

The **PRACTICE BAR**

286 QUESTIONS & ANSWERS

Based on Decisions Penned by Justice Samuel H. Gaerlan

- ✓ 286 Practice Q&As
- ✓ Bar Coverage up to June 2025
- ✓ ALAC-Structured Answers
- ✓ Quick One-Liner Doctrines
- ✓ Updated Legal References (including CPRA)
- ✓ Syllabus-Based Organization
- ✓ Case Title Index

The Practice Bar

286 Gaerlan Case Practice Q&As

Hi, Bar Buddy!

This material is a compilation of 286 practice questions and answers based on decisions penned by Justice Samuel H. Gaerlan, organized according to the Bar syllabus.

Each answer follows an ALAC structure, and every entry highlights a key doctrine to help you quickly grasp the controlling principle and practice applying it in Bar-style questions. The legal references have also been updated to reflect current laws and developments, including the Code of Professional Responsibility and Accountability (CPRA), the Rules of Court, and other amendments issued after the original decisions.

The Practice Bar is designed to help 2026 Bar takers develop structured thinking and practice answering Bar questions. It is more than a collection of case digests. It is a system for navigating the Bar.

Stay consistent. Trust your preparation. And remember to take care of yourself along the way.

I'm cheering for you.

— *Atty. G*

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ACRONYMS

AFP	Armed Forces of the Philippines
AMLC	Anti-Money Laundering Council
AO	Administrative Order
BAC	Bids and Awards Committee
BIR	Bureau of Internal Revenue
BOD	Board of Directors
BSP	Bangko Sentral ng Pilipinas
CA	Court of Appeals
CARP	Comprehensive Agrarian Reform Program
CBA	Collective Bargaining Agreement
CENRO	Community Environment and Natural Resources Office
CHR	Commission on Human Rights
CIAC	Construction Industry Arbitration Commission
CLD	COMELEC Law Department
COA	Commission on Audit
COC	Certificate of Candidacy
COMELEC	Commission on Elections
CPP-NPA	Communist Party of the Philippines-New People's Army
CPRA	Code of Professional Responsibility and Accountability (A.M. No. 22-09-01-SC)
CSC	Civil Service Commission
CTA	Court of Tax Appeals
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DBM	Department of Budget and Management

DBP	Development Bank of the Philippines
DENR	Department of Environment and Natural Resources
DMW	Department of Migrant Workers (formerly POEA)
DOJ	Department of Justice
DOLE	Department of Labor and Employment
DPWH	Department of Public Works and Highways
FTAA	Financial or Technical Assistance Agreement
GOCC	Government-Owned and Controlled Corporation
GSIS	Government Service Insurance System
IBP	Integrated Bar of the Philippines
IPO	Intellectual Property Office
IRPIC	Interim Rules on Intra-Corporate Controversies (A.M. No. 01-2-04-SC)
IRR	Implementing Rules and Regulations
LA	Labor Arbiter
LBP	Land Bank of the Philippines
LGC	Local Government Code
LOA	Letter of Authority
LPOH	Light Police Operational Helicopter
MARINA	Maritime Industry Authority
MeTC	Metropolitan Trial Court
MRI	Mortgage Redemption Insurance
MTC	Municipal Trial Court
MTCC	Municipal Trial Court in Cities
ND	Notice of Disallowance
NGCP	National Grid Corporation of the Philippines
NLRC	National Labor Relations Commission
OCA	Office of the Court Administrator
OEC	Omnibus Election Code

OGCC	Office of the Government Corporate Counsel
OMB	Office of the Ombudsman
OSG	Office of the Solicitor General
PAGCOR	Philippine Amusement and Gaming Corporation
PD	Presidential Decree
PN	Promissory Note
PNP	Philippine National Police
POEA	Philippine Overseas Employment Administration
POGO	Philippine Offshore Gaming Operator
RA	Republic Act
REM	Real Estate Mortgage
RPC	Revised Penal Code
RPEC	Rules of Procedure for Environmental Cases (A.M. No. 09-6-8-SC)
SAC	Special Agrarian Court
SALN	Statement of Assets, Liabilities, and Net Worth
SC	Supreme Court
SEC	Standard Employment Contract
SPA	Special Power of Attorney
SSS	Social Security System
TCT	Transfer Certificate of Title
TDC	Time Deposit Certificate
TESDA	Technical Education and Skills Development Authority
VA	Voluntary Arbitrator
VAT	Value-Added Tax
VAWC	Violence Against Women and Their Children (RA No. 9262)

POLITICAL LAW

I. BASIC CONCEPTS

Fundamental Powers of the State; Eminent Domain

1

The owner can no longer recover possession of the property devoted to public use, but may recover just compensation and/or damages.

The Municipality of Alona built a road on a parcel of land owned by Rona, covered by TCT No. 1234. Rona claimed she never consented to the use of her land and demanded that the road be removed. After failed negotiations, she filed a Complaint for a sum of money and damages. At trial, the municipality presented a Deed of Donation transferring ownership of the lot to it. It was later found that Rona's signature on the Deed was forged. **Is Rona entitled to recover the possession of her property?**

Suggested Answer: No, Rona is no longer entitled to recover possession of her property, as it has already been devoted to public use.

In *Municipality of Sta. Maria, Bulacan v. Buenaventura*,¹ the Supreme Court reiterated that an owner can no longer recover possession of his or her property once it has been devoted to public use or purpose. However, the owner is entitled to just compensation from the time of taking, and to damages if the property was taken illegally.

¹ G.R. No. 191278, 29 March 2023.

Here, a public road has already been constructed on Rona's land. She is therefore no longer entitled to recover possession, as it is no longer feasible, the land having already been devoted to public use or purpose. However, Rona is entitled to just compensation from the time of taking. She may also claim damages if she proves that the taking was unlawful.

Thus, Rona may no longer recover possession of her land.

2

Before the issuance of a free patent, the grantee has no right to just compensation for the pre-existing easement.

In 2012, Leonardo obtained a Free Patent over a 5,000-sqm parcel of land in Lanao del Sur. A certificate of title was later issued in his favor, stating that the property was subject to existing easements under Commonwealth Act No. 141. Unknown to Leonardo at the time, a 138-kV transmission line owned by the NGCP had been built across the land in 1978 pursuant to its right-of-way. After discovering the transmission line, Leonardo filed a Complaint to fix just compensation, claiming it deprived him of full use of the property.

Decide with reason(s).

Suggested Answer: Leonardo is not entitled to just compensation since he accepted the Free Patent subject to NGCP's pre-existing easement.

In *Heirs of Dimao v. NGCP*,² the Supreme Court held that when public infrastructure already exists on public land

² G.R. No. 254020, 01 March 2023.

before the issuance of a Free Patent, the grantee has no right to just compensation, as there is no compensable taking. The grantee accepts the title subject to the pre-existing easement.

Here, the transmission line was constructed in 1978, when the land was still part of the public domain and long before Leonardo obtained his Free Patent in 2012. Leonardo accepted the grant subject to pre-existing easements, including the NGCP right-of-way. In fact, his title expressly stated that condition. He is therefore not deprived of any use of the property.

Accordingly, Leonardo is not entitled to just compensation.

VI. JUDICIAL DEPARTMENT

Judicial Review

3

A general public interest does not confer legal standing, absent direct injury.

In light of the May 2022 National and Local Elections, COMELEC received a document titled “APELA PARA SA MANO-MANONG PAGBILANG MULI NG MGA BOTO SA PROBINSYA NG PANGASINAN” (Apela), a signature campaign petition seeking a full manual recount of votes in Pangasinan, alleging widespread irregularities that supposedly affected the election results. These included unusually fast transmission of results and observations attributed to technical experts and international observers, as reported in news articles, social media posts, and other online sources. Atty. Ethan prepared and circulated the Apela and submitted it to

COMELEC. COMELEC denied the Apela. Atty. Ethan then filed a Petition for *Certiorari* and *Mandamus* before the Supreme Court. **Does Atty. Ethan have legal standing to file the Petition?**

Suggested Answer: No, Atty. Ethan does not have legal standing to file the Petition because he failed to show a direct and personal injury.

In *Legaspi v. COMELEC*,³ the Supreme Court held that a general interest shared by the public is insufficient to confer legal standing, absent a specific, personal, and substantial injury. The doctrine of transcendental importance does not automatically dispense with standing, especially where there is no imminent danger to constitutional rights.

Here, Atty. Ethan asserted only a general interest in the conduct and outcome of the May 2022 National and Local Elections, shared by the entire voting population. He failed to allege any specific, personal, or substantial injury, or any imminent danger to constitutional rights that would justify invoking the doctrine of transcendental importance.

Thus, Atty. Ethan lacks legal standing to file the Petition.

VII. CONSTITUTIONAL COMMISSIONS

Powers, Functions, and Jurisdiction

COMELEC

³ G.R. No. 264661, 30 July 2024.

4

The COMELEC may, through resolutions, fix, shorten, or extend the election period beyond the default period under the OEC.

Harvey, a security guard supervisor, was involved in a traffic altercation where he allegedly fired his licensed .38 caliber revolver several times. Because the incident occurred during the election period for the 2004 National Elections, he was charged with violating the election gun ban. Harvey argued that the gun ban was invalid because the COMELEC, through a mere Resolution, extended the election period beyond the default dates under the OEC. **Decide with reason(s).**

Suggested Answer: Harvey was correctly charged with violation of the gun ban, as the COMELEC validly extended the election period pursuant to its constitutional and statutory authority.

In *Baguinon, Sr. v. People*,⁴ the Supreme Court held that, under its constitutional and statutory authority, the COMELEC may, through resolutions, fix, shorten, or extend the election period beyond the default 90-day/30-day period under the OEC.

Here, the COMELEC resolution extending the election period beyond that provided in the OEC is valid, having been issued pursuant to COMELEC's authority. The gun ban in effect at the time of the incident was therefore also valid.

Accordingly, Harvey was correctly charged with violation of the gun ban.

⁴ G.R. No. 255983, 27 January 2025.

COA

5

Loan proceeds paid by the HDMF are considered expenditures or uses of government funds, subject to COA's audit jurisdiction.

The Home Development Mutual Fund (HDMF) authorized accredited property developers to pre-process the housing loan applications of its member-borrowers. The loan proceeds will then be released directly to the developers. Pursuant to this, the HDMF released ₱13 million to Prime Builders, Inc. (PBI) for 21 housing loan applications. The COA issued Notices of Disallowance for the full amount, citing irregularities including missing signatures of borrowers and loan officers, incomplete forms, and missing proof of income and billing addresses. PBI and the approving officers were held liable. They argued that COA has no jurisdiction because the housing loans were investments, not expenditures of government funds.

Are they correct?

Suggested Answer: No, the respondents are not correct; HDMF loan proceeds are uses of government funds, subject to COA's jurisdiction.

In *Menzon v. COA*,⁵ the Supreme Court held that loan proceeds paid by the HDMF are considered expenditures or uses of government funds, which are subject to audit by the COA under the Constitution. Expenditures pertain to amounts paid for goods or services.

⁵ G.R. No. 241394, 09 December 2020.

Here, the loan proceeds released to PBI represented payments advanced by HDMF on behalf of its member-borrowers for properties allegedly purchased from PBI. These constitute expenditures or uses of government funds and are therefore subject to audit by the COA.

Thus, the respondents' argument is without merit.

6

The COA may disallow illegal expenditures even if based on local legislation, and such disallowance is not a collateral attack on the ordinance.

The Lipa City Council enacted Ordinance No. 234 establishing an Early Retirement Program that granted financial incentives to city employees with at least 10 years of service. The program was implemented, and ₱90 million was paid to qualified employees. The COA later issued Notices of Disallowance (NDs), finding the payments illegal for being contrary to the GSIS Act. The city officials argued that COA exceeded its authority because the NDs amounted to a collateral attack on Ordinance No. 234. **Decide with reason(s).**

Suggested Answer: COA's NDs should be upheld, as the disallowance of illegal expenditures is within its constitutional authority.

In *Bayron v. COA*,⁶ the Supreme Court held that the COA has the constitutional authority to disallow illegal expenditures even if these are based on local legislation. The issuance of NDs does not constitute a collateral

⁶ G.R. No. 253127 [Resolution], 27 February 2024.

attack on the ordinance, since only courts may review and strike down local legislation.

Here, COA disallowed payments under the city's Early Retirement Program because Ordinance No. 234 conflicted with the GSIS Act, making the disbursements illegal. COA questioned the legality of the expenditures, not the validity of the ordinance itself. The NDs therefore reflect a valid exercise of COA's auditing authority, not a collateral attack on the ordinance.

Accordingly, COA's NDs should be upheld.

VIII. CONSTITUTIONAL RIGHTS

Freedom of Religion

7

The principle of separation of church and state does not bar the application of labor and social legislation to religious organizations on secular matters.

Good Shepherd Mission is a non-stock, non-profit religious organization engaged in evangelical and charitable work in the Philippines. Since the 1960s, it had been registered with the SSS and reported its officers and ministers as employees. In 2005, the Mission requested that the SSS reclassify its officers from "employees" to "voluntary or self-employed." The SSS denied the request, finding that all elements of an employer-employee relationship were present, thus placing the officers under compulsory SSS coverage. The Mission moved for reconsideration, arguing that the denial violated the constitutional principle of separation of church and state because its relationship with the

officers was ecclesiastical in nature. **Decide with reason(s).**

Suggested Answer: The Mission's Motion for Reconsideration must be denied since labor and social legislation applies even to religious organizations, as long as it does not intrude into ecclesiastical matters.

In *Salvation Army v. SSS*,⁷ the Supreme Court held that the principle of separation of church and state does not bar the application of labor and social legislation to religious organizations, provided it does not regulate matters of faith, doctrine, or ecclesiastical functions.

Here, compulsory SSS coverage does not interfere with the Mission's religious beliefs, doctrines, or internal ecclesiastical affairs and therefore properly applies. Social Security law is a neutral, generally applicable law enacted to promote social justice and provide protection to workers, regardless of whether the employer is secular or religious.

Accordingly, the Mission's Motion for Reconsideration must be denied.

Right to Information

8

A person invoking the right to information must first exhaust administrative remedies before seeking judicial relief.

In light of the May 2022 National and Local Elections, COMELEC received a document titled "APELA PARA SA

⁷ G.R. No. 230095, 15 September 2021.

MANO-MANONG PAGBILANG MULI NG MGA BOTO SA PROBINSYA NG PANGASINAN” (Apela), a signature campaign petition seeking a full manual recount of votes in Pangasinan, alleging widespread irregularities that supposedly affected the results. These included unusually fast transmission of results and observations attributed to technical experts and international observers, as reported in news articles, social media posts, and other online sources. Atty. Ethan prepared and circulated the Apela and submitted it to COMELEC. COMELEC denied the Apela. Atty. Ethan then filed a Petition for *Certiorari* and *Mandamus* before the Supreme Court, purportedly as a class suit representing 71,000 Pangasinan voters. He argued that, in denying the Apela, COMELEC violated the petitioners’ right to information on matters of public concern. **Decide with reason(s).**

Suggested Answer: The COMELEC did not violate the petitioners’ right to information on matters of public concern because they failed to exhaust administrative remedies.

In *Legaspi v. COMELEC*,⁸ the Supreme Court held that a person invoking the right to information on matters of public concern must first follow the prescribed administrative procedure and see it through to its proper conclusion before seeking judicial relief. This allows the agency to decide the matter correctly and prevents unnecessary or premature resort to the courts.

Here, Atty. Ethan and the petitioners he purportedly represents did not follow the proper administrative procedure with COMELEC, such as that provided in its

⁸ G.R. No. 264661, 30 July 2024.

Freedom of Information Manual, nor did they await COMELEC's decision before filing the Petition for *Certiorari* and *Mandamus* with the Supreme Court. COMELEC was not given an opportunity to resolve the matter on its own, making the Petition premature. Thus, COMELEC did not violate the petitioners' right to information on matters of public concern.

Rights of the Accused

9

The presumption of regularity cannot prevail over the constitutional presumption of innocence.

During a buy-bust operation, police officers recovered sachets of methamphetamine hydrochloride from Jeff. During trial, several discrepancies were noted in the chain of custody, such as the time of the operation being 9:00 pm in the inventory form but 9:40 pm in the Chain of Custody form; the signature of the media representative witness not matching the signature on his ID; and the records being silent as to the identity and credentials of the Barangay Kagawad allegedly present during the inventory. The prosecution argued that the discrepancies in time and signature were minor, and that the police officers are presumed to have performed their duties regularly. **Decide with reason(s).**

Suggested Answer: Jeff should be acquitted since the constitutional presumption of innocence prevails over the presumption of regularity in the performance of official duties.

In *People v. Flores*,⁹ the Supreme Court held that the presumption of regularity in official duties cannot override the constitutional presumption of innocence. In drugs cases, any unexplained deviation from the chain of custody negates the presumption of regularity, casts serious doubt on the integrity of the seized drugs, and renders them inadmissible.

Here, the presumption of regularity in the police officers' performance of their official duties was overcome by material discrepancies during trial, particularly regarding the time of the operation and the identity and presence of the mandatory insulating witnesses. No justifiable grounds were offered for these deviations. These lapses break the chain of custody and cast serious doubt on the integrity of the seized items.

Since the seized drugs are inadmissible, Jeff should be acquitted.

Right to Speedy Trial and Speedy Disposition of Cases

10

Once delay in the conduct of a preliminary investigation is shown, the burden shifts to the prosecution to justify the delay.

On December 13, 2017, a Complaint was filed against Johan, a former municipal mayor, and Mark, a private contractor, for alleged violations of the Anti-Graft and Corrupt Practices Act arising from irregular purchases of construction materials. On March 28, 2019, the OMB issued a Resolution finding probable cause. On April 23, 2024, it denied the respondents' Motion for Reconsideration. On April 25, 2024, two Informations

⁹ G.R. No. 262686, 11 October 2023.

were filed with the Sandiganbayan. Johan and Mark filed a Motion to Quash, arguing that the inordinate delay in the preliminary investigation violated their right to speedy disposition of cases. The OMB explained that the COVID-19 pandemic disrupted its operations and caused delays. **Decide with reason(s).**

Suggested Answer: The Motion to Quash should be granted since the OMB's explanation is insufficient to justify that the delay was not inordinate.

In *People v. Sandiganbayan*,¹⁰ the Supreme Court held once delay in the conduct of a preliminary investigation is shown, the burden shifts to the prosecutorial body to justify that the delay was not inordinate or unreasonable by showing: (a) compliance with prescribed procedures; (b) complexity of the issues and volume of evidence; and (c) absence of prejudice to the respondents.

Here, there was clear delay in the conduct of preliminary investigation spanning over six (6) years, from December 2017 to April 2024. The OMB's general claim that the COVID-19 pandemic disrupted operations does not sufficiently justify the length of the delay. It failed to show compliance with prescribed procedures, that the issues were complex, or that the evidence was voluminous. Johan and Mark were also prejudiced by the prolonged delay, which impaired their defense and caused uncertainty.

Accordingly, Johan and Mark's Motion to Quash should be granted.

¹⁰ G.R. No. 274922, 17 February 2025.

Inordinate delays by the COA in resolving appeals and motions for reconsideration violate the right to a speedy disposition of cases.

The COA later issued an ND totaling ₱26 million holding the officials of the DBP liable for the excessive monetary benefits granted to its officials and employees. On August 24, 2009, DBP filed a Memorandum of Appeal. The COA resident auditor filed a Reply Memorandum shortly after. On January 30, 2018, the Commission Proper rendered its decision denying DBP's appeal. On October 17, 2018, DBP filed a Motion for Reconsideration, which the Commission denied on January 24, 2022, finding it a mere rehash of previously raised arguments. DBP filed a Petition before the Supreme Court seeking to annul and set aside COA's decision and resolution on the grounds of violation of its right to a speedy disposition of cases. COA argued that the delays were due to the process of amending its Rules of Procedure in 2009. **Decide with reason(s).**

Suggested Answer: COA's decision and resolution should be annulled and set aside for violating DBP's constitutional right to a speedy disposition of cases.

In *DBP v. COA*,¹¹ the Supreme Court held that while COA has authority to disallow irregular expenditures, inordinate delays in resolving appeals and motions for reconsideration violate the constitutional right to a speedy disposition of cases, especially when such delays prejudice the parties concerned.

Here, COA took over eight years to resolve DBP's appeal, from 2009 to 2018, and more than three years to act on

¹¹ G.R. No. 262193 [Resolution], 06 February 2024.

its Motion for Reconsideration, from 2018 to 2022. These delays far exceed a reasonable time for adjudication. On the Motion for Reconsideration, COA denied it as a mere rehash, indicating that the issues were not complex. They also significantly prejudiced DBP and its officials, as the possibility of reimbursing the disallowed amounts remained uncertain. COA's claim that procedural amendments in 2009 caused the delays does not excuse its prolonged inaction.

Accordingly, COA's decision and resolution should be annulled and set aside.

12

Deviation from the prescribed period for the resolution of cases without valid justification violates the right to a speedy disposition of cases and constitutes grave abuse of discretion.

On February 15, 2011, the COMELEC Law Department (CLD) filed a Complaint against Mayor Velez for violation of Section 261(f) of the OEC for allegedly coercing election officials in the performance of their duties. On April 15, 2011, Velez filed a Motion to Dismiss. On April 24, 2015, the CLD recommended to the COMELEC En Banc the filing of charges. On December 11, 2015, COMELEC issued a Resolution finding probable cause to indict Velez. On February 9, 2016, she filed a Motion for Reconsideration, which was resolved by COMELEC in a second Resolution dated January 21, 2022. Velez filed a Petition for *Certiorari* before the Supreme Court, seeking to nullify the COMELEC Resolutions for violating her right to a speedy disposition of cases. **Decide with reason(s).**

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