Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

SURVIVORS OF AGRICHEMICALS IN GENSAN (SAGING), INC. with its CHAIRPERSON ARTURO G. LUARDO and ITS MEMBERS, Petitioners, -versus- **STANDARD FRUIT COMPANY, STANDARD FRUIT AND STEAMSHIP, CO., DOLE FOOD COMPANY INC., DOLE FRESH FRUIT COMPANY, INC., DEL MONTE FRESH PRODUCE N.A. INC., AND DEL MONTE TROPICAL FRUIT CO.*,** Respondents.	**G.R. No. 206005** Present: LEONEN, *J., Chairperson,* LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.* **Promulgated:** APR 12 2023

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DECISION

LEONEN, *J.*:

A party alleging that summons was served upon them only by mail must prove it by evidence, not mere bare allegations.

Furthermore, if the complaint sufficiently states that it is being filed by a party with the real parties in interest, the noninclusion of the real parties in interest in the title is a mere technical defect, which may be resolved by

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* Del Monte Tropical Fruit Co. is now Del Monte Fresh Produce Company.

amending the complaint, keeping in mind the objective of proper administration of justice and preventing further delay and multiplicity of suits.

Finally, the filing of the complaint in court interrupted the running of the prescriptive period for the present action for quasi-delict. The refiling of the complaint one year after the finality of the judgment in the previous complaint is well within the prescriptive period.

This resolves the Petition for Review on Certiorari[1] filed by the Survivors of Agrichemicals in Gensan, Inc. (SAGING), its chairperson, Arturo G. Luardo (Luardo), and members, assailing the Orders[2] of the Regional Trial Court. The trial court dismissed their complaint for lack of jurisdiction over the persons of Standard Fruit Company, Standard Fruit and Steamship, Co., DOLE Food Company, Inc., DOLE Fresh Fruit Company, Inc., Del Monte Fresh Produce N.A. Inc., and Del Monte Tropical Fruit Co. (the foreign corporations) and for failing to state a cause of action. It also denied their separate Motions for Reconsideration.

Standard Fruit Company, Standard Fruit and Steamship, Co., and DOLE Food Company, Inc. (DOLE Companies) are foreign corporations organized under the laws of the States of Delaware and Hawaii, United States, respectively. Meanwhile, Del Monte Fresh Produce N.A. Inc. and Del Monte Tropical Fruit Co. (Del Monte Corporations) are foreign corporations organized under the laws of the State of Florida, United States.[3]

The Petition originates from a Complaint[4] for damages filed by SAGING and its members against the foreign corporations and others for the illnesses and injuries its members suffered due to the use of products with nematodes containing dibromochloropropane (DBCP).

On October 10, 1998, SAGING, then Davao Banana Plantation Workers Association of Tiburcia, Inc., and its members filed a Complaint against the foreign corporations for damages.[5] In a Consolidated Decision,[6] the Court of Appeals dismissed the Complaint without prejudice for improper service of summons. On June 2, 2009, the Supreme Court issued an Entry of Judgment, docketed as G.R. No. 165958-59, on Saging's appeal.[7]

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1 *Rollo*, pp. 4–23.

2 Id. at 24–53. The August 31, 2012, November 6, 2012, February 11, 2013, and February 14, 2013 Orders in Civil Case No. 33766-11 were penned by Judge Ridgway M. Tanjili of the Regional Trial Court, Davao City, Branch 15.

3 Id. at 6.

4 Id. at 54–63.

5 Id. at 7.

6 Id. at 104–137. The October 3, 2002 Consolidated Decision in CA-G.R. SP Nos. 61923 and 61927 was penned by Associate Justice Andres B. Reyes, Jr. (a former member of this Court) and concurred in by Associate Justices Ruben T. Reyes and Mariano C. Del Castillo (former members of this Court) of the Special Seventh Division of the Court of Appeals, Manila.

7 Id. at 12, 62, 1879 and 1910.

On September 9, 2010, SAGING and its members refiled the Complaint against the foreign corporations.[8]

In their Complaint, SAGING and its members alleged that the foreign corporations are liable to SAGING's members for exposing them to nematodes containing DBCP. They maintained that the chemical caused the members to suffer serious and permanent harm to their health, including cancer, sterility, and severe injuries to their reproductive capacities. They claimed that the corporations negligently manufactured, produced, and distributed DBCP in the market without warning of its dangerous characteristics, or information on how they can safely protect themselves against its harmful effects.[9]

Their Complaint states:

> 1. That plaintiff Survivors of Agrichemicals In Gensan (SAGING), Inc. (for brevity SAGING), is a non-stock Philippine Corporation, with principal office address at . . ., with its officers and members namely, Arturo G. Luardo, etc., who are numerous hence, impractical to specifically name them all in this complaint (Initial List of names of officers and members Annex "B")[.]"
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> . . . .
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> 3. That defendants, doing business in the Philippines, have manufactured, sold, distributed, used and/or made available in commerce nematodes, containing the chemical dibromochloropropane, commonly known as DBCP. The chemical was used against the parasite known as nematode, which plagued banana plantations, including those in the Philippines. As it turned out, DBCP chemicals not only destroyed nematode, it also caused cancer and ill-effects on the health of the persons exposed to it, affecting the human reproductive system, as well;
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> 4. That plaintiff's members were exposed to DBCP, in the 1970's up to early 1980's, while (a) they used this product in the banana plantations where they were employed and/or (b) they resided within the agricultural area where it was used. As a result of such exposure, the plaintiff's members suffered serious and permanent injuries to their health, including cancer but not limited to sterility and severe injuries to their reproductive capacities;
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> 5. That the defendants were at fault or were negligent in that they manufactured, produced, sold and/or used DBCP and/or otherwise put the same in the stream of commerce, despite its (DBCP) earlier ban in 1960s by the USA Environment Protection Agency and without informing the users of its hazardous effects on health and/or without instructions on its proper use and application. They allowed plaintiff's members to be exposed to DBCP containing materials, which

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8 Id. at 54.

9 Id. at 58, 60–61.

defendants knew or in the exercise of ordinary care and prudence ought to have known were highly harmful and injurious to the plaintiff's members health and well being;

6. That defendants, which manufactured, produced, sold, distributed, made available or put DBCP into the stream of commerce were negligent or at fault in that they also, among others:

   a. Failed to adequately warn plaintiff's members and their buyers of the dangerous characteristics of DBCP, or to cause their subsidiaries or affiliates to so warn plaintiff's members;
   b. Failed to provide plaintiff's members with information as what should be reasonably safe and sufficient clothing and proper protective equipment and appliances, if any to protect plaintiff's members from the harmful effects of exposure to DBP, or cause their subsidiaries or affiliates to do so;
   c. Failed to place adequate warnings in a language understandable to the plaintiff's members, on containers of DCPB-containing materials to warn of the dangers of health of coming into contact with DBCP, or cause their subsidiaries or affiliates to do so;
   d. Failed to take reasonable precaution or to exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling applying DBCP, or to cause their subsidiaries or affiliates to do so;
   e. Failed to test DBCP prior to releasing these products for sale or to cause their subsidiaries or affiliates to do so;
   f. Failed to reveal the results of tests conducted on DBCP to the plaintiff's members, governmental agencies and the public, or cause their subsidiaries or affiliates to do so; and
   g. Allowed the manufacture, sale, distribution of the DBCP chemicals, despite its earlier ban in 1960 by the US Environment Protection Agency (EPA).

7. The illness and injuries of the plaintiff's members are also due to the fault or negligence of defendants . . . in that they failed to exercise reasonable care to prevent each plaintiff's members harmful exposure to DBCP-containing products which defendants knew or should have known were hazardous to each plaintiff's members in that they, among others[.]

. . . .

DAMAGES

8. That the plaintiff's members are now suffering from illnesses due to the exposure of DBCP contained in the nematocides, including being sterile and/or physically incapacitated to procreate and/or achieve ultimate romantic gratification or inflicted with cancer, since DBCP has permanently damaged the plaintiff's members' reproductive and immune systems. This has caused plaintiff's members emotional stress and suffering which shall continue throughout their life being physically incapable of natural parenthood and physically handicapped to extend to marital bless and others.

9. That in the community, the plaintiff's members suffers [sic] from deflated ego, eroded self confidence and a feeling of inferiority. He feels less of himself as a man. He is sad, embarrassed and

traumatized[.][10]

SAGING and its members prayed for ₱3,000,000.00 each as moral damages, ₱1,000,000.00 each as nominal damages, ₱1,000,000.00 each as exemplary damages, and 25% of the respective claims of the members as attorney's fees or ₱1,000,000.00 each.[11]

The trial court issued an Order, allowing SAGING and its members to litigate as paupers and directing the issuance of summons to the foreign corporations through the Department of Foreign Affairs, Manila.[12]

The dispositive portion of the Order states:

> In view thereof, plaintiffs are hereby allowed to litigate as paupers. Accordingly, return the records of this case to the Office of the Clerk of Court for docketing.
>
> Issue Summons and copy of the complaint to the defendants through the Department of Foreign Affairs, Manila.
>
> SO ORDERED.[13]

After motion of SAGING, the trial court issued another Order,[14] which reads:

> Finding the motion of plaintiff through counsel to be in order, as prayed for, Deputy Sheriff Robert M. Medialdea is hereby allowed to proceed to Manila particularly at the Department of Foreign Affairs to cause the extra-territorial service of summons for defendants Shell Oil Company, a foreign private juridical entity pursuant to Section 12 of Rule 12 of the 1997 Revised Rules of Civil procedure at the expense of defendants.
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> SO ORDERED.[15]

According to the sheriff's report,[16] the summonses for the foreign corporations were issued by extraterritorial service, pursuant to Rule 14, Section 12 of the Rules of Court. They were delivered to the Department of Foreign Affairs to be served by the authorized officer to the foreign corporations through their consulate or embassy office in the United States.

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10 Id. at 54–61. We note that the Complaint itself uses generic "he" pronoun. We have observe the use of gender sensitive language in other parts of this Decision.

11 Id. at 63.

12 Id. at 139. The January 28, 2011 Order in Pauper Case was penned by Judge Ridgway M. Tanjili of the Regional Trial Court, Davao City, Branch 15.

13 Id. at 130.

14 Id. at 703. The February 11, 2011 Order in Civil Case No. 33766-11 was penned by Judge Ridgway M. Tanjili of the Regional Trial Court, Davao City, Branch 15.

15 Id.

16 Id. at 144.

The DOLE Companies and Del Monte Corporations filed their respective Motions to Dismiss.[17] They contended that the trial court did not acquire jurisdiction over their persons due to improper service of summons. They also insisted that the Complaint failed to state a cause of action. Assuming it did, the action has already prescribed. In addition, they argued that SAGING is not qualified as a pauper litigant.[18]

The other defendant corporations, Shell Oil Company, DOW Chemicals Company, Occidental Chemical Corporation, and Chiquitta Brands International, Inc., did not file any responsive pleadings in the case.[19]

The trial court dismissed SAGING's Complaint.[20] It held that it did not acquire jurisdiction over the persons of the foreign corporations as the service of summons upon them at their headquarters in the United States through the Philippine Consulate General was improper and ineffective.[21] It found that summons could not have been served on the foreign corporations in accordance with Rule 14, Section 12 of the Rules of Court absent allegation of specific facts in the Complaint that they transacted business in the Philippines. It held that the allegation that "they are doing business in the Philippines" is insufficient as it is a conclusion backed by general allegations.[22]

The trial court also ruled that the complaint failed to state a cause of action because SAGING is not the real party in interest. The injuries allegedly caused by the foreign corporations were not sustained by SAGING itself, but by its members, who were not impleaded in the Complaint. It held that as a separate juridical entity, SAGING cannot claim it sustained the injuries caused to its members. Neither was there any allegation on any violation of SAGING's rights.[23] It also found that the suit cannot be treated as a class suit because "the complaint does not implead, as plaintiffs, enough number of the parties who allegedly suffered damages and injuries as consequence for the use of chemicals manufactured by [the foreign corporations]."[24]

The dispositive portions of its separate Orders read:

> WHEREFORE, premises considered, the Motion to Dismiss complaint filed by defendants Del Monte Corporations is GRANTED. Accordingly, the instant case is hereby DISMISSED without prejudice, insofar as Del Monte defendants are concerned.

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17 Id. at 145–202, 213–233.
18 Id. at 145–148, 213–232.
19 Id. at 13.
20 Id. at 34, 46.
21 Id. at 30, 41–43.
22 Id. at 29–30, 41–43.
23 Id. at 32–33, 44.
24 Id. at 33, 45.

SO ORDERED.[25]

> WHEREFORE, premises considered, the Motion to Dismiss complaint filed by Defendants DOLE FOOD COMPANY, INC., STANDARD FRUT COMPANY, STANDARD FRUIT AND STEAMSHIP, CO. and DOLE FRESH FRUIT COMPANY is GRANTED. Consequently, the instant case is hereby DISMISSED.
>
> SO ORDERED.[26]

After the trial court denied its Motions for Reconsideration,[27] SAGING and its members filed the present Petition for Review under Rule 45,[28] questioning the dismissal.

The DOLE Companies and the Del Monte Corporations filed their separate Comments to the Petition.[29]

SAGING filed its Consolidated Reply[30] to the Comments.

After this Court denied[31] the DOLE Companies' Motion for Leave to File and Admit Its Rejoinder,[32] the parties filed their respective Memoranda.[33]

Petitioners argue that the trial court erred in dismissing their Complaint. Citing *Navida v. Dizon, Jr.*,[34] they claim that the trial court acquired jurisdiction over the foreign corporations regardless of whether the latter is doing business in the Philippines. They argue that their complaint for damages is a personal action based on quasi-delict, not on a business transaction or contract. In any case, they maintain that the allegations in their Complaint show that the foreign corporations have transacted business in the Philippines.[35]

Petitioners also contend that the issue of whether the foreign corporations are doing business in the Philippines should be determined after trial on the merits. It is a defense that requires the contravention of the allegations of the complaint not within the province of a motion to dismiss.[36]

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25 Id. at 34.
26 Id. at 46.
27 Id. at 47–49; 50–53.
28 Id. at 4–22.
29 Id. at 616–702, 828–880.
30 Id. at 1320–1323.
31 Id. at 1945–1946
32 Id. at 1764–1776
33 Id. at 1778–1866 (DOLE), 1867-1919 (Del Monte), 1925-1942 (SAGING).
34 664 Phil. 283 (2011) [Per J. Leonardo-De Castro, First Division].
35 *Rollo*, p. 15–16.
36 Id. at 16.

Furthermore, petitioners insist that the modes of service of summons upon foreign private juridical entities that are unregistered or have no resident agents in the Philippines have been expanded. They claim that extraterritorial service of summons, or personal service coursed through the appropriate court in the foreign country with the assistance of the Department of Foreign Affairs, is now allowed for personal actions or actions *in personam*.[37]

They further insist that their Complaint sufficiently states a cause of action. They explain that it was filed by SAGING with all its members headed by Luardo. They add that the members are so numerous that it would be impractical to name them all in the title of the case. Luardo, for himself and as attorney-in fact of the members, was empowered through a special power of attorney to represent them in the case and it was attached as Annex B of the complaint. They further point that the original list of claimants was attached to and is a vital part of the Complaint. The annex should have been considered in determining whether the cause of action exists.[38]

In any case, they claim that in determining whether a cause of action exists in an initiatory pleading, the test should have been "admitting the truth of the facts alleged, can the court render a valid judgment in accordance with the prayer?"[39] Aside from the complaint, the court may also consider the appended annexes or documents, other pleadings of the plaintiff, or admissions in the records.[40]

Finally, petitioners cite Rule 3, Section 11 of the Rules of Court and argue that nonjoinder of parties is not a ground to dismiss an action. The complaint may be amended by adding the name of any party or correcting a mistake in the name of a party, at any stage of the action and on such terms as are just, so that the actual merits of the controversy can be speedily determined without regard to technicalities.[41]

In their defense, respondent DOLE Companies insist that the Petition should be denied as it is replete with procedural defects, such as raising factual issues in a Rule 45 Petition and a defective verification and certificate of nonforum shopping. They further claim that the trial court correctly dismissed the Complaint as it failed to acquire jurisdiction over them. The extraterritorial service of summons through the Department of Foreign Affairs is not allowed under any rule, thus defective and void. Assuming it is allowed, the extraterritorial service of summons approved was for Shell Oil Company.[42]

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37 Id. at 15.
38 Id. at 19.
39 Id.
40 Id.
41 Id. at 20.
42 Id. at 1792–1832.

Moreover, respondent DOLE Companies allege that the service of summons through the Philippine Consulate in Hawaii, United States violated the requirements of personal service of summons upon their corporate officers, as the summons was served upon them via mail, without publication.[43]

Respondent DOLE Companies also contend that (i) *Navida v. Dizon* does not apply; (ii) the Complaint failed to state a cause of action against them; (iii) petitioner SAGING is not the real-party-in-interest; and (iv) venue was improperly laid.[44]

Meanwhile, respondent Del Monte Corporations similarly argue that summons was invalidly issued and the trial court failed to acquire jurisdiction over their persons. While the complaint is for quasi-delict, it did not allege that they are doing business in the Philippines as required under Rule 14, Section 12 of the Rules of Court. Likewise, the issuance of alias summons is unavailable.[45]

They further contend that the summons was invalidly served as only personal or substituted service within the Philippines may be made on respondent Del Monte. Furthermore, the Department of Foreign Affairs is not the government office designated by law as required under the Rules of Court. Even assuming extraterritorial service of summons is allowed, the rules for its service were not complied with.[46]

Respondent Del Monte Corporations also argue that SAGING is not a real party in interest, and the members did not sign the certificates of nonforum shopping.[47] They contend that SAGING did not pay filing fees[48] and the Complaint raises questions of fact. Finally, they add that the claims are barred by laches,[49] and the causes of action have already prescribed.[50]

The principal issue in this case is whether the trial court correctly dismissed the Complaint of petitioners SAGING and its members. This requires a determination of following:

first, whether the summonses on the foreign corporations were validly served, allowing the trial court to acquire jurisdiction over them;

second, whether the Complaint sufficiently states a cause of action; and

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43 Id. at 1834–1836.
44 Id. at 1837–1863.
45 Id. at 1880, 1887.
46 Id. at 1888–1889, 1892–1893.
47 Id. at 1895, 1902.
48 Id. at 1906.
49 Id. at 1912–1913.
50 Id. at 1908.

third, whether the petitioner's action has prescribed or is barred by laches.

We grant the Petition.

I

The service of summons on the respondents is presumed valid.

Summons is the manner by which defendants are notified of the case filed against them, and how the court acquires jurisdiction over their persons.[51] Without the service of summons upon the defendants, any judgment rendered in any personal action directed against them is void.[52]

As a rule, summons should be served upon the defendants in person.[53] However, certain circumstances may not make this feasible or practicable, as when the defendant is not found in the Philippines or is a foreign juridical entity.[54]

The rule for service of summons on foreign private juridical entities that have transacted business in the Philippines is found in Rule 14, Section 12 of the Rules of Court. It reads:[55]

> SEC. 12. *Service upon foreign private juridical entity.* — When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.

The parties in this case argue on whether Rule 14, Section 12 applies to respondents.[56] The Complaint alleges that respondents are doing business in the Philippines. Denying this, respondents argue that this bare allegation is not sufficient for the rule to apply to them. [57]

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51 *Romualdez-Licaros v. Licaros,* 449 Phil. 824, 833 (2003) [Per J. Carpio, First Division].

52 *Bank of the Philippine Islands v. Spouses Evangelista,* 441 Phil. 445, 453 (2002) [Per J. Panganiban, Third Division].

53 RULES OF COURT, Rule 14, sec. 6.

54 *Ang v. Chinatrust (Philippines) Commercial Bank Corp.* 784 Phil. 791, 798–799 (2016) [Per J. Brion, Second Division].

55 Prior to its amendment by A.M. No. 11-3-6-SC.

56 *Rollo*, pp. 14–18, 1819–1830, 1827–1828, 1880–1888.

57 Id. at 1843, 1846, 1880–1882, 1886.

However, foreign corporations need not be doing business in the Philippines for the provision to apply to them. They only need to have *transacted* business in the Philippines. This Court has since noted that the coverage of the Rule is broader considering the change in the language used when it was amended:[58]

> In the pleadings filed by the parties before this Court, the parties entered into a lengthy debate as to whether or not petitioner is doing business in the Philippines. However, such discussion is completely irrelevant in the case at bar, for two reasons. *Firstly,* since the Complaint was filed on August 30, 2005, the provisions of the 1997 Rules of Civil Procedure govern the service of summons. Section 12, Rule 14 of said rules provides:
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> > Sec. 12. *Service upon foreign private juridical entity.* — When the defendant is a foreign private juridical entity *which has transacted business in the Philippines,* service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.
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> This is a significant amendment of the former Section 14 of said rule which previously provided:
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> > Sec. 14. *Service upon private foreign corporations.* — If the defendant is a foreign corporation, or a nonresident joint stock company or association, *doing business in the Philippines*, service may be made on its resident agent designated in accordance with law for that purpose, or if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.
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> The coverage of the present rule is thus broader.[59]

As a rule, changing the phrasing of a provision by amendment shows an intent to change the meaning of the original provision.[60]

Thus, the change from "doing business in the Philippines" to "transacting business in the Philippines" reveals an intent to change the qualifier, and the provision should be interpreted to give effect to this intent.

Thus, the cases discussing the meaning of the requirement of "doing business in the Philippines" in relation to this provision, especially those

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58 *NM Rothschild & Sons (Australia) Ltd. v. Lepanto Consolidated Mining Co.*, 677 Phil. 351 (2011) [Per J. Leonardo-De Castro, First Division].

59 Id. at 368–369.

60 *Commissioner of Customs v. Court of Tax Appeals*, 296 Phil. 549, 557 (1993) [Per J. Melo, Third Division].

promulgated prior to the 1997 amendment of the Rules of Court, should no longer apply.[61]

Necessarily, the discussion on whether respondents are doing business in the Philippines is irrelevant. It is sufficient that they have transacted business in the Philippines.

This Court finds that the Complaint sufficiently alleged that respondents transacted business in the Philippines. It reads:

> 3. That defendants, doing business in the Philippines, have manufactured, sold, distributed, used and/or made available in commerce nematodes, containing the chemical dibromochloropropane, commonly known as DBCP. The chemical was used against the parasite known as nematode, which plagued banana plantations, including those in the Philippines. As it turned out, DBCP chemicals not only destroyed nematode, it also caused cancer and ill-effects on the health of the persons exposed to it, affecting the human reproductive system, as well;
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> . . . .
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> 5. That the defendants were at fault or were negligent in that they manufactured, produced, sold and/or used DBCP and/or otherwise put the same in the stream of commerce, despite its (DBCP) earlier ban in 1960s by the USA Environment Protection Agency and without informing the users of its hazardous effects on health and/or without instructions on its proper use and application. They allowed plaintiff's members to be exposed to DBCP containing materials, which defendants knew or in the exercise of ordinary care and prudence ought to have known were highly harmful and injurious to the plaintiff's members health and well being[.][62]

Considering the Complaint states that respondents have manufactured, sold, or distributed in the Philippines products that contain DBCP, there is sufficient allegation that they have transacted business in the Philippines. Thus, the rule applies to respondents.

Nonetheless, we note that the summonses were not served upon the foreign corporations through any of the recognized modes under Rule 14, Section 12 of the Rules of Court at the time.

In *Atiko Trans, Inc. v. Prudential Guarantee and Assurance, Inc.*,[63] this Court outlined the individuals upon whom summons may be served in cases involving foreign private juridical entities:

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61 Del Monte cited *Signetics v. Court of Appeals*, 296-A Phil. 782 (1993) and *Litton Mills, Inc.v. Court of Appeals*, 326 Phil 710 (1996).

62 Rollo, p. 58.

63 671 Phil. 388 (2011) [Per J. Del Castillo, First Division].

> 1. Its resident agent designated in accordance with law for that purpose;
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> 2. The government official designated by law to receive summons if the corporation does not have a resident agent; or,
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> 3. Any of the corporation's officers or agents within the Philippines.[64]

In *Northwest Orient Airlines, Inc. v. Court of Appeals*:[65]

> If the foreign corporation has designated an agent to receive summons, the designation is exclusive, and service of summons is without force and gives the court no jurisdiction unless made upon [them].
>
> Where the corporation has no such agent, service shall be made on the government official designated by law, to wit: (a) the Insurance Commissioner, in the case of a foreign insurance company; (b) the Superintendent of Banks, in the case of a foreign banking corporation; and (c) the Securities and Exchange Commission, in the case of other foreign corporations duly licensed to do business in the Philippines. Whenever service of process is so made, the government office or official served shall transmit by mail a copy of the summons or other legal process to the corporation at its home or principal office. The sending of such copy is a necessary part of the service.[66]

In this case, summonses were served through the Department of Foreign Affairs by extraterritorial service of summons. At the time, extraterritorial service of summons was provided for only under Rule 14, Section 15:

> SECTION 15. *Extraterritorial Service.* — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer.

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64 Id at 400.

65 311 Phil. 203 (1995) [Per J. Davide, First Division].

66 Id at 217–218.

This provision makes a distinction between actions *in rem* or quasi *in rem*, and actions *in personam*.

Actions *in personam* are those lodged against a person based on personal liability. This differs from actions *in rem* or quasi *in rem,* which are directed against the thing or property or status of a person. The prayer in actions *in rem* or quasi *in rem* is the rendering of a judgment with respect to the specific thing, property, or status as against the whole world.[67]

When summonses were served on respondents, extraterritorial service of summons is allowed only for actions *in rem* or quasi *in rem*, not actions *in personam*:

> As a rule, when the defendant does not reside and is not found in the Philippines, Philippine courts cannot try any case against [them] because of the impossibility of acquiring jurisdiction over [their] person unless [they] voluntarily [appear] in court. But when the case is one of actions *in rem* or *quasi in rem* enumerated in Section 15, Rule 14 of the Rules of Court, Philippine courts have jurisdiction to hear and decide the case. In such instances, Philippine courts have jurisdiction over the *res*, and jurisdiction over the person of the non-resident defendant is not essential.[68]

In *NM Rothschild & Sons (Australia) Ltd. v. Lepanto Consolidated Mining Co.*:[69]

> Breaking down Section 15, Rule 14, it is apparent that there are only four instances wherein a defendant who is a non-resident and is not found in the country may be served with summons by extraterritorial service, *to wit:* (1) when the action affects the personal status of the plaintiffs; (2) when the action relates to, or the subject of which is property, within the Philippines, in which the defendant claims a lien or an interest, actual or contingent; (3) when the relief demanded in such action consists, wholly or in part, in excluding the defendant from any interest in property located in the Philippines; and (4) when the defendant non-resident's property has been attached within the Philippines. In these instances, service of summons may be effected by (a) personal service out of the country, with leave of court; (b) publication, also with leave of court; or (c) any other manner the court may deem sufficient.
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> Proceeding from this enumeration, we held in *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corporation* that:
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> > Undoubtedly, extraterritorial service of summons applies only where the action is *in rem* or *quasi in rem*, but not if an action is in personam.

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67 *Romualdez-Licaros v. Licaros,* 449 Phil. 824, 834 (2003) [Per J. Carpio, First Division].
68 Id. at 833–834.
69 677 Phil. 351 (2011) [Per J. Leonardo-De Castro, First Division].

> When the case instituted is an action *in rem* or *quasi in rem*, Philippine courts already have jurisdiction to hear and decide the case because, in actions *in rem* and *quasi in rem*, jurisdiction over the person of the defendant is not a prerequisite to confer jurisdiction on the court, provided that the court acquires jurisdiction over the *res*. Thus, in such instance, extraterritorial service of summons can be made upon the defendant. The said extraterritorial service of summons is not for the purpose of vesting the court with jurisdiction, but for complying with the requirements of fair play or due process, so that the defendant will be informed of the pendency of the action against [them] and the possibility that property in the Philippines belonging to [them] or in which [they have] an interest may be subjected to a judgment in favor of the plaintiff, and [they] can thereby take steps to protect [their] interest if [they are] so minded. On the other hand, when the defendant or respondent does not reside and is not found in the Philippines, and the action involved is *in personam*, Philippine courts cannot try any case against [them] because of the impossibility of acquiring jurisdiction over [their] person unless [they] voluntarily [appear] in court.
>
> In *Domagas v. Jensen*, we held that:
>
> > [T]he aim and object of an action determine its character. Whether a proceeding is *in rem*,or *in personam*, or *quasi in rem* for that matter, is determined by its nature and purpose, and by these only. A proceeding *in personam* is a proceeding to enforce personal rights and obligations brought against the person and is based on the jurisdiction of the person, although it may involve [their] right to, or the exercise of ownership of, specific property, or seek to compel [them] to control or dispose of it in accordance with the mandate of the court. The purpose of a proceeding *in personam* is to impose, through the judgment of a court, some responsibility or liability directly upon the person of the defendant. Of this character are suits to compel a defendant to specifically perform some act or actions to fasten a pecuniary liability on [them].[70]

In this case, the action of petitioners seeking damages for sustained injuries from the products of respondents is clearly a personal action classified as an action *in personam*.

Thus, extraterritorial service of summons is previously not allowed.

However, in the amendment of Rule 14, Section 12 of the Rules of Court, extraterritorial service of summons is now allowed for foreign private juridical entities not registered in the Philippines or that have no resident agent:[71]

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70 Id at 370-371.

71 A.M. No. 11-3-6-SC (2011).

> SEC. 12. *Service upon foreign private juridical entity.* — When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.
>
> If the foreign private juridical entity is not registered in the Philippines or has no resident agent, service may, with leave of court, be effected out of the Philippines through any of the following means:
>
> a) By personal service coursed through the appropriate court in the foreign country with the assistance of the Department of Foreign Affairs;
>
> b) By publication once in a newspaper of general circulation in the country where the defendant may be found and by serving a copy of the summons and the court order by registered mail at the last known address of the defendant;
>
> c) By facsimile or any recognized electronic means that could generate proof of service; or
>
> d) By such other means as the court may in its discretion direct.

This amendment was published on March 14, 2011. It was not yet in place when summonses were served on respondents on February 11, 2011.

Nonetheless, it applies to petitioners' Complaint because procedural rules are retroactive in application:

> In *Atienza v. Brillantes, Jr.*, and reiterated in *Jarillo* and in *Montañez v. Cipriano* (*Montañez*), we declared thus:
>
> . . . .
>
> The fact that procedural statutes may somehow affect the litigants' rights may not preclude their retroactive application to pending actions. The retroactive application of procedural laws is not violative of any right of a person who may feel that [they are] adversely affected. The reason is that as a general rule, no vested right may attach to, nor arise from, procedural laws.[72] (Emphasis supplied.)

Moreover, *Zulueta v. Asia Brewery, Inc.*[73] teaches:

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[72] *Pulido v. People,* G.R. No. 220149, July 27, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67720> [Per J.Panganiban, Third Division].

[73] 406 Phil. 543 (2001) [Per J. Panganiban, Third Division].

> As a general rule, laws have no retroactive effect. But there are certain recognized exceptions, such as when they are remedial or procedural in nature. This Court explained this exception in the following language:
>
> > "It is true that under the Civil Code of the Philippines, "(l)aws shall have no retroactive effect, unless the contrary is provided.' *But there are settled exceptions to this general rule*, such as when the statute is curative or remedial in nature or when it creates new rights.
> >
> > . . . .
> >
> > "On the other hand, *remedial or procedural laws*, i.e., those statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of such rights, ordinarily *do not come within the legal meaning of a retrospective law, nor within the general rule against the retrospective operation of statutes*." (Emphasis supplied)
>
> Thus, procedural laws may operate retroactively as to pending proceedings even without express provision to that effect. Accordingly, rules of procedure can apply to cases pending at the time of their enactment. In fact, statutes regulating the procedure of the courts will be applied on actions undetermined at the time of their effectivity. Procedural laws are retrospective in that sense and to that extent.
>
> . . . .
>
> It is a well-established doctrine that rules of procedure may be modified at any time to become effective at once, so long as the change does not affect vested rights. Moreover, it is equally axiomatic that there are no vested rights to rules of procedure.[74] (Citations omitted)

We further note that the provision does not qualify that this type of service of summons applies only to actions *in rem* or quasi *in rem*. Thus, the amended provision applies in this case, and the service of summons through the appropriate court in the foreign country with the assistance of the Department of Foreign Affairs may be recognized as valid.

Respondents contend that assuming extraterritorial service of summons is allowed, it was not served upon them in person as required by the provision. Instead, it was served only via registered mail without any publication.[75]

We reject this argument for failure of respondents to present evidence to show that summons was served upon them only via registered mail.

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74 Id at 551–552.

75 *Rollo*, p. 882–883, 1829.

It is a standard rule of evidence that a party alleging a fact has the burden to prove it:

> It is procedurally required for each party in a case to prove [their] own affirmative allegations by the degree of evidence required by law. In civil cases such as this one, the degree of evidence required of a party in order to support [their] claim is preponderance of evidence, or that evidence adduced by one party which is more conclusive and credible than that of the other party. It is therefore incumbent upon the plaintiff who is claiming a right to prove [their] case. Corollarily, the defendant must likewise prove its own allegations to buttress its claim that it is not liable.
>
> The party who alleges a fact has the burden of proving it. The burden of proof may be on the plaintiff or the defendant. It is on the defendant if [they allege] an affirmative defense which is not a denial of an essential ingredient in the plaintiff's cause of action, but is one which, if established, will be a good defense — *i.e.*, an "avoidance" of the claim.[76] (Citations omitted).

In this case, respondents presented no evidence to show that summons was not validly served upon them. Their allegations that it was served only by mail are unsubstantiated.

In their pleadings, respondent Del Monte Corporations only alleged that it received the summons with its attachments at their headquarters, and it was sent to them by the Philippine Consulate General based in Washington, D.C. by mail upon instructions of the Department of Foreign Affairs.[77] In its Comment, it also stated that "the undersigned counsel has been advised by the Del Monte defendants that service upon it was done personally, but only through registered mail, and that apart from such service by mail, neither the Philippine Consulate General or the plaintiff association did anything more."[78]

On the other hand, respondent DOLE Companies simply alleged that "[t]he first mode under the amended Rules provides that personal service must be coursed through the appropriate court in the foreign country. In the case at bar, after the [Department of Foreign Affairs] has sent the Summons to the Philippine Consulate in Hawaii, prior resort to the appropriate courts in Hawaii was not resorted and the service of Summons was done through certified mail."[79]

While they could have easily attached proof of receiving the summons only by mail, respondent Del Monte Corporations only attached the letter dated October 28, 2011 from the Consul General of the Embassy of the Philippines in Washington, D.C., which reads:

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[76] *Republic v. Estate of Hans Menzi*, 512 Phil. 425, 456–457 (2005) [Per J. Tinga, En Banc].
[77] *Rollo*, p. 882–883.
[78] Id. at 888.
[79] Id. at 1829.

> The Regional Trail Court, 11th Judicial Region, Branch 15, Davao City, requested the assistance of the Department of Foreign Affairs in manila in serving the following attached documents on your company in connection wih Civil case No. 33,766-11 entitled "Survivors of Agrichemicals in Gensan (SAGING), Inc., Plaintiff vs. Shell Company, et al., Defendants," for Damages.
>
> Enclosed are the following documents:
>
> 1. Order dated 11 February 2011;
> 2. Summons dated 15 February 2011; and
> 3. Copy of the Complaint and its annexes.
>
> It would be appreciated if you could acknowledge receipt of the documents.[80]

This Court cannot assume that the Department of Foreign Affairs did not regularly perform its duties.

Under Rule 131, Section 3(m) of the Rules of Court, it is presumed that official duty has been regularly performed. This presumption may be contradicted and overcome by other evidence:

> In sum, the petitioners have in their favor the presumption of regularity in the performance of official duties which the records failed to rebut. The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption in rebutted, it becomes conclusive. Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness.[81] (Citations omitted).

Considering that the bare allegations of respondents do not sufficiently prove that summons was served upon them only by mail, we cannot make that conclusion.

Respondents also contend that the leave of court for extraterritorial service of summons was only for Shell Oil Company given the trial court's Order dated February 11, 2011, which reads:

> Finding the motion of plaintiff through counsel to be in order, as prayed for, Deputy Sheriff Robert M. Medialdea is hereby allowed to proceed to Manila particularly as the Department of Foreign Affairs to cause the extra-territorial service of summons for defendants Shell Oil Company,

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80 Id. at 905.

81 *Bustillo v. People* 634 Phil. 547, 556 (2010) [Per J. Del Castillo, Second Division].

> a foreign private juridical entity pursuant to Section 12 of Rule 12 of the 1997 Revised Rules of Civil procedure at the expense of defendants.
>
> SO ORDERED.[82]

However, we note that the Order stated without qualification that petitioner SAGING's Motion for Leave[83] was in order. Furthermore, we note that prior to this issuance, the trial court issued an Order, ordering the issuance of summons through the Department of Foreign Affairs to respondents without qualifications:

> In view thereof, plaintiffs are hereby allowed to litigate as pauper. Accordingly, return the records of this case to the Office of the Clerk of Court for docketing.
>
> Issue Summons and copy of the complaint to the defendants through the Department of Foreign Affairs, Manila.
>
> SO ORDERED.[84]

Neither was there any objection when the sheriff submitted their report that summonses for respondents were issued by extraterritorial service, pursuant to Rule 14, Section 12 of the Rules of Court.

Thus, we cannot assume that summons was not validly served.

II

The trial court also erred in dismissing the complaint for failure to state a cause of action.

A cause of action is "the act or omission by which a party violates a right of another:"[85]

> The test of the sufficiency of the facts to constitute a cause of action is whether admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer of the complaint. In answering the query, only the facts asserted in the complaint must be taken into account without modification although with reasonable inferences therefrom. Nevertheless, in *Tan v. Director of Forestry* and *Santiago v. Pioneer Savings and Loan Bank*, evidence submitted by parties during a hearing in an application for a writ of preliminary injunction was considered by the court in resolving the motion to dismiss. In *Llanto v. Ali Dimaporo*, this Court held that the trial court can properly dismiss a complaint on a motion to

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82 *Rollo*, p. 703.
83 Id. at 140.
84 Id. at 130.
85 RULES OF COURT, Rule 2, sec. 2.

> dismiss due to lack of cause of action even without a hearing, by taking into consideration the discussion in said motion and the opposition thereto. In *Marcopper Mining Corporation v. Garcia*, this Court ruled that the trial court did not err in considering other pleadings, aside from the complaint, in deciding whether or not the complaint should be dismissed for lack of cause of action.
>
> A cause of action exists if the following elements are present: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages.[86]

A party fails to state a cause of action when a case is not brought in the name of the real party in interest, among other grounds.[87]

The real party in interest refers to the "party who stands to be benefitted or injured by the judgment, or who is entitled to the avails of the suit."[88] Every action must be prosecuted or defended in the name of the real party in interest.[89]

It is correct that petitioner SAGING is not the real party in interest. It has a separate and distinct juridical personality from its members. It is also not the injured party entitled to the damages prayed for should the complaint be granted.

Nonetheless, while petitioner SAGING's members are not individually named in the title of the complaint, it sufficiently states that it is being filed by SAGING *with its members*. It reads:

> That plaintiff Survivors of Agrichemicals In Gensan (SAGING), Inc. (for brevity SAGING), is a non-stock Philippine Corporation, with principal office address at . . ., with its officers and members namely, Arturo G. Luardo, etc., who are numerous hence, impractical to specifically name them all in this complaint (Initial List of names of officers and members Annex "B"[.][90]

The word "with" is used to indicate accompaniment. Petitioner SAGING was thus not filing the complaint on its own, but with its individual members.

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86 *Nadela v. City of Cebu*, 458 Phil. 164, 175–176 (2003) [Per J. Azcuna, First Division].

87 *Pacaña-Contreras v. Rovila Water Supply, Inc.*, 722 Phil. 460, 479 (2013) [Per J. Brion, Second Division].

88 RULES OF COURT, Rule 3, sec. 2.

89 RULES OF COURT, Rule 3, sec. 2.

90 *Rollo*, p. 19, 54.

This is bolstered by the numerous special powers of attorney executed by the members, appointing Luardo to represent them in the action. It reads:

> That We, the undersigned members of [SAGING, Inc.], of legal age, Filipinos, do hereby name, constitute and appoint THE LAWYERS OF THE FIRM, ATTYS. RODOLFO B. TA-ASAN, JR. and/or LORENZO B. TA-ASAN , III and or its President ARTURO G. LUARDO, with right of substitution, as our true and awful attorneys-in-fact to act and conduct all affairs, and represent us in Civil Case No. ___ entitled [SAGING, Inc.] versus Shell Oil Company, et al., before the Regional Trial Court, Branch ___, Davao City, and for that purpose to do and execute all or any of the following acts, deeds and things, to wit:
>
> To duly represent us in the above case during the pre-trial, mediation, and subsequent hearings thereon and to enter and to any amicable settlement thereon upon such terms and conditions as our said attorneys-in-fact shall deem fit and proper thereto, make stipulations or admission of facts, simplify issues and consider other matters for the prompt disposition of the case.
>
> HEREBY GIVING AND GRANTING full power and authority unto said attorneys-in-fact to all intents and hereby confirming any or all acts which are said attorneys-in-fact may have done or cost to be done by virtue hereof as fully to all intents and purposes as we could lawfully do or caused to be done if personally present[.][91]

Accordingly, the trial court erred in dismissing the complaint for failure to state a cause of action.

The noninclusion of the complainants in the title is a mere technical defect, which may be resolved by amending the complaint. This is in line with objective of proper administration of justice and preventing further delay and multiplicity of suits.

III

Finally, the action is not barred by prescription nor laches.

Actions prescribe by mere lapse of time fixed by law and prescription causes rights to be lost.[92]

In *Antonio, Jr. v. Morales,*[93] this Court discussed the rationale behind prescriptive statutes. In that case, it found that the subject action did not prescribe because respondent acted swiftly after the dismissal of his case without prejudice:

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91 Id. at 1325–1761.

92 Civil Code, art. 1106 and 1139.

93 541 Phil. 306 (2007) [Per J. Sandoval-Gutierrez, First Division].

> In the early case of *US v. Serapio*, this Court held that under the Civil Code, the prescription of an action refers to the time within which an action must be brought after the right of action has accrued. The prescriptive statutes serve to protect those who are diligent and vigilant, not those who sleep on their rights. The rationale behind the prescription of actions is to prevent fraudulent and stale claims from springing up at great distances of time, thus surprising the parties or their representatives when the facts have become obscure from the lapse of time or the defective memory or death or removal of the witnesses. Prescription applies even to the most meritorious claims.
>
> Prescription as understood and used in this jurisdiction does not simply mean a mere lapse of time. Rather, there must be a categorical showing that due to plaintiff's negligence, inaction, lack of interest, or intent to abandon a lawful claim or cause of action, no action whatsoever was taken, thus allowing the statute of limitations to bar any subsequent suit.
>
> Petitioner's invocation of prescription is misplaced. We recall that on December 18, 1995, respondent initially filed with the RTC of Makati City Civil Case No. 95-1796. While it was later dismissed without prejudice to his own motion, we note that the dismissal sought was not for the purpose of voluntarily abandoning his claim. On the contrary, respondent's intention was to expedite the enforcement of his rights. Understandably, he felt frustrated at the snail's pace at which his case was moving. As mentioned earlier, CA-G.R. SP No. 59309 remained pending before the Court of Appeals for six (6) long years.
>
> We further observe that respondent acted swiftly after the dismissal of his case without prejudice by the Makati RTC. He immediately filed with the Court of Appeals a manifestation that Civil Case No. 95-1796 was dismissed by the lower court. But the Court of Appeals acted on his manifestation only after one year. This delay, beyond respondent's control, in turn further caused delay in the filing of his new complaint with the Quezon City RTC. Clearly, there was no inaction or lack of interest on his part.
>
> The statute of limitations was devised to operate primarily against those who slept on their rights and not against those desirous to act but could not do so for causes beyond their control. Verily, the Court of Appeals did not err in holding that the RTC, Branch 215, Quezon City did not gravely abuse its discretion when it denied petitioner's motion to dismiss respondent's complaint and ruled that respondent's filing of the complaint in Civil Case No. Q-02-47835 is not barred by prescription.[94]

An action for quasi-delict must be instituted with four years counted from the day it may be brought or from the time the right of action accrues.[95] The accrual refers to the cause of action which is the act or the omission by which a party violates the right of another.[96] In *Pilipinas Shell Petroleum*

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94 Id at 310-311.

95 Civil Code, arts. 1146 and 1150. Id.

96 *Pilipinas Shell Petroleum Corp. v. John Bordman Ltd. of Iloilo Inc.*, 509 Phil. 728-753 (2005) [Per J. Panganiban, Third Division].

Corp. v. John Bordman Ltd. of Iloilo Inc.,[97] the Court held that respondent's cause of action arose upon its discovery of petitioner's short deliveries with certainty:

> The nature of the product in the present factual milieu is a major factor in determining when the cause of action has accrued. The delivery of fuel oil requires the buyer's dependence upon the seller for the correctness of the volume. When fuel is delivered in drums, a buyer readily assumes that the agreed volume *can* be, and *actually* is, contained in those drums.
>
> Buyer dependence is common in many ordinary sale transactions, as when gasoline is loaded in the gas tanks of motor vehicles, and when beverage is purchased in bottles and ice cream in bulk containers. In these cases, the buyers rely, to a considerable degree, on the sellers' representation that the agreed volumes are being delivered. They are no longer expected to make a meticulous measurement of each and every delivery.
>
> To the mind of this Court, the cause of action in the present case arose on July 24, 1974, when respondent *discovered* the short deliveries with certainty. Prior to the discovery, the latter had no indication that it was not getting what it was paying for. There was yet no issue to speak of; thus, it could not have brought an action against petitioner. It was only after the discovery of the short deliveries that respondent got into a position to bring an action for specific performance. Evidently then, that action was brought within the prescriptive period when it was filed on August 20, 1980.[98]

Thus, here, petitioners, as then Davao Banana Plantation Workers Association of Tiburcia, Inc., filed their Complaint for damages on October 10, 1998 upon their discovery of the alleged violation of the respondents of their rights.[99] In a Consolidated Decision,[100] the Court of Appeals dismissed the Complaint without prejudice for improper service of summons. On June 2, 2009, the Supreme Court issued an Entry of Judgment, docketed as G.R. No. 165958-59, on petitioner's appeal.[101] A year after, or on September 9, 2010, SAGING and its members refiled the Complaint against the foreign corporations.[102]

The filing of an action before the court interrupts the period for prescription:

> ARTICLE 1155. The prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand

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97 Id.
98 Id.
99 *Rollo*, p. 7.
100 Id. at 104–137. The October 3, 2002 Consolidated Decision in CA-G.R. SP No. 61923 was penned by Associate Justice Andres B. Reyes, Jr. (a former member of this Court) and concurred in by Associate Justices Ruben T. Reyes and Mariano C. Del Castillo (former members of this Court) of the Special Seventh Division of the Court of Appeals, Manila.
101 Id. at 12, 62, 1879 and 1910.
102 Id. at 54.

> by the creditors, and when there is any written acknowledgment of the debt by the debtor.

The effects of the interruption of the prescriptive period is explained in *Selerio v. Bancasan*:[103]

> Jurisprudence holds that an **interruption of the prescriptive period wipes out the period that has elapsed, sets the same running anew, and creates a fresh period for the filing of an action**. Thus, in *Republic v. Bañez*, the Court held that a written acknowledgment of a debt by the debtor effectively restarts the prescriptive period, *viz.*:
>
> > x x x [A] written acknowledgment of [a] debt or obligation effectively interrupts the running of the prescriptive period and sets the same running anew. Hence, because Hojilla's letter dated 15 August 1984 served as a written acknowledgement of the respondents' debt or obligation, it interrupted the running of the prescriptive period and set the same running anew with a new expiry period of 15 August 1994.[104] Emphasis supplied.

Thus, the filing of Davao Banana Plantation Workers Association of Tiburcia, Inc., of their action for damages before the trial court on October 10, 1998 until the Supreme Court issued an entry of judgment on June 2, 2009 interrupted the running of the prescriptive period and gave petitioners a fresh period for filing the action. The refiling of the complaint on September 9, 2010, or one year after the finality of the judgment in the previous complaint is well within the prescriptive period.

The immediate refiling of the complaint likewise shows that laches did not set in. Based on equitable consideration, laches has been defined as the "failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it."[105] It cannot work to defeat justice or to perpetrate wrong.[106] In *Arroyo v. Bocago Inland Development Corp.*,[107] the elements of laches must be proven positively:

> The established rule, as reiterated in *Heirs of Tomas Dolleton vs. Fil-Estate Management, Inc.*, is that "the elements of laches must be proven positively. Laches is evidentiary in nature, a fact that cannot be established by mere allegations in the pleadings . . . ." Evidence is of utmost importance in establishing the existence of laches because, as stated in *Department of*

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103 G.R. No. 222442, June 23, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66672> [Per J. Caguioa, First Division]. .

104 Id.

105 *Department of Education v. Casibang*, 779 Phil. 472 (2016) [Per J. Peralta, Third Division].

106 Id.

107 698 Phil. 626 (2012) [Per J. Peralta, Third Division].

Education, Division of Albay vs. Oñate, 'there is "no absolute rule as to what constitutes laches or staleness of demand; **each case is to be determined according to its particular circumstances."** . . . Verily, the application of laches is addressed to the sound discretion of the court as **its application is controlled by equitable considerations.**

In this case, respondents (defendants-appellants below) did not present any evidence in support of their defense, as they failed to take advantage of all the opportunities they had to do so. The Court stressed in *Heirs of Anacleto B. Nieto vs. Municipality of Meycauayan, Bulacan,* that:

> . . . **laches is not concerned only with the mere lapse of time. The following elements must be present in order to constitute laches:**
>
> (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for which the complaint seeks a remedy;
>
> (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit;
>
> (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and
>
> (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.

In this case, there is no evidence on record to prove the concurrence of all the aforementioned elements of laches. The first element may indeed be established by the admissions of both parties in the Complaint and Answer — i.e., that petitioner is the registered owner of the subject property, but respondents had been occupying it for sometime and refuse to vacate the same — but the crucial circumstances of delay in asserting petitioner's right, lack of knowledge on the part of defendant that complainant would assert his right, and the injury or prejudice that defendant would suffer if the suit is not held to be barred, have not been proven. Therefore, in the absence of positive proof, it is impossible to determine if petitioner is guilty of laches.[108]

Thus, mere allegation of laches, without proof, is not enough, as in this case.

A final note, courts should avoid dismissal of cases based merely on technical grounds, with the aim of judicial economy – "to have cases prosecuted with the least cost to the parties."[109]

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[108] Id. at 634—635.

[109] *Department of Public Works and Highways v. Manalo,* G.R. No. 217656, November 16, 2020 < https://sc.judiciary.gov.ph/16786/> [Per J. Leonen, Third Division]; *Dr. Malixi, et al. v. Dr. Baltazar,* 821 Phil. 452 (2017) [Per J. Leonen, Third Division].

ACCORDINGLY, we **GRANT** the Petition. The Orders dated August 31, 2012 and November 6, 2012 of the Regional Trial Court dismissing petitioners' Complaint and its Orders dated February 11, 2013 and February 14, 2013 are **REVERSED** and **SET ASIDE.** The case is hereby **REMANDED** to the Regional Trial Court for a resolution on the merits of the case.

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice