G.R. No. 223134 — VICENTE G. HENSON, JR., petitioner, vs. UCPB GENERAL INSURANCE CO., INC., respondent.

Promulgated:

August 14, 2019

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DISSENTING OPINION

REYES, A., JR., *J.*:

I agree with the denial of the petition but I respectfully enter my dissent with respect to the abandonment of the *Vector*[1] doctrine.

The Antecedents

The case under consideration pertains to Copylandia Office Systems Corporation's (Copylandia) damaged equipment caused by a water leak that occurred on May 9, 2006 in a two-storey building owned by petitioner Vicente G. Henson, Jr. (Henson) but leased by National Arts Studio and Color Lab (NASCL). The damaged equipment of Copylandia was insured with respondent UCPB General Insurance Co, Inc. (UCPB General Insurance). Consequently, Copylandia filed a claim with UCPB General Insurance for ₱2,062,640.00, but the parties settled the case for ₱1,326,342.76 on November 2, 2006.

After demand to pay has failed, UCPB General Insurance filed a complaint to recover the amount it paid Copylandia initially against NASCL, but later on impleaded Henson as the owner of the building. The complaint was opposed mainly on the ground of prescription arguing that UCPB General Insurance's cause of action was based on *quasi-delict*; hence, must be brought within four (4) years from the time it accrued.

Relying on *Vector Shipping Corporation, et al. v. American Home Assurance Co, et al.*,[2] the Regional Trial Court and the Court of Appeals (CA) rejected the defense of prescription and ruled that UCPB General Insurance's cause of action was based on an obligation created by law

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1 *See Vector Shipping Corp., et al. v. American Home Assurance Co., et al.*,713 Phil. 198 (2013).

2 Supra.

pursuant to Article 2207 of the Civil Code which prescribes in ten (10) years.

Hence, the instant case for petition for review on *certiorari* where the petitioner insists that the insurer's claim has already prescribed.

The *ponencia* submits that the CA did not err when it relied on *Vector* in resolving the issue of prescription since it is the prevailing rule applicable to the events of this case. However, the *ponencia* suggests that the *Vector doctrine* should no longer be applied in the future based mainly on the following justification:

> In *Vector*, the Court held that the insure[r]'s (*i.e.* American Home's) claim against the debtor (*i.e.* Vector) was premised on the right of subrogation pursuant to Article 2207 of the Civil Code and hence, an obligation created by law. While indeed American Home was entitled to claim against Vector by virtue of its subrogation to the rights of the insured (*i.e.* Caltex), **the Court failed to discern that no new obligation was created between American Home and Vector for the reason that a subrogee only steps into the shoes of the subrogor; hence, the subrogee-insurer only assumes the rights of the subrogor-insured based on the latter's original obligation with the debtor.**
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> To expound, subrogation's legal effects under Article 2207 of the Civil Code **are primarily between the subrogee-insurer and the subrogor-insured: by virtue of the former's payment of indemnity to the latter, it is able to acquire, by operation of law, all the rights of the subrogor-insured against the debtor. The debtor is a stranger to this juridical tie because it only remains bound by its original obligation to its creditor whose rights, however, have already been assumed by the subrogee.** In *Vector*'s case, American Home was able to acquire *ipso jure* all the rights Caltex had against Vector under their contract of affreightment by virtue of its payment of indemnity. If at all, subrogation had the effect of obliging Caltex to respect this assumption of rights in that it must now recognize that its rights against the debtor, *i.e.* Vector, had already been transferred to American Home as subrogee-insurer. In other words, by operation of Article 2207 of the Civil Code, Caltex cannot deny American Home of its right to claim against Vector. **However, subrogation of American Home to Caltex's rights did not alter the original obligation between Caltex and Vector**.
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> Accordingly, **the Court, in *Vector*, erroneously concluded that "the cause of action [against Vector] accrued as of the time [American Home] actually indemnified Caltex in the amount of ₱7,455,421.08 on July 12, 1988."** Instead, it is the subrogation of rights between Caltex and American Home which arose from the time the latter paid the indemnity therefor. Meanwhile, the accrual of the cause of action that Caltex had against Vector did not change because, as mentioned, no new obligation was created as between them by reason of the subrogation of

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> American Home. The cause of action against Vector therefore accrued at the time it breached its original obligation with Caltex whose right of action just so happened to have been assumed in the interim by American Home by virtue of subrogation. "[A] right of action is the right to presently enforce a cause of action, while a cause of action consists of the operative facts which gives rise to such right of action."[3] (Emphases Ours)

As gleaned from the foregoing, the *ponencia* proceeds under these premises:

(a) The insured and the insurer's cause of action is the same, *i.e.* quasi-delict; the action prescribes within four (4) years from its accrual;

(b) No new obligation is created by the subrogation; the cause of action of the insurer accrued at the time of the original breach of the obligation by the debtor; and

(c) The subrogation's legal effects under Article 2207 of the Civil Code are primarily between the subrogee-insurer and the subrogor-insured;

I beg to differ.

The insured and the insurer's causes of action arose from different sources[4] *of obligation.*

Article 2207 of the Civil Code reads:

> Art. 2207. If the plaintiff's property has been insured and he has received indemnity from the insurance company for the injury or loss arising out of the wrong or breach of contract complained of, the insurance company shall be subrogated to the rights of the insured against the wrongdoer or the person who has violated the contract. If the amount paid by the insurance company does not fully cover the injury or loss, the aggrieved party shall be entitled to recover the deficiency from the person causing the loss or injury.

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3 *See ponencia*, pp. 6-7.

4 CIVIL CODE OF THE PHILIPPINES, Article 1157.
Article 1157. Obligations arise from:
a) **Law;**
b) Contracts;
c) Quasi-contracts;
d) Acts or omissions punished by law; and
e) **Quasi-delicts.** (Emphases Ours)

A reading of the said provision reveals two (2) possible situations: (1) total legal subrogation; and (2) partial legal subrogation.

Total legal subrogation

The *first sentence* of Article 2207 provides that upon receipt of indemnity by the insured, the insurer is automatically subrogated to the rights of the insured against the wrongdoer subject to the concurrence of the following:

(1) A property has been insured;
(2) There is a loss, injury or damage to the insured;
(3) The loss or injury was caused by or through the fault of the wrongdoer; and
(4) The insured received indemnity from the insurance company for the injury, loss, or damage arising out of the wrong or breach complained of.

This contemplates legal subrogation which grows not out of privity of contract but arises by the fact of payment. In *Malayan Insurance Co., Inc. v. Alberto, et al.,*[5] the Court explained the nature of legal subrogation in this wise:

> Subrogation is the substitution of one person by another with reference to a lawful claim or right, so that he who is substituted succeeds to the rights of the other in relation to a debt or claim, including its remedies or securities. The principle covers a situation wherein an insurer has paid a loss under an insurance policy is entitled to all the rights and remedies belonging to the insured against a third party with respect to any loss covered by the policy. It contemplates **full substitution** such that it places the party subrogated in the shoes of the creditor, and he may use all means that the creditor could employ to enforce payment.
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> We have held that payment by the insurer to the insured operates as an **equitable assignment to the insurer of all the remedies** that the insured may have against the third party whose negligence or wrongful act caused the loss. **The right of subrogation is not dependent upon, nor does it grow out of, any privity of contract. It accrues simply upon payment by the insurance company of the insurance claim.** The doctrine of subrogation has its roots in equity. It is designed to promote and to accomplish justice; and is the mode that equity adopts to compel the ultimate payment of a debt by one who, in justice, equity, and good conscience, ought to pay.[6] (Emphases Ours)

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5 680 Phil. 813 (2012).
6 Id. at 829.

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The provision is clear, legal subrogation is a right that springs from Article 2207 of the Civil Code. The resulting obligation arising therefrom is, therefore, created by law.

In my humble point of view, no sufficient basis was presented to warrant the abandonment of the *Vector* doctrine. Article 2207 is clear and needs no further interpretation.

Partial legal subrogation

The *second sentence* of Article 2207, on the other hand, provides for a situation wherein the amount insured or indemnified is less than the actual damage. In this case, the insured retains the right to recover the difference from the wrongdoer based on the original obligation which in this case is quasi-delict. Otherwise stated, the insurer will only be subrogated to the rights of the insured only to the extent of what the former has paid the latter. This is under the principle that "the insured shall be fully indemnified but should never be more than fully indemnified."[7] Legal subrogation "will not permit a windfall."[8]

Proceeding from the foregoing, two (2) scenarios can be deduced.

First, before the payment of indemnity by the insurer, the insured has a cause of action for his injury or loss based on *quasi-delict*.

Second, upon receipt of full indemnity by the insured from the insurer, an equitable or legal subrogation is created *ipso jure*. If the amount recovered does not fully indemnify the insured for the loss, the insurer is partly subrogated to the rights of the insured to the extent of what the former has paid the latter. The insured retains the right to recover the difference from the wrongdoer under the original obligation.

In this instance, there is a concurrence of rights between insured and insurer that arose out of the same event but constitute different causes of action.

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[7] Marasinghe, M.L., *An Historical Introduction to the Doctrine of Subrogation; The Early History of the Doctrine II*, Valparaiso University Law Review, Vol. 10, Number 2, p. 292.

[8] Id. at 294.

The insured has the right to be indemnified for the damage or loss it suffered due to the fault or negligence of the wrongdoer **based on *quasi-delict*** while the insurer has the right to be reimbursed of the amount it paid the insured **based on legal subrogation**.

To elaborate on the disparity, a cause of action is the act or omission by which a party violates a right of another.[9] The elements of a cause of action based on *Mercene v. Government Service Insurance System,*[10] are the following:

> In order for cause of action to arise, the following elements must be 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 obligation of the defendant to the plaintiff.[11]

In *Indophil Textile Mills, Inc. v. Engr. Adviento,*[12] the Court enunciated that a **claim liability under *quasi-delict*** requires the concurrence of the following elements: (a) damages suffered by the plaintiff; (b) fault or negligence of the defendant, or some other person for whose acts he must respond; and (c) the connection of cause and effect between the fault or negligence of the defendant and the damages incurred by the plaintiff.[13]

Under Article 1146[14] of the Civil Code, actions upon *quasi-delict* must be instituted within four (4) years.

The case of *Fireman's Fund Insurance Company v. Maryland Casualty Company et al.*,[15] on the other hand, provides for the essential elements of an insurer's **cause of action for equitable or legal subrogation**, *viz.:*

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9 RULES OF COURT, Rule 2, Section 2.

10 G.R. No. 192971, January 10, 2018, 850 SCRA 209.

11 Id. at 218.

12 740 Phil. 336 (2014).

13 Id. at 350.

14 Article 1146. The following actions must be instituted within four years:
(1) Upon an injury to the rights of the plaintiff;
(2) Upon a quasi-delict.

15 No. A079345. Jul 31, 1998, citing *Caito v. United California Bank*, supra, 20 Cal.3d at p. 704; *Fireman's Fund Ins. Co. v. Wilshire Film Ventures, Inc.* (1997) 52 Cal. App. 4th 553, 555-556 [60 Cal. Rptr. 2d 591]; *Patent Scaffolding Co. v. William Simpson Constr. Co.*, supra, 256 Cal. App.2d at p. 509; *Grant v. de Otte* (1954) 122 Cal. App. 2d 724, 728 [265 P.2d 952]; 11 Witkin, Summary of Cal. Law, supra, Equity, § 169, p. 849.

> (a) the insured suffered a loss for which the defendant is liable, either as the wrongdoer whose act or omission caused the loss or because the defendant is legally responsible to the insured for the loss caused by the wrongdoer;
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> (b) the claimed loss was one for which the insurer was not primarily liable;
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> (c) the insurer has compensated the insured in whole or in part for the same loss for which the defendant is primarily liable;
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> (d) the insurer has paid the claim of its insured to protect its own interest and not as a volunteer;
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> (e) the insured has an existing, assignable cause of action against the defendant which the insured could have asserted for its own benefit had it not been compensated for its loss by the insurer;
>
> (f) the insurer has suffered damages caused by the act or omission upon which the liability of the defendant depends;
>
> (g) justice requires that the loss be entirely shifted from the insurer to the defendant, whose equitable position is inferior to that of the insurer; and
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> (h) the insurer's damages are in a liquidated sum, generally the amount paid to the insured.[16]

Under this jurisdiction, as an obligation that arose by operation of law, an action for legal subrogation prescribes in ten (10) years as statutorily provided in Article 1144.[17]

In both instances of legal subrogation, the effects of Article 2207 of the Civil Code are primarily between the insurer and the debtor-wrongdoer.

The *ponencia* is of the opinion that the subrogation's legal effect is mainly between the insurer and the insured; the wrongdoer is a mere stranger to this juridical tie who remains bound to the insured by its original obligation, one that arose from *quasi-delict*.

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16 Supra.

17 Article 1144. The following actions must be brought within ten years from the time the cause of action accrues:

(1) Upon a written contract;
(2) Upon an obligation created by law;
(3) Upon a judgment.

To my mind, the more logical view is that as a legal consequence of subrogation under Article 2207, a relationship **primarily between** insurer and the debtor-wrongdoer is created. Payment of indemnity by the insurer to the insured produces a *vinculum juris* between the insurer and the debtor-wrongdoer, in that the insurer now becomes the real party-in-interest[18] in a collection case against the debtor-wrongdoer with regard to the indemnity paid. In contrast, the effect of legal subrogation between the insured and insurer, who are governed by the insurance contract they entered into, is merely consequential.

The end of subrogation is to prevent inequity.

Of all the principles related to subrogation, it cannot be denied that the ultimate purpose for its creation is equity and "results from the natural justice of placing the burden where it ought to rest." Subrogation flows not from any fixed rule of law, but rather born from "principles of justice, equity and benevolence."[19] It makes sure that the responsibility must be on the person who should ultimately discharge the liability and not on the party who merely assumed the loss or injury. Subrogation operates as a device that places the burden for the loss on the party ultimately liable or responsible for it and "to relieve entirely the insurer who indemnified the loss and who in equity was not primarily liable therefor."[20]

Thus, Article 2207 of the Civil Code, in relation to Article 1144, should be construed under the aforementioned context.

In my perspective, to conform with the *ponencia* is to put the insurer at a disadvantage. This is against the very essence of legal subrogation that is to prevent unjust enrichment.[21]

The abandonment of the *Vector doctrine* will limit the options of the insurer, who upon payment to the insured, assumes the loss or injury caused by or through the fault of the wrongdoer. It will restrict the right of the insurer to recover from its assumed loss or injury by limiting the period within which it could recover. This will defeat the purpose of the principle of legal subrogation as a creature of the "highest equity"[22] which is

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18 *Phil. Air Lines, Inc. v. Heald Lumber Co.*, 101 Phil. 1031, 1035 (1957).
19 *Home Owner's Loan Corp. v. Parker*, 73 P.2d 170 (Okla. 1937).
20 *Fireman's Fund Insurance Company v. Maryland Casualty Company et al.*, supra note 15.
21 Mullen, J.M., The Equitable Doctrine of Subrogation, Maryland Law Review, Vol. 3, Issue 3, 3 Md. L. Rev. 202 (1939), p. 201.
22 *Fireman's Fund Insurance Company v. Jamila & Company, Inc.*, 162 Phil. 421, 429 (1976).

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"designed to promote and to accomplish justice and is the mode which equity adopts to compel the ultimate payment of a debt by one who in justice, equity and good conscience ought to pay."[23]

Accordingly, I submit that the CA is correct in ruling that UCPB General Insurance's cause of action based on legal subrogation has not yet prescribed pursuant to this Court's ruling in *Vector*.

THUS, I vote to **DENY** the petition for review on *certiorari*. But for the reasons stated, I respectfully **VOTE AGAINST THE ABANDONMENT** of the *Vector* doctrine.

ANDRES B. REYES, JR.
Associate Justice

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23 *PHILAMGEN v. Court of Appeals,* 339 Phil. 455, 466 (1997).