

LOURDES DELA CRUZ, PETITIONER, VS. HON. COURT OF APPEALS AND MELBA TAN TE, RESPONDENTS.

G.R. NO. 139442. December 06, 2006

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

For unto every one that hath shall be given, and he shall have abundance: but from him that hath not shall be taken away even that which he hath.

—Holy Bible, Matthew 25:29

The Case

This petition for review seeks to nullify the April 30, 1999 Decision and the July 16, 1999 Resolution of the Court of Appeals in CA-G.R. SP No. 49097, which reversed the Decision of the Manila Regional Trial Court (RTC), Branch 35, in Civil Case No. 98-89174, and reinstated the Decision of the Manila Metropolitan Trial Court (MeTC), Branch 20, which ordered petitioner Dela Cruz to vacate the subject lot in favor of respondent Tan Te.[1]

The Facts

The Reyes family, represented by Mr. Lino Reyes, owned the lot located at No. 1332 Lacson Street (formerly Gov. Forbes Street), Sampaloc, Manila. Petitioner Lourdes Dela Cruz was one of their lessees, and she religiously paid rent over a portion of the lot for well over 40 years. Sometime in 1989, a fire struck the premises and destroyed, among others, petitioner's dwelling. After the fire, petitioner and some tenants returned to the said lot and rebuilt their respective houses; simultaneously, the Reyes family made several verbal demands on the remaining lessees, including petitioner, to vacate the lot but the latter did not comply. On February 21, 1994, petitioner was served a written demand to vacate said lot but refused to leave. Despite the setback, the Reyes family did not initiate court proceedings against any of the lessees.

On November 26, 1996, the disputed lot was sold by the Reyeses to respondent Melba Tan Te by virtue of the November 26, 1996 Deed of Absolute Sale. Respondent bought the lot in question for residential purposes. Despite the sale, petitioner Dela Cruz did not give up the lot.

On January 14, 1997, petitioner was sent a written demand to relinquish the premises which she ignored, prompting respondent Tan Te to initiate conciliation proceedings at the barangay level. While respondent attempted to settle the dispute by offering financial assistance, petitioner countered by asking PhP 500,000.00 for her house. Respondent rejected the counter offer which she considered unconscionable. As a result, a certificate to file action was issued to Tan Te.

On September 8, 1997, respondent Tan Te filed an ejectment complaint with damages before the Manila MeTC, entitled Melba Tan Te v. Lourdes Dela Cruz and docketed as Civil Case No. 156730-CV. The complaint averred

that: (1) the previous owners, the Reyeses were in possession and control of the contested lot; (2) on November 26, 1996, the lot was sold to Tan Te; (3) prior to the sale, Dela Cruz forcibly entered the property with strategy and/or stealth; (4) the petitioner unlawfully deprived the respondent of physical possession of the property and continues to do so; and, (5) the respondent sent several written demands to petitioner to vacate the premises but refused to do so.

On October 24, 1997, petitioner filed her answer and alleged that: (1) the MeTC had no jurisdiction over the case because it falls within the jurisdiction of the RTC as more than one year had elapsed from petitioner's forcible entry; (2) she was a rent-paying tenant protected by PD 20;^[2] (3) her lease constituted a legal encumbrance upon the property; and (4) the lot was subject of expropriation.

The Ruling of the Manila MeTC

On April 3, 1998, the MeTC decided as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as follows:

- Ordering the defendant and all persons claiming right under her to vacate the premises situated at 1332 Lacson Street (formerly Gov. Forbes Street), Sampaloc, Manila and peacefully return possession thereof to plaintiff;
- Ordering the defendant to pay the plaintiff the amount of P360.00 a month from December 1996 to November 1997; P432.00 a month from December 1997 to November 1998, plus 20% for each subsequent year until the premises shall have been vacated and turned over to the plaintiff;
- Ordering the defendant to pay the plaintiff the amount of P10,000.00 as attorney's fees; and, the costs of the suit.

SO ORDERED.^[3]

The Ruling of the Regional Trial Court

Unconvinced, petitioner Dela Cruz appealed the Decision of the MeTC in the Manila RTC and the appeal was docketed as Civil Case No. 98-89174. On September 1, 1998, the RTC rendered its judgment setting aside the April 3, 1998 Decision of the Manila MeTC and dismissed respondent Tan Te's Complaint on the ground that it was the RTC and not the MeTC which had jurisdiction over the subject matter of the case. The RTC believed that since Tan Te's predecessor-in-interest learned of petitioner's intrusion into the lot as early as February 21, 1994, the ejectment suit should have been filed within the one-year prescriptive period which expired on February 21, 1995. Since the Reyes did not file the ejectment suit and respondent Tan Te filed the action only on September 8, 1997, then the suit had become an *accion publiciana* cognizable by the RTC.

The Ruling of the Court of Appeals

Disappointed at the turn of events, respondent Tan Te appealed the adverse Decision to the Court of Appeals (CA) which was docketed as CA-G.R. SP No. 49097. This time, the CA rendered a Decision in favor of respondent Tan Te reversing the Manila RTC September 1, 1998 Decision and reinstated the Manila MeTC April 3, 1998 Decision.

Petitioner tried to have the CA reconsider its Decision but was rebutted in its July 16, 1999 Resolution.

Unyielding to the CA Decision and the denial of her request for reconsideration, petitioner Dela Cruz now seeks legal remedy through the instant Petition for Review on Certiorari before the Court.

The Issues

Petitioner Dela Cruz claims two (2) reversible errors on the part of the appellate court, to wit:

A

THE HON. COURT OF APPEALS, WITH DUE RESPECT, WENT BEYOND THE ISSUES OF THE CASE AND CONTRARY TO THOSE OF THE TRIAL COURT.

B

THE HON. COURT OF APPEALS, WITH DUE RESPECT, ERRED IN REVERSING THE DECISION OF THE RTC AND IN EFFECT, REINSTATING THE DECISION OF THE [MeTC] WHICH IS CONTRADICTED BY THE EVIDENCE ON RECORD.[4]

The Court's Ruling

Discussion on Rule 45

Before we dwell on the principal issues, a few procedural matters must first be resolved.

Petitioner Dela Cruz asks the Court to review the findings of facts of the CA, a course of action proscribed by Section 1, Rule 45. Firm is the rule that findings of fact of the CA are final and conclusive and cannot be reviewed on appeal to this Court provided they are supported by evidence on record or substantial evidence. Fortunately for petitioner, we will be liberal with her petition considering that the CA's factual findings contradict those of the RTC, and there was an asseveration that the court a quo went beyond the issues of the case. Indeed, these grounds were considered exceptions to the factual issue bar rule.

Secondly, the petition unnecessarily impleaded the CA in violation of Section 4, Rule 45. We will let this breach pass only because there is a need to entertain the petition due to the conflicting rulings between the lower courts; however, a repetition may result to sanctions.

The actual threshold issue is which court, the Manila RTC or the Manila MeTC, has jurisdiction over the Tan Te ejectment suit. Once the jurisdictional issue is settled, the heart of the dispute is whether or not respondent is entitled to the ejectment of petitioner Dela Cruz from the premises.

However, the petition is bereft of merit.

On the Issue of Jurisdiction

Jurisdiction is the power or capacity given by the law to a court or tribunal to entertain, hear and determine certain controversies.[5] Jurisdiction over the subject matter is conferred by law.

Section 33 of Chapter III -- on Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts of B. P. No. 129[6] provides:

Section 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases.—Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

x x x x

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

Thus exclusive, original jurisdiction over ejectment proceedings (accion interdictal) is lodged with the first level

courts. This is clarified in Section 1, Rule 70 of the 1997 Rules of Civil Procedure that embraces an action for forcible entry (detentacion), where one is deprived of physical possession of any land or building by means of force, intimidation, threat, strategy, or stealth. In actions for forcible entry, three (3) requisites have to be met for the municipal trial court to acquire jurisdiction. First, the plaintiffs must allege their prior physical possession of the property. Second, they must also assert that they were deprived of possession either by force, intimidation, threat, strategy, or stealth. Third, the action must be filed within one (1) year from the time the owners or legal possessors learned of their deprivation of physical possession of the land or building.

The other kind of ejectment proceeding is unlawful detainer (desahucio), where one unlawfully withholds possession of the subject property after the expiration or termination of the right to possess. Here, the issue of rightful possession is the one decisive; for in such action, the defendant is the party in actual possession and the plaintiff's cause of action is the termination of the defendant's right to continue in possession.[7] The essential requisites of unlawful detainer are: (1) the fact of lease by virtue of a contract express or implied; (2) the expiration or termination of the possessor's right to hold possession; (3) withholding by the lessee of the possession of the land or building after expiration or termination of the right to possession; (4) letter of demand upon lessee to pay the rental or comply with the terms of the lease and vacate the premises; and (5) the action must be filed within one (1) year from date of last demand received by the defendant.

A person who wants to recover physical possession of his real property will prefer an ejectment suit because it is governed by the Rule on Summary Procedure which allows immediate execution of the judgment under Section 19, Rule 70 unless the defendant perfects an appeal in the RTC and complies with the requirements to stay execution; all of which are nevertheless beneficial to the interests of the lot owner or the holder of the right of possession.

On the other hand, Section 19, of Chapter II of B.P. No. 129 on Regional Trial Courts provides:

Section 19. Jurisdiction in civil cases.—Regional Trial Courts shall exercise exclusive original jurisdiction:

x x x x

(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts.

Two (2) kinds of action to recover possession of real property which fall under the jurisdiction of the RTC are: (1) the plenary action for the recovery of the real right of possession (accion publiciana) when the dispossession has lasted for more than one year or when the action was filed more than one (1) year from date of the last demand received by the lessee or defendant; and (2) an action for the recovery of ownership (accion reivindicatoria) which includes the recovery of possession.

These actions are governed by the regular rules of procedure and adjudication takes a longer period than the summary ejectment suit.

To determine whether a complaint for recovery of possession falls under the jurisdiction of the MeTC (first level court) or the RTC (second level court), we are compelled to go over the allegations of the complaint. The general rule is that what determines the nature of the action and the court that has jurisdiction over the case are the allegations in the complaint. These cannot be made to depend upon the defenses set up in the answer or pleadings filed by the defendant.[8]

This general rule however admits exceptions. In *Ignacio v. CFI of Bulacan*, it was held "that while the allegations in the complaint make out a case for forcible entry, where tenancy is averred by way of defense and is proved to

be the real issue, the case should be dismissed for lack of jurisdiction as the case should properly be filed with the then Court of Agrarian Relations." [9]

The cause of action in a complaint is not what the designation of the complaint states, but what the allegations in the body of the complaint define and describe. The designation or caption is not controlling, more than the allegations in the complaint themselves are, for it is not even an indispensable part of the complaint. [10]

Let us refer to the allegations of the complaint filed in the Manila MeTC in Civil Case No. 98-89174, which we quote verbatim:

- That plaintiff is the absolute and registered owner of a parcel of land located at No. 1332, Lacson Street, Sampaloc, Manila now being occupied by defendant;
- That plaintiff purchased the above-said parcel of land together with its improvements from the legal heirs of the late EMERLINDA DIMAYUGA REYES on November 26, 1996, under and by virtue of a Deed of Absolute Sale x x x;
- That pursuant to the said deed of sale, the title to the land and all its improvements was transferred in plaintiff's name as evidenced by Transfer Certificate of Title No. 233273 issued by the Register of Deeds of Manila on April 22, 1997 x x x;
- That prior to said sale, the previous owners, represented by Mr. Lino Reyes, husband of the said deceased Emerlinda D. Reyes and the administrator of her estate, was in possession and control of the property subject of this complaint;
- That also prior to said sale, defendant, without the knowledge and consent of Mr. Lino Reyes, surreptitiously and by means of stealth and strategy entered, used and occupied the said premises thus depriving the former of rightful possession thereof;
- That on February 21, 1994, Mr. Lino Reyes, through Atty. Alejo Sedico, his lawyer, furnished the defendants a letter formally demanding that defendant vacate the premises x x x;
- That, however, defendant failed and refused to vacate despite just and legal demand by Mr. Lino Reyes;
- That after the sale to plaintiff of said premises, plaintiff has several times demanded of defendants to vacate the premises, the last demand having been made on them personally and in writing on January 14, 1997 x x x;
- That defendant failed and refused and still fails and refuses to vacate the premises without legal cause or justifiable reason whatsoever; [11]

The answer of petitioner averred:

- The Court has no jurisdiction over the case, having been filed by plaintiff more than the reglementary one year period to commence forcible entry case, which is reckoned from the date of the alleged unlawful entry of defendant by the use of stealth and strategy into the premises;
- For more than four decades now, defendant has been and still is a rent-paying tenant of the subject land occupied by their residential house, dating back to the original owner-lessor, the Dimayuga family. Her lease with no definite duration, commenced with a rent at P60.00 per month until it was gradually increased in the ensuing years. As of November 1996, it stood at P300.00 a month;
- In this circumstances [sic], defendant enjoys the protective mantle of P.D. 20 and the subsequent rental control status against dispossession. She cannot be ejected other than for causes prescribed under B.P. Blg. 25. Further, in case of sale of the land, she has the right of first refusal under the express provision of P.D. 1571;
- Throughout the years of her tenancy, defendant has been updated in her rental payment until the collector of

the original owner-lessor no longer came around as she has done theretofore;

7.1. As a result, she was compelled to file a petition for consignment of rent before the Metropolitan Trial Court of Manila;

- A bona fide tenant within the ambit if [sic] P.D. 20 and the subsequent rental control status, including B.P. Blg. 25, under its terms, cannot be ousted on a plea of expiration of her monthly lease;
- Her lease constitutes a legal encumbrance upon the property of the lessor/owner and binds the latter's successor-in-interest who is under obligation to respect it;
- The land at bench is the subject of a pending expropriation proceedings;
- Plaintiff being a married woman cannot sue or be sued without being joined by her husband;[12]

Undeniably, the aforequoted allegations of the complaint are vague and iffy in revealing the nature of the action for ejectment.

The allegations in the complaint show that prior to the sale by Lino Reyes, representing the estate of his wife Emerlinda Reyes, he was in possession and control of the subject lot but were deprived of said possession when petitioner, by means of stealth and strategy, entered and occupied the same lot. These circumstances imply that he had prior physical possession of the subject lot and can make up a forcible entry complaint.

On the other hand, the allegation that petitioner Dela Cruz was served several demands to leave the premises but refused to do so would seem to indicate an action for unlawful detainer since a written demand is not necessary in an action for forcible entry. It is a fact that the MeTC complaint was filed on September 8, 1997 within one (1) year from the date of the last written demand upon petitioner Dela Cruz on January 14, 1997.

As previously discussed, the settled rule is jurisdiction is based on the allegations in the initiatory pleading and the defenses in the answer are deemed irrelevant and immaterial in its determination. However, we relax the rule and consider the complaint at bar as an exception in view of the special and unique circumstances present. First, as in *Ignacio v. CFI of Bulacan*,^[13] the defense of lack of jurisdiction was raised in the answer wherein there was an admission that petitioner Dela Cruz was a lessee of the former owners of the lot, the Reyeses, prior to the sale to respondent Tan Te. The fact that petitioner was a tenant of the predecessors-in-interest of respondent Tan Te is material to the determination of jurisdiction. Since this is a judicial admission against the interest of petitioner, such admission can be considered in determining jurisdiction. Second, the ejectment suit was filed with the Manila MeTC on September 8, 1997 or more than nine (9) years ago. To dismiss the complaint would be a serious blow to the effective dispensation of justice as the parties will start anew and incur additional legal expenses after having litigated for a long time. Equitable justice dictates that allegations in the answer should be considered to aid in arriving at the real nature of the action. Lastly, Section 6, Rule 1 of the Rules of Court clearly empowers the Court to construe Rule 70 and other pertinent procedural issuances "in a liberal manner to promote just, speedy, and inexpensive disposition of every action and proceeding."

Based on the complaint and the answer, it is apparent that the Tan Te ejectment complaint is after all a complaint for unlawful detainer. It was admitted that petitioner Dela Cruz was a lessee of the Reyeses for around four (4) decades. Thus, initially petitioner as lessee is the legal possessor of the subject lot by virtue of a contract of lease. When fire destroyed her house, the Reyeses considered the lease terminated; but petitioner Dela Cruz persisted in returning to the lot and occupied it by strategy and stealth without the consent of the owners. The Reyeses however tolerated the continued occupancy of the lot by petitioner. Thus, when the lot was sold to respondent Tan Te, the rights of the Reyeses, with respect to the lot, were transferred to their subrogee, respondent Tan Te, who for a time also tolerated the stay of petitioner until she decided to eject the latter by sending several demands, the

last being the January 14, 1997 letter of demand. Since the action was filed with the MeTC on September 8, 1997, the action was instituted well within the one (1) year period reckoned from January 14, 1997. Hence, the nature of the complaint is one of unlawful detainer and the Manila MeTC had jurisdiction over the complaint.

Thus, an ejectment complaint based on possession by tolerance of the owner, like the Tan Te complaint, is a specie of unlawful detainer cases.

As early as 1913, case law introduced the concept of possession by tolerance in ejectment cases as follows:

It is true that the landlord might, upon the failure of the tenant to pay the stipulated rents, consider the contract broken and demand immediate possession of the rented property, thus converting a legal possession into illegal possession. Upon the other hand, however, the landlord might conclude to give the tenant credit for the payment of the rents and allow him to continue indefinitely in the possession of the property. In other words, the landlord might choose to give the tenant credit from month to month or from year to year for the payment of their rent, relying upon his honesty of his financial ability to pay the same. During such period the tenant would not be in illegal possession of the property and the landlord could not maintain an action of desahucio until after he had taken steps to convert the legal possession into illegal possession. A mere failure to pay the rent in accordance with the contract would justify the landlord, after the legal notice, in bringing an action of desahucio. The landlord might, however, elect to recognize the contract as still in force and sue for the sums due under it. It would seem to be clear that the landlord might sue for the rents due and [unpaid, without electing to terminate the contract of tenancy;] [w]hether he can declare the contract of tenancy broken and sue in an action desahucio for the possession of the property and in a separate actions for the rents due and damages, etc.[14]

The concept of possession by tolerance in unlawful detainer cases was further refined and applied in pertinent cases submitted for decision by 1966. The rule was articulated as follows:

Where despite the lessee's failure to pay rent after the first demand, the lessor did not choose to bring an action in court but suffered the lessee to continue occupying the land for nearly two years, after which the lessor made a second demand, the one-year period for bringing the detainer case in the justice of the peace court should be counted not from the day the lessee refused the first demand for payment of rent but from the time the second demand for rents and surrender of possession was not complied with.[15]

In *Calubayan v. Pascual*, a case usually cited in subsequent decisions on ejectment, the concept of possession by tolerance was further elucidated as follows:

In allowing several years to pass without requiring the occupant to vacate the premises nor filing an action to eject him, plaintiffs have acquiesced to defendant's possession and use of the premises. It has been held that a person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against them. The status of the defendant is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. In such a case, the unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate.[16] (Emphasis supplied.)

From the foregoing jurisprudence, it is unequivocal that petitioner's possession after she intruded into the lot after the fire—was by tolerance or leniency of the Reyeses and hence, the action is properly an unlawful detainer case falling under the jurisdiction of the Manila MeTC.

Even if we concede that it is the RTC and not the MeTC that has jurisdiction over the Tan Te complaint, following the reasoning that neither respondent nor her predecessor-in-interest filed an ejectment suit within one (1) year from February 21, 1994 when the Reyeses knew of the unlawful entry of petitioner, and hence, the

complaint is transformed into an accion publiciana, the Court deems it fair and just to suspend its rules in order to render efficient, effective, and expeditious justice considering the nine (9) year pendency of the ejectment suit. More importantly, if there was uncertainty on the issue of jurisdiction that arose from the averments of the complaint, the same cannot be attributed to respondent Tan Te but to her counsel who could have been confused as to the actual nature of the ejectment suit. The lawyer's apparent imprecise language used in the preparation of the complaint without any participation on the part of Tan Te is sufficient special or compelling reason for the grant of relief.

The case of *Barnes v. Padilla*[17] elucidates the rationale behind the exercise by this Court of the power to relax, or even suspend, the application of the rules of procedure:

Let it be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflect this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final x x x.

The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, this Court has consistently held that rules must not be applied rigidly so as not to override substantial justice.[18]

Moreover, Section 8, Rule 40 authorizes the RTC—in case of affirmance of an order of the municipal trial court dismissing a case without trial on the merits and the ground of dismissal is lack of jurisdiction over the subject matter—to try the case on the merits as if the case was originally filed with it if the RTC has jurisdiction over the case. In the same vein, this Court, in the exercise of its rule-making power, can suspend its rules with respect to this particular case (*pro hac vice*), even if initially, the MeTC did not have jurisdiction over the ejectment suit, and decide to assume jurisdiction over it in order to promptly resolve the dispute.

The issue of jurisdiction settled, we now scrutinize the main issue.

At the heart of every ejectment suit is the issue of who is entitled to physical possession of the lot or possession *de facto*.

We rule in favor of respondent Tan Te for the following reasons:

- Petitioner admitted in her Answer that she was a rent-paying tenant of the Reyeses, predecessors-in-interest of respondent Tan Te. As such, she recognized the ownership of the lot by respondent, which includes the right of possession.
- After the fire raged over the structures on the subject lot in late 1989 the contracts of lease expired, as a result of which Lino Reyes demanded that all occupants, including petitioner, vacate the lot but the latter refused to abandon the premises. During the duration of the lease, petitioner's possession was legal but it became unlawful after the fire when the lease contracts were deemed terminated and demands were made for the tenants to return possession of the lot.
- Petitioner's possession is one by the Reyeses' tolerance and generosity and later by respondent Tan Te's.

Petitioner fully knows that her stay in the subject lot is at the leniency and magnanimity of Mr. Lino Reyes and later of respondent Tan Te; and her acquiescence to such use of the lot carries with it an implicit and assumed commitment that she would leave the premises the moment it is needed by the owner. When respondent Tan Te made a last, written demand on January 14, 1997 and petitioner breached her promise to leave upon demand, she lost her right to the physical possession of the lot. Thus, respondent Tan Te should now be allowed to occupy her

lot for residential purposes, a dream that will finally be realized after nine (9) years of litigation.

Petitioner raises the ancillary issue that on March 15, 1998, the Manila City Council passed and approved Ordinance No. 7951:

[a]uthorizing the Manila City Mayor to acquire either by negotiation or expropriation certain parcels of land covered by Transfer Certificates of Title Nos. 233273, 175106 and 140471, containing an area of One Thousand Four Hundred Twenty Five (1,425) square meters, located at Maria Clara and Governor Forbes Streets, Sta. Cruz, Manila, for low cost housing and award to actual bonafide residents thereat and further authorizing the City Mayor to avail for that purpose any available funds of the city and other existing funding facilities from other government agencies x x x.[19]

It readily appears that this issue was not presented before the Court of Appeals in CA-G.R. SP No. 49097 despite the fact that the respondent's petition was filed on September 25, 1998, six months after the ordinance was passed. Thus, this issue is proscribed as are all issues raised for the first time before the Court are proscribed.

Even granting for the sake of argument that we entertain the issue, we rule that the intended expropriation of respondent's lot (TCT No. 233273) by the city government of Manila will not affect the resolution of this petition. For one thing, the issue can be raised by petitioner in the appropriate legal proceeding. Secondly, the intended expropriation might not even be implemented since it is clear from the ordinance that the City Mayor will still locate available funds for project, meaning the said expense is not a regular item in the budget.

WHEREFORE, this petition is DENIED for lack of merit. The April 30, 1999 Decision of the Court of Appeals reinstating the April 3, 1998 MeTC Decision in Civil Case No. 156730-CV and the July 16, 1999 Resolution in CA-G.R. SP No. 49097 are hereby AFFIRMED IN TOTO.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Tinga, JJ., concur.

[1] Tan Teh in the MeTC and RTC Decisions.

[2] Amending Certain Provisions of Republic Act No. 6359, entitled "An Act to Regulate Rentals for the Years of Dwelling Units or of Land on which Another's Dwelling is Located and Penalizing Violations Thereof, and for Other Purposes."

[3] Rollo, p. 29.

[4] Id. at 6.

[5] *People v. Mariano*, G.R. No. L-40527, June 30, 1976, 71 SCRA 600, 604.

[6] The Judiciary Reorganization Act of 1980.

[7] *Sumulong v. Court of Appeals*, G.R. No. 108817, May 10, 1994, 232 SCRA 372, 383.

[8] *Santos v. Ayon*, G. R. No. 137013, May 6, 2005, 458 SCRA 83, 89; see also *Sumulong v. Court of Appeals*, et al., *supra*.

[9] G.R. No. L-27897-98, October 29, 1971, 42 SCRA 89, 95, cited in F.D. Regalado, *REMEDIAL LAW COMPENDIUM*, Vol. I (6[th] revised ed.) 9.

[10] Supra note 7, at 386, citing *Feranil v. Arcilla*, G.R. No. L-44353, February 28, 1979, 88 SCRA 770, 776.[11] Records, pp. 2-4.

[12] Id. at 26-27.

[13] Supra note 9.

[14] *Lucido v. Vita*, 25 Phil. 414 (1913).

[15] *Racaza v. Susana Realty, Inc.*, G.R. No. L-20330, December 22, 1966, 18 SCRA 1172, 1175, citing *Cruz v. Atencio*, G.R. No. L- 11276, February 28, 1959.

[16] G.R. No. L-22645, September 18, 1967, 21 SCRA 146, 148.

[17] G. R. No. 160753, June 28, 2005, 461 SCRA 533, 541.

[18] Id.

[19] *Rollo*, p. 8.

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