Sto. Tomas*²⁴⁹

For the purpose of determining the authenticity and genuineness of the Certificate of Registration (CR) attached to an application for registration of a transferred motor vehicle, the DOTC issued Memorandum Circular No. 123,²⁵⁰ with the following provision on the mandatory requirement of a Certificate of Clearance from the previous agency of registration, thus:

2. In the case where the transferred motor vehicle is being registered in any Agency other than the Agency where the vehicle has been originally registered, a Certificate of Clearance shall first be obtained from such Agency of previous registration: Provided, however, that such clearance shall state among others, the description of the motor vehicle, name of registrant/owner, file number of the Registration Certificate, date of registration, Official Receipt (OR) number of payment and the amount of payment.²⁵¹

According to the Court, from the above, it can be deduced that a Certificate of Clearance or confirmation is mandatory for all transfers of ownership of motor vehicles when done in an agency, or district office as the case may be, other than the issuing agency of such certificate of registration. If such is not followed, the possibility of concealing the true status and identity of the motor vehicle is always there, hence the requirement.²⁵²

²⁴⁸. *Id.*

²⁴⁹. *Padilla v. Sto. Tomas* 243 SCRA 155 (1995).

²⁵⁰. DOTC Memorandum Circular No. 123, Dec. 27, 1989.

²⁵¹. *Id.*

²⁵². *Padilla*, 243 SCRA at 162, cited in RODRIGUEZ, *supra* note 36, at 72.

This ratio enunciated in *Padilla* clearly contemplates a procedure of verification in cases of transfer. The author understands its limited application as being peculiar to the case which already contemplates transfer to begin with. How can the DOTC have a mandatory requirement of a Certificate of Clearance from the previous agency of registration, in one case, and not see the bigger nuances of transfer with regard to any other sale or motor vehicle transaction? The LTO has in fact provided for the procedure for transfer as earlier examined.²⁵³ If they can make registration compulsory,²⁵⁴ make clearance mandatory,²⁵⁵ and require identification in the Motor Vehicle Inspection Report (MVIR) of the current and previous owner,²⁵⁶ why then is transfer of ownership not mandated, when in fact, transfer of ownership is the most vital, as held in *First Malayan*²⁵⁷ and *Chao Liong Tan*?²⁵⁸ For a minimal cost,²⁵⁹ an immensely negligible amount compared to the cost of the motor vehicle, this omission is incomprehensible.

IX. CONCLUSION

The curiosity of the author was stirred upon discovering that one can actually acquire a motor vehicle without transferring ownership in his name. It is burdensome enough to acquire an expensive piece of property, but to leave it registered under the name of the previous owner is incomprehensible. There are in fact people, one out of two as established, who do not bother to transfer ownership. Worst of all, the perpetrator of

²⁵³. Land Transportation Office Website, *supra* note 120.

²⁵⁴. LAND TRANSPORTATION AND TRAFFIC CODE, § 5.

²⁵⁵. *Padilla v. Sto. Tomas* 243 SCRA 155, 162 (1995).

²⁵⁶. Land Transportation Office Website, *Motor Vehicle Inspection Report*, at <http://www.lto.gov.ph/download.html> (last accessed Sep. 5, 2006).

²⁵⁷. *First Malayan v. Court of Appeals*, 209 SCRA 660, 664 (1992).

In order for a transfer of ownership of a motor vehicle to be valid against third persons, it must be recorded in the Land Transportation Office. For, although valid between the parties, the sale cannot affect third persons who rely on the public registration of the motor vehicle as conclusive evidence of ownership.

²⁵⁸. *Chao Liong Tan v. Muro & Tan Ban Yong*, 228 SCRA 75, 80 (1993) (explaining a certificate of registration of a motor vehicle in one's name indeed creates a strong presumption of ownership. For all practical purposes, the person in whose favor it has been issued is virtually the owner thereof unless proved otherwise.).

²⁵⁹. The cost of transferring motor vehicle ownership presently ranges from Php180.00 to Php200.00.

such an omission, is the law itself, or the lack of it. That any man of ordinary prudence would transfer ownership is a presumption that probably only those well versed with the law or those obsessive enough to have everything under their name, will undergo.

The mechanical act may seem nominal, however, coupled with the inferences and deductions that have emerged in this study, the consequences of which are sweeping. The registered owner is held directly and primarily liable so it is imperative that one must transfer ownership to avoid this direct and primary liability upon disposing or selling of vehicles. The law is clear, the backdrop is set. Putting together the pragmatic milieu and the law, the perplexity of the matter is exposed.

In owning a vehicle, and selling the same, subsequently and inevitably, it changes hands through time. After some years and several owners down the road, you are held directly and primarily responsible for an accident involving the same vehicle. You are the designated tort-feasor, as provided for by the *Rule*, regardless of the circumstances, and regardless of your connection to the actual and present owner. This, according to the Court is the price you pay for failure to comply with the registration that the law demands and requires. This without a doubt is an absolute imputation of liability.

The Civil Code under the law on property provides that possession of a motor vehicle creates the presumption of ownership.²⁶⁰ Under sales law, as a seller, you are required to transfer, only by delivering the vehicle to the buyer.²⁶¹ As mandated by the special law on transportation, for the buyer to use the vehicle, only registration is compulsory.²⁶²

Following the principle of statutory construction, *generalia specialibus non derogant*, general legislation must give way to special legislation on the same subject matter.²⁶³ The Land Transportation and Traffic Code will therefore take primacy over the more general statutes. The High Court was correct in saying that the law demanded registration; this is backed by the special law on motor vehicles. However, nowhere in the law or in jurisprudence could

260. NEW CIVIL CODE, art. 541 ("A possessor in the concept of an owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it.")

261. *Id.* art. 1458. See *Gan*, 165 SCRA at 51.

262. LAND TRANSPORTATION AND TRAFFIC CODE, § 5(a) & (b).

263. *Sto. Domingo v. De los Angeles*, 96 SCRA 139 (1980) cited in *JESUS G. LAUREL, STATUTORY CONSTRUCTION CASES AND MATERIALS 150* (1999 rev ed.).

it be established that there exists any requirement to *transfer* the Certificate of Registration (CR) to the new owners name. Jurisprudence has already validated the vital importance of the certificate, as it indeed creates a strong presumption of ownership. For all practical purposes, the person in whose favor it has been issued is virtually the owner thereof unless proved otherwise.²⁶⁴ The Land Transportation and Traffic Code itself provides the authority of the CR, the lawful owner being under whose name appears in such certificate.²⁶⁵ A harmonization on the operation of the *Registered Owner Rule* and laws applicable to which, lead to the conclusion that, in essence, the law is punishing someone who is not at all connected to the accident, and whose negligence, if any, is not at all connected or caused the mishap. What is worse, the same person is being punished for not complying with an in-existent provision.

An examination of foreign rules regarding registration and transfer of motor vehicles proved to be enlightening. It was seen that in the United States, courts have shied away from making ordinary automobile driving subject to strict liability,²⁶⁶ which conveniently our courts have resorted to and has carried over through time. It was also found out that amongst the

264. *Chao Liong Tan*, 228 SCRA at 80.

265. LAND TRANSPORTATION AND TRAFFIC CODE, § 3(f), § 15.

Section 3 (f). "Owner" shall mean the actual legal owner of a motor vehicle, in whose name such vehicle is duly registered with the Land Transportation Commission.

Section 15. *Use and authority of certificate of registration.*

(a) The said certificate shall be preserved and carried in the car by the owner as evidence of the registration of the motor vehicle described therein, and shall be presented with subsequent applications for re-registration, transfer of ownership, or recording of encumbrances: Provided, That in lieu of the certificate of registration a true copy or photostat thereof may be carried in the motor vehicle.

(b) The certificate of registration issued under the provisions of this Act for any motor vehicle shall, while the same is valid and effective and has not been suspended or revoked, be the authority for the operation of such motor vehicle.

(c) No motor vehicle shall be operated on the public highways in a manner which would place it under a classification requiring the payment of a larger registration fee than that stated in the certificate of registration.

266. *Hammontree v. Jenner*, 20 Cal.App.3d 528, 97 Cal. Rptr. 739 cited in *WILLIAM PROSSER ET AL., CASES AND MATERIALS ON TORTS* (6d ed. 1976).

states examined, the Louisiana and New Jersey Department of Motor Vehicles, most closely resemble the LTO rules and regulations. Louisiana is the only civil law state in the US, while New Jersey is where our Public Service Act was derived from. Coincidentally, the rules and regulations of these two states are the most deficient among those examined. But in our jurisdiction, we choose to impute a liability beyond the vicarious and strict nature, one so exacting that no connection need be made as to the party held liable and the accident.

The lack of particularity in the law is already too patent to overlook, and the effects of which are too real to be set aside. The bone of contention and the basis of which have left a negative impression on the effectiveness of our laws, particularly in brashly imputing the liability herein contemplated, an imputation which cannot be given credence.

The *Registered Owner Rule* has made its way through the decisions of the Court practically unfazed. It has been articulated, reiterated, invoked, and cited, has always remained exacting, but with questionable accuracy.

The primordial concern will always be to give justice and equity to all concerned. The law should always be construed in that regard, and the Courts should always lean toward the equitable. As has been shown, however, the *Registered Owner Rule* does not bode too well for such noble intentions.