

The Prejudice of the Prejudicial Question: Examining and Re-Examining the Doctrine of the Prejudicial Question

Vera M. de Guzman*

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* '06 J.D., Ateneo de Manila University School of Law, with honors; '03 A.B., Ateneo de Manila University. She was a Member of the Board of Editors (2004–2007) and Executive Committee (2006–2007), *Ateneo Law Journal*. She was the Lead Editor for Vol. 50, Issue no. 4 and Vol. 51, Issue no. 3. The author's previous work published in the *Journal* include: *A Play with Words: B.P. Blg. 880 and The Calibrated Pre-Emptive Response Policy*, 51 *ATENEO L.J.* 185 (2006). She also co-authored *Mediation: A Favorable Resolution to Family Dispute Settlement*, 51 *ATENEO L.J.* 762 (2006) and *The Legal Concept of Terrorism under International Law and Its Application to Philippine Municipal Law*, 51 *ATENEO L.J.* 823 (2007). This article is an abridged version of the author's Juris Doctor Thesis on file with the Ateneo de Manila Professional Schools Library.

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I. INTRODUCTION

The 2000 Revised Rules of Criminal Procedure¹ defines a prejudicial question by enumerating its elements: (1) that there is an issue (in a previously instituted civil action) similar or intimately related to the issue (in a subsequent criminal action); and (2) the resolution of the issue determines whether or not the criminal action may proceed.² This remains faithful to the definition stated in the Civil Code of the Philippines, which was drafted approximately 50 years before the 2000 Revised Rules of Criminal Procedure. The Civil Code states that a prejudicial question *must be decided before any criminal prosecution may be instituted or may proceed* and shall be governed by the rules which the Supreme Court shall promulgate.³

Jurisprudence, on the other hand, has been using the doctrine as early as 26 February 1920, in the case of *Berbari v. Concepcion*,⁴ and defines it as that which is “[u]nderstood in law to be that which *must precede the criminal action*, that which requires a decision before a final judgment is rendered in the principal action with which said question is closely connected.”⁵

It appears from the definition provided in the 2000 Revised Rules of Criminal Procedure that there is a very technical description to the doctrine — there has to be a civil case that is filed previous to the criminal case. Nevertheless, while the Rules are defined this way, there are various instances in jurisprudence where the doctrine has been used in situations not involving civil-criminal cases. This can also be gleaned from the definition in *Berbari*, which only states that there is a *question posed before the criminal case may be decided*. It does not state that this question should only be posed in a civil case. Instead, it only requires that the question must first be answered in another case before the criminal case may be decided. The previous question does *not necessarily concern a civil case*. This implication can

1. 2000 REVISED RULES OF CRIMINAL PROCEDURE.

2. *Id.* rule III, § 7.

3. An Act to Ordain and Institute the Civil Code of the Philippines [NEW CIVIL CODE], Republic Act No. 386 (1950). Article 36 provides:

Prejudicial questions, which *must be decided before any criminal prosecution may be instituted or may proceed*, shall be governed by the rules of court which the Supreme Court shall promulgate and which shall not be in conflict with the provisions of this Code (emphasis supplied).

4. *Berbari v. Concepcion*, 40 Phil. 837 (1920).

5. *Id.* at 839 (emphasis supplied).

also be found in the Civil Code, which states that such prejudicial question is a question which must be decided before a criminal case may proceed.⁶

It is thus quite obvious that the Rules have a very stringent definition, and yet, the strict wordings have only been used in one case — *Torres v. Garchitorena*.⁷ On the other hand, we have jurisprudence, comprised of some 250 to 260 cases, which touch upon and use the doctrine. It is worth noting that these cases do not concern themselves with civil and criminal cases alone. They also involve other combinations of cases, such as civil-civil, criminal-criminal, civil-administrative, criminal-administrative, labor, and election cases.

The doctrine has been used in our jurisdiction since the 1920s. It was only during the 1960s, however, in the 1964 Rules of Court, when such doctrine was codified. While it has already been codified, the codified version of the doctrine of the prejudicial question fails to provide an exhaustive guideline and framework under which the same may be used. Also, as there are no clear-cut guidelines under which the Supreme Court applies the doctrine, the present status of the doctrine of the prejudicial question simply breeds and breathes in confusion. On one hand, we have the very strict guidelines in the Rules of Court and, on the other, the very flexible application of the doctrine in cases decided by the Supreme Court: how can these then be reconciled?

Thus, the aim of this article is to bring together all the cases wherein the Court⁸ used the doctrine or where the parties raised the doctrine as a defense, in order to deduce from them a framework or guideline, if such a framework exists, under which the doctrine of the prejudicial question operates. In addition, the title of this article refers to the *examination* and *re-examination* of the doctrine of the prejudicial question as it seeks to examine the doctrine through jurisprudence, and to re-examine the same, in order to be able to deduce a framework by which it is to be applied.

As the Rules of Court provide for very strict yet non-exhaustive guidelines in applying the doctrine and as jurisprudence provide for very flexible examples, how then do we apply the doctrine? When then, do we apply the doctrine?

6. NEW CIVIL CODE, art. 36.

7. *Torres v. Garchitorena*, 394 SCRA 494 (2002).

8. Note that in the succeeding discussions, "court" shall refer to lower courts while "Court" shall refer to the Supreme Court.

The questions then that seek to be answered are as follows:

1. As there are other possible combinations of cases that may use the doctrine, other than civil-criminal, such as civil-civil, criminal-criminal, civil-administrative, criminal-administrative, labor, and election cases, can the doctrine be used successfully in these instances?

2. In the civil-criminal combination, does the civil case strictly have to be filed before the criminal case to warrant the suspension of the latter? This is in consonance with the wordings of the 2000 Revised Rules of Criminal Procedure.⁹ Do we follow the wording strictly or are there exceptions?

3. Ultimately, is there a framework that can be deduced from jurisprudence as to the use of the doctrine of the prejudicial question?

4. What purpose does the doctrine serve in this jurisdiction? What essential and salient features does it have that makes it indispensable? Or if it does not have any such essential and salient features, can it ultimately be dispensed with in our jurisdiction?

II. THE DOCTRINE OF THE PREJUDICIAL QUESTION: GENERAL IDEA AND HISTORY

Jurisprudence guides us as to the concept and history of the prejudicial question.

Barbari v. Concepcion was decided in 26 February 1920. This was the first decided case in our jurisdiction to have used the doctrine of the prejudicial question. This case defined a prejudicial question as a concept understood in law to be "that which *must precede the criminal action* that which requires a decision before a final judgment is rendered in the principal action with which said question is closely connected."¹⁰ Despite this, *Barbari* provides caution that "Not all previous questions are prejudicial, although all prejudicial questions are necessarily previous."¹¹

It has also been defined as the question arising from a case the resolution of which is a logical antecedent to the issue involved in said case and the cognizance of which pertains to another tribunal.¹² It is also a question based

9. 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 7.

10. *Barbari v. Concepcion*, 40 Phil. 837, 839 (1920) (emphasis supplied); *see also*, *Brito-Sy v. Malate Taxicab & Garage, Inc.*, 102 Phil. 482 (1957).

11. *Barbari*, 40 Phil. at 839 (emphasis supplied).

12. *People v. Aragon*, 94 Phil. 357 (1954).

on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused.¹³

Berbari explained that the doctrine was carried over to our jurisdiction from Spain, through the Spanish Law of Procedure of 1882, when the need for the application of said doctrine arose. The Court stated that:

The compilation of the laws of criminal procedure of Spain as amended in 1880 did not have any provision concerning questions requiring judicial decision before the institution of criminal prosecution. *Wherefore, in order to decide said questions in case they are raised before the courts of these Islands, it would be necessary to look for the Law of Criminal Procedure of 1882, which has repealed the former procedural laws and is the only law in force in Spain in 1884 when the Penal Code was made applicable to these Islands.* Said law of 1882 is clothed, therefore, of the character of supplementary law containing respectable doctrine, inasmuch as there is no law in this country on said prejudicial questions.¹⁴

The case of *Merced v. Hon. Diez, et al.*¹⁵ further explained that the requirement of an issue *cognizable by another court* is necessary to the existence of a prejudicial question, as Spanish jurisprudence, from which the doctrine of the prejudicial question was derived, requires such. This is because Spanish courts are divided according to their jurisdictions, some being exclusively of civil jurisdiction, others of criminal jurisdiction.¹⁶ This is not the case, however, with Philippine courts. Philippine courts have both civil and criminal jurisdiction. Thus, as applied to Philippine courts, when two cases are pending before the same court, the court may be exercising

13. *Benitez v. Concepcion*, 2 SCRA 178 (1961).

14. *Berbari*, 40 Phil. at 841 (emphasis supplied).

15. *Merced v. Hon. Diez, et al.*, 109 Phil. 155 (1960).

16. *Id.* at 160-61.

Spanish jurisprudence, from which the principle of prejudicial question has been taken, requires that the essential element determinative of the criminal action must be cognizable by another court. This requirement of a different court is demanded in Spanish jurisprudence because Spanish courts are divided according to their jurisdictions, some courts being exclusively of civil jurisdiction, others of criminal jurisdiction. *In the Philippines where our courts are vested with both civil and criminal jurisdiction, the principle of prejudicial question is to be applied even if there is only one court before which the civil action and the criminal action are to be litigated. But in this case the court when exercising its jurisdiction over the civil action for the annulment of marriage is considered as a court distinct and different from itself when trying the criminal action for bigamy* (emphasis supplied).

different jurisdictions over these cases, for instance, jurisdiction over a civil case for annulment of marriage on the one hand and criminal jurisdiction over a complaint for bigamy on the other. Hence, the doctrine is applicable.¹⁷

This definition later on evolved to state the elements constitutive of a prejudicial question: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed. This enumeration is now *codified* and *modified* in the 2000 Revised Rules of Criminal Procedure, which provides that:

- (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and
- (b) the resolution of such issue determines whether or not the criminal action may proceed.¹⁸

This is as much as can be found in the history of the prejudicial question. It is a Spanish doctrine brought to our territory by reason of our being a colony of Spain. It was insinuated in the Spanish Rules of Court of 1882.¹⁹ In addition, *Berbari* was the first documented case to have used the doctrine in deciding the issues of the case.

The doctrine has been used in this jurisdiction so as to avoid conflicting court decisions, to avoid unnecessary litigation, and to address different rights that are at stake in different proceedings. For instance, in civil cases, what is involved is money or property, whereas in criminal cases, it is life, liberty, as well as money or property.²⁰ Hence, when a prejudicial question exists in a

17. *See, Merced*, 109 Phil. at 160-61. The distinction between prejudicial question in Spanish jurisprudence and Philippine jurisprudence is that:

Spanish jurisprudence, from which the principle of prejudicial question has been taken, requires that the essential element determinative of the criminal action must be cognizable by another court. This requirement of a different court is demanded in Spanish jurisprudence because Spanish courts are divided according to their jurisdiction, some courts being exclusively of civil jurisdiction, other of criminal jurisdiction. In the Philippines, where courts are in both civil and criminal jurisdiction, the principle of prejudicial question is to be applied even if there is only one court before which the civil action and the criminal action are to be litigated.

18. 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 7.

19. *See, Antonio Bautista, Procedure and Pre-emption in Adjudication: The Doctrine of Prejudicial Questions*, 78 PHIL. L.J. 1 (2003) [hereinafter Bautista].

20. *See generally, id.*

civil case, it is important to resolve such issue, as it may be determinative of the guilt of the accused in the criminal case and may result in avoiding the subjection of the accused to a restraint on his life and liberty, a punishment more difficult and graver.

III. THROUGH THE YEARS — THE RULES OF COURT AND THE PREJUDICIAL QUESTION

The rules on criminal procedure were originally governed by:

1. The Spanish Law of Criminal Procedure (*Ley de Enjuiciamiento Criminal*).
2. General Orders No. 58, dated 23 April 1900.
3. Amendatory Acts passed by the Philippine Commission (Act No. 194).
4. Philippine Bill of 1902, Jones Law of 1916, Tydings-McDuffie Law and the Constitution of the Philippines.²¹

These were all incorporated in the 1940 Rules of Court. Thereafter, the Rules were amended in 1964, 1985, 1988, and 2000.

Relative to the doctrine of the prejudicial question, the Rules of Court have been amended in 1964, 1988, and 2000:

The 1964 Rules provide:

A petition for the suspension of the criminal action based upon the pendency of a prejudicial question in a civil case may only be presented by any party during the trial of the criminal action.²²

The 1985 and 1988 Rules state, respectively:

A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the fiscal or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.²³

21. OSCAR M. HERRERA, TREATISE ON HISTORICAL DEVELOPMENTS AND HIGHLIGHTS OF AMENDMENTS OF RULES ON CRIMINAL PROCEDURE 1-2 (2001) [hereinafter HERRERA].

22. 1964 RULES OF CRIMINAL PROCEDURE, rule 111, § 5 (superseded 1985).

23. 1985 RULES OF CRIMINAL PROCEDURE, rule 111, § 6 (superseded 1988).

The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.²⁴

The 2000 Rules now provide:

A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.²⁵

The elements of a prejudicial question are (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed.²⁶

A significant revision in the 1964 Rules by the 1988 and 2000 Rules is that the petition for suspension may be filed with the fiscal, even when the case is still in the preliminary investigation stage or in court, before the prosecution rests its case. In the 1964 Rules, the petition for suspension may only be filed in court during the trial of the criminal case.

Section 7 of the 2000 Revised Rules of Criminal Procedure is Amendment 8 in the revision of the Rules in 2000. There was a clamor to delineate the use of the doctrine and the doctrine itself as it was much prone to abuse.

Solicitor General Galvez sought a clearer definition of a prejudicial question. He said that the determination of its existence should be based on whether the issue on the civil case can be decided by the criminal court.²⁷

Justice Tuquero suggested the removal of the power of the fiscals to determine the existence of the prejudicial question that would suspend the criminal proceedings. He noted that this has been abused in the past by the prosecutors. The courts should only be the one to determine the existence of a prejudicial question. Justice Feria said that this proposal will not only

24. 1988 RULES OF CRIMINAL PROCEDURE, rule 111, § 5 (superseded 2000).

25. 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 6.

26. *Id.* § 7.

27. Revised Rules of Court of the Philippines, Minutes of the Meeting of the Committee on the Revision of the Rules of Court (May 17, 1999) [hereinafter Minutes of the Meeting].

reverse Francisco but would also affect the institution of a criminal case with the Fiscal provided in rule 110.²⁸

Hence, the present changes. These changes now limited a prejudicial question to a "previously instituted civil action."²⁹ This means that before the provision on the prejudicial question comes into play, the civil action must have already been previously instituted or filed prior to the filing of the criminal case.³⁰

It was opined that the strict wording has been suggested and incorporated into the Rules to avoid perceived abuse by litigants who may file a case only to prevent the criminal case from proceeding.³¹ This is supported by the statement made by Solicitor General Galvez during the meeting of the Committee on the Revision of the Rules of Court, in which case Justice Feria made the suggestion of adding the words "previously instituted" before "civil action" and "subsequent" before "criminal action."

Solicitor General Galvez explicated that his proposal of delineating the nature of a prejudicial question will discourage the willful filing by the accused of a civil case in order to delay or suspend the criminal case. Justice Feria noted that the criterion of the Solicitor General is too restrictive. He opined that the prior filing of the civil case should be taken as good faith on the part of the accused. As a safeguard against abuses, he then suggested to amend section 5 by adding "PREVIOUSLY INSTITUTED" before "civil action" and "SUBSEQUENT" before "criminal action." This modification, Justice Feria declared, would also achieve the purpose of the Solicitor General. The Committee approved Justice Feria's suggestion. The amendments were ordered inserted into the Approved Draft.³²

IV. CASE SURVEY (1920-2006)

This part will concern itself with cases from 1920-2006, from 26 February 1920 up to 17 March 2006 to be exact, which made use of and discussed the doctrine of the prejudicial question.

The cases shall be grouped into smaller subdivisions depending on the combinations of the types of cases that are involved. These subdivisions or

28. *Id.*

29. See, HERRERA, *supra* note 21, at 50 (emphasis supplied).

30. See, FORTUNATO GUPIT, SIGNIFICANT REVISIONS IN CRIMINAL PROCEDURE 27 (2003).

31. *Id.* at 27-28.

32. Minutes of the Meeting, *supra* note 26 (Oct. 25, 1999).

combinations are: (a) civil-criminal, which shall be subdivided further as to which case precedes the other, hence (1) civil-criminal and (2) criminal-civil, and a special subdivision dealing with bigamy cases is provided under (3); (b) civil-civil; (c) criminal-criminal; (d) civil-administrative; (e) criminal-administrative; (f) labor cases; and (g) election cases.

A. Civil-Criminal Cases Combination

This subdivision is further subdivided into civil-criminal and criminal-civil combination, if only to test the strict wordings of the 2000 Revised Rules of Criminal Procedure.³³ The latter states that the civil case must precede the criminal case before the latter may be suspended. Where the civil case is filed belatedly, however, are there instances that warrant the suspension of the criminal case, serving as an exception to the strict wordings of the Rules?

1. Civil-Criminal Cases Combination

Under this subsection, the civil case is filed previous to the criminal case. The earliest case under this category is the earliest case that delved into the doctrine of the prejudicial question — *Berbari v. Concepcion*.³⁴

This involved a civil and criminal case. Berbari entered into an agreement with Chicote to establish a corporation. Chicote should have, soon after, given the former half of the capital.

Berbari thereafter, instituted a civil case against Chicote for recovery of a certain sum of money that the latter owes to him personally. Chicote refused to comply with this. Instead, he filed a case of *estafa* against Berbari for allegedly embezzling money that, pursuant to their agreement, should have been used as part of the capital of the business. Berbari defended himself in the *estafa* case alleging that he used said money in compensation for the amount Chicote owed him.

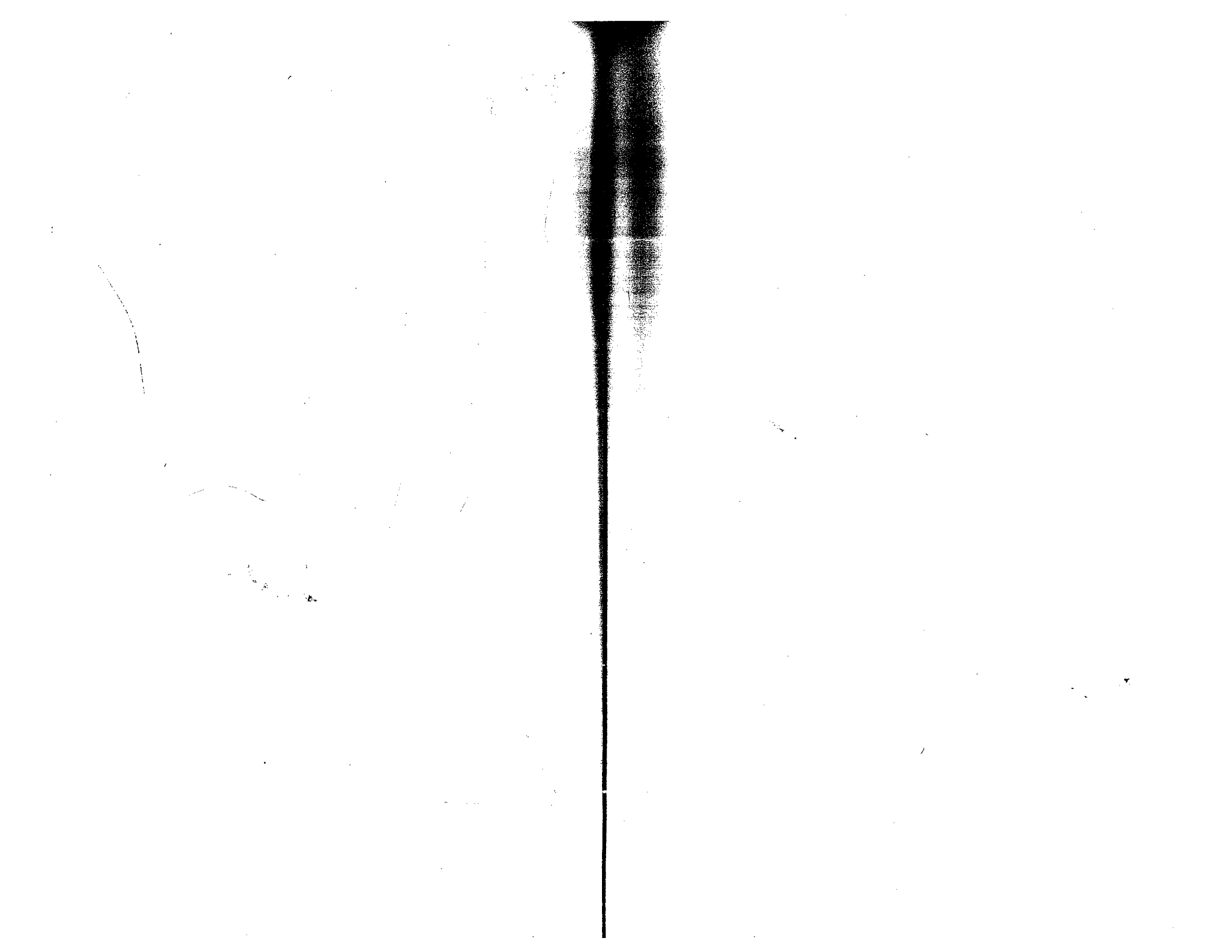
Berbari then requested the Court hearing the criminal case to suspend the criminal proceedings as the issue in the civil case constituted a prejudicial question necessary for the determination of guilt in the criminal case.

The Supreme Court believed otherwise saying that the issue and decision in the civil case was not prejudicial to the decision in the criminal case, if at all, it was "the criminal case which [wa]s prejudicial to the civil case."³⁵ The Court stated, in addition, that it was not even a question which

33. 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 7.

34. *Berbari v. Concepcion*, 40 Phil. 837 (1920).

35. *Id.* at 840.



2. Criminal-Civil Cases Combination

Under this subsection, the criminal case is filed previous to the civil case. The first case to deal with this combination is the case of *Ocampo and dela Cruz v. Cochingyan*,⁴¹ which made an interesting pronouncement. This case concerned a criminal case for violations of the Copyright Law. Thereafter, a civil case was filed for the annulment of the copyright, which was allegedly copied, on the grounds of fraud. Petitioners prayed for the suspension of the criminal action on the grounds of the existence of a prejudicial question in the civil case. The Court denied their petition and stated that, if at all, it is the civil case that should be suspended and not the criminal case, as until the copyrights are cancelled, they presumed to have been duly granted and issued. This is quite different from the general pronouncement that the criminal case should be suspended due to the existence of the civil case; and what is more intriguing is that the Court says that this is the general rule — the suspension of the civil case.⁴²

*Torres v. Garchitorena*⁴³ is an important case as it is the first and only one to have incorporated and used in its decision the 2000 amendment to the Rules of Criminal Procedure.

petitioner's innocence in the criminal case. That second marriage was contracted in good faith is immaterial in the civil action. It is material only in the criminal case to show lack of criminal intent.

41. *Ocampo and dela Cruz v. Cochingyan*, 96 Phil. 459 (1955).

42. *Id.* at 460-61.

The action for cancellation of copyrights brought by the petitioners on the ground of fraud, deceit and misrepresentation allegedly resorted to by, or imputed to, the respondent Jose Cochingyan to secure the issuance of the copyrights is independent from the criminal prosecution for infringement of copyrights charged against the petitioner and does not constitute and is not a prejudicial action which must be decided first before the trial of the defendants in the criminal cases may be held, as the determination of the question raised in the civil action is not necessarily prejudicial. Until cancelled the copyrights are presumed to have been duly granted and issued. *As a general rule, a criminal case should first be decided; and if the trial or hearing of any case is to be suspended on the ground that there is a prejudicial question which must first be decided, it is the hearing of the civil and not, the criminal which should be suspended — the latter must take precedence over the former* (emphasis supplied).

43. *Torres v. Garchitorena*, 394 SCRA 494 (2002).

This case concerned a criminal case for violation of Republic Act No. 3019⁴⁴ against Mayor Dionisio Torres of Noveleta, Cavite for taking advantage of his official function and, through evident bad faith, causing the relocation of squatters in an area allegedly owned by Susana Realty, Inc. (SRI).⁴⁵ Thereafter, the Republic, through the Solicitor General, filed a civil case against SRI for reversion of property.⁴⁶

Through this, petitioners moved for a suspension of the criminal case as the civil case was constitutive of a prejudicial question in the criminal case filed against them. The Court believed otherwise as, in the 2000 amendment, the civil case must have been filed ahead of the criminal case. This is not applicable in this case as the criminal case was filed before the civil case.

44. Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (1960).

45. *Torres*, 394 SCRA at 498. The allegation in the complaint stated:

[T]aking advantage of their official functions and through evident bad faith and gross inexcusable negligence, did then and there wilfully, unlawfully and feloniously cause the filling up of a submerged portion of a lot owned by and registered in the name of Susana Realty Corp. without first verifying the existence of its owner and despite showing proof of its ownership, with the intention to reclaim it for the municipality's housing program to the damage and prejudice of the registered owner as squatters now occupy the area.

The antecedent facts of said complaint were as follows:

On October 10, 1997, Mayor Dionisio Torres of Noveleta, Cavite caused the leveling and reclamation of the submerged portion of SRI's property for the relocation of displaced squatters from Tirona, Cavite who were living along river banks and esteros. Domingo Fernandez protested to the Mayor informing him that his employer [Susana Realty, Inc. or SRI] owned the property being levelled and reclaimed at the instance of the Mayor.

Id. at 496.

46. *Id.* at 498.

[T]he Republic filed a complaint against SRI and the Register of Deeds of Cavite for the reversion of the property covered by Transfer Certificate of Title Nos. 5344 and 5345 issued in favor of SRI. The case was docketed as Civil Case No. 716c. The Republic alleged *inter alia* that said property had been ascertained by the Department of Environment and Natural Resources (DENR) as part of the Manila Bay per Classification Map 2736 dated February 21, 1972. Hence, it formed part of the inalienable mass of the public domain owned by the State.

Under the amendment, a prejudicial question is understood in law as that which must precede the criminal action and which requires a decision before a final judgment can be rendered in the criminal action with which said question is closely connected. *The civil action must be instituted prior to the institution of the criminal action.* In this case, the Information was filed with the Sandiganbayan ahead of the complaint in Civil Case No. 7160 filed by the State with the RTC in Civil Case No. 7160. Thus, no prejudicial question exists.⁴⁷

The Court held that, notwithstanding this point, the issue in the civil case was not determinative of the guilt of the accused in the civil case:

*Besides, a final judgment of the RTC in Civil Case No. 7160 declaring the property as foreshore land and hence, inalienable, is not determinative of the guilt or innocence of the petitioners in the criminal case. It bears stressing that unless and until declared null and void by a court of competent jurisdiction in an appropriate action therefor, the titles of SRI over the subject property are valid. SRI is entitled to the possession of the properties covered by said titles. It cannot be illegally deprived of its possession of the property by petitioners in the guise of a reclamation until final judgment is rendered declaring the property covered by said titles as foreshore land.*⁴⁸

3. Bigamy/Concubinage Cases

This section will concern itself with bigamy cases where the doctrine of a prejudicial question is raised as a defense.

The first case involving such a situation is *People v. Aragon*.⁴⁹ A criminal case was filed against Abeló Aragon for having contracted a second marriage with Efigenia C. Palomer in 1947, while his previous valid marriage with Martina Godinez was still subsisting and had not been dissolved. Thereafter, Efigenia C. Palomer filed a civil case for annulment of marriage in the same court against Aragon, alleging that the latter, by means of force, threats, and intimidation, forced her to marry him. Aragon prayed that the criminal case against him be provisionally dismissed on the ground that the civil action poses a prejudicial question to the criminal case.

The Court, however, denied his petition, stating that a decision on the annulment of the marriage will not determine his guilt in the criminal case, as the civil case *did not allege nor state that he was the victim of the force, threat or intimidation.* The Court explained, "*This civil action does not decide that*

47. *Id.* at 509 (emphasis supplied).

48. *Id.* (emphasis supplied).

49. *People v. Aragon*, 94 Phil. 357 (1954).

defendant-appellant did not enter the marriage against his will and consent[;] ... the complaint does not allege that he was the victim of force and intimidation in the second marriage; it does not determine the existence of any of the elements of ... bigamy."⁵⁰ Hence, it was not his consent which was vitiated. Aragon cannot use his own malfeasance to defend himself in a criminal action against him.⁵¹

50. *Id.* at 360 (emphasis supplied). The Court further explains:

There is no question that if the allegations of the complaint on time the marriage contracted by defendant-appellant with Efigenia C. Palomer is illegal and void (Section 29, Act 3613 otherwise known as The Marriage Law). Its nullity, however, is no defense to the criminal action for bigamy filed against him. The supposed use of force and intimidation against the woman, Palomer, even if it were true, is not a bar or defense to said action. Palomer, were she the one charged with bigamy, could perhaps raise said force or intimidation as a defense, because she may not be considered as having freely and voluntarily committed the act if she was forced to the marriage by intimidation. But not the other party, who used the force or intimidation. The latter may not use his own malfeasance to defeat the action based on his criminal act.

It follows that the pendency of the civil action for the annulment of the marriage filed by Efigenia C. Palomer, is absolutely immaterial to the criminal action filed against defendant-appellant. This civil action does not decide that defendant-appellant did not enter the marriage against his will and consent, because the complaint does not allege that he was the victim of force and intimidation in the second marriage; it does not determine the existence of any of the elements of the charge of bigamy. A decision thereon is not essential to the determination of the criminal charge. It is, therefore, not a prejudicial question.

Id.

51. *Id.* at 359 (citing *Encyclopedia Juridica Española* 228) ("*[q]uestion prejudicial, es la que surge en un pleito o causa, cuya resolucio[n] sea antecedente logico de la cuestio[n] objeto del pleito o causa y cuyo conocimiento corresponda a los Tribunales de otro orden o jurisdicci[on], which means that a [p]rejudicial question has been defined to be that which arises in a case, the resolution of which (question) is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal.*"). The Court, thus, held:

The prejudicial question must be determinative of the case before the court; this is its first element. Jurisdiction to try said question must be lodged in another tribunal; this is the second element. In an action for bigamy, for example, if the accused claims that the first marriage is null and void and the right to decide such validity is vested in another tribunal, the civil action for nullity must first be decided before the

The case of *Merced v. Diez*,⁵² while similar to the case of *Aragon*, differed in one point. In this case, the Court allowed the suspension of the criminal case of bigamy, due to the existence of a previously instituted civil case. It must be recalled that in *Aragon*, it was Aragon's second wife who alleged vitiation of consent. In *Merced*, it was Merced himself, the one against whom the bigamy case was filed, who alleged vitiation of consent.

The defendant in the bigamy case, Merced, alleging that force, threat, and intimidation were employed against him to obtain his consent to his second marriage with Elizabeth Cesar, filed this civil case for annulment of the marriage.⁵³ The issue in this case is precisely whether an action to annul the second marriage is a prejudicial question in a prosecution for bigamy. The Court held in the affirmative. "In order that a person may be held guilty of the crime of bigamy, the second and subsequent marriage must have all the essential elements of a valid marriage, were it not for the subsistence of the first marriage."⁵⁴ And as one of the elements of a valid marriage is consent, which is freely and voluntarily given, the absence of such warrants an illegal or void marriage. Hence, if the first marriage is void due to vitiated consent, then the case for bigamy will not and cannot prosper.⁵⁵

action for bigamy can proceed; hence, the validity of the first marriage is a prejudicial question.

Id. at 359-60.

52. *Merced v. Diez*, 109 Phil. 155 (1960).

53. This is different from *Aragon*, as it was the second wife of Aragon who alleged that force, intimidation, and threat was employed against her to be able to secure her consent. This instance in *Merced* is the very instance which the Court speaks of in *Aragon* that it has to be the victim of the threat that should seek and succeed in the request for the suspension of the criminal case of bigamy, not the malefactor who seeks refuge under his malfeasance.

54. *Merced*, 109 Phil. at 159 (1960).

55. *Id.* at 160.

One of the essential elements of a valid marriage is that the consent thereto of the contracting parties must be freely and voluntarily given. Without the element of consent a marriage would be illegal and void (Section 29, Act 3613 otherwise known as The Marriage Law). But the question of invalidity can not ordinarily be decided in the criminal action for bigamy but in a civil action for annulment. Since the validity of the second marriage, subject of the action for bigamy, cannot be determined in the criminal case and since prosecution for bigamy does not lie unless the elements of the second marriage appear to exist, it is necessary that a decision in a civil action to the effect that the second marriage contains all the essentials of a marriage must first be secured.

B. Civil-Civil Cases Combination

*Mabale v. Apalisok*⁵⁶ concerned a civil case in relation to an amicable settlement as to the ownership of a parcel of land. Mabale, however, was held in contempt in the civil case as he refused to vacate the parcel of land after signing the amicable settlement in favor of the respondents. Mabale alleged that said allegation of contempt was a prejudicial question in the civil case. The Court however, stated in clear terms that petitioners' contention that the "contempt proceeding in the Civil Case No. 2711 should be suspended, [wa]s not correct"⁵⁷ as "the supposed contempt [wa]s not criminal in nature. It [wa]s civil in nature because it consist[ed] in the failure to do so something for the benefit of a party."⁵⁸

In *Tamin v. Court of Appeals*,⁵⁹ the Court stated that, technically speaking, a prejudicial question shall not arise in actions which are both civil in nature, such as in the case at bar; however, substantively speaking, the cadastral case was prejudicial to the ejectment case. As peculiar circumstances obtained in the case at bar, as the cadastral proceeding (civil) would ultimately determine the rightful owners of the land and whether or not the case for ejectment (other civil case) should prosper, certain measures had to be taken.⁶⁰

We have, therefore, in the case at bar, the issue of the validity of the second marriage, which must be determined before hand in the civil action, before the criminal action can proceed. We have a situation where the issue of the validity of the second marriage can be determined or must be determined in the civil action before the criminal action for bigamy can be prosecuted. The question of the validity of the second marriage is, therefore, a prejudicial question, because determination of the validity of the second marriage is determinable in the civil action and must precede the criminal action for bigamy.

56. *Mabale v. Apalisok*, 88 SCRA 234 (1979).

57. *Id.* at 249.

58. *Id.* (citing III MANUEL V. MORAN, COMMENTS ON THE RULES OF COURT 343 (1970 ed.)) (emphasis supplied).

59. *Tamin v. Court of Appeals*, 208 SCRA 863 (1992).

60. *Id.* at 874.

Technically, a prejudicial question shall not rise in the instant case since the two actions involved are both civil in nature. However, we have to consider the fact that the cadastral proceedings will ultimately settle the real owner/s of the disputed parcel of land. In case respondent Vicente Medina is adjudged the real owner of the parcel of

Thus, in this case, where a cadastral case was pending and a civil case for ejectment was pending against the petitioners in the cadastral case, the Court deemed it necessary for the petitioners in the ejectment case to post a bond in case the demolition of their properties be declared illegal by the Court, pending determination of the ownership in the cadastral case.

C. Criminal-Criminal Cases Combination

The case of *Hipolito v. Court of Appeals*⁶¹ did not concern two or more cases of a different nature nor of the same nature; however, the Court, ruling in the criminal case, made interesting pronouncements regarding the motions submitted in said criminal case.

The lower court held in abeyance the criminal case by virtue of several motions filed by the accused in the criminal case of murder and said that these motions constitute "prejudicial questions"⁶² to the prosecution of the case. The Court said that this was correct — that the issues stated in the motions were indeed prejudicial to the continuation or abeyance of the prosecution of the case. Nevertheless, the Court, as a *caveat*, stated that the use of the term "prejudicial question" in the instant case was not used according to the definition provided for in the 1985 Rules of Criminal Procedure, "but in the sense that the resolution of the motions [wa]s a *logical antecedent* of the trial on the merits of the cases."⁶³

D. Civil-Administrative Cases Combination

*Ocampo v. Buenaventura*⁶⁴ involved an administrative case and a civil case, where Ocampo filed for the suspension of the civil case because of the existence of the administrative case. The administrative case was the offshoot of an incident where the son and nephews of Ocampo, all minors, were arrested because they were wandering the streets past curfew, an act punishable under an ordinance. Later on, the minors were acquitted as they fell under the exceptions in the ordinance.

land, then the writ of possession and writ of demolition would necessarily be null and void. Not only that. The demolition of the constructions in the parcel of land would prove truly unjust to the private respondents.

Id.

61. *Hipolito v. Court of Appeals*, 230 SCRA 191 (1994).

62. *Id.* at 200.

63. *Id.* at 202 (emphasis supplied).

64. *Ocampo v. Buenaventura*, 55 SCRA 267 (1974).

Ocampo then filed with the Office of the Mayor and with the Police Commission (POLCOM) an administrative case against the arresting officers for serious misconduct, grave abuse of authority, and commission of a felony. The respondents in these administrative cases then filed a civil case for damages against Ocampo for the alleged harassment the latter committed in charging the former with administrative cases.

The Court concluded that the administrative case⁶⁵ did not constitute a prejudicial question to the civil case, using as rationale the nature of a prejudicial question as stated in the Civil Code. Simply, the Civil Code states that a prejudicial question must be decided before any criminal prosecution based on the same facts may proceed. In this case, since there was no criminal prosecution, then, there can be no prejudicial question.⁶⁶

E. Criminal-Administrative Cases Combination

The case of *Calo v. Degamo*⁶⁷ concerned a disbarment case with three criminal cases against Degamo.

65. Only the POLCOM case was pending because the Mayor exonerated by the respondents.

66. *Ocampo*, 55 SCRA at 271.

A careful consideration of the record discloses that the principal issue in the complaint for damages is the alleged malicious filing of the administrative cases by the petitioner against the policemen respondents. The determination of this question is primarily dependent on the outcome of the administrative case before the POLCOM. The respondents' complaint for damages is based on their claim that the administrative case filed against them before the POLCOM is malicious, unfounded and aimed to harass them. The veracity of this allegation is not for us to determine, for if We rule and allow the civil case for damages to proceed on that ground, there is the possibility that the court *a quo* in deciding said case might declare the respondents victims of harassment and thereby indirectly interfere with the proceedings before the POLCOM. The respondents' case for damages before the lower court is, therefore, premature as it was filed during the pendency of the administrative case against the respondents before the POLCOM. The possibility cannot be overlooked that the POLCOM may hand down a decision adverse to the respondents, in which case the damage suit will become unfounded and baseless for wanting in cause of action.

Id.

67. *Calo v. Degamo*, 20 SCRA 447 (1967).

The disbarment proceeding was instituted against Degamo for "having committed false statement under oath or perjury" in connection with his appointment as Chief of Police of Carmen, Agusan. The facts were un rebutted:

On 17 January 1959, respondent Esteban Degamo, as applicant to the position of Chief of Police of Carmen, Agusan, subscribed and swore to be filled-out "Information Sheet" before Mayor Jose Malimit of the same municipality. The sheet called for answers about name, personal circumstances, educational attainment, civil service eligibility and so forth. One item required to be filled out reads:

"Criminal or police record, if any, including those which did not reach the Court (State the details of case and the final outcome.)"

To which respondent answered, "None."

Having accomplished the form, the respondent was appointed mayor to the position applied for. However, on the day the respondent swore to the information sheet, there was pending against him ... in the Court of First Instance of Bohol ... for illegal possession of explosive powder.

Prior to the commencement of this administrative case, respondent was also charged ... for perjury ... on the same facts upon which he is now proceeded against as member of the Philippine bar.⁶⁸

The respondent raised the defense that he made those representations in good faith believing that the question referred to a judgment or conviction in criminal cases. The Court, however, stated that it was plainly and clearly written in the questionnaire that it only called for an information and not necessarily a judgment in a criminal case, as proved by the phrase "which did not reach the Court." In addition, while Degamo never raised the defense of the existence of a prejudicial question,⁶⁹ the Court nevertheless said that the criminal cases filed against him do not constitute prejudicial questions to the disbarment case.

Nor was the pendency of the Criminal Case No. 2194 (for perjury) a prejudicial question, since the ground for disbarment in the proceeding was not for conviction of a crime involving moral turpitude but for gross

68. *Id.* at 449 (emphasis supplied).

misconduct.⁶⁹ A violation of criminal law is not a bar to disbarment⁷⁰ and an acquittal is no obstacle to cancellation of the lawyer's license.⁷¹

In *Re: Agripino A. Brillantes*⁷² concerned an administrative complaint against Atty. Brillantes and a criminal case for notarizing a deed of sale of real property without being commissioned as a notary public, in violation of article 171 of the Revised Penal Code,⁷³ and knowingly introducing the deed as evidence in a civil case, in violation of article 172 of the Revised Penal Code.⁷⁴

Atty. Brillantes contended that the criminal case pending posed a prejudicial question to the resolution of the primordial issue in the administrative case. The Court, however, stated that this contention was unmeritorious. It stated in part that, "it is not sound judicial policy to await the final resolution of a criminal case before we ... act on a complaint ... against a lawyer and impose the judgment appropriate[;] ... [o]therwise, this Court ... will be effectively rendered helpless from vigorously applying the rules on admission to and continuing membership in the legal profession"⁷⁵ Also, a disbarment case is different from a criminal case in terms of the evidence required through and the factors under which an accused may be acquitted. In a criminal case, proof beyond reasonable doubt is required. On the other hand, in a disbarment proceeding, only a preponderance of evidence is necessary. In a criminal case, an accused may be acquitted by the mere fact that the prosecution failed to prove his guilt but not necessarily because the accused did not commit the crime. This is not the same with disbarment cases.⁷⁶

69. *Id.* at 450.

70. *Id.* (citing VI MANUEL V. MORAN, COMMENTS ON THE RULES OF COURT 242 (1963 ed.)).

71. *Id.* at 450 (citing *In re: Del Rosario*, 52 Phil. 399 (1928)).

72. *Re: Agripino A. Brillantes*, 76 SCRA 1 (1977).

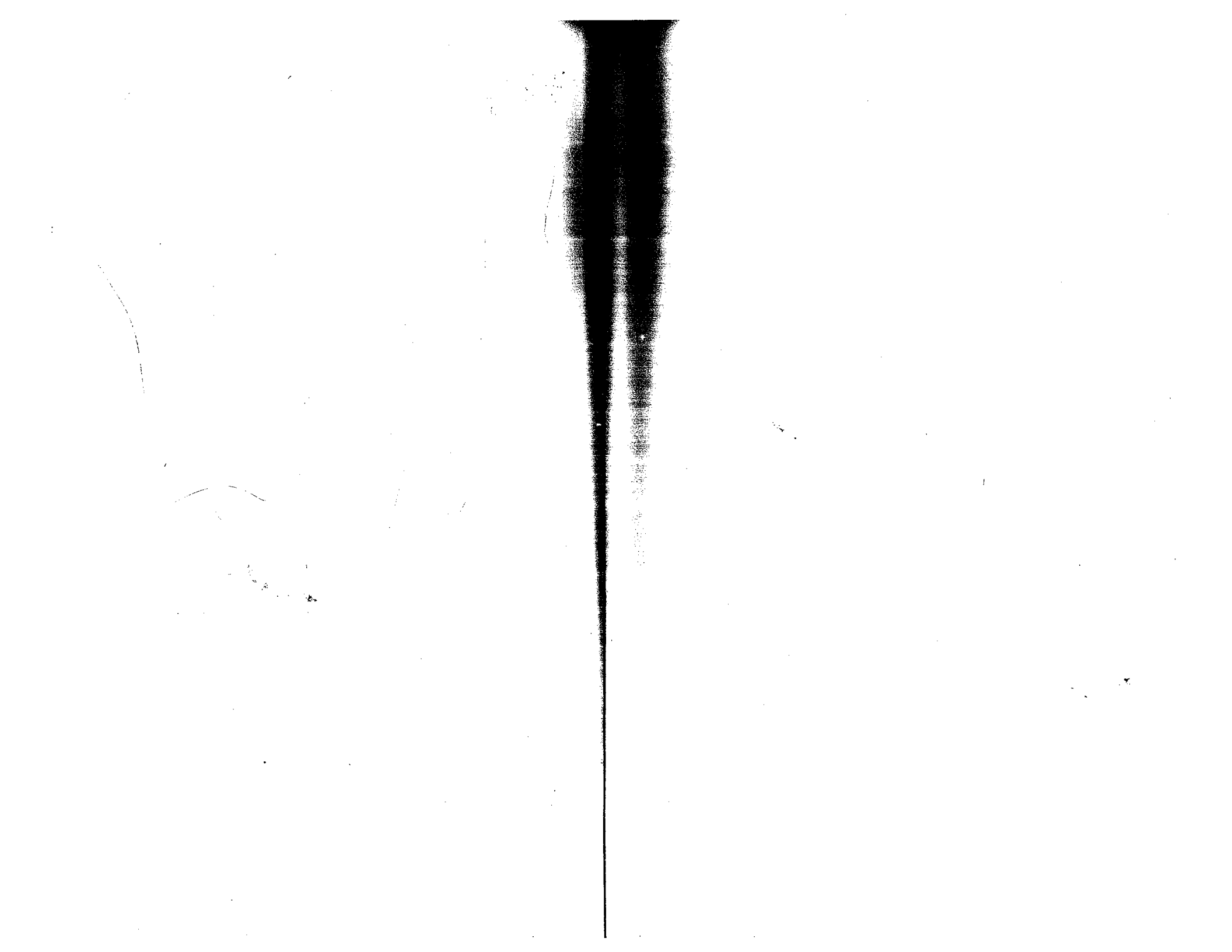
73. An Act Revising the Penal Code and Other Penal Laws [REVISED PENAL CODE], Act No. 3815, art. 171 (1930) (falsification by public officer, employee or notary or ecclesiastic minister).

74. *Id.* art. 172 (falsification by private individual and use of falsified documents).

75. *Brillantes*, 76 SCRA at 15 (emphasis supplied).

76. *Id.*

First, the respondent has not cited, and this Court does not find, any provision of the Constitution, the statutes, or the Rules of Court which can justify the theory. Second, in a criminal case it is the duty of the prosecution to prove that the accused is guilty beyond reasonable



to the fore in the case of *United CMC Textile Workers Union v. Bureau of Labor Relations*.⁸³ United CMC Textile Workers Union was a legitimate labor organization and the incumbent collective bargaining representative of all rank-and-file workers of Central Textile Mills, Inc. (CENTEX). Philippine Association of Free Labor Unions (PAFLU) was also a legitimate labor organization seeking representation as the bargaining agent of the rank-and-file workers of CENTEX. Petitioners filed an unfair labor practice case against CENTEX and PAFLU alleging that CENTEX had helped, and cooperated in the organization of the Central Textile Mills, Inc. Local PAFLU. The latter were allegedly able to solicit signatures of employees of the company who were members of the complainant union to disaffiliate from complainant union and join the respondent PAFLU during company time and inside the company premises. While the ULP case was pending, a petition for certification election was filed.

The Court held that the pendency of the ULP case posed a prejudicial question to the certification election. Otherwise, the certification election may lead to the selection of an employer-dominated or company union and, when the court finds in the unfair labor practice case that this is the situation, the union will be decertified and the whole proceedings will be nullified.⁸⁴ "Under settled jurisprudence, the pendency of a formal charge of company domination is a prejudicial question that, until decided bars proceedings for a certification election, the reason being that the votes of the members of the dominated union could not be free."⁸⁵

G. Election Cases

In the case of *Isip v. Gonzales*,⁸⁶ a criminal complaint was filed with the Court of First Instance of Catanduanes by respondent Francisco A. Perfecto, one of the candidates for the lone congressional seat of that province in the national elections, charging all the petitioners with having allegedly conspired to have petitioner Estela Isip vote in that elections in November of 1965 with the aid and use of white carbon paper for the purpose of

83. *United CMC Textile Workers Union v. Bureau of Labor Relations*, 128 SCRA 316 (1984).

84. *Id.* at 322 (citing *The Standard Cigarette Workers Union v. C.I.R., et al.*, 101 Phil. 126 (1957)).

85. *Id.* at 320 (citing *The Standard Cigarette Workers Union v. C.I.R., et al.*, 101 Phil. 126 (1957); *Manila Paper Mills Employees v. Court of Industrial Relations*, 104 Phil. 10 (1958)).

86. *Isip v. Gonzales*, 39 SCRA 255 (1971).

identifying her vote, a practice claimed to be violative of section 135,⁸⁷ in relation to sections 183⁸⁸ and 185,⁸⁹ of the Revised Election Code. Then again, petitioners filed, through counsel, a motion to suspend the preliminary investigation on the ground of the existence of a prejudicial question raised in Election Protest No. 168 before the House Electoral Tribunal, which private respondent had also filed against the proclaimed winner, Jose M. Alberto.

The Court, in deciding that the election protest filed did not constitute a prejudicial question to the criminal case, reasoned that the former did not concern the incidents pertinent to the latter. "To begin with, there [wa]s here no showing that the specific incident involving petitioner Estela Isip [wa]s involved in the protest before the Electoral Tribunal of the House of Representatives referred to by petitioners."⁹⁰ Moreover, the election protest was not determinative of the innocence or guilt of the accused in the criminal case.⁹¹

87. The Revised Election Code, Republic Act No. 180, § 135 (1947) (superseded by Omnibus Election Code of the Philippines, Batas Pambansa Blg. 881 (1985)).

88. *Id.* § 183.

89. *Id.* § 185.

90. *Isip*, 39 SCRA at 265 (citing *Jimenez v. Averia*, 22 SCRA 1380 (1968)).

It is true that in said electoral protest, the Electoral Tribunal must necessarily resolve the question of whether or not protestee therein and his leaders or followers used carbon paper for the purpose of identifying certain votes cast in the elections concerned, but as pointed out by private respondent — and this is not denied by petitioners — the carbon paper allegedly used by petitioner Estela Isip, which is the basis of the criminal complaint against petitioners, is not among the hundreds of such white carbon paper devices already marked as exhibits in said electoral protest and, according to private respondent, the carbon paper allegedly used by petitioner Estela Isip is still in his possession; it follows then, that even if the Electoral Tribunal should find that there really had been extensive use of such carbon paper device by other voters, such finding would not necessarily be determinative of the guilt or innocence of petitioners under the criminal complaint filed against them in this case (emphasis supplied).

91. *Id.* at 265-66.

We see no reason for holding that the exclusive jurisdiction conferred upon the House Electoral Tribunal to be "the sole judge of all contests relating to the election, returns and qualifications" of the members of the House of Representatives should deprive the courts of their jurisdiction to try and decide criminal charges related to contests filed

*Astorga v. Puno*⁹² reiterates the doctrine enunciated in the case of *Isip*, a doctrine also espoused by earlier cases like *Dasalla v. City Attorney*,⁹³ and *Falgui, Jr. v. Provincial Fiscal of Batangas*,⁹⁴ that as it is only after a preliminary investigation that the Court can determine the existence of probable cause which would warrant the holding of the accused for trial — as absent a finding of probable cause, the complaint would be automatically dismissed — the motion for suspension on the ground of the existence of a prejudicial question may only be filed after a criminal case is already filed in court.

V. ANALYSIS

This section concerns itself in answering the legal issues put to the fore at the beginning of the article.

A. Applicability to Other Types of Cases

The doctrine of the prejudicial question was adopted by the Philippines from Spain as the need for the doctrine arose. In Spain, the application of the doctrine requires that there are at least two issues in two different cases, where one issue is cognizable by another tribunal, and the resolution of such issue is prejudicial to the principal action. This was the requirement in Spain as their courts are divided according to different jurisdictions, that is, there are courts of exclusive civil jurisdiction while there are those of exclusive criminal jurisdiction. Spanish courts enforced this policy as they wanted to avoid conflicting decisions of different tribunals.

In the Philippines, on the other hand, our courts exercise jurisdiction over cases of different natures. For instance, the same court handles both civil and criminal cases, but the court hearing the civil case is considered different and distinct from itself when it hears the criminal case.

The fact that the Spanish courts are organized according to the types of cases they hear may have strengthened the application of the prejudicial

with said tribunal, except perhaps in extreme instances where the question of who may be declared legally elected. It would depend exclusively on whether or not the criminal act imputed to the accused has been feloniously committed by the said accused since then it might be absurd for the tribunal and the court to make separate contradictory or inconsistent findings.

Id. at 266.

92. *Astorga v. Puno*, 67 SCRA 182 (1975).

93. *Dasalla v. City Attorney*, 5 SCRA 193 (1962).

94. *Falgui, Jr. v. Provincial Fiscal of Batangas*, 62 SCRA 462 (1962).

question to civil and criminal cases exclusively. This may have been the reason why the application of the doctrine of the prejudicial question in the Philippines has been limited to such types of cases. As Philippine courts are, however, organized differently from Spanish courts, and as Philippine courts exercise their jurisdictions differently from Spanish courts, the application of the doctrine of the prejudicial question has evolved and adopted itself to the Philippine judicial setting. The doctrine may have had its roots from the Spanish jurisdiction but it grew branches and bore fruits in the Philippine jurisdiction.

The Rules of Court⁹⁵ have long defined a prejudicial question to exist when a civil case and a criminal case are pending, implying that the doctrine is applicable only when these types of cases are present. Despite this, the Supreme Court cited and discussed the doctrine in a varying manner, even when the requisite civil and criminal cases are absent. For instance, the cases of *Mabale v. Apalisok*,⁹⁶ *Tamin v. Court of Appeals*,⁹⁷ *Carlos v. Sandoval*,⁹⁸ *Manalo v. Court of Appeals*,⁹⁹ *Yulienco v. Court of Appeals*,¹⁰⁰ *Yu v. Philippine Commercial International Bank*,¹⁰¹ *Security Bank v. Victorio*,¹⁰² *Wong Jan Realty v. Español*,¹⁰³ *Hipolito v. Court of Appeals*,¹⁰⁴ *Ocampo v. Buenaventura*,¹⁰⁵ *Quiambao v. Osorio*,¹⁰⁶ *Vidad v. RTC of Negros Oriental*, Br. 42,¹⁰⁷ *Joson III v.*

95. The Rules of Court since the 1964 Rules of Court has provided that, "A petition for the suspension of the criminal action based upon the pendency of a prejudicial question in a civil case may only be presented by any party during the trial of the criminal action." The wording may have changed but the terms "civil" and "criminal" have always been present.

96. *Mabale v. Apalisok*, 88 SCRA 234 (1979) (civil-civil).

97. *Tamin v. Court of Appeals*, 208 SCRA 863 (1992) (civil-civil).

98. *Carlos v. Sandoval*, 471 SCRA 266 (2005).

99. *Manalo v. Court of Appeals*, 366 SCRA 752 (2001) (civil-civil).

100. *Yulienco v. Court of Appeals*, 393 SCRA 143 (2002) (civil-civil).

101. *Yu v. Philippine Commercial International Bank*, 485 SCRA 56 (2006) (civil-civil).

102. *Security Bank v. Victorio*, 468 SCRA 609 (2005) (civil-civil).

103. *Wong Jan Realty v. Español*, 472 SCRA 496 (2005) (civil-civil).

104. *Hipolito v. Court of Appeals*, 230 SCRA 191 (1994) (criminal-criminal).

105. *Ocampo v. Buenaventura*, 55 SCRA 267 (1974) (civil-administrative).

106. *Quiambao v. Osorio*, 158 SCRA 674 (1988) (civil-administrative).

107. *Vidad v. RTC of Negros Oriental*, Br. 42, 227 SCRA 271 (1993) (civil-administrative).

Court of Appeals,¹⁰⁸ *Calo v. Degamo*,¹⁰⁹ *Re: Agripino A. Brillantes*,¹¹⁰ *Dinsay v. Cioco*,¹¹¹ *Tomlin v. Moya*,¹¹² *The Standard Cigarette Workers' Union (PLUM) v. C.I.R., et al.*,¹¹³ *Acoje Mines Employees and Acoje United Workers Union v. Acoje Labor Union and Acoje Mining Co.*,¹¹⁴ *B.F. Goodrich Philippines, Inc. v. B.F. Goodrich (Marikina Factory) Confidential and Salaried Employees Union-NATU*,¹¹⁵ *United CMC Textile Workers Union v. Bureau of Labor Relations*,¹¹⁶ *Isip v. Gonzales*,¹¹⁷ *Astorga v. Puno*,¹¹⁸ and *City of Pasig v. Commission on Elections*,¹¹⁹ did not concern themselves strictly with civil and criminal cases alone. These cases involved both civil cases, both criminal cases, civil and administrative cases, criminal and administrative cases, labor and election issues. While this is the situation, the Court never said that no prejudicial question existed because the requisite civil and criminal cases provided for by the Rules do not obtain; instead, the Court ruled that there was or there was no prejudicial question depending on the merits of the case. It must be noted that during the time when these cases were decided, the Rules have already been codified and, yet, the application was never strictly according to the letter of the Rules.

Indeed, the Supreme Court may have been relaxed in the application of the doctrine in relation to the elements provided by the Rules but they also have been strict in the sense that out of the 63 cases the author examined, it was only in eight instances when the Court applied the doctrine of the prejudicial question. And out of 24 cases which were not of the typical civil

108. *Joson III v. Court of Appeals*, 482 SCRA 360 (2006) (civil-administrative).

109. *Calo v. Degamo*, 20 SCRA 447 (1967) (criminal-administrative).

110. *Re: Agripino A. Brillantes*, 76 SCRA 1 (1977) (criminal-administrative).

111. *Dinsay v. Cioco*, 146 SCRA 146 (1986) (criminal-administrative).

112. *Tomlin v. Moya*, 483 SCRA 154 (2006) (criminal-administrative).

113. *The Standard Cigarette Workers' Union (PLUM) v. C.I.R., et al.*, 101 Phil. 126 (1957) (labor).

114. *Acoje Mines Employees and Acoje United Workers Union v. Acoje Labor Union and Acoje Mining Co.*, 104 Phil. 814 (1958) (labor).

115. *B.F. Goodrich Philippines, Inc. v. B.F. Goodrich (Marikina Factory) Confidential and Salaried Employees Union-NATU*, 49 SCRA 532 (1973) (labor).

116. *United CMC Textile Workers Union v. Bureau of Labor Relations, et al.*, 128 SCRA 316 (1984) (labor).

117. *Isip v. Gonzales*, 39 SCRA 255 (1971) (election).

118. *Astorga v. Puno*, 67 SCRA 182 (1975) (election).

119. *City of Pasig v. Commission on Elections*, 314 SCRA 179 (1999) (election).

and criminal case combination, it was only in one case where the Court applied the doctrine.

From a reading of the cases, it can be observed that the leniency of the Court in applying the Rules to its letter is equalized by the fact that the Court exercises prudence and reasonableness in ascertaining whether or not a prejudicial question exists in a particular case.

Also, it becomes more apparent that the doctrine adopted a more pragmatic sense in the Philippine jurisdiction. It became less technical and it became more responsive to the purpose it serves. It adopted a more pragmatic approach such that its application was not limited to civil and criminal cases alone, it also found application in other types of cases.

The following discussions will restate what the Court declared as to the doctrine of the prejudicial question in relation to the different case combinations, under the different subdivisions. These declarations are restated in response to the first legal issue posed at the beginning of the article: *as there are other possible combinations of cases — other than civil-criminal, such as civil-civil, criminal-criminal, civil-administrative, criminal administrative, labor, and election cases — that may use the doctrine, can the doctrine be used successfully in these instances?*

1. Civil-Civil Cases

Can the doctrine of the prejudicial question be used when the cases that are pending are both civil cases? Not one case has yet been decided where the Court categorically stated that the doctrine may find application in such an instance. What the Court has categorically stated is that as the cases are both civil in nature or as the cases are of the same nature, no prejudicial question can exist.¹²⁰

Nevertheless, there were various instances when the parties raised the existence of a prejudicial question, to which the Court, as an *obiter dictum* declared that, technically speaking, no prejudicial question may exist between two civil cases, *but*, substantively speaking, a prejudicial question may exist in that the resolution of the issue in one civil case is a *logical antecedent* to the resolution of the other civil case.

120. *See, Mabale v. Apalisok*, 88 SCRA 234 (1979); *Carlos v. Court of Appeals*, 268 SCRA 25 (1997); *Manalo v. Court of Appeals*, 366 SCRA 752 (2001); *Yulienco v. Court of Appeals*, 393 SCRA 143 (2002), *Yu v. Philippine Commercial International Bank*, 485 SCRA 56 (2006).

For instance, in the cases of *Tamin* and *Security Bank*, while the Court did not declare that a prejudicial question existed, it stated that, technically speaking, none can exist in these cases but, substantively speaking, a prejudicial question as a logical antecedent can exist. In *Tamin*, the cases involved were a cadastral case and an ejectment case. Logically, the determination of the rightful owner of the land is necessary in order to make a prudent decision in the ejectment case. If a court decides in favor of petitioners in an ejectment case, and a cadastral court later on decides in favor of the respondents in the same ejectment case, the effects may be irreparable.

It is worth noting that the rule on forcible entry and unlawful detainer¹²¹ provides that when the issue of ownership is raised as a matter of defense, such issue shall be disposed of only insofar as the rightful possessor is determined.¹²² This is already a step in preventing the irreparable consequences when an ejectment controversy is decided. Such safeguard, however, relates only insofar as possession is concerned and when the issue relating to the question of ownership is raised in the same proceeding. It does not apply in instances where such determination lies with another court, as in the case of *Tamin*. What the Court did was to require a bond from the petitioners in the ejectment case so as to safeguard the rights of the respondents in case they are declared the rightful owners in the cadastral case. In this case, the Court buffered the possible injurious effect of the prejudicial issue not by ordering the suspension of the ejectment case but by requiring that a bond be posted.

The Court stated in *Security Bank* that while technically no prejudicial question can exist between two civil cases, the court nevertheless has the power to stay the proceedings especially when the rights of the parties to the second action cannot be determined until the questions raised in the first action is settled.¹²³ The abeyance is done "in order to avoid multiplicity of suits and prevent vexatious litigations, conflicting judgments, confusion between litigants and courts."¹²⁴

121. 1997 RULES OF CIVIL PROCEDURE, rule 70.

122. *Id.* § 16 ("When the defendant raises the defense of ownership in his pleadings and question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.").

123. *Security Bank Corporation v. Victorio*, 468 SCRA 609, 627 (2005) (citing *Quiambao v. Oscio*, 158 SCRA 674 (1988)).

124. *Id.* at 628.

Technically, no prejudicial question can exist but if the parties can prove that the civil case is a *logical antecedent* to the other civil case, then the Court can order that the latter proceeding be held in abeyance until the former is resolved. In the end, while no prejudicial question can exist in a technical sense, the same effect is obtained. The proceeding may be suspended or be held in abeyance.

The non-application of the prejudicial question in its technical sense, in cases of the same nature as civil-civil cases can be said to spring from the Spanish influence on the application of the prejudicial question. As have been indicated earlier, the application of the doctrine in Spain requires that the issues concerned be cognizable by different tribunals, necessitating that the issues be of dissimilar nature.

2. Criminal-Criminal Cases

Proceeding from the premise that the doctrine cannot be applied to cases of the same nature, the doctrine does not find application with criminal-criminal cases.

There is no case at all relating to the matter. The criminal case of *Hipolito* cited in the case survey under this subdivision concerned pending incidents in the criminal case and the criminal case itself. The case is significant because the Court ruled that the pending incidents are prejudicial to the criminal case, but the sense by which "prejudicial" is used is not in its technical sense, but in the sense that the pending incidents are logical antecedents to the prosecution of the case. The term "prejudicial" is not used in its technical sense because the requisite civil and criminal cases are not present and because there is just one case involved in *Hipolito*. The importance of the case rests on the fact that the Court in this instance, recognized that a different treatment of the prejudicial question exists, apart from its technical definition in the Rules.

3. Civil-Administrative Cases

A civil action is one where "a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong."¹²⁵ Certain administrative proceedings have been considered to be of the same nature and to possess the same characteristics as a civil case.¹²⁶ As such, proceeding from the earlier observation that the doctrine does not find application

125. 1997 RULES OF CIVIL PROCEDURE, rule 1, § 3 (a).

126. HECTOR S. DE LEON & HECTOR M. DE LEON, JR., *ADMINISTRATIVE LAW: TEXT AND CASES* 228 (5d 2005 ed.).

where cases of the same nature are involved, the prejudicial question does not find application in instances when a civil and administrative action is involved.

This is also why the observation under the subsection on civil-civil cases may also be said of this subsection. In fact, the case of *Quiambao* cited under this subsection is cited as an authority by the Court in the case of *Security Bank* mentioned under the civil-civil cases subdivision. *Quiambao* was the first case to state that even when a prejudicial question cannot technically exist, the Court may stay the principal case if it is the more prudent thing to do, especially when in the instant case there exists "the same consideration of identity of parties and issues, economy of time and effort of the court, the counsel and the parties as well as the need to resolve the parties' right to possession before the ejectment case may be properly determined."¹²⁷ The prudence, exercised by the Court was not put to waste, as it was finally

¹²⁷ *Quiambao v. Osorio*, 158 SCRA 674, 679 (1988). The Court explains further:

The essential elements of a prejudicial question as provided under section 5, rule 111 of the Revised Rules of Court are: [a] the civil action involves an issue similar or intimately related to the issue in the criminal action; and [b] the resolution of such issue determines whether or not the criminal action may proceed.

The actions involved in the case at bar being respectively civil and administrative in character, it is obvious that technically, there is no prejudicial question to speak of. Equally apparent, however, is the intimate correlation between said two [2] proceedings, stemming from the fact that the right of private respondents to eject petitioner from the disputed portion depends primarily on the resolution of the pending administrative case. For while it may be true that private respondents had prior possession of the lot in question, at the time of the institution of the ejectment case, such right of possession had been terminated, or at the very least, suspended by the cancellation by the Land Authority of the Agreement to Sell executed in their favor. Whether or not private respondents can continue to exercise their right of possession is but a necessary, logical consequence of the issue involved in the pending administrative case assailing the validity of the cancellation of the Agreement to Sell and the subsequent award of the disputed portion to petitioner. If the cancellation of the Agreement to Sell and the subsequent award to petitioner are voided, then private respondents would have every right to eject petitioner from the disputed area. Otherwise, private respondent's right of possession is lost and so would their right to eject petitioner from said portion.

Id. at 678.

decided in the LRA case that the respondents in the ejectment case are the rightful possessors of the land in dispute.

Thus, in this subdivision, it was again put forth that while technically no prejudicial question exists, but as the resolution of the issue in one case is a logical antecedent of the resolution of the other, an order of abeyance is the most prudent thing to do. The same effect as in a suspension by reason of a prejudicial question is obtained.

4. Criminal-Administrative Cases

If the previous premises are to be used under this subdivision, that (1) in cases of the same nature, no prejudicial question, technically speaking, can exist, and (2) most administrative cases are civil in nature, then this subdivision in effect concerns itself with a case *civil in nature* (administrative case) and a criminal case. Hence, a prejudicial question may exist in this case.

This conclusion, however, is contradicted by the categorical statement made in *Flordelis v. Castillo*¹²⁸ that since the Rules require that a criminal and civil case should be pending, and since what is at hand is the pendency of a criminal and an administrative case, no prejudicial question can exist.

The Court used certain *nuances* in the prejudicial question — "determinative" and "independent." The Court stated that if the issue in the administrative case is determinative of the guilt of the accused in the criminal case or the criminal case is dependent on the outcome of the administrative case, a prejudicial question exists. If, however, the criminal case is independent or cannot be determined by the other case, no prejudicial question exists. Thus, the criminal proceeding cannot be suspended.

Most of the cases, in fact four out of the six cases surveyed by the author under this subdivision, concerned themselves with the combination of a criminal case and a disbarment/disciplinary case. In those instances, the party alleged that it is the criminal case which poses a prejudicial question to the disbarment/disciplinary case. Simply stated, the party alleged that the resolution of the disbarment/disciplinary case was dependent on the outcome of the criminal case. The Court denied this argument and stated that it was not sound judicial policy to await the resolution of the criminal case, and the Court would ultimately be rendered helpless from vigorously applying the rules on admission to and continuing membership in the legal profession. Moreover, the argument was not tenable as the two cases differed in terms of the evidence required and with the factors under which an

¹²⁸ *Flordelis v. Castillo*, 58 SCRA 301 (1974).

accused may be acquitted. In a criminal case, proof beyond reasonable doubt is required. On the other hand, in a disbarment proceeding, only preponderance of evidence is necessary. In a criminal case, an accused may be acquitted by the mere fact that the prosecution failed to prove his guilt but not necessarily because the accused did not commit the crime. This is not the same with disbarment cases. There are likewise instances when the violation of criminal law is not a bar to disbarment and an acquittal is no obstacle to the cancellation of the lawyer's license, especially when the ground for the disciplinary case is gross misconduct.¹²⁹

In more concrete terms, the Court stated that:

administrative cases against lawyers belong to a class of their own. They are distinct from and they may proceed independently of criminal cases. The burden of proof in a criminal case is guilt beyond reasonable doubt while in an administrative case, only preponderance of evidence is required. *Thus, a criminal prosecution will not constitute a prejudicial question even if the same facts and circumstances are attendant in the administrative proceedings.*¹³⁰

Thus, no prejudicial question can exist in criminal and administrative cases against lawyers. As to other types of administrative cases, the Court held that, for as long as the resolution of the criminal case is not dependent and shall not be determined by the issues in the administrative case, then no prejudicial question can exist.

5. Labor Cases

In labor cases, the Court held that a charge of an ULP relating to the existence of a company union is a prejudicial question to the petition for certification election. Otherwise, the certification election may lead to the selection of an employer-dominated or company union and when the court finds in the unfair labor practice case that this is the situation, the union will be decertified and the whole proceedings will be nullified.¹³¹ "Under settled jurisprudence, the pendency of a formal charge of company domination is a prejudicial question that, until decided bars proceedings for a certification

129. See, *Calo v. Degamo*, 20 SCRA 447 (1967).

130. *Tomlin v. Moya*, 483 SCRA 154 (2006) (emphasis supplied).

131. *United CMC Textile Workers Union v. Bureau of Labor Relations*, 128 SCRA 316, 322 (1984) (citing *The Standard Cigarette Workers Union (PLUM) v. C.I.R., et al.*, 101 Phil. 126 (1957)).

election, the reason being that the votes of the members of the dominated union could not be free."¹³²

The aim of a certification election is the determination of the union which shall represent the employees for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment. If a company-dominated union sits as the bargaining representative of the employees, there is a danger that such union will not further the needs of the employees and that the situation will, instead, work to the advantage of the employer. This is violative of the constitutional guarantee that the "State shall afford full protection to labor. ..." ¹³³ More so, if the company-dominated union is allowed to participate in the certification elections and eventually wins, there is no guarantee that the votes obtained by said union were freely given, thus, once again, resulting in a violation of the constitutional guarantee of the "rights of all workers to self-organization, collective bargaining and negotiations ..." ¹³⁴

Thus, in affording full protection to labor, the Court used the doctrine of the prejudicial question even if the present cases were both labor cases.

In its application, the Court attached to the doctrine of the prejudicial question another *nuance* in the sense that an issue in one case may be considered prejudicial to another case if the non-suspension of the latter case pending the determination of the issue in the former case is *harmful* or *detrimental* to guaranteed and protected rights and when the non-suspension would warrant that defeat of the purpose for which the laws are established.

In this particular subdivision, determination of the existence of the ULP prior to the certification election is important so as not to cause *harm* to the right to self-organization and so as not to defeat the purpose for which the Labor Code was enacted.

6. Election Cases

The election cases cited in the subdivision used the doctrine in relation to whether the election protest posed a prejudicial question to the criminal case and to illustrate when the petition for suspension should be filed.

132. *Id.* at 320 (citing *The Standard Cigarette Workers Union (PLUM) v. C.I.R., et al.*, 101 Phil. 126 (1957); *Manila Paper Mills Employees v. Court of Industrial Relations*, 104 Phil. 10 (1958)).

133. PHIL. CONST. art XIII, § 3.

134. PHIL. CONST. art XIII, § 3.

As to whether or not the election protest constituted a prejudicial question to the criminal case, the Court held that as the protest is not *determinative* of the guilt of the accused, then no prejudice exists.

As to when the petition for suspension should be filed, the case of *Astorga* tells us that it can only be filed when both the criminal and the civil case are pending. Hence, when the case is still in its preliminary investigation, the petition for suspension cannot be filed. However, this ruling is no longer applicable as the Rules have been amended in 1988 to include the preliminary investigation stage in one of the instances when the petition for suspension may be filed.

B. Strict Sequence in the Rules

This part seeks to answer the second issue posed at the beginning of the article: in the civil-criminal combination, does the civil case strictly have to be filed before the criminal case to warrant the suspension of the latter? This is in consonance with the wordings of the 2000 Revised Rules of Criminal Procedure.¹³⁵ Do we follow the wording strictly or are there exceptions?

It has been stated in the Minutes of the Meeting of the Committee on the Revision of the Rules of Court that the present rule is worded in this manner so as to avoid the willful filing by the accused of a civil case in order to delay or suspend the criminal case and that a prior filing of the accused of a civil case shall be taken in good faith.

The problem, however, is when the situation arises where the civil case is filed after the criminal case and yet such filing is not meant to delay the criminal proceedings, and more importantly, the issue concerned in the civil case is indeed a prejudicial question to the criminal case, will the strict wording of the law be followed?

1. Civil and Criminal Cases

The 2000 amendment took effect only on December 2000. As such, the requirement that the civil case be filed previous to the criminal case was not yet present in the cases decided by the Court prior to such year, such as in the cases of *Berbari v. Concepcion*,¹³⁶ *Aleria v. Mendoza*,¹³⁷ *Pisalbon v. Tesoro*,¹³⁸

135. 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 7.

136. *Berbari v. Concepcion*, 40 Phil. 837 (1920).

137. *Aleria v. Mendoza*, 83 Phil. 427 (1949).

138. *Pisalbon v. Tesoro*, 92 Phil. 931 (1953).

Ocampo and dela Cruz v. Cochingyan,¹³⁹ *Dela Cruz, et al. v. City Fiscal, et al.*,¹⁴⁰ *Benitez v. Concepcion*,¹⁴¹ *Mendiola v. Macadaeg*,¹⁴² *People v. Villamor*,¹⁴³ *Gorospe v. Nolasco*,¹⁴⁴ *Fortich-Celdran, et al. v. Celdran, et al.*,¹⁴⁵ *Jimenez v. Averia*,¹⁴⁶ *Rojas v. People*,¹⁴⁷ *Falgui, Jr. v. Provincial Fiscal of Batangas*,¹⁴⁸ *Andaya v. Provincial Fiscal of Surigao del Norte*,¹⁴⁹ *Ras v. Rasul*,¹⁵⁰ *Librodo v. Coscolluela, Jr.*,¹⁵¹ *Lu Hayco v. Court of Appeals*,¹⁵² *People v. Ofiana*,¹⁵³ *Balgos, Jr. v. Sandiganbayan*,¹⁵⁴ *Umali v. Intermediate Appellate Court*,¹⁵⁵ *Yap v. Paras*,¹⁵⁶ *Apa v. Fernandez*,¹⁵⁷ *Tuanda v. Sandiganbayan (Third Division)*,¹⁵⁸ *Alano v. Court of Appeals*,¹⁵⁹ *Ching v. Court of Appeals*,¹⁶⁰ *Dichaves v. Apalit*,¹⁶¹ and *First Producers Holdings Corporation v. Co.*¹⁶² Thus, these cases decided whether the issue in the civil case is separate and distinct yet intimately related to the criminal case, such that the resolution of the former issue be determinative of the guilt or innocence of the accused in the criminal case.

139. *Ocampo and dela Cruz v. Cochingyan*, 96 Phil. 459 (1955).

140. *Dela Cruz, et al. v. City Fiscal, et al.*, 106 Phil. 851 (1959).

141. *Benitez v. Concepcion*, 2 SCRA 178 (1961).

142. *Mendiola v. Macadaeg*, 1 SCRA 593 (1961).

143. *People v. Villamor*, 4 SCRA 482 (1962).

144. *Gorospe v. Nolasco*, 4 SCRA 684 (1962).

145. *Fortich-Celdran, et al. v. Celdran, et al.*, 19 SCRA 502 (1967).

146. *Jimenez v. Averia*, 22 SCRA 1380 (1968).

147. *Rojas v. People*, 57 SCRA 243 (1974).

148. *Falgui, Jr. v. Provincial Fiscal of Batangas*, 62 SCRA 462 (1975).

149. *Andaya v. Provincial Fiscal of Surigao del Norte*, 73 SCRA 131 (1976).

150. *Ras v. Rasul*, 100 SCRA 125 (1980).

151. *Librodo v. Coscolluela, Jr.*, 116 SCRA 303 (1982).

152. *Lu Hayco v. Court of Appeals*, 138 SCRA 227 (1985).

153. *People v. Ofiana*, 135 SCRA 372 (1985).

154. *Balgos, Jr. v. Sandiganbayan*, 176 SCRA 287 (1989).

155. *Umali v. Intermediate Appellate Court*, 186 SCRA 680 (1990).

156. *Yap v. Paras*, 205 SCRA 625 (1992).

157. *Apa v. Fernandez*, 242 SCRA 509 (1995).

158. *Tuanda v. Sandiganbayan (Third Division)*, 249 SCRA 342 (1995).

159. *Alano v. Court of Appeals*, 283 SCRA 269 (1997).

160. *Ching v. Court of Appeals*, 331 SCRA 16 (2000).

161. *Dichaves v. Apalit*, 333 SCRA 54 (2000).

162. *First Producers Holdings Corporation v. Co.*, 336 SCRA 551 (2000).

On the other hand, the cases decided after the amendment was introduced were the following: *Sabandal v. Tongco*,¹⁶³ *Torres v. Garchitorena*,¹⁶⁴ *People v. Consing, Jr.*,¹⁶⁵ and *Ark Travel Express, Inc. v. Abrogar*,¹⁶⁶ Surprisingly, out of these four cases only the case of *Torres* applied the doctrine in the disposition of the case.

As mentioned earlier, this case concerned a criminal case for violation of Republic Act No. 3019 against Mayor Dionisio Torres of Noveleta, Cavite for taking advantage of his official function and, through evident bad faith, causing the relocation of squatters in an area allegedly owned by Susana Realty Corp. In addition to such criminal case, a civil case was filed for reversion of property. Torres sought a suspension but the Court stated that as the amendment stated that the civil case must be filed previous to the criminal case, and as, in this case, the civil case was filed after the criminal case, no suspension on the basis of a prejudicial question could be obtained. The Court also stated that *in any case* the final judgment in the civil case is not determinative of the guilt of the accused. And until and unless the title of SRI over the property is rendered void, SRI shall remain in possession of said foreshore land.

It is curious to note that, aside from the fact that there was just one case, which applied the doctrine, the Court in *Torres* also stated as *obiter* that even if the wordings of the Rules were not considered, still, as the resolution of the civil case is not determinative of the guilt of the accused, no prejudicial question can exist.

In the case of *Sabandal*, a criminal case for Batas Pambansa Blg. 22¹⁶⁷ and, subsequently, a case for collection of a sum of money and damages were instituted. The Court, without ruling on the non-applicability of the amended rule, stated that no prejudicial question existed by the very nature of the claims in the criminal and civil case. The claim in the civil case is independent of the issues in the criminal case. Hence, the resolution of the civil case is not determinative of the guilt or innocence of the accused.

163. *Sabandal v. Tongco*, 366 SCRA 567 (2001).

164. *Torres v. Garchitorena*, 394 SCRA 494 (2002).

165. *People v. Consing, Jr.*, 395 SCRA 366 (2003).

166. *Ark Travel Express, Inc. v. Abrogar*, 410 SCRA 148 (2003).

167. An Act Penalizing the Making or Drawing and Issuance of a Check without Sufficient Funds or Credit and for Other Purposes, Batas Pambansa Blg. 22 (1979).

Consing and *Ark Travel* were filed according to the order provided for in the amended Rules but the existence of the prejudicial question was determined on the basis of whether or not the resolution of the civil case is determinative of the guilt or innocence of the accused in the criminal case.

The very fact that the Court each and every time considers whether or not the criminal case is dependent on the civil case, or whether or not the civil case is determinative of the guilt of the accused, before declaring whether or not a prejudicial question exists, indicates that while the Rules may have been phrased in such strict manner, the substance of the issues involved are more important than the mere sequence provided for in the Rules.

According to the Rules, the elements of a prejudicial question are that (a) the *previously instituted civil action* involves an issue similar or intimately related to the issue raised in the *subsequent criminal action* and (b) the resolution of such issue determines whether or not the criminal action may proceed.¹⁶⁸ It must be noted that the words "previous" and "subsequent" may be more apparent than the other words, such as "issues" "similarly" "resolution" and "determines," provided for in the rule. A reading of the decisions, however, militate against the conclusion that the Court gives less importance to the *determinative* factor of the issue in the civil case, than on whether or not the strict sequence is followed.

Hence, the rule is *directory* insofar as the *strict sequence* of the cases is involved, but it is *mandatory* as to the requirement that the issue in the civil case must be so *similar or intimately related to the issue in the criminal case, so as to determine whether or not the criminal action may proceed*. Consequently, there are instances when the strict sequence may be dispensed with for as long as the mandatory requirement as to the determinative, similar, or intimately related issue is present.

In sum, the following are the reasons that support the conclusion that the sequence is merely directory and a prejudicial question may exist for as long as the determinative, similar, or intimately related issues are present.

a. The Rules, first and foremost, provide that "[t]hese Rules shall be *liberally construed* in order to promote their objective of securing a *just, speedy, and inexpensive disposition of every action and proceeding*."¹⁶⁹

b. An accused is presumed innocent until the contrary is proved beyond reasonable doubt.¹⁷⁰ As such, our penal laws are construed in favor of the

168. 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 111, § 7.

169. 1997 RULES OF CIVIL PROCEDURE, rule 1, § 6 (emphasis supplied).

accused. This is afforded the accused because, in criminal cases, there is restraint on a person's life and liberty. While there is also restraint of one's property in some cases, such as in civil cases, the restraint on life and liberty is graver. The rights at stake in criminal cases are more valuable than those at stake in civil cases.

c. Substantive rights obtain primacy over procedural rules.

Taking all these together, to give the rule such a strict application as to the sequence of the filing of the case would unduly hamper, if not, undermine the right of an accused.

An accused has the right to present evidence on his behalf. For instance, in the case of *Apa*, the defendant was sought to be prosecuted under the Anti-Squatting Law.¹⁷¹ The parties then filed a civil case for annulment of the title held by the complainants. The validity of the title is obviously an issue prejudicial to the prosecution of the criminal case. Without such valid title, the complainant in the criminal case had no real right by which she can prosecute the defendants for occupying the land allegedly belonging to her. If such civil case was filed after the criminal case, will the Court deny the existence of the prejudicial question and subject the defendants to criminal prosecution knowing that the controversy may be dispensed with through the resolution of the civil case? If such civil case was filed after the criminal case, will the Court deny the existence of the prejudicial question knowing that more valuable rights are at stake in criminal cases rather than in civil cases?

Of course, the Court will grant the suspension because of the obvious existence of the prejudicial question despite non-compliance with the strict sequence provided for in the Rules. This resolve is in consonance with the policy of affording protection to the accused and is also in accord with the liberal construction of the Rules in order to secure a just and speedy disposition of cases. In this instance, there is a just disposition as the substantive rights of the accused are upheld over and above the technical requirements of the Rules. There is likewise a speedy disposition because the Court is already able to dispense with the criminal proceeding — in effect, saving the Court time to hear other cases and unlogging the court dockets.

170. See, PHIL. CONST. art III, § 14 (2); 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 115, § 1 (a).

171. Penalizing Squatting and Other Similar Acts, Presidential Decree No. 772 (1975) (repealed by The Anti-Squatting Law Repeal Act of 1997, Republic Act No. 8368 (1997)).

2. Bigamy/Concubinage Cases

The defense that a prejudicial question exists in a civil case for annulment of marriage does not hold water in the prosecution of cases for bigamy or for concubinage. With the cases¹⁷² decided before the effectivity of the Family Code,¹⁷³ such defense was upheld. With the enactment of the Family Code, however, said defense no longer holds water.

The Family Code requires that "[t]he absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void."¹⁷⁴ This is a new provision that prevents the parties from judging for themselves the nullity or validity of their marriage such that, prior to such declaration of nullity, the validity of the first marriage is beyond question. A party who contracts a second marriage then assumes the risk of being prosecuted for bigamy.

The elements for the crime of bigamy are as follows: (1) the offender has been legally married; (2) the marriage has not been legally dissolved; (3) he contracts a second or subsequent marriage; and (4) the subsequent marriage has all the essential requisites of validity.¹⁷⁵

The same is also true for a party who keeps a mistress in the conjugal dwelling, has sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or cohabits with another in any other place.¹⁷⁶

Hence, no prejudicial question can exist between bigamy or concubinage cases and civil cases for nullity or annulment.

C. Framework

This part seeks to answer the third legal issue posed at the beginning of the article: ultimately, is there a framework that can be deduced from jurisprudence as to the use of the doctrine of the prejudicial question?

It can then be said that there is a rough framework established by jurisprudence under which the doctrine of the prejudicial question can be

172. See, *People v. Aragon*, 94 Phil. 357 (1954); *Merced v. Hon. Diez, et al.*, 109 Phil. 155 (1960); *Zapanta v. Montesa*, 4 SCRA 510 (1962); *Landicho v. Relova*, 22 SCRA 731 (1968).

173. The Family Code of the Philippines [FAMILY CODE], Executive Order No. 209 (1988).

174. FAMILY CODE, art. 40.

175. REVISED PENAL CODE, art. 349.

176. *Id.* art. 334.

used. The discussion on how this framework or guide has been reached, was conducted under subsections A and B of this section. Hence, provided hereunder is the framework to be used to determine the applicability of the doctrine.

1. Civil-Civil Cases: A prejudicial question may exist in this case in the sense that the issue is a logical antecedent to the resolution of the other issue. Technically speaking, no prejudicial question can exist between two civil cases. The court, nevertheless, has the power to stay the proceedings especially when the rights of the parties to the second action cannot be determined until the questions raised in the first action are settled.

2. Criminal-Criminal Cases: A prejudicial question cannot exist in this case as both cases are of the same nature and one cannot be deemed to be a logical antecedent of the other.

3. Civil-Administrative Cases: As some administrative cases are construed to be of a civil nature, the rule in relation to civil-civil cases can apply in this instance. A prejudicial question may exist in the sense that the issue is a logical antecedent to the resolution of another issue. While, technically, no prejudicial question exists, as the resolution of the issue in one case is a logical antecedent of the resolution of the other, an order of abeyance is the most prudent thing to do. Thus, the same effect of suspension, as with a prejudicial question, may be obtained.

4. Criminal-Administrative Cases: No prejudicial question can exist with a criminal and administrative case, most especially if the administrative case does not concern an issue which is determinative of the guilt or innocence of the accused in the criminal case. Also, a criminal case cannot be considered a prejudicial question in an administrative case for the discipline or disbarment of lawyers.

5. Labor Cases: In its application, the Court attached to the doctrine of the prejudicial question another *nuance* in the sense that an issue in one case may be considered prejudicial to another case if the non-suspension of the latter case, pending the determination of the issue in the former case, is *harmful or detrimental* to guaranteed and protected rights, and when the non-suspension would warrant the defeat of the purpose for which the laws are established.

6. Election Cases: No prejudicial question can exist when the issue in the election protest is not determinative of the guilt or innocence of the accused in the criminal case.

It appears that the rule is where a case is combined with a criminal case, such other case must be determinative of the guilt or innocence of the

accused, otherwise, no prejudicial question exists. To be determinative of the guilt or innocence of the accused, the civil case must provide one or all of the elements of the crime imputed to the accused. Simply put, the criminal case must be dependent on the resolution of the civil case.

One the other hand, the ultimate guide relating to other instances that do not involve a criminal case is whether or not the issue in one case is a logical antecedent to the issue in the other case, or that the determination of the issue in one case seeks to safeguard and avoid harm over the protected rights in another case (as in labor cases).

7. Civil-Criminal Cases: The rule is *directory* insofar as the *strict sequence* of the cases is involved, but it is *mandatory* as to the requirement that the issue in the civil case must be *similar or intimately related to the issue in the criminal case, so as to determine whether or not the criminal action may proceed*. Consequently, there are instances when the strict sequence may be dispensed with for as long as the mandatory requirement of the determinative, similar, or intimately related issue is present.

8. Bigamy/Concubinage Cases: Through the new provisions implemented in the Family Code, no prejudicial question can exist between the prosecution for bigamy or concubinage and a civil case for annulment or nullity of marriage, except when the marriage sought to be annulled or nullified was celebrated before the effectivity of the Family Code.

D. Purpose

This section seeks to answer the fourth legal issue posed at the beginning of this article — what purpose does the doctrine serve in this jurisdiction? What essential and salient features does it have that makes it indispensable? Or, if it does not have any such essential and salient features, can it ultimately be dispensed with in our jurisdiction?

The doctrine serves various purposes in our jurisdiction. Among these are the following: (1) to avoid multiplicity of suits; (2) to avoid unnecessary litigation; (3) to avoid conflicting decisions; (4) to safeguard the rights of the accused; and (5) to help unclog the dockets.

All these purposes are fulfilled when, through the suspension of a criminal case to give way to the resolution of the determinative issue, the court may ultimately dispense with the criminal case. Along the process, through the use of the doctrine, the Courts are also able to evade the instance when an accused is subjected to prolonged and unnecessary prosecution.

As it serves such purposes, then the doctrine should not be dispensed with in our jurisdiction.

V. CONCLUSION

At the beginning of this article, the *prejudice of the prejudicial question* existed in the confused state of the doctrine — the Rules say one thing, however, jurisprudence declare otherwise. The *prejudice* is significant as the doctrine remained unclear and ambiguous in the presence of strictly amended Rules and a flexible framework in jurisprudence.

The doctrine of the prejudicial question was adopted by the Philippines from Spain as the need for the doctrine arose. In Spain, the application of the doctrine requires that there are at least two issues in two different cases. It required that one issue be cognizable by another tribunal and the resolution of such issue be prejudicial to the principal action. These were the requirements in Spain as their courts are divided according to different jurisdictions. Spanish courts enforced this policy as they wanted to avoid conflicting decisions of different tribunals.

In the Philippines on the other hand, our courts exercise jurisdiction over different cases. For instance, one and the same court may handle both civil and criminal cases, but the court hearing the civil case is considered different and distinct from itself when it hears the criminal case.

The fact that the Spanish courts are organized according to the types of cases they hear may have strengthened the application of the prejudicial question in civil and criminal cases exclusively. This may have been the reason why the application of the doctrine of the prejudicial question in the Philippines has been apparently limited to such types of cases. As Philippine courts are, however, organized differently from Spanish courts, and as Philippine courts exercise their jurisdictions differently from Spanish courts, the application of the doctrine of the prejudicial question has evolved and adapted to the Philippine judicial setting. The doctrine may have had its roots in the Spanish jurisdiction but it grew branches and bore fruits in the Philippine jurisdiction.

It bore fruits in the sense that it shaped its own application of the doctrine while the doctrine interacted with our own laws. As it took shape, however, it resulted in various ambiguities — hence, the propriety of the framework deduced in this article.

The evolution of the doctrine is also proven by the fact that Court attached various *nuances* to the use of the doctrine (for example, *determinative of the guilt, dependent on the resolution of the issue, harmful, detrimental, injurious,*

logical antecedent). The Court used the doctrine in a more pragmatic rather than a technical approach, in order to utilize the same in serving the purposes for which the doctrine was enacted.

VI. RECOMMENDATION

In light of the doctrines enunciated in jurisprudence and in the present Rules, the author suggests that the following circular be issued to serve as a guidepost in the application of the prejudicial question as the use of the doctrine has evolved beyond the contemplation of the Rules.

SC CIRCULAR NO. ____

SUBJECT: GUIDELINES TO BE OBSERVED IN THE USE OF THE PREJUDICIAL QUESTION

TO: COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A DISTRICT COURTS AND SHARI'A CIRCUIT COURTS, QUASI-JUDICIAL AGENCIES, THE OMBUDSMAN, THE SOLICITOR GENERAL, THE GOVERNMENT CORPORATE COUNSEL, ALL MEMBERS OF THE GOVERNMENT PROSECUTION SERVICE, AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES

It has come to the attention of this Court that there has been a great deal of confusion as to the application of the doctrine of the prejudicial question. The 2000 amendment of the Rules of Court inserted the terms "previously instituted" before "civil action" and the term "subsequent" before "criminal action." Now, various questions arise as to whether such wording shall be applied strictly, such that the filing of the civil action should strictly precede the filing of the criminal case. Questions also arise as to whether the doctrine can only be used in relation to civil and criminal cases exclusively. The evolution of the doctrine and different nuances necessitate the issuance of these guidelines.

(1) *Purpose:* The purpose for which the doctrine has been adopted in the Philippines is to avoid multiplicity of suits, unnecessary litigations and conflicting decisions, and to safeguard the rights of the accused in criminal cases. The present amendment has been adopted in order to avoid dilatory

tactics employed by the accused in criminal cases, where they institute civil cases belatedly in order to merit the suspension of the criminal proceedings.

(2) *Construction of the Rules of Court*: The rule on the prejudicial question must be construed in the light of the policy enunciated in rule 1, section 6 of the Rules of Court that “[t]hese Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.”

(3) *Definition of Terms*:

(3.1) *Main Case* – dependent or determined by the resolution of the other case.

(3.2) *Other Cases* – upon which the main case depends or is determined so as to either proceed or not with the main case.

(4) *Application of the Doctrine*: The doctrine shall be applied in the following manner:

(4.1) *Civil and Criminal Cases*:

i. *Elements*: To apply the doctrine, the following elements must concur: (a) the civil case is previously instituted to the criminal case; (b) the civil case involves an issue that is similar or intimately related to the issue raised in the criminal case; and (c) the resolution of the issue in the civil case determines whether or not the criminal action may proceed.

ii. *Absence of One Element*: Should element (a) be absent, such that the civil case is filed after the criminal case is instituted, a prejudicial question may still be considered to exist to warrant the suspension of the criminal proceeding, PROVIDED, elements (b) and (c) are present and the party alleging the existence of a prejudicial question prove that the civil case is not filed to delay the criminal proceeding.

Absence of either element (b) or (c) is conclusive as to the fact that no prejudicial question exists in the case.

(4.2) *Cases of the Same Nature*: In instances that involve cases of the same nature, such as civil and civil cases, or civil and administrative cases, the following shall be observed.

i. *Elements*: To apply the doctrine, the following elements must concur: (a) the issue raised in the other case is similar or is intimately related to the issue raised in the main case;

and (b) the resolution of the issue in the other case is a logical antecedent to the resolution of the main case.

ii. *Absence of One Element*: Absence of one element is conclusive as to the fact that no prejudicial question exists in the case.

(4.3) *Disbarment/Disciplinary Cases*: An administrative case for discipline or disbarment of a lawyer cannot be considered to constitute a prejudicial question to a criminal case, even if both concern the same parties, facts, and issues.

(4.4) *Other Cases*: In instances when the doctrine is invoked in other types of cases, the courts, at its discretion and upon determination of the following elements, may order that the main case to be held in abeyance, provided that subdivision i concur with either subdivision ii or iii.

i. It is necessary that there are at least two cases involved.

ii. *Elements*: To apply the doctrine, the following elements must concur: (a) the issue raised in the other case is similar or is intimately related to the issue raised in the main case; and (b) the resolution of the issue in the main case is dependent or determined by the resolution of the issue in the other case.

iii. *Elements*: To apply of the doctrine, the following elements must concur: (a) the issue raised in the other case is similar or is intimately related to the issue raised in the main case; and (b) the resolution of the issue in the other case is important so as to guarantee that protected rights are not harmed in the resolution of main case.

iv. *Absence of One Element*: Absence of one element is conclusive as to the fact that no prejudicial question exists in the case.

Please be guided accordingly.

July 28, 2006.