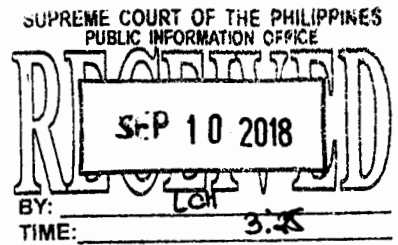




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

ANICETO G. SALUDO, JR.,
 Petitioner,

G.R. No. 193138

-versus-

PHILIPPINE NATIONAL BANK,
 Respondent.

Present:
 PERALTA, J., *Acting*
*Chairperson,**
 DEL CASTILLO,
 JARDELEZA,
 TIJAM, and
 GESMUNDO,** JJ.

Promulgated:

AUG 20 2018

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DECISION

JARDELEZA, J.:

In this petition, we emphasize that a partnership for the practice of law, constituted in accordance with the Civil Code provisions on partnership, acquires juridical personality by operation of law. Having a juridical personality distinct and separate from its partners, such partnership is the real party-in-interest in a suit brought in connection with a contract entered into in its name and by a person authorized to act on its behalf.

Petitioner Aniceto G. Saludo, Jr. (Saludo) filed this petition for review on *certiorari*¹ assailing the February 8, 2010 Decision² and August 2, 2010 Resolution³ issued by the Court of Appeals (CA) in CA-G.R. SP No. 98898. The CA affirmed with modification the January 11, 2007 Omnibus Order⁴ issued by Branch 58 of the Regional Trial Court (RTC) of Makati City in Civil Case No. 06-678, and ruled that respondent Philippine National Bank's (PNB) counterclaims against Saludo and the Saludo Agpalo Fernandez and Aquino Law Office (SAFA Law Office) should be reinstated in its answer.

* Designated as Acting Chairperson of the First Division per Special Order No. 2582 (Revised) dated August 8, 2018.

** Designated as Acting Member of the First Division per Special Order No. 2560 (Revised) dated May 11, 2018.

¹ *Rollo*, pp. 102-150.

² *Id.* at 152-165. Penned by Associate Justice Florito S. Macalino, with Associate Justices Hakim S. Abdulwahid and Normandie B. Pizarro, concurring.

³ *Id.* at 167-169.

⁴ *Id.* at 272-273. Issued by Presiding Judge Eugene C. Paras.

Records show that on June 11, 1998, SAFA Law Office entered into a Contract of Lease⁵ with PNB, whereby the latter agreed to lease 632 square meters of the second floor of the PNB Financial Center Building in Quezon City for a period of three years and for a monthly rental fee of ₱189,600.00. The rental fee is subject to a yearly escalation rate of 10%.⁶ SAFA Law Office then occupied the leased premises and paid advance rental fees and security deposit in the total amount of ₱1,137,600.00.⁷

On August 1, 2001, the Contract of Lease expired.⁸ According to PNB, SAFA Law Office continued to occupy the leased premises until February 2005, but discontinued paying its monthly rental obligations after December 2002.⁹ Consequently, PNB sent a demand letter¹⁰ dated July 17, 2003 for SAFA Law Office to pay its outstanding unpaid rents in the amount of ₱4,648,086.34. PNB sent another letter¹¹ demanding the payment of unpaid rents in the amount of ₱5,856,803.53 which was received by SAFA Law Office on November 10, 2003.

In a letter¹² to PNB dated June 9, 2004, SAFA Law Office expressed its intention to negotiate. It claimed that it was enticed by the former management of PNB into renting the leased premises by promising to: (1) give it a special rate due to the large area of the place; (2) endorse PNB's cases to the firm with rents to be paid out of attorney's fees; and (3) retain the firm as one of PNB's external counsels. When new management took over, it allegedly agreed to uphold this agreement to facilitate rental payments. However, not a single case of significance was referred to the firm. SAFA Law Office then asked PNB to review and discuss its billings, evaluate the improvements in the area and agree on a compensatory sum to be applied to the unpaid rents, make good its commitment to endorse or refer cases to SAFA Law Office under the intended terms and conditions, and book the rental payments due as receivables payable every time attorney's fees are due from the bank on the cases it referred. The firm also asked PNB to give a 50% discount on its unpaid rents, noting that while it was waiting for case referrals, it had paid a total amount of ₱13,457,622.56 from January 1999 to December 2002, which included the accelerated rates of 10% *per annum* beginning August 1999 until July 2003.

In February 2005, SAFA Law Office vacated the leased premises.¹³ PNB sent a demand letter¹⁴ dated July 7, 2005 requiring the firm to pay its rental arrears in the total amount of ₱10,951,948.32. In response, SAFA Law Office sent a letter dated June 8, 2006, proposing a settlement by providing a

⁵ CA rollo, pp. 85-90.

⁶ *Id.* at 85.

⁷ Rollo, p. 216.

⁸ *Id.* at 153; CA rollo, p. 100.

⁹ Rollo, pp. 226-227.

¹⁰ CA rollo, p. 143.

¹¹ *Id.* at 144.

¹² *Id.* at 94-96.

¹³ *Id.* at 101.

¹⁴ *Id.* at 145.

range of suggested computations of its outstanding rental obligations, with deductions for the value of improvements it introduced in the premises, professional fees due from Macroasia Corporation, and the 50% discount allegedly promised by Dr. Lucio Tan.¹⁵ PNB, however, declined the settlement proposal in a letter¹⁶ dated July 17, 2006, stating that it was not amenable to the settlement's terms. Besides, PNB also claimed that it cannot assume the liabilities of Macroasia Corporation to SAFA Law Office as Macroasia Corporation has a personality distinct and separate from the bank. PNB then made a final demand for SAFA Law Office to pay its outstanding rental obligations in the amount of ₱25,587,838.09.

On September 1, 2006, Saludo, in his capacity as managing partner of SAFA Law Office, filed an amended complaint¹⁷ for accounting and/or recomputation of unpaid rentals and damages against PNB in relation to the Contract of Lease.

On October 4, 2006, PNB filed a motion to include an indispensable party as plaintiff,¹⁸ praying that Saludo be ordered to amend anew his complaint to include SAFA Law Office as principal plaintiff. PNB argued that the lessee in the Contract of Lease is not Saludo but SAFA Law Office, and that Saludo merely signed the Contract of Lease as the managing partner of the law firm. Thus, SAFA Law Office must be joined as a plaintiff in the complaint because it is considered an indispensable party under Section 7, Rule 3 of the Rules of Court.¹⁹

On October 13, 2006, PNB filed its answer.²⁰ By way of compulsory counterclaim, it sought payment from SAFA Law Office in the sum of ₱25,587,838.09, representing overdue rentals.²¹ PNB argued that as a matter of right and equity, it can claim that amount from SAFA Law Office *in solidum* with Saludo.²²

On October 23, 2006, Saludo filed his motion to dismiss counterclaims,²³ mainly arguing that SAFA Law Office is neither a legal entity nor party litigant. As it is only a relationship or association of lawyers in the practice of law and a single proprietorship which may only be sued through its owner or proprietor, no valid counterclaims may be asserted against it.²⁴

¹⁵ *Rollo*, pp. 227-228.

¹⁶ *CA rollo*, pp. 146-147.

¹⁷ *Rollo*, pp. 194-211.

¹⁸ *CA rollo*, pp. 120-123.

¹⁹ *Id.* at 121.

²⁰ *Id.* at 124-141.

²¹ *Id.* at 138.

²² *Id.* at 137-138.

²³ *Rollo*, pp. 237-271.

²⁴ *Id.* at 239.

On January 11, 2007, the RTC issued an Omnibus Order denying PNB's motion to include an indispensable party as plaintiff and granting Saludo's motion to dismiss counterclaims in this wise:

The Court **DENIES the motion of PNB to include the SAFA Law Offices**. Plaintiff has shown by documents attached to his pleadings that indeed SAFA Law Offices is a mere single proprietorship and not a commercial and business partnership. More importantly, plaintiff has admitted and shown sole responsibility in the affairs entered into by the SAFA Law Office. PNB has even admitted that the SAFA Law Office, being a partnership in the practice of law, is a non-legal entity. Being a non-legal entity, it cannot be a proper party, and therefore, it cannot sue or be sued.

Consequently, **plaintiff's Motion to Dismiss Counterclaims (claimed by defendant PNB) should be GRANTED**. The counterclaims prayed for to the effect that the SAFA Law Offices be made to pay in solidum with plaintiff the amounts stated in defendant's Answer is disallowed since no counterclaims can be raised against a non-legal entity.²⁵

PNB filed its motion for reconsideration²⁶ dated February 5, 2007, alleging that SAFA Law Office should be included as a co-plaintiff because it is the principal party to the contract of lease, the one that occupied the leased premises, and paid the monthly rentals and security deposit. In other words, it was the main actor and direct beneficiary of the contract. Hence, it is the real party-in-interest.²⁷ The RTC, however, denied the motion for reconsideration in an Order²⁸ dated March 8, 2007.

Consequently, PNB filed a petition for *certiorari*²⁹ with the CA. On February 8, 2010, the CA rendered its assailed Decision,³⁰ the dispositive portion of which reads:

WHEREFORE, the petition is **PARTIALLY GRANTED**. The assailed Omnibus Order dated 11 January 2007 and Order dated 8 March 2007, issued by respondent Court in Civil Case No. 06-678, respectively, are **AFFIRMED with MODIFICATION** in that petitioner's counterclaims should be reinstated in its Answer.

SO ORDERED.³¹

²⁵ *Id.* at 272-273. Emphasis in the original.

²⁶ *Id.* at 274-279.

²⁷ *Id.* at 275-277.

²⁸ *Id.* at 300.

²⁹ *Id.* at 301-326.

³⁰ *Supra* note 2.

³¹ *Rollo*, p. 164.

The CA ruled that an order granting Saludo's motion to dismiss counterclaim, being interlocutory in nature, is not appealable until after judgment shall have been rendered on Saludo's complaint. Since the Omnibus Order is interlocutory, and there was an allegation of grave abuse of discretion, a petition for *certiorari* is the proper remedy.³²

On the merits, the CA held that Saludo is estopped from claiming that SAFA Law Office is his single proprietorship. Under the doctrine of estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon. Here, SAFA Law Office was the one that entered into the lease contract and not Saludo. In fact, the latter signed the contract as the firm's managing partner. The alleged Memorandum of Understanding³³ (MOU) executed by the partners of SAFA Law Office, which states, among others, that Saludo alone would be liable for the firm's losses and liabilities, and the letter of Saludo to PNB confirming that SAFA Law Office is his single proprietorship did not convert the firm to a single proprietorship. Moreover, SAFA Law Office sent a letter to PNB regarding its unpaid rentals which Saludo signed as a managing partner. The firm is also registered as a partnership with the Securities and Exchange Commission (SEC).³⁴

On the question of whether SAFA Law Office is an indispensable party, the CA held that it is not. As a partnership, it may sue or be sued in its name or by its duly authorized representative. Saludo, as managing partner, may execute all acts of administration, including the right to sue. Furthermore, the CA found that SAFA Law Office is not a legal entity. A partnership for the practice of law is not a legal entity but a mere relationship or association for a particular purpose. Thus, SAFA Law Office cannot file an action in court. Based on these premises, the CA held that the RTC did not gravely abuse its discretion in denying PNB's motion to include an indispensable party as plaintiff.³⁵

Nonetheless, the CA ruled that PNB's counterclaims against SAFA Law Office should not be dismissed. While SAFA Law Office is not a legal entity, it can still be sued under Section 15,³⁶ Rule 3 of the Rules of Court considering that it entered into the Contract of Lease with PNB.³⁷

The CA further ruled that while it is true that SAFA Law Office's liability is not *in solidum* with Saludo as PNB asserts, it does not necessarily follow that both of them cannot be made parties to PNB's counterclaims.

³² *Id.* at 157.

³³ CA *rollo*, pp. 103-105.

³⁴ *Rollo*, pp. 158-159.

³⁵ *Id.* at 160-161.

³⁶ Sec. 15. *Entity without juridical personality as defendant.* — When two or more persons not organized as an entity with juridical personality enter into a transaction, they may be sued under the name by which they are generally or commonly known.

x x x x

³⁷ *Rollo*, p. 162.

Neither should the counterclaims be dismissed on the ground that the nature of the alleged liability is solidary. According to the CA, the presence of SAFA Law Office is required for the granting of complete relief in the determination of PNB's counterclaim. The court must, therefore, order it to be brought in as defendant since jurisdiction over it can be obtained pursuant to Section 12,³⁸ Rule 6 of the Rules of Court.³⁹

Finally, the CA emphasized that PNB's counterclaims are compulsory, as they arose from the filing of Saludo's complaint. It cannot be made subject of a separate action but should be asserted in the same suit involving the same transaction. Thus, the Presiding Judge of the RTC gravely abused his discretion in dismissing PNB's counterclaims as the latter may forever be barred from collecting overdue rental fees if its counterclaims were not allowed.⁴⁰

Saludo and PNB filed their respective motions for partial reconsideration dated February 25, 2010⁴¹ and February 26, 2010.⁴² In a Resolution dated August 2, 2010, the CA denied both motions on the ground that no new or substantial matters had been raised therein. Nonetheless, the CA addressed the issue on the joining of SAFA Law Office as a defendant in PNB's compulsory counterclaim. Pertinent portions of the CA Resolution read:

The Private Respondent claims that a compulsory counterclaim is one directed against an opposing party. The SAFA Law Office is not a party to the case below and to require it to be brought in as a defendant to the compulsory counterclaim would entail making it a co-plaintiff. Otherwise, the compulsory counterclaim would be changed into a third-party complaint. The Private Respondent also argues that Section 15, Rule 3 of the Rules of Court (on entities without juridical personality) is only applicable to initiatory pleadings and not to compulsory counterclaims. Lastly, it is claimed that since the alleged obligations of the SAFA Law Office is solidary with the Private Respondent, there is no need to make the former a defendant to the counterclaim.

We disagree with the reasoning of the Private Respondent. That a compulsory counterclaim can only be brought against an opposing party is belied by considering one of the requisites of a compulsory counterclaim – it does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. This shows

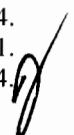
³⁸ Sec. 12. *Bringing new parties.* — When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants, if jurisdiction over them can be obtained.

³⁹ *Rollo*, pp. 162-163.

⁴⁰ *Id.* at 163-164.

⁴¹ *Id.* at 170-191.

⁴² *Id.* at 449-454.



that non-parties to a suit may be brought in as defendants to such a counterclaim. x x x

x x x x

In the case at bench, the trial court below can acquire jurisdiction over the SAFA Law Office considering the amount and the nature of the counterclaim. Furthermore, the inclusion of the SAFA Law Office as a defendant to the counterclaim will enable the granting of complete relief in view [of] the liability of a partner to the partnership's creditors under the law.⁴³

Hence, this petition, where Saludo raises the following issues for our resolution:

- (1) Whether the CA erred in including SAFA Law Office as defendant to PNB's counterclaim despite its holding that SAFA Law Office is neither an indispensable party nor a legal entity;
- (2) Whether the CA went beyond the issues in the petition for *certiorari* and prematurely dealt with the merits of PNB's counterclaim; and
- (3) Whether the CA erred when it gave due course to PNB's petition for *certiorari* to annul and set aside the RTC's Omnibus Order dated January 11, 2007.⁴⁴

The petition is bereft of merit.

We hold that SAFA Law Office is a juridical entity and the real party-in-interest in the suit filed with the RTC by Saludo against PNB. Hence, it should be joined as plaintiff in that case.

I.

Contrary to Saludo's submission, SAFA Law Office is a partnership and not a single proprietorship.

Article 1767 of the Civil Code provides that by a contract of partnership, two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves. *Two or more persons may also form a partnership for the exercise of a profession.* Under Article 1771, a partnership may be constituted in any form, except where immovable property or real rights are contributed thereto, in which case a public instrument shall be necessary.

⁴³ *Id.* at 167-169. Citations omitted.

⁴⁴ *Id.* at 110-111.

Article 1784, on the other hand, provides that a partnership begins from the moment of the execution of the contract, unless it is otherwise stipulated.

Here, absent evidence of an earlier agreement, SAFA Law Office was constituted as a partnership at the time its partners signed the Articles of Partnership⁴⁵ wherein they bound themselves to establish a partnership for the practice of law, contribute capital and industry for the purpose, and receive compensation and benefits in the course of its operation. The opening paragraph of the Articles of Partnership reveals the unequivocal intention of its signatories to form a partnership, to wit:

WE, the undersigned ANICETO G. SALUDO, JR., RUBEN E. AGPALO, FILEMON L. FERNANDEZ, AND AMADO D. AQUINO, all of legal age, Filipino citizens and members of the Philippine Bar, have this day voluntarily associated ourselves for the purpose of forming a partnership engaged in the practice of law, effective this date, under the terms and conditions hereafter set forth, and subject to the provisions of existing laws[.]⁴⁶

The subsequent registration of the Articles of Partnership with the SEC, on the other hand, was made in compliance with Article 1772 of the Civil Code, since the initial capital of the partnership was ₱500,000.00.⁴⁷ Said provision states:

Art. 1772. Every contract of partnership having a capital of Three thousand pesos or more, in money or property, shall appear in a public instrument, which must be recorded in the Office of the Securities and Exchange Commission.

x x x x

The other provisions of the Articles of Partnership also positively identify SAFA Law Office as a partnership. It constantly used the words “partners” and “partnership.” It designated petitioner Saludo as managing partner,⁴⁸ and Attys. Ruben E. Agpalo, Filemon L. Fernandez, and Amado D. Aquino as industrial partners.⁴⁹ It also provided for the term of the partnership,⁵⁰ distribution of net profits and losses, and management of the firm in which “the partners shall have equal interest in the conduct of [its] affairs.”⁵¹ Moreover, it provided for the cause and manner of dissolution of the partnership.⁵² These provisions would not have been necessary if what had

⁴⁵ CA *rollo*, pp. 202-213.

⁴⁶ *Id.* at 204.

⁴⁷ *Id.* at 206.

⁴⁸ *Id.* at 207.

⁴⁹ *Id.* at 206, 210.

⁵⁰ Item V of the Articles of Partnership provides:

The term for which the partnership is to exist shall be for an indefinite period from date hereof, until dissolved for any cause recognized by law. *Id.* at 205.

⁵¹ *Id.* at 207.

⁵² Item X of the Articles of Partnership provides:



been established was a sole proprietorship. Indeed, it may only be concluded from the circumstances that, for all intents and purposes, SAFA Law Office is a partnership created and organized in accordance with the Civil Code provisions on partnership.

Saludo asserts that SAFA Law Office is a sole proprietorship on the basis of the MOU executed by the partners of the firm. The MOU states in full:⁵³

MEMORANDUM OF UNDERSTANDING

WHEREAS, the undersigned executed and filed with the SEC the Articles of Incorporation of SALUDO, AGPALO, FERNANDEZ and AQUINO on March 13, 1997;

WHEREAS, among the provisions of said Articles of Incorporation are the following:

1. That partners R. E. Agpalo, F. L. Fernandez and A. D. Aquino shall be industrial partners, and they shall not contribute capital to the partnership and shall not in any way be liable for any loss or liability that may be incurred by the law firm in the course of its operation.

2. That the partnership shall be dissolved by agreement of the partners or for any cause as and in accordance with the manner provided by law, in which event the Articles of Dissolution of said partnership shall be filed with the Securities and Exchange Commission. All remaining assets upon dissolution shall accrue exclusively to A. G. Saludo, Jr. and all liabilities shall be solely for his account.

WHEREAS, the SEC has not approved the registration of the Articles of Incorporation and its Examiner required that the phrase "shall not in any way be liable for any loss or liability that may be incurred by the law firm in the course of its operation" in Article VII be deleted;

WHEREAS, the SEC Examiner likewise required that the sentence "All remaining assets upon dissolution shall accrue exclusively to A. G. Saludo, Jr. and all liabilities shall be solely for his account" in Article X be likewise deleted;

WHEREAS, in order to meet the objections of said Examiner, the objectionable provisions have been deleted and new Articles of Incorporation deleting said objectionable provisions have been executed by the parties and filed with the SEC.

That the partnership shall be dissolved by agreement of the partners or for any cause as and in accordance with the manner provided by law, in which event the Articles of Dissolution of said partnership shall be filed with the Securities and Exchange Commission. All remaining assets upon dissolution shall accrue exclusively to A.G. Saludo, Jr. and all liabilities shall be solely for his account. *Id.* at 212.

⁵³ *Id.* at 103-105. Italics and emphasis in the original.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenant of the parties, the parties hereby agree as follows:

1. Notwithstanding the deletion of the portions objected to by the said Examiner, by reason of which entirely new Articles of Incorporation have been executed by the parties removing the objected portions, the actual and real intent of the parties is still as originally envisioned, namely:

a) That partners R. E. Agpalo, F. L. Fernandez and A. D. Aquino shall not in any way be liable for any loss or liability that may be incurred by the law firm in the course of its operation;

b) That all remaining assets upon dissolution shall accrue exclusively to A. G. Saludo, Jr. and all liabilities shall be solely for his account.

2. That the parties hereof hereby bind and obligate themselves to adhere and observe the real intent of the parties as above-stated, any provisions in the Articles of Incorporation as filed to meet the objections of the SEC Examiner to the contrary notwithstanding.

IN WITNESS WHEREOF, we have set our hands this ___ day of May, 1997 at Makati City, Philippines.

[Sgd.]

A.G. SALUDO, JR.

[Sgd.]

RUBEN E. AGPALO

[Sgd.]

FILEMON L. FERNANDEZ

[Sgd.]

AMADO D. AQUINO

The foregoing evinces the parties' intention to entirely shift any liability that may be incurred by SAFA Law Office in the course of its operation to Saludo, who shall also receive all the remaining assets of the firm upon its dissolution. This MOU, however, does not serve to convert SAFA Law Office into a sole proprietorship. As discussed, SAFA Law Office was manifestly established as a partnership based on the Articles of Partnership. The MOU, from its tenor, reinforces this fact. It did not change the nature of the organization of SAFA Law Office but only excused the industrial partners from liability.

The law, in its wisdom, recognized the possibility that partners in a partnership may decide to place a limit on their individual accountability. Consequently, to protect third persons dealing with the partnership, the law provides a rule, embodied in Article 1816 of the Civil Code, which states:

Art. 1816. All partners, including industrial ones, shall be liable *pro rata* with all their property and after all the partnership assets have been exhausted, for the contracts which may be entered into in the name and for the account

of the partnership, under its signature and by a person authorized to act for the partnership. However, any partner may enter into a separate obligation to perform a partnership contract.

The foregoing provision does not prevent partners from agreeing to limit their liability, but such agreement may only be valid as among them. Thus, Article 1817 of the Civil Code provides:

Art. 1817. Any stipulation against the liability laid down in the preceding article shall be void, except as among the partners.

The MOU is an agreement forged under the foregoing provision. Consequently, the sole liability being undertaken by Saludo serves to bind only the parties to the MOU, but never third persons like PNB.

Considering that the MOU is sanctioned by the law on partnership, it cannot change the nature of a duly-constituted partnership. Hence, we cannot sustain Saludo's position that SAFA Law Office is a sole proprietorship.

II.

Having settled that SAFA Law Office is a partnership, we hold that it acquired juridical personality by operation of law. The perfection and validity of a contract of partnership brings about the creation of a juridical person separate and distinct from the individuals comprising the partnership. Thus, Article 1768 of the Civil Code provides:

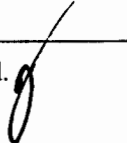
Art. 1768. The partnership has a juridical personality separate and distinct from that of each of the partners, even in case of failure to comply with the requirements of Article 1772, first paragraph.

Article 44 of the Civil Code likewise provides that partnerships are juridical persons, to wit:

Art. 44. The following are juridical persons:

- (1) The State and its political subdivisions;
- (2) Other corporations, institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;
- (3) Corporations, **partnerships** and associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member.⁵⁴

⁵⁴ Emphasis supplied.



It is this juridical personality that allows a partnership to enter into business transactions to fulfill its purposes. Article 46 of the Civil Code provides that “[j]uridical persons may acquire and possess property of all kinds, as well as incur obligations and bring civil or criminal actions, in conformity with the laws and regulations of their organization.”

SAFA Law Office entered into a contract of lease with PNB as a juridical person to pursue the objectives of the partnership. The terms of the contract and the manner in which the parties implemented it are a glaring recognition of SAFA Law Office’s juridical personality. Thus, the contract stated that it is being executed by PNB as the lessor and “SALUDO AGPALO FERNANDEZ & AQUINO, a partnership organized and existing under the laws of the Republic of the Philippines,” as the lessee.⁵⁵ It also provided that the lessee, *i.e.*, SAFA Law Office, shall be liable in case of default.⁵⁶ Furthermore, subsequent communications between the parties have always been made for or on behalf of PNB and SAFA Law Office, respectively.⁵⁷

In view of the above, we see nothing to support the position of the RTC and the CA, as well as Saludo, that SAFA Law Office is not a partnership and a legal entity. Saludo’s claims that SAFA Law Office is his sole proprietorship and not a legal entity fail in light of the clear provisions of the law on partnership. To reiterate, SAFA Law Office was created as a partnership, and as such, acquired juridical personality by operation of law. Hence, its rights and obligations, as well as those of its partners, are determined by law and not by what the partners purport them to be.

III.

In holding that SAFA Law Office, a partnership for the practice of law, is not a legal entity, the CA cited⁵⁸ the case of *Petition for Authority to Continue Use of the Firm Name “Sycip, Salazar, Feliciano, Hernandez & Castillo”*⁵⁹ (*Sycip* case) wherein the Court held that “[a] partnership for the practice of law is not a legal entity. It is a mere relationship or association for a particular purpose. x x x It is not a partnership formed for the purpose of carrying on trade or business or of holding property.”⁶⁰ These are direct quotes from the US case of *In re Crawford’s Estate*.⁶¹ We hold, however, that our

⁵⁵ CA rollo, p. 85. Italics supplied.

⁵⁶ The lease contract provides:

SECTION 12. DEFAULT AND SURRENDER OF LEASED PREMISES

x x x x

In addition[,] the Lessee shall pay the Lessor (i) all accrued and unpaid rents and penalty charges; (ii) all expenses incurred by the Lessor in repossessing and [clearing] the Leased Premises; and (iii) any other damages incurred by the Lessor due to the default of the Lessee. *Id.* at 88.

⁵⁷ *Id.* at 91-102.

⁵⁸ *Id.* at 160-161.

⁵⁹ July 30, 1979, 92 SCRA 1.

⁶⁰ *Id.* at 9.

⁶¹ Cited as 184 NE 2d 779, 783. *Id.*

reference to this US case is an *obiter dictum* which cannot serve as a binding precedent.⁶²

An *obiter dictum* is an opinion of the court upon a question which was not necessary to the decision of the case before it. It is an opinion uttered by the way, not upon the point or question pending, as if turning aside from the main topic of the case to collateral subjects, or an opinion that does not embody the court's determination and is made without argument or full consideration of the point. It is not a professed deliberate determination of the judge himself.⁶³

The main issue raised for the court's determination in the *Sycip* case is whether the two petitioner law firms may continue using the names of their deceased partners in their respective firm names. The court decided the issue in the negative on the basis of "legal and ethical impediments."⁶⁴ To be sure, the pronouncement that a partnership for the practice of law is not a legal entity does not bear on either the legal or ethical obstacle for the continued use of a deceased partner's name, inasmuch as it merely describes the nature of a law firm. The pronouncement is not determinative of the main issue. As a matter of fact, if deleted from the judgment, the rationale of the decision is neither affected nor altered.

Moreover, reference of the *Sycip* case to the *In re Crawford's Estate* case was made without a full consideration of the nature of a law firm as a partnership possessed with legal personality under our Civil Code. *First*, we note that while the Court mentioned that a partnership for the practice of law is not a legal entity, it also identified petitioner law firms as partnerships over whom Civil Code provisions on partnership apply.⁶⁵ The Court thus cannot hold that a partnership for the practice of law is not a legal entity without running into conflict with Articles 44 and 1768 of the Civil Code which provide that a partnership has a juridical personality separate and distinct from that of each of the partners.

Second, our law on partnership does not exclude partnerships for the practice of law from its coverage. Article 1767 of the Civil Code provides that "[t]wo or more persons may also form a partnership for the exercise of a profession." Article 1783, on the other hand, states that "[a] particular partnership has for its object determinate things, their use or fruits, or a specific undertaking, or the exercise of a profession or vocation." Since the law uses the word "profession" in the general sense, and does not distinguish which professional partnerships are covered by its provisions and which are not, then no valid distinction may be made.

⁶² See *Republic v. Gingoyon*, G.R. No. 166429, December 19, 2005, 478 SCRA 474.

⁶³ *Advincula-Velasquez v. Court of Appeals*, G.R. No. 111387, June 8, 2004, 431 SCRA 165, 188, citing *Auyong Hian v. Court of Tax Appeals*, G.R. No. L-28782, September 12, 1974, 59 SCRA 110, 120 and *People v. Macadaeg*, 91 Phil. 410, 413 (1952).

⁶⁴ *Petition for Authority to Continue Use of the Firm Name "Sycip, Salazar, Feliciano, Hernandez & Castillo," supra* at 59.

⁶⁵ *Id.* at 7.

Finally, we stress that unlike Philippine law, American law does not treat of partnerships as forming a separate juridical personality for all purposes. In the case of *Bellis v. United States*,⁶⁶ the US Supreme Court stated that law firms, as a form of partnership, are generally regarded as distinct entities for specific purposes, such as employment, capacity to be sued, capacity to hold title to property, and more.⁶⁷ State and federal laws, however, do not treat partnerships as distinct entities for all purposes.⁶⁸

Our jurisprudence has long recognized that American common law does not treat of partnerships as a separate juridical entity unlike Philippine law. Hence, in the case of *Campos Rueda & Co. v. Pacific Commercial Co.*,⁶⁹ which was decided under the old Civil Code, we held:

Unlike the common law, the Philippine statutes consider a limited partnership as a juridical entity for all intents and purposes, which personality is recognized in all its acts and contracts (art. 116, Code of Commerce). This being so and the juridical personality of a limited partnership being different from that of its members, it must, on general principle, answer for, and suffer, the consequence of its acts as such an entity capable of being the subject of rights and obligations.⁷⁰ x x x

On the other hand, in the case of *Commissioner of Internal Revenue v. Suter*,⁷¹ which was decided under the new Civil Code, we held:

It being a basic tenet of the Spanish and Philippine law that the partnership has a juridical personality of its own, distinct and separate from that of its partners (unlike American and English law that does not recognize such separate juridical personality), the bypassing of the existence of the limited partnership as a taxpayer can only be done by ignoring or disregarding clear statutory mandates and basic principles of our law.⁷² x x x

Indeed, under the old and new Civil Codes, Philippine law has consistently treated partnerships as having a juridical personality separate from its partners. In view of the clear provisions of the law on partnership, as enriched by jurisprudence, we hold that our reference to *In re Crawford's Estate* in the *Sycip* case is an *obiter dictum*.

⁶⁶ 417 U.S. 85 (1974).

⁶⁷ *Id.* at 97.

⁶⁸ *Id.* at 101.

⁶⁹ 44 Phil. 916 (1922).

⁷⁰ *Id.* at 918.

⁷¹ G.R. No. L-25532, February 28, 1969, 27 SCRA 152.

⁷² *Id.* at 158.

IV.

Having settled that SAFA Law Office is a juridical person, we hold that it is also the real party-in-interest in the case filed by Saludo against PNB.

Section 2, Rule 3 of the Rules of Court defines a real party-in-interest as the one “who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.” In *Lee v. Romillo, Jr.*,⁷³ we held that the “real [party-in-interest]-plaintiff is one who has a legal right[,] while a real [party-in-interest]-defendant is one who has a correlative legal obligation whose act or omission violates the legal rights of the former.”⁷⁴

SAFA Law Office is the party that would be benefited or injured by the judgment in the suit before the RTC. Particularly, it is the party interested in the accounting and/or recomputation of unpaid rentals and damages in relation to the contract of lease. It is also the party that would be liable for payment to PNB of overdue rentals, if that claim would be proven. This is because it is the one that entered into the contract of lease with PNB. As an entity possessed of a juridical personality, it has concomitant rights and obligations with respect to the transactions it enters into. Equally important, the general rule under Article 1816 of the Civil Code is that partnership assets are primarily liable for the contracts entered into in the name of the partnership and by a person authorized to act on its behalf. All partners, including industrial ones, are only liable *pro rata* with all their property after all the partnership assets have been exhausted.

In *Guy v. Gacott*,⁷⁵ we held that under Article 1816 of the Civil Code, the partners’ obligation with respect to the partnership liabilities is subsidiary in nature. It is merely secondary and only arises if the one primarily liable fails to sufficiently satisfy the obligation. Resort to the properties of a partner may be made only after efforts in exhausting partnership assets have failed or if such partnership assets are insufficient to cover the entire obligation.⁷⁶ Consequently, considering that SAFA Law Office is primarily liable under the contract of lease, it is the real party-in-interest that should be joined as plaintiff in the RTC case.


Section 2, Rule 3 of the Rules of Court requires that every action must be prosecuted or defended in the name of the real party-in-interest. As the one primarily affected by the outcome of the suit, SAFA Law Office should have filed the complaint with the RTC and should be made to respond to any counterclaims that may be brought in the course of the proceeding.

⁷³ G.R. No. L-60937, May 28, 1988, 161 SCRA 589.

⁷⁴ *Id.* at 595. Italics supplied.

⁷⁵ G.R. No. 206147, January 13, 2016, 780 SCRA 579.

⁷⁶ *Id.* at 593.



In *Aguila, Jr. v. Court of Appeals*,⁷⁷ a case for declaration of nullity of a deed of sale was filed against a partner of A.C. Aguila & Sons, Co. We dismissed the complaint and held that it was the partnership, not its partners, which should be impleaded for a cause of action against the partnership itself. Moreover, the partners could not be held liable for the obligations of the partnership unless it was shown that the legal fiction of a different juridical personality was being used for fraudulent, unfair, or illegal purposes. We held:

Rule 3, §2 of the Rules of Court of 1964, under which the complaint in this case was filed, provided that “every action must be prosecuted and defended in the name of the real party in interest.” A real party in interest is one who would be benefited or injured by the judgment, or who is entitled to the avails of the suit. This ruling is now embodied in Rule 3, §2 of the 1997 Revised Rules of Civil Procedure. Any decision rendered against a person who is not a real party in interest in the case cannot be executed. Hence, a complaint filed against such a person should be dismissed for failure to state a cause of action.

Under Art. 1768 of the Civil Code, a partnership “has a juridical personality separate and distinct from that of each of the partners.” The partners cannot be held liable for the obligations of the partnership unless it is shown that the legal fiction of a different juridical personality is being used for fraudulent, unfair, or illegal purposes. In this case, private respondent has not shown that A.C. Aguila & Sons, Co., as a separate juridical entity, is being used for fraudulent, unfair, or illegal purposes. Moreover, the title to the subject property is in the name of A.C. Aguila & Sons, Co. and the Memorandum of Agreement was executed between private respondent, with the consent of her late husband, and A.C. Aguila & Sons, Co., represented by petitioner. Hence, it is the partnership, not its officers or agents, which should be impleaded in any litigation involving property registered in its name. A violation of this rule will result in the dismissal of the complaint.⁷⁸

In this case, there is likewise no showing that SAFA Law Office, as a separate juridical entity, is being used for fraudulent, unfair, or illegal purposes. Hence, its partners cannot be held primarily liable for the obligations of the partnership. As it was SAFA Law Office that entered into a contract of lease with respondent PNB, it should also be impleaded in any litigation concerning that contract.

Accordingly, the complaint filed by Saludo should be amended to include SAFA Law Office as plaintiff. Section 11,⁷⁹ Rule 3 of the Rules of

⁷⁷ G.R. No. 127347, November 25, 1999, 319 SCRA 246.

⁷⁸ *Id.* at 253-254. Citations omitted.

⁷⁹ Sec. 11. *Misjoinder and non-joinder of parties.* — Neither misjoinder nor non-joinder of parties is ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded with separately.

Court gives power to the court to add a party to the case on its own initiative at any stage of the action and on such terms as are just. We have also held in several cases⁸⁰ that the court has full powers, apart from that power and authority which are inherent, to amend processes, pleadings, proceedings, and decisions by substituting as party-plaintiff the real party-in-interest.

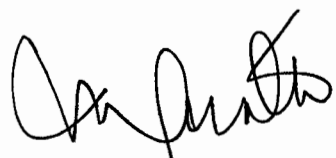
In view of the above discussion, we find it unnecessary to discuss the other issues raised in the petition. It is unfortunate that the case has dragged on for more than 10 years even if it involves an issue that may be resolved by a simple application of Civil Code provisions on partnership. It is time for trial to proceed so that the parties' substantial rights may be adjudicated without further unnecessary delay.

WHEREFORE, the petition is **DENIED**. Petitioner is hereby ordered to amend his complaint to include SAFA Law Office as plaintiff in Civil Case No. 06-678 pending before Branch 58 of the Regional Trial Court of Makati City, it being the real party-in-interest.

SO ORDERED.


FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

⁸⁰ See *Salvador v. Court of Appeals*, G.R. No. 109910, April 5, 1995, 243 SCRA 239, 257; *Domingo v. Scheer*, G.R. No. 154745, January 29, 2004, 421 SCRA 468, 484; and *Pacaña-Contreras v. Rovila Water Supply, Inc.*, G.R. No. 168979, December 2, 2013, 711 SCRA 219, 244.

ATTESTATION

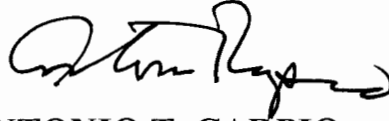
I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
*Senior Associate Justice****

*** Per Sec. 12 of Republic Act No. 296, The Judiciary Act of 1948, as amended.

