



Republic of the Philippines
Supreme Court
Manila

2024 BAR EXAMINATIONS

REMEDIAL LAW, LEGAL AND JUDICIAL ETHICS

September 15, 2024
2:00 p.m. – 6:00 p.m.

#BarNiJLo2024
#MostValuableLaban
#MarVeLousBar

1.

Toni filed an action for breach of contract against Ivana. At the trial, Toni answered these questions from her counsel:

Q: What happened next, if any?

A: Ivana and I negotiated the terms of the transaction.

Q: After your negotiation with Ivana, did you reduce your agreement into writing?

A: Yes, we drafted and signed an instrument.

Q: Do you know the contents of this instrument?

A: Yes.

Q: Will you tell the court the contents of this instrument?

If you are Ivana's counsel, will you object to the last question? Explain.

2.

In a criminal case for homicide, the prosecution offered Austin as witness to prove that Titus admitted to him the killing of the victim. At the trial, Austin answered these questions from the public prosecutor:

Q: Did you witness the killing of the victim?

A: No, ma'am.

Q: What were you doing when the victim was killed?

A: I was sleeping, ma'am.

Q: Why are you testifying against Titus?

A: Because Titus admitted to me that he killed the victim.

Q: What did Titus tell you?

Immediately, Titus' counsel objected to the question on the ground that the answer of Austin would be hearsay and inadmissible in evidence. **If you are the judge, how will you rule on the objection? Explain.**

3.

Zeinab, Glenda, and Rosmar had several business dealings. Zeinab purchased from Glenda PHP 1,000,000.00 worth of beauty products. On the other hand, Rosmar borrowed from Glenda PHP 2,000,000.00 as additional capital. Zeinab and Rosmar promised to pay their respective obligations to Glenda after one year. On due date, Zeinab paid Glenda

only PHP 700,000.00 while Rosmar did not pay any amount despite repeated demands. Aggrieved, Glenda filed a complaint to recover PHP 2,300,000.00 against Zeinab and Rosmar before the Regional Trial Court (RTC). **Does the RTC have jurisdiction over the complaint? Explain.**

4.

Ulrich is resident and owner of a house and lot situated in Pasay City. Thereafter, Ulrich discovered a deed of real estate mortgage over the house and lot which he supposedly executed to secure a loan from Nigel. The mortgage contract contained a stipulation that *“all civil actions arising from or connected with this instrument or any of its provisions shall be brought before the proper courts of Bacolod City, to the exclusion of all other venues of action which are hereby expressly waived.”* Aggrieved, Ulrich filed against Nigel an action to declare void the spurious deed of real estate mortgage before the Regional Trial Court in Pasay City. In his answer, Nigel raised an affirmative defense that the venue was improperly laid. The action must be filed exclusively in Bacolod City pursuant to the mandatory venue stipulation. **Which between Pasay City and Bacolod City is the proper venue for the action to nullify the deed of real estate mortgage? Explain.**

5.

Gomez died leaving his wife Morticia and daughter Wednesday. Thereafter, Morticia filed a petition for probate of Gomez’s holographic will before the Regional Trial Court (RTC). The holographic will contained a detailed distribution of Gomez’s estate. Wednesday opposed the petition on the ground that it failed to allege that earnest efforts have been made among the surviving family members towards an amicable settlement of the estate of the deceased. The RTC dismissed the petition for probate absent compliance with a condition precedent as mandated by Article 151 of the Family Code. **Is the RTC correct in dismissing the petition for probate for failure to allege earnest efforts toward a compromise? Explain.**

6.

The Department of Public Works and Highways (DPWH) launched an infrastructure project that will connect the major highways in the country. Trevor’s real property situated in Bacoor, Cavite will be affected by the implementation of the project. The DPWH, through the Office of the Solicitor General, then initiated expropriation proceedings with motion for the urgent issuance of a writ of possession. The DPWH attached a manager’s check equivalent to 100% of the zonal valuation of Trevor’s property and indicated the Office of the Clerk of Court, Regional Trial

Court (RTC) of Bacoor, Cavite as payee. The DPWH furnished Trevor with copies of the complaint, motion, and manager's check. The motion was not set for hearing. Thereafter, the RTC issued the writ of possession. Trevor questioned the propriety of the issuance of the writ of possession because he was not afforded due process in determining the valuation of his real property. **Was the writ of possession validly issued in the expropriation case even without a hearing? Explain.**

7.

Myrna leased her real property to Geybin for a period of one year. However, Geybin refused to vacate the premises after the expiration of the lease. Myrna then filed against Geybin an unlawful detainer case. The Metropolitan Trial Court (MeTC) ruled in favor of Myrna and ordered Geybin to surrender the real property. The judgment of the MeTC lapsed into finality but was not enforced. For humanitarian reasons, Myrna allowed Geybin to stay on the real property provided he will surrender its possession when needed. Thereafter, Myrna demanded from Geybin to vacate the premises but was refused. Myrna filed against Geybin another unlawful detainer case. In his answer, Geybin argued that the second ejectment case is barred by the prior final judgment in the first ejectment case. **Does *res judicata* bar the institution of the second unlawful detainer case? Explain.**

8.

Amor filed against Yoda and the Register of Deeds an action for reconveyance, nullity of sale, and cancellation of certificate of title before the Regional Trial Court (RTC). Amor alleged that Yoda unlawfully obtained a certificate of title when he registered the disputed land in his name based on a falsified deed of sale. In due course, the RTC found Amor as the lawful owner of the realty and declared the sale void. However, the RTC failed to expressly include in the dispositive portion the cancellation of the certificate of title. The decision became final and executory. Amor moved for clarificatory inquiry about the omission in the dispositive portion. The RTC clarified its final judgment and required the Register of Deeds to cancel the certificate of title. Aggrieved, Yoda questioned the RTC's course of action and argued that it cannot modify a final judgment to correct perceived errors of law and fact. **Did the RTC violate the doctrine of immutability of final judgment when it required the Register of Deeds to cancel the certificate of title? Explain.**

9.

The Ombudsman filed an information against City Mayor Isidro for violation of Section 3(e) of Republic Act No. 3019 or the Anti-Graft and

Corrupt Practices Act before the Sandiganbayan. The information alleged that Mayor Isidro, “*an incumbent City Mayor with Salary Grade 30, while in the performance of his official and administrative functions, acting with evident bad faith and manifest partiality, did then and there willfully, unlawfully and criminally give unwarranted benefits to ABC Corporation by allowing it to operate a dumpsite without the necessary environmental permits and clearances causing undue injury to the residents who had to endure the stench, flies, rats and mosquitoes emanating from the dumpsite.*” Mayor Isidro sought to dismiss the criminal case for lack of jurisdiction and explained that the Regional Trial Court (RTC), not the Sandiganbayan, has authority to decide the controversy. **Which between the Sandiganbayan and the RTC has proper jurisdiction over the criminal case? Explain.**

10.

The Philippine Drug Enforcement Agency (PDEA) received a tip from its confidential informant that Aidan was selling dangerous drugs in his residence in Quezon City. The PDEA agents conducted surveillance and confirmed the illegal activity. The PDEA agents then filed an application for search warrant before the Regional Trial Court (RTC) of Manila. The PDEA agents stated that Aidan has two kilos of *shabu* in his residence ready for disposal. The PDEA agents added that they will use two body-worn cameras. The Executive Judge of the RTC of Manila granted the application and issued a search warrant. The PDEA agents enforced the warrant and seized two kilos of *shabu* from Aidan. **Is the issuance of search warrant valid? Explain.**

11.

The Metropolitan Trial Court (MeTC) convicted Ivanka of theft and imposed upon her the indeterminate penalty of one year and eight months, as minimum, to three years, six months and 21 days, as maximum. Ivanka timely filed a notice of appeal. The MeTC then transmitted the records of the criminal case to the Regional Trial Court (RTC). Thereafter, the RTC directed Ivanka to file a memorandum of appeal. However, Ivanka failed to submit her memorandum despite notice. The RTC then dismissed Ivanka’s appeal for failure to file the required memorandum. **Did the RTC properly dismiss Ivanka’s appeal for failure to file the required memorandum? Explain.**

12.

Hermie and his 11-year old son Karter are residing in the province. Vincent, a talent manager, recruited Karter to be a child actor. Hermie agreed and gave parental consent. Vincent brought Karter in Manila.

Vincent locked Karter in a small room and obliged him to have sex with clients. After one month, Vincent brought Karter inside an operating room and removed one of his corneas and a large portion of his skin. The operatives raided the premises, rescued Karter, and arrested Vincent. The social worker interviewed Karter who narrated how he was recruited, detained, sexually abused, and subjected to organ removal. The psychologist also diagnosed Karter with post-traumatic stress disorder. The prosecution charged Vincent with qualified human trafficking. However, Karter refused to testify because of severe trauma. At the trial, the prosecution called the social worker to the witness stand to establish the elements of the offense charged based on Karter's statements during the interview. Vincent objected on the ground that the testimony of the social worker is inadmissible for being hearsay. **Is the testimony of the social worker hearsay? Explain.**

13.

Esnyr filed against Fonzie a complaint for sum of money with prayer for preliminary attachment. Esnyr alleged that Fonzie failed to pay the consideration arising from their contract of service. The trial court granted the provisional remedy and levied Fonzie's property. However, Fonzie died during the pendency of the proceedings. Accordingly, the heirs of Fonzie moved to dismiss the case and to dissolve the writ of preliminary attachment. The heirs of Fonzie argued that the writ of preliminary attachment would adversely affect their right to dispose the estate. The trial court dismissed the case and dissolved the writ of preliminary attachment. **Did the trial court properly dismiss the case and dissolve the writ of preliminary attachment? Explain.**

14.

Virgil filed a disbarment complaint against Atty. Flores for dishonest and deceitful conduct. Virgil alleged that he paid a substantial amount to Atty. Flores who promised to facilitate the release of a favorable judgment. The operatives then arrested Atty. Flores for selling fake court decisions. As supporting evidence, Virgil submitted screenshots of text messages exchanged between him and Atty. Flores, to wit: *"If you send PHP 400,000.00 then you will surely win the case!"*; *"Atty ... I already deposited the amount, thank you."*; *"Okay, received ... let's wait for a month according to the judge."* However, Atty. Flores argued that the records are bereft of any proof showing that the text messages originated from a phone number registered in his name. Thus, the text messages are inadmissible in evidence. **Are the text messages inadmissible in evidence? Explain.**

15.

Rigor, Marites and Lena are best friends. Eventually, Rigor married Marites but they separated due to irreconcilable differences. After five years, Marites visited Rigor in his apartment for possible reconciliation. Marites was surprised to discover that Rigor and Lena were already living together as common law partners. Due to extreme jealousy, Marites physically assaulted Lena who sustained major contusions and trauma. The public prosecutor charged Marites with serious physical injuries. At the trial, the prosecution called Rigor in the witness stand to testify on the incident. Marites invoked the marital disqualification rule which prohibits the spouses from testifying against one another during their marriage. Marites argued that her marriage with Rigor remains valid and existing despite their separation. The prohibition must apply to bring back solidarity and harmony in their marital relationship. **Is the marital disqualification rule applicable between Rigor and Marites? Explain.**

16.

Atty. Perez induced Eunice to invest money in a trading business with guaranteed profits. Atty. Perez assured Eunice that the business was doing well. Eunice agreed and delivered to Atty. Perez PHP 10,000,000.00 as capital investment. Atty. Perez issued to Eunice postdated checks with amounts representing her capital and expected profits. Thereafter, Eunice discovered that the trading business was a sham and that the checks were all drawn against a closed account. Aggrieved, Eunice filed against Atty. Perez a criminal action for *estafa* and a disbarment complaint for gross misconduct. Atty. Perez sought to suspend the disciplinary charge against him pending resolution of the criminal proceedings. Atty. Perez explained that his innocence or acquittal constitutes a prejudicial question to his administrative liability arising from similar incidents. **Does the pending criminal action constitute a prejudicial question to warrant the suspension of the disbarment case? Explain.**

17.

Colin is a strict team leader who earned the disdain and displeasure of his co-employees. Colin started to receive text messages and calls from unknown mobile numbers warning him that his days are numbered. Colin reported the threats to his manager. After investigation, the manager decided to transfer Colin to another station for security reasons. Colin repeatedly requested from his manager to disclose the details of the investigation but was refused. Aggrieved, Colin filed a petition for issuance of writ of habeas data to stop his involuntary transfer to another station which allegedly amounts to constructive dismissal. Colin also claimed that the unjustified refusal of the management to disclose the

basis of his transfer constitutes serious threat to his rights to privacy and liberty. **Will the petition for habeas data prosper to protect Colin's right to security of tenure? Explain.**

18.

Atty. Cassandra, a solo legal practitioner, hired Sandro as a legal researcher. Atty. Cassandra has an appeal brief due on September 25, 2024. However, Atty. Cassandra contracted monkeypox and suffered high fever, severe headache, and muscle fatigue. Atty. Cassandra then instructed Sandro to finish the appeal brief, affix her signature, and file the pleading with the Court of Appeals. **Did Atty. Cassandra violate any provision of the Code of Professional Responsibility and Accountability? Explain.**

19.

Francis, through Atty. Kyle, charged Madam Toyoh with violation of Presidential Decree No. 1612 or the Anti-Fencing Law for purchasing a vintage vehicle knowing that it proceeds from the crime of carnapping. Madam Toyoh hired Atty. Caleb as counsel and confessed to him that she is guilty of the offense. Atty. Caleb promised Madam Toyoh that he will do anything to prove her innocence. Atty. Caleb then reached out to Francis and negotiated for an amicable settlement that resulted in the execution of a release, quitclaim, and waiver of rights. Atty. Kyle discovered the compromise agreement and noticed some unfair provisions. Atty. Kyle filed against Atty. Caleb an administrative case for impropriety. On the other hand, Atty. Caleb countered that the ethical standards in the legal profession mandates lawyers to encourage clients to avoid or settle any controversy. Atty. Caleb added that the compromise agreement is beneficial to both parties. **Did Atty. Caleb violate any provision of the Code of Professional Responsibility and Accountability? Explain.**

20.

Atty. Diwata, a suspended lawyer, created a professional social media page and maintained poser accounts which she used across various social networks. Atty. Diwata, during her livestream, spread fake news that the Court's *Strategic Plan for Judicial Innovations 2022-2027* failed to achieve its major target outcomes and had prejudiced the legal profession. Particularly, Atty. Diwata launched a social media campaign against the *Code of Professional Responsibility and Accountability* and claimed that it is akin to an *ex post facto* law because its provisions are given retroactive effect. **May the Supreme Court discipline Atty. Diwata for her social media activities? Explain.**