

**ALEJANDRO MELCHOR, JR., IN HIS CAPACITY AS EXECUTIVE SECRETARY, PETITIONER, VS. HON. JOSE L. MOYA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, REALTY OWNERS ASSOCIATION O...***G.R. No. L-35256. March 17, 1983*

Ponente: FERNANDO, C.J.

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The issuance of Presidential Decree No. 20 amending Republic Act No. 6359, the Rent Control Law, more than justifies the plea for the reversal of the decision of respondent Judge Jose L. Moya, now retired, declaring the aforesaid Act unconstitutional on the ground that it is not a valid police power measure. The Article on the Transitory Provisions of the present Constitution,[1] approved on November 30, 1972 and effective on January 17, 1973,[2] is explicit; Presidential Decrees promulgated or issued, or acts done by President Ferdinand E. Marcos "shall be part of the law of the land [to] remain valid, legal, binding, and effective" except when "modified, revoked, or superseded" by him as "incumbent President or unless expressly and explicitly modified or repealed by the [now Batasang Pambansa]."[3] Thereafter, on January 31, 1975, in *Aquino, Jr. v. Commission on Elections*,[4] this Court upheld the power of the President to issue decrees having the force and effect of law by virtue of the above provision even after the effectivity of the Constitution as clearly set forth in the ponencia of Justice Makasiar as well as in the separate concurrence of the late Chief Justice Castro. What is more, in *Gutierrez v. Cantada*,[5] this Court left no doubt about the binding force of the aforesaid Rent Control Law: "The obstacle to the reversal of a decision of respondent Judge Santiago O. Tañada dismissing an ejectment suit against private respondents in this petition for certiorari by way of review comes from police power legislation, the first Republic Act No. 6359 and thereafter Presidential Decree No. 20. They had a common objective to remedy the plight of the lessees, Presidential Decree No. 20, moreover, having a constitutional sanction in that it is specifically referred to in the fundamental law as part of 'the law of the land.'"[6]

There is merit, therefore, to this certiorari proceeding by way of appeal instituted by then Executive Secretary Alejandro Melchor, Jr. from the adverse decision of respondent Judge.

- Moreover, the binding force of the Gutierrez decision is reinforced by a constitutional question of an analogous character having been therein resolved. As set forth in the opinion of that case: "He would have this Court declare that Republic Act No. 6359 is violative of the equal protection clause. The imputation that a police power measure of that character intended to remedy the deplorable situation of lessees suffers from such infirmity, is far from persuasive. It cannot be stigmatized as class legislation. There was a clear need for such a statute. It was enacted to promote the public interest and the general welfare. The State is not compelled to stand idly by while a considerable segment of its citizens suffers from economic distress. Only recently, in *Agustin v. Edu*, reference was made to the 'broad and expansive scope of police power' citing Chief Justice Taney of the American Supreme Court in an 1847 decision as 'nothing more or less than the powers of government inherent in every sovereignty.' Correctly was it characterized by Justice Malcolm as 'that most essential, insistent, and illimitable of powers.'"[7]

- There is, it must be noted, this distinction. The objection there is based on the alleged violation of the equal protection safeguard. In this case, the reliance is on substantive due process. In *J. M. Tuazon & Co., Inc. v. Land Tenure Administration*,<sup>[8]</sup> due process has been characterized as "the antithesis of any governmental act that smacks of whim or caprice. It negates state power to act in an oppressive manner. It is, as had been stressed so often, the embodiment of the sporting idea of fair play. In that sense, it stands as a guaranty of justice. That is the standard that must be met by any governmental agency in the exercise of whatever competence is entrusted to it. As was so emphatically stressed by the [then] Chief Justice, 'acts of Congress, as well as those of the Executive, can deny due process only under pain of nullity. . . .'"<sup>[9]</sup> Under that standard, the finding of respondent Judge that there was lack of substantive due process certainly is bereft of plausibility. How can a measure specifically designed to ease a housing shortage, resulting in unwarranted increase in rentals to the grave prejudice of the lower-income groups, be considered arbitrary or oppressive? It is not to be forgotten that shelter is one of the basic social and economic rights.

- Apparently, the explanation, but certainly not the justification, for the conclusion arrived at by respondent Judge is based on doubts entertained by him about the validity of the Act reinforced by the views expressed on the floor of the Senate by a number of senators, who are distinguished members of the bar.<sup>[10]</sup> What he failed to take into account is that notwithstanding such adverse views, the Congress enacted the law. That was a clear manifestation of the matter having been thoroughly discussed, with all aspects of the question accorded due consideration. The Act comes before the Judiciary, therefore, encased in the armor of prior and painstaking legislative deliberation. This is one case then where the presumption of validity possesses an even stronger force. It was Justice Malcolm who at one time stated that to doubt is to sustain.<sup>[11]</sup> In a later case, he elaborated on this point: "The assumption must be that if evidence was required to establish the necessity for the law, that it was before the legislature when the act was passed. In the case of a statute purporting to have been enacted in the interest of the public health, all questions relating to the determination of matters of fact are for the Legislature. If there is a probable basis for sustaining the conclusion reached, its findings are not subject to judicial review. Debatable questions are for the Legislature to decide. The courts do not sit to resolve the merits of conflicting theories."<sup>[12]</sup>

- Independently of such controlling principles, there is likewise an excerpt from the Gutierrez opinion that renders even more indubitable the lack of conformity with settled constitutional principles of the decision sought to be reviewed. Thus: "When the ejectment suit was filed on April 22, 1972, Republic Act No. 6359 was in full force and effect. As noted earlier, for a period of two years from July 14, 1971, the right of the lessees to remain could not be disputed for as found by the lower court the lease was not for a definite period. Hence, the reversal of the decision of the City Court of Caloocan City by respondent Judge in his decision of February 14, 1973. As a matter of fact, as of that date, Presidential Decree No. 20 was in full force and effect. The suspension of actions for ejectment was for an indefinite period. Inasmuch as it is a police power legislation, it was applicable to leases entered into prior to that date. The applicability thereof to existing contracts cannot be denied. From *Pangasinan Transportation Co. v. Public Service Commission*, such a doctrine has been repeatedly adhered to by this Court. As was held in *Ongsiako v. Gamboa*, decided in 1950, a police power measure being remedial in character covers existing situations; otherwise, it would be self-defeating. In *Abe v. Foster Wheeler Corp.*, Justice Barrera, speaking for the Court, took note of the contention 'that as the contracts of employment were entered into at a time when there was no law granting the workers said right, the application as to them of the subsequent enactment restoring the same right constitutes an impairment of their contractual obligations.' Then he made clear why the Court was of a contrary view as 'the constitutional guaranty of non-impairment . . . is limited by the exercise of the police power of the State, in the interest of public health, safety, morals and, general welfare.' So it must be in this case."<sup>[13]</sup>

- There may be cases, of course, where the Decree should not be given a retroactive effect. So it was in *Sinclair v.*

Court of Appeals.[14] This Court, through Justice de Castro, pointed out: "A strict and rigid compliance with PD 20 is therefore not in order, for an exemption from its provisions is warranted for humanitarian reasons as has been explicitly announced by this Court in the case of *Onchengco v. City Court of Zamboanga*, speaking through Justice Teehankee who said that extreme necessity for personal use of the property entitles the owner to exemption from the operation of PD 20 which suspends the provision of Art. 1673 of the Civil Code on judicial ejectment." [15]

- What must be stressed is that Presidential Decree No. 20 is in the nature of an amendment to the assailed legislation, Republic Act No. 6359. It would be illogical in the extreme if an amendatory act is given full force and effect and yet the statute it sought to amend would be declared as being tainted by an unconstitutional infirmity. That clearly is an affront to reason.

WHEREFORE, the appealed decision declaring unconstitutional Republic Act No. 6359 is reversed. Costs against respondents Realty Owners Association of the Philippines and Alberto Guevara, Sr.

Teehankee, Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Aquino, J., is on leave.

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[1] Article XVII of the Constitution.

[2] Proclamation No. 1102.

[3] Article XVII, Section 3, par. (2) of the Constitution.

[4] L-40004, January 31, 1975, 62 SCRA 275.

[5] L-36797, May 3, 1979, 90 SCRA 1.

[6] *Ibid*, 2.

[7] *Ibid*, 6-7, *Agustin v. Edu*, L-49112, February 2, 1979, is reported in 88 SCRA 195. *Agustin v. Edu* referred to the following cases: *License Cases*, 5 How. 504, 583 (1847); *Smith, Bell and Co. v. Natividad*, 40 Phil. 136, 147 (1919).

[8] L-21064, February 18, 1970, 31 SCRA 413.

[9] *Ibid*, 433-434. The case referred to by the then Chief Justice Concepcion is *Cuaycong v. Sengbengco*, reported in 110 Phil. 113 (1960).

[10] Those mentioned in the decision are the then Senators Arturo Tolentino, Lorenzo Sumulong, Ambrosio Padilla, and Leonardo Perez.

[11] 47 Phil. 385, 414 (1925).

[12] *Lorenzo v. Director of Health*, 50 Phil. 595, 597 (1927).

[13] 90 SCRA 1, 6-7. *Pangasinan Transportation Co. v. Public Service Commission* is reported in 70 Phil. 221 (1940); *Ongsiako v. Gamboa* in 86 Phil. 60 (1950); and *Abe v. Foster Wheeler Corp.* in 110 Phil. 198 (1960).

[14] L-52435, July 20, 1982, 115 SCRA 318.

[15] *Ibid*, 327 *Ongchengco v. City Court*, L-44657, January 22, 1980, is reported in 95 SCRA 313. Cf. *Betts v. Matias*, L-45566, April 30, 1980, 97 SCRA 439. As adverted to in *Sinclair*, a strict and rigid compliance, could

amount to a failure to respect an obligation of a valid existing contract in which case by a process of harmonization and balancing, the overriding force of police power is minimized. The environmental facts have to be considered.

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