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This collection contains five (5) cases summarized in this format by Michael Vernon M. Guerrero (as a senior law student) during the First Semester, school year 2005-2006 in the Political Law Review class under Dean Mariano Magsalin Jr. at the Arellano University School of Law (AUSL). Compiled as PDF, September 2012.

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448  **Baldoza vs. Dimaano [AM 1120-MJ, 5 May 1976]**  

*Resolution of the Second Division, Antonio (J): 4 concur, 1 on leave, 1 designated to sit in Second Division*

**Facts:** In a verified letter-complaint dated September 9, 1975, the Municipal Secretary of Taal, Batangas, charges Municipal Judge Rodolfo B. Dimaano, of the same municipality, with abuse of authority in refusing to allow employees of the Municipal Mayor to examine the criminal docket records of the Municipal Court to secure data in connection with their contemplated report on the peace and order conditions of the said municipality. Dimaano, in answer to the complaint, stated that there has never been an intention to refuse access to official court records; that although court records are among public documents open to inspection not only by the persons directly involved but also by other persons who have legitimate interest to such inspection, yet the same is always subject to reasonable regulation as to who, when, where and how they may be inspected. He further asserted that a court has unquestionably the power to prevent an improper use or inspection of its records and the furnishing of copies therefrom may be refused where the person requesting is not motivated by a serious and legitimate interest but acts out of whim or fancy or mere curiosity or to gratify private spite or to promote public scandal. The case was thereupon referred to Judge Francisco Mat. Riodique for investigation and report. At the preliminary hearing on 16 October 1975, Taal Mayor Corazon A. Cañiza filed a motion to dismiss the complaint to preserve harmony and cooperation among officers in the same municipality. This motion was denied by the Investigating Judge, but after formal investigation, he recommended the exoneration of Dimaano.

**Issue:** Whether the rules and conditions imposed by Judge Dimaano on the inspection of the docket books infringe upon the right of the individuals to information.

**Held:** Judge Dimaano did not act arbitrarily in the premise. As found by the Investigating Judge, Dimaano allowed the complainant to open and view the docket books of Dimaano under certain conditions and under his command and supervision. It has not been shown that the rules and conditions imposed by Dimaano were unreasonable. The access to public records is predicated on the right of the people to acquire information on matters of public concern. Undoubtedly in a democracy, the public has a legitimate interest in matters of social and political significance. The New Constitution expressly recognizes that the people are entitled to information on matters of public concern and thus are expressly granted access to official records, as well as documents of official acts, or transactions, or decisions, subject to such limitations imposed by law. The incorporation of this right in the Constitution is a recognition of the fundamental role of free exchange of information in democracy. There can be no realistic perception by the public of the nation's problems, nor a meaningful democratic decision-making if they are denied access to information of general interest. Information is needed to enable the members of society to cope with the exigencies of the times. As has been aptly observed: "Maintaining the flow of such information depends on protection for both its acquisition and its dissemination since, if either process is interrupted, the flow inevitably ceases." However, restrictions on access to certain records may be imposed by law. Thus, access restrictions imposed to control civil insurrection have been permitted upon a showing of immediate and impending danger that renders ordinary means of control inadequate to maintain order.

449  **Tanada v. Tuvera [ GR L-63915, 29 December 1986]**  

*Resolution En Banc, Cruz (J) : 8 concur*

**Facts:** Invoking the people's right to be informed on matters of public concern (Section 6, Article IV of the 1973 Philippine Constitution) as well as the principle that laws to be valid and enforceable must be published in the Official Gazette or otherwise effectively promulgated, Lorenzo M. Tañada, Abraham F. Sarmiento, and the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. [MABINI] sought a writ of mandamus to compel Hon. Juan C. Tuvera, in his capacity as Executive Assistant to the President, Hon. Joaquin Venus, in his capacity as Deputy Executive Assistant to the President, Melquiades P. De La Cruz, in Constitutional Law II, 2005 (1)
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his capacity as Director, Malacañang Records Office, and Florendo S. Pablo, in his capacity as Director, Bureau of Printing, to publish, and or cause the publication in the Official Gazette of various presidential decrees, letters of instructions, general orders, proclamations, executive orders, letter of implementation and administrative orders. On 24 April 1985, the Court affirmed the necessity for the publication to the Official Gazette all unpublished presidential issuances which are of general application, and unless so published, they shall have no binding force and effect. The decision was concurred only by 3 justices. Tanada, et. al. move for reconsideration / clarification of the decision on various questions. They suggest that there should be no distinction between laws of general applicability and those which are not; that publication means complete publication; and that the publication must be made forthwith in the Official Gazette. The Solicitor General avers that the motion is a request for advisory opinion. Meanwhile, the February EDSA Revolution took place, which subsequently required the new Solicitor General to file a rejoinder on the issue (under Rule 3, Section 18 of the Rules of Court).

Issue: Whether laws should be published in the official gazette before they may be validly implemented.

Held: The conclusive presumption that every person knows the law, presupposes that the law has been published if the presumption is to have any legal justification at all. It is no less important to remember that Section 6 of the Bill of Rights recognizes "the right of the people to information on matters of public concern," and this certainly applies to, among others, and indeed especially, the legislative enactments of the government. The term "laws" should refer to all laws and not only to those of general application, for strictly speaking all laws relate to the people in general albeit there are some that do not apply to them directly. An example is a law granting citizenship to a particular individual, like a relative of President Marcos who was decreed instant naturalization. It surely cannot be said that such a law does not affect the public although it unquestionably does not apply directly to all the people. The subject of such law is a matter of public interest which any member of the body politic may question in the political forums or, if he is a proper party, even in the courts of justice. In fact, a law without any bearing on the public would be invalid as an intrusion of privacy or as class legislation or as an ultra vires act of the legislature. To be valid, the law must invariably affect the public interest even if it might be directly applicable only to one individual, or some of the people only, and not to the public as a whole. All statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity date is fixed by the legislature. Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation. Interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the so-called letters of instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties. Accordingly, even the charter of a city must be published notwithstanding that it applies to only a portion of the national territory and directly affects only the inhabitants of that place. All presidential decrees must be published, including even, say, those naming a public place after a favored individual or exempting him from certain prohibitions or requirements. The circulars issued by the Monetary Board must be published if they are meant not merely to interpret but to "fill in the details" of the Central Bank Act which that body is supposed to enforce. However, no publication is required of the instructions issued by, say, the Minister of Social Welfare on the case studies to be made in petitions for adoption or the rules laid down by the head of a government agency on the assignments or workload of his personnel or the wearing of office uniforms. Parenthetically, municipal ordinances are not covered by this rule but by the Local Government Code. The publication must be in full or it is no publication at all since its purpose is to inform the public of the contents of the laws.

450 Valmonte vs. Belmonte [GR 74930, 13 February 1989]

En Banc, Cortez (J): 13 concur, 1 concurs in separate opinion

Constitutional Law II, 2005 (2)
**Facts:** Ricardo Valmonte wrote Feliciano Belmonte Jr. on 4 June 1986, requesting to be "furnished with the list of names of the opposition members of (the) Batasang Pambansa who were able to secure a clean loan of P2 million each on guaranty (sic) of Mrs. Imelda Marcos" and also to "be furnished with the certified true copies of the documents evidencing their loan. Expenses in connection herewith shall be borne by" Valmonte, et. al. Due to serious legal implications, President & General Manager Feliciano Belmonte, Jr. referred the letter to the Deputy General Counsel of the GSIS, Meynardo A. Tiro. Tiro replied that it is his opinion "that a confidential relationship exists between the GSIS and all those who borrow from it, whoever they may be; that the GSIS has a duty to its customers to preserve this confidentiality; and that it would not be proper for the GSIS to breach this confidentiality unless so ordered by the courts." On 20 June 1986, apparently not having yet received the reply of the Government Service and Insurance System (GSIS) Deputy General Counsel, Valmonte wrote Belmonte another letter, saying that for failure to receive a reply "(W)e are now considering ourselves free to do whatever action necessary within the premises to pursue our desired objective in pursuance of public interest." On 26 June 1986, Ricardo Valmonte, Oswaldo Carbonell, Doy Del Castillo, Rolando Bartolome, Leo Obligar, Jun Gutierrez, Reynaldo Bagatsing, Jun "Ninoy" Alba, Percy Lapid, Rommel Corro, and Rolando Fadul filed a special civil action for mandamus with preliminary injunction invoke their right to information and pray that Belmonte be directed: (a) to furnish Valmonte, et. al. the list of the names of the Batasang Pambansa members belonging to the UNIDO and PDP-Laban who were able to secure clean loans immediately before the February 7 election thru the intercession/marginal note of the then First Lady Imelda Marcos; and/or (b) to furnish petitioners with certified true copies of the documents evidencing their respective loans; and/or (c) to allow petitioners access to the public records for the subject information.

**Issue:** Whether Valmonte, et. al. may access GSIS records pertaining to behest loans secured by Imelda Marcos in favor of certain members of the opposition in the Batasang Pambansa.

**Held:** The pertinent provision under the 1987 Constitution is Art. 111, Sec. 7 states that "The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law." An informed citizenry with access to the diverse currents in political, moral and artistic thought and data relative to them, and the free exchange of ideas and discussion of issues thereon, is vital to the democratic government envisioned under our Constitution. The cornerstone of this republican system of government is delegation of power by the people to the State. In this system, governmental agencies and institutions operate within the limits of the authority conferred by the people. Denied access to information on the inner workings of government, the citizenry can become prey to the whims and caprices of those to whom the power had been delegated. The postulate of public office as a public trust, institutionalized in the Constitution (in Art. XI, Sec. 1) to protect the people from abuse of governmental power, would certainly be mere empty words if access to such information of public concern is denied, except under limitations prescribed by implementing legislation adopted pursuant to the Constitution. The right to information is an essential premise of a meaningful right to speech and expression. But this is not to say that the right to information is merely an adjunct of and therefore restricted in application by the exercise of the freedoms of speech and of the press. Far from it. The right to information goes hand-in-hand with the constitutional policies of full public disclosure and honesty in the public service. It is meant to enhance the widening role of the citizenry in governmental decision-making as well in checking abuse in government. Yet, like all the constitutional guarantees, the right to information is not absolute. As stated in Legaspi, The people's right to information is limited to "matters of public concern", and is further "subject to such limitations as may be provided by law." Similarly, the State's policy of full disclosure is limited to "transactions involving public interest", and is "subject to reasonable conditions prescribed by law." Hence, before mandamus may issue, it must be clear that the information sought is of "public interest" or "public concern", and is not exempted by law from the operation of the constitutional guarantee. Herein, the information sought by Valmonte, et. al. is

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the truth of reports that certain Members of the Batasang Pambansa belonging to the opposition were able to secure "clean" loans from the GSIS immediately before the 7 February 1986 election through the intercession of the former First Lady, Mrs. Imelda R. Marcos. In sum, the public nature of the loanable funds of the GSIS and the public office held by the alleged borrowers makes the information sought clearly a matter of public interest and concern. However, a second requisite must be met before the right to information may be enforced through mandamus proceedings, viz., that the information sought must not be among those excluded by law. On this matter, Belmonte has failed to cite any law granting the GSIS the privilege of confidentiality as regards the documents subject of the petition. His position is apparently based merely on considerations of policy. The judiciary does not settle policy issues. The Court can only declare what the law is, and not what the law should be. Under our system of government, policy issues are within the domain of the political branches of the government, and of the people themselves as the repository of all State power. Although it may be true that when the information requested from the government intrudes into the privacy of a citizen, a potential conflict between the rights to information and to privacy may arise. Such competing interests of these rights need not be resolved in the present case. The right to privacy belongs to the individual in his private capacity, and not to public and governmental agencies like the GSIS. Moreover, the right cannot be invoked by juridical entities like the GSIS. Thus, neither can the GSIS through its General Manager, Belmonte, invoke the right to privacy of its borrowers. The right is purely personal in nature, and hence may be invoked only by the person whose privacy is claimed to be violated. It may be observed, however, the concerned borrowers themselves may not succeed if they choose to invoke their right to privacy, considering the public offices they were holding at the time the loans were alleged to have been granted. It cannot be denied that because of the interest they generate and their newsworthiness, public figures, most especially those holding responsible positions in government, enjoy a more limited right to privacy as compared to ordinary individuals, their actions being subject to closer public scrutiny. In fine, Valmonte, et al. are entitled to access to the documents evidencing loans granted by the GSIS, subject to reasonable regulations that the latter may promulgate relating to the manner and hours of examination, to the end that damage to or loss of the records may be avoided, that undue interference with the duties of the custodian of the records may be prevented and that the right of other persons entitled to inspect the records may be insured.


452 Legaspi vs. Civil Service Commission [GR 72119, 29 May 1987]

En Banc, Cortes (J): 12 concur, 1 on leave

Facts: Valentin L. Legaspi made a request for information on the civil service eligibilities of certain persons employed as sanitarians in the Health Department of Cebu City. These government employees, Julian Sibonghanoy and Mariano Agas, had allegedly represented themselves as civil service eligibles who passed the civil service examinations for sanitarians. The Civil Service Commission denied Legaspi's request. Legaspi filed a special civil action for mandamus before the Supreme Court, claiming that he has no other plain, speedy and adequate remedy to acquire the information.

Issue: Whether the information sought by Legaspi is within the ambit of the constitutional guarantee.

Held: The right to information does not open every door to any and all information. Under the Constitution, access to official records, papers, etc., are "subject to limitations as may be provided by law." The law may therefore exempt certain types of information from public scrutiny, such as those affecting national security. It follows that, in every case, the availability of access to a particular public record must be circumscribed by the nature of the information sought, i.e., (a) being of public concern or one that involves public interest, and, (b) not being exempted by law from the operation of the constitutional guarantee. The threshold question is, therefore, whether or not the information sought is of public interest or public concern. Herein, the information sought by Legaspi is the truth of the claim of certain government employees that they are civil
service eligibles for the positions to which they were appointed. The Constitution expressly declares as a State policy that: "Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and except as to positions which are policy determining, primarily confidential or highly technical, by competitive examination." Public office being a public trust, it is the legitimate concern of citizens to ensure that government positions requiring civil service eligibility are occupied only by persons who are eligibles. Public officers are at all times accountable to the people even as to their eligibilities for their respective positions. On the other hand, on whether the information sought is among the species exempted by law from the operation of the constitutional guarantee, the Civil Service Commission has failed to cite any provision in the Civil Service Law which would limit Legaspi's right to know who are, and who are not, civil service eligibles. The Court take judicial notice of the fact that the names of those who pass the civil service examinations, as in bar examinations and licensure examinations for various professions, are released to the public. Hence, there is nothing secret about one's civil service eligibility, if actually possessed. Legaspi's request is, therefore, neither unusual nor unreasonable. And when, as in this case, the government employees concerned claim to be civil service eligibles, the public, through any citizen, has a right to verify their professed eligibilities from the Civil Service Commission. The civil service eligibility of a sanitarian being of public concern, and in the absence of express limitations under the law upon access to the register of civil service eligibles for said position, the duty of the Commission to confirm or deny the civil service eligibility of any person occupying the position becomes imperative.

453 García vs. Board of Investments [GR 88637, 7 September 1989]

Facts: Proclamation 361 dated 6 March 1968, as amended by Proclamation 630 dated 29 November 1969, reserved a 388-hectare parcel of land of the public domain located at Lamao, Limay, Bataan for "industrial estate purposes," in line with the State policy of promoting and rationalizing the industrialization of the Philippines. PD 1803, dated 16 January 1981, enlarged the area by 188 hectares, making it a total of 576 hectares, reserved for the Petrochemical Industrial Zone under the administration, management and ownership of the Philippine National Oil Company (PNOC). The Bataan Refining Corporation (BRC) is a wholly government-owned corporation, located in Bataan. It produces 60% of the national output of naphtha. Taiwanese investors in a petrochemical project formed the Bataan Petrochemical Corporation (BPC) and applied with BOI for registration as a new domestic producer of petrochemicals. Its application specified Bataan as the plant site. One of the terms and conditions for the registration of the project was the use of "naphtha cracker" and "naphtha" as feedstock or fuel for its petrochemical plant. The petrochemical project was to be a joint venture with PNOC. BPC was issued a Certificate of Registration on February 24, 1988 by BOI. BPC was accorded pioneer status and was given fiscal and other incentives by BOI, like, (1) exemptions from tax on raw materials, (2) repatriation of the entire proceeds of liquidation of investments in currency originally made and at the exchange rate obtaining at the time of repatriation; and (3) remittance of earnings on investments. As additional incentive, the House of Representatives approved a bill, introduced by the petitioner, Congressman García, eliminating the 48% ad valorem tax on naphtha if and when it would be used as raw material in the petrochemical plant. However, in February 1989, A. T. Chong, chairman of USI Far East Corporation, the major investor in BPC, personally delivered to Trade Secretary Jose Concepcion a letter dated 25 January 1989, advising him of BPC's desire to amend the original registration certificate of its project by changing the job site from Limay, Bataan, to Batangas. News of the shift was published by one of the major Philippine dailies which disclosed that the cause of the relocation of the project is the insurgency and unstable labor situation in Bataan. The presence in Batangas of a huge liquefied petroleum gas (LPG) depot owned by the Pilipinas Shell Corporation was another consideration. The congressmen of Bataan vigorously opposed the transfer of the proposed petrochemical plant to Batangas. At a conference of the Taiwanese investors with President Aquino and her Secretary of Defense and Chief of Staff of the Army, the President expressed her preference that the Bataan petrochemical plant be established in Bataan. However, despite speeches in the Senate and in the House opposing the transfer of the project to Batangas, BPC filed in the BOI on 11 April 1989 a request for "approval of an amendment of its investment application for
establishing a petrochemical complex in the Philippines." On 4 May 1989, Congressman Enrique T. Garcia addressed a letter to Secretary Concepcion of the Department of Trade and Industry (DTI), through BOI vice-chairman and manager Tomas Alcantara, requesting for "a copy of the amendment reportedly submitted by Taiwanese investors, to their original application for the installation of the Bataan Petrochemical Plant, as well as the original application itself together with any and all attachments to said original application and the amendment thereto." On 21 May 1989, BOI vice-chairman Alcantara informed Garcia that the Taiwanese investors declined to give their consent to the release of the documents requested. On 25 May 1989, the BOI approved the revision of the registration of BPC's petrochemical project. On 26 June 1989, Garcia filed a petition for certiorari and prohibition in the Court, with a prayer for preliminary injunction.

**Issue:** Whether Congressman Garcia may be allowed access to the records of the Board of Investment on the original and amended applications for registration, as a petrochemical manufacturer, of the respondent Bataan Petrochemical Corporation, excluding, however, privileged papers containing its trade secrets and other business and financial information.

**Held:** The Omnibus Investments Code of 1987 (Executive Order 226) of 16 July 1987 expressly declares it to be the policy of the State "to accelerate the sound development of the national economy by encouraging private Filipino and foreign investments in industry, agriculture, forestry, mining, tourism and other sectors of the economy." It also requires the "publication of applications for registration," hence, the payment of publication and other necessary fees prior to the processing and approval of such applications" (Art. 7, subpar. 3, Omnibus Investments Code). As provided by the law, the BPC's application for registration as a "new export producer of ethylene, polyethylene and polypropylene" was published in the "Philippine Daily Inquirer" issue of 21 December 1987. The notice invited "any person with valid objections to or pertinent comments on the above-mentioned application (to file) his/her comments/objections in writing with the BOI within one (1) week from the date of this publication." Since the BPC's amended application (particularly the change of location from Bataan to Batangas) was in effect a new application, it should have been published so that whoever may have any objection to the transfer may be heard. The BOI's failure to publish such notice and to hold a hearing on the amended application deprived the oppositors, like Congressman Garcia, of due process and amounted to a grave abuse of discretion on the part of the BOI. The provision in the Investments Code requiring publication of the investor's application for registration in the BOI is implicit recognition that the proposed investment or new industry is a matter of public concern on which the public has a right to be heard. And, when the BOI approved BPC's application to establish its petrochemical plant in Limay, Bataan, the inhabitants of that province, particularly the affected community in Limay, and Garcia as the duly elected representative of the Second District of Bataan acquired an interest in the project which they have a right to protect. Garcia's request for xerox copies of certain documents filed by BPC together with its original application, and its amended application for registration with BOI, may not be denied, as it is the constitutional right of a citizen to have access to information on matters of public concern under Article III, Section 7 of the 1987 Constitution. The confidentiality of the records on BPC's applications is not absolute for Article 81 of the Omnibus Investments Code provides that they may be disclosed "upon the consent of the applicant, or on orders of a court of competent jurisdiction." As a matter of fact, a xerox copy of BPC's position paper dated 10 April 1989, in support of its request for the transfer of its petrochemical plant to Batangas, has been submitted to the Court as an annex of its memorandum. However, just as the confidentiality of an applicant's records in the BOI is not absolute, neither is Garcia's right of access to them unlimited. The Constitution does not open every door to any and all information. "Under the Constitution, access to official records, papers, etc. is subject to limitations as may be provided by law. The law may exempt certain types of information from public scrutiny." The trade secrets and confidential, commercial and financial information of the applicant BPC, and matters affecting national security are excluded from the privilege.