PURIFICACION M. VDA. DE URBANO, PEDRO DE CASTRO, AURELIO I. ARRIENDA, ARNEL U. ARRIENDA, ALBERT U. ARRIENDA, ALICE A. PEDRON AND MARILYN C. BILOG, PETITIONERS, VS. GOVERNMENT SE...

G.R. No. 137904. October 19, 2001

Ponente: PUNO, J.

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PUNO, J.:

The petitioners in the case at bar have been fighting tooth and nail for a roof above their heads. They have fought long and hard but still not enough, for while as a succor institution the respondent GSIS can bend back to accommodate the needs of a member, it can only bend as far as it can also assure the solvency of its funds for the common good of its members.

This is a petition for review on certiorari to annul and set aside the Court of Appeals' October 30, 1998 decision[1] and March 4, 1999 resolution affirming the decision of the Regional Trial Court of Quezon City, Branch 102, dismissing petitioner's complaint for annulment of contract, reconveyance and damages.

The facts, gathered mainly from the stipulation and admissions of the parties,[2] are as follows:

In 1971, petitioners mortgaged their 200-square meter property in Quezon City to the respondent GSIS to secure a housing loan of P47,000.00. As petitioners failed to pay their loan when it fell due, GSIS foreclosed the mortgage on October 28, 1983. With a bid of P154,896.00, GSIS emerged as the highest bidder in the public auction of the property.

In a bid to redeem their property, petitioner Arnel Arrienda wrote on September 26, 1984 to the Acquired Assets Department (AAD) of the GSIS signifying the petitioners' intention to redeem their property. Two days after or on September 28, petitioner vda. de Urbano wrote the GSIS Board of Trustees (the "Board") to inform them of her desire to redeem the subject property and for advice on the procedure for redemption.[3] GSIS responded on October 16, 1984 advising her to pay the total redemption price of P154,896.00 on or before the expiry date of redemption on November 18, 1984 in full and in cash, failing which the property would be offered for sale through public bidding.

On October 29, 1984, petitioner vda. de Urbano requested for more time to redeem the subject property. In a letter dated January 10, 1985, AAD Manager Marcial Secoquian informed petitioners that the Board adopted Resolution No. 929 on November 16, 1984 approving the "sale of the subject property to petitioner Purificacion Urbano for the sum of P174,572.62, provided that the aforesaid price shall be paid in CASH, within sixty (60) days from notice of this resolution, failing which, the property shall be sold thru public bidding with the fair market value of the property as the minimum bid price."

Unable to find financing to repurchase the subject property, petitioners again wrote to the Board through AAD Manager Secoquian on January 18, 1985 requesting for re-mortgage through repurchase of the subject

property.[4] On February 27, 1985, AAD Manager Secoquian wrote to petitioners that "the granting of real estate/housing loan to the GSIS members is not within the province and competence of this department, hence your request for a re-mortgage of said property cannot be acted upon."[5] On June 19, 1985, petitioner vda. de Urbano wrote to the Board requesting approval to file a loan of P240,000.00 with the GSIS Real Estate Department to repurchase their foreclosed property.

On June 20, 1985, then Deputy Minister and Vice Governor Ismael A. Mathay, Jr. interceded for the petitioners and wrote to the Board requesting for a more liberal arrangement to enable petitioners to repurchase their property. In response to the letter, the Board adopted Resolution No. 593 on July 6, 1985 granting petitioner Aurelio Arrienda "60 days from notice within which to purchase the subject property for P174,572.62 payable in CASH. Should Mr. Arrienda fail to pay the same within the time frame mentioned, the property shall be sold at public auction without need of any further action by the Board." Petitioners were notified of this Resolution in a letter dated August 2, 1985.[6]

On August 21, 1985, months after the expiration of the redemption period on November 18, 1984, GSIS consolidated its title over the property, leading to the cancellation of TCT No. 167532 covering the property and the issuance of TCT No. 33418 in favor of GSIS.[7]

On September 5, 1985, respondent Crispina dela Cruz commenced negotiations with respondent GSIS for her purchase of the petitioners' foreclosed property for P250,000.00 spot cash.

Unable to raise the entire amount of the property but still persistent to reacquire it, petitioner Arnel Arrienda wrote to the Board on October 4, 1985, offering a downpayment of P50,000.00 to purchase their property, the balance of P124,572.62 to be paid within five years in equal monthly installments. He enclosed a cashier's check in the amount of P10,000.00 as earnest money. On October 30, 1985, AAD Manager Secoquian informed petitioners that the Board adopted Resolution No. 881 on October 10, 1985 declining their offer to purchase the subject property under their proposed terms and conditions.[8]

On November 11, 1985, petitioner Arnel Arrienda again wrote to the Board requesting reconsideration of Resolution No. 881 and abeyance of the public sale or negotiation of the subject property.[9] Secoquian wrote petitioner Arnel Arrienda on December 26, 1985 informing him that the Board adopted Resolution No. 1022 dated December 12, 1985 denying his request for reconsideration of Resolution No. 881 and returning petitioners' cashier's check of P10,000.00.[10] The Board also directed the "Operating Unit Concerned to inform Ms. Cristina Cruz (sic) that her offer to purchase the above-mentioned property shall only be entertained by the GSIS Board if accompanied by a Cashier's or Manager's check in the amount equivalent to 10% of her offer, forfeitable in favor of the System in case she fails to comply with the terms and conditions proposed by the System."[11]

With no let up on their efforts to repurchase their property, petitioner Aurelio Arrienda wrote to the Board on January 6, 1986 requesting a restructuring or a liberal arrangement to purchase back the subject property. This was denied by the Board in Resolution No. 36 dated January 16, 1986.

Meantime, GSIS continued negotiating with private respondent dela Cruz. On January 28, 1986, Secoquian recommended to the Board the approval of the sale to dela Cruz.

Not having lost their resolve and pinning their hopes on the new Board of Trustees under the new administration of then President Corazon Aquino, petitioner vda. de Urbano wrote on January 20, 1987 to Atty. Regalado Resurreccion, Head of the Operation Pabahay of the Government Investments and Loan Department of the GSIS, requesting reconsideration of GSIS' position with regard to the subject property.[12] As indicated in a GSIS internal commmunication, Officer-in-Charge Rosales of the Residential Loans Department initially handled the

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request, then endorsed it to Atty. Resurreccion on January 19, 1987 and enclosed in his endorsement petitioner vda. de Urbano's June 19, 1985 letter applying for a loan of P240,000.00 to repurchase the subject property. The matter was, in turn, endorsed by Atty. Resurreccion to AAD Manager Secoquian on January 20, 1987 as "the Operation Pabahay Task Force cannot undertake the processing of this kind of loan unless a certificate of award or sale is issued in favor of the applicant." Atty. Resurreccion likewise noted in his endorsement that the applicant for the loan was already 81 years old and no longer a member of the GSIS. AAD Manager Secoquian returned said application to the head of the Operation Pabahay on March 3, 1987, enumerating the Board resolutions relative to the subject property and stating that "pending action by the Board on the offer of CRISPINA VDA. DELA CRUZ to purchase the subject property for the amount of P250,000.00, the request of Mrs. URBANO cannot as yet be given due consideration."[13]

On August 11, 1987, GSIS approved under Resolution No. 342 the "sale of the subject property to respondent dela Cruz for a consideration of P267,000.00 CASH." The following day, respondent AAD & GRADE Acting Vice-President Zacarias C. Beltran, Jr. wrote to petitioners Zenaida/Aurelio Arrienda calling their attention to the absence of a formal lease contract over the subject property where petitioners continued to stay. He also demanded payment of rental arrears on the property for 45 months as of July 31, 1987 amounting to P58,500.00[14] and invited petitioners Zenaida and Aurelio Arrienda to the GSIS Office to make arrangements for the payment of the rental arrears and to execute the corresponding lease contract. The letter did not mention the negotiation with private respondent dela Cruz.

On September 1, 1987, GSIS wrote to private respondent dela Cruz that the Board, through Board Resolution No. 342, approved the sale of the subject property payable in full and in cash for P267,000.00, representing its current market value, within thirty days from notice of the resolution. On January 20, 1988, a Deed of Absolute Sale over the subject property was executed between GSIS and private respondent de la Cruz. The following day, TCT No. 374292 covering the subject property was issued to dela Cruz.

Meantime, having learned about the sale of the subject property to dela Cruz, petitioner Aurelio Arrienda wrote to the GSIS on September 27, 1987 protesting the said sale and requesting its reconsideration and recall. Respondent Beltran, then already the Vice President of the AAMG & GRADE Department of the GSIS, responded on October 27, 1987 informing him of Resolution No. 430, dated October 13, 1987, which reiterated the approval of the sale of the subject property to respondent dela Cruz as previously approved under Board Resolution No. 342. On November 4, 1987, petitioner Aurelio Arrienda again wrote to the GSIS protesting the sale of the property to respondent dela Cruz and requesting for a formal investigation of the circumstances leading to the sale. The GSIS' Department of Investigation manager wrote to petitioner Aurelio Arrienda on January 11, 1988 requesting petitioner Aurelio Arrienda to "come for conference" with Atty. Gatpatan of the said department regarding his complaint on the subject property.

Not satisfied with the investigation of GSIS, petitioners filed the instant case before the Regional Trial Court of Quezon City, Branch 102. The lower court dismissed the complaint. This was affirmed by the Court of Appeals. Hence, this petition for review with the following assignment of errors:

"The Honorable Court of Appeals (Former Eleventh Division) erred as follows:

1. In not finding that the alleged negotiated sale of petitioners' foreclosed property was consummated by respondent GSIS in favor of respondent Crispina Dela Cruz, a non-GSIS member, in violation of its own Board Resolution Nos. 929 and 593, existing laws and applicable jurisprudence.

2. In not finding that respondent GSIS had consummated the alleged negotiated sale in favor of respondent Dela Cruz notwithstanding the failure of the latter to comply with the terms and conditions of the alleged sale.

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3. In not finding that respondent GSIS had committed dishonesty and/or perjury by falsely alleging in their Answer to the Complaint that it acted on the request of petitioner Purificacion Vda. De Urbano to re-acquire her former property through the GSIS Operation Pabahay by transmitting said request to the Acquired Assets Department.

4. In not finding that the case of Valmonte vs. Belmonte, Jr., 170 SCRA 256 (1989), is applicable to the case at bench.

5. In not finding that Section 35 of P.D. 1146, does not provide any prerogative to the GSIS Board of Trustees to authorize and/or approve the alleged negotiated sale in favor of a non-GSIS member or an outsider without complying with pertinent existing laws and established jurisprudence.

6. In not finding that the appealed Decision of the lower court did not faithfully comply with Sec. 1, Rule 36 of the Rules of Court.

7. In not finding that the case of Maharlika Publishing Corporation vs. Tagle, 142 SCRA 553 (1986), is a precedent to the case at bench.

8. In not giving due consideration to the newly discovered evidence of the petitioners (Annexes "A" and "B", Brief for the Appellants) which showed that respondent Crispina Dela Cruz had already withdrawn her offer to buy subject property and the same was accepted by respondent GSIS."

The petition is devoid of merit.

The smorgasbord of issues raised by the petitioner can be reduced to three jugular issues, viz:

I. Do petitioners have a right to repurchase the subject property?

II. Does the GSIS have a duty to dispose of the subject property through public bidding?

III. Was GSIS in bad faith in dealing with petitioners?

I.

We first deal with the issue of repurchase. At the time petitioners offered to repurchase the subject property from GSIS, the charter of the GSIS then in force was P.D. 1146 or the Revised Government Insurance Act of 1977 (the "Act"). Sections 35 and 36 of the Act provide in relevant part as follows:

> "Sec. 35. Powers and Functions of the System. The System shall have the following powers and functions specified in this Act and the usual general corporate powers:
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> (d) To acquire, utilize or dispose of, in any manner recognized by law, real or personal properties in the Philippines or elsewhere necessary to carry out the purposes of this Act." (emphasis supplied)
>
> "Sec. 36. The Board of Trustees; Its Composition; Tenure and Compensation.- The Corporate powers and functions of the System shall be vested in, and exercised by the Board of Trustees. . ."
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> P.D. 1146 was amended by P.D. 1981 dated July 19, 1985 as follows:
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> "WHEREAS, the GSIS Board of Trustees should be vested with powers and authority necessary or proper to ensure a fair and profitable return of the investments of the funds administered by the GSIS, and, for this purpose, the GSIS Board of Trustees should be given full and sole responsibility of controlling and monitoring insurance investments operations and fixing and determining the terms and conditions of financial

> accomodations to its members, including the power to compromise or release any claim or settled liability to the GSIS;
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> WHEREAS, it has thus become necessary to amend Presidential Decree No. 1146 to clarify some of its provisions to make it more responsive to the needs of the members of the GSIS and to assure the actuarial solvency of the Fund administered by the GSIS during these times of grave economic crisis affecting the country;
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> Sec. 7. There is hereby incorporated a new paragraph after the third paragraph of Section 36, which shall read as follows:
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> "The Board of Trustees has the following powers and functions, among others:
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> (a) To formulate the policies, guidelines and programs to effectively carry out the purposes and objectives of this Act;
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> (f) The provisions of any law to the contrary notwithstanding, to compromise or release, in whole or in part, any claim or settled liability to the System, regardless of the amount involved, under such terms and conditions as it may impose for the best interest of the System; . . ." (emphasis supplied)

The above laws grant the GSIS Board of Trustees (the "Board") the power, nay, the responsibility, to exercise discretion in "determining the terms and conditions of financial accomodations to its members" with the dual purpose of making the GSIS "more responsive to the needs of the members of the GSIS" and assuring "the actuarial solvency of the Fund administered by the GSIS." As mandated by P.D. 1146, this discretion may be exercised in acquiring, utilizing or disposing of, in any manner recognized by law, "real or personal properties in the Philippines or elsewhere necessary to carry out the purposes of this Act." Contrary to petitioners' position, there is no restriction or qualification that the GSIS should dispose of its real properties in favor only of GSIS members. Based on these laws, the Board could exercise its discretion on whether to accept or reject petitioners' offer to repurchase the subject property taking into account the dual purpose enunciated in the "whereas clause" of P.D. 1981, i.e., making the GSIS "more responsive to the needs of the members of the GSIS" and assuring "the actuarial solvency of the Fund administered by the GSIS."

Jurisprudence also supports the Board's exercise of discretion in case of repurchase, viz:

> "The right to redeem becomes functus officio on the date of its expiry, and its exercise after the period is not really one of redemption but a repurchase. Distinction must be made because redemption is by force of law; the purchaser at public auction is bound to accept redemption. Repurchase however of foreclosed property, after redemption period, imposes no such obligation. After expiry, the purchaser may or may not re-sell the property but no law will compel him to do so. And, he is not bound by the bid price; it is entirely within his discretion to set a higher price, for after all, the property already belongs to him as owner."[15] (emphasis supplied)

In response to petitioners' plea to repurchase the subject property after the redemption period had expired, the Board approved its sale to petitioners by virtue of Resolution No. 929 dated November 16, 1984, provided that the payment of its purchase price of P174,572.62 shall be made in cash within sixty days from notice of the resolution, otherwise the property would be sold through public bidding. After petitioners' failure to purchase the property within the prescribed period, the Board, through Resolution No. 593 dated July 6, 1985, granted petitioners another sixty days within which to purchase the property for the same amount and under the same

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terms stated in Resolution No. 929. Counting from the expiry date of redemption on November 18, 1984, the petitioners were given about ten months within which to repurchase the subject property for the same price of P174,572.62. In view of petitioners' repeated failure to repurchase coupled with their failure to pay rent on the subject property, the Board denied through Resolution No. 1022 dated December 12, 1985 petitioners' subsequent request to repurchase the subject property. The minutes of the Board Meeting on December 12, 1985 show the comment of the AAD Manager, viz:

"From the aforementioned background of the Case where the family of Mr. Arrienda has repeatedly made different and/or conflicting offers/requests, it seems that their family apparently lack(sic) the capacity to reacquire their former property, and are obviously delaying our final disposition of the property. Moreover, since the expiry date of the redemption period, Mr. Arrienda has not made any rental payments on the property."[16]

The Board's denial of petitioners' request to purchase the subject property was based not on whim or caprice, but on a factual assessment of the financial capacity of the petitioners to make good their repeated offers to purchase the subject property. Respondent GSIS struck a balance between being "responsive to the needs of the members of the GSIS" and assuring "the actuarial solvency of the Fund administered by the GSIS", and tilted the scale in favor of the latter. Under the then GSIS charter or P.D. 1146, this was well within the powers of the Board.

Petitioners, in addition, fault their failure to meet the GSIS' terms for repurchase on the GSIS' inaction on their January 20, 1987 request to re-acquire the subject property through the GSIS Operation Pabahay. They allege that instead of acting upon this letter, what was acted upon was their letter of June 19, 1985. The evidence on record, however, shows that Officer-in-Charge Rosales of the Residential Loans Department endorsed the matter raised by petitioners in their January 20, 1987 letter to Atty. Resurreccion, Head of the Operation Pabahay. While the endorsement shows that enclosed therewith was petitioner vda. de Urbano's June 19, 1985 letter applying for a loan of P240,000.00 to repurchase the subject property, the endorsement itself stated that the loan for reacquisition of the subject property was being made under the "current Operations Pabahay." Thereafter, the matter was endorsed by Atty. Resurreccion to the Manager of the AAD on January 20, 1987 as "the Operation Pabahay Task Force cannot undertake the processing of this kind of loan unless a certificate of award or sale is issued in favor of the applicant." AAD Manager Secoquian returned said application to the head of the Operation Pabahay on March 3, 1987, enumerating the Board resolutions relative to the subject property and stating that "pending action by the Board on the offer of CRISPINA VDA. DELA CRUZ to purchase the subject property for the amount of P250,000.00, the request of Mrs. URBANO cannot as yet be given due consideration."[17]

In sum, insofar as the petitioners' request for repurchase is concerned, they are not entitled to repurchase as a matter of right. The Board exercised its discretion in accordance with law in denying their requests and the GSIS cannot be faulted for petitioners' failure to repurchase as it acted upon petitioners' application under the Operation Pabahay. The sale of the subject property to respondent dela Cruz cannot therefore be annulled on the basis of petitioners' alleged right to repurchase.

Neither can petitioners invoke Maharlika Publishing Corporation v. Tagle,[18] as a precedent insofar as the Board's exercise of its discretion to grant loan restructuring is concerned.[19] Petitioners point out that in that case, the Supreme Court found that the GSIS "created an agreement of binding nature" with the owner of the foreclosed property when the owners proposed to repurchase the property and the then GSIS General Manager Roman Cruz, Jr. ordered that the public bidding of the property be stopped and the repurchase be discussed with him a day before the scheduled date of the bidding. The case is not in point. In the Maharlika case, this Court ruled that GSIS was deemed to have accepted the offer to repurchase when it ordered the bidding to be stopped pending discussion of the repurchase with the owner of the property. In the case at bar, however, the GSIS granted petitioners two opportunities under Resolutions No. 929 dated November 16, 1984 and Resolution No. 593 dated

July 6, 1985 to repurchase the subject property, but petitioners failed to comply with the GSIS' terms of repurchase. Subsequently, when petitioners offered to repurchase the subject property under their own terms of payment, the GSIS under Resolution No. 881 dated October 10, 1985 denied the same. Unlike in the Maharlika case therefore, it cannot be said that the GSIS "created an agreement (to repurchase) of binding nature" with the herein petitioners.

II.

We come now to the second issue of whether the GSIS should dispose of the subject property through public bidding.

Petitioners aver that Section 79 of P.D. 1445[20] and Commission on Audit (COA) Circular No. 86-264 mandate the GSIS to dispose of its assets, such as the subject property, primarily through public bidding and only upon its failure, through a negotiated sale.

On the other hand, GSIS contends that Section 79 of P.D. 1445 does not apply to the case at bar as this provision covers unserviceable government property and not acquired assets like the subject property. Nor does the sale of the subject property come within the purview of COA Circular No. 86-264 as it is a "sale of merchandise/inventory held for sale in the regular course of business" which is carved out as an exception under the circular. GSIS posits that this interpretation of COA Circular No. 86-264 was made clear by the subsequent COA Circular No. 89-296.

We uphold the position of the GSIS.

Section 79 of P.D. 1445 does not apply to the case at bar as this provision applies only to unserviceable property, viz:

> "SECTION 79. Destruction or sale of unserviceable property. - When government property has become unserviceable for any cause, or is no longer needed, it shall, upon application of the officer accountable therefor, be inspected by the head of the agency or his duly authorized representative in the presence of the auditor concerned and, if found to be valueless or unsalable, it may be destroyed in their presence. If found to be valuable, it may be sold at public auction to the highest bidder under the supervision of the proper committee on award or similar body in the presence of the auditor concerned or other duly authorized representative of the Commission, after advertising by printed notice in the Official Gazette, or for not less than three consecutive days in any newspaper of general circulation, or where the value of the property does not warrant the expense of publication, by notices posted for a like period in at least three public places in the locality where the property is to be sold. In the event that the public auction fails, the property may be sold at a private sale at such price as may be fixed by the same committee or body concerned and approved by the Commission."

That the subject property is not "unserviceable" or useless is rather obvious. Petitioners are precisely fighting tooth and nail to claim the subject property as they are still using it as their family home. It still serves its purpose well. Neither is it "no longer needed" by the GSIS. As a financial institution extending housing loans, the disposition of foreclosed properties - such as the subject property - at a price beneficial to the GSIS helps maintain the actuarial solvency of the GSIS fund. It cannot therefore be said that the subject property is "no longer needed" by the GSIS.

We turn now to the COA circulars cited by the parties. COA Circular No. 86-264 dated October 16, 1986, the "General guidelines on the divestment or disposal of assets of government-owned and/or controlled corporations, and their subsidiaries" provides in relevant part, viz:

"1.0 Rationale and Scope

These guidelines shall govern the general procedures on the divestment or disposal of assets of government-owned and/or controlled corporations and their subsidiaries, which shall be supplemented by specific procedures as may be adopted by the corporation concerned, provided they do not contravene existing laws and the provisions of this circular.

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3.0 Modes of Disposal

3.1. Public Auction

As a rule, public auction or bidding shall be the primary mode of disposal of assets.

3.2. Sale thru Negotiation

Disposal thru this mode, which is a sale without public bidding, shall be resorted to only in case of failure of public auction.

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5.0 Exceptions and Effectivity

This Circular shall not apply to sales of merchandise/inventory held for sale in the regular course of business." (emphasis supplied)

On January 27, 1989, COA Circular No. 89-296 was issued providing also for "Audit Guidelines on the Divestment or Disposal of Property and Other Assets of National Government Agencies and Instrumentalities, Local Government Units and Government-Owned or Controlled Corporations and their Subsidiaries." It provides for the disposition of government assets, viz:

"III. DEFINITION AND SCOPE:

These audit guidelines shall be observed and adhered to in the divestment or disposal of property and other assets of all government entities/instrumentalities, whether national, local or corporate, including the subsidiaries thereof but shall not apply to the disposal of merchandise or inventory held for sale in the regular course of business nor to the disposal by government financial institutions of foreclosed assets or collaterals acquired in the regular course of business and not transferred to the National Government under Proclamation No. 50. . .

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V. MODES OF DISPOSAL/DIVESTMENT:

This Commission recognizes the following modes of disposal/divestment of assets and property of national government agencies, local government units and government-owned and controlled corporations and their subsidiaries, aside from such modes as may be provided by law.

1. Public Auction

Conformably to existing state policy, the divestment or disposal of government property as contemplated herein shall be undertaken primarily thru public auction. . .

2. Sale Thru Negotiation

For justifiable reasons and as demanded by the exigencies of the service, disposal thru negotiated sale may be

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> resorted to and undertaken by the proper committee or body in the agency or entity concerned taking into consideration the following factors: . . ." (emphasis supplied)

When the Board approved the sale of the subject property to private respondent dela Cruz through Resolution No. 342 in August 1987 and Resolution No. 430 in October of the same year, and when the Deed of Sale was executed between GSIS and private respondent dela Cruz in January 1988, Circular No. 86-264 was then in force.

The pivotal question is whether the subject property is covered by COA Circular 86-264 or falls under the exception in its paragraph 5 above. In construing this exception, we derive insight from the exceptions provided under the subsequent COA Circular 89-296, viz:

> "III. DEFINITION AND SCOPE:
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> These audit guidelines shall be observed and adhered to in the divestment or disposal of property and other assets of all government entities/instrumentalities, whether national, local or corporate, including the subsidiaries thereof but shall not apply to the disposal of merchandise or inventory held for sale in the regular course of business nor to the disposal by government financial institutions of foreclosed assets or collaterals acquired in the regular course of business and not transferred to the National Government under Proclamation No. 50. . ."

We refer to Circular No. 89-296 in interpreting Circular No. 86-264 in adherence to the rule in statutory construction, viz:

> "The correct rule of interpretation is, that if divers (sic) statutes relate to the same thing, they ought all to be taken into consideration in construing any one of them, and it is an established rule of law, that all acts in pari materia are to be taken together, as if they were one law. (Doug., 30; 2 Term Rep., 387, 586; 4 Maule & Selw., 210). If a thing contained in a subsequent statute, be within the reason of a former statute, it shall be taken to be within the meaning of that statute. (Lord Raym., 1028); and if it can be gathered from a subsequent statute in pari materia, what meaning the Legislature attached to the words of a former statute, they will amount to a legislative declaration of its meaning, and will govern the construction of the first statute. (Morris v. Mellin, 6 Barn. & Cress., 454; 7 Barn. & Cress. 99)"[21]
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> In Riggs et al. v. Palmer et al.,[22] it was also ruled:
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> "It is a familiar canon of construction that a thing which is within the intention of the makers of a statute is as much within the statute as if it were within the letter; and a thing which is within the letter of the statute is not within the statute unless it be within the intention of the makers. The writers of the laws do not always express their intention perfectly, but either exceed it or fall short of it, so that judges are to collect it from probable or rational conjectures only, and this is called 'rational interpretation;' and Rutherford, in his Institutes, (page 420,) says: 'Where we make use of rational interpretation, sometimes we restrain the meaning of the writer so as to take in less, and sometimes we extend or enlarge his meaning so as to take in more, than his words express.' Such a construction ought to be put upon a statute as will best answer the intention which the makers had in view, for qui haret in litera, haret in cortice. In Bac. Abr. 'Statutes,' 1.5; Puff. Law Nat. bk. 5, c. 12; Ruth. Inst. 422, 427, and in Smith's Commentaries, 814, many cases are mentioned where it was held that matters embraced in the general words of statutes nevertheless were not within the statutes, because it could not have been the intention of the law-makers that they should be included. They were taken out of the statutes by an equitable construction; and it is said in Bacon: 'By an equitable construction a case not within the letter of a statute is sometimes holden to be within the meaning, because it is within the mischief for which the remedy is provided. The reason for such construction is that the law-makers could not set down every case in express terms.'"[23]

In C&C Commercial Corporation v. National Waterworks and Sewerage Authority,[24] we ruled that statutes in pari materia should be construed together to attain the purpose of an expressed national policy, viz:

> "On the presumption that whenever the legislature enacts a provision it has in mind the previous statutes relating to the same subject matter, it is held that in the absence of any express repeal or amendment therein, the new provision was enacted in accord with the legislative policy embodied in those prior statutes, and they all should be construed together. Provisions in an act which are omitted in another act relating to the same subject matter will be applied in a proceeding under the other act, when not inconsistent with its purpose. Prior statutes relating to the same subject matter are to be compared with the new provisions; and if possible by reasonable construction, both are to be construed that effect is given to every provision of each. Statutes in pari materia, although in apparent conflict, are so far as reasonably possible construed to be in harmony with each other."[25]
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> Agpalo writes in his book, Statutory Construction, viz:
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> "Statutes in pari materia should be read and construed together because enactments of the same legislature on the same subject are supposed to form part of one uniform system; later statutes are supplementary or complimentary (sic) to the earlier enactments and in the passage of its acts the legislature is supposed to have in mind the existing legislations on the subject and to have enacted its new act with reference thereto."[26]

When both COA Circular No. 86-264 and COA Circular No. 89-296 were issued, affording flexibility to government-owned and controlled corporations (GOCC's) to allow them to generate more revenue for national development was a declared government policy. This policy is unmistakable in laws executed before the issuance of Circular No. 86-264 in October 1986. P.D. 2029, "Defining Government-Owned and Controlled Corporations and Indentifying Their Role in National Development," dated February 4, 1986, provides:

> "WHEREAS, there is a need to assure the flexibility of such government corporations consistent with the need for public accountability by providing for differential treatment for government corporations;
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> SECTION 1. General Policy. - It is the policy of the State that the corporate form of organization, utilized judiciously, is one of the valid forms through which the government may participate in economic and social development.
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> SEC. 7. Provision of adequate operational flexiblity. -Government corporations shall be provided with adequate operational flexibility in order to function properly and efficiently, especially under conditions of market competition. Such flexibility shall nevertheless be consistent with the requirements of public acountability.
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> SEC. 8. Differential treatment.- To implement the concept of greater flexibility, government corporations in general shall be accorded differential treatment which is more consistent with coporate organizational requirements as distinguished from regular government agencies, with respect to the exercise by the various service-wide agencies, such as the Civil Service Commission, the Commission on Audit, and the Office of Budget and Management, of their respective jurisdiction."

Letter of Instructions No. 1520, issued on the same day as P.D. 2029 on February 4, 1986, also provides for the role of government corporations in national development, viz:

> "WHEREAS, it is necessary that the limited resources of government be utilized as efficiently, as effectively, and as economically as possible to further national development and to support the economic recovery program, for which the judicious use of the corporate form of organization is critical;

> xxx"

P.D. 2030, Providing for the Orderly Disposition of Certain Assets of Government Institutions, also issued on February 4, 1986, made explicit the policy of the government to divest government corporations of assets as an aid to national development, viz:

> "WHEREAS, the National Government, through the agency of various financial and other government institutions, has acquired or is otherwise the owner of a large number of assets in the industrial, manufacturing and commercial sectors of the economy which, as part of the economic recovery program adopted by the National Government, it has been deemed necessary and appropriate for the National Government to divest in a planned and orderly manner;
>
> WHEREAS, as an integral part of this economic recovery program and in order to facilitate the reorganization of certain government financial institutions, it is necessary to relieve those institutions of assets which adversely affect their financial viability and liquidity, and for the National Government to take over such assets and to assume the realted liabilities of those institutions;
>
> WHEREAS, it is the desire of the National Government to realize on such assets within the shortest possible time and, to such end, to dispose of such assets generally on terms that would permit immediate substantial cash returns to the National Government;
>
> xxx"

Proclamation No. 50, "Proclaiming and Launching a Program for the Expeditious Disposition and Privatization of Certain Government Corporations and/or the Assets Thereof, and Creating the Committee on Privatization and the Asset Privatization Trust," issued on December 8, 1986 after the issuance of COA Circular No. 86-264, but prior to COA Circular No. 89-296, reiterates the continuing policy of the government to encourage divestment of assets as an aid to national development, viz:

> "CONSIDERING that the government has decided to adopt, as the twin cornerstones of the program, the following parallel imperatives for the attainment of national policy:
>
> xxx
>
> (b) reducing the number of government corporations which has proliferated to unmanageable proportions; circumscribing the areas of economic activities within which the government corporations may operate; and aiming to achieve these goals through the privatization of a good number of government corporations, and the disposition and liquidation of the non-relevant and non-performing assets of retained corporations as the logical first step to their rehabilitation."

The above-quoted laws on GOCC's and disposition of their assets unmistakeably show the policy of the government to allow flexibility to GOCC's and to promote disposition of non-performing assets. This policy undergirds both COA Circular No. 86-264 and 89-296. Thus, the exception provided in COA Circular No. 86-264 should be, to the widest extent possible, construed to accommodate this policy and allow GOCC's wide latitude in the disposition of their assets, including foreclosed assets or collaterals acquired in the regular course of business. COA Circular No. 89-296 provides for two exceptions to the requirement of disposition primarily through public bidding, i.e., (1) disposal of merchandise or inventory held for sale in the regular course of business; and (2) disposal by government financial institutions of foreclosed assets or collaterals acquired in the regular course of business." In light of the declared policy of the government on GOCC's and their assets, COA Circular No. 89-296 should be understood to have clarified the coverage of the exception under COA Circular No. 86-264, i.e., sales of merchandise/inventory held for sale in the regular course of business.

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The GSIS being a financial institution extending loans to its members, the foreclosure of the subject property as collateral to a loan was done in the regular course of business. Its sale to private respondent dela Cruz falls within the exception provided by COA Circular No. 86-264 as clarified by COA Circular 89-296, and thus does not offend the requirements of the said COA circulars.

Instead, the policies and procedures of the GSIS on the disposition of acquired assets govern the case at bar. Mr. Romeo Tejedor, manager of the Acquired Assets Department of GSIS, testified that at the time the disputed transaction took place, the GSIS still did not have clear cut policies on the sale of acquired assets. At that time, the GSIS Board of Trustees had the prerogative to authorize the sale of acquired assets. Petitioners aver that the GSIS "Policy and Procedural Guidelines Acquisition, Administration, and Disposition of Acquired Assets (PPG)", a newspaper copy of which they annexed to their reply to the GSIS' brief, provides that a negotiated sale may only be entered into after two failed public biddings on the acquired property. Petitioners, however, omitted to state that the said newspaper copy was published and the PPG took effect only on January 17, 1991, long after the sale of the subject property.[27] In the absence of evidence of policies and procedures contrary to the testimony of Mr. Tejedor, we give credence to Mr. Tejedor's testimony that at the time of the disputed sale to private respondent dela Cruz, GSIS did not have clear cut policies on disposition of assets that required it to first sell the subject property through public bidding before a negotiated sale. The GSIS precisely came out with a PPG in 1991 to set the policies and procedures to govern the disposition of acquired assets because these were not clear cut prior to 1991. We therefore hold that the sale of the subject property to private respondent dela Cruz was not contrary to law.

Neither can petitioners invoke the Maharlika case to lend support to its contention that the Board is bound to fulfill its representations in its letters to the petitioners that upon the latter's failure to repurchase the property under Resolution Nos. 929 and 593, the GSIS will dispose of the subject property through public bidding. Petitioners claim that these representations constituted a contract between them and GSIS. The Court of Appeals correctly ruled that there was no contract between GSIS and the petitioners that obligates the GSIS to sell the subject property through public bidding, viz:

> ". . . the mortgage contract between the parties was not novated as to the extension of the redemption period of appellants since this is not sanctioned by law. What GSIS did per Resolution 929 was to make a counter proposal to appellants for the sale of the property at the price of P174,572.62 payable in cash within 60 days from notice of resolution with a warning that non-compliance thereof (sic) will result to the sale of the property at public auction. At this point in time, there was still no meeting of the minds between the parties since the request of appellants thru Purificacion Urbano is to extend the redemption period to enable them to redeem the property while Resolution No. 929 is for outright sale for the price of P174,572.62. These are two (2) separate and distinct legal transactions. Under Article 1319 of the Civil Code, the offer must be certain. The offer of Ms. Urbano is certain and explicit as to the extension of time to redeem their property. The acceptance of GSIS to this proposal must also be absolute and clear in granting said extension. However, GSIS did not agree to the extension due to legal constraints and instead a qualified acceptance was given in the sense that GSIS made a counter-offer for appellants to buy the property under certain terms.
>
> Was there an acceptance of the counter-offer of GSIS on the part of appellants? Definitely none. On January 10, 1985, when appellants thru Purificacion Urbano was notified by GSIS Manager M.M. Secoquian of the Acquired Assets Department of the approval of the sale under Board Resolution No. 929, appellant Urbano replied on January 18, 1985 that they cannot pay the price of P174,572.62 as it may be difficult for a financial institution to accommodate said obligation within the grace period of 60 days. (Exhibit "E", Records). In turn, Ms. Urbano made another counter-proposal "to have the said property be RE-MORTGAGE (sic) through the process of repurchase with the GSIS". (Exhibit "F", Records). . . A similar request was sent by appellant Aurelio Arrienda on May 20, 1985 but the same was denied in a Board Resolution No. 516 dated June 6, 1985.

(Exhibit "H", Records).

From the foregoing, this Court rules that there was no meeting of the minds between the parties as the counter-offer of GSIS for the appellants to buy the property based on terms and conditions laid down under Board Resolution No. 929 was NOT accepted by appellants. Under Article 1319 of the Civil Code, there was no valid and perfected contract. Hence, appellants cannot claim any right under Board Resolution No. 929, more particularly on the sale at public auction since they did not agree to the counter-offer of GSIS as contained in Board Resolution 929.

. . . In response to the request of the First Lady Imelda Marcos, the GSIS Board of Trustees approved Board Resolution No. 593 which granted to "Mr. Aurelio Arrienda sixty (60) days from notice within which to purchase the property for P174,572.62 payable in cash. Should Mr. Arrienda fail to pay the same within the time frame mentioned, the property shall be sold at public auction, without need of any further action from the Board." (Exhibit "3", p. 232 Records). Mr. Arrienda was notified of the Board Resolution 593 by Manager M.M. Secoquian on August 2, 1985, asking him to remit the amount within 60 days from receipt of said letter (Exhibit "K", Records). However, on October 4, 1985, appellants thru Atty. Ariel Arrienda sent a letter to GSIS making a counter-offer to purchase said property. . . On October 10, 1985, the GSIS Board passed Board Resolution 818 declining the offer of Mr. Arnel Arrienda to purchase the property for P147,572,62 under the terms and conditions he proposed. . .

From the foregoing, We likewise conclude that there was no perfected contract between the parties. The proposal of appellants thru Mr. Aurelio Arrienda is for the extension of the redemption period or to restructure their loan with GSIS. (Exhibit "J", Records). The approval of GSIS is for appellants to purchase the property at the price of P174,572.62 within 60 days from receipt of notice. (Exhibit "3", Res. No. 592, Records). This was NOT approved by appellants and instead they made another counter-proposal to pay said amount with a down payment of P50,000.00 and the balance to be paid in 60 monthly installments. (Exhibit "1", Records). This counter offer was denied in Resolution 1022. . . It is clear from the above-described events that the offer of appellants to redeem the property or restructure the loan was met with a qualified acceptance from GSIS which is for them to pay the prescribed price within 60 days. Said qualified acceptance constitutes a counter-offer under Article 1319 of the Civil Code and the appellants did not accept the same by making another counter-offer to pay on staggered basis. This counter offer was denied twice by GSIS and therefore there was clearly no meeting of the minds and no perfected contract.

If there is completely no acceptance or if the offer is expressly rejected, there is no meeting of the minds. (Leoquingco vs. Postal Savings Bank, 47 Phil. 772 and in Gamboa vs. Gonzales, 17 Phil. 381)

If the acceptance be qualified or not absolute, there is no concurrence of minds. There merely is counter-offer. (Batangan vs. Cojuangco, 78 Phil. 481)

A counter-offer as a matter of fact extinguishes the offer. It may or may not be accepted by the original offerer. (Trillana vs. Quezon Colleges, L-5003, June 27, 1953)" (emphasis supplied)[28]

III.

Finally, on the issue of whether or not GSIS was in bad faith in dealing with the petitioners, we rule in the negative. As earlier discussed, respondent GSIS' denial of petitioners' further requests for repurchase of the subject property was based on a factual determination of petitioners' financial incapacity and the then GSIS charter, P.D. 1146. It is also worth noting that GSIS sold the subject property to respondent dela Cruz only after giving petitioners an almost one year opportunity to repurchase the property and only after ascertaining that the purchase price proposed by private respondent dela Cruz in payment of the subject property would benefit the GSIS. Nor can petitioners, on the strength of Valmonte v. Belmonte, Jr.,[29] impute bad faith on the part of GSIS when the latter did not disclose to petitioners that it was negotiating with private respondent dela Cruz for the sale

of the subject property as soon as it started the negotiations. The Court ruled in the Valmonte case that the constitutional right to information is limited to "matters of public concern," to "transactions involving public interest." The negotiation and subsequent sale of the subject property by the GSIS to private respondent dela Cruz was by no stretch of the imagination imbued with public interest as it was a purely private transaction. Petitioners cannot therefore demand that it be informed of such negotiation and sale moreso since they no longer had any interest on the subject property upon failure to comply with GSIS' terms for repurchase and upon GSIS' denial of petitioners' offer to repurchase under their proposed terms and conditions. In the absence of proof of bad faith on the part of the respondents, we deny petitioners' prayer for moral damages and attorney's fees.

WHEREFORE, the petition is DENIED and the impugned decision and resolution of the Court of Appeals are AFFIRMED. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Pardo, JJ., concur.
Ynares-Santiago, J., no part.

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[1] Penned by Justice Presbitero J. Velasco, Jr. and concurred in by Justices Consuelo Ynares-Santiago and B.A. Adefuin-de la Cruz of the Eleventh Division.

[2] Rollo, pp. 195-203.

[3] Exhibit "C".

[4] Exhibit "F".

[5] Exhibit "G".

[6] Exhibit "K".

[7] Original Records, p. 267.

[8] Exhibit "M".

[9] Exhibit "N".

[10] Exhibit "O".

[11] Exhibit "6".

[12] Exhibit "R".

[13] Rollo, pp. 201-202; Stipulation of Facts, pp. 7-8; Original Records, pp. 53-54.

[14] Exhibit "A"; Affidavit of Aurelio I. Arrienda, p. 3; Exhibit "S".

[15] Natino v. Intermediate Appellate Court, et al., 197 SCRA 323 (1991).

[16] Exhibit "6"; Original Records, p. 242.

[17] Rollo, pp. 201-202; Stipulation of Facts, pp. 7-8; Original Records, pp. 53-54.

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[18] 142 SCRA 553 (1986).

[19] Brief for Plaintiffs-Appellants, p. 27; Court of Appeals Rollo, p. 56.

[20] Government Auditing Code.

[21] The United States v. Freeman, 11 L. Ed. 724, 727-728 (1845). See also Mosle v. Bidwell, 130 F. 334 (1904).

[22] 22 N.E. 188 (1889).

[23] Id., p. 189.

[24] 21 SCRA 984 (1967).

[25] Id., p. 992, citing Sutherland & Statutory Construction, Vol. II, pp. 530-532.

[26] Agpalo, R., Statutory Construction 212 (3rd ed., 1995).

[27] The Philippine Star, January 17, 1991, p. 11.

[28] Court of Appeals Rollo, pp. 6-9.

[29] 170 SCRA 256 (1989).

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