



Republic of the Philippines
Supreme Court
Manila

2024 BAR EXAMINATIONS

COMMERCIAL AND TAXATION LAW

September 8, 2024
2:00 p.m. – 6:00 p.m.

#BarNiJLo2024
#MostValuableLaban
#MarVeLousBar

1.

Nympha, a famous author, collaborated with Tobias, a novice illustrator, to create a children's book. Tobias offered his services for free. Nympha gave Tobias the manuscript and discussed with him the inspiration for the characters. Nympha envisioned a story about two best friends who had a huge fight but later realized the value of forgiveness. Tobias drew the characters based on Nympha's specifications and instructions. Nympha then published the book and claimed sole copyright ownership. Nympha argued that she is the author not only of the text but also the images in the book since Tobias exactly adopted her idea. **Is Nympha the copyright owner of the images or drawings in the book? Explain.**

2.

In 1984, the Nova Family established the North Nova, Inc. (NNI), a pharmaceutical company. On August 31, 1984, NNI was issued its certificate of incorporation with corporate term of 40 years. On August 31, 2024, the corporate term of NNI expired without the board of directors renewing its corporate existence. However, the Nova Family continued NNI's business operations. South Moon, Inc. (SMI), a rival company, questioned the Nova Family's action. SMI argued that the Nova Family cannot continue to operate NNI without reviving its corporate existence. **Is the Nova Family's continued operations of NNI valid? Explain.**

3.

Ernest Bicycle Corporation (EBC) and Max Speed Corporation (MSC) are the leading manufacturers and sellers of electric bicycles in the country. EBC and MSC offer their bestselling models at PHP 25,000.00 per unit. In 2023, Gryffin Pedals, Inc. (GPI) entered the market and sold electric bicycles with features similar to EBC and MSC's bestselling models for only PHP 20,000.00. GPI has no physical stores and offers its products in digital marketplaces. After a year, GPI had 75% share of the market leaving EBC and MSC at 15% and 10% shares, respectively. EBC and MSC filed a complaint before the Philippine Competition Commission and alleged that GPI is fast monopolizing the electric bicycles market because of its dominant position. **Will the complaint against GPI for violation of the competition laws prosper? Explain.**

4.

Audrey read the 24-hour rush sale from *Easy Shopping*, a known digital marketplace, which offers free shipping plus 50% cash back for purchases worth at least PHP 10,000.00. Audrey checked out several items and placed the orders pursuant to the promotion. *Easy Shopping* accepted the

orders and marked them “*pending payment.*” However, Audrey’s digital wallet had insufficient funds and was reloaded only the following day. At that time, the cashback and free shipping promotions were no longer available. Audrey then demanded from *Easy Shopping* to honor their transaction based on the promotion and presented a screenshot of her orders as supporting evidence. On the other hand, *Easy Shopping* countered that the transaction is unenforceable absent a written contract and that Audrey must pay the regular price and normal shipping rate. **Is the transaction enforceable on the basis of the screenshot of Audrey’s orders with *Easy Shopping*? Explain.**

5.

In 2022, Annie, Brenda, Clara, Donna, and Enola formed Nurturing Family Organization (NFO), a corporation with the principal purpose of helping single parents. Gregory, a wealthy philanthropist, donated to NFO a parcel of land through a public document. Clara accepted the donation in the same public instrument because NFO was not yet registered with the Securities and Exchange Commission (SEC). In 2023, the SEC issued a certificate of incorporation in favor of NFO. In 2024, Clara died and her heirs included the donated land in the settlement of her estate. The heirs of Clara argued that she owned the real property and not NFO which lacked legal personality at the time of the donation. **Is the donation of real property in favor NFO valid despite its lack of legal personality? Explain.**

6.

Pierre and Fonzi derived money from the illegal trade of Philippine wildlife like pangolins, tarsiers, and palm civets. Pierre and Fonzi collected PHP 2,000,000.00 each month which they delivered to Phoebe, an art collector. Phoebe used the funds to buy high-value paintings which she auctioned off in art galleries. The police officers tracked down the unlawful wildlife trading and arrested Phoebe. The operatives charged Phoebe with money laundering. At the trial, Phoebe argued that she should be acquitted of the charge because she did not participate in the illegal wildlife trading. **Is Phoebe criminally liable for money laundering? Explain.**

7.

Nina and Roxanne are shareholders of Essean & Essaiah Corporation (EEC) engaged in the pet supplies business. In 2023, the Board of Directors declared surplus profits and distributed dividends to the shareholders. The Board of Directors likewise released the shareholders with unpaid subscriptions from their obligations. Accordingly, Nina and

Roxanne no longer settled the unpaid balance of their subscriptions. Upon inspection of corporate books, however, it was revealed that EEC has been experiencing insolvency for the last three years. In 2024, the directors and shareholders dissolved EEC during their annual meeting and divided corporate properties and assets among themselves. Aggrieved, the creditors of EEC filed an action against Nina and Roxanne to collect corporate debts. In their answer, Nina and Roxanne invoked the distinct personality of EEC from its shareholders. Nina and Roxanne added that they are not privy to the transactions between EEC and its creditors. **May the creditors of EEC run after Nina and Roxanne to satisfy their claims? Explain.**

8.

Felix, Ivan, and Ruth formed a partnership to operate a coffee shop. Felix and Ivan provided the capital while Ruth contributed her labor and industry. Within the coffee shop, Felix opened his own plant kiosk and Ruth put up her own souvenir shop. Whereas Ivan set up a coffee stall two blocks away from the coffee shop. **May the partners Felix, Ivan, and Ruth lawfully engage in their separate businesses? Explain.**

9.

Dory is a video blogger with 500,000 subscribers. Dory documented her life in law school and uploaded the videos in social media platforms. Dory earned PHP 100,000.00 for each video that gets a hundred thousand views. In one video, Dory shared her difficulties in reading hundreds of cases and the application of penalties in Criminal Law. Byron, a law student, uploaded a 10-minute video in social media using a 30-second clip from Dory's vlog showing the case list in Criminal Law. Byron shared his study habits and discussed how a law student like Dory can easily memorize the doctrines on the list. Byron's video got 1,000,000 views and earned more than what Dory gained. Dory envied Byron and sued him for copyright infringement and argued that he used her content for monetary gain. **Is Byron liable for copyright infringement? Explain.**

10.

Express Innovation Corporation (EIC) applied for registration with the Securities and Exchange Commission (SEC). The EIC submitted its proposed Articles of Incorporation which reads:

First: That the name of the corporation shall be, "Express Innovation Corporation"

....

Third: That the principal office of the corporation is located in Sakurajima, Konohana Ward, Osaka, Japan.

....

Ninth: That Haru Nikko, a resident of Japan, has been elected by the subscribers as the Treasurer of the Corporation to act as such until after the successor is duly elected and qualified in accordance with the by-laws, that as Treasurer, authority has been given to receive in the name and for the benefit of the corporation, all subscriptions, contributions or donations paid or given by the subscribers or members, who certifies the information set forth in the seventh and eighth clauses above, and that the paid-up portion of the subscription in cash and/or property for the benefit and credit of the corporation has been duly received.

If you are the SEC Examiner, will you recommend the approval of the Articles of Incorporation? Explain.

11.

Duke is a resident of an exclusive subdivision. Duke always heard loud cars and motorcycles passing through the neighborhood at night. Duke then set up a closed-circuit television (CCTV) at his gate and recorded the rowdy vehicles and their plate numbers. Thereafter, Duke requested from the Land Transportation Office (LTO) the names and addresses of the registered owners of the vehicles. Duke explained that he will use the CCTV footage as supporting evidence in his complaint for damages against the vehicle owners. However, the LTO denied the request on the ground that personal information of vehicle owners cannot be disclosed without their consent. **Is the LTO correct in denying Duke's request for information? Explain.**

12.

Blaine Builders Corporation (BBC) has a total of 200,000 outstanding shares which are all entitled to vote. However, 10,000 of the shares are under dispute or subject matter of pending litigations. Harold and Joaquin are BBC's major stockholders. Harold called a meeting where stockholders representing 98,400 shares attended and voted for new members of the board of directors. Joaquin filed an election protest and claimed that there was no quorum in the meeting which shall consist of the stockholders representing a majority of the outstanding capital stock. Harold insisted that there is a quorum after excluding the 10,000 disputed shares. **Is there a required quorum in the stockholders' meeting that elected the new members of the board of directors? Explain.**

13.

Justin opened a peso savings account with the Ozzy Pay Bank (OPB) where he deposited his earnings. In 2024, Justin went to OPB to verify his account. The OPB showed to Justin the transaction history and informed that he had only PHP 100.00 remaining balance after a series of withdrawals. Justin denied the transactions and claimed that his signatures appearing on the withdrawal slips in the sum of PHP 3,000,000.00 were forged. The investigation revealed that an impostor forged the signature on the withdrawal slips and delivered the amounts to his conspirator who opened a peso savings account with OPB using the funds as initial deposit. Aggrieved, Justin filed a complaint for sum of money against OPB and alleged that it was negligent in allowing the unauthorized withdrawals. Meantime, the trial court directed the OPB to produce the bank records of the conspirator. The OPB refused contending that the conspirator's bank account is not the subject of litigation. **Did the OPB validly refuse to disclose the conspirator's bank records? Explain.**

14.

Flavio obtained from Safe Assurance Corporation (SAC), through its agent Laureen, a fire insurance policy over his residential house for a period of one year from August 25, 2024 to August 24, 2025. Flavio delivered on August 26, 2024 a check representing premium payment to Laureen who then issued an acknowledgment receipt. On August 27, 2024, a fire completely razed Flavio's house. Oblivious of the incident, Laureen deposited the check on August 28, 2024 to SAC's bank account and was credited on the same day. Thereafter, Flavio filed against SAC an insurance claim. However, SAC denied the claim and argued that there was no payment of premium yet to make the insurance policy effective at the time of the loss. SAC explained that it received the premium payment only on August 28, 2024 or after the fire occurred on August 27, 2024. **Is there a valid and binding insurance contract between SAC and Flavio? Explain.**

15.

Sierra Electronics Inc. (SEI) has an outstanding capital stock consisting of 100 common shares and 100 non-voting preferred shares. The common shares are held by Filipino citizens while the preferred shares are held by foreigners. SEI planned to buy real property and establish a manufacturing plant in the Philippines. **May the SEI own land in the Philippines? Explain.**

16.

The City Treasurer served to Luminous Star Corporation (LSC) a Notice of Assessment (NOA) for basic local business taxes (LBT) in the amount of PHP 900,000.00, exclusive of interest and penalties. LSC filed a protest before the City Treasurer but was denied. LSC appealed to the Metropolitan Trial Court (MeTC) and prayed for a writ of preliminary injunction to prevent the collection of assessed taxes. The City Treasurer opposed the application for injunctive relief and contended that the courts cannot enjoin the collection of taxes. **May the MeTC issue an injunctive relief against the City Treasurer from collecting the local taxes? Explain.**

17.

On August 23, 2024, Topaz Gems Industries (TGI) filed with the Bureau of Internal Revenue (BIR) an administrative claim for refund of overpaid final withholding tax on dividends paid in 2023. On August 28, 2024, TGI filed a judicial claim for refund before the Court of Tax Appeals (CTA). The BIR opposed the judicial claim for refund and contended that the CTA lacks jurisdiction over the case. The BIR added that the judicial claim was premature having been filed without prior resolution of the administrative claim. **Does the CTA have jurisdiction over the judicial claim for refund? Explain.**

18.

Fritzie Presley, Inc. (FPI) is a domestic corporation engaged in Value Added Tax (VAT) zero-rated transactions. In the second quarter of 2022, the input taxes of FPI from zero-rated sales amounted to PHP 9,811,152.02. The accountant of FPI advised to refund the input taxes and not to offset it with output taxes. On July 10, 2023, FPI filed a claim to refund the input taxes before the Bureau of Internal Revenue (BIR) but was denied. FPI elevated the case to the Court of Tax Appeals (CTA). Meantime, the BIR's assessment against FPI for deficiency output VAT for the second quarter of 2022 in the amount of PHP 8,501,355.53 became final and executory. After trial, the CTA granted FPI's claim for refund but only for PHP 1,309,796.49 representing the difference between the excess input taxes and deficiency output taxes. The CTA held that since FPI has deficiency output taxes for 2022, the input taxes must first be applied against the deficiency taxes, and only the balance should be allowed for refund. On the other hand, FPI argued that the taxpayer-claimant has the option to charge the input taxes from zero-rated sales against the output taxes. **May the CTA offset the input taxes against deficiency output taxes even without the taxpayer-claimant choosing this option? Explain.**

19.

The Court of Tax Appeals (CTA) acquitted Stephen in a criminal case for non-filing of Annual Income Tax Return (ITR) under Section 255 of the Tax Code. The CTA ruled that the prosecution failed to prove Stephen's guilt. However, the CTA imposed upon Stephen civil liability for deficiency income tax arising from the non-filing of ITR. Stephen questioned the civil aspect of the case and argued that his acquittal in the criminal case exonerated him from any civil liability arising from the offense. **May the CTA impose civil liability to pay taxes upon Stephen despite his acquittal in the criminal case? Explain**

20.

On June 30, 2023, the Commissioner of Internal Revenue (CIR) served a Letter of Authority (LOA) to Waldorf Weston Corporation (WWC). The LOA authorized Revenue Officer (RO) Arjun and Group Supervisor (GS) Simone to examine WWC's accounting books and records for the taxable year 2021. Thereafter, WWC received a Memorandum-Referral Letter signed by Revenue District Officer (RDO) Desmond authorizing RO Valerie and GS Warren to continue the audit investigation. The memorandum noted that RO Arjun and GS Simone were already reassigned to another district office. After proper issuance of a Notice of Discrepancy and Preliminary Assessment Notice, RO Valerie and GS Warren jointly recommended that the CIR issue a Final Assessment Notice (FAN) against WWC because it had unreported gain subject to income tax for 2021. The CIR adopted the recommendation and served a FAN upon WWC. Aggrieved, WWC challenged the validity of the Memorandum-Referral Letter on the ground that it is not equivalent to a LOA. **Is the Memorandum-Referral Letter valid to examine WWC's accounting books and records? Explain.**